INTRODUCTION TO THE SYMPOSIUM:
DIGITAL FREEDOM AND DISABILITY – LESSONS FROM EUROPE AND THE UNITED STATES

Rune Halvorsen

Over the last decade policy makers in the European Union, the Council of Europe and European nation states have recognized that European citizens are becoming increasingly dependent on technology-based products and services in their daily lives, e.g. self-service terminals, online government and shopping, audiovisual services and mobile telephony. Accessibility and availability of information and communication technology (ICT) have become a sine qua non to enable people to enjoy the full benefits of participation in contemporary society.

The UN Convention on the Rights of Persons with Disabilities (CRPD), adopted by the UN General Assembly in 2006, clearly adds momentum to the on-going policy reforms to ensure digital freedom for persons with disabilities in the EU and many Member States. While the Convention does not establish new human rights, it does clarify the obligations of the State Parties to ensure the full realization of existing human rights, also for persons with disabilities. The Convention explicitly addresses ICT and will serve as a moral compass for the State Parties to the Convention in the years to come.

By presenting a symposium examining policies aiming at enhancing digital freedom for all, including persons with disabilities, this volume of the European Yearbook of Disability Law feeds into the ongoing policy reforms in the EU and many Member States. The symposium brings together four experts in law and policy to present their analysis of the main challenges ahead to achieving an information society for all, including persons with disabilities.

The authors identify the main trends and developments in national and supranational law and policy for Europe and the US. The articles and papers focus on law and policy issues rather than technology issues per se, with a view to exploring options that may inspire advances in the opportunities to participate in information society for European citizens with disabilities. The articles and papers address the issues from the perspective of legal and sociological research, as well as from the perspective of disabled people’s organizations.

1 Senior Researcher, NOVA Norwegian Social Research. The research reported in this symposium was, in part, funded by the Research Council of Norway, The Welfare Research Programme (Grant No. 172472/S20). I would like to thank Peter Blanck, Bjørn Hvinden, Arie Rimmerman, and Yearbook editors Gerard Quinn and Lisa Waddington for their many constructive suggestions that have strengthened this symposium.
Three of the articles (by Rune Halvorsen, William N. Myhill and Anna Lawson) were first presented at a conference on 18-20 May 2009, in Oslo, Norway, organized and financed by the Nordic Centre of Excellence: ‘Reassessing the Nordic Welfare Model’. The three articles address different aspects of the accessibility and availability of ICT for persons with disabilities. Accessibility concerns whether the technological facilities, products and services are designed so as to be usable by all people and whether the deployers of the technology provide necessary and appropriate adjustments of the social environment to meet the needs of individuals with disabilities. Availability concerns whether the facilities, products and services in the information society are relevant to the lives of persons with disabilities, or, in contrast, whether such facilities, products and services are unavailable for economic or other reasons.

The three articles examines law and policy design and achievements in the US, the UK and the Nordic countries (Denmark, Finland, Norway and Sweden), in addition to brief examinations of supranational policy developments in the European Union, the Council of Europe and the United Nations. Because the evidence available demonstrates that Europe is lagging behind the US (plus Canada and Australia) in accessibility to ICT, examinations of US law and policy are particularly interesting in this context. Within Europe, the UK has been a leader in adopting new and innovative policy instruments in this field, including legislation. Since the mid 1990s, US and UK disability law and policy have served as models of inspiration for the European Union and for several of the Member States, including the Nordic countries. Because the Nordic countries represent a distinct policy tradition that differs clearly from the US policy tradition, the Nordic group of countries constitutes an interesting comparator.

Demonstrating that the Nordic countries and the US differ in their approaches to accessibility and availability of ICT, Halvorsen’s article argues that we find systematic and lasting differences in policy design and achievements between the Nordic countries and the US. The Nordic countries have traditionally scored higher on availability in the form of practical and economic support to persons with disabilities (‘redistributive policies’) than on social regulation of the market to ensure accessibility of ICT. While the US has been leading the way in adopting statutory accessibility requirements for persons with disabilities, the US is less advanced in redistributing resources to enable all citizens to participate in the information society. However, the article also finds that the Nordic countries increasingly have adopted US style regulations to promote accessibility to ICT over the last decade, partly in response to the emerging supranational disability rights law and policy in the EU, the Council of the Europe and the UN, and partly through policy learning from the US.

Myhill examines US regulation of the market to enhance accessibility of ICT for persons with disabilities. The article demonstrates how interdependencies between federal, state and local governments and non-governmental organizations impact on the design and enforcement of US accessibility requirements. While federal and state laws constitute a fragmented patchwork of civil rights, industry standards, contract requirements, and public obligations that address various types of technology, manufacturers and users of ICT, the article finds that US legislation has made ICT solutions more accessible and available for persons with disabilities. However, the article also demonstrates limited reach of existing legislation and inconsistent enforcement. Arguing that more uniform law and
enforcement mechanisms would improve US accessibility achievements, the article identifies strategies to reform existing legislation and enforcement in a federal system.

Taking the UN CRPD as a point of departure, Lawson examines UK law and policy to ensure accessibility and availability of ICT for persons with disabilities. Similar to Halvorsen’s article, Lawson’s article examines both regulatory measures (which she refers to as ‘equality law’ and ‘market regulation’) and redistributive measures (which she refers to as ‘social protection’). Lawson’s article demonstrates that accessibility requirements for ICT vary with regard to specific fields, such as employment and access to goods and services (including education, transport and public functions), and between the private and public sector. Similar to Myhill’s article, Lawson’s article demonstrates deficiencies in the enforcement of existing accessibility requirements. Analyzing both regulatory and redistributive policy instruments in the UK, the article argues that the UK approach straddles the general division between the US and the Nordic approach identified in Halvorsen’s article.

The fourth paper, by Rodolfo Cattani, clarifies the perspectives and experiences of the European Disability Forum, the umbrella organization of the European disability movement. Cattani’s paper argues that the UN CRPD calls for the adoption of new legislative measures by the EU to enhance accessibility and affordability of ICT for persons with disabilities and that EU ‘soft law instruments’ (i.e. declarations and recommendations) have proved insufficient, requiring new statutory regulations, adopted at EU level, to ensure inclusion of persons with disabilities in information society.

All in all, the four articles and papers illustrate the significance of finding appropriate forms of legal regulation to grant European citizens with disabilities the full potential to benefit from ICT, both in terms of accessibility and availability.
DIGITAL FREEDOM FOR PERSONS WITH DISABILITIES: ARE POLICIES TO ENHANCE E-ACCESSIBILITY AND E-INCLUSION BECOMING MORE SIMILAR IN THE NORDIC COUNTRIES AND THE US?

