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The Challenge of Administrative Capacity and
Transboundary Coordination.

The case of the Norwegian Police and Military

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Abstract

This paper examines how the relationships between the military and the police has changed after the terrorist attacks in Norway in 2011 by focusing on transboundary coordination capacity. We address the change of the regulatory arrangements of how the police can ask for assistance from the military during a crisis and how the military and the police cooperated to implement the regulations on how to protect important public buildings and facilities. The processes and outcome is analyzed from a hierarchical perspective, a negotiation perspective and an institutional approach focusing on the cultural features and administrative traditions. A main finding is that there is a lot of coordination and collaboration challenges which mainly can be explained from a negotiation and a cultural perspective.

Keywords

Administrative capacity, transboundary coordination, police-military relations, object security, assistance instruction, organization theory

Introduction*

After the end of the cold *war* the responsibility for internal security and crises management has moved somewhat from a military focus to a stronger civil focus. But at the same time terrorism has challenged the traditional divide between the police being responsible for domestic crime and the military being responsible for external threats. In the field of societal security one often face capacity, coordination and communication challenges, unclear responsibility relations, a lot of uncertainty and ambiguity and decisions often have to be taken under urgency. The field is a typical ‘wicked problem’ with a lot of complexity and transboundary challenges because the problem structure does not overlap with the organization structure and typically transfer different ministerial areas, policy sectors, and administrative levels (Ansell, Boin and Keller, 2010). This tends to produce a lot of collaboration challenges both vertically and horizontally. Strategies for dealing with ‘wicked problems’ include collaboration and coordination, new and adaptive leadership roles, as well as enabling structures and processes (Head and Alford, 2013).

Crises management typically require cooperation, collaboration and coordination between responding organizations both on strategic and operational level (Boin and ‘t Hart, 2012; Boin, ‘t Hart and Kuipers, 2018). This paper addresses such challenges by focusing on the relationship between the Norwegian police and the military. More specifically, we will examine how the relationships between the military and the police have changed after the terrorist attack in Norway in 2011 by focusing on

- how the military and the police cooperated to implement the Security Act which regulates how to protect important public buildings and facilities (‘the Object Security’) and
- the change of the regulatory arrangements of how the police can ask for assistance from the military during a crisis (‘the Assistance Instruction’)

These two cases show that there are significant coordination, collaboration and implementation challenges between the police and the military. We will also ask how the processes and outcome can be understood from a) an instrumental approach distinguishing between a hierarchical perspective and a negotiation perspective and b) an institutional approach focusing on the cultural features and administrative traditions (Christensen et al., 2007).

The empirical base is public documents and report from public commissions, ministries, agencies, the Parliament and the National Audit Office, including white papers, hearings in the parliament, law propositions, media coverage and interviews with 15 key actors in the Ministry of Justice and Public Security (MJ), the Ministry of Defense (MD), the Police Directorate (POD), the Parliament and members of public commissions. The interviews were conducted in 2017-18 and mainly covered the Assistant Instruction case.

We proceed by first presenting some core concepts and the theoretical approaches. Second, we give an outline of Norwegian contextual features. Third, we describe the processes of changing the Object Protection and Assistance Instructions in the aftermath of the terrorist attack. Fourth, we analyze the findings from an instrumental and an institutional perspective. Finally, we draw some conclusions.

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Central Concepts and Theoretical Approach

Administrative capacity

In our understanding, administrative capacity includes formal structural and procedural features of the governmental administrative apparatus but also informal elements, that is, how these features work in practice (Christensen, Læg Reid and Rykkja, 2016). One can distinguish four types of administrative capacity (Lodge and Wegrich, 2014). *Coordination capacity* is about bringing together disparate organizations to engage in joint action; *analytical capacity* is about analyzing information and providing advice as well as risk and vulnerability assessments; *regulatory capacity* is about control, surveillance, oversight, and auditing; and *delivery capacity* is about handling the crisis, exercising power, and providing public services in practice. This is also labeled intervention capacity (Nodegraaf et al., 2017). In this paper, we will pay special attention to coordination capacity, but also regulatory capacity and to some extent the delivering capacity.

Coordination is an endemic concern in public administration and organizational theory. Coordination can be defined as the adjustment of actions and decisions among interdependent actors to achieve a specific goal (Koop and Lodge, 2014). It is a significant challenge and often identified as a critical area of failure in a crisis (Ansell, Boin, and Keller, 2010; Boin and Bynander, 2015; Brattberg, 2012). In the face of a crisis, coordination may suffer from “underlap” in the exercise of authority (Koop and Lodge, 2014). Underlap refers to situations when the policy area of public security falls between the remits of different organizations so that no organization feels responsible.

A main challenge when there are major coordination problems is to move away from a negative type of coordination implying non-interference toward a more positive type of coordination in which building coherence and improving overall performance is the main goal (Bouckaert, Peters, and Verhoest, 2010; Scharpf, 1988). Thus, crisis coordination is not merely a technical task but also an important political one. It involves not only structure but also culture. Distinguishing between crisis coordination as a process and as an outcome may prove helpful—“outcome” relates primarily to crisis cooperation, whereas “process” is more about how to orchestrate and achieve cooperation by connecting the different components (Boin and ‘t Hart, 2012). Gulick (1937) emphasized the dynamic relationship between specialization and coordination: the more specialization within a public organization, the more pressure for increased coordination (see also Bouckaert, Peters, and Verhoest, 2010).

