

Institutional innovation of the Nordic model – making bad jobs better?

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First draft – please **do not cite without permission** of the **authors**

In this paper we will discuss the introduction of new regulatory measures in industries with weak collective institutions, and the preconditions that may facilitate or obstruct the success of such institutional innovation. The Norwegian regulatory model and its institutions are based on strong relationships between the trade unions and the employers' organizations, at company level as well as centrally, and these are important in wage setting as well as in enforcement of working environment legislation. In the cleaning industry, such institutions are weak, and several studies have reported major challenges in terms of the wages and working environment. Parts of the industry have been characterized by tax evasion, unregistered work and unacceptable wage levels and working conditions. During the last two years, new forms of regulation have been introduced to improve the conditions in this sector. A key precondition for success will be that various actors at various levels support the measures and act in conformity with them. We discuss the role of the Government, the industrial organizations at the central level, the social partners at the company level, the Labour Inspection Authority and the customers in this context.

1. Institutional innovation of the Nordic model – making bad jobs better?

"Dear customer, we are working on acquiring new customers who want to pay for our services legally (invoice). These customers give us the opportunity to conduct our business in accordance with Norwegian law. Each such customer is valuable for us. We have experience with private cleaning, offices, shops, staircases and other. If You know somebody looking for a cleaning company we will be very grateful if You can recommend us. For each customer referral by You with whom we can cooperate, we offer you one FREE cleaning. Best regards "Eva"."

Such was the text message that "Eva" sent to her customers in February 2013. Eva hails from Poland, but owns a small company selling cleaning services to companies and private households in the Oslo area. In the period 2011-2013 Norwegian authorities took several steps to improve the conditions in the cleaning industry and bring it better in line with the high-quality working conditions normally associated with the Nordic model (Gallie 2007, Dølvik 2007). Eva referred to these changes,

especially the extension of the wage level in collective agreements to non-unionized workers, as ‘a critical moment for business’.

In this paper we discuss the institutional efforts made to deal with precarious and marginal jobs in the cleaning industry in the period from 2010 to 2013. In this sector many of the elements that we associate with the Norwegian model of working life are missing. Concern about the working conditions in the industry goes back decades. Hence, one crucial question is: What enabled the introduction of these measures at this specific point in time? And furthermore: which factors will be critical for the success or failure of this institutional innovation? How should we comprehend the scope for change in the actors’ strategies in the coming period? Insights from institutional theory may help us understand what is needed to establish institutions and ensure their viability. In Part 2 we address analytical perspectives on institutional change, before turning to the cleaning industry and its position in the Norwegian model of labour relations in Part 3. In Part 4 we will turn our attention towards the windows of opportunity and investigate the explanation for why the social partners in the industry were able to agree on and implement new regulatory measures in cooperation with the authorities. In Part 5 we present these measures, the parties’ confidence in them and their possible effects. In the final part of the paper we discuss various outcomes and draw conclusions concerning the possible choices of action of the parties and the direction of the changes.

2. Analytical perspectives on institutional change and methodology

Establishment of viable institutions is a demanding task. According to Selznick (1957/1997:17), viable institutions comprise not only “the technical requirements of the task at hand”, they also need to develop a distinctive set of values that imbue the organization with a structural character and an identity. They must be characterized by action, objectives, results, dynamism and flexibility. Another key point is that institutionalization is a process that extends over time (Tolbert and Zucker 1996). Our investigation starts at an early stage of a process of institutionalization, and we attempt to establish an understanding of the characteristics of the windows of opportunity that opened to prepare the ground for new measures that may facilitate institutionalization. The road towards institutionalization may prove long and bumpy, however, and we will therefore also discuss what could be possible action outcomes in the time ahead. To be able to do so, we need to examine the preferences and strategies of the *actors*.

The role of the actors is controversial in institutional theory. The mainstream viewpoint is that institutions are stable and highly resistant to change (Powell & DiMaggio 1991; Pierson 2004). In recent years, mainstream institutional theory has been criticized for taking stability for granted, and the criticism has especially focused on explanations of change. Mainstream institutional theory regards change as unlikely, unless a dramatic transformation of the environment takes place, often referred to as “exogenous shocks”. Recent contributions point out that stability requires the institution to continuously reinvent itself, and that existing compromises between political coalitions be renewed (Mahoney & Thelen 2010; Howell & Givan 2011:234). Herein lie also the seeds of change, which may equally well come as a result of internal pressure.

The labour market institutions have also in the main been regarded as resistant to change, a feature often referred to as institutional “inertia” or “stickiness” (Marginson & Sisson 2004:17-24; Traxler 2003; Regini 2000:15). Legal frameworks and historical compromises between the social partners

generate norms, practices and mutual expectations that help provide a large degree of stability. Recent contributions have argued in favour of a more varied understanding of the actors, and thus for a larger degree of incremental institutional change (see e.g. Mahoney & Thelen 2010). The actors are perceived as acting strategically on the basis of (partly) opposing interests. For example, Oliver (1991) is concerned with how actors choose varying courses of action to accommodate or counteract new institutional structures or measures. To Oliver, a basic assumption is that an organization is often confronted with conflicting institutional requirements. One way to handle this is to achieve a compromise, for example between the authorities' requirements for orderliness and the owners' requirements for profitability. However, companies can also use other strategies, such as attempting to avoid, ignoring or counteracting changes.

Irrespective of the perspectives on actors, it can be argued that the institutional measures recently established in the cleaning industry are the strongest interventions available in Norwegian working life. At the same time, the confluence of *different measures* has helped establish an institutional framework that has proven to effectively counteract social dumping in other industries (Eldring et al. 2011). On the other hand, the short period that has passed since the introduction of these measures probably indicates that changed norms and practices will not necessarily have developed yet in those parts of the industry that have operated at the edge of or outside the law, where the need for change is most evident. Pierson (2000:258) argues that for institutional structures to gain strength, it is necessary to have a form of "collective action [that] involves high start-up costs, which reflects the fact that considerable resources (material or cultural) need to be expended on organizing before the group becomes self-financing." However, collective action can be impeded if the companies have opposing interests. A key issue in our context is whether the actors possess sufficient willingness and homogeneity of interest to invest collectively in these new measures that have been introduced. Hence, to establish an idea of possible outcomes we may ask: Who are the losers and who are the winners when new measures are introduced? What circumstances are required to motivate the actors to endorse the new institutional structures, and what are the indications that the measures will produce permanent change in various parts of the cleaning industry, which has a variable record in terms of decency.

