

*Policy formation, administrative reform and policy measures:
the Norwegian case in a European context*

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Introduction

This paper elaborates on the relationship between policy formation, administrative reform and policy measures in the recent development of Norwegian social policy. We are specifically focusing on the field of social inclusion and social protection and examine these policies in a comparative European perspective.

Concerning policy formation, the paper examines the dominating social and employment policy discourses and ideas of international actors such as the EU, and relates these to the main discourses and ideas permeating the Norwegian policy formulation. One important feature on both political levels has been to link social policy and employment policy more closely together. What are the basic arguments for this development and how is it justified?

On an administrative level the relationship between social and employment policies is mirrored in the reform of the Norwegian welfare administration, the so-called NAV-reform. One main aspect of this reform has been the establishment of local NAV-offices linking together employment services, social insurance agencies and the municipal social assistance benefits. The paper analyzes how the main ideas of the policy formation process are expressed in the reform of the social protection system.

As a part of the NAV-reform the Government introduced a ‘qualification program’, also described as welfare-contracts, in order to activate long-termed social assistance beneficiaries. This measure is presented as the main policy instrument in the Norwegian fight against poverty and social exclusion and seems to reflect a more general tendency towards an increased influence of contractual or quasi-contractual thinking in European social policy discourse. An important issue raised in the paper concerns the justification of welfare contracts in social policies.

Ideas in social policy¹

Different ideas and policy discourses form the basis of the Norwegian policies on poverty and social inclusion. To study ideas implies that the attention is directed to theories, conceptual models, norms, world views, frames and the like, rather than material self-interest (Campbell 2002). Ideas are means to understand a multifaceted social world by applying certain concepts that help to reduce complexity. In addition, ideas may also provide a normative function by diagnosing the social world by invoking various concepts of justice. Both the cognitive and

¹ This section is based on Ervik, Kildal & Nilssen (2009) chapter 1.

normative aspects of ideas enable individual and collective action, for instance by building and/or changing institutions. Policy ideas, as understood here, are specific in terms of containing both the normative and cognitive functions, as well as prescriptions for actions.

The literature on ideas and discourses applies a variety of concepts to denote the role of ideas and how these interact with institutional structures (Pochet 2003; Radaelli & Schmidt 2004; Schmidt 2002; Taylor-Gooby 2005). Thus, Hall applies the concept of paradigms to represent an interpretative framework, which involves “a framework of ideas and standards that specifies not only the goals of policy and the kind of instruments that can be used to attain them, but also the very nature of the problems they are meant to be addressing” (1993:279). Schmidt and Radaelli define a policy discourse in terms of its content, “as a set of policy ideas and values, and in terms of its usage, as a process of interaction focused on policy formulation and communication” (2004:184). These policy ideas, policy discourses and policy paradigms can be conceived of as descriptions of reality, specific framings of problems, and provisions of solutions wherein normative and factual assessments are interwoven (Campbell 2002; Hall 1989; 1993; Ney 2000; 2003; Rein & Schön 1993). What kind of policy ideas different actors proliferate influence political solutions, as they tell us some policy stories about how the social world is constructed, what norms that are important to protect or reject, and why things go wrong. This ideational perspective stresses the non-reducible role of ideas and their relative independence from material self-interests and power.

There is a need to differentiate between various aspects of ideas and to distinguish between levels of ideas (Ervik, Kildal and Nilssen 2008). For the sake of simplicity and drawing on the distinctions made by Campbell(1998; , 2002), we will apply two broad types of ideas which differentiate between concepts and theories in the foreground of debate and underlying assumptions in the background of the policy debate. Campbell in his account, in addition, distinguishes between a cognitive and a normative level. In this paper we combine these levels and differentiate between cognitive and normative framing ideas (paradigms and world views) concerning the justification of policies on the one hand, and programmatic (instrumental/cognitive) ideas concerning means-end relationship on the other hand. Hence, in a policy discourse a programmatic idea may relate both to normative and/or a cognitive framework and be justified by both normative and cognitive arguments. The kind of notions which are explicitly used by different actors to justify certain programmatic ideas, we will call ‘frames’ or framing ideas.

In this paper we will focus on the basic programmatic ideas pervading the dominant policy discourses on poverty and social inclusion in Norway and the EU and policy formation in Norway. How are these ideas justified (framed) and how may they effect normative problems concerning the balancing of rights and duties in the welfare state and the relationship between paternalism and client influence in service delivery?

