

Who Are Appointed to Public Commissions and Why?

A Study of Four Public Commissions
Relating to the Norwegian Police Service

Simen Andreas Nefstad Grinden

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Abstract

This report questions who are appointed to Norwegian Public Commissions and why. Even though the public commission regime is intrinsic to the Norwegian political system, procedures regarding the selection process of members remain unclear. In addition to how, it is also asked why specific members are selected, and whether selections can be explained by instrumental, strategic and/or symbolic reasons. The theoretical framework of the report thus derives from the debate on knowledge utilisation, as well as from three research streams on public commissions, specifically corporatism, state control and expertisation.

In addition to an assessment of the selection procedures, four commissions appointed by the Norwegian Ministry of Justice are examined (NOUs 1999: 10; 2009: 12; 2013: 9 and 2017: 11). These commissions were all mandated to review and suggest changes to different parts of the organisation of the Norwegian Police Service. For these four commissions, all the members are specifically reviewed as potential reasons or explanations for their participation are discussed. A total of 18 interviews were conducted, including with commission chairs, commission members and civil servants responsible for the commission appointments. These interviews provided new insight into selection procedures and on reasons for the member selections.

The report finds that commission member selections, in some cases can be explained according to non-instrumental reasons (i.e. strategy and symbolism), however that this depends on the ministry's intent for each commission. Additionally, legal requirements facilitate for some of these selections motivated by non-instrumental reasons. Therefore, the final member composition can be somewhat random in terms of names (persons), but not in terms of the traits and competencies that these members provide. The report also finds that the selection and participation of some members can simultaneously be explained by more than one reason, thus contributing to the theory on knowledge utilisation, by showing how several types of knowledge use can be encompassed in a single process and by a single actor.

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Simen Andreas Nefstad Grinden

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List of abbreviations

CMPS	Central Mobile Police Service / <i>Utrykningspolitiet (UP)</i>
DA	District attorney / <i>statsadvokat</i>
DPP	Director of Public Prosecutions / <i>riksadvokaten</i>
ERU	Emergency Response Unit / <i>Beredskapstroppen ('Delta')</i>
HPA	Higher Prosecuting Authorities / <i>Den høyere påtalemyndighet</i>
MFA	Ministry of Foreign Affairs / <i>Utenriksdepartementet</i>
MoF	Ministry of Finance / <i>Finansdepartementet</i>
MoJ	Ministry of Justice and Public Security / <i>Justis- og beredskapsdepartementet</i>
NAIPEEC	National Authority for Investigation and Prosecution of Economic and Environmental Crime / <i>Økokrim</i>
NBIPA	Norwegian Bureau for the Investigation of Police Affairs / <i>Spesialenheten for politisaker</i>
NC3	National Cyber Crime Centre / <i>Nasjonalt cyberkrimsent</i>
NCIS	National Criminal Investigation Service / <i>Kripas</i>
NOU	Norwegian Official Report / <i>Norges offentlige utredninger</i>
NPD	National Police Directorate / <i>Politidirektoratet</i>
NPF	Norwegian Police Federation / <i>Politiets fellesforbund</i>
NPIS	National Police Immigration Service / <i>Politiets utlendingsenhet (PU)</i>
NPM	New Public Management
NPS	National Police Service / <i>Politi- og lensmannsetaten</i>
NPSS	Norwegian Police Security Service / <i>Politiets sikkerhetstjeneste (PST)</i>
OAPD	Organisation Against Public Discrimination / <i>Organisasjonen mot offentlig diskriminering (OMOD)</i>
PD	Police district / <i>politidistrikt</i>
SA	Special agency / <i>særorgan</i>

Chapter 1

Introduction

Overview

Public commissions are intrinsic to the political systems of Scandinavia (Arter, 2016). As an institutionalised mechanism for consultation between the government and a number of different actors, the commission regime has played, and continues to play, a central role in Norwegian political negotiations, policy-making and law-making. In fact, commissions play such a routinised role it can be designated a cornerstone of the 'Nordic model of government' (ibid.). Commissions, or inquiries, have a rich history in Norwegian public administration, covering a wide range of different incidents and issues. There have been appointed commissions in Norway since the first half of the 19th century (NOU 2009: 9). From 1972 however, many commissions have been requested to submit public commission reports as part of a formal series of reports known as Norwegian Public Reports (*Norges offentlige utredninger*, NOUs).

Many objectives for the use of commissions can be advanced, and equally many explanations behind member selections can be given. While such commissions usually entail fact-finding activities and the offering of advice and recommendations, it has been argued that commissions seldom generate results that are commensurate with the

spent resources and expenses (Ashforth, 1990). It has also been observed that their use can be explained by a distrust of the government among the public, or by the government's wariness towards its own civil servants (Prasser, 1985). Finally, public commissions have also been referred to as alluring ceremonial occasions (Gephart, 1992), a delaying 'tactic' (Rowe & McAllister, 2006) and as arenas for the expression of epistemic authority (Boswell, 2009; cf. Herbst, 2003).

From discussions on the corporatist state of affairs of the 'strong state' in Norway in the 1970s and 80s (Olsen, 1978; Heisler, 1979), research on the public commission regime has developed to include debates on democratic legitimacy (Christensen & Holst, 2017), accountability (Holst & Molander, 2017), expert influence (Tellmann, 2016), scientisation of policy-advice and of public commissions (Christensen, 2018a; Hesstvedt, 2018), in addition to Europeanisation of certain commissions (Holst, 2019) and commissions as knowledge regimes (Christensen, Gornitzka and Holst, 2017). In light of this revival in the academic debate on the commission regime, the report will examine member selection and composition of public commissions. We aim to uncover how commission members are selected, who are selected and why they are selected, with a special interest in factors and motivations that lie behind the choices that are made. Accordingly, this report will centre around norms and rules for commission member selection, the backgrounds and affiliations of commission members, and potential motivations behind member selections.

Research questions

The overarching topic of the report is commission member selection and composition, including the different motivations that come into play behind such selections. We thus ask: 'Who are appointed to commissions and why?' In addition to this overall question, the following two research questions are posed:

1. What are the procedures for commission member selection?
2. For what reasons are commission members selected?

The purpose of this study is therefore twofold. Question 1 intends to uncover the actual procedures, rules and norms for the selection of members to a NOU-commission. We are interested in how the process of appointing a commission unfolds. What is the legal landscape? Are there internal written or unwritten rules? Are there any

formal requirements that potential commission members must meet? What is the relationship between bureaucrats and the political leadership in this process? While this first research question remains rather descriptive in nature, this can be justified by the fact that research on the topic is limited. It therefore appears to be unavoidable not to identify procedures and norms, regarding the selection process, as a first step.

Conversely, question 2 is explanatory. Building on the previous question, this question brings the report forward in uncovering potential qualifications and criteria that each member selection is subject to. For instance, we ask to what extent demographic factors play a part, and what the relationship between personal characteristics and factors of representation is. What is given the most attention? In asking these questions a presumption is made that every commission member is appointed for a specific reason or set of reasons, in other words that the appointing authority selects members in order to achieve a certain, desired outcome or meet a criterion.

The report thus attempts to uncover the genuine motivations behind each member selection. Are there, in fact, strategic reasons for selecting certain people, rather than others (Hunter & Boswell, 2015)? Are there reasons that cannot necessarily be explained by an intention to include the most objectively appropriate people, in other words conflicting with a Weberian bureaucratic rationality (Weber, 1978)? For example, are certain people included only to ensure a legitimate outcome, by e.g. maintaining some notion of democracy, or by the bureaucracy pledging commitment to the use knowledge (cf. Feldman & March, 1981)? Or are people included rather with the strategic intention that it will be 'easier' to achieve political leverage with commission report findings from a perceived unbiased commission? In the latter case, it could be that some commission members are appointed for mere symbolic reasons (Boswell, 2008). However, one cannot completely dismiss that there is a genuine wish to ensure that commission findings are democratically or scientifically sound, and if so, a representative commission or the participation of experts can play an instrumental role in offering rational policy-advice and recommendations.

Why study commission compositions?

We understand that public commissions¹ serve as important arenas for deliberation and policy-preparation as they welcome actors from different parts of society to formulate policy-suggestions, offer advice, draft laws and make recommendations. Such commissions help governments meet two challenges, the need for technical expertise and a public demand for accountability and acceptance (Krick, 2015). Moreover, as an arena where experts, interest group representatives, bureaucrats and others participate as equals, commissions constitute authoritative bodies who are perceived as being representative, well-informed and legitimate (Christensen & Hesstvedt, 2019: 86). Nonetheless, this perceived 'image' that commissions enjoy, begs for further analysis. The particular interplay of instrumental problem-solving, strategy and symbolism that commission composition represents can be characterised as a conflict of partially opposing interests and intentions (Hunter & Boswell, 2015). And, in the words of Mike Rowe and Laura McAllister (2006: 104): 'There are almost always political motivations behind the creation of such bodies'. How this interplay of intentions vis-à-vis political motivations manifests in reality is indeed interesting and in need of more research.

One problematic area is the lack of knowledge surrounding the selection process. Given the important role of commissions in the Norwegian political system and the considerable amount of power such commissions can embody, the lack of complete transparency could potentially be characterised as a democratic deficit. At a minimum, it is a serious challenge to some of the 'democratic credentials' associated with commissions (Christensen, Gornitzka and Holst, 2017). On the other hand, an undisclosed process might arguably also be necessary. Either way, research on this topic is justified in a greater societal sense. The implications that the (mis)use of commissions by way of a strategic member selection can have on accountability and democracy cannot be fully disregarded. To take one example, the increase of expert participation on commissions, challenges democracy in that decisions rest with a group of people that cannot be held accountable by 'laymen' who do not possess the adequate expertise to raise objections or question evidence (Tellmann, 2018: 121). A com-

¹ While a number of similar terms exist (e.g. advisory commission, official commission, public inquiry, committee, expert/working group etc.), the term 'public commission' will be used throughout.

prehensive review of commissions in different democratic perspectives is offered by Cathrine Holst (2019).

Moreover, the limited corpus of formal rules and regulations surrounding the selection and appointment of commission members, serve as another justification for this study. Considering the great discretionary power that the ministries possess to establish commissions, handpick their members, award funds and write their mandates, the limited existence of formal rules is noteworthy. Also considering that some of the NOU-commissions propose new legislation serves as an illustration of the social consequences that acting upon commission suggestions can have. With a limited legal framework, there are few inhibitions to the ministry using commissions as mechanisms for postponement of action, forestalling criticism, and killing unwelcome policy-suggestions etc. (Rowe & McAllister, 2006).

Finally, several authors request more attention for this topic. This includes Tellmann (2018: 117) who notes that more research is needed on the NOU-commission regime and on characteristics of the NOU-reports, even though less NOU-commissions are appointed today, than during the corporatist heyday. Holst (2019) raises several important questions following her findings on the expertisation of equality commissions, for example that more knowledge is needed as to why more experts are included – how can this trend be explained? Moreover, Christensen (2018b: 31) suggests that exploration of biographical data is one possible path in developing the scholarship, particularly on expertisation.

Additionally, Boswell (2009: 183) calls for more research on how knowledge is utilised across policy areas generally, but also specifically on how different countries' cultures of research may influence the use of scientific knowledge. As commissions can constitute arenas for knowledge use (Hunter & Boswell, 2015), studying commission compositions is one way to elucidate the scholarship on knowledge utilisation.

In sum, the report aims to fill the knowledge gap that exists in the research on commission composition and member selection. It also aims to contribute empirically, to the theory on utilisation of commissions and knowledge. The motivation lies in the opportunity to shed light on the procedures and explanations for member selection, and to expand the scholarship on NOU-commissions and knowledge utilisation in general. As such, both from a general societal point of

view and from an academic perspective, the relevance of new information on this subject is clear.

Delimitations

Commissions that are requested to produce a public report in the series of reports known as NOUs will be at the centre of attention in this study. Specifically, commissions appointed by the Ministry of Justice² (MoJ) will be examined, with an explicit focus on four commissions involving the Norwegian Police Service. There are several reasons for this choice of policy field. Among them are the fact that there, to my knowledge, has been no research on public commissions that have focused explicitly on the police or policing matters.³ This allows for an exploratory research strategy on data which have not previously received attention, allowing the study to produce new knowledge. Second, having the police as the subject of analysis, provided the study with a substantial pool of data to draw observations from, while the police as a topic still facilitated for holding the specific NOU-policy constant, since several NOUs have covered the police throughout the last decades. Third, independent of police-NOUs, the MoJ is the ministry that has appointed the most commissions since 1972. In order to learn about the process and the regulations pertaining to commissions, the MoJ appears to be the most logical option. Finally, while also true of commissions in other policy fields, police-related commissions bring many stakeholders to the table. Of course, police actors and people with a background in law and the judiciary are well represented, but commission members also include senior bureaucrats and researchers from other policy fields. Hence, NOU-commissions on police-related issues represent a nexus of epistemic, legal, social, political and bureaucratic values.

The report covers a period of two decades of NOU-commissions appointed by the MoJ, of which there are a total of 86. An initial analysis of these yield twenty-two commissions where the police in some way or another are discussed. A further differentiation results in eight commissions where the police explicitly makes up the commission

² Formally the Ministry of Justice and Public Security. Before 2012 known as the Ministry of Justice and the Police.

³ Policy fields that have received scholarly attention related to public commissions include Tellmann (2016) on climate policies; Christensen (2018a) on economics; and Holst (2019) on gender equality and family policies.

mandate. Of these eight, a final four commissions were selected as subjects for further analysis, due to their mandates. These four were similar in the type of task that they were asked to complete, and thus they are excellent observations to analyse, to limit variance. In total, the focus of the study rests on selection procedures and explanations within the NOU-commission system, drawing on data from four police-related NOU-commissions.

Research design

The report is an interview-based, so-called typical case study (Yin, 2009), treating police-related NOU-commissions as a single case; however, it includes two levels of sampling. The first level is the commission level, consisting of the four commissions (sampling process detailed above). The second level is comprised of the commission members that were part of these four commissions, of which four individuals from each commission was designated for interviews, according to a list of preference. This list was organised by affiliation or occupation and guided by three research streams on public commissions (corporatism, state control and expertisation). A total of 18 semi-structured interviews were conducted. This includes four from each commission, in addition to two civil servants from the MoJ, who were directly involved with the appointment of three (out of four) of the commissions.

Moreover, a document analysis of all relevant codified rules and regulations relating to commissions and commission composition was performed. These were identified before, and during the interview process as new information about the process was gained. Together with the document data, the interview data is discussed against a theoretical framework developed from theories on knowledge utilisation, in conjunction with the central research streams specified above.

Outline

The point of departure for the report is an extensive review of the literature in *Chapter 2*. The literature presented here then informs the development of the theoretical framework of the study. First, three research streams on commissions are discussed, which centre on different objectives with the use of commissions. Moreover, the scholarship on knowledge utilisation is developed into three perspectives on commission use and commission member selection; an instrumental perspective, a strategic perspective and a symbolic perspective.

Chapter 3 includes a general introduction to public commissions, an overview of Norwegian public commissions (both with and without the *NOU-status*) and an introduction to the Norwegian Police Service. Subsequently, *Chapter 4* discusses the report's research design in detail. This chapter accounts for typical case studies, the sampling process and the conduction of interviews and document analysis. Finally, the data quality of the study is scrutinised. *Chapter 5* constitutes the empirical analysis of the report. It first introduces the four selected commissions, briefly outlining the reasons for their establishment, their main recommendations and the aftermath of their conclusions. Following this, the chapter is divided into two major parts, with the first part concentrating on selection procedures and the second part on selection reasons. The first part is further divided into two sections, first discussing the legal landscape, and then examining the selection and appointment process in detail. The second major part of the chapter, examines each commission composition individually, analysing every member against the theoretical framework. In *Chapter 6* the findings from the analysis is discussed further, culminating in an assessment of the three perspectives on commission member selection. Finally, *Chapter 7* concludes the report, with comments on central findings, contributions, limitations and opportunities for further research.

Chapter 2

Literature review and theoretical framework

In this chapter, we discuss relevant literature on commissions, including commission use and member selection, as we develop the theoretical framework of the report. Our point of departure is a review of three research streams on commissions. We then present an overview of knowledge utilisation and examine its key contributions, before establishing three utilisation perspectives. While the three streams of research provide empirical understandings of commissions, knowledge utilisation contains a deeper theoretical understanding of knowledge use within the commissions. Finally, we review the three streams against the three knowledge utilisation perspectives.

Research streams

The research streams constitute approaches to the study of commissions. They include *corporatism*, *state control*, and *expertisation*. Whereas the first two are rather traditional approaches to research on commissions, expertisation comprises a relatively more recent scholarship on commissions. In the following, we identify each stream's ideas concerning commissions and commission participation.

Corporatism

As illustrated by the rich corporatist tradition of commission research, it is safe to say that ad hoc commissions are an important part of the Nordic model of government (Arter, 2016). Public commissions have often been the principal institutional expression of corporatism (Christiansen et al., 2010: 29; Rommetvedt et al., 2013: 461). While sometimes called *tripartism* (especially related to the political economy tradition) (Wiarda, 1996), we will understand corporatism as the institutionalised inclusion or representation of interest groups in the policy-making process (Christiansen et al., 2010: 32). Trond Nordby (1994: 13) suggests a similar descriptive definition, referring to corporatism as all types of contact between the state and organisations, granted certain levels of institutionalisation.

Nordby subsequently makes a trifold distinction between areas of corporatist organisation. First, there is corporatism as the arena for negotiations where the state and private actors together agree on income levels, economic policy and other labour market conditions. Second, there is bureaucratic corporatism, where interest groups and representatives from all organisations in society participate in bureaucratic committees, commissions, and boards. The third area is referred to as internal bureaucratic corporatism. Nordby points to how certain professions have 'colonised' the bureaucracy and how this might affect bureaucratic values, which can be the case if they are bound by their profession in terms of ideology and norms (ibid.: 9f). We see that interest groups play a major role in at least the first two of Nordby's areas of corporatism. Through negotiations with the state and through their participation in committees and so on, interest representatives are an important feature of corporatism, and thus Norwegian political life. Moreover, as Stein Rokkan (1966) famously expressed, votes count but resources decide – with the resourceful few being able to secure the agenda and make the decisions. Rokkan's dichotomy illustrates the important role of public commissions, as a manifestation of the arena for negotiations among the few. The 'corporative channel' of influence arguably triumphs the 'numerical (democratic) channel'. On another note, it has been argued that, depending on one's understanding of democracy, a corporatist channel that sees the involvement of interest representatives in decision-making through their participation in commissions, might very well be compliant with democratic principles (Moren, 1958: 73f).

Nevertheless, corporatism sees the logic behind the inclusion of interest representation in government processes of policy-production and decision-making, simply as a trade-off mechanism. Through the exchange of interest influence, interest groups' support for policy is gained (Ashforth, 1990: 14; Öberg et al., 2011: 366ff). Commissions can thus be employed in order to enlist support, create consensus or produce compromises, before the government must adopt official positions (Meijer, 1969: 103). In other words, each party controls something that the other desires. The state owns the legislative power and controls expenditure. Interest groups control internal opinion and can provide policy-relevant information and knowledge, both of which contribute to an increased legitimacy (Tellmann, 2018: 114). This exchange is central to what Hilmar Rommetvedt (2002: 58ff) refers to as corporatism through negotiations or 'mediatory' corporatism. Moreover, this view is like Nordby's distinction above. However, Rommetvedt also makes a distinction between three other forms of corporatism, in which the inquiry or research-type corporatism (*utredningskorporatisme*) emerge as the most relevant in our context.⁴ With reference to the decision-making process, this type of corporatism includes those functions in which the state through the appointment of commissions etc., seeks research and knowledge regarding complex policy areas. It is the commission's task to gather information, as well as to uncover and suggest issues and solutions in relation to the policy at hand, before a final decision is made and acted upon (*ibid.*: 62).

Furthermore, it can be assumed that commission members have either individual goals or, in cases where they represent someone or something, a mandate. In the first case, it could be true that they act as self-appointed advocates of their profession or expertise. In the latter case however, a mandate would imply that they remain accountable to their constituents. Assuming this is the case, it can be asked whether a commission member is appointed due to the knowledge or expertise that the individual possesses, or because they represent a larger community in the form of a membership base or certain societal group etc. Representation thus poses a challenge to an assumption that we can learn something from the participation of

⁴ In addition to mediatory corporatism and research corporatism, Rommetvedt's typology includes executive corporatism (*iverksettingskorporatisme*) and judicial corporatism (*domstolskorporatisme*).

every member, as it remains unclear why certain members participate (Tellmann, 2016: 41).

In sum, we understand how public commissions serve as arenas for exchange or mediation, as well as a place for research and knowledge. In other words, the corporatist approach to the study of commissions centres around the prevalence of bargaining and even the compromising nature of such bodies (Christensen & Holst, 2017). According to the corporatist stream, commission participants represent either the state or specified interests, and their mission is to secure concessions – in the form of either support or resources (e.g. legislation or economically). The commission member can as such be considered a representative, acting on behalf of larger group, while a ‘corporate’ commission can be considered an arena for negotiations.

State control

This research stream perceives the bureaucracy as a powerful actor in control of the public commission regime. David Arter’s (2016) view of the ‘Nordic model of government’, where commissions have a routinised role as providers of knowledge and research for formulation of policy, points to a relationship between the two where it would be easy for the state to exploit the arrangement. As commissions play a very central role in the Norwegian political system and the arrangement can be considered routine, the scene is set for the bureaucracy to easily be able to influence or control the appointment, mandate and operation of commissions vis-à-vis political leadership. While interest groups are authoritative actors, the state’s exclusive right to appoint commissions and to write their terms of reference proves its superiority (Nordby, 1999: 17). The lack of formal procedures for membership composition in the commission offers more evidence in favour of the controlling bureaucracy.⁵ Moreover, the fact that even bureaucrats can be appointed to serve on commissions makes for a more compelling argument. And finally, while the state acts as one unitary entity, it could be the case that interest groups spend considerable time keeping others at bay in the process of securing a seat at the table for themselves. Hence, the organisations remain weaker, especially when compared to a resourceful and united bureaucracy (ibid.). Their relationship is characterised by an

⁵ The procedures, rules and regulations for membership composition will receive further attention in the analysis in Chapter 5.

asymmetrical distribution of power and a questionable degree of independence, which has led Nordby to call public commissions for the bureaucracy's 'bastards' (ibid.: 19). In this lies the fact that it is the bureaucracy that establishes the commissions, but apart from that they operate (seemingly) outside of bureaucratic system. Accordingly, the state's discretion over the operation of commissions is the equivalent to letting the fox guard the henhouse (Tellmann, 2018: 116).

Adam Ashforth (1990) discusses how commissions are important instruments in legitimising state power and the 'idea of the state' in itself. This legitimatisation can be accomplished through a symbolic or ritualistic use of commissions. Therefore, it is not surprising that the bureaucracy desires, at least some control over the operation and outcome of commission's findings and recommendations. Accepting the idea of the state as a form of rational practice, where the mission of the state is to facilitate problem-solving in society, it makes sense to talk about commissions as a continuation of the state. Too much autonomy could result in commissions going against the state and, thereby corrupting the process of a continuous elevation of state power, that is, the consolidation of the idea of the state (ibid.: 4). It is therefore in the state's interest to remain in control over the commissions, and due to the lack of formal regulations, nothing prevents it from taking advantage of its power potential (Nordby, 1999: 19). The foremost manifestation of the state's involvement in commissions, in addition to its exclusive right to appoint them, is the fact that bureaucrats often function as commission chairpersons and secretariats, in addition to ordinary members (Christensen & Holst, 2017: 823). Hence, state control of commissions can be explained by strategic considerations. By having bureaucrats 'infiltrate' commissions, a certain degree of influence and steering capacity is gained.

As discussed by Olsen (1989: 93) for example, one can ask if civil servants are appointed as commission members due to their individual expertise or as a representative of their ministry or agency, acting on behalf of political leaders and their party-political positions. It is worth noting James Q. Wilson's (1989: 189) classic take on bureaucratic behaviour in terms of turf protection. Could it be the case that civil servants participate in order to protect their own set of tasks and to maintain their dominion? Commenting on this mechanism of control, Nordby (1999: 17) claims that civil servants who participate in commissions continuously remain in contact with their

superiors, and in some cases commission members from the bureaucracy might have been instructed to support a particular view (*ibid.*). This has been justified with reference to bureaucratic norms, including that of loyalty. As such, demands for loyalty and responsiveness to the executive is potentially at conflict with bureaucratic principles of neutrality and professional considerations. According to Max Weber (1978: 979), bureaucrats shall remain impartial and refrain from taking personal considerations into account. The result of all these considerations is a conflict of interest, in which the bureaucrat is compelled to choose between a set of values and matters of self-interest. Does bureaucratic loyalty imply adherence to the incumbent executive or the 'idea of the state' at-large? Shall professional consideration take precedence over political responsiveness or the other way around? And finally, it certainly becomes a self-interest issue when having to risk negative repercussions if one let, for instance, professional considerations outweigh responsiveness (Jacobsen, 1960).

Expertisation

Public demands for evidence- or knowledge-based policy-making has been credited to the increasing reliance on academic knowledge and expertise in policy development, and specifically in public commissions. As policy-issues grow in complexity and technical uncertainties remain great, politicians and decision-makers look elsewhere for assistance (Kitcher, 2011). Peter M. Haas' well-known contribution on 'epistemic communities' illustrates one source of defines said communities as 'network[s] of professionals with recognized knowledge that decision-makers increasingly rely on. Haas (1992: 3) expertise and competence in a particular domain and an authoritative claim to policy-relevant knowledge within that domain or issue-area'. He claims that epistemic communities can contribute information on social and physical processes, and provide scientific or technical expertise when required. Yet, he stresses that epistemic communities do not necessarily have to solely comprise natural scientists.