Success is thus dependent on having a sufficient number of supporters of the new structure at the critical initial stage. The success of the measures cannot be taken for granted; the process may grind to a halt or change direction along the way because of failing support and legitimacy. The ability of losers or opponents of an institution to halt, slow down, undermine, openly counteract or in other ways change the process will depend, among other things, on their alternative strategies and power resources. Mahoney & Thelen (2010:23) describe various types of actors: insurrectionaries, symbionts and/or opportunists. In this context, it is crucial to identify the preferences and strategies of the actors. Furthermore, they deduce a typology of four types of gradual institutional change, and this may serve as a useful framework for the analysis of our type of actors and institutions (ibid:15-18). Mahoney & Thelen systematize changes driven by strategic actors, changes in the environment and changes following from unintended consequences. Moreover, a potential for change may be latent in how institutions (here referred to as rules) may be ambivalent, unclear or contested. Situations completely devoid of rules may also occur. The four variants of change are: 1) "displacement", which occurs when new rules replace existing ones; 2) "layering", which occurs when new rules are added to the old ones to change the character of the institution; 3) "drift" occurs when the environment changes without any corresponding change on the part of the actors, while 4)

“conversion” is evident when the rules formally remain intact, but are interpreted or applied in new ways. In contrast to “drift”, this type of change is driven forward by actors who actively exploit conflicts inherent in the institution.

Oliver (1991) argues that companies are more likely to ignore a new scheme or structure if the organization can argue that the “likelihood of ‘getting caught’ is very low or that its success is not dependent on government approval and support” (Oliver 1991:156). Ignoring a scheme or a provision is nevertheless more risky if the changes that are introduced pull in the same direction and if their rationale is in accordance with established norms and values. In our context this refers to norms and values that are embedded in working-life practices – for example providing wages and working conditions that are in accordance with generally accepted standards of decency, or conforming with provisions related to taxes and duties (Oliver 1996:162-163).

Methods and data

This paper is based on studies of the cleaning industry undertaken in 2011 and 2012 (Trygstad et al. 2011; Trygstad et al. 2012). Both studies used semi-structured interviews with the social partners at company level, interviews with trade union officials, safety delegates and employers in cleaning companies in Oslo, Bergen and Trondheim, as well as with informants from the police, the tax authorities and the Labour Inspection Authority. A total of 39 informants were interviewed. In addition, thorough analyses of Statistics Norway’s structural statistics have been undertaken, where we have investigated company structures as well as features of the employees. The 2011 study also included structured interviews with 40 purchasers of cleaning services in the private and public sectors, while the 2012 study included a telephone survey of employers, managing directors or similar in cleaning companies with five or more employees. Key issues for the survey included the companies’ experience of extension of the collective agreement for the cleaning industry, competition from less decent actors and the instruments that company managers believe have a potential for helping establish more orderly conditions in the industry. Altogether 205 employers/managers responded to the survey, which hereafter we will refer to as “the cleaning-industry company survey” (for further details, see Trygstad et al. 2012).

3. The cleaning industry – decoupled from the Norwegian labour model

3.1 The foundation of the Norwegian industrial relations model

The Norwegian IR model consists of a combination of regulations embedded in collective agreements (voluntary regulations) and statutory regulations. The basic protection of employees is ensured through a comprehensive Working Environment Act with provisions for health, working environment and safety, working hours, hiring and dismissal etc. The Act signals a high level of ambition as regards the physical and organizational working environment, and stipulates that the employer in cooperation with the company’s safety organization is responsible for this. A key remit of the monitoring authorities (The Labour Inspection Authority) is to assist the companies in facilitating

appropriate routines for improving the working environment (internal control), and to monitor compliance.

At the same time, collective labour relations and wage agreements fulfil a key function in the regulation of wages and working conditions. *First*, collective agreements play a major role in regulating wages, since Norway has no statutory minimum wage. Even in areas where statutory regulations apply, such as holidays and overtime pay, the collective agreements will include provisions that are more favourable for the employees. *Second*, co-determination in the workplace primarily occurs through the elected trade union officials in the workplace. Collective agreements contain provisions on the trade union officials, and about when and how they should be consulted in matters that pertain to the members and the company. The Norwegian representation system is based on so-called single-channel representation, meaning that the representation at workplace level is based on representatives of the trade union organizations. In practice, this type of trade union official will also be involved in matters pertaining to the working environment and working conditions, and in some cases the safety delegates will be active shop stewards or “dedicated members” of the local trade union. *Third*, the presence of a trade union/elected officials and cooperation between the local union and the management will in many cases be a precondition for effective implementation of the employees’ rights as defined by the law or collective agreements. This will especially apply in situations where the employees have a weak bargaining position or are unaware of their rights. In workplaces with established channels for cooperation, trade union officials may engage the management in matters related to the employees’ rights, the working environment and the organization of work processes to ensure that formal rights are followed up in practice.

The two sets of regulatory intuitions (voluntary regulation and legislation) may be seen as co-dependent. The ambitious goals for a good working environment that are embedded in Norwegian legislation and the political desire for wages and working conditions that adhere to standards of decency thus rest on an institutional foundation: regulation through collective agreements, trade unions/elected officials with a local presence, a functioning safety apparatus and employers that follow up the intentions inherent in the legal framework.

Descriptions of the model tend to be based on accounts from industries with a high rate of unionization on both sides, such as manufacturing or the public sector, with their high coverage by collective agreements and where there is a tradition of company-level cooperation. A high level of “trust” is usually emphasized as a key element of this type of model. At the same time, the ability of the social partners to commit significant proportions of an industry must be regarded as an essential element. This is achieved through nationwide sector agreements and where a hierarchy of agreements in which central-level agreements overrule those at the local level is the predominant model. Moreover, agreements which trade unions have with unorganized companies tend to be blueprints of the agreement for the relevant industry.