An instrumental and an institutional perspective

An *instrumental perspective* directs attention towards formal structural arrangements seen as instruments to achieve certain goals (Egeberg, 2012; March and Olsen, 1983). Conscious structural design of public organizations can be an important way to fulfil public goals. It presupposes high control and rational calculation (Dahl and Lindblom, 1953). Behaviour is based on a ‘logic of consequence’ where ‘bounded’ rational actors try to predict the consequences of their choices and find appropriate means to achieve their goals (Simon, 1947). Through this perspective, the formal organization of societal security and the related coordination challenges become relevant, representing preconditions for how leaders act.

The perspective comes in two versions (March and Olsen, 1983). A *hierarchical version* presumes the existence of a homogeneous elite of leaders with few attention problems and clearly vertically defined roles and common interests, an elite who speaks with one voice, making consistent action and implementation highly likely (Allison, 1971). The leaders are expected to have full insight into the process and full knowledge about the security challenges. In a situation where there is little perceived risk, or the level of threat is seen as low, it might be rational not to implement security measures. In this perspective, implementation deficits could be a deliberate choice by the leaders not to prioritize and

attend to the suggested security measures. Coordination will be strong within the portfolio of each ministerial area but poor across them, producing coordinating ‘underlap’. From the hierarchical perspective, the decision-making process will be characterized by analytical planning. One would accordingly expect a tight linkage between overall goals, options, and consequences as well as between the problem structure and the organization structure. One would also expect decision makers to have power and control over the process and possess evidence-based knowledge of means-end relations. The hierarchical version assumes that the administrative and political executives, defined as a homogenous group with respect to their interests and organizational thinking, initiate and drive through reforms. Reform results should therefore be predictable and close to the original plan and the implementation process should be smooth.

A *negotiation version* of the perspective allows for heterogeneity and diverse interests, and explains the lack of implementation by referring to conflicts of interests. Negotiation processes are often more legitimate since more interests are catered for, but they are at the same time potentially less focused and rational (Mosher, 1967). The result of negotiations would be tension-filled and would contain ambiguities concerning coordination and roles (Cyert and March, 1963). Conflicts and negotiations among actors will feed into the decision-making process (March and Olsen, 1983). The decision-making is characterized by compromises or descending opinions among actors producing majority and minority suggestions or decisions. The negotiation version assumes that the group of leaders has heterogeneous interests and views. Heterogeneity may also extend to other actors in the administrative apparatus. This makes organizational thinking potentially more ambiguous and the decision-making process more conflict-ridden. Reform processes that exhibit such features are more difficult to control and less predictable.

A *cultural–institutional perspective* is characterized by natural system processes and emphasizes the importance of informal norms, values and practices developed over time and as a response to internal and external pressure rather than organization based on conscious and rational design (Selznick, 1957; Scott and Davis, 2007). This perspective assumes that an organization will add unique cultural and informal norms and values to the formal ones as part of an institutionalization process (Selznick, 1957). Leaders will act according to established informal rules and values rather than according to what is instrumental for themselves or their organization. Through a process of socialization and path-dependency, informal norms and values dating from the time the organization was established will heavily influence the path followed later on, i.e. the ‘roots’ of an organization – contexts, norms and values central to its establishment – will influence its ‘route’ at a later stage (Krasner 1988). There will be layering and gradual institutional changes (Streck and Thelen, 2005). Furthermore, central actors will follow a ‘logic of appropriateness’ rather than a logic of consequence (March and Olsen, 1989). In our case, a relevant question is to what extent and in what ways the relationship between the police and the military was influenced by such cultural factors. Public leaders tend to see their role as furthering the ‘necessities of history’ rather than having strong, instrumentally based power. Processes of ‘historical inefficiency’ (March and Olsen, 1989) produce frictions in institutional design and reform. The concept of cultural compatibility (Brunsson and Olsen, 1993) matters, meaning that reform elements that are not compatible with the organization’s cultural roots will have less probability of being implemented. In the following analysis from the cultural-institutional perspective, we look at the importance of path-dependency: Do the actors arguments allude to traditional cultural norms and values?

The Norwegian context

Norwegian society is marked by a high level of trust. Both generalized trust among citizens and citizens’ trust in government are higher than in many other countries (Wollebæk et al., 2012). This also applies to citizens’ trust in the government’s ability and capacity to handle and prevent crises (Christensen, Fimreite and Læg Reid, 2011). Also mutual trust relations between the political and administrative leadership and between ministries and subordinate agencies are rather strong. On the

other hand there are tensions between ministries and policy areas, especially between line ministries and overarching ministries.

A core concept within the Norwegian government is individual ministerial responsibility. This implies strong sectoral ministries, resulting in weak horizontal coordination between policy areas. This is also the case within the area of internal security and crisis management, where the Ministry of Justice's responsibility for coordination meets with strong sectoral interests (Fimreite, Lango, Læg Reid, and Rykkja, 2014).

Four crucial principles guide the Norwegian authorities' approach to crisis management. A *liability principle* implies that every ministry and authority is responsible for crisis management within its own sector. This is closely related to the doctrine of ministerial responsibility, emphasizing strong sector ministries. Problems surface when complex crises demand coordination between sectors. A principle of *proximity* emphasizes that a crisis should be managed at the lowest operational level possible. This can be problematic when a crisis crosses the borders of local, regional national and supra national levels or when responsibility for handling the crisis is split between public authorities with differing areas of responsibility.