As the process of extracting information from them persist, actors within the community become strong and important. Moreover, Haas (*ibid.*: 4) contends that: 'To the extent to which an epistemic community consolidates bureaucratic power within national administrations [...] it stands to institutionalize its influence and insinuate its views into broader [...] politics'. This observation points to a growing 'powerhouse' of experts who are often delegated responsibility.

Moreover, it has been referred to as the 'rise of the unelected' (Vibert, 2007) or even interpreted as a development in the direction of an 'expertocracy' (Habermas, 1996). A manifestation of the rising dependence on knowledge however can be illustrated by the role of experts on public commissions. Christensen and Holst (2017: 823) suggests that commissions represent mechanisms for the incorporation of academic knowledge into policy-making. Moreover, they note how academics bring their expertise and knowledge, to the commission.

In addition to the problem-solving role of experts in policy-making due to politicians' need for them, their participation can also be understood as schemes of legitimation, for instance to ensure that the policy-making process appears to be credible and impartial. For instance, the scientific research can provide the commission and final report with 'epistemic authority' (Herbst, 2003: 484). Feldman and March (1981: 178) argue that legitimate decisions often tend to be 'information-intensive' which captures the essence of this view. Requesting, gathering and citing information therefore become significant ways to ensure good and legitimate decisions (*ibid.*).

Moreover, the use of knowledge in commissions can be explained by the actors' self-interest (Rimkutė & Haverland, 2015: 437). While the state, considering the arguments above, aims to extend its control and substantiate the 'idea of the state', it is in its interest to supplement policy-options with references to neutral academic work, in order to increase its legitimacy. Therefore, according to rational accounts of the decision-making process, the utilisation of knowledge would certainly be expected. Whereas, from the point of view of the state, this appears reasonably logical, one can ask what the interest behind the participation of academic experts is. Moreover, one can ask who they truly represent? Themselves as individuals, their field of expertise, their institution or even academics or a knowledge-based society in general? While there is no straightforward answer to these questions, one suggestion is that experts perceive themselves as key actors in influencing larger policy-options, not simply to resolve technical issues (*ibid.*: 440). According to Haas (1992) experts' self-interest differs from that of bureaucrats due to various normative and causal beliefs, which also explains their behaviour and their solidarity towards the epistemic community that they are part of. He also notes that principled beliefs inform academics' advice, even outweighing personal

interests that might further their own careers (*ibid.*: 20). Yet, the extent of this 'self-sacrificing' remains dubious.

In sum, commissions can be regarded as arenas for deliberation through which expert knowledge is integrated into policy-making (Tellmann, 2016: 86). While there might be various symbolic aspects for the participation of experts, this research stream on commissions states that increased legitimacy is an important end-goal. This means that despite the desire of the state to remain in control, the inclusion of external observers appears to be necessary in order to ensure credibility and to sustain the 'idea of the state' (Christensen & Holst, 2017; Ashforth, 1990).

Knowledge utilisation

Turning to knowledge utilisation, this constitutes the field of research onto which our analysis on commission member composition takes place. The literature on knowledge utilisation involves a search for ways to conceptualise, compartmentalise and structure the many uses of scientific knowledge in policy-making. Evidence-based policy-making is a necessary prerequisite in the many models of knowledge utilisation that has been identified in the academic debate. From the conventional view of the use of knowledge simply as means of problem-solving, several more functions have later been described and attached to the use of knowledge in policy-making.

Questioning the conventional perspective on the use of expertise as means of problem-solving only, Carol H. Weiss (1977; 1979: 426) eventually developed seven models, referring to ways in which research could be utilised and applied.⁶ Far from simply applying evidence to resolve societal problems she argued that evidence could be used tactically. This was contrary to what researchers generally were expecting (Amara et al., 2004: 76). Weiss noted that, for instance, research could be employed politically and not only as straightforward policy-advice. She thus observed how knowledge can be utilised as political ammunition (i.e. to neutralise opponents or bolster support); tactically, by for example a government agency (i.e. as proof of responsiveness); or as enlightenment (knowledge as generalisations

⁶ The seven models are the 'knowledge-driven model', 'problem-solving model', 'interactive model', 'political model', 'tactical model', 'enlightenment model' and finally 'research as part of society's intellectual enterprise'.

through which can shape public interest and opinion) (*ibid.*: 429ff). In addition to an instrumental use of knowledge in form of problem-solving, also strategic uses gained scholarly attention soon after. The use of knowledge in policy-making was thus conceptualised, and the simple dichotomy between use and non-use became diminished. According to Erik Albæk (1995), the use of research is significantly more complex than simply being grounded in either rational calculation or self-optimisation. He argues that the boundaries between a scientific argumentation and a political-strategic argumentation is far from clear. Hence, by accepting this, we understand that knowledge utilisation can be much more than problem-solving or a question of tactical use of knowledge, and that they in fact may overlap.

Since Weiss' first contribution in 1977, several re-conceptualisations and typologies have been offered, all attempting to encapsulate the many ways knowledge can be used. Worth mentioning is for example Donald C. Pelz (1978) who identifies the following three types of the use of knowledge: 'Instrumental/engineering', 'conceptual/enlightenment' and 'symbolic/legitimizing'. David Whiteman (1985) on the other hand develops a framework existing of two dimensions, with two and three categories respectively, all dealing with a strategic use of knowledge. Here knowledge can either be used concretely (similar to Weiss' 'problem-solving model' and Pelz' 'instrumental type') or conceptually (similar to both Weiss' and Pelz' 'enlightenment' model or type). This is to illustrate that strategic use is not distinct from the two, but rather takes place within both, in a 'substantive', 'elaborative' or 'strategic' way. A substantive use involves a basic development of policy, while an elaborative use refers to a further clarification or extension of predetermined policies or positions. Finally, a strategic use involves the use of knowledge to advocate policies after having been determined. Whiteman thus provides a more discreet typology, highlighting the different aspects of a strategic use of knowledge. Nonetheless, it closely resembles Weiss' political model and Pelz' symbolic/legitimizing type.

Moreover, there is Janice M. Beyer's (1997) typology consisting of 'instrumental', 'conceptual' and 'symbolic' uses of knowledge; bearing a close resemblance to Weiss' conceptualisation above. Beyer sees instrumental use as problem-solving, conceptual use as a desire for general enlightenment and symbolic use as largely a search for legitimacy. Amara et al. (2004) also employs this typology in a study on

the use of university research in government agencies. Christina Boswell (2008) on the other hand employs a different conceptualisation in which knowledge can serve two alternative symbolic functions, in addition to an instrumental function. She observes that a symbolic use can perform both a legitimising function and a substantiating function. Boswell's distinction thus appears to be a re-conceptualisation of already existing knowledge use models.

Generally, then, whether they are referred to as models, types or functions, we argue that three 'perspectives' or motivations for knowledge use are most commonly identified, all building on Weiss' typology.⁷ The three perspectives capitalise on three separate intentions where the end goal is the differing factor. We define the first as an instrumental perspective (e.g. technical, problem-solving etc.) involving a rational use of knowledge which entails achieving the best possible solution. The second perspective is the strategic use of knowledge, often with reference to the political game, which encompasses all those instances where expertise can be used to increase political leverage, increase power, underline superiority or exert control etc. Finally, there is the symbolic perspective, which includes the use of knowledge to, for instance, gain legitimacy and to be perceived as credible and competent (cf. Boswell, 2008).

Perspectives on knowledge utilisation have been argued to presuppose certain core premises found in rational choice narratives (ibid.). This generally assumes that actors are interested in maximising power, legitimacy or some other goal. This belief can be found in all three knowledge utilisation perspectives, whether it is an attempt to legitimately confront social issues, win political support or appear credible. Accepting Graham T. Allison's (1971) 'rational actor mode' we understand that the actor is preoccupied with a concern of continuous optimisation. Consequently, one will favour the course of action with the highest possible payoff (Rich & Oh, 1994: 74). This observation allows cautious generalisations to be made, regarding the appointer's concerns or intentions which will influence its choice of action.

According to Martha S. Feldman and James G. March (1981: 180) reason, rationality, information and intelligence are central values in

⁷ In addition to the contributions mentioned above, other works with the same or similar typology include Radaelli, 2009; Schrefler, 2010; and Rimkutė & Haverland, 2015.

the modern society. They moreover claim that the cornerstones of rationality are values in relation to decision-making (in line with Max Weber [1947]), and that ideas of the 'intelligent choice' are at the core of our society. They then point to the bureaucratic organisation as a 'prototype' when it comes to systematic use of knowledge to decisions (that is, the intelligent choice), emphasising that the bureaucracy is 'built on ideas of rationality' (ibid.: 176ff). However, rationality does not necessarily imply a strict use of information instrumentally, they also note that knowledge can be a rational representation of competence (i.e. symbolic use) (ibid.: 177). Finally, it is observed that most information generated in an organisation is subject to misrepresentation – it can be gathered in situations of conflicts of interest and thus communicated with a strategic consciousness. Hence, the rationality behind the gathering of the information includes a strategic communication of that knowledge (ibid.).

Having established knowledge utilisation as a theoretical foundation, we will argue that the instrumental, strategic and symbolic perspectives on the use of knowledge can be translated into three perspectives on functions or 'uses' of commissions. By this we mean that the appointer, influenced by rational concerns, uses commissions for a reason or set of reasons explained by instrumental, strategic or symbolic motivations. The three perspectives can further be considered analogous to reasons for selecting commission members. These perspectives thus constitute the theoretical framework for our analysis in Chapter 5, where the investigation into the selection of commission members will be conducted in accordance with them.

Instrumental, strategic and symbolic commission member selection

The final part of the chapter is devoted to a discussion on commissions and commission member selection in light of the three perspectives on commission use (instrumental, strategic and symbolic motivations). Throughout this part, references to the research streams on commissions (corporatism, state control and expertisation) will be made. We start by defining knowledge utilisation the way we understand it, to explain how the knowledge use perspectives will be employed here. Following this we proceed to examine instrumental, strategic and symbolic uses of commissions, with an aim to highlight the most relevant characteristics of each perspective as seen from the political executive's point of view. Finally, we conclude with an

explicit discussion on the relationship between the research streams and the commission use perspectives. Here we identify central theoretical expectations to member selection in the three streams, by incorporating the most relevant characteristics of each of the perspectives. This is done to establish some assumptions regarding the political executive's motivations behind the selection of each commission member. In Chapter 6, we review these assumptions against the empirical data.

Definitions

We view knowledge utilisation in a broader sense than how it appears in the existing literature. It is appropriate then to define and explain how we understand knowledge utilisation as a concept.

'Knowledge' is commonly understood as being *scientific* in nature, encompassing expertise and research offered by academics (Weiss, 1979; Schrefler, 2010). In the literature, it is discussed how science and knowledge are used in different ways and thus afforded varying functions. Research is, in other words, offered as evidence in policy-making, with a number of different intentions for its use. Scientific research is sometimes referred to as 'hard knowledge' in which an understanding of knowledge as *technical* can be derived (Radaelli, 1995: 162f). This involves an engineering-type meaning of knowledge, intrinsic to the instrumental function given to expertise in policy-making (Knorr, 1977). However, the understanding of knowledge has gradually been expanded to also include other forms of knowledge that cannot necessarily be defined as 'hard'. Along these lines, knowledge can be understood in terms of providing 'insights into the nature of social problems' (Weiss, 1995: 141). Knowledge can thus mean any type of insight, information, understanding, evaluation or data regarding any given policy area (Weiss, 1986: 279). This is how we will understand knowledge in the subsequent analysis of commission member composition.⁸ Any credible actor with relevant knowledge, insight or information will thus be considered an 'expert'. Another appropriate term would be 'specialist'; whose expertise revolve around the specialist knowledge that person is recognised to possess (Grundmann, 2017: 26).

⁸ Knowledge, expertise and research are used interchangeably.

Turning to '*utilisation*' we understand this in a more-or-less, literal sense. As experts can constitute policy-producers, their expertise can be used in policy-making. Accordingly, we consider commissions as arenas for policy-making where experts participate in right of their insights, research or prior policy-production. Knowledge is utilised through a commission and altogether the commission partakes in policy-making or problem-solving according to their mandate. The mandate sets out the terms of reference for what the appointer (e.g. the government) seeks, and what knowledge has to be utilised. Complementary to our observation that knowledge is something that a person possesses, Reiner Grundmann (2017) sees knowledge as essentially an entity that is given to someone who requests it. He also notes that knowledge is 'relational' in a double sense, both in relation to clients and to their needs. Accordingly, the client (the appointer), who needs guidance, appoints who they perceive to be a credible provider of the needed knowledge or insight into the issue at hand – or, as will be discussed, provide another 'function' attached with some other meaning. We thus define utilisation as the actual, rational use of knowledge in order to seek advice or some other outcome. In sum, we understand knowledge utilisation as whatever type of insight or expertise that the appointer perceives as useful to include in a commission, whether it is scientifically 'hard' or not.

The instrumental perspective

The classic view of commissions as problem-solving bodies represents a technocratic thought, in which the search for a 'definite determination' is central (Hanser, 1965: 221). Only with knowledge and insight can one identify and suggest solutions to a problem. To put it simply, one is looking for suggestions, explanations, solutions and in some cases, the truth. While especially the latter two can be gained by the inclusion of experts on commissions, suggestions and explanations can be offered by both interest representatives and bureaucrats. A commission's advice can in both cases influence decision-makers (e.g. the ministry or the government). This is at the core of the instrumental knowledge-use perspective (Weiss, 1979: 427). Motivations for an instrumental use of knowledge can be identified with reference to the responsibilities an actor has according to its terms of reference, in which the obligations are set out. An example would be for the government to genuinely seek advice, perhaps following pressure from the public or parliament, and as such its desire to receive candid input is translated into the commission's mandate (Schrefler, 2010;

Rimkutė & Haverland, 2015). *Experts* are the most likely persons to be recruited in such a situation. If the parliament calls for the state to mediate between interests however, this can be done by inviting *interest group representatives* to participate in a commission. And finally, it could be the case that there is a straightforward advantage to supervise a problem-solving commission, in which the participation of *civil servants* seems likely.

Rationality is emphasised in the instrumental perspective, especially considering the assumption that policy-makers will use the best available experts with the best available information, and then choose the most efficient option for the issue at hand. Indeed, a rational decision-making process involves making calculated choices between explicitly given options. Therefore, according to Albæk (1995: 82), decisions are considered rational, only when they can be 'explained as choosing the most suitable means of achieving desired ends'. Moreover, one can argue that for instrumental use of knowledge to take place in the decision-making process, it is predicated on the actual existence of such a rational process (ibid.: 85).

This perspective thus emphasises the problem-solving function of a commission, highlighting the genuine intention of the appointer to seek the best advice. It can be argued that the instrumental use of knowledge in commissions represents the way science and research are normatively meant to be used (Souchon & Dianmantopoulos, 1996: 67; Rimkutė & Haverland, 2015: 436). In this sense it is obvious why the problem-solving function in line with the instrumental perspective tends to be the most often cited justification given by a government when setting up a commission, at least in Westminster system countries (Bulmer, 1981). However, it has been argued that the rationality of the above-mentioned rational decision-making process was severely overestimated and treated with much naivety. In fact, the process can be considered more of an idealised model than a depiction of reality (Albæk, 1995). This has been partly proven by studies which show that research and knowledge rarely exerted any specific influence on policy that was later implemented (e.g. Rich, 1977; and Weiss & Buchavalas, 1980). Accepting this, other motivations (for the use of knowledge in commissions) than those offered by the instrumental perspective, becomes increasingly valid.

In sum, key characteristics of the instrumental perspective involves a desire for the truth, and for problem-solving, information-gathering and other solutions. It generally entails a rational search for determination.

The strategic perspective

Janet A. Weiss and Judith E. Gruber (1984: 228) captures the essence of the strategic perspective by calling the use of knowledge nothing more than a 'fig leaf of rationality for policy positions adopted on altogether different grounds'. In this perspective on commissions and member selection, it is thus presumed that knowledge is used as a means of supporting a predetermined position or similar, in which the suggestions of the commission do not have any impact on policy (Christensen, 2018*b*). This perspective can also have a substantiating function on the political stage, providing a commission with 'expert knowledge', which serves as an argument in support of the policy choice (Boswell, 2009). This substantiating function is supported by Frank Burton and Pat Carlen (1979: 8) who sees commissions as:

[...] representing a system of intellectual collusion whereby selected, frequently judicial, intelligentsia transmit forms of knowledge into political practices. The effect of this process is to replenish official arguments with both established and novel modes of knowing and forms of reasoning.

To facilitate outcomes where 'official arguments are replenished', the government can structure the commission and select its members to ensure that 'correct' answers, findings or solutions are delivered (Rowe & McAllister, 2006). In other words, knowledge can become political ammunition if found congenial by the appointer (Weiss, 1977: 429). This explains why the strategic perspective sometimes have been referred to as the political utilisation of knowledge (e.g. Daviter, 2015). At the extreme, strategic or political use of knowledge resembles political behaviour, using information 'selectively and often distortingly' (Knorr, 1977: 171). Moreover, Martha S. Feldman and James G. March (1981: 176) observe that such information can be an instrument of power.

Another motivation can be a desire for issue control. The appointer utilises the commission (and thus the knowledge its members possess) to shape problem perceptions or to frame an issue to substantiate

claims of power or competence in attempting to gain issue control (Daviter, 2015: 496). In sum, by utilising knowledge or research to legitimise the findings of a commission, such findings will have an increased authority, making it easier to claim resources for policy-actions or other bureaucratic or political gains. Rather than utilising knowledge for concrete problem-solving, this perspective hold motivations to be strategic, and the focus is instead on political gains. Knowledge is therefore rationally mobilised out of strategic interests. According to the *corporatist stream* a strategic perspective sees commission members in relation to some kind of support. The *state control stream* on the other hand sees the inclusion of bureaucrats simply as a way for the state to exert control. Finally, experts – in line with the *expertisation stream* – offer insight and evidence which can be strategically used by the appointer, like the substantiating function (above).

Altogether, notions of strategy, substantiation and framing constitute key characteristics of the strategic perspective on commission use and member selection. It particularly involves political and/or tactical uses of commissions, in which the selection of certain members facilitates the expression of different perceptions.

The symbolic perspective

The final perspective on the use of commissions and commission member selection highlights how the appointer draws on knowledge or insight to gain for instance legitimacy or authority (Boswell, 2008: 473ff). This could be the case when a broad range of members (covering many different areas of knowledge) are appointed to a commission on a highly contested issue, thus ensuring a perceived objectivity and credibility. The *corporatist stream* would in this case see conflicting interests being included by ensuring representation from across the political spectrum, or from a cross-section of society. Moreover, commissions can signal a government's willingness to take action to address issues and that it is using neutral and non-political evidence to do so, increasing the government's legitimacy (Hunter & Boswell, 2015). Demonstrating a commitment to the use of knowledge is thus a source of legitimacy, as explained by the *expertisation stream* of research. This idea is particularly valid for crisis and disaster evaluation inquiries etc. A perceived commitment to the use of credible and authoritative professionals is of paramount importance in such situations.

However, it is also worth noting that a symbolic use of knowledge does not necessarily originate in deliberate calculations, it may, according to James G. March (1988: 8) simply originate in a desire to appease ingrained expectations about the appropriate action, which points to a degree of normative reflection. Feldman and March (1981: 177), in discussing information as a symbol, state that:

The gathering of information provides a ritualistic assurance that appropriate attitudes about decision making exist. Within such a scenario of performance, information is not simply a basis for action. It is a representation of competence and a reaffirmation of social virtue.

Using commissions and the selection of its different members, the appointer is exercising social values, displaying authority and exhibiting 'proper' behaviour (ibid.). This echoes the view of Ashforth (1990: 11) who asks if commissions represent mere symbolic rituals, more than they can be considered significant instruments of policy or intelligence. This suggestion points to the *state control stream* in which commissions represent just another instrument of the state. Additionally, the use of commissions specifically and use of knowledge generally, illustrates a continuous commitment to rational choice, due to the competence and social virtue that the use of such information signals (Feldman & March, 1981: 182).

To summarise this perspective, command of knowledge and information increases perceived objectivity, competence and commitment. The appointer, using commissions and by the appointment of certain commission members, enhances legitimacy for its policy-actions based not in notions of problem-solving, nor through strategic motivations for substantiating that choice, but rather based in credibility, neutrality and social virtue. The latter three represents three key characteristics of the symbolic perspective, combined with perceptions of representativeness, responsibility and objectivity.

Having discussed three perspectives on the use of knowledge in commissions, a note on their interrelations is appropriate; we do not propose that the three are mutually exclusive. In other words, an instrumental use of commissions does not necessarily indicate that notions of strategy or symbolism are not at all present. Rather, they must be considered complementary (Amara et al., 2004: 79). The use of commissions is a matter of choice dependent on the policy

situations, and a combination of the perspectives remain feasible. Some policy domains are more susceptible to motivations behind one or more perspectives (Oh & Rich, 1996). It can be advantageous for the appointer, in certain highly contested policy-issues, for instance, to rely equally on an instrumental and a symbolic use. The three types of utilisations therefore coexist.

Commission research streams in light of perspectives on commission use

While the three perspectives on commission use mainly give us a theoretical understanding of why commissions are used and motivations behind its member selections, the research streams offer approaches as to how they are used and identifies their typical members, as manifested in a Norwegian context. In the following, we apply the three perspectives on commissions (and the corresponding motivations) onto the three research streams. From this we can learn that characteristics of our three theoretical perspectives (instrumental, strategic and symbolic) are present in all three approaches (corporatist, state control and expertisation).

First, concerning the *corporatist stream*, the instrumental perspective holds that commission members serve as problem-solvers or mediators, because commissions are considered arenas for interest negotiations. In terms of the strategic perspective however, the focus rather lies on the trade-off mechanism. Here the incorporation of certain societal groups into the policy-making process could ensure their policy support at a later stage, thus making a successful outcome more likely. In this case the selection of the commission member can be done by the groups themselves, if invited to do so. Alternatively the selection could be done by the appointer – then often with an additional motivation behind their choice, e.g. demographic concerns. Finally, from a symbolic perspective, *representation* itself is at the core. The fact that some interests are afforded participation in the commission, and others are not, can point to appointer's (government's) opinions and beliefs regarding what societal groups are the most powerful or relevant. Alternatively, when considering demographic profiles of the commission members, a more diverse commission could be crucial in securing legitimacy. Yet, we dare to assume that the major motivation in the corporatist approach to commissions lies in the instrumental and strategic perspectives;

instrumental due to the desire for issue mediation and strategic due to concerns for assuring support.

Second, turning to the *state control* stream, the instrumental perspective holds measures of supervision and guidance as central. According to this perspective, it is in the interest of the bureaucracy, to keep up to date on the work of the commission and to facilitate their proceedings. This suggests that credible and experienced civil servants are appointed to commissions in order to be a resource and person of knowledge regarding the policy-process, and not necessarily as a direct representative with explicit instructions from a principal. Although, one cannot dismiss the distinction between a bureaucrat as a commission member acting on their own right and as an agent with formal instructions, the boundaries remain blurry. According to the strategic perspective then, the participation of bureaucrats in commissions, is a mechanism of control. In addition to bureaucrats acting on instructions, the very fact that control can be exercised through tactical member selection is highlighted by this perspective. Subsequently, there is the idea of a 'ritualistic use' of commissions, which is a feature of the symbolic perspective. This can be understood in terms of commissions representing another instrument of the state, or even as an extension of the bureaucracy. Nonetheless, the state control stream appears to be mostly strategic in nature. The major motivation here, we assume, is to ensure continued power through strategic membership selection, bureaucrat participation and explicit instructions.

The third and final stream, *expertisation*, acknowledges that increased demands for evidence-based policy-making results in a need for experts and academic's participation on commissions. Several motivations for the selection of expert commission members can be discerned. There is an obvious expectation in the instrumental perspective that experts will provide information and knowledge about the issue at hand, and as such will accomplish problem-solving exercises. The selection of experts then is close to a manifestation of the instrumental perspective. Still, the strategic perspective cannot be completely disregarded. With reference to the substantiating function previously discussed, using academic citations and scientific evidence are excellent examples of a strategic way to political gains. This is in line with the symbolic perspective where concerns for legitimacy is at the core. The inclusion of objective experts in a commission increases a

perceived legitimacy over the commission findings (etc.) specifically, and the commission regime generally. In sum, it is assumed that the motivation behind the selection of experts, as highlighted by the expertisation stream, can largely be explained by the instrumental perspective due to a desire for problem-solving. Although, at the same time, it can also be symbolic, due to the legitimacy, objectivity and epistemic authority that a perceived preoccupation with evidence, expertise and science, offers.

Chapter 3

Background

This chapter begins with a brief discussion on public commissions in general, followed by one on Norwegian commissions specifically. Subsequently, the NOU-series will be introduced. Finally, we provide an overview of the Norwegian Police Service.

Public commissions

In a wider perspective, commissions or inquiries are characterised both as a component of knowledge regimes and of policy advisory systems. While the first is defined as 'the institutional machinery that generates data, research, policy recommendations and other ideas' (Campbell & Pedersen, 2014: 3), the second is defined as 'the interlocking set of actors and organizations with unique configurations in each sector and jurisdiction that provides recommendations for action to policy-makers' (Craft & Halligan, 2017: 48). Commissions can more explicitly be defined as 'special ad hoc bodies set up to advise on specific policy problems' (Bulmer, 1981: 377). Campbell and Pedersen (2014: 183) echo this definition, referring to commissions as a type of semi-public research regime or temporary organisation that some governments often rely on. They are formally appointed by a government executive, ministry or the cabinet and are usually tasked with mandates of a problem-solving or research-type nature. Commissions can also be requested to offer policy-advice or to identify societal

issues and (counter-)measures. Finally, they can perform investigations into incidents and draft laws. However, commissions normally play no role in implementing their findings or proposals, and they quickly disband once their work is completed (Prasser, 1985).