Rune Halvorsen

1. INTRODUCTION

Today accessibility and availability of information and communication technology (ICT) is indispensable for people to participate as full members of society, and to be able to exercise freedom of choice and independent living. From being tools with limited use and usability, people now apply the technologies in broad sectors of society. The technology has furthered new forms of communication and information processing, new forms of trading and changes in educational and employment requirements.

The expanding use of ICT creates new opportunities for persons with disabilities in education and employment, and may reduce barriers to participation in everyday life, e.g. persons with dyslexia or visual impairments may have text converted to speech, more people may have home offices, or people may participate in cyber-infrastructure-enabled learning environments. However, often persons with disabilities have not benefited from innovation and the use of new technologies, either because the technology has not been accessible for persons with disabilities or the technology has not been available.

Accessibility concerns whether the technological facilities, products and services are designed so as to be usable by all people (‘universal design’) or whether the deployers of the technology provide necessary and appropriate adjustments of the social environment to meet the needs of individuals with

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Accessibility also concerns the usability of facilities, products and services, and whether the ICT based facilities, products and services persons with disabilities have access to fully serve the purposes they are meant to serve. Accessibility of ICT (hereinafter eAccessibility) reflects to what extent society recognizes the human difference associated with disability and takes that human difference into account when regulating access to public goods and service. Whether policy makers achieve eAccessibility depends on whether they manage to regulate the market to serve the needs of all people.

Availability concerns whether the facilities, products and services in the information society are relevant to the lives of persons with disabilities, or whether such facilities, products and services are unavailable for economic or other reasons. Such issues may arise in relation to the affordability of mainstream ICT products commonly used by large sections of the population, e.g. computers, or in relation to the availability of assistive technology. The availability of ICT depends on the redistribution of economic and other resources to ensure that both persons with and without disabilities meet all the effective conditions for being able to participate in information society. Policy objectives of reducing gaps in ICT usage and promoting the use of ICT to reduce exclusion and improve social participation will be referred to as eInclusion.4

This article asks whether, and if so why, we find differences in policies to promote eAccessibility and eInclusion in the Nordic countries (Denmark, Finland, Norway and Sweden) and the US, and whether eAccessibility and eInclusion policies in the Nordic countries and the US are becoming more similar. To provide an answer the article first outlines the analytical framework. Second, the article examines eAccessibility and eInclusion policies and achievements of the Nordic and US governments. Third, the article accounts for institutional configurations that have impacted on the profile of national eAccessibility and eInclusion policies and discusses in brief how supranational organizations (European Union, Council of Europe, United Nations) may impact on the national policies. Fourth, the article concludes.

2. COMPARING INSTITUTIONAL DIFFERENCES IN E-ACCESSIBILITY AND E-INCLUSION POLICY

Generally speaking, governments may respond to undesired inequalities and divisions by social redistribution of resources or social regulation of the market.

Redistributive policy refers to services in cash and in kind that aim at redistributing resources among differing population groups and equalizing life chances. The provisions are intended to provide individuals with resources to compensate for disadvantages and enable them to participate in the labour market and other sectors of society. The services are often financed by general taxes or contributions from the protected person and employers. To promote eInclusion governments may provide persons with disabilities with resources to compensate for barriers in access to mainstream ICT (assistive technology and personal assistance), social insurance programmes to ensure that persons with disabilities have the ability to purchase ICT even if they are out of paid work and/or to compensate for extra expenses related to disability, and training in the use of ICT.

Social regulation policies aim at influencing the functioning of the market and the behaviour of non-governmental actors with a view to promoting social objectives through legislation, financial incentives or persuasion. Social regulation to enhance eAccessibiity may include a number of approaches: providing financial incentives for the ICT industry to invest in research and development of more accessible ICT products, nurturing dialogue between industry and civil society organizations to identify market opportunities and unmet consumer needs and wants, using the purchasing power of the government to stimulate market actors to deliver accessible products through public procurement of ICT, requiring enterprises contracting with the government to meet defined accessibility standards or requirements (contract compliance), and conferring an individual right to eAccessibiity through non-discrimination law.

By comparing national policies to promote eAccessibiity and eInclusion in light of the overall systems of disability policy in the Nordic countries and the US, the article clarifies the strengths and weaknesses of existing approaches and the scope for policy learning and improvements in the two regions. Many policy initiatives and instruments to advance eInclusion are framed within national policy traditions and political cultures. Additionally, more general disability policy instruments often have intended or unintended consequences for the opportunities of persons with disabilities to take advantage of the potential of ICT and participate in the information society on an equal level with others.

The Nordic countries and the US share the same basic institutional architecture (rule of law, separation of powers, democratic elections, protection of human rights) but place different emphasis on redistributive and regulatory policy measures to promote inclusion of persons with disabilities. While Nordic welfare states have a tradition of encompassing redistributive arrangements to enhance social participation and inclusion of persons with disabilities, the US – the most typical example of a liberal welfare state in the Western world – has to a greater

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extent adopted regulatory provisions to accomplish the inclusion of persons with disabilities in society.\textsuperscript{9}

This article investigates how institutions, i.e. ‘relatively enduring features of political and social life (rules, norms, procedures)’,\textsuperscript{10} impact on the eAccessibility and eInclusion profile of the countries considered. Pursuing an institutional perspective, the article focuses on how distinct political and legal legacies have impacted on the eAccessibility and eInclusion policy profile in the Nordic countries and the US. One underlying assumption is that once institutions have been established they are slow to change, and ‘path dependency’ occurs in the national eAccessibility and eInclusion policies; i.e. earlier events induce further steps in the same direction.\textsuperscript{11} As a large number of professions, citizens’ groups and businesses have developed vested interests in the national disability protection systems, stakeholders may resist radical changes or continue to pursue the policy strategies they have successfully applied earlier. Uncertainty about how the stakeholders will fare under alternative institutional arrangements, may also lead to stakeholders preferring status quo to change.\textsuperscript{12}

However, changing power relations and availability of alternative interpretations of the policy situation may open up opportunities for policy reforms. We would expect policy reforms to be easier and to have a greater impact if they are not perceived to challenge pre-existing policy, legislation or institutional arrangements too strongly, and to the extent that stakeholders find the reform reasonable and can commit themselves to its implementation.

While this general point also applies to the emerging European Union (EU), Council of Europe (CoE) and United Nations (UN) policies on eAccessibility and eInclusion, matters may be complicated in this context as we are dealing with decisions originating in a multi-level structure of governance. Even if governments follow the EU, CoE, and UN policies on eAccessibility and eInclusion voluntarily, the national governments may support the supranational policies on the basis of different premises and with different degrees of commitment. Moreover, within the national policy context, governments may find it necessary to subject the transposition of the supranational policies to a balancing of competing considerations and the different interests of affected parties. In other words, it is not obvious that all national governments considered will be equally keen to push for a strong and consistent adoption of EU, CoE or UN policies on eAccessibility and eInclusion. Strong sectional interests in the countries are likely to restrain the


adoption process if they see their interests or established prerogatives as affected by the emerging supranational policies on eAccessibility and eInclusion.