A principle of *parity* emphasizes that organizational forms in a crisis should be as similar to 'normal organizational' forms as possible. Those organizational structures handling the problem in a normal situation should also be prepared to handle crisis. After the terrorist attacks in 2011, a fourth principle of *cooperation* was highlighted. It emphasizes the necessity of collaboration between actors from different sectors, both public and private (Meld. St. 29 (2011-2012)). These four principles can be problematic and challenging to implement partly due to internal conflicts between the principles, such as between the liability principle and the principle of cooperation.

The principles of ministerial responsibility paired with the principle of liability and the principle of proximity, constrain efforts to establish an integrated and coherent organization for internal security and crisis management. Although, recent efforts to strengthen coordination have led to a certain clarification of the responsibilities of the MJ, line ministries and subordinate agencies (Lango, Læg Reid and Rykkja, 2011). The principle of liability stands strong and continues to create tensions between organizational units, sectors and administrative levels. The MJ remains the central coordinating body but has been characterized as rather weak. Attempts to build a strong overarching coordinating ministry or strengthening the Prime Minister's Office have run into problems, largely due to the strength of the principle of ministerial responsibility. Thus, coordination between different authorities continues to be a challenge (Fimreite et al., 2014).

A complex web of authorities is responsible for crisis management. The Cabinet has an overall responsibility for security. The MJ normally takes the lead in a national crisis but constitutional responsibility still rests with each ministry. The *Government Crisis Council* supports the government during severe crises and a *Government Crisis Support Unit* is introduced within the MJ. The main agencies under the MD are the *Directorate of the Police* (POD), the *Police Security Service* (PSS) and the Directorate for Civil Protection (DCP). In 2014 a joint contra terror center was established between PSS and the Military Intelligence Service and in 2017 a joint cyber coordination center was established.

The relationship between the military defense and the civil sector has been strained, characterized by a lack of coordination and communication and turf wars (Læg Reid and Serigstad, 2006). At the same time, there has been a shift of attention away from military defense towards the civil sector (Fimreite et al., 2014; NOU 2006:6). Coordinating agencies subordinate to the MJ, such as DCP and the National Security Agency (NSA), have been developed and strengthened and a 'light version' of a lead ministry approach was introduced. The NSA's coordinative role has been a lasting challenge, being responsible to the MJ in civilian cases and to MD in military cases.

The military is a strict hierarchical and centralised organization while the governance of the Norwegian police is more decentralized. The MD is responsible for military emergency preparedness and has a primary responsibility to defend the country against external attacks and threats while the MJ is responsible for emergency preparedness for the civil society and to fight crime within the national borders. However, when it comes to terrorism it might not always be quite clear if it is a type of crime that should be handled by the police or an armed external attack that should be handled by the military. There is no law that directly regulate the distribution of authority and responsibility between the police and the military in societal security matters (Auglend, 2015). Thus, there might be grey zones on the interface between the police and the military in such hybrid cases.

The principle of ‘total defense’ goes back to the cold war period and was originally primarily aimed at support from the civil society to the military defense during war or threat of war¹. After 9/11 the concept has changed somewhat and become modernized and revitalized. The modernized ‘total defense’ concept includes mutual support and collaboration between the military and the civil society. The military is now to a greater extent supposed to support the civil society during crises in peace time. It has become a more explicit task for the military to contribute to safeguarding societal security.

Where the borders should be drawn for the military use of power in peacetime has been a 200 year long conflict² all the way back to the creation of the Constitution in 1814. It has always been a grey zone between the military and the police on tasks that formally belongs to the police, but in which the police is not able to solve entirely on its own. The Constitution prohibits the use of military power against inhabitants in Norway without regulation in law. A general law regulating the use of military power in internal matters during peacetime did not come into existence before the Police Act §27 A was adopted in 2015. Historically a strict interpretation of the Constitution has been the norm (Bjerga and Håkenstad 2013). This goes back to the so-called ‘Menstad battle’ in 1931 when the Minister of Defense mobilized military troops to stop a demonstration by labour union members during a strike situation. The military personnel was never set in action, but afterwards the incident was heavily criticized (Heieraas, 2010).

The police-military divide was again challenged during the Alta-case in 1979-81, which was a civil disobedience protest against construction of a power plant. The police requested military assistance to accommodation and transport of policemen, but the military assistance was not executed because of fear of the assistance would be in violation of the constitution. Both incidents contributed to a military culture that was cautious of being involved in domestic crises, especially civil disobedience were the MD was strongly opposed military involvement (Børresen, Gjeseth and Tamnes, 2004). Thus, traditionally the military has been rather reluctant to be involved in civil society matters.

The collaboration and coordination between the military and the police was also an issue in the aftermath of the terrorist attacks on July 22 2011 which destroyed the government complex including the Prime Minister’s Office and the MJ and killed a lot of young people that attended the labor party’s summer camp at Utøya. In total 77 people were killed and many were severely injured. The perpetrator was a lonely wolf, an ethnic Norwegian with right wing political sympathies.

The MJ was assigned as lead ministry during the terrorist attack. The strategic level in the military did not make any serious efforts on considering whether the MJ should be “the lead ministry” in the unfolding crisis (Bjerga and Håkenstad, 2013). In general the top executives of the military was not particularly proactive during the crisis (Renå, 2017) and the 22. July Commission was criticized for an inadequate investigation of how the military reacted during the terrorist attack³. The police was, however, heavily criticized for its crisis management by the inquiry commission (NOU 2012:14).