Why would a government want to establish a commission? Adam Ashforth (1990), in his discourse on commissions, identifies four categories of reasons for appointing a commission. One of the most common categories of cases are situations where there is a need to transcend politics in order to appear neutral and to ensure credible commission proceedings. Evaluations of major incidents or crises are examples that require 'non-political' attention. It is well known that public commissions play an important role in post-crisis management, by serving as an instrument of state accountability and to objectively gather information about the incident (Sulitzeanu-Kenan, 2010). A second category of reasons includes those situations where the bureaucracy is limited in resources, of which the lack of relevant expertise is the most common. As contemporary policy-making has become increasingly reliant on scientific knowledge, governments turn to expert commissions for advice (Kitcher, 2011).

The third category of reasons for the set-up of commissions concerns what Ashforth (1990) refers to as 'distrust' between the government and the bureaucracy, for instance regarding bureaucratic reforms. Commissions with a mandate to investigate bureaucratic structures and resource management will naturally be likely to encounter some bureaucratic resistance. Finally, the fourth category sees commissions that have been appointed due to internal bureaucratic conflicts or pressures. Where there exist multiple fractions within the bureaucracy with differing views on a matter, encouraging the government to appoint a commission on the issue could be a strategy for the conflict to be resolved among a wider audience (Prasser, 1985). These four categories make up a rather conventional view on the use of commissions. This view thus holds that such inquiries serve only those honest purposes that they are intended to do, namely fact-finding, law-making and advice-offering.

The conventional view of public commissions resembles that of the technocratic perspective on authority and decision-making. This perspective perceives commissions as an embodiment of a problem-solving taskforce, whose mission it is to provide the best possible

solution to an issue. In the words of Charles Hanser (1965: 221) commissions can be expected to offer 'a definite determination of controversial facts and for a trustworthy judgement on a complex public problem'. Moreover, if the solution put forward convinces the appointing government, it will be adopted as policy (Bulmer, 1983: 436). From a technocratic point of view, it is argued that public commissions can rely on their expertise as a source for legitimacy. Their right to present a 'trustworthy' judgement is thus derived from their superior knowledge, which may explain the tendency to, according to Paul Sabatier, 'wrap their decisions in a cloak of technical jargon' (1978: 401).

However, Ashforth (1990) argues that commissions additionally constitute an elaboration of the 'idea of the state'. From his point of view, commissions then serve as a scheme for state legitimation. In other words, commissions have additional functions beyond the above-mentioned, conventional purposes. Ashforth explains that commissions participate in the process of the invention of the idea of the state as an instrumental, rational actor, with a mission to fix any and all of society's problems (*ibid.*). This requires the existence of an objective common good, to which commissions, through a union of truth and power, assist in identifying. As schemes for state legitimation, commissions mediate between interests, values and opinions on one hand and practical possibilities on the other hand. By 'showing how what is desirable can be made practicable' public commissions are instruments of state power (*ibid.*: 6).

Another view of public commissions, and the final to be discussed in this section, is of a more misanthropic nature. It sees commissions as mere props of the modern government to be used in the political game. Here commissions are used strategically to create illusions of concern, action and consultation. They simply exist to take pressure of governments or distract attention from allegations of, for instance, power abuse or mismanagement (Prasser, 1985). Along these lines, appointing commissions can serve as a way for the government to show concern about policy-issues, legitimise actions or to delay controversial decisions (Hunter & Boswell, 2015). In such cases, the decision to appoint a commission is subject to political factors more than the desire for an independent evaluation (Prasser, 1985). Commissions can also be used as an instrument of 'rubber stamping'.

This includes situations where the government is looking for independent support of a pre-determined action (Sheriff, 1983).

We understand from this brief discussion that commissions can be established for multiple reasons. In addition to the set of four reasons offered by Ashforth, we have also looked at three other views on the operation of commissions. On one hand, there is the technocratic view, which appears to complement Ashforth's four reasons. On the other hand, there are two more 'distrusting' views of commissions, namely commissions as an elaboration of the idea of the state and lastly, commissions as props in the political game. Having defined some views on commissions, we turn our attention to Norwegian public commissions.

Norwegian public commissions

In Norway, several different ad hoc and permanent commissions, committees, councils and advisory boards exist at any given time, in some years even surpassing 1,000 (Egeberg, 1981). In fact, such regimes have been appointed since 1814, the year of the writing of the Norwegian Constitution. The use of commissions has since then usually been explained by lack of resources and a limited internal capacity for research and analyses (Tellmann, 2018: 110). For instance, nearly every major policy-proposal or reform has been subject to deliberations in a public commission before having their reports published and subsequently debated in parliament, where it may or may not be implemented and acted upon. While the commission regime is a tool at the government's disposal, commissions remain autonomous to Norwegian government structures. Their appointment, mandate, tenure, membership and operational resources, however, are at the complete discretion of the government. Christensen, Gornitzka and Holst (2017: 250f) denote four features as typical of Norwegian (and Nordic) commissions. They are highly routinised, they often operate at the beginning of the decision-making process, they have close links to the bureaucracy, and they are characterised as 'hybrid' due to the participation of interest groups, civil servants, politicians and experts.

While the number of commissions and inquiries increased throughout the 19th and early 20th centuries, it was the aftermath of the Second World War that saw the largest increase in commission appointments. While there were 208 commissions at work in 1936,

this number reached a staggering 821 in 1966 (Moren, 1974 *in* Tellmann, 2018: 114). The post-war decades, with the Labour Party in power, became the heyday of corporatism, in which corporatist interest negotiations using commissions etc., represented a central characteristic of Scandinavian consensus democracy (Christiansen et al., 2010: 24). The close bonds between the state and organised interests in this time included a substantial participation of such organisations in public commissions, thus making commissions a manifestation of civil society-state cooperation where corporatism became 'a distinctive mode for making and implementing public policy' (Schmitter, 1982: 262). This perspective on commissions remained dominant in the academic debate throughout the 1970s and much of the 1980s (Christensen & Holst, 2017: 822).

An opposing view, however, sees the strong integration between organised interests and the state as an asymmetrical relationship, where commissions are employed as instruments of state power (Nordby, 1999: 19). The fact that commissions are initiated and appointed at the discretion of the state facilitates for a strategic use of the commission regime. In other words, it is recognised that it is up to the government to decide who and what that is to be regarded as relevant actors and interests, and thus it is possible to assert some control over the commission outcome. In other words, commissions are here considered from a state or bureaucratic point of view. It is also worth noting then, that the 1980s saw a significant decrease in the number of working public commissions and committees. The Conservative government of the time criticised alliances between sectoral interests, the bureaucracy and parliamentary committees (Tellmann, 2018: 117), and social and political changes challenged the traditional view of commissions (Christensen & Holst, 2017: 822). The result was a decline in the inclusion of organised interests in the policy-making process, as the government sought to simplify the policy formulation system (Nordby, 1994: 71).

While a de-corporatisation of the political system in Norway has taken place, and the number of commissions has plummeted (Christiansen et al., 2010), it has been argued that the composition of commissions has changed too. Research has pointed to an increase in the participation of academics on the commissions since the 1970s, and therefore a rise in expertisation of the commission regime (Christensen & Holst, 2017). At the same time, interest representation

appears to 'have been scaled back over the last four decades' (Christensen & Hesstvedt, 2019: 96). Public commissions can be said to bridge science and government through in-depth deliberations and examinations (Christensen, Gornitzka and Holst, 2017: 250). The increase of academic participation largely pertained to the social sciences, as well as to economics, while the participation of natural sciences decreases, and legal scholars remain stable (Hesstvedt, 2018).

NOU-reports and commissions

Norwegian Public Reports is a series of public commission reports published by the government since 1972 (Hansen, 2017). Upon completion of their work, all NOU-commissions are requested to sum up their work (and provide advice, propose legislation etc.) in the form of a NOU-report, and this explains why they are referred to as NOU-commissions, in contrast to commissions that are not asked to produce this kind of reports. The decision on whether a commission is asked to deliver an NOU is often decided already at the appointment by the Cabinet.

Following the release of these reports, several relevant organisations, associations, public bodies and others are invited to comment on and provide feedback on the commission proposals. It is only after this process has taken place that the report receives further attention in the relevant ministries where it may or may not be developed into a white paper (*stortingsmelding*). If it does become a white paper, it is subsequently deliberated in the *Storting*. At this stage, depending on the majority's support, it may be drafted into parliamentary resolutions and bills (*proposisjon*), which form the basis for parliamentary decision-making. As such, NOU-reports often perform both policy-preparing and law-making functions (Tellmann, 2018: 107).

There has been a total of over 1,600 NOU-reports covering all policy areas since 1972.⁹ Despite a decrease in recent years, there are still between 20 and 30 such commissions in activity each year. For instance, the period between 2011-2018 saw a total of 148 NOU-reports submitted, yielding an average of 18.5 reports per year. This contrasts

⁹ Numbers from a recently compiled database comprising all NOU-commissions (1972-2018), as part of the EUREX Project (Expertization of public inquiry commissions in a Europeanized administrative order) coordinated by ARENA Centre for European Studies, University of Oslo. Special thanks are due to Stine Hesstvedt, Doctoral Research Fellow at ARENA.

with the period between 1972-1979, which saw a total of 450 reports or an average of 56.25 reports per year. While a staggering 67 NOUs were submitted in 1975, only 13 were submitted in 2013. In terms of the sponsoring ministry, the MoJ and the Ministry of Finance (MoF) have appointed the most NOU-commissions (220 and 187 respectively), while the Ministry of Foreign Affairs (MFA) have appointed the least (15).

The Norwegian Police Service

While parts of the Norwegian Police trace its beginnings back to the rural sheriffs or *lensmenn* of the 1200s, the modern police were born with the appointment of the first Danish-Norwegian Police Commissionership in 1682 (Ellefsen, 2018a). Following this national commissionership, independent commissionerships for Trondheim, Bergen and Kristiania (Oslo) followed between 1886 and 1744 (Ellefsen, 2018b). By the beginning of the 1900s the rural *lensmenn* and the police were merged, and in all criminal matters the *lensmenn* were subject to the chief constables. At this time the police had developed into a bureaucratic institution comprised of a hierarchy of uniformed officers (ibid.: 8). By 1920, Norway was divided into a total of 61 police districts, the highest number of police districts there has ever been (Ellefsen, 2018a: 41). Following World War II, the number of districts was reduced to 54. The year of 2002 saw a further reduction to 27, and finally by 2016 only 12 districts remained. The latter two reductions were the results of two of the commissions that are addressed in this report, which also led to two of the largest police reforms ever, the 'Police Reform 2000' approved in 2001, and the 'Local Police Reform' approved in 2015. The 'Police Reform 2000' also comprised the establishment of a National Police Directorate (NPD), which regularly had been suggested for the past four decades without success (Grønlie & Flo, 2009: 246ff). Previously, the police had been a direct subject to the MoJ, to which all the chief constables also reported. However, since the establishment of the NPD, they rather report to a National Police Commissioner, who regularly meets with the Minister of Justice.

The Norwegian Police Service is a unified police, meaning that a single organisation has police power and an integrated first level of

prosecution power.¹⁰ In addition to the 12 police districts and the NPD, the Norwegian Police Service comprises a number of special agencies (SAs) and emergency services. Among the agencies are the National Criminal Investigation Service (NCIS), the National Authority for Investigation and Prosecution of Economic and Environmental Crime (NAIPEEC), the Central Mobile Police Service (CMPS) and the National Police Immigration Service (NPIS). While national public security services include the Emergency Response Unit (Delta), the Police Helicopter Services, the Royal Police Escort, the National Bomb Squad and the Police Negotiation Unit, most of which sort under the Oslo Police District for administrative purposes. The SAs are the focal point of the third commission addressed in this report. Additionally, the Norwegian Bureau for the Investigation of Police Affairs (NBIPA) is the national body responsible for the investigation of cases where employees of the police or the prosecuting authorities are suspected of having committed criminal offences in the line of duty. The NBIPA is independent of the police and is a subject of the MoJ and in certain questions also the Director of Public Prosecutions (DPP, *riksadvokaten*).

Finally, the Norwegian police is characterised as belonging to the Anglo-Saxon police tradition, which is marked by a civilian demeanour and an avoidance of militaristic aspects (Caless & Tong, 2015: 38). This tradition is also known as ‘policing by consent’, in contrast to ‘policing by force’ (Finstad, 2018: 8). Generally, it entails a locally-present police that avoids an unnecessary authoritative and centralised role. This contrasts with the French and other continental European countries’ police and *gendarmierie* (Dodsworth, 2004). Moreover, a rather significant degree of independence from the executive branch is emphasised, to mirror the idea that the police is anchored in the people. Accordingly, the police has an autonomous role in society and are not an instrument of state power (Hove, 2012: 17). The civility of the Norwegian police, however, has been ‘tested’ by recent calls for an armament of the police (Finstad, 2018: 128). This question was

¹⁰ An integrated prosecution power within the police, as is the case in Norway and Denmark, is an exception to what is usually the case in Western Europe (*riksadvokaten.no*: n.d.). The second and final level of the prosecution powers (‘The Higher Prosecuting Authorities’, HPA), however, are independent of the police, and in charge of more serious and organised criminal offences. The HPA is organised in 12 district attorney offices/regions (*embeter*).

evaluated by a 2017 NOU-commission which ultimately recommended the continuation of a non-armed service.¹¹

¹¹ NOU 2017: 9 'Police and armament – Legality, necessity, proportionality and responsibility' (*Politi og bevæpning – Legalitet, nødvendighet, forholdsmessighet og ansvarlighet*).

Chapter 4

Methods and data

This chapter discusses the research design of the report. The selection of commissions is explained, and documents and interviews as sources of data are discussed. Finally, the validity and reliability of the study is assessed. While the report could have benefitted from both quantitative and qualitative research designs, practical constraints made a qualitative, single case study the most feasible option. In a larger study, it would perhaps be advantageous to employ a quantitative strategy. For instance, examining more commissions and conducting more interviews would have provided more data and thus increased the confidence of the results. In this instance however, an in-depth case study appeared to be the most conducive option. Moreover, certain elements of the research questions would nonetheless require a qualitative approach. Research question 1 (regarding selection procedures) then demands an exploratory approach and a descriptive answer, close to a qualitative strategy. Research question 2 (regarding reasons for member selections) on the other hand, demands something that is closer to a deductive approach, in that potential explanations are assessed. With that in mind, we believe that the questions can best be answered by conducting interviews. While the legal landscape of commission selection also can be identified through documents, additional relevant information can be gained through interviews.

Case selection and sampling

This report qualifies as an intensive case study, consisting of two levels of sampling. The first level is comprised of four NOU-commissions, while the second level consists of 16 commission members designated for interviews. An often-cited definition of cases is offered by John Gerring (2007: 19): ‘Cases connotes a spatially delimited phenomenon [...] observed at a single point in time or over some period of time’. It has also been observed that: ‘Case studies are relevant for studying knowledge utilization, because the topic covers a phenomenon that seems to be *inseparable* from its context’ (Yin, 1981: 99, emphasis added). Robert K. Yin (*ibid.*: 100) moreover argues that: ‘[...] if one is desirous of answering “how” and “why” questions instead of or in addition to questions of frequency, case studies are the more appropriate strategy’. We therefore employ the commissions as one single case, albeit with two levels of sampling, as a sample implies any number of units that have been selected for analysis. Accordingly, this study employs two samples of units; one on the commission level, and one on the member level.

The selection of commissions was accomplished through a process of purposive sampling, i.e. a non-probability form of unit (or case) selection which ‘will provide leverage on the question of theoretical interest’ (Gerring & Christenson, 2017: 140).¹² By this we mean a strategic sampling, in which the units selected are relevant to the posed research questions (Bryman, 2016: 408). Contrasting a ‘convenience sample’, a purposive sample is not one of chance, but rather dependent on a set of criteria that the researcher has developed. Moreover, the type of purposive sampling used here is similar to ‘typical case sampling’ (Palys, 2008). This is because the units are sampled because they exemplify the dimension of interest or phenomenon in question, and thus allow for an intensive study of that phenomenon, which is in line with the research questions raised. In other words, the selected commissions and commission members are understood as ‘observations’ of the same phenomenon. This has also been tied to an overarching type of case studies in general, simply known as ‘typical case studies’ (Yin, 2009). The objective in such studies is to capture ‘the circumstances and conditions of an everyday or commonplace situation’ (*ibid.*: 48). To the extent that one accepts commission member selection processes as ‘commonplace situations’,

¹² Also known as judgemental, selective or subjective sampling.

it makes sense to call this report a typical case study, that employs typical case sampling.

Finally, it has been suggested that purposive sampling can be accomplished through either a 'contingent approach', or through an '*a priori* approach' (Hood, 2007). In the first instance, the before-mentioned set of sample criteria evolves throughout the research process, while in the latter, they are defined at the first stage of the process and remain constant throughout. An *a priori*-type approach is applied here and will be detailed below.

NOU-commissions (level 1)

The very first step of the case selection process was to decide on the ministry appointing the NOU-commissions. In order to establish a deep knowledge of the legal landscape and the procedures that concern member selection, a suitable candidate was the Ministry of Justice. Additionally, as previously discussed, the political fields related to the MoJ, particularly the police, remain a 'hot topic' that deserves more attention, especially considering the recent trends of expertisation and academic presence in policy deliberation. Finally, the MoJ, is the ministry that have appointed the most NOU-commissions since 1972, thus making the likelihood of a common and standardised process greater. In order to ensure a vast, yet manageable number of commissions to draw a sample from, the decision was made to limit the study to only cover the last two decades (1999-2018) of commissions *submitting* a NOU-report, a total of 86.

In order to limit the variance, an initial distinction is made between police-related and non-police-related commissions. Accordingly, 22 out of 86 commissions are related, more or less, to the police.¹³ This distinction is made by categorising all those commissions that deal with the police or parts of the police, which is evident from the commission names, mandates or in some other way through their reports, as police-related. This includes commissions that only deal with certain parts of the police organisation or policing methods etc., in addition to so-called accident or disaster inquiries, where there police usually only are one of many actors, that receive attention. A further distinction can be made between commissions that attend to the police directly and independently and those that do not. In other

¹³ See Appendix A for a full list of the 86 commissions.

words, those where the police receive attention in its own right. Subsequently all commissions that only partially cover the police are excluded. Thus, there are a total of eight directly police-related commissions in this twenty-year period.

Finally, considering the eight remaining commissions, four emerge as the most purposeful, in terms of maintaining policy-making (i.e. the commission objectives) as a constant variable. These four all deal with administrative, organisational and other reform-related issues that cover the police service as-a-whole. As such, these commissions attend to matters at the very core of the police, including its structure, internal organisation and outward reach. As opposed to the other four, these commissions were not exclusively mandated to only discuss policing methods or specific matters for the police such as data protection or armament. In sum, the four units (commissions) all evaluate questions related to the police organisation and administration and none of them are so-called law-drafting commissions.¹⁴ Therefore, there are no significant variations or unique qualities among them, which could potentially explain their composition. In other words, with the aim of excluding variance, through this sampling process four typical commissions with similar objectives were selected. An introduction to the four commissions is offered in Chapter 5.

Commission members (level 2)

On the second level, sampling of commission members for interviews from the four selected commissions was achieved through yet a strategic, typical case selection. The objective of this sampling was to identify those individuals that would best exemplify their peers and be of greatest value to interview. The interviewees were therefore not chosen at random, but in accordance with considerations of relevance and traits with each member (Tjora, 2010: 128). Members of the four commissions were categorised into three groups based on the three previously discussed research streams. As such, the first group consisted of people that could be characterised as representatives, formally or informally, for any interest-type groups, in our case usually unions and associations. Additionally, also people whose occupation or work affiliation was the main subject of study for the commission (in other

¹⁴ A distinction between law-drafting and policy-making NOU-commissions is sometimes made, where the first category discusses and formulates new laws (subject to mandate). See e.g. Christensen & Hesstvedt (2019).

words stakeholders), were categorised into this group. This group was simply labelled 'interest representatives'. Similarly, the second group consisted of civil servants and other public officials employed in the bureaucracy, the prosecution authorities or in the legislature. In our cases, these were people working in the ministries or other higher public offices, as well as judges and district attorneys. This group was labelled 'bureaucrats'.

The third group included academics affiliated with higher education institutions and people employed at research centres etc., public or private. This group was labelled 'experts'. Finally, a fourth group was created ('chairs'), which was reserved for the commission chairs only. The reason for this categorisation was to ensure that interviews would be conducted with people from different backgrounds, and to shed light on the relevance of each of the three research streams. The valuable insight that the research streams provide on different types of commission members was therefore applied to the process of categorising the members. Moreover, this categorisation facilitated for a balanced sample of commission members, with four members (one from each category) being interviewed from each commission. No background or member category was therefore underrepresented or overrepresented in the sample.

Following this operation, biographical research was conducted on all commission members. The point of this research was to accumulate all relevant biographical data, to make an informed and prioritised list of the most 'typical' individuals from each group within each commission. Their biographical data was only collected from publicly available resources, mostly from the Internet. Finally, interview requests were made according to these lists. In cases where the potential interviewee declined the request, or proved unreachable, the next individual on the list was approached. Generating these lists was of great advantage on at least two accounts. First, it proved valuable to study the commission members' CVs to gain an understanding of their geographical origins, educations, professional lives, qualifications and competencies. This helped in trying to understand considerations made within the ministry, including the weighing of interests, relevant skills and experiences and demographical factors, before setting up each commission. Second, it was valuable in terms of already 'knowing' the interviewees on beforehand, saving time in preparation for each interview.

Interviews

In total, 18 interviews were conducted. This number includes the four commission chairs and three more members from each commission. Moreover, two people working in the MoJ at the time of the selection of commission members for three commissions were interviewed. One interviewee covered two commissions, while a ministry employee affiliated with the fourth commission proved to be inaccessible. In total then, out of the 20 people wanted for interviews, 18 (plus one covering two 'spots') were successfully reached and interviewed.

Moreover, five different interview guides were prepared, according to the above-explained four member categories, in addition to one guide reserved for ministry employees.¹⁵ The prepared guides each had four to five sections covering different topics or aspects of commission preparation and participation. Only about one-third of the questions on the guides for the four member categories were different. For instance, this meant that questions regarding the process of the members' appointment were the same for all. The section that differed had specific questions related to the member's background, occupation or similar. The guide that was reserved for the ministry employees on the other hand, dealt with the complete process from the internal perspective of the ministry.

Of the 17 live interviews (one was by e-mail), five were done by phone, one through Skype and the rest in person.¹⁶ All interviewees had been e-mailed the interview guide at least two days on beforehand. The reason for this was twofold. First, it was done in order to put the interviewees' at ease, regarding the tone and nature of the questions. Secondly, it provided a chance for the interviewees to refresh their memories and potentially look up things in advance. This meant that most of the interviewees were prepared for the questions to come, and some had even made extensive notes which they brought along. Considering the time that had passed since especially the first two commissions had been in operation, this move appeared to be successful. Moreover, as the majority had prepared in some way or another, most interviews were more a balanced conversation, rather than taking the form of a static question-answer format.

¹⁵ Interview guides are included as Appendix C (1-3).

¹⁶ A list of interviewees is included as Appendix B.

The overall average interview time was at 52 minutes, with the longest interview concluding at 90 minutes, and the shortest at 25 minutes. While no sensitive information was requested, all interviewees were told that they were at liberty to decline answering any questions if desired. However, this never proved to be the case. All but one interview (excluding the one via e-mail) were recorded (with explicit permission). Following each interview, transcription took place and recordings were duly deleted. The transcripts were later used for analysis, which was accomplished using the qualitative data analysis software NVivo. Here all responses were coded into five nodes, which was structured according to the three perspectives on commission use.¹⁷ In addition to one on information on the legal framework and one on specific information regarding the appointment procedures. Where responses touched upon more than one node, it was coded under all relevant nodes. The nodes are thus 'summaries' of the combined interview data, which made identifications of central themes within each node possible. The results from this analysis then are presented in Chapter 5.

The information gained through these interviews varied between the personal experiences and reflections of the commission members to hard facts about the commission work. It also related to general information on and insight into ministry procedures and processes of member selection. Finally, some specific information regarding the MoJ's considerations for each commission was shared. While a list of interviewees is attached to the report, all information and all quotations remain anonymous. This was done to maximise the opportunity for the interviewees to speak freely. Therefore, all interviewees were accorded a randomly generated ID number, which is used throughout. Nevertheless, the decision to include the list of the interviewees were made in regard two accounts. First, the members' participation on the selected commissions is public information, so complete anonymity would have been practically impossible (even though not every member from every commission was interviewed, this is still not a strong claim to anonymity). Second, regarding methodological concerns for transparency it was deemed appropriate to include such a list.

The interviewees are referred to (by random ID numbers) whenever information or points of view explicitly gained through the respective

¹⁷ For a detailed definition of the nodes, see Appendix D.

interviews are noted and discussed. For instance, it can be where the same point has been made by several or where several interviewees describe similar experiences. Or it can be where general facts have been given and where relevant individual opinions are shared. It is important to note however, that such references are not made with notions of exclusivity, i.e. that all the interviewees *not* referenced in a statement disagree or object in any way. For example, if it was irrelevant for others and the point/topic was not raised or otherwise questioned, they are accordingly not included. The purpose of the use of such ID numbers is not then to affiliate statements to interviewees in terms of their identity, but to highlight wherever information was explicitly gained through the interviews, and to serve as a measure of reliability.

When the raised research questions are associated with human experience, interviews are particularly well-suited (Kvale & Brinkmann, 2015: 135). Personal interviews are moreover considered 'an effective method of data collection for research on elite subjects' (Odendahl & Shaw, 2001: 300). Subsequently, semi-structured interviews were chosen due to the flexibility that they offer. This type/style of interviews allows for questions that are not already included in the interview guide, and thus facilitates for interesting topics to be discussed further if necessary. Accordingly, as noted by Bryman (2016: 468), emphasis is put on what the interviewee considers to be important, and on how the interviewee frames and understands issues. Although there is a structured guide prepared for each interview, such as on topics to be covered, the progress of the interviews depends significantly on the interviewees themselves. Nevertheless, questions are asked with similar wording and in similar order throughout all the interviewees, to ensure a certain degree of consonance.