Social policy ideas in the EU and Norway

The EU

The *Treaty of Rome* contained only a few provisions on social and labour market policies with the aim of protecting the workforce. However, in the 1980s it became obvious that the traditional regulatory tools did not work very well as regards the labour market, and the idea of a 'European Social Model' came to the centre of EU policy-making. In 1989 the EU presented the report *Employment in Europe*, that has been produced annually since then, and in 1993 a *White Paper on Growth, Competitiveness and Employment* (CEC 1993). In 1997 a separate Employment Chapter (Title VIII) was included in *The Treaty of Amsterdam*, and a new employment strategy was developed - the *European Employment Strategy* (EES) - which created the framework for a country surveillance procedure. Central to the new employment strategy is the idea that social policy is not a burden for employment, but rather may act like a 'productive factor', which may help European economies to perform better. Social and employments policies are from now on considered to be closely linked.²

The Lisbon summit's 10-year strategic goal from 2000, "to become the most competitive and dynamic knowledge-based economy in the world capable of sustainable economic growth with more and better jobs and greater social cohesion" (European Council 2000:2), required a new strategy where "modernizing the European social model, investing in people and combating social exclusion" became one of the three overarching pillars (ibid.:6-9). The Council also set up a *Social Protection Committee* (SPC) that should facilitate closer cooperation among the Member States on the modernization of social protection systems within the EU. The basic programmatic ideas in the Committee's work may be described as rooted in three different, but yet overlapping social policy discourses: 'make work pay', 'flexicurity' and 'active social inclusion through work'.

² Cfr. The documents *The Future of Social Protection: A framework for a European debate* (CEC 1995), *Modernizing and improving social protection in the European Union* (CEC 1997) and *A Concerted Strategy for Modernizing Social Protection* (CEC 1999).

'*Make work pay*', which had been a key message in the OECD's employment strategies since the 1980s, thus gradually became a priority also for the EU's Social Protection Committee. 'Make work pay' policies cover a series of reforms which aim is to make work pay more than not working. Generally this implies a mixture of social protection and employment policies, like stricter eligibility criteria, lowering of benefit levels, and tax reforms. The key programmatic ideas in this discourse are rooted in incentive thinking and its notion of an economic basis of work motivation.

Flexicurity is also an idea that is getting increasing attention within the *European Employment Strategy*, as within the OECD. Even if work incentives may be strengthened by the reduction of benefit levels, new evidence suggests that innovative reforms like activation and tax-benefit re-modelling can also improve re-employment chances for those out of work (Torres 2006:16). To facilitate hiring and firing decisions while concurrently providing efficient re-employment services and income support to job losers, creates labour market dynamism as well as provide workers with adequate protection, is the argument. It is seen as a possible way between deregulation and over-protection.

The Active Social Inclusion Discourse is oriented towards a strengthening of the relationship between traditional social policy (distribution/redistribution) and labour market policy (Kildal 2001; Lødemel & Trickey 2001; Nilssen 2009). At the EU level the dominant motto of the Social Inclusion Strategy is closely linked to the European Employment Strategy, as the best guarantee against social exclusion is a job. The programmatic ideas at the centre in the discourse on Active Social Inclusion, cover an 'active labour market policy', through investments in education and training – and removal of obstacles to the labour market.

Norway

Norway is not a member of the EU. Nevertheless, the programmatic ideas that are guiding Norwegian employment and social inclusion policies are not very different from the EU ideas. Each year for the last five years, the Ministry of Trade and Industry has published a report on "The EU Lisbon Strategy", which relates Norwegian policies to the Lisbon policy guidelines. Certainly, the Government emphasizes that Norwegian policies need to be premised on the Norwegian context. Nevertheless, the goal of the present Norwegian Government resembles very much the overarching goal of the Lisbon process: "... to make Norway a globally leading, innovative, dynamic and knowledge-based economy within those areas where we enjoy advantages". In this context Norway "may have something to learn from the EU - and the EU may have something to learn from us" (Ministry of Trade and Industry 2007:6).

In 2006 the Norwegian Government published a White paper on “*Work, Welfare and Inclusion*”, which reveals the resemblances of the ideas. The aim of the publication was to outline ideas for strategies and actions in order to strengthen the inclusion in working life of persons of working age who either have problems entering the labour market, or risk of falling out (St.meld.nr. 9 2006-2007: 15-16). One of the key messages is that “the transition from benefits to gainful employment must pay economically for the individual as for the employer” (ibid.:15), fully in line with the EU discourse ‘make work pay’. This implies, according to the Paper, that the compensation level of most temporary benefits is substantially lower than previous earned income, which naturally gives the clients clear (negative) incentives to enter the workforce. The government admits, though, that the balance between combating poverty, redistribution and good work incentives is particularly difficult when children and youth are involved (St.meld.nr. 9 2006-2007:18).

Like the EU recommendations, the concept of work incentive is a key concept in this Paper. The concept of a ‘welfare contract’ is also used as a “common and systematic principle” in order to concretize mutual expectations, demands and obligations between the welfare administration and the recipients. The welfare contract- and incentive-concepts are partly overlapping answers to the general and still prevailing interpretation of the welfare states that emerged in the 1970s: In 2008, the welfare state is still conceived of as demoralizing and far too costly; it produces disincentives to work. Thus, welfare contracts, with their activation programmes and incentive structures are portrayed as a solution to the welfare state’s financial challenges due to among other things the demographic development in Europe. While the incentives to sign the welfare contracts are positive, the sanctions for not signing them may be harsh.