¹ See *Støtte og samarbeid En beskrivelse av totalforsvaret i dag*. Oslo: Justis og beredskapsdepartementet og Forsvarsdepartementet.

² According to Magnus Håkenstad, historian and researcher at the Institute for Defense Studies

³ See for example Storemark in *Aftenposten*, August 20 2012.

There was lack of communication, coordination and leadership. The main problem was according to the commission cultural and not organizational. According to the commission, the military solved their mission in a satisfactory manner. However, the Commission criticized the police and the military for lack of collaboration, and the government and the Parliament followed up this critique. The main concerns was first if the police should have asked the military for support at an earlier stage and more proactive. Second, the question was if the military should have more available resources to support the police during a terror attack.

The commission also suggested continuing and strengthening joint annual contra terror exercises between the police and the military. The joint exercise *Gemini* between the military and the police turned out to be difficult partly because of the disagreement between the police and the military regarding the responsibility for fighting terror attack. Members of parliament stated that it was regrettable that the military and the police had not succeeded in solving this well-known conflict and that it was unacceptable that battles between the military and the police resulted in lack of joint exercises (NTB 11.10 2016).

In this paper we will, however, focus on two areas where coordination and collaboration between the police and the military has recently been high on the political agenda and got a lot of attention – the ‘Object Protection’ and the ‘Assistance Instruction’. Even if the intergovernmental cooperation and coordination between the Police Directorate and the Armed Forces Operational Headquarter as well as the between the local authorities has improved since 2011 (Pettersen, 2014; Thomstad, 2015) these two cases show that there still are significant coordination and collaboration challenges between the police and the military.

Object protection

One area for collaboration and joint responsibility between the police and the military is the security and protection of important buildings, constructions, installations, critical infrastructure, and properties. The Security Act of 1998 regulates the object protection but the detailed regulations was not decided upon until 2011. The National Security Agency is responsible for coordination, control and auditing of the preventive object security measures. The 22. July Commission criticized the NSA for lack of supervision and auditing when it came to object security. However, the problem was according to the agency that it did not have a minimum level of specific regulations to conduct the control. In the hearing response the NSA stated that there was a significant opposition to the suggested regulations from the regulatees, and substantial demarcation challenges towards different sector regulations, the DCP and the Police. All this constrained the agency’s possibility to conduct audit in this field (Letter from NSM 7.9 2012).

The responsibility for object protection is divided between the public body that owns the object, the police that is responsible for protecting the objects against terrorism and criminal acts and the military that is responsible for object protection in case of war or threats of armed attacks from foreign countries. The responsibility of the police is to protect objects against events that might threaten the general societal security. In situations that potentially can trigger object protection against crime as well as armed attacks, the police and the military is mutually responsible to establish contact and to coordinate the planned action.

The Audit Office’s report 2016

The Audit Office conducted a critical investigation of the object protection by the military and the police agency. The report was classified and was submitted to the Parliament in 2016. The conclusions were made public in the annual revision and control from the Audit Office to the parliament for the budget year 2015. Parts of the restricted report was, however, published by one major Newspaper, *Dagens Næringsliv*, and later the parliament asked the government to downgrade the report, which was denied. The Secretary General in the Ministry of Defense justified the classification of the report

by the report's revealed weaknesses and shortcomings in the collaboration between the military and the police was so serious that they might be a threat to the security of the country if they will be made public (Letter of January 6 2016). The opposition in the parliament and the Audit Office was rather frustrated by the unwillingness to make the report public. According to the Auditor General the government and the ministry of Defense tried to change the conclusions in the audit report. The leader of the main opposition party, the Labor Party, said that the secrecy was a shame for the government.

The audit report concluded that the Audit Office take it very seriously that the Ministry of Justice and Civil Protection and the Ministry of Defense have not achieved to strengthen and improve the collaboration between the Police and the Military as requested from the parliament. There has been a lot of disagreement about what objects that need to be secured, by whom and when. Important measures to enhance collaboration and preparations had not been conducted. This increases the risk that important objects cannot function in critical situations. In addition, the two ministries have not ensured that the police and the military have established permanent basic protection on their own properties. According to the Audit Office the police and the military, together or separately, will probably not be able to conduct satisfactory protection of important object in a crisis. In general, there was lack of plans, information and auditing and weak intergovernmental collaboration. The audit office also concluded that the ministers of Defense and Justice and Public Security had not given sufficient and adequate explanation on the reasons behind the lack of priorities regarding object security.

The top leader of the police and the chief of defense wrote a joint chronicle in the leading newspaper after the release of the audit report immediately challenged the conclusions in the audit report. They claimed that there were no problems in the relationship between the military and the police and that the military offers good and necessary support to the police every week (VG 19.10 2016). The leader of the military officer's union said to the leading newspaper that the police and the military had good collaboration and mutual role understanding on operative level challenged this view. The challenges were, according to him, at the political and administrative executive level where a power struggle had been ongoing over a long time between the police and the military. This view was supported by the leader of the police union (Aftenposten 11.10 2016).