The interviews qualify for the elite interview classification. Elite interviewees are defined as people in positions with considerable power, for instance executives or experts (Kvale & Brinkmann, 2015: 175). Although closely linked with abstract notions of power, elites occupy the top echelons of society and they are integral in the community, government or institution they have assumed a higher position (Odendahl & Shaw, 2001: 299; 301). An elite interview strategy poses at least three challenges. First, it can be difficult to identify and locate such subjects. Second, once they are identified it can be a daunting task to secure access (*ibid.*). Third, one must be aware of some potential

issues with their responses. For instance, it has been noted that elites that are used to being interviewed often can have prepared messages with certain viewpoints that they would want to get across. Therefore, it demands the interviewer to be prepped and able to deconstruct said viewpoints in order to secure honest answers (Kvale & Brinkmann, 2015: 176). At the same time however, elite subjects are usually in such secure positions that it is permitted to challenge what they say with moderate confrontations in order to achieve reflected answers (*ibid.*).

Identifying the elites relevant for this report was of course not difficult, given the fact that these were publicly listed commission members. With the contemporary high online presence of elites, through government websites etc., contact information was also rather easily accessible. However, securing their participation was not completely effortless, which was in line with expectations. About one-third responded positively to the invitation (by e-mail) with 24 hours, then a few more within a week. The rest however required further action by phone. While three never responded/proved impossible to access, only two declined participation altogether. Recruiting participations thus proved mostly successful.

Document analysis

The document analysis conducted largely pertains to research question 1, concerning the ministerial procedures in setting up a commission and selecting its members. Several official and legal documents, including acts and regulations have been subject to research, in order to gain a fuller understanding of relevant and applicable rules and guidelines. While some of the documents have shed light on the commission appointment process itself, others have pointed to standing statutory requirements, relating both to commission composition and commission work. Nonetheless, as noted above, this remains somewhat limited. In the process of researching these documents, further information and advice have been obtained from relevant individuals. While knowledge from this document analysis and the obtained information contributes to the entire report, it obviously is especially important in Chapter 5 which closely delineates the legal landscape of commission member selections.

As documents can be a source of data, the quality must be assessed (D. Scott and Morrison, 2006: 75). John C. Scott (1990) promotes four

criteria for such an exercise: Authenticity, credibility, representativeness and meaning. Accordingly, one can ask if the selected documents are genuine, non-biased, common or typical and whether its intentions are coherent. Since the documents are public and official primary sources, we argue that they qualify as authentic. This fact also applies to the question of credibility. As they are authored by the ministries and approved by the government, in other words the very actors they are meant to govern, the documents remain credible. Moreover, these documents are indeed characteristic of this kind of laws and regulations that apply not only to other areas of the same policy field (i.e. justice, police, security) but of course also to other policy fields. They are therefore very representative documents. Finally, the documents are either written in technical legal language or in the parlance of the bureaucracy. This does (arguably) mean that the intent of the documents are clear in that we understand the meaning behind documents and can make sense of it. In sum, we assess the documents used in this report to comply with Scott's four criteria for quality and suitability for a scientific social study.

Data quality

The debate on how to assess a study's data quality and robustness of findings is tremendous within the field of political science. One conflict for instance concerns whether the same standards should apply for both qualitative and quantitative methods, as discussed by King, Keohane and Verba (1994) who argue that the two share the same 'logic of inference'. However, Guba and Lincoln (1994) hold that qualitative research should be judged on a different set of criteria than quantitative research, justified on the fact that the research paradigms, defined as 'worldview that guides the investigator' (ibid.: 105) differ between the two. Adcock and Collier (2001) on the other hand argue for a shared framework between the two research methods based in the discipline's recognised principles, while suggesting measurement validity as one common standard. King, Keohane and Verba's contribution on this topic includes two recommendations related to improving the quality of the gathered data, namely maximising validity and ensuring a reliable collection of data (1994: 25). Below we therefore discuss the data quality of the report in relation to validity and reliability.

Validity

Validity, of course, refers to whether one is measuring what one think one is measuring, explained by King, Keohane and Verba (*ibid.*, emphasis in original) as:

If an informant responds to our question by indicating ignorance, then we know he *said* that he was ignorant. Of that, we have a valid measurement. However, what he really *meant* is an altogether different concept – one that cannot be measured with a high degree of confidence.

From this we understand the importance of maximising validity, for instance by making sure that gathered data is relevant for the research questions and that potential theoretical understandings are satisfactorily operationalised. Yin (1994) suggests three validity ‘tests’: Construct validity, internal validity and external validity. Construct validity is explained as establishing correct operational measures. Internal validity is about causal relationships independent from spurious relationships, and external validity refers to the domain to which findings can be generalised. As this report is not concerned with causality, we will rather concentrate on construct validity and external validity.

Construct validity, regarding operational measures, is in fact very similar to Adcock and Collier’s notion of measurement validity, which they define as ‘whether operationalization and the scoring of cases adequately reflect the concept the researcher seeks to measure’ (2001: 529). Concerning construct validity in this report then, it is first a question of whether the theoretically informed assumptions are valid understandings of the theories, and whether the empirical data (interviews and documents) is relevant and ‘reflecting the concept’ at hand. Through the in-depth review of knowledge utilisation theories, and the corporatist, state control and expertisation research streams in Chapter 2, we developed a systematic and thorough understanding of the concept, which was used to make assumptions and to develop guides for the interviews. Moreover, the empirical data consists of all relevant legal documents and strategically selected commission members covering all the typical backgrounds. Another question is whether the ‘scoring of cases’, or in this context the coding of the interview transcripts, was satisfactorily executed. In other words, if the segments that were allocated into different nodes,

actually were relevant for that node. To ensure a correspondence between the nodes and the allocated segments, the nodes were explicitly defined and illustrated with keywords. This made the coding process uniform and cohesive.

The *external validity* on the other hand, which essentially entails generalisations, is arguably somewhat limited. A disadvantage with the use of case studies, is that they generally see a low external validity (Bryman, 2016: 62). While often associated with quantitative studies, seeking generalisations are argued to be possible (and desirable) in qualitative studies too, although with some modifications (Yin, 1994: 35f; George & Bennett, 2005: 114f). For instance, it is observed that: 'The preferred manner of generalizing from case studies [...] is likely to take the form of making an analytic or conceptual generalization, rather than of reaching for a numeric one' (Yin, 2013: 327). Hence, while generalisations in regard to other commissions than the four analysed here might indeed be possible (viz. populations/universes), another valuable contribution of this report can be in terms of an analytical generalisation and the lead to a desired cumulative theoretical knowledge related to public commissions (viz. theoretical propositions) (Yin, 2014: 241). By analytical generalisations are meant the 'the extraction of a more abstract level of ideas from a set of case study findings – ideas that nevertheless can pertain to newer situations other than the case(s) in the original case study' (Yin, 2013: 325). For instance, it can be concepts, ideas and evidence related to knowledge utilisation theories, the way it is adopted in this study. If accepting a limited degree of generalisations however, one could extend the concrete findings of the report to other commissions, appointed by of course the MoJ, but also by other ministries. Similar mandates of the commissions examined here, have been given to commissions in other policy fields and thus, certain generalisations may in fact be legitimate. Analytical generalisations and the potentiality for generalisations are further discussed in the Chapter 7.

Reliability

Reliability is understood in terms of consistency and replicability. In other words, that applying the same method of data collection and analysis should yield the same results (King, Keohane and Verba, 1994: 25). One wants to ensure that the same observations can be made again and again, as long as nothing is changed regarding the true state of what is being analysed. Reliability therefore entails criteria

related to trustworthiness, precision and accuracy (Bryman, 2016: 41). Yin (2009: 40ff) also suggests that demonstrating how the study can be repeated, along with transparent documentation of the data collection, is a way of striving for reliability in case studies. Reliability within this report applies first and foremost to the conducting of and the analysis of the interviews – for example, in terms of leading questions, whether the interview data is somehow biased and if the interviews were precisely transcribed and thereafter accurately analysed.

There are several challenging aspects with the use of interviews as data. One possible threat relates to the number of interviewees that were recruited. While there is no right answer, Andersen (2006: 288) argues that too few informants can be precarious on two counts. First, it could be the case that the informants have their own agenda and second, it could be the case that they somehow are ‘outliers’ when it comes to an ordinary or commonplace experience. Rubin and Rubin (1995: 13) moreover warn that elites can be sceptical and even manipulating. Accordingly, ‘Interviewers must always keep in mind that it is not the obligation of a subject to be objective and to tell us the truth’ (Berry, 2002: 680). By interviewing several people from each commission however, one can mitigate the risk of interviewees promoting their own agendas, in that if a member’s experience is substantially different from the rest, one has to treat such observations more cautiously. In other words, multiple informants thus serve as a mechanism of control of each other. Moreover, the number of interviewees for this report, however, we argue is satisfying in terms of gaining an adequate amount of data on each commission, as well as from each member category and the ministry, relative to the available time and scope of this project. Although we are trying to come as close as possible to the truth, breadth versus depth will always represent a dilemma (King, Keohane and Verba, 1994).

Another challenging aspect is the timespan since the commissions took place. Andersen (2006: 292) informs us that:

Incomplete and unbalanced memories can be explained by a number of reasons. A keyword is rationalisation, in other words that subjects recreate own ‘accounts’ of what happened. Experience can inherently never be recreated objectively, but rather as summarised, interpreted and abstract knowledge.

There is no way of compensating for the fact that the interviewees were retrospectively questioned about past events. Yet, that the interviewees were given the questions on beforehand have at least made it possible to contemplate on the events prior to the interview. Moreover, several of the interviewees were asked the same questions, which made it possible to discern whether some responses were very different from others.

While the perhaps most important caveat of the report thus pertains to the issue of time, it can also be argued that the passing of time has a positive effect on the will and likelihood of the interviewees to speak freely and straightforward. This relates to two factors. First, most of the members from the two first commissions were either already fully, soon-to-be or partially retired, and thus are not inhibited or constrained by current work positions and relationships etc. Secondly, the matters attended to in the same two commissions essentially belong to the past, while the two other commissions attended to matters which are very much still in action and in the public limelight. Accordingly, the current intensity and possible future consequences of the latter two commissions can have resulted in more reserved responses from these commission members. The same notions apply to the interviewees from the ministry. Nonetheless, whenever an interviewee expressed that he or she could not remember something, it was in most of the cases related to questions regarding certain details like dates and names. Responses to the broader questions on own experience etc., never appeared to be poor due to issues of time and memory. Therefore, it is our assessment that the interviews resulted in valid and reliable information, and that the interviewees contributed openly and constructively.

Moreover, every interview was fully transcribed, before being analysed with the use of the NVivo software, as described above. While the use of nodes during this process required extensive understanding of the relevant theories employed in this report, each node was briefly defined and keywords was attached, thus making the coding fairly straightforward. These are transparent moves that serve to increase the reliability of the interview data used in this report. Another threat related to the reliability of the analysis and further presentation of the results is 'cherry picking'. This is where the researcher aims to select extracts that are representative of the findings, in order to provide data in support of one's argument (Wodak, 2011).

A biased non-legitimate study could be the worst-case result of such an activity. Cherry picking was mitigated by keeping in line with the nodes, and illustrative anonymous quotes are only used where there is sufficient interview or document data in support of that quote. Moreover, we repeat that the use of randomised ID-numbers does not imply an exclusivity, i.e. that the interviewees not referenced opposes that extract.

Finally, the fact that the documents, which comprise the other part of the empirical data analysed here, are all official and publicly available also facilitates for replicability tests. In sum, we argue that all relevant and possible steps for ensuring reliability were taken. Potential limitations will be revisited in Chapter 7.

Chapter 5

Empirical analysis

Throughout this chapter, the complete process of appointing a commission will be examined. By drawing on data from the document analysis and the 18 conducted interviews, we will shed light on all aspects of the commission set-up process, including member selections. The chapter is divided into two main parts. In the first part we turn to an interpretive description of commission member selection procedures, and then an in-depth review of the legal landscape. Second, we commit to a closer examination of the four selected commissions, with an analysis of its members and their qualifications. However, we begin the chapter with an essential introduction to the four selected commissions, which is worth having in mind before turning to the analysis itself.

Introducing the commissions

In the following an essential introduction of the four selected commissions is offered. Each commission's terms of reference, recommendations and findings are discussed. Finally, we also discuss the results of their work and the aftermath and consequences of each commission. Such a facts-based overview will be helpful as an introduction to the rest of this chapter.

NOU 1999: 10 'Police Districts Commission' (PD Commission)

The Police Districts Commission (*Politidistriktutvalget*) was appointed by the government on February 26th, 1998.¹⁸ It was specifically mandated to suggest changes to the police service's organisational structure, and to offer detailed changes in the organisation of the districts (NOU 1999: 10, p. 5). This meant essentially reducing the number of districts, with the stated goal being a more efficient organisation. The commission was given an operational time of 12 months, and officially presented its conclusions with the handover of the NOU-report on March 4th, 1999 (*ibid.*: 2).¹⁹ The commission was composed of 10 members, including its chair. The commission remained largely unanimous, except for in certain cases related to a restructuring of the districts, which resulted in some dissents.

The commission proposed two main changes to the Norwegian Police Service. It recommended the establishment of a national police directorate, which was to have the overall responsibility and leadership of the police organisation and be in charge in questions of vocational, technical and strategic nature (*ibid.*: 40ff). The police was at the time governed directly from the MoJ, which had been the case since 1937 (Ellefsen, 2018a: 47). Subsequently, it suggested a reduction in the number of police districts, from 54 to 40. This proposal was justified on grounds of efficiency and in a desire for a police service directed more towards the general public (NOU 1999: 10, p. 40ff).

Eventually, on January 1st 2001, the National Police Directorate (NPD) became operational (Grønlie & Flo, 2009: 250). It developed into the administrative body that the PD Commission suggested, formally still a subject of the MoJ, but otherwise with the highest authority of the day-to-day management of the police. A number of employees were moved out from the ministry and transferred to the directorate as a consequence of its establishment. The publicly stated intention for its creation was to facilitate for a more dynamic and at the same time methodological governance of the police service. The aftermath of the commission finally saw a police reform named 'Police Reform

¹⁸ The Bondevik I Cabinet, comprised of the Christian Democratic Party, the Centre Party and the Liberal Party.

¹⁹ Titled 'A Better Organised Police Service' (*En bedre organisert politi- og lensmannsetat*).

2000' being launched.²⁰ A reduction in the number of police districts was the most important element to this reform, ultimately resulting in 27 districts from January 1st, 2002 – 13 more districts than what the commission originally suggested (Larsson & Sørli, 2018: 20).

NOU 2009: 12 'NBIPA Commission'

The MoJ, on behalf of the government,²¹ appointed the commission that was mandated to evaluate mechanisms of control of the police service, including the Norwegian Bureau for the Investigation of Police Affairs (NBIPA), on March 5th, 2008 (*Spesialenhetutvalget*).²² Given an operational time of close to 14 months, it was a smaller commission, consisting of only five members including its chair. The commission submitted its NOU-report and presented its findings on May 12th, 2009 (NOU 2009: 12, p. 4).²³ The terms of reference were directly related to the NBIPA and one other main complaint system within the police and they were asked to evaluate the system as a whole, vis-à-vis the preconditions passed by the *Storting*. The commission's recommendations were unanimous; however, it was divided over two other minor details.

The NBIPA Commission concluded that complaints and control system as a whole were not of a satisfactory standard. They emphasised that the mechanisms neither were, nor appeared to be, adequately independent (*ibid.*: 15). Moreover, they observed that there was no internal (or external) supervising authority that was at all aware of how the system fully functioned. Finally, they recommended a rather substantial change in the way the control mechanisms operated, including an extension in the responsibilities and mandate of the NBIPA. The commission was given full access to, among other things, cases investigated by the NBIPA, and concluded by partially repudiating criticism directed at the Bureau from media and members of the

²⁰ Following the white paper 'Police Reform 2000 A More Secure Society' (*St.meld. nr. 22 (2000-2001) Politireform 2000 Et tryggere samfunn*), as introduced by the Stoltenberg I Cabinet.

²¹ The Stoltenberg II Cabinet, comprised of the Labour Party, the Socialist Left Party and the Centre Party.

²² The Norwegian Bureau for the Investigation of Police Affairs is a public administrative body, directly controlled by the Ministry of Justice. Since its founding in 2005, it has been subject to regular controversy.

²³ Titled 'A Responsible Police – Transparency, Control and Learning' (*Et ansvarlig politi – Åpenhet, kontroll og læring*).

public (ibid.: 12). The majority of the commission's recommendations, however, was not followed up, as they apparently were deemed too costly (Engen & Magnus, 2015).

NOU 2013: 9 'Police Analysis Commission (PA Commission)

The Police Analysis Commission (*Politianalyseutvalget*) was officially appointed by the government on November 8th, 2012.²⁴ It had a rather broad mandate, and was supposed to 'analyse' the police service as part of a long-term strategic plan for the development of the service. The terms of reference pointed towards different parts of the organisation, like its resources, priorities, competencies, leadership, and structure – all of which were to be analysed (NOU 2013: 9, p. 11). It was additionally asked to suggest changes for whatever part of the service it would find necessary. The commission was given an operational time of less than eight months, a rather short period for such a substantial mandate. It was composed of eight members, including its chair. Their suggestions were unanimous, and they were presented on June 19th, 2013 along with the publishing of the NOU-report (ibid.: 3).²⁵

The PA Commission concluded that the police service was unprepared and unable to meet tomorrow's challenges, largely because of dissatisfactory management. It was blamed partly on a lack of proper funding and framework conditions (ibid.: 9). Accordingly, two main reforms were proposed. One regarding the police service's structure and organisation, meaning a restructuring of the police districts and of other parts of the police. And one regarding quality, competence and knowledge in the service, focusing on developing a more knowledge-based, best practice organisation, with an eye for continuous improvement (ibid.). The most controversial suggestion, nevertheless, was to reduce the number of districts from 27 to six. Again, the proposal was justified on grounds of making the police service more efficient and competent locally, as well as nationally.

The most substantial consequence of the PA Commission is the 2015 police reform, which saw a reduction in the number of police districts

²⁴ The Stoltenberg II Cabinet.

²⁵ Titled 'One Police – Prepared to Meet the Challenges of the Future' (*Ett politi – rustet til å møte fremtidens utfordringer*).

to 12, albeit not six as proposed by the commission (Larsson & Sørli, 2018: 20). While initiated by the Conservative Party-led minority coalition, it eventually won majority support in the *Storting*.²⁶ In this process, the reform was, somewhat bafflingly named the 'Local police reform', with a considerable political emphasis put on 'local'.²⁷ In light of the reduction of districts however, members of the public, in the opposition and among unions and academics, began consistently referring to the reform in opposite terms, instead calling it the 'Distant police reform' (Roalsø, 2018). The new districts and the reform were officially implemented on January 1st, 2016.

NOU 2017: 11 'Special Agencies Commission' (SA Commission)

The final commission, the 'Special Agencies Commission' (*Særorganutredningen*) was appointed by the government on May 11th, 2016.²⁸ The commission was tasked to evaluate the organisation and administration of the police service's special agencies and also the national public security services. While formally two separate organisational structures, they overlapped and one could not easily separate the two. Moreover, they were to incorporate their conclusions and suggestions into the ongoing 'Local Police Reform'. The commission was given 12 months to complete its work and it consisted of nine members, including its leader. The majority of the SA Commission's recommendations were unanimous; however some dissents were made regarding the specifics of some of the proposals (NOU 2017: 11, p. 14).

The commission mainly proposed to merge all the special units that sort under the National Police Service, into two branches, organised to assist the restructured police districts (*ibid.*: 13ff). One branch, an investigations branch, would consist of units that perform tasks related to criminal investigation, technical and tactical. And the other branch, a preparedness branch, would be comprised of those services needed in time of emergency and disaster (*ibid.*). This proposal was

²⁶ The Solberg Cabinet, comprised of the Conservative Party and the Progress Party. With parliamentary support from the Christian Democratic Party, the Liberal Party and the Labour Party, the reform was passed on June 10th, 2015.

²⁷ The name originates in the government proposition 'Everyday Security – the Local Police Reform' (*Prop. 61 LS (2014-2015) Endringer i politiloven mv. (trygghet i hverdagen – nærpolutreformen*).

²⁸ The Solberg Cabinet.

justified on the typical grounds of efficiency and resource management. The most controversial part of the recommendations is the fact that such a merger would see two major special agencies, the NCIS (*Kripos*) and the NAIPEEC (*Økokrim*) join forces. In fact, the NAIPEEC was originally a part of NCIS, before the former was dissociated from the latter in 1989 (politiet.no, n.d.). It also suggested a termination of both the CMPS and the NPIS, with a transfer of their tasks over to the police districts.

Most of the proposals of the SA Commissions have not seen the light of day. Essentially all the special agencies expressed unfavourable views, citing reasons like bad timing, due to the ongoing police reform (Trædal, 2017). Other reasons included a lack of a common thread regarding the potentiality of moving some tasks over to the police districts, but not others and so on. Finally, in December 2017 it was confirmed that the government had decided to halt the whole project indefinitely (Skjetne, 2017). One recommendation from the commissions, however, the establishment of a National Cyber Crime Centre (NC3), was followed up and opened in 2019 (politiet.no, 2017).

Rules and procedures for appointing commissions and selecting members

In the following, attention is directed at the internal process of appointing a commission, within the Ministry of Justice. The objective is to clarify, in detail, procedures regarding the set-up of commissions, including the recruiting of members. First, we provide a comprehensive review and discussion of the *current* legal landscape of public commissions. Second, the focus is on the process itself, where it is touched upon reasons why commissions are established, the relationship between the bureaucracy and the political leadership and deliberations with respect to member composition, among other things. While data from the document analysis and the interviews are the basis for these two parts, commissions themselves as independent units of observations are rescinded in the following. This means that the centre of attention is the MoJ's *general practice* regarding commissions.

The legal landscape

Below, the corpus of regulations that applies to commissions is discussed. As the documents originated in different years, and some have since been revised, it is important to note that not every *codified* rule that is discussed here may have been in play for every commission.

On the other hand, it does not appear to be any radical changes to the legal landscape over the period of study in this report. Nonetheless, in this part we concentrate on the current status of these regulations, in line with the focus of attention being the general practice of the MoJ. Moreover, this discussion amounts to a frame of reference, for which evaluations of the commissions can be made, as seen in Chapter 6.

What does the legal landscape related to demography look like? Does it relate to more than gender concerns? The only legal obligation with the status of an act (*lov*) that is relevant for commission composition is the 'Equality and Anti-Discrimination Act', last revised in 2017. This act regulates gender balance in official committees and more, including commissions.²⁹ It states that each gender shall account for at least 40 percent of the members if the committee has 10 members or more (ch. 4, § 28, subsec. 1).³⁰ Nonetheless, the third subsection of the same article enables the ministries to permit exemptions from the above requirement if a sufficient number of suitable candidates cannot be found.

Geography on the other hand is largely ignored in all official documents relevant to commissions. Following a thorough investigation into the subject, geographic considerations as a principle of commission composition only appears to be mentioned twice. Although extensively mentioned in nearly every interview as an important member selection factor (second only to gender), this does not seem to be reflected in the examined documents. In fact, geographic considerations as a principle for commission member composition appears to be taken for granted. It is evident from the interviews that, while nobody was able to point to any formal constraints regarding a geographic balance among the members, they all held it to be incredibly important – to the extent that it is just assumed to be codified somewhere. Accordingly, we understand that gender and geography are considered to be principles that one must adhere to, albeit more in the nature of norms, rather than being understood as explicit legal rules. As similarly put by two interviewees, there is no

²⁹ While not relevant to commission member composition, also regulations relating to the 'Archives Act' (*arkivlova*) and the 'Freedom of Information Act' (*offentleglova*) does apply to commissions.

³⁰ *Likestillings- og diskrimineringsloven*, Ministry of Children and Equality (2017).

need then, to read a set of rules in order to understand that variation in gender and geography is necessary (interviewees 11 and 1).

The only two places geography is mentioned explicitly are in two guidelines issued by the Office of the Prime Minister.³¹ These guidelines contain important information on matters related to two governmental activities: 1) the King-in-Council Sessions, and 2) the Government Conferences³² (*regjeringskonferanse*). Regarding the King-in-Council, commissions are briefly discussed in relation to royal resolutions for when a commission is formally appointed. It is noted that it is the minister's responsibility to ensure a satisfactory gender balance and geographical representation (ch. 3, subsec. 4.3). Moreover, one can read that: 'Concerning the member composition of boards, councils and commissions, it is important to strive for participation from different parts of the country' (ch. 13, subsec. 2.2). Finally, in the guidelines relating to the government conferences, a brief point is made also emphasising the minister's responsibility in securing variation in gender and geography (ch. 2, subsec. 3).

Turning our attention over to non-demographic factors, there is a directive (*instruks*), called 'Instructions for Official Studies and Reports',³³ which details minimum requirements for the establishment of an 'official study' (i.e. commissions). Such requirements include demands for proportionality, cooperation with relevant authorities and so on, in addition to criteria for mandate formulation. While not carrying the legal authority of an act, the directive is still binding for all commissions that partake in the process of producing background material for public decision-making, within or on behalf of the government and other public bodies (ch. 1, sec. 1-2). The most noteworthy part of this directive is its second chapter, which poses six questions that any official study must answer. The implications of the answers to these questions are profound as they, among other

³¹ 'On King-in-Council' (*Om statsråd*), Office of the Prime Minister (SMK, last revised in 2017); and 'On Government Conferences' (*Om r-konferanser*), Office of the Prime Minister (SMK, last revised in 2018).