Even though the Norwegian model is based on the assumption that there will be no significant opportunities to circumvent the provisions that have been agreed between the partners in an industry, there are still some industries where the fulfilment of the following preconditions can be questioned: i) whether the partners have the capacity to ensure that the wage levels and working conditions agreed upon are also being applied at the company level (implementation) and ii) whether

the field where appropriate wage levels and working conditions prevail is expanding in a manner that serves to reduce the proportion of employees with less favourable conditions.

3.2 The cleaning industry - on the margins of the Norwegian model

While the public sector and manufacturing industry have been characterized by strong relationships between the social partners, collective agreements that have the capacity to regulate wage levels and working conditions, and a relatively high rate of unionization among employers as well as employees, conditions in the cleaning industry present a number of challenges. In the well regulated and egalitarian Norwegian working life with its emphasis on decent jobs, the cleaning industry tends to be perceived as representing one of the major challenges. Over the last four decades the conditions in the cleaning industry have led to growing concern.

These challenges are partly associated with the structure of the industry. This sector has been and remains characterized by many small companies and rapid changeover in terms of companies as well as activities. From 2000 to 2010, the number of registered companies in this industry grew by 60 per cent (Trygstad et al. 2012:33). Many of these are small, and only a little more than half of them survive for more than one year after their establishment. Among the companies established in 2004 and 2005, only 24 per cent had survived five years later (ibid:40). This alone gives rise to challenges with regard to transparency and control.

One reason for this rate of establishment is the low start-up costs. Only minimal investment is required to establish an company, and the requirements for skills and formal training for employers and employees are low. Approximately 85 per cent of the costs of cleaning are linked to wages and wage-related costs (NHO Service 2009). The low start-up costs have positive as well as negative aspects. On the positive side, they help create alternative career pathways. On the negative side, the minimal obstacles to establishment make bankruptcy less risky, for example because of non-payment of taxes, duties and/or wages. A reputation as a dishonest operator can easily be circumvented by establishing a new company under another name.

Recruitment to the industry also helps create obstacles to transparency, organization and assertion of interests. The cleaning industry was originally dominated by female labour, with frequent part-time work and unskilled workers. The manual labour that characterizes the industry and the low requirements for formal skills have made the cleaning profession a gateway to the labour market for immigrants with limited language skills, for those who arrive as refugees, those who arrive for family reunification and those who come as labour migrants. Among the last group we find many workers from the new EU-member counties. The proportion of workers from an immigrant/migrant background has increased in the industry through the 2000s, and workers from the new EU-countries make up ¼ for the registered employees whereas almost 40 % have an Asian or African background. For many employees, the cleaning industry is the first encounter with the Norwegian labour market. This group often have very limited or no knowledge about the rules of the game in Norwegian working life. Nor do they have many other alternatives in the labour market. This renders these employees very vulnerable to employers who intend to violate the laws and regulations, or who wish to minimize the costs of wages and social benefits.

A third circumstance that has driven the cleaning industry, accompanied by other parts of the private services industries, to the margins of the Norwegian labour-market model is the absence of strong

collective labour organizations. The unionization rate among employees is low, and recruiting new members in an industry with rapid turnover is no easy task, there are challenges in terms of language proficiency and to some extent also with regard to cultural differences. Approximately 30 per cent of all employees in the cleaning industry are found in companies with no or very weak labour organizations. Nor is the absence of a safety delegate a rarity in this industry (Berge et al. 2013). Even in companies that have a collective agreement there may be problems in recruiting trade union officials. Frequently, the companies have no tradition for social partnership or co-determination, and most often the management and the trade union officials will meet only when issues of a negative nature have to be addressed. The trade union officials rarely find that they have enough time to attend to their elected office, and they do not meet their members on a daily basis, since these are dispersed in the client companies to do the cleaning there. Officials and safety delegates with the capacity to oppose the management and act as a partner in the development of good-quality workplaces are largely absent.

A final issue that deserves mention concerns the challenges associated with the increasing competition for assignments. The cleaning companies receive many of their assignments through competitive tendering. The clients thus have a large impact on shaping the frameworks of the industry. The client designs the tender, selects the supplier and signs the contract. The client will also monitor compliance with the contractual requirements. The decent actors in the industry are currently discussing the increasing pressure on performance. One of them stated it as follows:

Performance is going up and up. In the 1990s we talked about average performance. Then, 250 square metres per hour was seen as the maximum limit. Today, nobody bats an eyelid if we exceed 500 or approach 1000. For many years, there was a very positive development... it could be defended because of more efficient methods. Competition was healthy. But then we reached a saturation point (Trygstad et al. 2011:109).

This price pressure is partly ascribed to highly price-sensitive clients, and partly to suppliers who provide extremely cheap services by cutting corners. Decent companies risk losing out in competition with those who operate in contravention of applicable laws and agreements. In the long term this will affect the viability of the decent companies as well as the wage levels and working conditions of the industry's employees as a whole. At the same time, the unionization rates are low for both employers and employees when compared to other areas of Norwegian working life. Our data show that the decent companies have difficulty competing against suppliers who violate the provisions on working hours in the Working Environment Act or evade taxation, and thus are able to reduce their prices to a level which is incompatible with legislative compliance. Competition on unequal terms may cause the intermediate category to drift into less legitimate procedures, while this also may have an effect on the very operating conditions of the decent companies. Various measures have therefore been introduced in this industry.

4 A window of opportunity

A key question concerns the explanation for why the parties in the industry in cooperation with the authorities could agree on and implement new measures during the period from 2010 to 2012. For what reason could sufficient political power, financial resources and a shared willingness to produce a plan of action that attempts to introduce new tools (institutions) be found? After all, concerns

regarding the development in the cleaning industry have been periodically entered on the political agenda since the 1970s. In 1978, the following objective was on the social partners' agenda: To achieve a better working environment for the employees in the cleaning industry, to create safe and stable workplaces and to establish satisfactory wage levels. Nothing much happened (Trygstad et al. 2011). In 1993, a voluntary approval scheme was established for companies in the industry, called "Clean Development". Its objectives included an intention to induce the companies to comply with the provisions of the Working Environment Act and the Taxation Act. "Clean Development" can be regarded as an attempt to achieve "soft regulation" (Sisson & Marginson 2001), but the scheme met with only limited success. The problem of dishonest companies did not abate for the decent employers, the employees and the authorities. There can be many explanations for the window of opportunity¹ that appeared. Here we will describe the key explanations in more detail.