The Parliamentary discussion

The political opposition was very alarmed by the audit report and the control committee in the Parliament conducted an open hearing March 20-21 2017 based on the information in the annual report from the Audit Office and the unclassified answers from the ministers of justice and defense. The Prime Minister, the Minister of Justice and Public Security, the Minister of Defense, the Director of the Police Agency, the Director of the National Security Authority as well as the Chief of Defense participated in the hearing. The hearing was characterized by a tense mood and strong opposites between the opposition parties and the political and administrative executives. The administrative and political executives agreed on the facts from the Audit Office but disagreed that there was coordination problems between the military and the police.

The former Minister of Justice and Public Security agreed on the lack of implementation of the regulation on better terror security of public buildings and he admitted that he was misinformed by the police agency regarding object security something that was also stressed by the prime minister. But he also claimed that there was very good cooperation between the police and the military. In this view, it had never been better. Also the current Minister of Justice and Public Security agreed that it is a very good collaboration between the police and the military, even if there might be disagreements on certain issues. The Minister of Defense admitted that it might be disagreement and different priorities between the military and the police, but she also claimed that there has been improvement and increased trust between the two authorities on all levels over time. The Chief of Defense characterized the cooperation between the police and the military as very good and he disagreed with the

conclusions from the Audit Office. The police director also claimed that the police and the military collaborated closely, more and better than ever before.

The prime minister admitted that the work on object security had been too slow and she said the government did not know about the problems with object security until the report from the Audit Office. She also admitted that there had been lack of collaboration in some issues but that these collaboration problems and previous challenges had now been solved. She claimed that it now was more an implementation problem than a coordination problem. According to the prime minister the conclusion that the Audit Office draws on coordination problems between the police and the military are too far-reaching. She claimed that the collaboration between the military and the police is not bad, and that it had been improved significantly. Generally, the government defends itself by claiming it has been major improvement after the snapshot by the Audit Office in 2015.

The parliamentary control committee was dissatisfied with the executives' answers about the critique from the Audit Office. The open hearing revealed that it was not possible to get the case sufficiently clarified because the summary from the Audit Office was classified and thus it was decided to have a closed hearing on May 29. The majority of the committee, all political parties except the governing parties the Conservatives and the Progress Party, concluded that neither the Minister of Defense nor the Minister of Justice and Public Security had fulfilled the Parliament's preconditions or the claims in the regulations. The object security had not been followed up. The majority also concludes that neither the MD nor the MJ has ensured that the military and the police collaborate according to the instruction. The director of police, chief of defense, and the ministers of Defense and of Justice as well as the prime minister all agreed on the findings and critique from the Audit Office. It was, however, more difficult to confirm if the same actors agreed on the Audit Office's conclusions. The majority of the control committee, however, agreed with the Audit Office's conclusions.

Especially the opposition (the Labour Party, the Socialist Left Party, the Center Party, the Christian Peoples Party and the Greens) concluded that the government's work on object security and public security was 'strongly criticized' which is the most serious concept the control committee can use without promote distrust to the government. They claimed that the government had not documented satisfactory ability to implement the decisions in the parliament.

The Liberals did not line up with the rest of the opposition in the parliament and concluded that the case was very seriously criticized. Since the government parties, the Conservatives and the Progress Party, did not want to criticize their own minority government, it was not a majority in the parliament for the formulation 'strongly criticized'. The majority of the Parliament was, however, very critical to the sitting government but also to the previous government on how they had handled the object security and public security. They claimed that the government had to follow up on the recommendations from the Audit Office and come back to the parliament clarifying what they have done. The parliament also asked the Audit Office to follow up on the case and to come back to the parliament with a status report on object security. The government stated that it will take the critique from the Audit Office serious and will base its future work on this issue on the remarks and suggestions from the Audit Office (Meld. St. 10 (2016-2017)). In a new follow-up report from the Audit Office in 2018 the conclusion is that the weaknesses revealed in the 2016 report are still present (Riksrevisjonen 2018). MJ and MD have not to a sufficient degree ensured that the basic security of important objects in the police and the military are in accordance with the security law and the preconditions from the parliament. The audit office characterize this situation as very serious. There is still a lack of joint understanding between the two ministries for how to understand the object regulations.

The Traavik committee 2016

Parallel with this controversy a public committee appointed by the government worked on a revision of the Security Act to get a more comprehensive law on prevention of national security. The committee was appointed in 2015 and submitted their report in October 2016. When presenting the report the leader stated that they had experienced that different actors not always pull in the same direction (NOU 2016:19). The committee's work had revealed that lack of collaboration is a problem when practicing the current Security Act. Other actors in the field of public security challenge the role and status of NSM. Designation of security object has been a challenging process and dissatisfying for NSM. Within the area of object security there has been conflicts between different sectors about what the rules are supposed to protect against and how.

The committee stressed the need for a comprehensive approach that transcended the different sectors but also that this needed to be balanced to the different sectors peculiarities. They argue for the need for a trans-sectoral framework act. They admitted that a central challenge in practicing the current Security Act has been how to operationalize the relationship between the liability principle and the collaboration principle. The committee tried to balance the liability principle and the collaboration principle and to clarify more appropriate responsibility relations.

To solve conflicts between different authorities they suggest that a specific dispute body is established. The responsibility for the Security Act is suggested to remain in the MD, but they also state that it is crucial with good collaboration with different actors, especially the MJ. By these suggestions, the committee wanted to build bridges across the conflicts that has made it difficult to implement the current security act. Practicing the security act has been challenging because of disputes between different actors. The committee most important feedback is a strong call for a strengthened collaboration for security. The government has announced that it will work on the development of a good law base for the preventive security service based on the report and the input from the consultation round (Meld. St. 10, 2016-2017).