³² At this stage, the list of the proposed members is drafted in what is called a 'government note' (*r-notat, regjeringsnotat*). The minister presents this note in the government conference. No formal decision-making takes place here however, this is usually left for the individual ministries or for the cabinet during the King-in-Council. This is usually also where commissions are formally appointed.

³³ *Utredningsinstruksen*, Ministry of Finance (last revised in 2016).

things, point toward the level of expertise that must be ensured in the commission, as well as a requirement for the identification (and possible inclusion) of affected parties (ch. 1, sec. 2-2).

Apart from the previous observation, the directive itself is silent on member composition. However, the topic is partially addressed in an official government guide to the directive,³⁴ where one can read that public commissions with a 'broad member composition will be able to offer balanced recommendations based on all potential consequences and interests' (DFØ, 2018: 32). However, this guide is not legally binding in the same way as the directive itself (regjeringen.no, 2016).

Moreover, there is another governmental guide that advises on aspects of commission work, simply called 'Commission work within the state'.^{35,36} It comments on everything from mandate formulation to organisation of the work, the format of the NOU-report and more. The guide's purpose, is to 'provide practical advice and tips on [commission] work' (KMD, 2019, p. 6). Moreover, it states that it aims to contribute to efficient commission work and to a more successful compliance with the above-mentioned 'Instructions for Official Studies and Reports'. Yet, its (legal) authority remains vague. In fact, like the above guide to the 'Instructions', it cannot – and does not, claim to hold a legally binding authority. The type of document itself, 'guide' (*veileder*), reveals that it is merely just that, a collection of sound advice, based on previous experience and shortcomings. Consequentially, there is nothing that impedes a dissention from this document, at least not in a formal sense. As interviewee 14 said regarding the nature of the status of this guide: 'Well [...] this is a guide yes, but it's

³⁴ 'Guidance Notes on the Instructions for Official Studies' (*Veileder til utredningsinstruksen*), DFØ (2018).

³⁵ *Utoalgsarbeid i staten*, Ministry of Local Government and Modernisation (KMD, 2019).

³⁶ The previous and first edition of the guide (*Veileder for utvalgsarbeid i staten*, FAD, 2007), was originally the subject for this part of the analysis. Thanks to one of the interviewees, however, the author received note of the new edition before its official release, thus being able to revise this section, so as to ensure an up-to-date review of the legal landscape by the time this report was completed. As the 2019 edition includes everything contained in the original edition, it does not pose any radical change to the previous one. The new edition additionally covers two other minor guides. These guides are: 'Guidelines on the management of commission work' (*Rettleiar i leiing av utvalgsarbeid*) and 'Guidelines for commission secretariats' (*Rettleiar for utvalgssekretærar*), both published by the Ministry of Justice and the Police (MoJ) in 2006. The 2019 edition however explicitly says that it officially incorporates both (p. 3).

also good advice. And it's generally wise to listen to good advice'. Accordingly, the guide appears to be a codification of norms, routines and best practice. So while the guide is available for consultation it does not pose any formal requirements or constraints.

Nevertheless, it does contain some interesting points that are very relevant in this context. For example, it discusses member composition and corresponding issues several times throughout. Composition is first addressed in a section that discusses the purpose of commissions, noting that the objective of any commission is to develop a common understanding of the problem in areas that might be subject to conflicts of interest (*ibid.*: 11). It observes that the use of public commissions facilitates an openness regarding who offers the government advice, and what advice they give. It proceeds to discuss what it calls two 'main variants' of commission members, namely experts and interest representatives. It is interesting to note that this mirrors the statements by several of the interviewees, in that they actively chose to differentiate between the two. Moreover, interviews essentially confirmed that this is one of the first questions to be resolved – whether to make it an expert commission, or an interest commission. It also discusses strings or issues of loyalty according to each type of commission member (*ibid.*). It notes that while there might be academic disagreements, it expects that the academic commission member will be loyal to his or her field of study, and not to specific interests that potentially could be affected by the outcome of the commission. Interest type commission members on the other hand will, of course, be driven by a desire to report on their point of view into the commission, and thus the objective behind the inclusion of such actors is to cover the issue at hand from as many relevant perspectives as possible. Finally, it contends that realistically a commission will often include both types, as certain academics can experience loyalty conflicts, and certain interest representatives can also be considered experts.

Moreover, it highlights the necessity of asking questions (pre-appointment) like whether a broad and diverse composition of members is necessary in order to produce the best foundation for policy development, due to the reason that commission work often is inefficient and requires a lot of resources (*ibid.*). Yet, it observes that commissions can be the right solution when it comes to issues that are marked by academic disagreements and dilemmas, conflicting societal interests, and questions regarding human values and the like.

Contrasting this with inter-ministerial commissions, it observes that such broad commissions can increase the legitimacy and trustworthiness of the outcome (ibid.: 12). This is especially true if the ministry ensures a composition of members with varied backgrounds, experiences, interests and positions. The interviews confirm that the ministries acknowledge this advantage of commissions, vis-à-vis internal working groups. For instance, it is highlighted that in terms of the political adaptation process that ensues, an external commission that enjoys legitimacy and trustworthiness is critical (interviewee 7). Moreover, one can read that expert commissions can be necessary in order to accomplish the degree of knowledge-based decision-making required by the previously discussed 'Instructions for Official Studies and Reports' (ch. 2, sec. 2-1), if such expert level of knowledge is not already present within the ministry.³⁷ Yet another justification for the appointment of experts to commissions is to provide a legitimate assurance that the ministry itself does not have any predetermined opinions on the matter. While interest representatives on the other hand should be included if the best possible outcome only can be ensured due to their 'inside' knowledge and hands-on experience. Or, if it is important to secure an independent assessment, outside of the ministry, because affected interests later can ease the implementation of the arrived-at recommendations (ibid.: 13).

Additionally, personal eligibility ought to be considered when recruiting commission members, according to the guide. It is observed, that previous commission participation among commission members are an advantage. The potential member's cooperation skills and work capacity are regarded as important factors too. It then says that members are formally appointed in their own right, but that this does not infringe on the ministry's right to appoint interest representatives. In other words, it means that, although members could be characterised as representatives from organisations and unions and so on, they remain formally independent of their affiliations (ibid.: 15). Moreover, the ministry is within its right to consult organisations that are deemed relevant in order to have them nominate potential candidates from their own organisation (as discussed above). Even then the members are acting in their own capacity, and the guide notes

³⁷ This is more closely discussed in the accompanying official guide mentioned above, 'Guidance Notes on the Instructions for Official Studies', DFØ (2018). See pages 25-32.

that the need for potential viewpoint clarifications with respective organisations should be resolved on beforehand (ibid.). Subsequently, one can read that an unbalanced interest representation ought to be avoided. Accordingly, we learn that the individual members are formally independent and personally appointed. As has been noted however, this issue is nonetheless marked by widespread uncertainty.

The guide also states that ministry employees may be included in commissions (ibid.: 16). If this is the case, the need to clarify the individual's 'mandate' is clear. For instance, there can be several positive aspects about having such a person as a commission member, especially concerning realistic and practical suggestions.

Yet, it emphasises that it is important both for the individual, and for the rest of the commission members to be aware of in what capacity the individual is participating, and that pros and cons of such a participation must be considered by the ministry. Considering the discussion above on the participation of ministry officials, this is a particularly interesting point. Negative aspects that are listed include dilemmas related to the independence of the commission member in question, and the difficult situation that arise if the ministry later goes against the commission's advice. While this seems relatively straightforward on paper, evidence from the interviews point to a perhaps less clear situation in real life.

Finally, the guide discusses leadership and work procedures in commissions. The position of the commission chair can almost be characterised as a case of *primus inter pares*. Although the chair typically is in charge of all meetings and is central in decisions regarding how to interpret the mandate, the commission is indeed considered a collegial body, where every member is equal in terms of substantial input (ibid.: 23). The chair, according to the guide, usually does not have a say in the selection of the other members, and therefore there is no typical relationship marked by superiority. Despite this, especially in terms of publicity, the name of the chair very much remains the single most important commission member. One can thus argue that the *primus inter pares* situation exists more on paper than in reality. Especially when considering that it is sometimes the case that chairs are involved in the selection process.

To briefly summarise, the only act relating directly to commission member composition is the Equality Act, while the subject of com-

missions in general is touched upon in one directive. Finally, there are the accompanying governmental guidelines, with one being particularly substantive. However, their legal status makes their advice not legally binding in the same way as directives and acts. The legal landscape will be revisited in Chapter 6.

The ministry's appointment and selection process

We proceed to examine the process and practice of appointing commissions. The process will be traced from the initial idea of a commission to the determination of its composition, while relevant issues concerning the recruitment of members is touched upon.

The need for a commission either becomes increasingly clear by way of public scrutiny, by internal political conflicts or through a self-realisation within the bureaucracy. Although, of course, the final decision rests with the government and the minister herself, the idea of a commission might very well originate from within the bureaucracy (interviewees 1 and 7). However, it appears to often be a 'joint' realisation by the bureaucracy and the political leadership that a commission on one issue or another would be advantageous. While the use of commissions has decreased somewhat over time, concern was voiced that commissions can still be an easy way out if the conflict is exhausting (interviewee 1). In the voice of interviewee 1: 'If [the disagreement] it is extra difficult, one would typically generously extend their deadline, so that one doesn't have to make up one's mind for a long time'. Thus, commissions have become a 'solution' to political conflicts within the government (interviewee 1). Considering the tradition for large coalition cabinets in Norway, it appears to be increasingly common between the governing parties to 'agree to disagree'. In other words, they decide to make a decision on a later stage, after further assessments and inquiries are carried out.

Once the decision to establish a commission is made, the process of identifying potential members begins. Usually a list of potential candidates and relevant interests are put together, along with a list containing fields of expertise or competences that are considered important (interviewees 18, 1 and 4).

Simultaneously, an exercise resembling that of a jigsaw puzzle ensues, as one candidate after another is eventually put into place, depending on a number of different variables. According to nearly every inter-

viewee, demographic variables, such as gender and geography are an obvious call. As was discussed in the previous section, these, of course, form part of the legal framework too. Current and former work affiliations and other interests or party-political affiliations are also taken into account. Interviewee 12 said that (regarding political leadership and potential members that 'belong' to another party): 'They'd rather not put people that aren't theirs, in the spotlight'. Moreover, unique expertise or other types of competences, like previous commission experience or general leadership experience are also traits that are sought in the selection process (interviewees 14, 4 and 7). Names come from suggestions from bureaucrats, or from the political leadership (interviewees 1, 7, 4 and 6). Names can also be requested from public agencies or from interest groups (interviewees 1, 10, 3, 18 and 12). Said actors are asked to suggest, usually, at least three names, with a satisfactory variation in geography, gender and sometimes hierarchical position in organisation or workplace (interviewee 1).

While the process is more sophisticated than 'drawing names from a hat', it is not completely devoid of randomness. The legal framework obviously contains a few rules of the game, but the rest is really up to the bureaucratic and political leadership. It appears to be, at times, fairly random who ends up with their name on the list. We do get the impression that the demographic variables often are the 'make or break' in the process, and that for instance hometown or gender weighs heavier than experience or competence. This might not be true in every commission that is established, but it does raise some questions as to what truly is the most important justification for membership in the commission. It has been stated that the process often can come to a halt, even when the list is nearly complete, if a certain part of the country is lacking in representation or that the gender distribution is unbalanced, and it turns out to be a strenuous exercise to find someone who satisfies the right criteria (interviewees 1 and 7). This obviously explains why several names are requested from each relevant actor. One difficulty is to find appropriate candidates from outside the Oslo area, another is to find the sufficient number of male and female members, in order comply with the regulations (interviewees 4, 7, 9 and 1). The importance of such factors is illustrated by interviewee 1 who states that: 'You cannot come up with a commission where everyone has an Oslo-address, it will be returned immediately'. While interviewee 7 mentions slightly more carefully that: 'There may be many reasons behind the selections

of persons. But if everyone comes from Oslo for instance, or everyone are women or men, then one should probably do it differently'. A final illustrative statement, as offered by interviewee 9 is: 'One also needs members from outside Oslo. So, if one, for instance is looking for someone from academia, one should look for preferably a woman that is not affiliated with the University of Oslo'.

An additional criterion is to find candidates that are perceived to be in good standing (interviewees 9, 4 and 12), and that have a credible and reflected persona. Consequently, people whose opinion on a matter is well known to the public, are sometimes avoided (interviewees 9 and 1). This is especially true if the commission is meant to deal with politically sensitive matters, and if it appears to be unlikely that the person in question can participate in an objective manner. An excellent and very recent example is the commission that evaluated the possibility of a permanently armed Norwegian Police Service (interviewees 4 and 1).³⁸ Considering the delicate nature of the topic it was crucial to achieve a perceived 'neutral' commission composition. Again, it is a question of credibility, even if a candidate does have publicly known opinions, other personal traits might still make a person eligible. Alternatively, in other cases, it can be possible to include two people with opposite views, so as to maintain a balance within the commission. However, it is also mentioned that especially in relation to such a controversial topic as police armament is in Norway, most people do have an antecedent opinion. Therefore, in such cases it is more about *how* people argue and *how* they convey their opinions, rather than if they specifically are in favour of, or oppose armed police (interviewees 1 and 18). Interviewee 1 elaborates: 'If they argue well for a position that many potentially agree with, and by doing that they are able to bring forth background and viewpoints, then... One cannot expect that everyone starts with a clean slate'. Generally then, it appears to be fair to say that very much depends on the persona of the candidate in question, whether or not people with well-known positions are included in commissions.

Suggested member compositions are communicated to the minister who can reject any or all potential candidates (interviewees 7, 1, 4 and 6). Once the composition is agreed upon in the ministry, the responsible

³⁸ NOU 2017: 9 'Police and armament – Legality, necessity, proportionality and responsibility'.

minister brings the proposition in front of the full cabinet in what is known as the 'government conference'. Here matters large and small are discussed on a weekly basis, and any signals or feedback will be brought back to the ministry. If no objections are presented however, the commission is ready to be formally appointed. However, it has been contended that this process between the bureaucracy and the minister, and the minister and the cabinet is more of an intricate and simultaneous operation, where names are suggested and possibly rejected continuously between the three. This means that the process itself is more dynamic than it appears at first glance, and that there is a rather open dialogue when setting up a commission (interviewees 7, 9 and 1).

While it was said that the process involving the setting up of new commissions do not vary much between different governments and parties in power (interviewees 1 and 6), it was suggested that some ministers pay more attention and take a greater interest in the fine details of finding and selecting appropriate commission members, than others. For instance, while some ministers only have concerns about the commission chair, or perhaps on what or who should be represented on a more general note, others will provide and may even insist on specific names (interviewees 9, 7, 1 and 6). It was also suggested that a possible politicisation of the selection process over the last years may be the case. Although commission member selections presumably always have been subject to politics, modest concerns were raised that commission members are increasingly vetted independently of the bureaucracy, and that more consideration into each and every name has been the case. It was also suggested that what was in the previous paragraph described as an open process and a dialogue, in fact is a rather recent development over the last few years (interviewee 7). In other words, it appears to be the case that there used to be a more formalised process where the ministry's 'chain of command' remained stronger and more functional, than in today's presumably dynamic and less formal process.

The position of the chair itself is obviously an especially important position to fill. This is usually the first name to be decided upon, and an extra level of consideration regarding this role is true (interviewees 4, 6, 1, 9 and 12). Accordingly, this person must meet certain standards or criteria of credibility and professionalism, typically met by certain respected civil servants and merited academics. By ensuring

that the commission chair has a public image that is well received in the society-at-large, a crucial task is indeed completed. We understand that a point is often made concerning civil servant chairs' current or previous places of work (interviewees 1, 6 and 4). Especially in relation to matters of the police, individuals with knowledge of the justice system (i.e. primarily people with law degrees), that have not (at least not for some time) been employed in the police or in the MoJ are considered attractive. The main objective of this choice is to avoid the chair having any ties to certain parts of the organisation or bias towards specific questions. This would not only be difficult for the chair itself, but it would also certainly challenge the legitimacy of the commission (interviewees 10, 3, 9 and 1). The same applies to academic chairs, in that they must be perceived as uncontroversial in their academic fields, and that they do not 'belong' to certain camps in their fields, which potentiality could compromise their objectivity in the commission. Commission chairs are in some instances also invited to suggest names for the remaining positions, or to comment on what interests or competencies they think ought to be included (interviewees 9, 1 and 7).

Moreover, the commission often carries the surname of the chair when referenced in media, which can result in the chair being remembered by and tied to the commission in the future. In addition, the chair is expected to facilitate cooperation and constructive exchange of thought among the other members, and therefore leadership skills like motivation, efficiency, delegation and organisation are emphasised as important, in addition to being unifying and familiar with the political-administrative system (interviewees 4, 5, 9, 14, 1 and 7). Finally, the chair usually always participates in the official handover of the NOU-report to the minister, which increases the presence of the person in the public. These factors add to the list of reasons as to why it is especially important that the chair is a person of good standing.

It is apparently common to initially discuss whether a commission should include only experts and thus be called an expert commission, or if the focus rather is to be on interest representation, and thus the commission as an arena for negotiations (interviewee 1).³⁹ Nearly every

³⁹ Several interviewees actively used the designations *partsutvalg* ('interest commission') and *ekspertutvalg* ('expert commission'), some in a positive manner, others with a more satirical connotation.

question a commission can be asked to evaluate does involve some kind of related, organised interests, as well as someone characterised as experts on the topic. While it is not always easy to make a separation between representatives of interests and experts as they can overlap (interviewees 4 and 16), it can nevertheless mean a substantial difference in the member composition of a commission. For instance, it can result in the complete exclusion of organised interests in the form of trade unions of different kinds, not-for-profit organisations and associations and political parties. In that case, it would rather be comprised of 'experts', ranging from academics, people from state-owned research institutes, and people with a high degree of work experience from relevant sectors and others from public, quasi-autonomous or private agencies. In the opposite case, leaders or representatives of the most significant interest organisations would be invited to participate, often at the cost of for instance experts. This is due to the preference of keeping the commissions as small as possible, while still maintaining credibility, to best ensure efficient work (interviewees 4 and 12). In sum, this decision is generally determined by the overall goal or intention of the ministry and the political leadership. Wanting an expert report with recommendations requires a different composition than the need for a negotiated compromise.

Finally, also employees of the ministries have often been included as regular commission members. While it can be contended that their presence would seem out of place, there are (as discussed above), no formal constraints on their participation in commissions. Knowledge and understanding of political-administrative processes appear to be the most sought-after qualification in the justification of including ministerial employees, according to the majority of interviewees. When directly asked whether commission members working in the ministries are considered representatives of their respective places of work, interviewee 4 said: 'That [issue] is contested'. The interviewee then stated that, if the member in question dissents, then it would be pretty obvious that the respective ministry is the culprit. Interviewee 1 on the other hand said that: 'I'd probably say that they participate in a personal capacity, but they have of course gained their competence through their positions so... But, perhaps with the exception of interest representatives, they're not appointed as a representative'. Nonetheless, the same interviewee (in addition to interviewees 4 and 6) also stated that members nominated by their own organisations (e.g. unions) at the request by the ministry generally could be considered

as representatives of their organisations. Again however, when asked about commission members that are nominated by other types of actors like the Higher Prosecuting Authorities (HPA), the answer was that such persons are *not* appointed to represent the HPA. Finally, it was observed by interviewee 7 regarding ministry employees as commission members that: 'It's a difficult role. If they... then they must be completely autonomous [from the ministry]. I think it's better if they [ministry employees] are not included'. By these accounts we understand that the 'independence' of a ministry employee in a commission is at best ambiguous.

The difference between a union member and one from e.g. the HPA is perhaps due to the nature of the organisation/institution one comes from, and to what degree that person participating enjoys any personal authority independent of their organisation noting that the public consultation process (post-NOU submission) could. It is also worth be a relevant differing factor. While union representatives carry a mandate that is entrenched within their organisation, and as such the organisation will stand behind whatever standpoint the representative has committed to in the commission work, the same might not be the case regarding members that cannot be characterised as mandated representatives in the same way. There is a difference in the nature of their organisation. Finally, one can conclude with the observation that it is only natural for people to be biased towards own interests, backgrounds and places of work, 'which essentially makes everyone a representative of something' (interviewee 3). Having examined both the legal landscape and the procedures of commission appointments in the MoJ, we will in the next part focus explicitly on the commissions.

Member selection: Reasons and qualifications

While we proceed to discuss the members of our four case commissions specifically, attention will be directed at the characteristics around each commission member, and the potential reasons as to why they were selected by the ministry. While we analyse each commission composition, we aim to derive some more general answers, in order to understand each commission's composition and the considerations of the ministry. To do so, each commission will be broken down. We will look at different factors such as demographics, personal traits, places of work and other/previous affiliations. Thus, the unit of observation in this section is each commission, in addition to each commission member within that commission. This analysis is

based on the 18 conducted interviews, as well as on the NOU-reports, where relevant. As in the previous part of the chapter some points will be illustrated with quotes.

Police Districts Commission (PD Commission)

The PD Commission touched upon the very foundations of the police force. As the Norwegian police operated with a doctrine based on close proximity with the public, resulting in many police districts and police stations, the reorganisation that the ministry had in mind would unsettle the entire force. Accordingly, the political sensitiveness of the commission was clear from the early stages of planning. The appointed commission chair, Anne Kari Lande Hasle, was at the time the Director of the state research institute 'Norwegian Social Research'.⁴⁰ There was a heavy interest group presence on the commission, with three members representing the largest police unions. They represented a majority of the people employed in all parts and of all ranks of the police force. However, it is worth noting that there was no civilian union representation, which there apparently was no tradition for being (interviewee 6). All three commission members were leaders of their respective organisations, and thus enjoyed the full authority of the organisation (interviewee 11). Additional police representation was also secured through the appointment of two Chief Constables (*politimestre*) to the commission, from the police districts of Narvik in the northern part of the country, and from Oslo in the south. Additional members included one employee from the MoF, and one from the MoJ, both of senior positions. The final two were one special advisor from the state-owned management consulting company *Statskonsult* and one district attorney.

In terms of demographics, the commission was comprised of four women and six men. While it is a satisfactory gender distribution according to the law, all but one of the members that were part of the police, were men. It was noted that it was challenging to recruit more female members to the commission from the (at the time) male dominated force, exemplified for instance by the fact that all three union leaders were men (interviewee 6). Regarding geography, in the NOU-report, only geographic locations related to the areas of command of whom such were applicable, are listed (NOU 1999: 10, p. 5).

⁴⁰ *Norsk institutt for forskning om oppvekst, velferd og aldring (NOVA)*, established in 1996 as an independent state agency.

This means that not every member is listed with a place of living/origin. Moreover, this is the case only in the first two commissions studied here. Out of the people that are listed with geographic locations then, only two members represent areas other than Oslo (one from the interior parts and one from the north). If one accepts the fact that the public officials, together with the chair and the member working for *Statskonsult* (both institutions situated in Oslo), at least five people were associated with the capital area. What geographic locations the three union leaders could be tied to remains unknown. This is indeed a problematic geographic variation, considering the heavy Oslo representation. The rural areas were, allegedly, represented by the northern Chief Constable (interviewee 11), however this does not change the fact that half the commission had their place of work in Oslo.

The commission chair was well known within the Norwegian public administration and had previously been a senior public official in the Directorate of Health and the Secretary General of the Ministry of Children and Family Affairs. As a special advisor on drug abuse, Lande Hasle had also been in some contact with the MoJ (interviewees 12 and 4). Throughout the interviews, it is generally her experience and knowledge of the political-administrative sphere that is emphasised as the explanation to her appointment as chair. It was said that: 'There aren't that many [candidates] that really know how the government apparatus work, while being on the outside [of the bureaucracy]' (interviewee 4). This observation also hints at the relevance of being employed outside of the civil service and the police organisation. To be independent of such structures, was considered a positive factor (interviewees 6 and 16). Additionally, knowledge of the police beforehand was not considered as prerequisite for the chair position (interviewee 4). Generally, knowledge of the administrative-political sphere and of bureaucratic processes appears to be the most important competence of the commission chair (interviewees 12 and 6).

Regarding the rest of composition of this commission, one is immediately drawn to the fact that there is a total of three union representatives. Accordingly, this commission includes several characteristics typical of a corporatist arena, which would mean an emphasis on mediation, representation and support. It was obvious to all that interests indeed were at stake, and the union representatives therefore participated with open cards, in that it was clear

to most what each union representative would argue for (interviewees 4, 6 and 12). It really was a matter of resisting too much negative change for one's union members, manifested especially by the threat of reducing the number of police districts as already was in the air (interviewee 11). As the commission's mandate signified substantial consequences for the force, there was apparently no question whether or not to include representatives from the unions (interviewees 6, 11, 4, 16 and 12).⁴¹ The following statements do not need any further explanation (all interviewee 11): 'They [the unions] had such key positions which meant that, if they had not been included, they would have gone straight to the *Storting* where they would have made a lot of commotion'; 'I don't think that the politicians would want to take the risk of excluding them [the unions]' and 'It would have been totally unacceptable to them [the unions]'. The unions must accordingly have had an incredibly powerful position not just within the sphere of the police, but also in society-at-large. To a certain extent it appears to have been routine to consult with the organisations, and it was referred to as a norm to have them in on most matters (interviewee 6). The union representatives did also contribute with knowledge and first-hand insight, as they carried a great deal of information on for instance local issues (interviewee 11).