This article argues that both Nordic and US eAccessibility and eInclusion policies have been characterized by an imbalance in their emphasis on redistribution or regulation. Whilst Nordic countries have developed relatively generous national systems for the distribution of assistive technology and the provision of practical assistance, education and economic support, they have, for a long a time, been reluctant to adopt social and especially legal regulations that would impose obligations on business and industry to enhance eAccessibility. In comparison the US has been leading the way in adopting eAccessibility requirements for employers and providers of goods and services. In contrast, US social provisions to ensure eInclusion (provision of assistive technology, personal assistance, reimbursement of disability related expenses and income maintenance schemes) have been more limited than in the Nordic countries.

However, the differences between the Nordic and US policies on eAccessibility and eInclusion should not be exaggerated. If the US was the first country to adopt social regulations to ensure the inclusion of persons with disabilities and possibly even invented the regulatory state, even the Nordic countries have, since the late 1990s, adopted similar regulations – partly in response to the policy developments in the EU, CoE and UN and partly through policy learning from the US.13

3. E-ACCESSIBILITY REGULATIONS AND ACHIEVEMENTS IN THE NORDIC COUNTRIES AND THE US

How do the Nordic countries score compared to the US on eAccessibility policy and achievements? Available data suggests that the Nordic countries are lagging behind the US in eAccessibility achievements. On an overall index of eAccessibility status, comparing Europe and the US, the Nordic countries scored on or somewhat above the average for Europe, but lower than the US (and Australia, Canada, and the UK).14

We find more variation in how the countries perform when comparing specific ICT domains. In 2008 the US (score 4.25/5) scored higher on accessibility of TV broadcasting than Sweden (4/5), Denmark (1.75/5) and Finland (0.5/5).15

On provision of accessibility-related product information by national mobile and landline operators, the US (3.5/5) scored higher than Denmark (2/5), Sweden (1.5/5) and Finland (0).16 In a similar vein, the US (3.25/5) scored higher than Denmark (1.25/5), Finland (1.25/5) and Sweden (0.75/5) on information about

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15 Ibid. 16, 51-52.

16 Ibid., 38, exhibit 27.
accessible computer hardware and software. On accessibility of government websites all scored low, but the US (1/5) and Finland (1/5) scored the same, and Denmark (0) and Sweden (0) scored even lower. In deployment of talking ATMs by selected national retail banks, Sweden (5/5) and US (4.5/5) scored the highest, while Denmark (0) and Finland (0) scored much lower. Some of the variations are probably due to measurement problems. Norway was not included in the study, but national surveys demonstrate the lack of eAccessibility in this country as well, e.g. regarding public websites, emergency services, ATMs and public information terminals.

Although we should not conflate statistical correlation and causality, data suggest that the eAccessibility situation is better in countries with strong social regulation. In the 2007 study ‘Measuring Progress of eAccessibility in Europe’, the US (3.75/5) scored the highest on policies to promote eAccessibility, whilst Sweden (2.25/5), Denmark (1.5/5) and Finland (1.25/5) scored lower.

Because governments pay uneven attention to accessibility across the spectrum of technologies, the strength and effectiveness of the eAccessibility policy depends on the type of technology and policy domain. Overall the US has more and stronger statutory regulations to ensure eAccessibility. While Nordic governments have been reluctant to impose statutory accessibility requirements on business and industry, the US government has adopted a large repertoire of statutory social regulations to promote accessibility of ICT-based goods and services, accommodation of ICTs at the workplace, and in public procurement, the most important being the Rehabilitation Act of 1973 (amended in 1998), the Americans with Disabilities Act of 1990 (amended in 2008) and the Telecommunication Act of 1996.

US eAccessibility policy integrates market regulation and maintenance of civil rights. According to Irish lawyer Gerard Quinn, the US Inter-State Commerce Clause provides the legal basis for the extensive economic regulation in the States, and the Constitution (Section 5 of the 14th Amendment) creates space for

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17 Ibid., 81.
18 Ibid., 70.
19 Ibid., 89.
22 Ibid. viii.
23 P. Blanck et al, Disability Civil Rights Law and Policy. 2nd edition (Thomson West, 2009), 1202, 1204.
24 Ibid., 1165, 1173.

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legislation enforcing equality. Together the market basis and civil rights basis have provided the constitutional basis for action at the federal level.

First, the US government has required all actors contracting with the government to meet higher standards (through contract compliance or licence agreement) and used their purchasing power to stimulate a market for the production of accessible ICT products (through public procurement). Second, the US government has adopted non-discrimination legislation which provides an individual right to eAccessibility and creates a right to a remedy. In combination these approaches have nudged market actors to produce and adopt more accessible ICT solutions, and provided a mechanism to ensure a remedy for individuals who are discriminated against due to lack of eAccessibility. While the first approach aims at systemic change in how the market functions (whether the market is delivering accessible ICT solutions) without creating individual rights, the second approach mainly provides a mechanism to ensure accessibility in individual cases and to satisfy the aggrieved party in cases of discrimination.

US regulation of eAccessibility has often been associated with litigation (at least in the Nordic countries), but this is only part of the picture. The US has witnessed some high profile law suits about eAccessibility, e.g. the National Federation of the Blind vs Target Corporation case concerning alleged inaccessible websites. However, conflicts about inaccessibility have also been resolved by other means. The US Department of Justice has concluded a number of settlements and consent agreements with enterprises to ensure web accessibility, and more recently accessibility to electronic books. The National Federation of the Blind has used ‘structured negotiations’ to avoid adversarial litigation and negotiated binding settlement agreements with national banks addressing the need for accessible on-line banking and others. Because of these agreements, the US banking industry has been a leader in the private sector in providing equal access to all customers in connection with web-based information and services. Federal authorities have issued a number of guidelines and offered courses about the different eAccessibility provisions.

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29 Ibid., 1191.
Although the US Supreme Court has narrowed the definition of disability (i.e. who is protected by statute law), US employers and providers of goods and services are under stronger obligations, and more extensive and detailed obligations, to provide accessibility for persons with disabilities than their Nordic counterparts. Different from the Nordic countries, the challenge in the US has not been the absence of statutory accessibility provisions, but the suboptimal coordination and enforcement of the legislation, and unsolved issues of whether the existing provisions apply to ICT that did not exist, or was not widely used, at the time the government adopted the provisions, notably the Internet.