The Assistance Instruction

The Assistance Instruction is the regulatory framework that sets guidelines for how the cooperation between the military and the police will take place. It was established in 1965 and regulates when and how the police can request assistance from the military. The purpose of the Assistance Instruction is to provide leaders in the police and the military with procedures for how they should interact when the police is requesting for military assistance. The police can request assistance from the military if the police's resources are not sufficient. The police chief has the overall leadership of the operation and shall ensure that military personnel do not exceed the legal limits of police activities. The Assistance Instruction was not founded by law and the relationship to the constitution was contested (Espenes, 2010).

Prior to the 2012 revision, the police could request three different types of assistance; operational assistance, administrative assistance and enforcement assistance. Operational and administrative assistance in the event of accidents, natural disasters and explosion removal, transportation or other administrative support did not open for the use of military power on behalf of the police. The enforcement assistance allowed for the use of military power on police assistance missions. The police could request such assistance when there is a danger of appropriations of a particularly extensive or injurious character, such as a terrorist attack. Enforcement assistance has been regarded as particularly politically sensitive, and the request for assistance required a more comprehensive decision-making process. To approve a request for enforcement assistance, it had to be handled by six actors. The police chief sends the request to the Police Directorate (POD), which send it on to the Ministry of Justice. Upon approval, the MJ send the request to the MD, which also had to approve the request for

assistance and to activate the military units. Upon approval by both ministries, the assistance mission could be implemented.

The revision in 2012

Within two months after the terrorist attack, a working group was appointed by the MD to improve the Assistance Instruction. The MD led the review of the instruction. The working group consisted of two members from the MD and two from the MJ, and they had a mandate to conduct a comprehensive review of the Assistance Instruction's application of assistance, procedures and command conditions. The purpose was to streamline the use of the Assistance Instruction and clarify the procedures for handling critical events (Prop. 73 S (2011-2012)).

The working group focused on simplifying the instruction. The administrative assistance and operational assistance were merged into general assistance. The threshold for when the police can request assistance from the military was lowered (NOU 2012:14). In addition, the military itself could contact the police if they thought the police could need their resources in dealing with an incident and in critical situations, the military shall undertake planning and preparations without waiting for formal decision by the ministries. It was also required that the military and the police should practice together regularly and decided that the police themselves should cover additional costs of the military's assistance to the police beyond the emergency phase. Several of the respondents claimed that the revision in 2012 could be seen as a symbolic action from the political executives to demonstrate that they had improved the collaboration between the police and the military⁴. When in reality the revision only implemented minor changes, and they completely bypassed the controversial question if the military's use of power during assistance missions to the police was in violation with the constitution.

The inclusion of the cost determination was particularly controversial. The cost determination was not included in the recommendation of the working group, but pushed on from above after an agreement between the Secretary Generals in the ministries. There was a disagreement within the Cabinet if the cost determination should be included or not. The Minister of Justice was strongly opposed and the Minister of Defence was strongly in favour, and the Minister of Defence prevailed. This decision has been criticised harshly from the Justice sector.

The Armed Forces never billed the police before paragraph 8 came in, and they did not do it afterwards. But it creates a lot of insecurity in the police, should the Armed Forces have money or not, great question. Very inhibitory. (Interview JD)

The White Paper nr.22 (2007-2008) *Societal Security* concluded that the Police should cover costs beyond an emergency phase with assistance from the Armed Forces, but although it was mentioned the police were not aware of it. The inclusion of additional costs thus awakened a sleeping provision that could be a clue to uncertainty between the military and the police on what an emergency phase would mean. The provision made unclear limits for when the military has an opportunity to bill the police and when they do not. It may then be discussed whether the revision of the Assistance Instruction in 2012 opposed its own mandate to streamline the Assistance Instruction.

The legislative process 2013-2015

In February 2012, the same working group was assigned to draft a legislative proposal for the military's assistance to the police. The MD was the lead ministry and the mandate was to investigate the issue of law enforcement, as well as to prepare proposals for a legal basis for the Assistance Instruction.

⁴ It also turned out that it was ambiguities in practicing the Assistance Instruction. When a terror alarm occurred during the opening of the Parliament in 2012 the police's Delta Force was not allowed to use military helicopters by the MJ and also attempts to activate military support did not succeed.

The legislative work was highly centralized and characterized by the cabinet having hands on all the work done by the working group. The working group members had minimal action room and much of the time was used to write cabinet notes.

We got the job of the working group to write cabinet notes all the time, so we had no room for action. We were completely tied to the post because the government was going to decide on absolutely everything. (Interview JD)

There were 11 cabinet notes about a work that lasted for about a year. The working group was under great time pressure because the Government wanted progress in the process to bring the legal basis into place.

The suggested law on the responsibility of the military for airborne terrorist attacks and the assistance to the police was sent for consultation in the summer of 2013. The purpose of the law proposal was to get a legislative basis in place to terminate the debate if the military assistance to the police was in violation of the Constitution or not (Consultation Paper 2013). Both the justice and the defence sectors desired legislating the military assistance to the police, but there was a great disagreement between the sectors regarding to how the legislation should be formulated. Based on the consultation responses, the defence sector was generally positive to the law proposal presented, while the justice sector was strongly critical of the law proposal. It was questioned why one should create a separate law for the military assistance to the police instead of law enforcement of its own provisions in the Police Act. Both the Police Directorate and Oslo Police District emphasized that the draft was characterized by having been written from a defence angle and that the working group lacked a person with operational police experience. The law proposal was criticized for being legally poor where several important key aspects were not discussed adequately.