Moreover, the inclusion of two Chief Constables in the commission meant a more 'official' control of the process, both being there in capacity of their positions within the force and not outside of the organisation, like the union representatives. Thus, they represented the organisation in a formalised way, and they could more easily view the police organisation in the larger picture, without having to 'represent' specific interests like the union representatives (interviewees 12 and 6). The inclusion of the two would make the reform process in the aftermath easier too, considering that the two were integrated in the reform from the beginning. However, their participation also meant a stakeholder form of representation, as they represented two very contrasting police districts. Oslo PD was a very urban district, and large in terms of both resources and criminal activities. Narvik PD, on the other hand, was a very different and much smaller district. So, in addition to the geographic difference, there was also a different representation in relation to types of criminal activities. 'You

⁴¹ This is a particularly interesting point considering the fact that there was no specific union representation in the PA Commission, taking place 14 years later.

had to have a distribution of large and small [PDs], and then you also covered other parts of the country. Quite often they [other parts. i.e. not Oslo] are not treated fairly in these contexts' (interviewee 6). Accordingly, geography was an emphasised factor in the member selection of this commission.

Regarding the participation of the MoF employee and the district attorney, it appears to be a matter of routine to include both in commissions like this. There was obviously an economic side to this, especially when suggesting the establishment of a completely new directorate, and as such it was generally expected (and some interviewees suggest even insisted by the MoF) that they were to be given a seat (interviewees 16 and 12). However, the member from the MoF did not really partake in any of the commission deliberations, other than aspects related to money (interviewees 16, 12 and 6). The same sort of routine largely applied to the district attorney as well. While not formally a representative of the HPA, it was still largely the explanation behind that member's participation. It was said that: 'It was a given. You had the three unions and you had the district attorneys' (interviewee 6). Moreover, the selection of that attorney was done in cooperation with the Director of Public Prosecutions (DPP) (interviewee 6). The task of the MoF employee is then essentially seen to be a problem-solver in terms of budgets and finances, while the district attorney ensures a kind of authority.

The MoJ employee however appears to be included due to the large number of MoJ employees working on police matters within the ministry. As a potential new directorate was in the making, it would have direct consequences for them (interviewees 6 and 12). Strategic thinking was not at the forefront, according to interviewee 6, it was personal characteristics with the member in question that was the justification for his participation. This member had previously worked in the police and in a police union before joining the ministry (interviewees 6 and 12). His participation in the commission can perhaps be characterised as a sort of interest representation along the line of the union representatives, but based in the member's information and knowledge, instead of being related to for instance interest mediation, as is the case for the other union representatives. Concerning whether or not the member was under ministerial instructions, this does appear to be the case, but *only* on certain questions of the mandate: 'It could be the case that it would be

valuable to know the viewpoints of the ministry, on some matters throughout' (interviewee 6). Based on the interviews, this statement seemingly points to the question of a directorate, but not so much the specifics regarding the restructuring. Moreover, the nature of his participation as a representative of the ministry appears to have been clear to all, for instance as noted by interviewee 12 when questioned: 'No, no ... no ambiguity at all'.

Finally, there was the member employed in *Statskonsult*. This member's participation occurs to be rationalised on two accounts. *Statskonsult* was a firm which provided services and assistance regarding public sector reform. Accordingly, it comprised very relevant expertise and competence on matters of restructuring and organisation management. A wish for external professional input was thus achieved by this participation (interviewees 12, 4, 6 and 16). While others also had this kind of expertise, for instance within public administration disciplines in academia, it was more conventional to include someone from a state-owned firm, as practical knowledge and experience on how public management on a day-to-day basis works were thought to be more solid there. It was a knowledge of political-administrative processes that was emphasised as relevant (interviewee 4). Second, also the personal experience and competence of the participating member have been highlighted as an important factor in their participation (interviewees 12 and 4). Specifically, because of involvement in similar processes. Requests within the ministry for such competence were met by this member (interviewee 6). Having reviewed every member of this commission, its composition will be further discussed in Chapter 6.

NBIPA Commission

The NBIPA Commission dealt with delicate issues, both from the perspective of the police and from the perspective of the wider society. Accordingly, it also became a politically difficult topic, especially because of the undeniable association with the Obiora-case, a 2006 incident where police action resulted in the death of naturalised Norwegian citizen Eugene Ejike Obiora, and thereby allegations of racism within the police force (interviewee 5). It was chaired by Liv Finstad, a professor in criminology at the University of Oslo. Additional members of the commission included a judge of the Agder Appeal Court (*lagmannsrett*) in the south of Norway and a district attorney from the northernmost prosecution region, Troms and Finnmark

counties. This member is also the only one in the commission, to be partially associated with the police. Moreover, there was a professor of political science and public sector management, from the University of Agder and finally an advisor in the Norwegian Customs' region of Oslo and Akershus, central parts of the southeast of Norway. In regard to demographics, there were two women and three men, thus complying with the Equality Act. Furthermore, the members covered the south of Norway (2), the capital area (2) and the very north (1). All in all, there is in reality, a lack of representation from the western, middle and interior parts of the country. Nonetheless, considering the fact that it was a very small commission, a more extensive geographic variation would essentially only be possible with a larger number of commission members.

The same factor for the PD commission is also striking here, albeit in the opposite manner. Rather than a heavy interest representation as in the PD Commission, there is essentially a complete lack of interest representation among the members of this commission. Accordingly, this commission does not incorporate typical corporatist characteristics, and may rather perhaps be considered an 'expert commission', with an emphasis on notions of evidence, legitimacy and authority – an observation which can be justified for example, on the inclusion of two academics. This is largely confirmed by interviewees 5 and 8, respectively: 'What one wanted, was experts [*fagpersoner*] from a number of fields'; and 'This was a relatively expert-comprised NOU-commission. That was the main criterion'. Moreover, while the district attorney is partially affiliated with the police by the nature of their work, the independent and superior nature of a district attorney's position diminishes that connection. This idea was emphasised in the interviews, which additionally explained the participation of the judge based on merits of authority and credibility, and, of course, the objectivity associated with such a position – as noted by interviewee 15: 'Regarding this particular commission, it was only natural to include a judge'. While the commission was asked not to overrule or judge particular cases (interviewee 5), having a judge on the commission surely affirms a certain degree of impartiality. Notions of impartiality can also explain the participation of another professor (in addition to the chair) on the commission. Expertise on management and organisational theories was also emphasised as an important competency into this commission (interviewee 8).

The sensitive nature of the issues that the commission was going to evaluate, did prove to be challenging in terms of arriving at the member composition of the commission. Several affected parties had shown considerable interest in participating (interviewee 5). At some point however, it was decided to not make this a commission consisting of special interests, which would presumably have meant the inclusion of police service unions and non-profit organisations working on issues related to anti-discrimination and integration. Although not true in a literal sense, it appears to be an understanding that the two types of actors represented the antagonists of an implied conflict (interviewee 5). There were especially two organisations that had been particularly vocal in the aftermath of the Obiora-case. On one hand it was the Norwegian Police Federation (NPF), a union which organises police employees from all levels of the police force. While on the other hand it was the Organisation against Public Discrimination (OAPD), a nation-wide non-profit interest organisation partially funded by the state. Rather than having to include both these as members of the commission, the ministry opted to exclude them.

Two relevant points emerge from this exclusion. First, we would like to highlight the power of the police unions once again. Once it was clear that they would not get a seat at the table, the NPF was evidently consulted on the question of the commission chair (interviewee 5). Seemingly, they actually got the opportunity to approve the candidate in line for the chair position. While this is clear evidence of the powerful position that the unions enjoy, it is also evidence of strategic considerations within the ministry. We understand that the fact that the NPF having approved the chair, would make them more cooperative and willing to open up for an evaluation of police control mechanisms. Having the union(s) oppose this commission from the very beginning would assumingly have made the tasks that the commission was set to do, substantially more challenging. So, while not opting to include them in the commission directly (for example in order to strategically substantiate the conclusions of the commission), the ministry rather facilitated a trade-off and accordingly secured the union's support. The reason as to why the NPF approved Professor Liv Finstad as the chair, appears to be based on personal trust and the long relationship between her and her research and the police service (interviewees 2 and 5). Professor Finstad, a seminal researcher on the Norwegian police, was a familiar figure within the force. She had studied and gained access to many parts of the organisation and was

a trusted person. In addition to her indisputable knowledge of the police, other personal characteristics such as integrity and objectivity appear to explain why she was a perfect candidate for the chair position.

A second point evolves around the participation of the member from the Norwegian Customs. As experience from the Customs cannot necessarily be considered very relevant coming into this commission, there was a previous connection of this member that was highlighted as essential (interviewee 5 and 2 for another non-profit organisation related to the integration and anti-discrimination). This member had in fact worked - discrimination called the Diversity at Work Foundation.⁴² At this foundation the member had worked for the promotion of diversity at work, particularly towards the public sector. Hence, the ministry managed to include integration interests in the commission, without including the OAPD (interviewee 8). This choice can be explained by the fact that the OAPD had been very vocal in the debate on police brutality and discrimination, and as such were deemed to be too difficult to include on the commission (interviewees 2 and 5). However, this had not been the case for the Diversity at Work Foundation. In sum, neither the NPF nor the OAPD were included, but through strategic considerations both interests were partially accommodated for. This commission is further discussed in Chapter 6.

Police Analysis Commission (PA Commission)

The PA Commission had an extensive mandate and was set to tackle some very fundamental questions regarding the police force. The important nature of the work that was intended for this commission is epitomised by its authoritative member composition. The commission was chaired by Arne Røksund, the at-the-time Secretary General of the Ministry of Fisheries and Coastal Affairs. The commission included another three senior civil servants, one professor, one appeal court judge and the National Police Commissioner and the Director of the Police Security Service⁴³ (PSS). Hence, the commission was marked by a heavy bureaucratic presence. At the same time, it is worth noting that there was no interest representation in terms of unions or

⁴² *Mangfold i Arbeidslivet (MiA)*.

⁴³ The Norwegian Police Security Service (*Politiets sikkerhetstjeneste*) is the police security agency, responsible for maintaining Norway's interior security. As it is independent of the NPD, it is a direct subject to the MoJ.

other non-profit organisations – very much in contrast with the PD Commission. In addition to the chair, there was the participation of a second Secretary General, from the Ministry of Labour. There was also a Deputy Director General (*avdelingsdirektør*) from the Ministry of Defence (MoD) and finally the Director of the Norwegian Tax Administration (*skattedirektøren*). Subsequently there was the participation of a professor in public administration from the University of Bergen, and a judge from the Hålogaland Court of Appeal, residing in the city of Tromsø. Finally, both the National Police Commissioner and the Security Service Director was included, which can be described as a rather bold move of the ministry (as discussed below).

In terms of demographics, there was a perfect gender balance of four women and four men on the commission. As to geography, four members (the civil servants) are listed as coming from Oslo or surrounding areas. There are two more from the south-east counties (excluding Oslo), while there is only one from the western part of Norway (Bergen) and one from the very north (Tromsø). The fact that both the NPD and the PSS have headquarters in Oslo, in reality means that six out of eight commission members at the time resided in the capital. One can therefore question the amount of work that has been invested into securing a satisfactory geographic variation.

The commission chair had previously been a Director General in the MoD, where he had been responsible for long-term strategic planning. He had additionally been in the Navy for many years, eventually rising to the rank of Rear Admiral, as well as obtaining a PhD-degree in history. In other words, not only did the commission chair have political-administrative experience, he also had valuable experience and insight into the Armed Forces, as well as academic experience. There appears to be two reasons as to why he was requested (some say even ordered) to chair the commission. It was a legitimate wish to have it chaired by someone external to the police service (interviewees 1 and 9). An outsider to the police would not only make the commission itself more credible, but it also meant that one would obtain a new and independent perspective on police matters, not subject to any issues of loyalty. Subsequently, there were personal competencies of the chair himself, including experience with similar analyses and evaluations, project management and long-term planning (interviewees 1 and 9). The Minister of Justice responsible for this commission, Grete Faremo of the Labour Party, had previously been

the Minister of Defence, at the time of which the chair had prepared some of these long-term defence plans. Therefore, according to several interviewees, it is highly likely that the Minister herself suggested Røksund as the commission chair.

The most remarkable aspect of this commission composition is the fact that the Police Commissioner himself was included. Questions regarding some form of interest or internal representation were very central in the early planning stages of this commission (interviewees 1 and 9). For instance, whether to include union representatives or not, and what consequences their (non-)participation would have for the outcome. One essentially had to determine which alternative would be the most preferable. The idea of union representatives was eventually dismissed, but by including the Police Commissioner, interests of the police force were maintained within the commission by having the very leadership of the organisation participating. It was emphasised that the Commissioner knew all parts of the service, having previously served as the head of both the NMPS and the NCIS (interviewees 9, 1 and 18).

The Commissioner's participation was nonetheless controversial. Advantages of the participation mentioned throughout the interviews include the point that the Commissioner, as a leader, would have a better oversight of the police organisation as-a-whole, and not only specific interests from different parts of the force. It also includes the point that it would make the implementation process in the aftermath much easier, having a Police Commissioner who had been part of the discussions and knew where suggestions were coming from, rather than the opposite, where a commission's findings and suggestions would be forced upon the Commissioner (interviewee 18). On the other hand, it has been suggested that the Police Commissioner was held 'hostage' to the commission, and therefore was forced to back its solutions in the later stages (interviewee 6). Regarding this point however, the majority of the asked interviewees disagree, stating that this was not the case nor was it ever intended to be. Several also pointed to the personal traits of the Commissioner himself, saying that it was qualities with his persona which made his participation a success, and the unanimous recommendations of the commission possible (interviewees 7 and 9). The same considerations largely apply to the PSS Director as well (interviewees 9, 18 and 1). It appears to be the case that the participation of the Director was suggested and

possibly insisted upon by the Police Commissioner (interviewees 9 and 18). Nonetheless, the PSS Director had previously been a Chief Constable herself and was thus also capable of seeing the police force from an aggregate point of view. Not only did the inclusion of the two mean access to hands-on experience from the force, notions of interest representation were arguable also included. As the unions were excluded from participation, the Commissioner was the only one with direct interests at stake.⁴⁴

The four bureaucrats, including the chair, were all highly experienced civil servants, and thus had valuable knowledge of the political-administrative sphere. The selection of the four was throughout justified with reference to their personal experience regarding organisation, reforms and long-term planning (interviewees 9, 7 and 1). Nonetheless, personal acquaintances also played a role in their selection, as the commission chair was invited to suggest appropriate candidates. It is worth noting that these two factors (personal experience and acquaintances) can be complementary to one another, and not necessarily a dichotomy of either or. So, while these members certainly contributed in an instrumental sense, their participation can indeed be characterised as strategic too. Not only does one ensure realistic inputs (from a political-administrative point of view) by having civil servants on a commission, but it is also more likely for a chair to achieve consensus among likeminded people and among people with whom one has positively worked with in previous circumstances.

Finally, the commission also included a professor and an appeal court judge. The professor in question was a political scientist and a researcher on public administration, public security and crisis management. She contributed with a theoretical understanding of the issues at hand and had previous experience from other commissions (interviewees 9 and 1). This professor was essentially included on the grounds of expertise and experience. Her participation nonetheless also contributes to the legitimacy of the commission proposals. The participation of the judge on the other hand appears to be much the same situation as regarding the previous instances of judges and attorneys' participation in commissions. As observed by interviewees 1 and 9 respectively: 'One wanted experience from the judiciary (...) and so,

⁴⁴ The PSS was explicitly excluded from the evaluation of the PA Commission, and therefore the Director technically had no direct interests at stake.

the judge came in'; and 'A judge is of course not unnatural to include'. Accordingly, they bring knowledge of the judicial relationship with the police of course, but primarily they offer the commission a higher degree of authority. See Chapter 6 for a further discussion.

Special Agencies Commission (SA Commission)

The SA Commission followed in the footsteps of the PA Commission. It too had an extensive mandate to evaluate all of the police service's special agencies. While the mandate was not necessarily very sensitive politically, it was indeed controversial within the police organisation itself. The Director of the Norwegian Mapping Authority, Anne Cathrine Frøstrup, was appointed as the commission chair. At first glance the commission resembles an expert-type commission, rather than one made up of interest representation. Four people were completely external to the police force. Including the chair, these were two directors of research centres and one retired lieutenant general. Then there were two district attorneys, two people working in the Troms PD – one police constable and one project manager, and finally the Commander of the Emergency Response Unit (ERU). The police constable of the Troms PD, however, was actually a union representative. One also has to consider whether others, like the ERU Commander might be an interest representative of sorts, as the ERU was partly subject to the work of the commission. And finally, regarding the participation of the district attorneys, they are of course part of the HPA, which is also integrated with two of the special agencies. Thus, there is a connection there as well.

Nonetheless, in terms of demographics, there were four women and five men. Of the external members, there were three women and one man which indeed is a contrast with the four male and one female commission members working in or with the police (the two DAs included). The northern parts of the country were well-represented with three members (albeit all from Tromsø). There were two from western Norway, two from the interior parts, and two from Oslo. In other words, a rather favourable geographic variation.

The commission chair had apart from the Mapping Authority, also worked for the MoJ early in her career, before becoming a judge in the Agder Court of Appeal in the 1990s. Therefore she was a familiar name within the ministry. Additionally, she had previous experience from chairing commissions, which was emphasised as an important

competency (interviewees 14 and 1). Moreover, the fact that there had been quite some time since her time as a judge and her work in the MoJ, was 'not a disadvantage' (interviewee 1).

The participation of the two research centre directors can be explained by an interest in gaining new solutions regarding the organisation of the special agencies (interviewees 17, 14 and 1). The member that was the director of the NTNU Center for Cyber and Information Security had previously participated in public expert groups and commissions. Her rather unique expertise and knowledge regarding cyber security points towards the ministry's wish for thinking towards the future so as to meet the technological challenges to come (interviewees 14 and 1). The other research centre director had substantial experience from the private sector and was therefore capable of providing an outsider's perspective on the police organisation. Such perspectives are valuable in terms of new thinking. The commission chair too, through her work at the Mapping Authority had experience from digitalisation and information technology, as mapping has been through technological reforms. It is thus easy to see the common thread in the ministry's considerations, regarding the particular focus on external perspectives and technological expertise. Problem-solving and expertise are thus characteristics that sum up their participation, as illustrated by this observation: 'If we didn't have any people with other backgrounds than police, then we probably would have suggested to keep status quo' (interviewee 3).

While the concern for expertise is a given, interest representation cannot be completely dismissed. Despite not being explicitly mentioned in the NOU-report, interest representation was acquired through the participation of the police constable from Tromsø (interviewees 14, 1 and 10). As he was representative nominated by the NPF on request, one can say that unions in general were included at the table. It was nonetheless the ministry that made the final decision regarding his participation, which means that more people can have been nominated by the unions. The unions might also have agreed between themselves on who to nominate (interviewees 10 and 1). As it seems that the ministry had reserved one spot for interest representation, one can say that they were preoccupied with notions of representativeness and legitimacy. The same can be said regarding the project manager from the same police district. This member had for some time been working extensively on the implementation of the new

police reform, cooperating with the NPD and other police districts. Therefore, he was an expert on the reform and his knowledge and experience with its implementation was up to date (interviewees 10, 3 and 14). Not only could he bring this information into the commission, but in some ways this member could also act as a perceived representative of the reform itself. While not formally a representative of such interests, in capacity of his work, it is certainly possible that such an interest representation still took place.

Similarly, the Commander of the ERU can be characterised as a representative of specialised police competence (interviewees 14 and 1), as this was the only commission member coming from such services within the police organisation. There was a need to include someone with a more direct connection to specialised competence that was not employed in any of the major special agencies. This way one made sure that any ties were not too strong. The two district attorneys on the other hand, were appointed in compliance with the DPP, despite this they were not considered as representatives of the HPA per se (interviewees 14 and 1). Nonetheless, the NAIPEEC (*Økokrim*) is a prosecution office in its own right, and also the NCIS (*Kripes*) has some prosecution power. Accordingly, parts of the HPA could potentially have been affected by the work of the commission, which then makes the two district attorneys, at least partially, representatives of interests too. Although this is not in any way a formal representation, they, of course, may feel some sort of loyalty to their organisation and to colleagues. Finally, the lieutenant general provided an external point of view, with relevant experience from the military. As a lieutenant general ranks immediately below a general, the person naturally enjoys a high degree of authority. This commission member had also participated in the 22 July Commission, and was accordingly well aware of the challenges faced by the police.⁴⁵ Having reviewed every commission member of the four commissions, the following chapter includes a discussion on the member compositions in light of the theoretical framework.

⁴⁵ See NOU 2012: 14 'Report of the 22 of July Commission'.

Chapter 6

Discussion

This chapter is divided into four parts. Initially, we discuss the legal landscape in light of the frame of reference as delineated in the previous chapter, including relevant data from the interviews and the document analysis. Secondly, we look at how each commission came about, considering the previous chapter's analysis on commission appointment procedures and relevant literature. Thirdly, we review the findings regarding motivations for member selection with reference to the three knowledge utilisation perspectives. Finally, we briefly discuss the relevance and explanatory power of the perspectives.

A flexible legal landscape?

The legal framework concerning the process of selection and appointment of commission members is arguably limited. While a few different regulations touch upon the issues discussed in this report, it is often in a vague, minor and malleable way. Tellmann (2016: 23) noted that the informal procedures that characterise Norwegian public commissions is their most apparent feature. She subsequently observed that policy-makers enjoy a 'wide-ranging flexibility' in reference to the appointment of commission members and the commission mandate in general. Our analysis largely confirms her observation of the commission appointment procedures. Concrete examples of the

vague nature of the corpus, include the article in the Equality Act that permits exemptions if necessary from regulations requiring gender balance, the fact that geography is only mentioned in guidelines that do not amount to formal regulations, and that the only other binding document, the directive, remains surprisingly silent on composition and participation. These facts prove the wide-ranging flexibility observed by Tellmann.

Moreover, the observation of two of the interviewees that guidelines are unnecessary in understanding that gender and geography are important factors, is evidence of a concern more based in political realities, than one based in a desire to adhere to legal requirements. In other words, it means that such factors would be just as important, whether these guidelines existed or not. This of course points to political realities, and thereby issues of representation, legitimacy and authority. Accordingly, while these requirements (of varying legal status) remain important, this is not due to the documents themselves, but rather the norms they are associated with. Hence, there is 'no need' to consult legal documents when selecting members for a commission, because the bureaucracy is well-aware that if the suggested composition does not comply with demands set by politics, it will immediately be returned by the political leadership. While demographic demands to a certain extent are fixed then, requirements regarding the distribution of competence or representation remain little specified. Moreover, also taking into account the fact that the choice of members does not need to be publicly justified, makes the role and importance of guidelines and documents insignificant.

As noted in Chapter 5, each of the commissions have obviously been subject to different *formal* legal situations, depending on the existence of – and editions – of the documents. Nonetheless, evidence from interviews and the documents themselves, point to the fact that the documents primarily codify already existing practice. Whereas the Equality Act (dating back to 1978⁴⁶) governed the gender balance of all the commissions, geographic considerations relating to the two guidelines may have been more or less in play for the four, but not in the same formalised way. For those two it has been impossible to identify their original year of origin. The 'Instructions for Official

⁴⁶ Equality Act (*Lov om likestilling mellom kjønnene*), Ministry of Children and Equality (1978).

Studies and Reports' on the other hand (first published in 2000⁴⁷) have at least been in play for three out of the four commissions. The latest edition and its guide have primarily been made simpler and more concrete (KMD, 2016). The final edition of the last document, 'Commission work within the state', explicitly incorporates two other guides as discussed. In these two (originating in 2006) it is stated that their content is based on experience from commission work within the MoJ (MoJ, 2006a: 1). Accordingly, while not formally effective during the first commission, it is still based on experience which plausibly can extend back in time. In sum, while the commissions have been subject to different formal situations (in terms of documents), the substantial contents of these appear to have been effective all along. This is especially true regarding what we are interested in, i.e. commission set-ups and compositions. On the other hand, through this codification process, some concerns have been increasingly emphasised, however these relate mostly to cost-benefit analyses and harmonisation with obligations set forth in the European Economic Area Agreement (Nordrum, 2017).

The role of catalytic events in establishing commissions

How did the commissions come about? It appears to be a need for catalytic events or series of events for the ministry to realise that a commission may be necessary. The PD Commission has later been referred to as a discernible product of New Public Management (NPM) trends (T. Christensen, 2018: 61). The number of police districts had to be reduced, and consequently the salient rural-urban cleavage conflict in Norway came into effect. Accordingly, it is not difficult to understand the controversial nature of this commission's mandate. This meant that a heated debate also took place among politicians and parliamentarians. Additionally, the question of a national police directorate was regarded as inconceivable in two ways. Firstly, from the interviews it was learned that politicians were generally 'allergic' to directorates. Secondly, the idea of a national directorate had been highly unpopular due to its Nazi equivalent during the occupation of Norway in the Second World War. It was thus preconceived as something undemocratic and authoritarian, in stark contrast to the

⁴⁷ Instructions for Analysis of Consequences... (*Instruks om utredning av konsekvenser, foreleggelse og høring ved arbeidet med offentlige utredninger, forskrifter, proposisjoner og meldinger til Stortinget*), Ministry of Local Government and Modernisation (2000).

'policing-by-consent' notion, related to the Anglo-Saxon police tradition that had long been the case in Norway (Finstad, 2018; Larsson & Sørli, 2018: 16). In sum, it appears rather obvious as to why a commission on the matter was appointed.

The NBIPA Commission was also the result of a series of topical events, which culminated in the need for an independent assessment of the Bureau. All relevant interviewees acknowledge and confirm that it was particularly the 2006 Obiora-case, which became a catalyst for the eventual appointment of the commission. The incident sparked an enormous outrage among members of the public, criticising the police for unnecessary use of force as well as making accusations of racism.

The PA Commission is generally considered a direct consequence of the 22 July 2011 terrorist attacks (Larsson & Sørli, 2018: 20). Following the 22 July Commission's identification of shortcomings in the police force (see NOU 2012: 14), there was only a question of time before the government had to take action. As such, the Police Analysis Commission was a very visible sign that issues were being addressed, and that demands for action were met. Given the politically delicate nature, public emotional sentiment and high bureaucratic priority regarding the issue, it is no surprise that a commission outside of the bureaucracy was set up.