Despite their governments’ stated commitment to the principle of universal design (i.e. the design of products to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design), the Nordic countries are not particularly advanced in eAccessibility policy. As of 2010, the Nordic countries tend to emphasize voluntary commitment, awareness raising and persuasion strategies for promoting universal design and accessibility of ICT solutions by public and private enterprises and employers. All four countries have produced a number of guidelines and awareness raising campaigns to promote eAccessibility in web design and public procurement of ICT, on the assumption that voluntary compliance and commitment from business is more effective than enforcing compliance with legal standards. The Danish government in particular has preferred consultations and voluntary agreements to statutory provisions; e.g., Denmark made the use of ‘WAI guidelines’ (issued by the World

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33 P. Blanck et al, Disability Civil Rights and Law and Policy, (Thomson West, 2003), Chapter 3.
Wide Web Consortium) mandatory in the public sector as of 2008 by means of a formal agreement which spans the national, regional and municipal level.  

Although Nordic governments have intended to create a mutually supportive and interdependent relationship between regulatory and redistributive provisions, there are several indications that redistributive provisions are considerably more developed and elaborated than regulatory provisions, creating an imbalance in the overall disability protection system of the Nordic countries. We find the same imbalance reflected in the relatively underdeveloped regulatory policies to promote eAccessibility.

Early regulatory measures have included legal provisions giving employers particular duties in relation to employees and job-seekers with disabilities, such as strengthened job security through the general labour code. While Sweden has had one of the strongest frameworks of labour protection legislation, Denmark is among the OECD countries with least labour protection and obligations for employers. Denmark in particular has tended to base its policy on voluntary agreements with, and commitment from, employers leaving more to employers’ prerogatives or discretionary judgements. Norway and Finland are in intermediate situations. Of the four countries, Sweden has practiced a stricter enforcement of employers’ obligations to accommodate the workplace and given higher priority to wage subsidies for employees with disabilities.

Nordic regulatory policies to advance eAccessibility have most commonly covered telephony services and analogue TV broadcasting, typically covered in contracts and licence agreements with the government. Given that accessibility for persons with disabilities is considered to have a justifiable economic and social basis, the government may consider accessibility requirements in public service contracts with enterprises relating to telecommunication and broadcasting. Accessibility for persons with disabilities will often come under ‘general public interests’, as accessibility may be considered a justifiable interpretation of the general provision, but this policy opportunity has been exercised with caution.


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In the last decade, however, the Nordic countries have adopted non-discrimination legislation and other regulatory measures to ensure accessibility of information society. The policy reforms reflect the fact that, since the 1990s, the Nordic countries have increasingly been influenced by US-style legal regulation in the disability area. Moreover, the US influence has been largely indirect through the EU and policy learning from the UK.

In line with the significant differences in labour protection in the Nordic countries, this policy shift was embraced earlier and more clearly in Sweden than in the other Nordic countries. Since 1999 Sweden has had non-discrimination legislation in employment (1999), in higher education (2001), in trading of goods and services (2003), and in protection of children and school students (2006). From 2006 the duty on employers to accommodate the workplace also includes a duty owed to new employees. However, a major deficit in the Swedish legislation has been the lack of statutory provisions that define inaccessibility of goods and services as discrimination. Denial of access to a bank on the grounds of disability would amount to discrimination under Swedish law, but not lack of accessibility, or lack of an individual accommodation when the needs arise, such as access to the building, to the bank’s web page or inaccessibility of the ATMs.

Inspired by Sweden, Norway first adopted legal protection against discrimination in 2001 and later amended the non-discrimination provisions in 2004 to ensure the same level of legal protection as in the EU Employment Equality Directive. In 2009 Norway was the first of the four countries to adopt general and cross-cutting non-discrimination legislation providing an individual right to eAccessibility. Under the new legislation both public and private enterprises have a duty to ensure universal design of ICT solutions intended for the use of or made available to the general public (e.g. websites, ATMs and ticket kiosks). The legislation does not include a duty to accommodate in those cases universal design is not sufficient to ensure accessibility (different from Americans

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42 Lagen (1999:132) om förbud mot diskriminering på grund av funktionshinder [Swedish Act prohibiting discrimination on grounds of disability].
43 Lagen (2001:1286) om likabehandling av studenter i högskolan [Swedish Act prohibiting discrimination on equal treatment of students in higher education].
45 Lagen (2006:67) om förbud mot diskriminering och annan kränkande behandling av barn och elever [Swedish Act prohibiting discrimination and other harassment of children and school students].
50 Act of 20 June 2008 no 42 relating to prohibition against discrimination on the basis of disability (Discrimination and Accessibility Act).
with Disabilities Act Title II, Sec 302, 2). The new law does not apply to in-house ICT systems; e.g., public Internet services will be covered but not in-house Intranet services at the work-place. Because standards to support the legislation are still being developed, the eAccessibility provision is not yet in force.

Finland transposed the Employment Equality Directive in 2004\(^{51}\) and Denmark in 2005.\(^{52}\) Finland (2000)\(^{53}\) and Sweden (2002)\(^{54}\) adopted constitutional protection against discrimination on grounds of disability, but such provisions play largely a symbolic role in Europe.\(^{55}\)

Different from the US, Nordic governments have barely used their market power to stimulate a critical mass of ICT business to provide accessible ICT solutions, and public procurement to promote eAccessibility is still underused in the Nordic countries.\(^{56}\) To date, the accessibility requirements in public procurement laws are fairly weak in the Nordic countries. However, the 2000s have seen an increasing awareness of how public authorities may use their market power to advance non-discrimination and accessibility. Norway has adopted public procurement regulations (in force from 2007)\(^{57}\) requiring that state, municipal and county authorities, and other bodies under the auspices of a government ministry allow for ‘universal design’ during the planning of public procurements (corresponding to Directive 2004/18/EC).\(^{58}\) The new Swedish Public Procurement Acts (in force from 2008) ‘recommend’ that government authorities include demands related to accessibility in their contracts.\(^{59}\) Whether accessibility will be given priority over

\(^{51}\) Lagen om likabehandling [Finnish Act on equal treatment].

\(^{52}\) Lov om forbud mot forskelsbehandling [Danish Act on prohibition against discrimination]; B. Kofoed Olsen and M. Ventegodt Liisberg, *Personer med funktionsnedsettelser i Danmark* [Persons with disabilities in Denmark], Report no. 3 (Institute of Human Rights, 2005), 48.


\(^{54}\) *Regeringsformen* [Swedish Constitution], Chapter 1, § 2.4.