Also in Norway, then, the aim of protecting citizens against social risks may seem to be less central, with regard to employment and social protection policies, than the aim of protecting the economy from lack of employment supply. The contractualist model has thus become an important justifying principle for a new distributional pattern regarding social benefits. The Norwegian Social Insurance benefits have concurrently and increasingly been tied up to requirements of activation. According to the Paper, the intention with the income security benefits is not only to secure a predictable income protection, but also to motivate the wage-earners and benefit-receivers to take up work rather than social security. Although the government admits that there may be a conflict between these two concerns in the short run, the total welfare for most citizens in the long run will be best secured through participation in

the working life (St.meld.nr. 9 2006-2007:115, 123, 134). This approach is also highly visible in the reorganization of the Norwegian welfare administration.

Reforming the Norwegian welfare administration

In 2002 the Norwegian Parliament made the following unanimous decision: “The Storting asks the Government to elaborate on the question of a common service for the social, labour market and social insurance agencies and submit a report for the Norwegian Parliament in an appropriate way during 2002” (Innst. S. nr.11 2001-2002). Following a quite crooked process in which Parliament refused the first propositions from the Government, a proposal for a new employment and welfare administration in Norway was submitted to the Parliament in Mars 2005 (St.prp.nr.46 2004-2005) and formally endorsed on May 31, 2005. The whole reform was based on three general objectives; employment-orientation, user-orientation and efficiency.

Employment-orientation meant more people in activity and less people on welfare benefits. The employment and welfare policy was intended to move more people into the labour market and to keep them there more permanently. A life as a social insurance recipient would be made less attractive and the so-called ‘activity-line’ in social policy would be strengthened.

“Labour is our most important resource. Welfare is not created and financed by itself. High participation in the labour market is necessary both in order to secure the economic growth essential to maintain welfare arrangements and to cover the need of labour related to increasing needs of care, and to prevent high expenses of social insurances and benefits to restrain public contributions in other important areas.”
(St.prp.nr.46 2004-2005:10)

The aim of the ‘work approach’ is to replace the ‘passive support’ in the income maintenance policy with an active linking of benefits to work requirements, in order to make the claimant self-sufficient.

User-orientation, or a more user-friendly service, may be understood as “letting the needs of each user or user group guide, to a greater degree, both the content of service provision and the way services are provided” (St.prp.nr.46 2004-2005:34). The experiences and wishes of service users should be taken more into consideration when decisions were made (Michelsen 2008: 8). Client influence should both imply a possibility to affect ones own case and a demand on active cooperation. User involvement and empowerment were

important rhetorical concepts in the presentation of the new approach. User cooperation was also supposed to ensure that policy measures were individualized and tailor-made. The Government emphasized the importance of using individual plans for persons in need of coordinated measures, understanding an individual plan as "... a social contract with the society showing both rights and duties." (St.prp.nr. 46 2004-2005: 10).

Efficiency (cost-efficiency) would guarantee against a welfare administration with overlapping functions and secure the advantages of large-scale operation. One of the main arguments for the NAV-reform has been to improve the coordination of similar welfare services within the state and between the state and the municipalities (Christensen 2008). The main elements of the reform have been:

- * The Employment Service and the Social Insurance Service have been integrated into one service: the Employment and Welfare Service, from the first of July 2006.
- * The Employment and Welfare Service, together with the social services of the municipalities (at least the local authorities' administration of financial social assistance), enter into a common agency; the Employment and Welfare Administration (NAV).
- * Joint local NAV-offices covering all municipalities in Norway are to be established by the first of January 2010. These joint offices are based on binding partnerships regulated by a contract between the state and the municipality. The partners have a large degree of freedom to shape the administration of these offices within the broad framework of the law.

The new NAV-office should be the locally based physical contact points for the welfare recipient and represents all of the functions of the new work and welfare administration.

- One of the main aims of the offices is to lead people with work-abilities into employment-oriented processes at an early stage.
- Clients in need of it should as quickly as possible get an assessment of their requirements and a coordinated service.
- The clients should receive equal offers and services independent of their geographical residence.
- The welfare recipients should meet an office who invites to client influence in service delivery and activities steered by oneself (St.prp.nr.51 2008-2009:9).

One significant idea behind this reform has been to intensify the relationship between social policy and labour market policy through an administrative reform comprising all levels of bureaucracy from the top to the bottom. These ideas go back to the early 1990s at least, when the ‘work approach’ came to the fore (St.meld.nr.39 1991-92). The Government emphasized the strong relationship between the NAV-reform and combating poverty:

“The main objective of the NAV-reform to bring more people into the labour market and in activity and fewer people on social insurance benefits, make the local NAV-office one of the main actors in the fight against poverty” (Attachment to St.prp.nr.1 2006-2007:4).