Political willingness and a government which is indebted to the trade union movement: ILO's "Decent Work Agenda" lay at the basis of the red-green government's 2009 programme to reinforce and coordinate efforts for workers' rights internationally and at home.² The concerns of the red-green government with regard to the development in certain industries, including the cleaning industry, spurred the establishment of a tripartite industry programme for the cleaning industry in the context of the wage bargaining round in 2010. The industry programme was intended as a long-term effort aimed at working conditions, co-determination, working environment and safety in a broad sense (Stortingsproposisjon nr. 1 (2010-2011:19). The government's drive to raise the standards in the cleaning industry should also be seen in relation to its other efforts to counteract social dumping in industries with a large proportion of immigrant labour. At the same time, this programme is a new phenomenon, since the cleaning industry for years has been characterized by considerable challenges in terms of wage levels and working conditions. It can be argued that this effort represents a step forward (or to the side) when compared to programmes that have mainly targeted immigrants on short-term and long-term contracts in industries that otherwise are well organized and regulated.

Escalation of problems and public condemnation: Especially from 2007 and onwards, the media devoted increasing attention to the cleaning industry, and the number of hits to searches in media with the search phrase "social dumping AND cleaning" multiplied (Trygstad et al. 2011:33). Increasing labour immigration from Eastern Europe and from Poland in particular was a main reason. After EU enlargement in 2004 and until 2010, the proportion of Eastern Europeans in the cleaning industry increased from 7 to 22 per cent (Trygstad et al. 2011:82; Trygstad et al. 2013:61). "Slave contracts", "human trafficking", "illegal work", "tax evasion" and inhuman wage levels and working conditions were recurrent headlines. Many of the reports concerned cleaning companies engaged by public agencies. The requests for better control and a clean-up of the industry grew in force. The arguments backing the proposed measures, such as "competition on equal terms", "decent pay and working conditions" and a greater degree of "decency" in the industry were all aligned with key norms and values in Norwegian working life. These are also value-laden concepts, and it is difficult to oppose them for anyone who wishes to appear as a "decent" employer.

Like-minded and willing partners: Over time, the partners in the cleaning industry have developed a shared understanding of the need for change. Prior to the introduction of new instruments, their

¹ Concept used to describe a brief time period in which an opportunity exists

² <http://www.regjeringen.no/nb/dep/ad/presseenter/pressemeldinger/2008/strategi-for-et-anstendig-arbeidsliv.html?id=525795>

notions of the problem and proposals for measures were largely consistent (Trygstad et al. 2011). Nevertheless, an element in the apparently successful implementation of new interventions in the industry is the very positive personal chemistry among the people involved. This is obviously based on their shared interests. The trade union movement were strongly interested in a collaboration to achieve a turnaround in the industry with a view to improving the wage levels and working conditions of the employees in a broad sense and to counteract social dumping. The employers were interested in establishing competition on more equal terms and restricting the number of companies operating at the edge of or outside the law and competing successfully because they can price their tenders accordingly. In the cleaning industry, this resulted in a collaboration that survived a number of challenges, including explicit disagreement over certain measures, a nationwide strike in the industry in 2010 (as well as strikes that involved the same partners in 2010 and 2012) and disagreement among the employers as to how far the service-industry union in the Confederation of Norwegian Company (NHO) should go in accepting controversial measures.

New instruments had become available: Increasing labour immigration from the new EU member countries had already given rise to considerable challenges in other industries where the social partners had held a strong position. The trade union movement, partly with support from the employers and partly in opposition to them, had pressed for introduction of new measures. Extension of provisions in collective agreements had been used for the first time in 2005 and had later been applied to several industries with a large proportion of migrant labour, such as the construction industry and agriculture. This scheme is restricted to situations in which it can be proven that foreign workers have less favourable wage levels and working conditions than what is common in the industry, but a decision will apply to all and serve to establish a minimum wage level for the industry. The construction industry had issued ID cards to employees for several years, and a registration scheme for manpower suppliers had been introduced to ensure better control and transparency in the companies. The partners in the cleaning industry thus had available a set of instruments that had been partly or fully tested in other industries.

It can be argued that years of soft regulation and self-regulation had failed to produce any results. In total, political determination and like-minded and willing partners spurred by problems and condemnation caused a pressure that simply was very hard to resist. This paved the way for new measures in an industry that was on the verge of collapsing. Since these types of measures now emerged as part of a menu of instruments – produced by partners with another tradition of partnership – the organization in the cleaning industry grasped the opportunity and agreed on a package of “hard regulations”.

5 New measures and their effects

The new measures that have been implemented include a strong focus on customer awareness, and those who procure cleaning services in the private-company market in particular are bestowed with a greater responsibility than previously with regard to ensuring that the suppliers operate within the confines of laws, regulations and agreements. In the public sector, the clients have for several years had this expanded responsibility. Pursuant to the Public Procurement Act, a set of regulations for wage levels and working conditions in public contracts has been adopted. These were implemented for government companies by means of a circular in 2005, and from 1 March 2008 through the entry into force of the Regulations for wages and working conditions in public contracts (i.e. for the entire public sector). The regulations state that:

“In their contracts, the commissioning agency shall include the requirement that employees of suppliers and any sub-contractors that are directly involved in fulfilling the contract shall receive wages and have working conditions that are not less favourable than what follows from nationwide collective agreements or what is otherwise normal for the location and profession in question.”³

Research and various media reports nevertheless show that the ILO convention has been regularly violated (Trygstad et al. 2011). Particular challenges have been associated with establishing control over the conditions of the employees of the cleaning companies' sub-contractors. The new measures in the cleaning industry have highlighted the responsibility of the industry's clients across sectors. This can be regarded as an admission of the inability of the partners and the authorities to increase compliance in the industry unless the clients shoulder their fair share of the responsibility. In another perspective, this can be regarded as a strategy to transfer some of the costs of compliance to the clients as a group.