\(^{57}\) *Lov om offentlige anskaffelser* (Norwegian Act on Public Procurement, last amended 2006), §6.


other needs that the purchaser has to assess is not clear. Denmark and Finland are less advanced in their public procurement policies, relying more on local initiatives to apply the opportunities to take into account accessibility criteria for persons with disabilities provided by the EU public procurement directives.60

The new regulatory instruments of 1999-2009 have demonstrated mixed results. A recent report on web accessibility in Denmark found little progress in the public sector, since the adoption of an agreement between national, regional and municipal authorities in 2008.61 While the establishment of ombudsman offices in Sweden (1994) and Norway (2006) has allowed persons with disabilities to submit complaints without taking legal actions, the outcomes of the complaints about inaccessibility are mixed. In Sweden the Disability Ombudsman concluded that in most cases there was not a sufficient basis for summoning the parties to voluntary negotiations or to court; the evidence was considered insufficient, or it was not clear whether the case fell within the scope of the law.62

In Norway, the ombudsman’s office received as many as 150 administrative complaints in only the first year after the adoption of the non-discrimination legislation covering an individual right to universal design. A majority of the cases were related to lack of compliance with the duty to universal design.63 As administrative complaints in other domains of accessibility already have resulted in improvements in individual cases, we may expect to see similar improvements in eAccessibility when administrative regulations and industry standards are in place. Denmark (2009) has established an Equal Opportunity Board which considers complaints about discrimination in employment and occupation (including conflicts over individual accommodation of ICTs at the workplace), while Finland is still considering this possibility.

4. SOCIAL REDISTRIBUTION AND E-INCLUSION IN THE NORDIC COUNTRIES AND THE US

How do the Nordic countries score compared to the US on eInclusion policy and achievements? This section examines how social redistribution of resources in national disability protection programmes affects eInclusion, i.e. the availability of ICT for persons with disabilities. Availability of ICT will depend on whether persons with disabilities can afford them. This obviously depends on whether all persons with disabilities enjoy a level of income or purchasing power that allows them to buy the products and services in the information society. The

62 *Årsredovisning* [Annual report], (Swedish Disability Ombud, 2006).
purchasing power of persons with disabilities depends on whether if they are in work and at what pay level, and if not, whether they can benefit from public transfer arrangements in cash or in kind, or possibly can receive support from family or others.

In the general population availability of ICT is largest among people with higher education, higher income and in paid work, also when we control for age.\(^64\) Both for the Nordic countries and the US, available studies suggest that disability has an independent and negative effect on a person’s access to and use of ICT. Whereas the disabled population is skewed towards the older age cohorts, and elderly people are less likely to use new technologies, the digital inequalities are not accounted for by age differences.\(^65\)

Although other factors affect the take up of ICT, the ability to pay for ICT is one of the most important. Both in the US and the Nordic countries, income affects the take up of ICT, and high and low income households differ in whether they have a computer and use the Internet.\(^66\) Additionally, the costs of ICT assistive technology (e.g. text telephony, videophone or mobile phones with speech technology) may represent a major barrier to accessing that technology.

In the US persons with disabilities appear to be less likely than in the Nordic countries to take advantage of the new ICTs because of insufficient economic resources. Analysis of a nationally representative sample in the US from 2003 found that persons with disabilities are less likely to live in households with computers, to use computers and to use the Internet. ‘However, once socioeconomic background is controlled for, it is found that people with hearing disabilities and those who have limited walking ability are not less likely to be Internet users.’\(^67\) In a similar vein a study of online shopping among persons with disabilities concludes that ‘the affordability of Internet access and more expensive broadband access represents a cost barrier consistent with recent research on other groups of disadvantaged consumers’.\(^68\) More recently a 2009 report has shown that 57 per cent of Californians with disabilities use the Internet, compared to 70 per cent of all Californians and 73 per cent nationwide. Broadband usage by Californians with disabilities is much lower, with only 36 per cent using it at home, compared

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\(^{64}\) C. Codagnone (ed.), *Vienna Study on Inclusive Innovation for Growth and Cohesion: Modelling and demonstrating the impact of eInclusion*, (European Commission, 2009).


to 55 per cent both nationwide and of all Californians. Internet and broadband usage is lower not only for persons with disabilities, but also for low income individuals. 69

Lack of affordability appears to be a major barrier to the availability of ICT for Americans with disabilities, especially when they need ICT assistive technology. 70

Because ICT assistive technology tends to be more expensive than ICT produced for the general market, costs may more often represent a barrier to accessing ICT assistive technology. At this point the more residual character of the US welfare state is likely to play a role. Compared to the Nordic countries, the US public arrangements for the provision of assistive technology involve a larger element of means-testing. The state-federal programmes have only provided support to those not covered by private insurance or having an entitlement to social and health insurance under their individual employment contract. 71

According to a 2002 survey, 57 per cent of expenditures by disabled people in the US on Other Medical Equipment and Services were paid for out of pocket. 72 As explained in a report on the US health system in terms of long term care: ‘Persons with disabilities with incomes in the middle – too high to be eligible for Medicaid and too low to be able to afford private Long Term Health Insurance – fall through the cracks. Those persons who do not have family caregivers or whose caregivers are unable to provide all of the assistance needed are particularly vulnerable’. 73

The study found that three in ten persons aged 50 and older with disabilities did not receive all of the assistance they needed with essential daily activities, and that financial barriers was the most important predictor of unmet needs. 74

In Europe we find the smallest income inequalities between persons with and without disabilities in the Nordic countries. 75 Whereas the proportion of poor people was not significantly higher among Nordic persons with disabilities than in the population as a whole, this proportion was higher among persons with disabilities than in the overall adult population in most other European countries. 76

That is different from the US and most other European countries, persons with

69 H.S. Kaye et al, Telecommunication Needs of Californians with Disabilities, 9. This is consistent with early national data in Kaye, Disability and the digital divide.

70 D. Carlson and N. Ehrlich, Assistive Technology and Information Technology Use and Need by Persons with Disabilities in the United States.


73 M.J. Gibson and D.L. Redfoot, Comparing Long-Term Care in Germany and the United States: What can we learn from each other?, (Public Policy Institute, AARP, 2007), 21.

74 Ibid.


76 T. Ward and S. Grammenos (eds.), Men and women with disabilities in the EU: Statistical analysis of the LFS ad hoc module and the EU-SILC (APPLICA & CESEP & ALPHAMETRICS, 2007), Chapter 7.
disabilities in the Nordic countries were not more likely than the overall adult population to find mainstream ICTs unaffordable.