The work on the draft law ceased after the consultation process due to different views in the two ministries about what should be regulated by law (The Røksund report 2016). The MD wanted to keep the consultation note, but the MJ was very dissatisfied with the law proposal and wanted it discarded. The MJ wanted the assistance instruction to be legislated with its own provisions in the Police act, but the MD was oppose this because it meant that the administrative responsibility of the law would be transferred to the MJ. This controversy illustrate that the cooperation between the MD and the MJ has occasionally been troublesome, especially regarding the MD's attitude towards the military giving assistance to the police.

They are very concerned that they (the Ministry of Defence) have power and must show that they have it. The legal competence is generally very low and it creates problems. (Interview JD)

The critical feedback from the consultative agencies in the justice sector and the negative media coverage meant that the work on the draft law stopped. The responsibility for carrying out the legislative assistance of the military was transferred from the MD to the MJ after the consultation process. The bureaucrats who worked on the statute of the military assistance to the police received instructions from then Minister of Justice that only the conditions required by the Constitution for statutory provisions will be included in the law proposal (Prop. 79 L (2014-2015)). The law proposal should only set the outer limits of the military's use of power, while the Assistance Instruction should provide additional provisions on the military assistance to the police within the limits provided by the law.

The new law proposal was not sent on consultation, which implied that large parts of the military did not have the opportunity to comment on the content of the legislative proposal. This was not welcomed by the Military Defence Staff, which emphasize that the case processing would not be satisfactory if the legislative proposal is not sent to normal consultation. They argued critically that the military as a key player will not be heard in the case of a law that has profound consequences for their activities.

The new law proposal was submitted to the Storting in March 2015 (*Prop. 79 L (2014-2015)*) and the Justice Committee handled it. The law proposal did not aim at changing the current practice for the

military assistance to the police, but aimed to remove any uncertainty whether assistance from the Armed Forces was unconstitutional. The proposition was not politically controversial, and the committee had no remarks on the proposal, and recommended the Storting to adopt the law proposal (Innst. 326 L (2014-2015)). In the autumn of 2015, the law was unanimously approved by the Storting and the long discussion if the military could use force under assistant missions from the police was thus over. As this is a topic that historically has been characterized by both administrative and political disagreement, it is surprisingly that there was no discussion or disagreement in the Parliament about the law proposal and the consequences this may have for the Armed Forces role in maintaining the internal security.

The Røksund-committee

The Government set up an independent working group to prepare a proposal for a new Assistance Instruction in the light of the new law. This was decided to avoid the subject being bogged down in disagreement between the ministries, as happened to the law proposal three years earlier. The work group included of two members from the police, two from the military and two neutral members, and a secretariat led by the MD. The new framework law opened a much larger action area to change the Assistance Instruction than what has been possible earlier.

In 2016, the working group presented its draft for a new Assistance Instruction that was sent for consultation (The Røksund report 2016). In the draft, the decision-making procedures for a request for assistance were greatly simplified and shortened. The working group suggested that a police chief could request assistance from the military directly to the Military Joint Headquarters without the request having to be approved first in the ministries, but the political leadership in the ministries could exercise reactive control by stopping an initiated operation. Thus, the number of decision levels was reduced from six to two leaving the political executives on arm length distance.

What was particularly controversial with the new instruction's draft referred to the military's role in the maritime counter-terrorism. The leader of the committee said that they worked long to achieve a compromise on this issue, but they did not succeed. Thus, there was dissent in the working group. The neutral members and the members of the military proposed to give the military the right to initiate operations against maritime terrorism without obtaining a request from the police first. They also proposed that in a maritime-counter terrorism operation, the military would have the overall responsibility and management over the operation, as opposed to land-based terrorist attacks where the police should have the overall responsibility and the management of operations where the military assist. This proposal was to prevent the police from being able to manage a complex military mission in detail.

Because there have been parts of the Police who have been keen to enter and manage in detail the operation itself. (...) A maritime counter terror operation is such a big and complicated operation involving the use of air force, special forces and the navy. (...) It is only the Armed Forces that can do this, and then they must do the tactical dispositions. (Interview Committee leader)

The working group's minority, members of the police, said that there was no need for special provisions for maritime counter terrorism. They argued that such a provision would not lead to the clarification of uncertainty. On the contrary, it would lead to more unclear boundaries and strong opposites. Emphasis was placed on the fact that there are grey zones between when an action can be regarded as terrorism and when it is ordinary crime, and that this can cause the police and the military to assess the nature of the incident independently of each other. If the military were to consider the incident as terrorism, while the police would judge it as ordinary crime, there might have been a conflict about who should initiate the operation.

Also in the consultation phase, there was especially maritime counter-terrorism that receives attention. The consultation bodies from the justice sector were generally more critical of the draft than those from the defence sector. With the exception of the Chief of Defence, the military sector was

generally positive to get right of initiative in maritime terrorism (VG 5.2 2017). The justice sector, especially the police, was strongly critical of giving the military the opportunity to implement operations within their area of responsibility without the police having requested it.