The clients' role is important not only to limit the scope of dishonest practices in the industry. It is also essential when it comes to helping improve the working conditions in the legitimate part of the industry. The working situation for the employees is described as physically demanding. Risk factors such as lifting of heavy objects, working alone and a physically strenuous job content are frequently reported in the literature (NOA 2011; Gamperiene 2007; Enehaug et al. 2008). Moreover, cleaners are among the groups that are most frequently exposed to psychosocial strains related to their working environment and self-reported health problems, and they are reportedly exposed to increasing performance requirements (NOA 2011; Trygstad et al. 2011). The relationship between employees and managers represents a further challenge. Several studies indicate considerable deficiencies in the exercise of management in the cleaning industry (Byrkjeland & Djuve 2003; Enehaug et al. 2008; Trygstad et al. 2011). Key reasons include deficient management training and the steep performance requirements imposed on intermediate managers by the top level (Trygstad et al. 2011). Despite the fact that the objective of new measures is to combat dishonest practices, it will be important for the industry in the long term to address the challenges that characterize the legitimate part of the industry as well.

General application of collective agreements

Against the background of the challenges in the cleaning industry, a decision to apply generally the wage agreement for the industry entered into force on 1 September 2011. The regulations for general application of wage agreements pertain to private companies that sell cleaning services and to employees who perform cleaning work. The wage rates are regulated in line with the revisions of the collective agreement. Self-employed persons are not encompassed by the regulations. This may be crucial for this industry, since one in four cleaning companies (25 per cent) have used self-employed workers for their assignments (Trygstad et al. 2012).

Approvals and ID cards

In September 2012, a system for public approval of cleaning companies was introduced.⁴ This approval system includes ID cards for the employees. All companies supplying cleaning services must be approved by the Labour Inspection Authority to have legal status, and purchasing cleaning

³ Forskrift 8. februar 2008 nr. 112 om lønns- og arbeidsvilkår i offentlige kontrakter, § 5.

⁴ FOR 2012-05-08-408: Forskrift om offentlig godkjenning av renholdsvirksomheter og om kjøp av renholdstjenester.

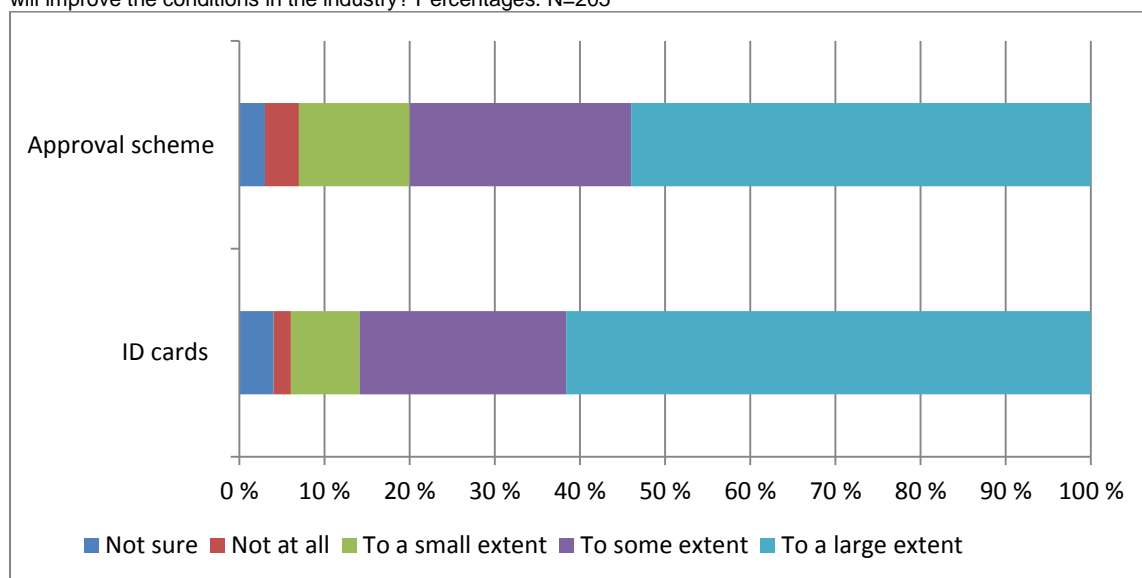
services from non-approved companies is illegal.⁵ Approved cleaning companies shall be listed in a registry maintained by the Labour Inspection Authority and have ID cards issued for their workers. To obtain approval, the following conditions must be met (cf. Section 5 (1))⁶:

- Compliance with the obligation to provide approved company health services.
- Compliance with the requirements for a safety organization.⁷
- Written labour contracts.
- Compliance with the requirements in the Regulations for general application of wage agreements.
- A scheme that ensures financial compensation to workers in case of occupational injury.

Expectations and effects of the measures

At the time when we conducted our interviews in the industry prior to the implementation of the measures in 2011, expectations were high in the companies and in the industry in general. The expectations were not primarily associated with the individual interventions, but rather with the total effect of all the instruments combined. In addition, all our informants emphasized the need for more extensive control and subsequent punitive measures for non-compliance with the new system. One key reason is the increasing competition faced by decent companies from less scrupulous suppliers over recent years. In the company survey of the cleaning industry in 2012, altogether 55 per cent responded that they had often lost out in competition with companies that they regarded as dishonest operators. In the same survey, we asked cleaning company managers to list the measures that in their opinion would be effective in restricting the activities of dishonest operators in the industry. The first two questions pertained to the expectations for the approval scheme and the ID cards. Figure 1 shows how these measures were assessed.

Figure 1: To what extent do you believe that the approval scheme for cleaning companies and the requirement to hold ID cards will improve the conditions in the industry? Percentages. N=205



⁵ i.e. private individuals are not required to check whether the enterprise is approved if the cleaning services are purchased for private use.

⁶ These requirements do not apply to self-employed workers.

⁷ In enterprises with less than ten employees, the partners can agree to waive the requirement for a safety delegate.

Eighty per cent of the managers responded that the approval scheme will help improve the conditions in the industry to a great extent or to some extent. Altogether 85 per cent of the managers have the same view on the introduction of ID cards. Only very few believe that these measures will have no effect, and a few are uncertain. There are no significant differences between companies with and without a collective agreement. The documentation element will be completely crucial for making the approval scheme function according to its intentions, and this was strongly emphasized by the informants in Fafo's study of the cleaning industry in 2011. A key point is that the approval scheme and the ID cards will have a combined effect, since the ID cards are linked to the approval scheme.