In this fight, one of the main instruments administered by the NAV-office was to become the so-called Qualification Programme (see below).

Action Plans against poverty

In 2003 the Norwegian centre-right Government (Bondevik II), for the first time in 70 years, explicitly thematized the concept of ‘poverty’ in a governmental document, *Action Plan for combating poverty* (St.meld.nr.6 2002-2003; Dahl & Lødemel 2003:125). Even if the causes of poverty are numerous, the Action Plan was focused on one common feature: the lack of work. The main effort was directed towards enabling people who had been living in poverty for a long time to support themselves through work. The Action Plan accentuated the need for organizational change and a review of the benefit system with the aim of strengthening incentives to work, in addition to creating a more inclusive labour market. The plan attached special importance to improved targeting of welfare services and financial support to ensure they were consistent with the objective of self maintenance through work (*ibid.*:11). Two of the measures mentioned were targeted labour market measures for long-term recipients of social assistance and labour market directed qualifications for immigrants.

Generous welfare benefits were perceived as possible ‘poverty traps’ and one important challenge was to target social benefits so that they could function as effective incentives to move the most disadvantaged people out of poverty, i.e. into the labour market. The objectives and measures proposed in the plan were traditional in their focus on ordinary work for disadvantaged groups. The Government showed great belief in targeted social benefits, i.e. means tested and ‘tailored’ measures and services (Dahl & Lødemel 2003:126) and in economic incentives to make work pay.

In 2006 the new centre-left (red-green) Government (Stoltenberg II) introduced a new Action Plan against poverty as an attachment to the government budget (Attachment to St.prp.nr.1 2006-2007). For the red-green Government, combating poverty had been an important issue in the 2005 electoral campaign. In this Action Plan, the Government stated that it would eradicate poverty through universal welfare arrangements, strong public welfare solutions, and by offering everybody the possibility of participating in the labour market (ibid.:4). Although universal benefits such as education, health services and social insurance were accentuated, the plan clearly stated that universal arrangements had to be supplemented by individually adjusted services and measures. One of the groups which were specifically highlighted was long-term recipients of social security benefits.

Concerning redistributive efforts, the Government increased the recommended lower level of social assistance benefit. Financial social support, however, would continue to be a discretionary and means-tested benefit under the auspices of the local authorities. One particular initiative was seen as significant in moving the long-term recipients of social assistance (in general) out of the state of passivity and poverty. This was called a ‘*Qualification Programme*’ (QP). The purpose of the programme was “to encourage more people in the target group to get a job” (Attachment to St.prp.nr.1 2006-2007:23). The QP was endorsed by the Parliament on October 18, 2007, and incorporated into the Social Service Act as a new Chapter 5A.

The qualification programme

In the proposal for a new law on a Qualification Programme in the Social Services (the NAV—offices) (Ot.prp.nr.70 2006-2007), the Government stated that there was an urgent need to help social assistance recipients into employment and other kinds of activity in a more general, systematic and binding way (both for the recipients and the service providers) than before. Participants in the QP should be of working age with substantially reduced working capacity, and receive no or very limited contributions from social insurance schemes or from benefits anchored in labour market law. They should be, or at least be in danger of becoming, in a state of income poverty. They would mainly be people who had been dependant on social assistance as a main source of income over a long period of time.

On a general level the law regulates some aspects of the content of the QP, i.e. it defines some activities which are mandatory and gives some examples of optional measures. The programme has to contain employment-directed measures and work-seeking activities, and may include other efforts towards supporting and preparing the transition from

unemployment to work (§5A-2). Examples of such optional measures are training/education programmes, motivational and coping activities. The QP may also reserve time for health treatment and activities produced and steered by the participants themselves. The content of the programme, however, is supposed to be adjusted to individual needs and qualifications. Participation in the programme should basically be full time and for a year to start with. (It can be prolonged if considered necessary).

Participation in the QP is, at the outset, voluntary and the participants are free to end the programme whenever they want to. However, potential participants within the target group are initially not allowed to choose social assistance as a form of subsistence instead of the QP. The Government emphasizes that financial social security is considered a subsidiary contribution so that that a person who refuses to apply for a QP, despite the local services recommendation of such a programme, may have his/her social security benefit reduced (Ot.prp.nr.70 2006-2007:31). Assessing an application for social assistance, the municipality may refer to the QP and the qualification benefit as the main source of subsistence. Participants in the QP will receive a qualification benefit for as long as they are participating in the programme (§§ 5A-7 – 5A-12). This financial support is supposed to stimulate and motivate the target group to participate in the programme, and at the same time promote the transition to active participation in the labour market, e.g. by adjusting the benefit to the rules of the labour market. The Government calls attention to the predictability of the benefit concerning the level of financial support and permanence, compared with the more discretionary social assistance benefit. In order to encourage people into employment, the level of subsistence for QP participants is, although higher than for those living on social assistance, much lower than any normal employment income. The Government states that the qualification benefit should be fixed so as to primarily guarantee the covering of reasonable expenditure by the participants and ensure a frugal and reasonable subsistence (Ot.prp.nr.70 2006-2007:37).