Of European countries, the Nordic countries probably differ the most from the US in terms of generosity (ICT products covered) and universalism (population groups covered) in public provision of assistive technology; all Nordic countries have a national system for the allocation of assistive technology based on discretionary evaluation of the needs of the individual, but with some differences. Some systems are centralized or standardized (Norway and Sweden), while others are based on local discretion and administrative control (Denmark). In some systems all services are administrated entirely by public authorities (Denmark, Norway and Sweden) whilst others have a larger involvement of disability Non-Governmental Organizations in the provision of technical aids (Finland). In fact, universalism (i.e. all inhabitants in a country are members of the same welfare scheme, regardless of occupation, income or status) has been considered a defining feature of the Nordic welfare model. While the US might not be exceptional in their relatively low level of social security expenditures within the Anglo-Saxon world (including Ireland and UK), the Nordic countries have had more universalist disability protection programmes than the US (and most other European countries).

The Nordic countries do not only have the smallest income inequalities and the most generous welfare states in Europe, but also the widest distribution of ICT in the general population. The Nordic countries have more regular users of Internet than most other European countries (79-90 per cent compared to 60 per cent for the average for the 27 EU Member States [EU27]) and more households using a broadband connection (74-87 per cent compared to 56 per cent for the EU27 average).

A 2002 study found that EU citizens with health problems, illness or disability were less likely to have access to the Internet – 25 per cent compared to 45 per cent in the general population at that time. According to the eUser survey (2005) covering ten European countries (including Denmark) costs of ICT were a barrier for around 40 per cent of persons without home access to the Internet.

82 Ibid.
On average, 58 per cent of persons with a self-reported disability reported the costs of the Internet as a reason for not having a home connection, compared to 51 per cent of those without a disability. Since the Nordic countries have less poverty and more equal income distribution between the disabled and non-disabled population than most other European countries, unaffordability is likely to be a lesser issue for persons with disabilities in the Nordic countries.

If we use other disadvantaged groups (elderly, women, unemployed, economically inactive, low education) as a proxy for disability (because of absence of better data) to examine the degree of eInclusion, the Nordic countries (together with the Netherlands) have the smallest disparities in Internet usage in Europe: Sweden (0.82) scored the highest, while Denmark (0.78), Finland (0.71) and Norway (0.70) scored marginally lower.

A 2005 survey among members of four national organizations of persons with disabilities in Norway suggested that, among employees with disabilities, the distribution of computers and access to Internet was marginally smaller than among employees without disabilities. Although costs of Internet and regular computers appeared to be a larger issue for people out of paid work than people in employment, costs concerned only a small minority.

In summary, in the 2000s poverty or limited economic resources were more likely to impact on the availability of ICT for persons with disabilities in the US than the Nordic countries. While more research is needed to investigate how the affordability of ICT affects persons with disabilities in more detail, we have reasons to believe that affordability of ICT was a larger barrier to persons with disabilities in the US than was the case for the Nordic countries.

5. EXPLAINING THE DIFFERING PROFILES OF NORDIC AND US E-ACCESSIBILITY AND E-INCLUSION POLICY

The article has demonstrated that, while the Nordic countries score higher on redistributive policies to enhance eInclusion, the US scores higher on regulatory policies to enhance eAccessibility. Do the differences reflect inherent weaknesses in Nordic and US disability protection to enhance participation and inclusion in information society? The difference in policy profile can be interpreted in two different ways as discussed below.

The first interpretation assumes that the prominence of redistributive policy instruments in the Nordic countries allows for the purchase of the absence of persons with disabilities from the market. Such criticism has been presented by advocates of statutory accessibility provisions, non-discrimination and human rights of persons with disabilities. Critics of redistributive disability protection

84 European Commission and DG Information Society and Media, Measuring progress in e-Inclusion. Riga Dashboard, (European Commission, 2007), Table 1, 7.
policies have argued that the main function of redistributive policies is to exclude persons with disabilities from participating in the mainstream market as customers and employees. Rather than regulating the market to become more inclusive, the government ‘buys out’ of the problem. According to this interpretation, the redistributive profile of Nordic disability protection policy in enhancing participation in information society is ambiguous. While the policy officially aims to enhance inclusion, the policy tends to reproduce exclusion from the ordinary market.

The second interpretation assumes that regulatory and redistributive policies can be mutually supportive and complementary in enhancing participation in information society. From this perspective eAccessibility and eInclusion can be regarded as different policy dimensions that require different policy instruments. Given the mixed results in eAccessibility and eInclusion in the Nordic countries and the US, more nuanced and detailed analysis of the effects of both regulatory and redistributive policy instruments, and how they have been constructed in different countries, are called for.

The first interpretation would appear more reasonable if the US clearly scored better on participation in information society than the Nordic countries. However, as demonstrated in this article, both the Nordic and the US policy profile have had their strengths and weaknesses. While the Nordic countries scored lower on eAccessibility, US scored lower on eInclusion.

In relation to eInclusion this article has focused on relative poverty and availability and affordability of ICT assistive technology. If social regulation of the market results in higher employment rates and lower poverty rates among persons with disabilities, and reduces the need for ICT assistive technology, redistributive policy instruments could be considered obsolete. However, so far the US has not scored better than the Nordic countries on inclusion of persons with disabilities in the labour market or in poverty reduction.

US public authorities are likely to have decreased the out-of-pocket costs of assistive technologies through social regulation of accessibility to goods and services intended for the general public. The more developed regulation of accessibility requirements to mainstream ICT products and services might, in the US, have reduced the need for assistive technology, but the exact effect of social regulation on the need for assistive technology is uncertain. Although universal design requirements for ICT may have lowered the user interface and expanded the population that may benefit from the technology in the US, universal design

89 J. Stack et al, Analysing and federating the European assistive technology ICT industry, 128.

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requirements are unlikely to cover the needs of all population groups with special needs or replace the need for assistive technology.90

If our analysis is correct, how can we then explain the contrasts in emphasis on social redistribution and social regulation in Nordic and US eAccessibility and eInclusion policy? It is submitted that the findings should be understood in light of institutional differences in industrial relations that have emerged in the Nordic countries and the US.

The relatively under-exploited potential of social regulation to ensure eAccessibility for persons with disabilities reflects a typical aspect of the Nordic social model and makes it distinct from the US model. In the Nordic countries disability protection and market regulation have to a large extent been two separate policy domains. In the US model, market regulation and maintenance of civil rights have been integrated for a considerable period of time. Americans virtually invented the regulatory state, in the sense that the US was a pioneer in controlling business through law-backed agencies rather than through public ownership of the industry and close alliances with business and trade unions.91

While US regulation of business has been quite extensive, US authorities have governed more at a distance compared to their Nordic counterparts. The US economy has been more conflictual, characterized by more internal control and wage flexibility in the enterprises, while Nordic economies have been more cooperative. US economy has been less dominated by centralized banks, nationalized industry, ownership concentration and trade unions than in the Nordic economies.92 Regulatory power has been divided between several agencies, with the task of overseeing that business conforms with the trading rules involving regulatory agencies monitoring enterprises to ensure that they comply with the social policy objectives of Congress.