The company managers were also asked to what extent they believed that other kinds of measures could help restrict the activities of dishonest operators in the industry. Options included continued general application of the wage agreement, more monitoring by clients, more monitoring by the tax authorities and more frequent inspections by the Labour Inspection Authority. The company managers believe that all these measures will be important (between 80 and 90 per cent). However, more monitoring by the tax authorities is clearly at the top of the list of measures that the company managers believe to be most effective (nine out of ten claim that this is important).

Something has already worked

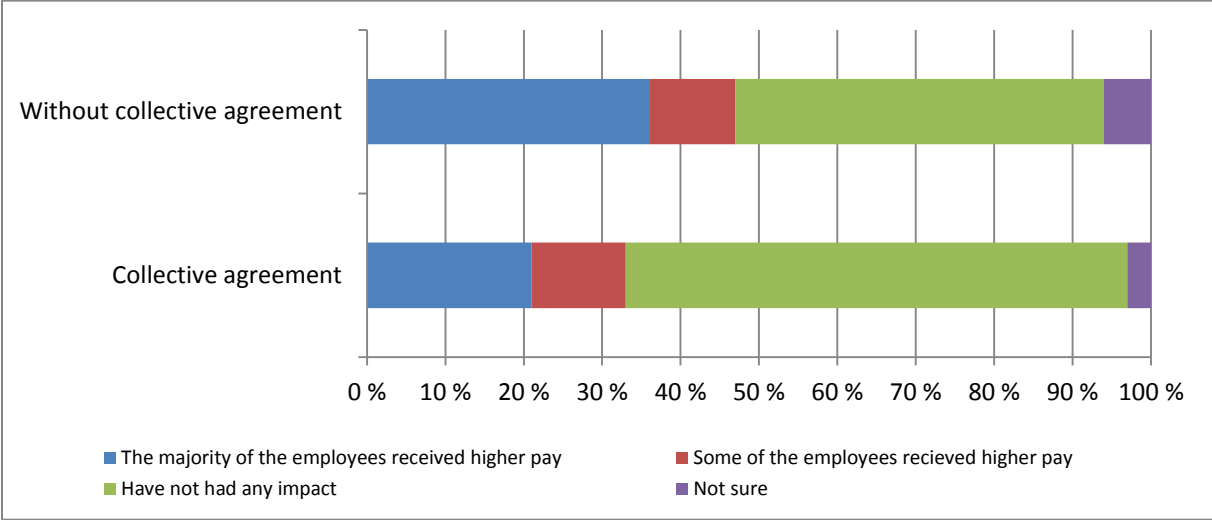
The regulations for general application of the wage agreement in the cleaning industry have been in effect since 1 September 2011, and in the spring of 2013 it was decided to prolong their term of validity for another two years. Prior to the general application of the wage agreement, one employer in the industry commented on the situation thus:

“Things develop so quickly. The decent companies are forced into a grey zone. The collective agreement is the first to go. If not paying tariff wages is legal, we have to consider this to survive if the rest of the industry moves in that direction. I'm afraid that we are moving the boundaries of what is deemed to be acceptable.” (Employer, the cleaning industry, quoted in Trygstad et al. 2011:175).

In our survey of managers in cleaning companies we therefore included some questions about their preliminary experience of this provision. The managers were first asked about their knowledge of the regulations for general application of collective agreements. Fully 92 per cent responded that they had good (57 per cent) or fairly good (35 per cent) knowledge about this provision. Managers in large companies (more than 50 employees) are more knowledgeable than others in this respect. That nine out of ten managers are familiar with the provision on general application of collective agreements may appear to be an extremely large proportion. Many of those who were interviewed in the context of this project (managers) claimed that the content of this provision is not widely known. On the other hand, this issue was subject to intense public scrutiny and debate for many years prior to the adoption of the regulations. The fact that this set of provisions also comprises specific requirements on wage levels may indicate that at least parts of them are known. The managers were also asked whether the general application of collective agreements has had an impact on the wage level in their company. In four out of ten companies, the employees received higher pay as a result of the decision. Altogether 29 per cent of the managers responded that the *majority* of the employees had received a pay rise, and 11 per cent responded that some of the employees now receive more pay (not shown). With regard to this issue – the impact on wage levels – it is interesting to note whether

there are any differences between companies with and without a collective agreement, as shown by Figure 3.

Figure 3: Has the general application of collective agreements had an impact on the wage level in your company? Percentages. N = 205.



At the outset, one would not assume that the wage level should increase to any great extent in those companies that had a collective agreement, since the general application pertained to tariff wages with 0-2 years of seniority. As it turned out, 21 per cent of all companies with an existing collective agreement responded that the majority of the employees received higher pay as a result of the regulations, and 12 per cent reported that some of their employees received a pay rise. In total, more than 30 per cent of the companies with an existing collective agreement have needed to upgrade their wage levels. Unsurprisingly, in companies with no collective agreement the proportion is higher: 36 per cent of these respond that the majority of the employees have received a pay rise, and 11 per cent report that some of their employees now receive better pay.

This survey gives us no information on the scope of these pay rises. Our data show, however, that a large proportion of the cleaning companies have been forced to adjust their pay levels since the general application of the collective agreements was enacted. We obtained a further indication of the impact of this measure when asking the cleaning companies whether their clients more frequently request documentation on age levels and working conditions when contracts are signed. A little more than half responded that the clients to a greater extent requested such information in 2012, compared to the situation in 2010 (Trygstad et al. 2012:108).

6. Discussion and concluding remarks

This paper focuses on a key issue regarding the explanation for the consensus on and willingness to implement measures to improve the wage levels and working conditions in the cleaning industry. We have also asked what will be needed for these measures to succeed in the long term. The window of opportunity that opened in 2010 and 2011 was the result of a lucky coincidence of circumstances. Quite simply, the time was ripe for a change. The development in the cleaning industry remains, however, an example of extremely slow-moving and “long-term processes” (Pierson 2004:2004:79-82) of institutional change, in which their direction and outcome are largely dependent on the

interests of and the choices of action made by various actors, as well as on various alternatives available for regulations. Furthermore, the desire and willingness for change must not be restricted only to the dishonest operators in the industry, since those companies that operate on the margins of legality and the decent companies must also wish for changes that in the long term will have the potential to provide qualitatively better jobs and positions that allow for a decent living standard.