The SA Commission on the other hand follows in the wake of the PA Commission as a part of a larger set of reforms directed at the police service initiated by that commission. It does therefore not appear to be any new or extraordinary events that resulted in the appointment of this commission. It is rather thought to be a continuation of the process that was commenced by the PA Commission, while moving the focus to another part of the police organisation, specifically the special agencies. This however, means that the commission was mandated to touch upon fundamental security features of the Norwegian police, in other words also politically sensitive matters.

All in all, the fact that that these police-related commissions are easily perceived as being of paramount importance in terms of public order, public security and crisis preparedness, explains why they remain so politically sensitive and thus why they are appointed in the first place. They are created out of a need for credible, objective and professional deliberation, and afforded a great deal of independence precisely due to the critical nature of their work. There is a need to

transcend politics, as noted by Adam Ashforth (1990). Nevertheless, it is worth mentioning that some evidence from the interviews point toward other, more strategic reasons behind appointing commissions also. Although such insinuations (which were made particularly by the interviewees that had previously worked in the ministries) tended to be directed to other, less time sensitive or controversial political issues. For example, as mentioned by some interviewees it could be the case that one wants to buy more time, or that some issue need to be moderated publicly via a commission before being presented to decision-makers. Finally, as noted previously, commissions can also be the result of exhaustive conflicts like policy disagreements within a coalition government. While it cannot be said for certain, it can be the case that such disagreements increasingly are the reason for commission establishments.

Member selection in light of knowledge utilisation perspective

In this part we review the commission compositions in light of the theoretical framework. Each commission member is discussed, as explanations for their participation are delineated. In Chapter 2 on the theoretical framework, we developed the following three assumptions. It was assumed that the major motivation(s) in the corporatist approach and thus behind the selection of interest representatives, pertains to the instrumental and strategic perspectives. While state control (and thus the selection of bureaucrats as members) pertain largely to strategy. Finally, the motivation in expertisation (and thus the selection of experts) pertain to the instrumental and symbolic perspectives. Taking into account these assumptions and the reasons that lie behind member selections as examined in the previous chapter, we discuss to what degree selections can be explained by other motivations than simply by the wish for problem-solving. In other words, whether strategic and symbolic justifications are (equally or more) valid, vis-à-vis instrumental factors like expertise, knowledge and experience.

The *PD Commission* was close to a blueprint of a corporatist commission. The fact that it was allegedly impossible not to include the unions illustrates this. The objective of the commission was to agree on something that all three unions could tolerate, in order to achieve a unison proposal for new police districts. Accordingly, it was a conflict of interests that had to be mediated. In many ways it

was the political reality that secured them seats at the table. It appears that the ministry had no choice but to include them, in what can be characterised as search for 'definite determination' (Hanser, 1965: 221). The union representatives, of course, also possessed knowledge that was highly relevant in this commission, in addition to voicing concerns from every part of the force. The inclusion of the union representatives thus served a dual purpose in terms of problem-solving. Not only was there a conflict in need of arbitration, but their participation also meant access to knowledge, in the form of insight into problems (Weiss, 1995: 141). Finally, the chair and the special advisor from *Statskonsult* brought in additional, external knowledge about public administration and reforms, which is in line with Weiss' (1979) original 'problem-solving model'. Personal traits with the chair, including experience and current work position, were also important. Notions of the instrumental perspective like information-gathering, solution-seeking, knowledge and determination therefore appear to be present, which is associated with rational accounts of a policy-making process (Schrefler, 2010: 314).

However, the 'forced' union representation is not necessarily at odds with a strategic thinking within the ministry, in that union support was secured through their participation. A trade-off took place. Their participation in the commission meant that it would be considerably more difficult to criticise the suggestions of the commission and that they could no longer 'run' to the *Storting*. In addition to this idea of 'captivity', also Boswell's (2009) 'substantiating function' applies here, by having the unions on-board, public support for the final recommendations is enlisted. The participation of the Chief Constables too, point to some strategic thinking, in that they could more easily make unpopular choices, because they did not represent specific causes in the same way as the unions. The Chief Constables would moreover be in charge in the implementation of the eventual changes, and it is of course much easier to assist vigorously in a reform that one has been a part of, rather than having it be enforced by 'outsiders'. Finally, despite potential claims of problem-solving and personal characteristics, the participation of the two ministry employees clearly illustrates notions of bureaucratic control, similar to Daviter's (2015) observations on 'issue control'. Accordingly, the strategic perspective offers possible explanations into as many as seven of the commission member selections.

In addition to the external input by the chair and *Statskonsult* advisor, the district attorney also secured notions of expertise, legitimacy and authority (as belonging to the symbolic perspective), in what was otherwise a highly police-internal commission based on representation of interests. Interest representation can also be symbolic in its own right however, especially in making the recommendations of the commission more legitimate (Boswell, 2008: 473ff). Nevertheless, with the explicit focus on mediation and negotiation in this commission we understand that the ministry's intent was to arrive at an acceptable solution for all parts (including themselves) – in other words largely strategical concerns. This is not to completely dismiss the instrumental and symbolic perspectives however, but such notions within this commission are limited.

The *NBIPA Commission* can be understood as the polar opposite of the PD Commission. The considerations within the ministry regarding this commission appear to have evolved around a desire for an expert-like commission composition, in line with a characterisation of commissions as conveying 'a genuine spirit of inquiry' (Rowe & McAllister, 2006: 105). The sensitive nature of its catalytic event(s) required a certain commission composition as there was a need to 'transcend politics' (Ashforth, 1990). Truth-seeking, information-gathering and problem-solving were emphasised, in terms of evaluating the NBIPA and other mechanisms of control within the force. For such a task, it was deemed difficult to include special interest representation and therefore certain interests were accommodated in other ways. Notions belonging to the instrumental perspective can therefore explain this commission composition, in that experts can be used to vocalise 'the cause-and-effect of complex issues' (Rimkutė & Haverland, 2015; cf. Haas, 1992). The exclusion of unions can, however, point to a certain degree of strategic thinking within the ministry, too.

The two academics certainly provided expertise, not only on the police itself but also on administration. The fact that the chair was 'approved' from a union point of view informs us that personal traits with the chair were emphasised in the set-up of this commission. The two then secured scientific input, whilst the district attorney and the judge lent their authority and objectivity to the commission. The symbolism that can be understood from having a judge on the commission surely affirms a certain degree of impartiality too. Finally, the Customs advisor, due to largely previous affiliations increased

the commission's overall legitimacy, and arguably served in a capacity of symbolic interest representation.

In sum, this commission was above all an objective expert-type commission. The member composition signalled that the government took the issue seriously and aimed for constructive, neutral recommendations (Hunter & Boswell, 2015: 13). Moreover, it was in the ministry's interest that the commission was perceived as independent and professional. Instrumental notions were emphasised, in addition then, to a certain degree of symbolism through a preoccupation with legitimacy.

The *PA Commission* amounts to an authoritative expert commission, although with a certain kind of interest representation. The grave circumstances which led to the initial criticism of the police and thus the appointment of this commission, explain the choice of members in terms of their senior positions and high standing. The most interesting aspect with this commission (and an outright contrast vis-à-vis the PD Commission, given that they both suggested a reduction in the number of police districts and they both led to major reforms) is the lack of interest representation through union participation. The ministry clearly considered this a commission in need of authority and expertise, rather than as an arena where interests were to be mediated. Thus, legitimacy (as belonging to the symbolic perspective) was in this case derived from the ministry's commitment to expertise ('representation of competence', cf. Feldman & March, 1981: 177), rather than from traditional interest representation.

The appointment of the chair can be explained according to both the instrumental perspective (i.e. his personal experience with similar tasks) and the symbolic perspective (i.e. the increased legitimacy and objectivity of an external chair). While the participation of senior bureaucrats from three ministries (not the MoJ) and the Tax Administration, secured expertise on and insight into public administration, public reforms and technological changes. All of them had been involved with long-term planning and were experienced leaders. They thus essentially embody instrumental notions. On the other hand, the categorical choice not to include any bureaucrats from the MoJ was strategic, as an image of independence accordingly is achieved. At the same time however, bureaucrats do, as noted above, also perform a strategic role, in that the commission can be considered as

structured to ensure 'correct' answers, or at least answers that were not completely incongruous with the ministry's own considerations (Rowe & McAllister, 2006).

The ministry therefore combined a desire for instrumental problem-solving, with an arguably unconventional interest representation, primarily to add more knowledge and experience but with strategic and symbolic connotations. The inclusion of the Police Commissioner and the PSS Director arguably checks all three commission perspectives. They can obviously be included on accounts of problem-solving, information-gathering and for offering proposals and recommendations. However, their participation can also be characterised as symbolic acts of legitimation and representation. Their participation also resulted in a strategically smoother aftermath. Finally, personal traits with the Commissioner have also been emphasised. Moreover, whereas the four senior bureaucrats undoubtedly had valuable practical insight into the political-administrative sphere, the professor contributed with relevant expertise from a more external point of view. As observed by Boswell (2009: 167): 'Scientifically based empirical or analytical claims can substantiate and thereby enlist public support for particular policy positions'. Finally, perceptions of credibility and objectivity were increased by the 'natural' participation of the judge. This commission then is marked by both expertise and interest representation. The fact that interest representation is secured by the top leadership of the police, however, suggests that this commission more accurately amounts to an expert-type commission, as can be explained by the instrumental perspective. The presence of symbolic notions on the other hand, related to the very experienced bureaucrats and the participation of the judge, remain rather limited.

The composition of the *SA Commission* at first glance points to instrumental notions of expertise and knowledge. Its broad and complex mandate also required such competencies. With its four external commission members and two district attorneys, this commission could be characterised as an expert commission. The instrumental perspective can explain at least the first four members due to the emphasis that was put on knowledge of technology and externals' point of view. The chair and the two research centre directors, in addition to the lieutenant general, all contributed specialised kinds of knowledge, regarding technology, organisation or emergency

preparedness. As such, instrumental notions like problem-solving and expertise were very much present in the commission, again echoing Weiss' (1977) 'problem-solving model'. The research centre directors' authority is of course also associated with more scientific nuances.

Yet, the view of this commission as marked by expertise, is somewhat challenged by the fact that the participation of the three people working in the police and the ERU, can be characterised as interest representation. Not only were the three working in different parts of the organisation, they were also of different ranks. Additionally, one of them was also a union representative. The commission therefore enjoys a different 'kind' of legitimacy, than what the experts could bring. Still, these representatives contribute with knowledge, and therefore assist in the legitimation of the credibility of the ministry as policy-makers (Boswell, 2009). Moreover, if one accepts that also the two district attorneys partially represent interests as well, then the commission is perhaps rather an interest-type commission, more than one affiliated with experts. Nonetheless, the district attorneys ensure a type of perceived authority and objectivity (based in the symbolic perspective) that neither experts nor interest representatives possess in the same way.

In conclusion, we understand the ministry's considerations to really be a combination. An absolute expert-type commission would be less easy to accept within the force than one combined with some interest representation. Thus, legitimacy was achieved by the perceived interest representation (mostly explained by the symbolic perspective), while maintaining ideas of expertise and problem-solving (belonging to the instrumental perspective).

Perspectives revisited

Can strategic and symbolic notions, in addition to instrumental notions explain commission member selections? Yes, based on the above analysis of the commission selection process, and individual explanations for the members, we argue that the three perspectives are all relevant in explaining the selection of members in the commissions reviewed here. As is evident from the above discussion, this is not to say that strategy and symbolism necessarily can be considered more important than motivations based in problem-solving, however, we believe that the two are of great analytical value in their own right. The respective weight of the three perspectives depends

on the ministry's intention and the mandate given to each commission, while the intention of the ministry of course is contingent on what the problem is considered to be. Accordingly, it appears that the MoJ does not have a *modus operandi* in terms of commission compositions. It is rather the result of rational considerations, as adjusted to each issue or situation.

Instrumental notions underpin every commission. In some cases, we understand that it is even the main criterion (like in the NBIPA Commission, and for the most part the PA Commission). Strategic notions on the other hand recognise that certain members (and their competence) are selected for some other purpose than just that of problem-solving. This can be in typical cases where there is a conflict of interest (like the PD Commission) or regarding specific members only (like the Police Commissioner in the PA Commission). Finally, symbolic notions are usually understood as legitimacy, and by the inclusion of certain members, the findings of the commission appear more credible and legitimate (as is the case with certain members in all four commissions, but perhaps mostly within the PA and SA Commissions). Accordingly, commission member selections can in some cases be explained by other non-problem-solving motivations. Demography is of course a central factor in its own right. However, it is easily associated with symbolic notions, because factors like gender and geographic origin are emphasised, both by norms and formally by regulations, as important aspects of commissions. Accordingly, there are some legal requirements that can possibly explain the inclusion of certain commission members. Although, as has been discussed, demands originating with political realities (or 'correctness') would most likely have ensured the same results in form of inclusions, independent of the legal requirements. Nevertheless, while strategy and symbolism cannot explain all commission member selections, the two perspectives are certainly influential in many of the cases, and perhaps even decisive in some selections.

Chapter 7

Conclusions

The final chapter of the report includes a review of the main findings, in addition to assessments of the contributions and the limitations of the report. Finally, possible paths for further research are suggested.

Summary and key findings

Public commissions are designated a cornerstone of the 'Nordic model of government' due to their routinised role (Arter, 2016). The 1,600+ NOU-commissions appointed in Norway over the last five decades are evidence of this role. It has been noted that nearly every major policy-proposal and reform have been deliberated in a public commission before being introduced for the *Storting* (Tellmann, 2018). Yet, despite their important role in Norwegian politics, little is known about the procedures surrounding commission composition and the selection of members. Moreover, the high degree of discretion that the bureaucracy enjoys in setting up such commissions and the close relationship between the commissions and the ministries, have been highlighted as a defining feature of the NOU-commission system (Christensen, Gornitzka and Holst, 2017; Tellmann, 2016). With reference to these observations, this report asked: 'Who are appointed to commissions and why?'. In the following, answers to this question will be delineated.

Four NOU-commissions all related to the Norwegian Police Service were the main subject of analysis in this study. Taking place between 1999 and 2017, they constitute some of the most important Ministry of Justice-appointed commissions of the last twenty years, from a police and public security perspective. Two of the commissions specifically resulted in two major public reforms, altering the organisation and management of the police. Research data was drawn from 18 interviews and from an analysis of public documents. Whereas the interviews (16 of which were commission participants and two were MoJ employees) were used to uncover commission set-up procedures and to analyse why certain people are selected as members, the document analysis was the basis for an examination of the legal rules and requirements that are in play.

The report has been guided by theory on public commissions and knowledge utilisation. Specifically, three research streams (corporatism, state control and expertisation) which represent different empirical approaches to the study of commissions, were discussed in order to gain alternative understandings and ideas regarding commissions and commission actors (i.e. interest representatives, bureaucrats/public officials, and experts). This theory also guided the selection of interviewees, in that equal variance among the interviewed members' backgrounds were secured by using the streams' view of commission actors as reference.

Moreover, theories of knowledge utilisation were used to highlight different understandings of how knowledge and expertise are used in policy-making, and by extension, what different motivations that lie behind the appointment of commissions and the selection of commission members. Three perspectives on commissions and members were subsequently developed (instrumental, strategic and symbolic). These perspectives constitute different ways to think about commissions, the objectives behind them, and the motivations behind the member compositions. Additionally, the perspectives also guided the analysis of the interview transcripts, in that central topics and opinions raised and voiced by the interviewees were coded into respective nodes, according to the perspectives.

The overall question of this report was further complemented with two research questions. First, it was asked: 'What are the procedures for commission member selection?' This question points directly to the

high degree of flexibility within the ministries regarding commission compositions. Accordingly, the objective was twofold. Firstly, to examine the corpus of relevant legal texts and secondly, to uncover and explain in detail the process of appointing commissions within the MoJ. Information gained through the interviews supplemented the document analysis for this part of the report.

It was found, in line with Tellmann (2016) that the overall legal landscape pertaining to commission appointments remain vague and limited. Whatever documents that exist, only serve to highlight the great flexibility that the ministry enjoys in this regard. We found that certain requirements are more or less considered as norms, as opposed to explicit rules. While, of course, gender equality is required and guarded by law, geographic distribution is not codified in the same way. Nonetheless, as was evident from the interviews, political realities ensure the demographic factors' significance, more so than the few legal documents. Moreover, requirements regarding the distribution of competence or representation are little specified. It is certainly the case then, that the ministry is at substantial liberty in selecting who (and what competency) to include, and who to exclude.

Additionally, it was found that the four commissions examined here related to policy-issues that were subject to 'catalytic events', which eventually led to the establishment of the commissions. In other words, certain incidents were deemed to be in need for commission deliberation. We learnt that such realisations can come both from the bureaucracy and the political leadership, and it is often mutually understood as necessary. It has also been noted however, that commissions can be the result of political disagreements (especially in the context of coalition governments), or of a desire to halt or postpone decision-making about certain issues. The latter can also be the case when matters need to be subjected to public moderation before decisions are made. While Ashforth's (1990) reasons for commission establishments (to transcend politics) can explain the four commissions discussed here, evidence regarding general ministry practice points to other establishment reasons too. This includes then, desires to postpone, forestall or kill policy, in line with Rowe and McAllister's observations (2006).

Subsequently, it was learned that the member selection process is increasingly marked by an open process, where names are suggested

in a dialogue between the bureaucracy and the political leadership, rather than through the formal 'chain of command'. Some ministers have personally suggested and even insisted on certain names, while others have not actively participated in the process. We moreover understand the selection process to resemble a puzzle, in that potential members are added or removed from the list, depending on several different variables, including demography, competency, affiliation(s), credibility and known opinion(s). Names can also be requested from certain bodies, usually subordinate agencies or interest organisations/unions. The process is therefore not completely void of randomness. Once again, the informality of the selection process is proved.

The following constituted the second research question: 'For what reasons are commission members selected?'. Accordingly, the question called for an examination of the characteristics of each individual commission member, as well as each commission composition overall. The objective was to understand the potential reasons as to why they were selected by the ministry. With reference to the literature, it was assumed that interest group representatives typically would be included due to a desire for issue mediation (instrumental notions) and in order to assure support (strategic notions). It was moreover assumed that a participation by bureaucrats, meant a desire for control, framing and continued power (strategic notions). Finally, it was assumed that experts are included because of a need for information and expertise (instrumental notions), but also because their participation increases legitimacy and epistemic authority (symbolic notions).

In this analysis, we learned that the three perspectives are all relevant in explaining the selection of members in the reviewed commissions, and that all three perspectives are of great analytical value in their own right. It was found that notions related to the instrumental perspective, like problem-solving, underpin every commission, and that it in some cases can explain the majority of the member selections - especially when there is need for *specialised* knowledge. This is in line with Weiss' (1977) original problem-solving model of knowledge utilisation, which was additionally developed in several other contributions, including Pelz (1978), Beyer (1997), Amara et al. (2004), Boswell (2008) and Hunter and Boswell (2015).

Nevertheless, it was also found that notions of the strategic and symbolic perspectives are present in some selections. For instance, strategic notions often point to a need for preliminary negotiations, the securing of support and a desire for issue control, which accordingly provides the ministry with clear ideas on who to appoint. Thus, we consider the evidence of strategic selection to correspond with Rowe and McAllister's (2006) idea that governments can structure commissions to ensure right answers, and with Boswell's (2009) substantiating function, i.e. labelling a commission as an 'expert commission', in order to later use it in support of a policy-choice.

While symbolic notions, including legitimacy, objectivity, authority and demographic factors, easily and sometimes rightfully can be seen as a component of strategy, it is the emphasis on legitimacy and representativeness that constitutes the difference between the two. We found that geography, despite its limited legal requirements, is very important in selecting commission members, in that the commission is to be perceived as geographically representative. While this may potentially be at cost of e.g. competence, the legitimacy deriving from a representative commission appears to be the more important factor. A factor which, according to Hunter and Boswell (2015), again increases the government's legitimacy.

Thus, we found that the selections of members of the NBIPA Commission and the Police Analysis Commission mostly can be explained by the instrumental perspective. However, the selections of certain individuals can also be explained according to the two other perspectives, based mostly in notions of legitimacy and authority, whereas three members are evidence of more strategic thinking. The composition of the Police Districts Commission however is mostly strategic in nature, based in the need for issue settlement (union members), issue control (bureaucratic members) and eventual reform implementation (Chief Constables). Finally, the composition of the Special Agencies Commission is arguably a combination of the instrumental and symbolic perspective, due to its emphasis on external expertise, but also stakeholder participation.

Contributions

The contributions of this report mainly centre around advancing the scholarship on commissions, while shedding light on different motivations behind the appointment of commission members. It suggests that there are different reasons for including different members, and that these reasons correspond to the general objective of the commission, as held by the appointing ministry. The report therefore also constitutes a theoretical contribution in developing knowledge utilisation theories further. First and foremost, it is an attempt to use and assess these theories empirically, which only a few has done.⁴⁸ Secondly, it can be difficult to understand whether the different types of knowledge use are to be considered mutually exclusive or not, as the idea that knowledge utilisation can be for instance symbolic *and* instrumental at the same time, appears to be missing. However, in this study it was found that several types of knowledge use *can* be encompassed in a single process and even provided by a single actor. Finally, rather than zero-sum questions of which types of knowledge use that are in play, questions regarding their interrelations should therefore be asked, as have been accomplished here. We stress the fact that a commission member may both *represent* one or more things, and *contribute* one or more things, thus checking more than one knowledge utilisation ‘box’.

Additionally, the report has expanded on different understandings of ‘knowledge’, for example in terms of how certain kinds of knowledge can only be offered by certain actors. By this is not meant different academic specialisations (i.e. ‘hard knowledge’, cf. Radaelli, 1995: 162), but rather how interest representatives can offer unique sectoral knowledge, or how bureaucrats can be experts on the political-administrative system. Accordingly, knowledge is understood as more than scientific knowledge, as it relates more to what insight one is recognised to possess, than to academic merits, in line with Grundmann (2017). Moreover, the understanding of symbolism in terms of commissions have also been expanded. Rather than just understanding commissions symbolically, i.e. as schemes for state legitimation (Ashforth, 1990) or as a way for the state to show concern or action (Hunter & Boswell, 2015), this report has understood symbolism at the level of commission members more explicitly. This has for instance been valuable in understanding the participation of judges,

⁴⁸ See e.g. Boswell (2008, 2009); Schrefler (2010); and Hunter & Boswell (2015).

or the emphasis put on the selection of chairs that were external to the MoJ and the police.

Moreover, other contributions include a novel examination of the commission set-up process from the perspective of the Ministry of Justice, and a clarification of the corpus of rules and regulations that pertain to commission appointments. Thus, it offers a disclosure of the informal and highly discretionary procedures enjoyed by the government, as observed by Tellmann (2017). Finally, it contributes to the overall knowledge on changes to and reforms of the Norwegian police, not only by providing information directly from central police leaders, but also from external people that have viewed the police up closely. Accordingly, it complements the recent anthology on police reforms edited by Larsson and Sørli (2018). Here we stress the value of understanding what actors that politicians (i.e. the government) consider important and relevant, when it comes to the development of the police. While not particularly surprising, the report shows that the range of types of actors included is broad.

It is contended that case studies, i.e. due to low external validity (Bryman, 2016: 62), seldom are generalisable to a wider context. Nonetheless, it was noted in Chapter 4 that a goal with case studies can be to contribute towards analytical generalisations (Yin, 2013). In other words, case study research is generalisable to theoretical prepositions. Hence, in this study we have expanded on theories related to knowledge utilisation, by applying them to NOU-commissions and commission members. Also the three research streams on commissions and commission participants have been reviewed in light of the knowledge utilisation perspectives. What we have conducted thus amounts to Yin's (2013: 327) goal for analytical or conceptual generalisation, that an abstract level of ideas can be extracted by a case, specifically e.g. the fact that one single member can encompass more than one kind of knowledge use. Yet, if one was to generalise numerically, we would argue that other policy field commissions both within the MoJ and other ministries would be suitable candidates. We understand, based on the interviews, that the same commission member selection procedures apply also to non-police commissions within the MoJ. Therefore, it is not erroneous to assume that instrumental, strategic and symbolic member appointments take place in most (if not all) MoJ commissions. This includes, of course, different kinds of knowledge utilisation.

Limitations

Certain limitations must also be mentioned. First and foremost, it is the fact that the study rests on the *testimonies* of 18 people, with some recalling events that occurred up to twenty years ago. According to Andersen (2006), experience cannot be recreated objectively, which therefore calls for the researcher to be critical. Although none of the interviews appeared to be significantly affected by the span of time, as discussed in Chapter 4, there is of course no way to completely mitigate the potential consequences that time may have had on the interviewees' perceptions and memories. To allow the interviewees two days to prepare for the interview, however, was at least a minor attempt to do so. And moreover, having four people reflecting on the same event, facilitates for a 'triangulation' type of control, in that what they say can be 'controlled' against each other. Finally, according to Kvale and Brinkmann (2015: 202) there "are no unequivocal quality criteria for research interviews". It rather rests on abilities of the researcher, including 'encompass[ing] knowledge of the research topic, sensitivity to (...) social relations[s] (...), and an awareness of epistemological and ethical aspects of research interviewing'.

Another valid limitation is in regard to the report's *construct validity*, in other words the understanding of theory, and *operationalisations* or the act of defining the nodes used in the analysis of the interviews. For instance, it is observed that it is easier to distinguish such functions analytically, than in practice (Hunter & Boswell, 2015: 13). The nodes of course originated in the theory on knowledge utilisation, which according to Johan Christensen (2018b) is a scholarship that has some major limitations. He (*ibid.*: 7) argues that one can 'run into trouble' whenever attempts at operationalisation of such models are conducted. Generally then, it is contended that it is difficult to empirically distinguish the different perspectives or models of knowledge use. While these observations may hold some truth, we still argue that such operationalisations are useful in understanding and observing the inclusion of different commission members. Moreover, it was noted previously, and above, that the three perspectives applied here are not mutually exclusive.