The less developed redistributive policy and the lack of effective institutions and alliances to support such public programmes in the US are complementary to a stronger social regulation of the market and private and voluntary employment-based provisions.93 More means-testing and a residual welfare system have caused fewer citizens to have an interest in, and support the public programmes, and made the programmes more susceptible to the changing priorities of each administration and Congress.94

Whilst the US Social Model has assumed a distant and adversarial relation between government, civil society organizations and market actors, Nordic welfare states have to a larger extent been constructed in close alliances with the business community and the trade unions.\(^{95}\) In this system, public authorities have relieved business of social expenses – notably health care and social services – in exchange for improving the working conditions and political influence of the employees.\(^{96}\) The tripartite collaboration has ensured social stability and predictability for business. These outcomes have in turn proved to be a competitive advantage for firms in export-oriented industries.\(^{97}\)

In the Nordic countries steps taken to improve productivity and profitability have been negotiated between employers and trade unions, both at central and local level, to a considerable extent. Similarly, real increases in wages were largely achieved on the basis of organizational strength and skilful collective bargaining, and rarely on the basis of conflict and strikes. Collective wage bargaining was to a substantial extent central and coordinated. In this negotiated order, the employees and their organizations enjoyed a certainty that they would get a proportion of the productivity gains, and some degree of co-determination, e.g. in relation to plans for reorganization of production. In return organized labour did not contest employers’ prerogatives as these were interpreted or constructed. More generally the Nordic system of cooperative industrial relations has implied that Social Democratic parties, with their close relations to the trade unions, have been reluctant to challenge or confront employers’ and business’ interests too strongly. In practice the emphasis has been on voluntary commitments and negotiated solutions, even if the parties officially adopted a tougher and more confrontational rhetoric.\(^{98}\)

One result of Nordic corporatism, in terms of a compromise between labour and capital, has been that Nordic governments have been more effective in developing public services in cash and in kind for persons with disabilities than in obligating employers and business interests to take on responsibilities for providing accessibility for persons with disabilities.

Since the US government has provided fewer and less generous social services, US citizens have had fewer vested interests in the welfare state and less of a reason to have a benign view of the public authorities than in the Nordic countries. As a consequence of the more adversarial US industrial relations (relations between market actors have been characterised by arm-lengths relations and have been coordinated through formal contracting), lower union density and weaker public

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authorities, US business and labour relations have to a larger extent been policed by litigation. On the more positive side the adoption of regulatory measures reflects more reliance on, and incentives to, grassroot activism, allowing more people to take an active role in seeking justice, and strengthening of the legal standing of the individual citizens.

The Nordic Social Model has been constructed on a more benign view of public administration than the US model. One effect of the more collaborative system has been that Nordic policy makers have been less inclined to ‘judicialize’ disability policy, i.e. we generally find less reliance on detailed legal regulations to clarify citizens’ rights and to reduce the discretionary power of public administration. Nordic policy makers who have been accustomed to collaborative industrial relations have also assumed that adversarial law enforcement may cause business to become less cooperative, and less prepared to assume self-imposed commitments and to anticipate future accessibility. In consequence, Nordic countries have relied more on institutional alternatives to legal regulation of e-accessibility.

6. WILL SUPRANATIONAL ORGANIZATIONS FURTHER CONVERGENCE IN E-ACCESSIBILITY AND E-INCLUSION POLICY BETWEEN THE NORDIC COUNTRIES AND THE US?

Findings in this article suggest that more attention needs to be paid to regulatory measures within the overall policy to enhance eAccessibility in the Nordic countries. A movement in this direction will probably be stimulated by the evolving supranational equal opportunity policy. Interestingly, we see an evolving supranational regime involving binding regulations, not only recommendations. Whether the US will or even should develop more redistributive policy instruments to advance eInclusion is more questionable. To the extent that Nordic and US policies to enhance eAccessibility and eInclusion will continue to become more

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similar, this is more likely to happen through policy learning from the US to the Nordic countries, than vice versa.

After the statutory approach to equal treatment of persons with disabilities first emerged in the US, we now see a global trend in this direction.

In Europe, the EU has since the mid-1990s developed a social regulation policy for ensuring equal treatment for all, independent of disability or impairment, very much inspired by the US. Until the mid 1990s the focus of EU eInclusion policy was on public support for technology research in the field of assistive technology and was a niche approach. However, since the mid 1990s the focus on accessibility for persons with disabilities has increasingly become ‘mainstreamed’ and an integrated part of the EU policy on the information society, i.e. the needs and interests of persons with disabilities are taken into account in an increasing number of policy initiatives and instruments. In its Communication on ‘Equality of Opportunity for People with Disabilities: a New European Community Strategy’, the European Commission stated that ‘the old [medical centred] approach is now giving way to a much stronger emphasis on identifying and removing the various barriers to equal opportunities and full participation in all aspects of life’. E-Accessibility was one of the priorities identified in the new strategy.

The number of directives and regulations addressing eAccessibility has grown with the increasing legal competence of the EU to promote a regulatory approach to ensure non-discrimination and equal opportunities for all. The major achievement of the EU so far is the Employment Equality Directive prohibiting discrimination in employment and occupation among others on grounds on disability, and including a legal obligation to provide reasonable accommodations for employees with disabilities. Meanwhile, references to eAccessibility have appeared in the domain of radio and telecommunication terminal equipment, electronic communications networks and services, audiovisual media

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107 Ibid., 3.
108 Ibid., 4.
services. Other more cross-sectoral legislation has incorporated references to accessibility for persons with disabilities in relation to copyright, public procurement and the structural funds.

E-accessibility being a largely ‘vacant’ policy domain in most European countries (few national actors have had vested interests in the domain), has meant that the EU Member States have not so easily questioned the added value of EC regulations. National governments have been less willing to transfer control over their redistributive social policies to the EU institutions. Not only have many national stakeholders large vested interests in the redistributive policies in the individual countries. Redistributions have also been a source of legitimacy for the national public authorities administrating the redistributive programmes. Consequently, many of the redistributive instruments that could be considered as elements of inclusion policy have been seen as falling outside EU competence. While the Commission has facilitated and funded many processes and initiatives in inclusion (poverty alleviation, education in digital literacy, broadband roll out) the Commission initiatives have been ‘softer’ than with regard to eAccessibility.

The Council of Europe (CoE) has adopted an ‘Action Plan to promote the rights and full participation of people with disabilities in society’. The Action Plan will be followed up through exchange of information, experience and best practice among the Member States, and review of progress made in the implementation of the Plan.