Different actors – different interests

The background to the institutional measures introduced in the cleaning industry was that the social partners at the sector level had a shared outlook and a shared willingness to improve conditions in the industry. In the 1990s, the partners attempted to use “soft regulations” to develop and professionalize the industry and combat dishonest operators through the industry programme “Clean development”. The introduction of craft certificates in 1995 was another measure on which they could agree. Better pay and more rights were key arguments in favour of craft certificates (Skilbrei 2009). In practice, however, this was only a moderate success. This can be seen as an example of what is referred to as institutional drift (Mahoney & Thelen 2010), since even if none of the actors actively undermines the measures, their practices nevertheless fail to support them.

The efforts to improve the working environment and the social partnership were exacting, even in the decent parts of the industry. One key explanation is that the industry is characterized by weak industrial relations at the company level. Recruiting trade union officials and safety delegates and persuading them to stay in office over time is extremely difficult in many companies. Moreover, they have very little time allocated to attend to their office and remit. Many of them spend their leisure time on these tasks. Inadequate social partnership in companies that have a collective agreement and the absence of the same in companies without a collective agreement, in combination with an increasing pressure from dishonest operators, entailed an increasing need for stronger instruments. The partners recognized that soft regulations were insufficient. This was part of the background to the agreement between the partners that hard regulations were called for in their industry.

Today, the actors in the cleaning industry have established a favourable climate for cooperation at the central level, and the partners are optimistic. Nevertheless, the partners depend on support from their constituencies. They have to “deliver” – to show that the measures that have been implemented are effective. If this fails to happen, a successful process of institutionalization will be hindered by opposing interests on the part of the employers and the employees. For example, the proposal for general application of parts of the collective agreement in the cleaning industry was met with fierce resistance in the central organization of the Confederation of Norwegian Company. On the other hand, the union of service industry employers, of which most of the organized employers in the cleaning industry are members, welcomed the proposal. To the trade unions, general application of collective agreements is a double-edged sword. On the one hand, this will be a key measure to combat social dumping. On the other hand, it robs them of a key argument to raise the unionization rate in an industry, since the argument that membership of a trade union will give higher pay is nullified when the employees receive the generally applied wage rates anyway. The dominant union in the industry, the Norwegian Union of General Workers, therefore remained sceptical of the request for a general application of the wage rates in the collective agreement.

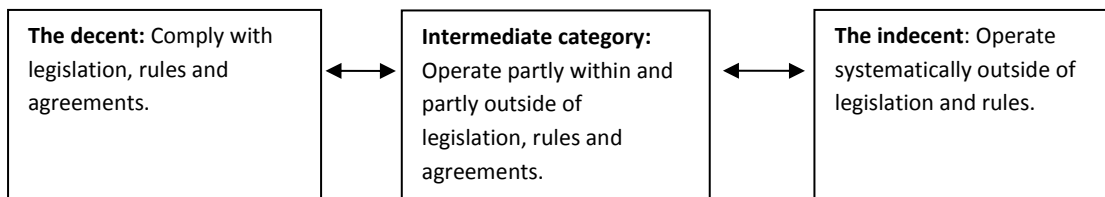
A continuation of the current climate for cooperation at the sector level in the cleaning industry will also require the partners to focus on two separate issues. Attention must be devoted to companies

that are partly or totally dishonest, and there must also be an interest in addressing the challenges that characterize the decent parts of the industry, including performance pressure, physical and psychological problems of the working environment and strained relations between managers and workers. In the long term, development of the industry will also depend on the ability of both partners to increase their respective unionization rates, which will allow for more self-regulation. This brings us to the actors at the company level.

The companies

The companies in the cleaning industry can be simply divided into three groups.

Figure 1: Model of the degree of decency (Trygstad et al. 2011)



Companies in the intermediate category will not have a collective agreement and they will use sub-contractors and self-employed workers extensively to cut costs. In addition, they will price their assignments at a lower level than the actual working time would indicate. Among the indecent operators we will find employees who are grossly exploited and work illegally, and the companies will violate regulations on taxation and VAT. Furthermore, these companies have established complicated company structures to conceal illegal activities, including money laundering (Trygstad et al. 2011). A crucial issue will be whether the measures implemented will be able to induce parts of the intermediate category to move in a more decent direction, and to make the situation so untenable for the indecent ones that the number of companies is strongly curtailed. The intermediate category will thus comprise a type of actor who more or less deliberately and strategically violates the generally accepted norms of working life and thus undermines institutions intended to ensure decent conditions in the cleaning industry. In Mahoney and Thelen's (2010) typology, the machinations of these actors will produce institutional conversion or drift, depending on how aware the actors are of their lack of compliance with the institutional structures.

The measures implemented concur with institutionalized norms and rules of working life. The majority comply with these norms and rules, not because of habit, but rather as a deliberate and strategic choice to follow institutional guidelines, for reasons including a concern to ensure availability of resources, predictability and/or social support (Oliver 1991:153). For companies in the intermediate category, avoiding new rules by buffering themselves from institutional pressures, or escaping from institutional rules or expectations may represent a solution (ibid:154). One way to avoid the increased wage costs that follow from general application of the collective agreement would be to reorganize the company into a "service contractor". Instead of having permanent employees, the companies use workers who are registered as self-employed and denote the work as contractual assignments. At the same time, an impression of professionalism is maintained, since the clients deal with only a single company that provides them with guarantees of quality, satisfaction etc. In doing so, the general application of the collective agreement is circumvented, since it does not apply to self-employed workers. Other provisions, such as the requirement for registration, also

apply to the self-employed. We may further assume that such centres will mainly serve smaller companies and private households. The phenomenon of “false self-employed” workers, i.e. employees who operate as though they were self-employed, is not new in Norwegian working life, but it will nevertheless remain a challenge if their number increases significantly. Even before the general application of collective agreements was enacted, this was a well-known phenomenon in the industry, because the self-employed are not encompassed by large sections of the Working Environment Act, and the “contractor” is exempt from paying payroll tax, holiday compensation and sickness benefit. An increasing number of self-employed workers in this industry may be an indication of what Oliver (1991) refers to as “avoidance” or what Mahoney and Thelen (2010) describes as “conversion”: Certain actors deliberately exploit loopholes in the regulations. The formal rules remain intact, but they are interpreted in an opportunistic manner that in the long term may undermine them.