Although there exists no systematic research on the implementation of the QP in the municipalities – the programme is still quite novel – interviews of street-level bureaucrats conducted in 4 local NAV-offices³ offers some indications. First, the use of coercion in the recruitment of clients to the programme has so far been rather uncommon. There are, however, cases when clients wanting to quit the programme as a consequence are proposed an option of emergency aid, resulting in continued participation. Second, the possibility of client

³ Conducted by the authors as a part of an ongoing evaluation of the NAV-reform

influence depends to a large degree on the attitudes and opportunities of the social workers. Motivating clients and influencing their goals and expectations are important aspects of the construction of these 'contracts'. Third, in some cases the QP primarily serves as a tool separating those who have a right to disability insurance (the worthy) from those who have not (the unworthy). Fourth, the clients have to accept several duties in order to participate in the programme. These duties normally concern the clients' obligations to take part in different kinds of activities and to report back to the NAV-office. Fifth, for many clients social training (e.g. structuring their daily life) seems as a more realistic aspect of the QP than attaining paid work in the general labour market. There are for example cases showing that social workers come for the clients at their homes when they do not appear for an agreed activity.

The founding programmatic and framing ideas in Norwegian and EU social policy

The dominating ideas on the field of social inclusion/social protection are quite similar in Norway and the EU, although there are different nuances. The discourse on 'Active Social Inclusion' (through work) has constituted the foundation of most of the programmatic ideas within the EU 'Social Inclusion Strategy' (SIS) and the Norwegian social policy on poverty and welfare administration reform (Ervik, Kildal & Nilssen 2008). This has caused a general strengthening of obligations, conditionality, individualization and local discretion in social policy.

'Incentives' is also a key notion on both levels. A main manifestation of the widespread use of incentives is the slogan '*make work pay*', which is one of the main catchphrases in the Norwegian White Paper on *Work, Welfare and Inclusion*. The idea that the transition from benefit to work must pay economically, is fully in line with the EU policy ideas. According to the Norwegian White Paper, this implies that the compensation level of most temporary benefits is substantially lower than previous earned income, which naturally gives the clients clearly negative incentives to enter the workforce, if this is a possible choice. Modernizing social protections implies both in Norway as well as in the EU raising the number of persons benefiting from active measures, and a strong focus on the incentive structures of the systems.

Another important crossing point between the national and supranational level in the field of social inclusion is the idea of '*flexicurity*'.⁴ In the formulation of this idea EU policy

⁴ This implies measures such as: effective active labour market policies supporting transitions between jobs, as well as from unemployment and inactivity to jobs; credible lifelong learning systems enabling workers to remain employable throughout their careers, by helping to cope with rapid change, unemployment spells and transition

makers have to a large extent directed their attention to welfare states such as Denmark and the Netherlands (Nilssen 2009). On the national level the idea of flexicurity, although highly adapted to Norwegian conditions, is also stressed as very important in the preparation of policies concerning social inclusion. In the process of national policy-making the main ‘source’ of this thought is not primarily the EU but in particular Denmark. Thus, we may claim that Denmark is the main inspirer of the idea of flexicurity both in a bilateral and a supranational perspective.

One of the main arguments for the Social Inclusion Strategy as developed within the EU has been related to what has been termed *The Sustainability Discourse* (Ervik, Kildal & Nilssen 2008). Generally, this discourse addresses questions about the social and economical challenges of the welfare state and whether these will undermine or cause the dismantling of the historical accomplishments of this state structure. The often repeated request to “modernize the incentives structures” of the social protection systems, and to implement “active social policies”, emphasizes the urge to change the focus from insuring individuals and protecting them against various social risks, towards investing in their capabilities and making use of them to the best of their potential at every stage of the life course. In the EU this discourse has particularly been tied to the economic consequences of the demographic development in Europe.

These considerations are also present in the Norwegian context. It may be claimed that this discourse lays the cognitive foundation of the general interpretation and definition of social problems and solutions in European social policy, thus leading to a certain convergence on the ideational and discursive level of policy making (not necessarily to the same extent on the concrete level of policy reform). However, in the field of poverty and social inclusion economic arguments are not equally important in the framing of the Norwegian policy as at the supranational level of the EU. In Norway social inclusion policies are more directly founded in a political-administrative discourse on citizens’ rights and duties in the welfare state, using the idea of a social contract as a pedagogical instrument (St.meld.nr.9 2006-2007). As we have seen, contractualism also plays a very important role in the implementation of the ‘work approach’ in the Norwegian government’s fight against poverty and social exclusion. The next sections of the paper elaborate on some of the normative implications of contractual ideas in social policy.

to new job; modern social security systems combining the need to facilitate labour market transition with the provision of adequate income support during all absence from the labour market.