The presentation of interview data and findings is another potential pitfall, especially in qualitative research and studies where extracts of text are used in support of one's arguments. Accordingly, *cherry picking* of results remains a constant threat, as a challenge to the study's

reliability. As discussed, this was attempted mitigated by the use of nodes, which facilitated for necessary controls of the data and as a potential instrument in test-retests, in line with King, Keohane and Verba's (1994: 25) understanding of reliability, which by applying the same method of data collection and analysis, should yield the same results.

Further research

More research on the main arguments proposed here is necessary in order to understand if (and to what extent) generalisations are possible, primarily regarding other policy fields. Accordingly, there are several possible paths for further research, including in relation to commissions on other policy fields both within the MoJ (non-police), and in other ministries. Does the MoJ practice commission appointments differently than other ministries? Is the police unique as a policy field, in terms of political sensitivity, when it comes to commission compositions?

An in-depth study into the different ministries' understanding of the relevant legal rules is another opportunity for further research. Could it be the case that these documents are considered more important or given more attention in certain ministries? Considering the observation here, that the requirements extended by such documents were considered a given in the MoJ, does raise concerns regarding the existence of certain internal guidelines. Do political realities make them obsolete?

As is currently under scrutiny by researchers of the ARENA Centre for European Studies' EUREX Project, research into trends regarding expertisation of public commissions is essential in understanding changes in commission compositions, also in terms of the current role of interest representatives and bureaucrats. Are commissions less important as an arena for democratic deliberations than previously? Are current trends also evident in commission secretariats?

It would also be interesting to track the bureaucracy's work on commissions over time, for instance to see if commissions are increasingly politicised, i.e. if ministers nowadays pay more attention to commission compositions than what has previously been the case. The relationship between the bureaucratic leadership and the political leadership when it comes to commissions is an interesting subject in its own right too, for example in terms of the power balance between

the two. Is the process more dynamic now, than previously, as was suggested by one interviewee? And are commissions increasingly the result of political negotiations, rather than originating from a need for external expertise and problem-solving? Finally, one can ask: What is the real extent to the strategy of using commissions as a political mechanism for decision deferments?

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Appendices

A. List of NOU-commissions 1999-2018

The following is a complete list (in Norwegian) of all NOU-commissions appointed by the Ministry of Justice, between 1999 and 2018. The 22 police-related commissions are all highlighted according to the sampling process described in Chapter 4.

Year	Nr.	Title	Police?
1999	10	En bedre organisert politi- og lensmannsetat	Chosen
1999	16	Søk etter omkomne — Organisering, finansiering og kriterier for søk etter omkomne på havet, i innsjøer og vassdrag, samt på landterritoret	<i>Partially</i>
1999	19	Domstolene i samfunnet	No
1999	22	Domstolene i første instans	No
1999	23	Forbrytelser i gjeldsforhold	No
1999	27	«Ytringsfrihed bør finde Sted» — Forslag til ny Grunnlov § 100	No
1999	30	Undersøkelse av sjøulykker	No
1999	31	Oppkjøp og inndrivning av fordringer m.v. — Utredning nr. 5 fra Banklovkommissjonen	No
2000	6	Lillehammer-saken — Omstendigheter rundt drapet på Ahmed Bouchikhi den 21. juli 1973 og sakens senere håndtering av norske myndigheter.	<i>Partially</i>
2000	24	Et sårbart samfunn	<i>Partially</i>

2000	30	Åsta-ulykken, 4. januar 2000	<i>Partially</i>
2000	31	Hurtigbåten MS Sleipners forlis 26. november 1999	<i>Partially</i>
2000	32	Lov om erverv og tap av norsk statsborgerskap — (Statsborgerloven)	No
2000	33	Erstatning til ofrene hvor tiltalte frifinnes for straff	No
2001	1	Lov om personnavn — Tradisjon, liberalisering og forenkling	No
2001	8	Lov om varekjennetegn med motiver fra Varemerkeutredningen II	No
2001	9	Lillestrøm-ulykken 5. april 2000	<i>Partially</i>
2001	12	Rettsmedisinsk sakkyndighet i straffesaker	No
2001	31	Når ulykken er ute — Om organiseringen av operative rednings- og beredskapsressurser	<i>Partially</i>
2001	32	Rett på sak — Lov om tvisteløsning (tvisteloven)	No
2001	33	Voldgift — Lov om voldgift (voldgiftsloven)	No
2001	34	Samiske sedvaner og rettsoppfatninger — bakgrunnsmateriale for Samerettsutvalget	No
2002	4	Ny straffelov — Straffelovkommisjonens delutredning VII	No
2002	6	Lov om samvirkeforetak	No
2002	11	«Dømmes av likemenn» — Lekdommere i norske domstoler	No
2002	15	Ansvar for oppryddingstiltak etter sjøulykker	No
2002	18	Rett til rett — En vurdering av konkurranseforholdene i markedet for juridiske tjenester	No
2002	21	Oppsigelse mv. av forsikringsavtaler — Utredning nr. 9 fra Banklovkommisjonen	No
2002	22	En alminnelig straffebestemmelse mot korrupsjon	No
2003	15	Fra bot til bedring — Et mer nyansert og effektivt sanksjonssystem med mindre bruk av straff	No
2003	18	Rikets sikkerhet	No
2003	21	Kriminalitetsbekjempelse og personvern — politiets og påtalemyndighetens behandling av opplysninger	Yes
2003	27	Lovtiltak mot datakriminalitet — Delutredning I om Europarådets konvensjon om bekjempelse av kriminalitet som knytter seg til informasjons- og kommunikasjonsteknologi	No
2003	29	Arealplaner og ekspropriasjonerstatning	No
2003	30	Ny offentlighetslov	No
2003	31	Retten til et liv uten vold — Menns vold mot kvinner i nære relasjoner	No
2004	4	Lovregulering av strømavtaler sluttet med forbrukere	No
2004	6	Mellom effektivitet og personvern — Politimetoder i forebyggende øyemed	Yes
2004	9	Fiskefartøyet «Utvik Seniors» forlis 17. februar 1978	No
2004	16	Vergemål	No
2004	21	Erstatningsansvar ved sjøtransport av farlig gods	No

2005	8	Likeverd og tilgjengelighet — Rettslig vern mot diskriminering på grunnlag av nedsatt funksjonsevne. Bedret tilgjengelighet for alle.	No
2005	19	Lov om DNA-register til bruk i strafferettspleien	<i>Partially</i>
2006	6	Når sikkerheten er viktigst — Beskyttelse av landets kritiske infrastrukturer og kritiske samfunnsfunksjoner	No
2006	10	Fornærmede i straffeprosessen – nytt perspektiv og nye rettigheter	No
2007	2	Lovtiltak mot datakriminalitet — Delutredning II	No
2007	5	Frarådningsplikt i kredittkjøp	No
2007	7	Fritz Moen og norsk strafferettspleie	<i>Partially</i>
2007	9	Rosenborgsaken — Det offentlige håndtering av kreft hos ansatte og studenter ved Norges lærerhøgskole i Trondheim/ Den allmennvitenskapelige høgskolen	No
2007	13	Den nye sameretten — Utredning fra Samerettsutvalget	No
2007	14	Samisk naturbruk og retts-situasjon fra Hedmark til Troms — Bakgrunnsmateriale for Samerettsutvalget	No
2007	16	Ny skiftelovgivning	No
2008	4	Fra ord til handling — Bekjempelse av voldtekt krever handling	<i>Partially</i>
2008	8	Bourbon Dolphins forlis den 12. april 2007	No
2008	15	Barn og straff — utviklingsstøtte og kontroll	No
2008	19	Fiskefartøyet "Western"s forlis 6. februar 1981	No
2008	21	Nettbankbasert betalingsoverføring — Utredning nr. 21 fra Banklovkommisjonen	No
2009	9	Lov om offentlige undersøkelseskommissjoner — Særskilt oppnevnte offentlige kommissjoner	No
2009	11	Kredittavtaler — Gjennomføring i norsk rett av forbrukerkredittdirektivet (2008/48/EF) m.m.	No
2009	12	Et ansvarlig politi — Åpenhet, kontroll og læring	Chosen
2009	15	Skjult informasjon – åpen kontroll — Metodekontrollutvalgets evaluering av lovgivningen om politiets bruk av skjulte tvangsmidler og behandling av informasjon i straffesaker	Yes
2009	20	Ny grenselov — Politiets grenseovervåking og inn- og utreisekontroll	<i>Partially</i>
2010	12	Ny klageordning for utlendingssaker	No
2011	10	I velferdsstatens venterom	No
2011	13	Juryutvalget	No
2011	16	Standardisert personskadeerstatning	No
2011	19	Ny våpenlov — Gjennomgang av gjeldende våpenlovgivning og forslag til ny våpenlov	No
2012	4	Trygg hjemme — Brannsikkerhet for utsatte grupper	No
2012	8	Ny utdanning for nye utfordringer — Helhetlig utdanningsmodell for fremtidig personell i brannvesenet	No

2012	10	Gjennomføring av Rotterdamreglene i sjøloven	No
2013	5	Når det virkelig gjelder... — Effektiv organisering av statlige forsterkningsressurser	<i>Partially</i>
2013	9	Ett politi – rustet til å møte fremtidens utfordringer — Politianalysen	Chosen
2013	11	Festekontrakter og folkerett	No
2014	1	Ny arvelov	No
2014	10	Skyldevne, sakkyndighet og samfunnsvern	No
2015	3	Advokaten i samfunnet — Lov om advokater og andre som yter rettslig bistand	No
2015	13	Digital sårbarhet – sikkert samfunn — Beskytte enkeltmennesker og samfunn i en digitalisert verden	<i>Partially</i>
2016	9	Rettferdig og forutsigbar — voldsskadeerstatning	No
2016	10	Evaluerer av garantireglene i bustadoppføringslova	No
2016	24	Ny straffeprosesslov	No
2017	2	Integrasjon og tillit — Langsiktige konsekvenser av høy innvandring	No
2017	5	En påtalemyndighet for fremtiden — Påtaleanalysen	<i>Partially</i>
2017	8	Særdomstoler på nye områder? — Vurdering av nye domstolsordninger for foreldretvister, barnevernsaker og utlendingssaker	No
2017	9	Politi og bevæpning — Legalitet, nødvendighet, forholdsmessighet og ansvarlighet	Yes
2017	11	Bedre bistand. Bedre beredskap	Chosen
2018	14	IKT-sikkerhet i alle ledd — Organisering og regulering av nasjonal IKT-sikkerhet	No

B. List of interviewees

The list of interviewees below is organised in alphabetical order by surname. Please note that the listed occupations are at the time of when the commission(s) took place, and not at the time of the interview.

Name	Date	How	Where	Occupation / affiliation
Aass, Thor Arne	7 February	In-person	Ministry of Justice and Public Security, Oslo	Director General, Ministry of Justice
Danielsen, Ivar	21 January	Telephone	-	Judge, Agder Court of Appeal
Fimreite, Anne Lise	31 January	E-mail	-	Professor, University of Bergen
Finstad, Liv	14 February	In-person	ARENA Centre for European Studies, Oslo	Professor, University of Oslo
Frøstrup, Anne Cathrine	27 February	In-person	Norwegian Mapping Authority, Hønefoss	Director, Norwegian Mapping Authority
Henstein, Hugo	15 February	Telephone	-	Project Manager, Troms Police District
Humlegård, Odd Reidar	26 April	Telephone	-	National Police Commissioner
Jacobsen, Dag Ingvar	25 January	Telephone	-	Professor, University of Agder
Killengreen, Ingelin	18 February	In-person	ARENA Centre for European Studies, Oslo	Chief Constable, Oslo Police District
Lande Hasle, Anne Kari	30 January	In-person	ARENA Centre for European Studies, Oslo	Director, Norwegian Social Research
Maråk Støle, Elisabeth	7 March	Skype	-	CEO, Møreforskning A/S
Orieta, Juan Pablo	11 February	In-person	Directorate of Norwegian Customs, Oslo	Advisor, Customs Region Oslo and Akershus
Parnemann, Ole Petter	28 January	In-person	National Police Directorate, Oslo	Chairman, Politiembetsmennenes Landsforening
Paulsen, Tom Roger N.	5 March	Telephone	-	Police Constable, Troms Police District

Revik, Vidar	19 February	In-person	National Police Directorate, Oslo	Director General, Ministry of Justice
Røksund, Arne	29 January	In-person	Ministry of Defence, Oslo	Secretary General, Ministry of Fisheries and Coastal Affairs
Seip, Ellen	4 February	In-person	ARENA Centre for European Studies, Oslo	Secretary General, Ministry of Labour
Sundby, Inger Johanne	24 January	In-person	Agency for Public Management and eGovernment (Difi), Oslo	Special Advisor, Statskonsult

C. Interview guides

C1. Interview guide: Commissions members

Part 1: Introduction + approval for audio recording

Part 2: Main

Participation request

1. How did your participation in commission [XY] come about?
 - 1.1. Potential follow-up questions: Who contacted you? Was it a long process?
2. Did anything surprise you during the process? Why?
3. Were you given any type of formal or informal explanation for the selection of you?
4. Do you know if there are any routines or norms regarding the selection of commission members?
5. Who can suggest members?
6. At the time of the initial request, were you informed about the commission chair or other commission members?
7. Do you have any personal ideas as to why you were requested to participate?
8. Do you have any ideas regarding the ministry's considerations for the composition of this commission?
9. What factors, in this regard, do you find relevant?
 - 9.1. Probes: Qualifications, expertise, demography, representation, legitimacy?
 - 9.2. Potential follow-up question: What do you mean by [e.g. expertise etc.]?

Commission work

10. From your perspective, how did the commission work take form?
11. How were the dynamics and the cooperation within the commission?
 - 11.1. Probes: 'Good', 'bad'?
12. Do you know if there was (and how much) contact there was between the commission (chair) and the ministry during the operation of the commission?

13. Did you get the impression that the ministry had any expectations or in any other way (other than through mandate) may have been steering the commission somehow?
14. Regarding your own contribution in the commission, would you say that it was closely associated with your background in/as [occupation] or was it in a more general fashion?
 - 14.1. Potential follow-up question: Was your contribution to the commission what you thought it would be?
 - 14.2. Potential follow-up question if little connection to one's work/experience: Were you surprised by the lack of this connection to your background?

If dissents were made

15. Regarding the issue of [dissent conflict], when did it become clear that dissents were unavoidable?
 - 15.1. Potential follow-up question: Did the fact that dissents were the case have any implications for the cooperation during the rest of the work?
16. To what degree were one (or the chair) preoccupied with attempting to avoid dissents altogether?

Regarding other commission members

17. Did you get the impression that any commission member(s) had predetermined opinions or judgements regarding what conclusions or suggestions the commission should arrive at?
 - 17.1. Potential follow-up question: How did this become evident?
18. Did you get the impression that any commission member(s) participated with own mandates or on the instruction of others?

If interest representative:

19. Was your participation in the commission modified by the fact that the NOU-report would be publicly circulated for hearing, including for your own [organisation etc.]?
20. Why do you think interest representatives are included in commissions?
21. Were you, or did you feel instructed or bound by your [organisation etc.]?

If academic:

22. To what degree did external contributors have any impact on your contribution into the commission?
23. In your opinion, to what degree did external contributors have any impact on the further work of the commission?

If bureaucrat, judge or attorney:

24. If bureaucrat: In your opinion, did you represent [ministry, agency etc.] in any way? Or did you participate in a more personal capacity?
25. If judge/attorney: Did you represent [judiciary/prosecution authority] in any way? Or did you participate in a more personal capacity?

Part 3: Conclusion

26. Is there any other information you would like to share?
27. Do you have any final questions about the interview or this study?

C2. Interview guide: Commission chairs

Part 1: Introduction + approval for audio recording

Part 2: Main

Participation request

1. How did your participation in commission XY come about?
 - 1.1. Potential follow-up questions: Who contacted you? Was it a long process?
2. Did anything surprise you during the process? Why?
3. Were you given any type of formal or informal explanation for the selection of you?
4. Do you know if there are any routines or norms regarding the selection of commission members?
5. At the time of the initial request, were you informed about other commission members?
6. Did you participate in the process of selecting commission members?
 - 6.1. Potential follow-up question: Was this by your own initiative or by invitation?

7. Do you have any personal ideas as to why you were requested to participate?
8. Do you have any ideas regarding the ministry's considerations for the composition of this commission?
9. What factors, in this regard, do you find relevant?
 - 9.1. Probes: Qualifications, expertise, demography, representation, legitimacy?
 - 9.2. Potential follow-up question: What do you mean by [e.g. expertise etc.]?
10. In your opinion, what does an ideal commission look like?

Commission work

11. From your perspective, how did the commission work take form?
12. Was there any form of delegation of responsibilities and tasks?
13. How were the dynamics and the cooperation within the commission?
 - 13.1. Probes: 'Good', 'bad'?
14. Was there any (and how much) contact between you and the ministry during the operation of the commission?
15. Did you get the impression that the ministry had any expectations or in any other way (other than through mandate) may have been steering the commission somehow?
16. Regarding your own contribution in the commission, would you say that it was closely associated with your background in/as [occupation] or was it in a more general fashion?
 - 16.1. Potential follow-up question: Was your contribution to the commission what you thought it would be?
 - 16.2. Potential follow-up question if little connection to one's work/experience: Were you surprised by the lack of this connection to your background?
17. What values or qualities are important in the role as a commission chair?
 - 17.1. Probes: mediator, neutral and passive, active, in-charge, authority
 - 17.2. Potential follow-up question: What type of role did you take?

If dissents were made:

18. Regarding the issue of [dissent conflict], when did it become clear that dissents were unavoidable?
 - 18.1. Potential follow-up question: Did the fact that dissents were the case have any implications for the cooperation during the rest of the work?
19. To what degree were you preoccupied with attempting to avoid dissents altogether?

Other members

20. Did you get the impression that any commission member(s) had predetermined opinions or judgements regarding what conclusions or suggestions the commission should arrive at?
 - 20.1. Potential follow-up question: How did this become evident?
21. Did you get the impression that any commission member(s) participated with own mandates or on the instruction of others?

Part 3: Conclusion

22. Is there any other information you would like to share?
23. Do you have any final questions about the interview or this study?

C3: Interview guide: Ministry employees

Part 1: Introduction + approval for audio recording

1. If relevant: When and for how long did you work in the MoJ?
2. Where within the ministry were you employed when working with commission XY?
3. Had you been working with other commissions before?

Part 2: Main

Commission member selection process

4. Could you perhaps begin by explaining to me the process regarding the appointment and selection of commission members, generally?
 - 4.1. Potential follow-up questions: Who does what? How many are involved? How long?
5. What kind of guidelines exists? Are there any criteria? How do you balance different concerns?
 - 5.1. Potential follow-up question: Is it only about the person him/herself, or how much consideration is given into what the person may 'represent'?

6. In your opinion, why are interest representation often included in commissions?
7. What does an ideal commission look like?
8. If not mentioned: What role does demographic factors play?
9. What happens if a potential member declines the request?
10. Is the selected commission chair/member given any type of explanation as to why they were selected?
11. If a civil servant (or other public employee) is selected, is it officially settled whether they participate in their personal capacity or as a representative of their place of work?

Commission chair

12. Is it fair to presume that there is more work behind the selection of a commission chair than for ordinary members?
 - 12.1. Potential follow-up question: Are there other criteria in play here, than for ordinary members?
13. Is the commission chair instructed in any other way, than by mandate?
14. Is the commission chair invited to participate in the process of selecting the ordinary commission members?

Regarding commission [XY] specifically:

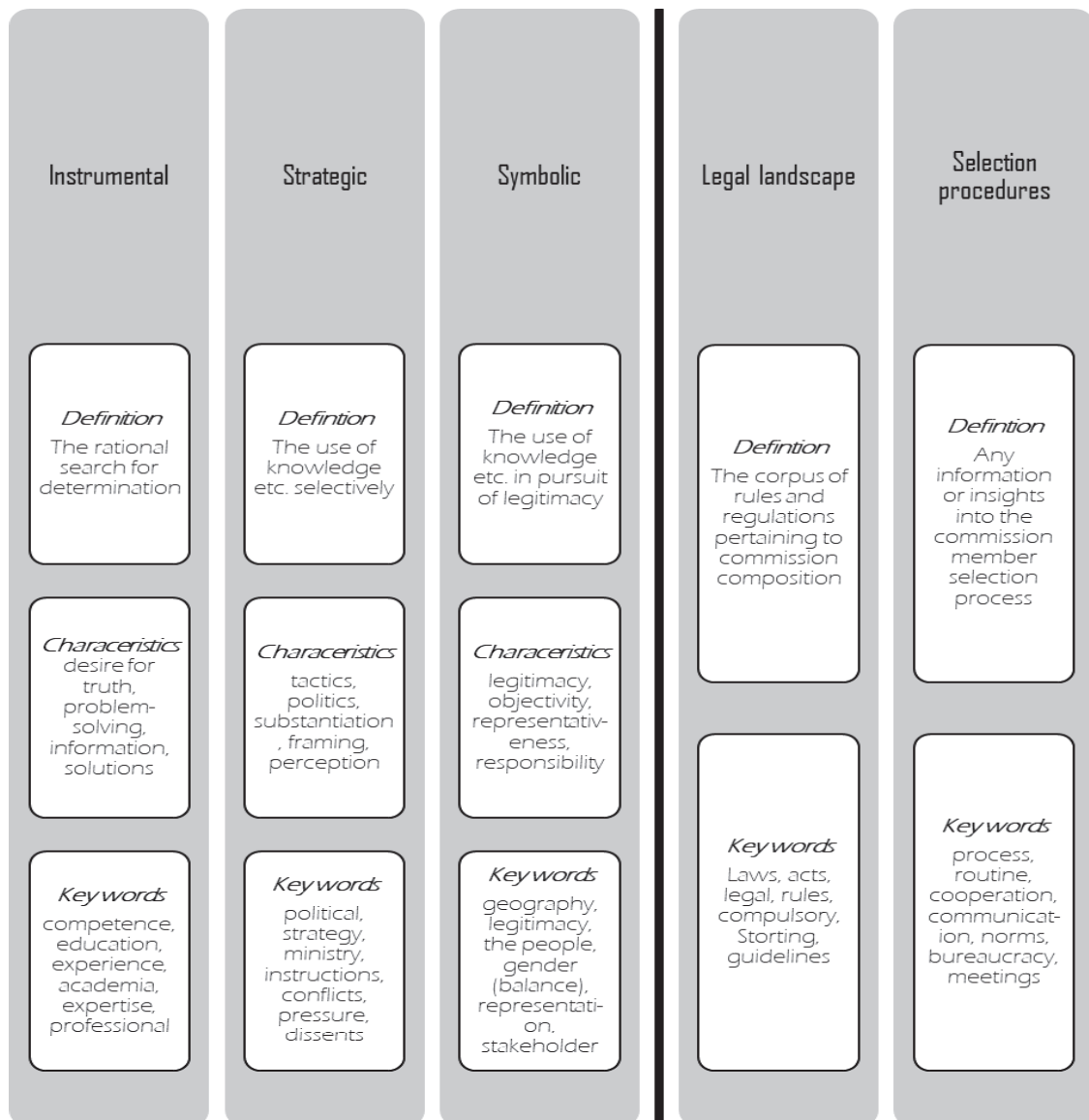
15. Was the process for this commission similar to other commissions you have worked on?
16. In your opinion, how would you say that the [topic, issue, problem etc. in question] directly points to what interests or academic disciplines that ought to be included?
 - 16.1. Potential follow-up question: Was this then taken into consideration?
17. Were there any type of conflicts that were mitigated through the selection of the commission members?

Part 3: Conclusion

18. Is there any other information you would like to share?
19. Do you have any final questions about the interview or this study?

D. Analytical nodes - NVivo

Nodes as employed in the analysis of the interview transcripts. For the perspectives, definitions and characteristics originate from the literature, while key words are corresponding typical expressions in the transcripts. The definitions for the last two nodes were defined according to the respective research question.



ARENA Reports

- 19/8 Simen Andreas Nefstad Grinden: "Who Are Appointed to Public Commissions and Why? A Study of Four Public Commissions Relating to the Norwegian Police Service"
- 19/7 Marte Lund Saga: "Experts at Networking: The Constrained Influence of Experts in Norwegian Policy-Networks"
- 19/6 Sunniva Unn Hustad: "Financing the Future: Assessing the EU's Approach to Financing the Sustainable Development Goals in Light of Global Justice"
- 19/5 Sigrid Jerpstad: "Who Should Bear the Burden? The EU's Approach to Responsibility for the Sustainable Development Goals"
- 19/4 Vera Sofie Borgen Skjetne: "The EU as a Promoter of Global Gender Justice: Combating Trafficking in the Face of the 'Migrant Crisis'"
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Norwegian decision-makers regularly appoint commissions to evaluate policies, draft laws and suggest reforms, making the public commission regime intrinsic to the Norwegian political system. Despite the high number of commissions, the procedures regarding the selection process of commission members remain unclear. This report asks how and why specific members are selected, and whether selections can be explained by instrumental, strategic and/or symbolic reasons.

This report looks at four commissions appointed by the Norwegian Ministry of Justice to review different parts of the organisation of the Norwegian Police Service. While theoretically grounded in the debate on knowledge utilisation, this report also employs three research streams on public commissions, corporatism, state control and expertisation, in its analysis.

Based on 18 interviews (with commission members and bureaucrats), this report provides novel insight into selection procedures. It is also suggested that selections, in certain cases, can be explained according to ‘non-instrumental’ reasons (i.e. strategy and symbolism), and that the final member composition can be fairly random in terms of persons, but not in terms of the characteristics and competencies that these members provide.

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