Another strategy may be to defy the new rules by simply ignoring them. Companies that fail to apply for approval or issue ID cards to their employees, or who continue to market their services even without approval, provide examples of such defiance of the rules. An important argument may be that the likelihood of getting caught is so low that the company in fact is running no risk. Another reason could be that the success of the company is independent of government approval and support (Oliver 1991:156), since they supply their services to clients who fail to request documentation that the company is a decent operator. However, this is conditional on their being no reactions from their environment.

As we have pointed out above, the decent companies will also need to pay attention to the development in their own businesses. The challenges that we have pointed out as key issues for the partners at the industry level are no less significant at the local level. For example, there is a certain apprehension in the industry that the generally applied hourly rates will result in an increasing pressure on performance, since the cleaning services must be delivered in a shorter time. In combination with the physical and psychological problems related to the working environment and the troubled relations between managers and workers, this is a task for the local management, safety delegates and trade union officials. This will require, however, that the trade union officials and safety delegates are allocated sufficient time to attend to their offices and remit, and that the employers choose to include them in decisions that have an impact on the companies and their employees.

The customers

Customers who chase the lowest prices versus authorities who want to see more orderly conditions in the cleaning industry are an example of conflicting interests that may complicate processes of change (Oliver 1991:162) as well as entail differing courses of action in the industry. However, the new instruments also impose requirements on the customers. Issues include whether the new institutional instruments will have a normative and regulatory force that could help decelerate the strong pressure on prices. With the exception of private households, purchasing cleaning services from unregistered companies is no longer allowed, and the employees must wear approved ID cards. The general application of the collective agreement also implies that the customer is responsible for ensuring that the workers are paid in accordance with the generally applied wage rates. This responsibility also encompasses employees of any sub-contractors that the cleaning companies are hiring. Research undertaken before the general application of the collective agreement was enacted

indicates that customers rarely requested documentation of the wage levels and working conditions of the workers. This also applied to purchasers of services in public agencies, who at the time were encompassed by the Regulations on wage levels and working conditions in public contracts (ILO 94) (Trygstad et al. 2011). As described above, the company managers claim, however, that since the general application of the collective agreement the customers increasingly often request such information. The new measures require customers not only to be aware of their responsibility; they must also be interested in assuming this responsibility. It is not unreasonable to assume that despite all possible measures, some customers will still want to purchase services at the lowest possible price, even illegally if need be. Not only indecent companies, but also indecent customers need to be controlled.

The social partners' confidence in the implemented measures rests on the assumption that the authorities will monitor compliance through inspections, and that violations will be penalized. As described above, the company managers have considerable faith that expanded monitoring by the tax authorities and the Labour Inspection Authority could help improve conditions in the industry. If the authorities are unable to maintain a sufficient level of control, and if violations of the new regulations thus go unpunished, this may reduce the assent to the new measures even among the decent companies. Competing with companies that are not hindered from selling their services at a far lower price is an untenable situation for the decent actors. To achieve permanent change in the industry, the customers' attitudes must also be changed. The strong focus on price must be counterbalanced by a greater attention to the quality of the cleaning in an expanded sense. In an era when corporate responsibility is communicated in strong terms, it is not unreasonable to expect that the customers balance concerns for the quality of the service and the working conditions of the employees against the price more evenly than has been seen until now (Berge et al. 2013). For this to happen, however, the normative climate among the industry's customers will need to change. Customers will have to accept higher prices and more control routines when buying cleaning services. "Eva", whom we quoted in the introduction, is an employer who encourages her clients to comply with the new industry rules and Norwegian law. As regards the interpretation of institutional change and political processes, the theoretical contribution attaches great importance to the role played by notions and ideas. To convince others of your view, it is essential to frame arguments within ideas that enjoy general legitimacy and force (Beland 2005). Compliance with Norwegian law must be deemed to constitute a general idea with normative force.

Concluding remarks

Key actors in the cleaning industry point to two issues in particular that they regard as essential to improve the conditions in the industry. First, the *combined effect* of the measures implemented (including aspects of control and reactions to violations) is seen as crucial for success in combating indecent practices. Second, emphasis is placed on allowing the measures to have an effect *over time*. Informants underscore the need to wait out the changes. One employer stated it thus: "A project to combat indecent practices must have a five-year horizon as a minimum. It must proceed over time. The media must maintain the pressure, politicians must maintain the pressure, as must the industry and the Labour Inspection Authority" (Trygstad et al. 2011:180). This combination of measures and time requires attentive and interested actors at all levels – including the political level – and it will, not least, require cooperation between actors vertically and horizontally. The personal chemistry between the actors will also have an effect. In 2011, informants at different levels pointed out that the year 2009/2010 represented a turning point, with the appointment of a government minister

who wanted things done and took the necessary steps. If the measures are to be allowed to take effect over a period of time, which will be essential for their institutionalization and not least for pulling the cleaning industry into the mainstream of Norwegian working life, stability among the actors will be crucial. A possible change of government in 2013 may shift the focus and help deflect attention from combating indecent practices in the cleaning industry. After eight years in government, the red-green coalition appears to be heading for a defeat in the upcoming elections. The government's role in regulating working life may vary in accordance with shifting political constellations in power (see e.g. Traxler et al. 2001:155-156). The government is especially important for regulating those parts of the labour market where there is less partnership, since the partners themselves will be unable to compel the actors at the company level to abide by the new rules (Traxler 2003; Howell & Givan 2011:251). The tough regulations we are witnessing in the cleaning industry can be described as a sideways step in the Norwegian IR model, which has emphasized that wage levels shall be regulated by the partners through collective agreements, and in which soft regulations driven forward by the partners themselves have played a key role in the development of industries and workplaces. In the longer term, moving the semi-decent companies in the direction of better compliance and strongly reducing the number of indecent operators will be the first step. The second step is likely to be a greater challenge. We assume that the interest in achieving qualitatively better workplaces in the decent part of the industry depends on several issues. Examples are: Good cooperative relationships, to improve the conditions for trade union officials and safety delegates and to create jobs that the employees can keep until retirement.

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