The new contractualism in social policy

One of the significant characteristics of the idea of a social contract is the principle of reciprocity and its normative expectation of mutuality. The conception of a 'new welfare contract' between the citizen and the state, based on the idea of 'justice as reciprocity' is distinctive in current welfare rhetoric, beyond political and national contexts. From the 1980s and onwards, many western and English-speaking countries have sponsored contractual modes of regulation (Ramia 2002). Basically this new welfare contractualism points to a close relationship between the citizen's rights and duties. The key message is that access to social benefits is conditioned by various responsibilities that the citizen has to meet. These are essentially related to work (White 2003).

Ideally, a contract implies a commitment by two or more equal parties based on free choice. As a managerial tool, contractual measures may have a legal status, but more often they are 'quasi-contracts', i.e. only inspired by the doctrine of a legal contract. Hence, a 'quasi-contract' is a contract which is not enforceable by law, even though the term is used as if a legitimate contract exists. The theory of New Public Management has especially made contracting the medium of communication in the public sector. The main argument for introducing contracts into public policies is that contracting enhances efficiency; it is considered to be a powerful tool - superior to administrative coordination - in reaching government goals (Lane 1999). But also a democratic aspect of contracting is emphasized, that is the possibility for client influence, which may result in better motivated clients and which is considered to constitute a democratic foundation of the welfare state (Ramia 2002: 50). Contractualism, thus, may both serve as a principle of justifying social policy in general and as a socio-legal technology in the distribution of policy measures in the welfare state (Nilssen & Kildal forthcoming).

Contractualism and justice: balancing rights and duties

The relationship between rights and duties has been a key issue in welfare policies, although the character of this relationship has changed over time (Kildal 2009). In Norway, the term 'the work approach' was first used in an official publication dealing with welfare reform in 1992. The aim was to replace passive support in the form of income maintenance policy with an active linking of benefits to work requirements, in order to make the claimant self-sufficient (St.meld.nr. 35 1994-95: 131). The link between rights and duties was stressed; the citizen both has a right, *and* a duty to work or prepare for work. The primacy of work has always been central in the Norwegian welfare legislation. However, from being conceived of

as a good that should be protected by a right,⁵ work is increasingly regarded as a duty (Kildal 1999).

The renewed work approach was first implemented in a *Social Assistance Act* that was passed by Parliament in 1991. In accordance with the amendment of this Act, benefits could be conditional on the claimant's willingness to do municipal work required by the local authorities. Five arguments were used to justify this linking of a duty to a right: economic sustainability, social inclusion, competence development, the benefits of work (work as a good) and reciprocity (Kildal 1999). These arguments are still important for the justification of 'welfare-for-work' programmes in Norway, as stated in the White Paper on *Work, Welfare and Inclusion* (St.meld.nr. 9 2006-2007). This document contains the Government's main strategies for strengthening employment and inclusion of persons who are at the fringe of the labour market (ibid.: 14). The general and systematic principle for these strategies is the concept of a 'welfare contract'. This idea of a welfare contract is the foundation of the main strategy outlined in the paper - the new Qualification Programme, as discussed above.

Arguing for this programme, which is 'voluntary' but punishing those who refuse to participate, the Government points to the need to secure and develop a welfare society with an increasingly aging population. Economic sustainability is thus an important framing argument. Other central arguments are, as in the former White Paper, social inclusion, competence development and the reciprocity argument, which seems to be the most significant one. The government assumes that the balancing of rights and duties will not only be conducive to economic growth, but also to increased dignity and self respect (ibid.:167, 178). As Lawrence Mead so crystal clear express the morality in this policy: "... the needy should receive aid, but *only in return for some contribution to the society..*" (Mead 1997:221, *our italics*).

Since the balancing of rights and duties is a main normative message in white paper on *Work, Welfare and Inclusion* (St.meld.nr.9 2006-2007), it is essential to stress that there is no logical or conceptual correlation between a person's rights and the same person's duties. Willingness to assume duties is no condition for the acquisition of individual rights. Certainly, rights correlate with duties, but in a quite contrary way: Rights correlate with duties in the sense that rights are the grounds for *other people's* duties. By definition, to have a right means to have a claim on a certain treatment from others. According to Feinberg, the reason why a moral correlation between individual rights and duties seems to be widely accepted could be

⁵ "Right to work" figures in several international declarations of rights, including the Universal Declaration of Human Rights (1948), and in 1954 a variant of it was included in the Norwegian constitution.

that a society's legal rights often are conferred by general rules that apply to classes of persons. Characteristically, any of these persons are also members of the class of those on which the correlated duties are imposed (Feinberg 1973:62). In this sense a culture of rights is always a culture of responsibility (Holmes & Sunstein 1999:156). But the widely accepted assertion, that a person's rights are conditional on the right-holder's performance of special duties and responsibilities, is not a logical, but a moral one.