In 2006 the United Nations adopted the Convention on the Rights of Persons with Disabilities (CRPD), which covers both proscriptions against unfair treatment and substantive rights. The Convention contains both classical liberal


rights, such as access to justice, and material rights such as the right to work and education. It is a legally binding instrument that will require both immediate reforms and progressive achievement of results. The objective is not to create new human rights, but to ensure that all existing rights are made equally effective for persons with disabilities.118

The CRPD requires parties to the Convention to think strategically about eAccessibility and eInclusion for persons with disabilities in all areas of life. To the extent that the duties related to eAccessibility and eInclusion involve costs, they will be subject to progressive realization. The parties will be expected to demonstrate efforts to improve their achievements in eAccessibility and eInclusion, and work progressively towards achieving those goals. For this purpose the CRPD identifies both regulatory and redistributive policy instruments, although the Convention does not use that vocabulary.

The CRPD marks the first time that accessibility is mentioned in an international human rights instrument, and it is defined within the Convention in a highly comprehensive manner. Accessibility is not just one of many areas dealt with by the CRPD; it is one of the key general principles and main normative directions of the CRPD. In this context, accessibility means that persons with disabilities can have access, on an equal basis with others, to physical environments, to transportation, to information and communication, including information and communication technologies and systems, and to other facilities and services open or provided to the public, both in urban and in rural areas.119

In terms of redistributive policy the State Parties will have an obligation to encourage ICT products and services that are relevant to the lives of persons with disabilities, including providing that the products and services are available and affordable, provide accessible information about new technologies, provide appropriate forms of assistance and support to ensure access to information, and promote the availability, knowledge and use of assistive devices and technologies.120 These CRPD provisions identify obligations to implement redistributive policy instrument to promote eInclusion. More generally the CRPD identifies obligations to ensure an adequate standard of living and social protection.121

The three institutions – the EU, the CoE and the UN – have different rationales and mandates, as reflected in how they justify and frame their disability policy. The EU is the most integrated: membership is more binding, and more power is deferred to the supranational decision-making level. The EU has a double rationale for its disability policy – not only the human rights perspective, but also the commitment to enhance the economic competitiveness of the European Union. The double rational of the EU disability policy is reflected in the fact that the EU has adopted statutory market regulations, both to prevent discrimination and to advance the employment, self-sufficiency and enjoyment of market opportunities

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118 Convention on the rights of persons with disabilities (CRPD), UNGA Res 61/1, UN Doc A/RES/61/1 06.
119 UN CRPD, Art. 9.1.
120 UN CRPD, Art. 4 (f & g), Art. 9.2(f), Art. 26.3.
121 UN CRPD, Art. 28.

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of persons with disabilities. Thus, the economic rationale for disability policy reforms is more explicit in the EU compared to the CoE and the UN.

The Nordic countries, the US and the EU will all be answerable to the CRPD. All Nordic countries have signed the Convention. Sweden (2008) and Denmark (2009) have ratified the Convention. Sweden has also ratified the Optional Protocol which establishes procedures aimed at strengthening the implementation and monitoring of the Convention. Finland is preparing ratification of the Convention and the Optional Protocol, and Norway is preparing ratification of the Convention. The US signed the Convention in 2009. The CRPD is the first human rights convention which the EU has signed (2007) and intends to conclude.

Discussions are also ongoing as to how the Disability Action Programme of the CoE may support the implementation of the UN Convention in Europe. Despite their past and present differences, the EU, the CoE and the UN are moving in the same direction, thereby also stimulating the Nordic countries to pay more attention to the regulatory measures within their disability policies.

While the power of the UN is limited, the high legitimacy of human rights makes the CRPD a powerful tool for disability advocates to promote eAccessibility and eInclusion. However, given their unique global position, US policy makers have tended to look more to different US states than to look abroad to identify policy lessons. The federal structure of the US has allowed for considerable variations, experiments and policy learning within the US. Because US citizens have fewer vested interests in the welfare state and are more sceptical of public services, US governments are less inclined to look for alternatives that would expand their redistributive programmes to enhance eInclusion.


contrast, the Nordic countries seem to be under greater supranational pressure and expectations to reform their policies to ensure eAccessibility.

7. CONCLUSIONS

Initially this article asked whether we find differences in the policies to promote eAccessibility and eInclusion in the Nordic countries and the US, and whether the policies are becoming more similar. In spite of evident problems of strict cross-national comparability of available data, we may answer a partial yes to both questions.

The evidence discussed in this article demonstrates how persons with disabilities, both in the Nordic countries and the US, continue to be confronted with many barriers to the usage of everyday ICT products and services that are now essential parts of economic and social life. Demonstrating that Nordic countries and the US differ in their approaches to eAccessibility and eInclusion policy, this article has argued that we find systematic and lasting differences in policy design and achievements between the Nordic countries and the US. Although the Nordic countries and the US share many of the same policy aims of enhancing participation for persons with disabilities in the information society, Nordic countries and the US pursue the objectives to different extents and by different combinations of policy instruments.

The Nordic countries have traditionally scored higher on eInclusion in the form of practical and economic support to persons with disabilities than on eAccessibility. While the US has been leading the way in adopting statutory accessibility requirements for persons with disabilities, the US is less advanced in redistributing resources to enable all citizens to participate in the information society.

The article has argued that different institutional configurations have impacted on the nature of the eAccessibility and eInclusion policy of the national governments in the US and the Nordic countries. While the US model has assumed a distant and adversarial relation between government, civil society organizations and market actors, the Nordic model has, to a larger extent, been constructed in close alliances with business and trade unions. Through tripartite collaboration, Nordic governments have managed to construct generous redistributive programmes to enhance eInclusion, but these governments have been less effective in using social regulation of the market to ensure eAccessibility. More adversarial industrial relations and lack of effective institutions and alliances to support redistributive programmes have made US authorities more inclined to pursue social regulation to ensure eAccessibility.

However, we have also seen that Nordic countries increasingly have adopted US style regulations to promote eAccessibility over the last decade, partly in response to the emerging supranational human rights regime to ensure equal opportunities for persons with disabilities, and partly through policy learning from the US. Whereas the traditional strength of Nordic welfare states has been the provision of social services in cash and in kind to citizens who are considered to be in need of help and assistance, modern regulatory tools to enhance the functioning of the market provide new opportunities for national authorities to influence the market to enhance eAccessibility.
As a matter of paradox, the national governments tend to have given priority to either social redistribution or social regulation, with the result that both Nordic and US policies have been underinclusive with regard to persons with disabilities. A common challenge for the US and Nordic welfare states is to find fruitful ways to combine social regulation and redistributive policy instruments to ensure digital freedom, also for persons with disabilities. To assist in the political reforms, future research should investigate the opportunities for synergies and potential conflicts between social regulation and redistribution to enhance digital freedom in more detail.