The Government is not offering any moral justification for linking citizen's rights to their duties, although a policy of rights is significantly different from a policy of 'rights and duties'. While a 'social right' policy relates to satisfying basic needs and expressing a resource-based egalitarian notion of justice, including ideas of redistribution, equal opportunity and equal respect, a 'right and duty' policy is more concerned with the discussion of "what should count as an adequate reason to *deny* citizens such a good, at whatever level it is provided" (Gutmann & Thompson 1996:273). The egalitarian conception of justice is replaced by an idea of 'justice as reciprocity' which may have important effects on the welfare of the citizens.

Although the government does not offer any moral or logical argument for the linking of rights to duties, it nevertheless supposes that this connection will constitute a basis for 'dignity and self-respect'. This is an argument that often closes a discussion about obligations and work participation, not least because self-respect may be our most important primary good (Rawls 1971/1999:440). Still, self-respect is a vague and hard-to-define state of mind and there is no general agreement about the sources of self-respect, except that self-respect seems to depend largely upon the social recognition of others. That the obligations in the qualification programme will have this effect is obviously questionable, but can be an issue for empirical research. On the whole, the White Paper's general and systematic principle of a 'welfare contract' is a euphemism. It signals mutuality, while in fact loading the clients with more obligations. A right to subsistence benefits has always been important in the Norwegian welfare state. From a normative perspective, the only new element in the contractarian qualification programme is the new set of obligations being linked to this right. As we have seen, not fulfilling these new obligations may arouse sanctions like lower, or even a suspension of, benefits. This is why they may be considered as means to exert power with the aim of changing people's behaviour.

Contracts as socio-legal technology: regulating the relationship between the welfare state and the citizen

Voluntariness and mutuality is the essential basis of a contract. However, the use of contracts between public service providers and individual clients transfers a relatively large scope of judgment and decisions-making to the local level in the distribution of social policy, which obviously alters a contractual, symmetrical power-relation to an asymmetric one and establishes a very clear power-relation between the public service provider and the client.

Naturally, there are both legitimate and illegitimate uses of power. The question is whether the power that is exercised through the policy tools of incentives and contracts is legitimate? Ruth Grant (2006) argues that any form of power can be judged according to three criteria:

1. by whether it serves a legitimate purpose
2. by whether it allows a voluntary response
3. by its effect on the character on the parties involved

The first criterion is not problematic in this case, as the main aim of using contracts as a social policy tool is to reach the policy goal of full employment. This goal has of course high legitimacy in society, not least because the welfare systems themselves are conditioned by high employment rates and economic growth (and vice versa).

The second criterion, however, pose some normative problems. The signing of a welfare contract may be described as compulsory, as a refusal to sign in general results in lower benefits, or even a suspension of them. In reality, the offers the clients are given through economic incentives and welfare contracts are offers they can't refuse (Lødemel & Trickey 2001). The less the resources a person are in possession of, and the greater the economic needs, the stronger is the compulsion.

The last criterion concerns the effects the use of contracts has on the behavior of the involved parties – and not least – on the welfare state itself? Both for the clients and for the welfare state the effects may be counterproductive. Incentives and welfare contracts might influence people to work for reasons that undermine other, non-economic motives for working. Other motives might be undermined when the authorities steer the citizens in specific directions through economic rewards or punishments. Policy reforms based on the assumption that work is a burden that people perform exclusively for economic reasons will probably lead to a confirmation of precisely that assumption. This may give the welfare reforms a paradoxical effect: in order to obstruct the clients' strategic thinking concerning

welfare benefits, which is an assumed effect of the welfare state, the political actors have designed social policies that urge the citizens' into strategic calculations.

The Norwegian qualification programme constitutes an interesting example of the new contractualism in social policy, striving for a combination of work incentives, active social inclusion through work and increasing client influence in the service delivery process. As a quasi-contractual construction the QP may both serve as a democratic tool and a behaviour regulating technology (Nilssen & Kildal forthcoming). The democratic approach highlights the possibility of client influence in service delivery. In a managerial sense contractualism is interpreted as closely attached to "...the increasingly influential idea that services should be designed around the needs of individuals, not the other way around" (Yeatman 1998:228). The content of the QP is supposed to be determined through the interaction between the client and social workers. The democratic conception of contractualism is, however, highly contested. Several scholars accentuate the more 'illiberal' aspects (Andersen 2003; Ramia 2002; Jajasuriya 2001; King 1999; Rose 1999) focusing on contractualism as a new mode of controlling individual behaviour. Jajasuriya (2001:62) underlines three important elements of new contractualism: a) that social policy should be directed at fostering responsible behaviour, b) that development of this responsible behaviour can be promoted through a cocktail of sanctions and incentives, and c) that the key to a responsible sense of agency lies in the inculcation of new modes of social conduct.

From this perspective the QP cannot be reduced to a democratic tool in service delivery, but has to be seen in a broader political and institutional context. It seems to imply an individualization and proceduralization of social policy within a political and institutional context, dominated by ideas founded in the discourse on active social inclusion (Nilssen 2009), based on the idea that the main road out of poverty and social exclusion is through economic participation in the labour market. As we have seen, this discourse is reflected at the institutional level by the NAV-reform, linking social policy and labour market policy closer together. In this context the QP becomes the main instrument to generate responsible behaviour in the target group (long-term recipients of social assistance) i.e. creating economically active citizens. Client-participation in the service delivery process may thus be interpreted as a method of training⁶ rather than a democratization of the relationship between citizens and the welfare system.

⁶ Clients should for instance learn to get up in the morning, as the Minister of social affairs declared in the introduction of the idea of a 'welfare contract' (which later became the QP).

Although we will not reject the possibility that the QP may increase the democratic influence of clients in service delivery, it is important to note that the liberal ideas of contractualism, which are supposed to enhance the freedom and power of citizens at the expense of the bureaucrats/professions of the welfare state, may in fact entail new forms of control mechanisms in line with what Nikolas Rose (1999) calls ‘advanced liberalism’. These mechanisms may represent a more subtle way of controlling individual conduct than (hierarchical) substantial law and professionalism. The main goal of the Norwegian Qualification Programme is to transform the long-term recipients of social assistance from passive and dependent citizens to self-sufficient and economic active citizens. Poverty is primarily interpreted as a lack of will to be a self-sufficient person, i.e. an economic active citizen, and a possible lack of *ability* to work is under-communicated.

Final remarks

Contractualism in social policy is deeply rooted in a welfare state critique which argues that this kind of state is dysfunctional, economically and morally; it creates new structures of dependencies and passivity among its citizens. Other financial challenges, i.a. due to the demographic development in Europe, also contribute to the solution of a welfare contract with its activation programmes and incentives structures. The same answer is on the agenda all over the Western world.

In this paper we have analysed dominating social and employment policy ideas and discourses in the EU and in Norway, and found a striking resemblance between discourses and ideas regarding social and employment policies. The discourses on ‘Make work pay’, ‘Flexicurity’ and ‘Active Social Inclusion’ were dominant both in the EU documents as well as in the Norwegian ones, the legitimacy of which, on both political levels, is rooted in the so-called *Economical Sustainability Discourse*. The two levels share the policy ideas of incentives and activation, as well, ideas that has to be framed in a sort of quasi-contract in order to function. Our concern has not been to trace any possible cross-border influence in social policy between the EU and a non-member state; we have rather been concerned with the question of which ideas that are dominating in the policy discourses taking place in the EU and Norway, to what extent do they resemble across these levels, and whether they have had any influence on policy formation on the national level.

The above mentioned ideas are clearly present in the Norwegian policies on poverty, social inclusion and employment. In Norway, a strengthening of the relationship between the social policy and labour market policy is reflected in the comprehensive administrative NAV-

reform from 2007. An important part of this reform was the construction of a programme based on a quasi-contractual arrangement between long-time recipients of social assistance and the social service agency (the NAV-office). As a part of the reform, goals such as employment-orientation, user-orientation, and cost-efficiency are at the centre of attention. The move from social benefits to the labour-market is seen as the main solution to poverty, and the quasi-contractual tools are obviously regarded as quite effective.

However, no matter how efficient these political measures may be, the use of contracts in social policy brings up some important normative issues. One is the relationship between citizen's rights and duties. In the last part of the paper we examine how this relationship has changed after the WWII, and how the emphasis on rights to social benefits has moved to the duties to work or perform a form of activity. This change has been firmly certified by the introduction of a welfare contract. We have argued that the idea of a welfare contract provides a euphemistic cover for policies whose overall effect had been to load recipients of benefits with more obligations and to obscure the classical discourse on redistribution of resources in the welfare state. Another central normative issue that the use of social contracts brings up, is their possible effects on the relationship between democratization and control in the society. For that reason we discuss legitimate and illegitimate uses of power, and contractualism as a tool for strengthening the clients' democratic influence, versus as a new mode of controlling individual behaviour.

The Scandinavian welfare states are generally understood as redistributive states in which different kinds of resources are distributed according to the universal legal rights of the citizens in order to secure the social autonomy of the citizens if they fall out of the labour market. Active labour market policies are traditionally seen as a part of the right to work i.e. as a part of the political obligation to help people who are considered able to work into the labour market.

The recent trends in the development of Norwegian welfare policy have modified these basic principles, not least the new 'work approach', which strengthens the link between contributions and benefits, that is, strengthens the norms of reciprocity at the cost of the principle of universalism (Kildal and Kuhnle 2005:28). This new 'work approach' introduced an immediate duty to work in return for benefits in the lowest tier of the income maintenance system, which has been described as a 'new trajectory' different from the former 'income security' policy in terms of social rights (Goul Andersen 2000:80). In this sense the introduction of the QP in Norwegian social policy may imply a further development away

from the traditional Scandinavian welfare model. The general move towards contractualism in social policy may thus increase the controlling features of the welfare state.

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