The Røksund-committee, it was a declaration of war, simply, against the police. (...) It was total war, the right of initiative was a no go for the police. (Interview POD)

They claimed that the working group had submitted a proposal that goes beyond the limits they were given by law. Several actors in the justice sector expressed that the right of initiative of the military for maritime terrorism might be in violation of the Constitution. Oslo Police District emphasized that the instructional draft was based on the military's premises, and that it seemed that the Assistance Instruction was shaped from what the military would like to assist with, rather than what the police actually needed. The provision that the police was to cover the additional costs of the military in the case of an assistance mission continued in the draft, and this was met with criticism from several police actors, especially the Police Directorate.

Following the proposal, the Chief of Police and the Chief of Defence tried to calm the disagreements between the sectors.

The Police Chief did not want a fight about who was the best, so lots of such police tips to the draft were basically wiped out. He did not want the Chief of the Armed Forces to stand alone when he tried to calm the mood. (Interview POD)

The MD had the main responsibility to process the consultation inputs and to formulate the Assistance Instruction that should be adopted. State Secretaries at the MD and at the MJ had the main task of reaching an agreement between the ministries and adopting an Assistance Instruction. In autumn of 2017, the new Assistance Instruction was adopted. The final Instruction resulted in a compromise between the justice sector and the defence sector. The military's right of initiative in maritime terrorism was withdrawn, but the military retained the overall command of the military forces' assistance mission at sea. That is, when the police request assistance from the military to maritime counter-terrorism, the military will conduct the operation themselves, but in the case of terrestrial terror, the police will still have the leadership of the operation with assistance from the military. During the consultation phase, the police attempted to remove the provision for additional costs to be covered by the Police, but the provision was included in the adopted Assistance Instruction. The new addition was that the Ministry of Finance had to decide who would take the bill if there were disagreement between the police and the military.

Discussion

These two cases reveal first, that the terrorist attack enhanced a change process regarding both the Object Security and the Assistant Instruction. Second, they both addressed the administrative capacity, but along different dimensions. The Object Security revealed lack of coordination capacity as well as delivering capacity, while the Assistant Instruction was more about coordination capacity and regulative capacity. Both cases revealed significant collaboration problems between the police and the military so it was mainly horizontal coordination issues between two policy areas that were addressed. Transboundary coordination issues seem to be up front. Third, there was also lot of negative coordination (Scharpf 1988). A main strategy seems to be that 'if you do not interfere in my businesses, I will not interfere in your businesses'. It also revealed that coordinating is a question of power, which imply that it is normally more popular to coordinate than to be coordinated. Fourth, while the object security case revealed strong political conflicts between political parties, between the parliament and the government but also between the ministries and the Audit Office and between the police and the military, the Assistant Instruction revealed more conflicts between the police and the military and less conflicts between political parties or between the parliament and the government.

Theoretical approaches revisited

The hierarchical variant of the structural-instrumental approach gets little support in these two cases. In general, the process was not a strong analytical and hierarchical process. It involved ambiguities, conflicting values and agendas and negotiations between the government and supporting political parties as well as parliamentary negotiations. There were compromises and implementation problems, especially in the Object Security case. The structural and instrumental arguments were not elaborated to any great extent.

Strong elements of negotiation were present in the two cases studied. Rather than a hierarchical command system, we reveal a lot of conflicts⁵. In the Object Security case, the conflict was notably more prominent and visible in the relationship between the Audit Office and the opposition parties in parliament on the one hand and the government, the ministers of Justice and public security and Ministers of Defense and also the top leaders in the military and the police. But the Audit Office report also revealed a strong lack of collaboration and coordination between the police and the military as well as between the MJ and the MD in the practicing of the 'Object Security' framework. Also the *Traavik* report revealed lack of collaboration between the military and the police regarding object security. In the 'Assistance Instruction' case there were strong disagreement between the police and the military in the *Røksund* committee on the responsibility for fighting terrorist attacks at sea. The dissents in the committee's report went along the military-police divide on this issue. The government came up with a compromise, trying to please both parts. In contrast to the Object Security case the 'Assistant Instruction' case did not revealed conflicts in the parliament between the opposition and the governing parties.

Another element of negotiation and open conflict was due to the potentially overlapping ministerial roles as well as the overlapping between the military and the police. The cases speak of tensions between the relevant actors. The question of who should do what and when, especially related to the responsibility between the police and the military, became pertinent. There was both active negotiation, and 'negative coordination': Each actor involved relied on others to take care of the implementation (Scharpf, 1988). There were also elements of reputation management from the top executives in the police and the military. They were not particularly accommodative to the critique. They were overly self-righteous in their response to the critique and not especially self-critical. This goes especially for the 'Object Security' case, something that also characterized how the police handled the critique after the terrorist attack (Christensen and Læg Reid, 2015).

Looking at what happened from a cultural version of an institutional perspective, there seems to be a strong path-dependency – the historical-institutional legacy and reform history of the police and the military mattered. This means that police traditions as well as military traditions constrained the change processes. Our analysis indicates that established arrangements and institutions are infused with values, identities, traditions, culture and established routines and rules (Selznick, 1957) and that these features have a significant influence on emergency preparedness and crisis management arrangements. The relevant institutions and the civil servants who work in them do not easily adjust to changing external pressure or to new signals from political executives. Thus, path-dependent processes and political and institutional conflicts characterize the policy area (Peters et al., 2005). It seems that the cultural arguments follow in the shadow of the hierarchy. Perceived problems and proposed solutions were informed by a logic of appropriateness.

Contextual environmental factors likewise played a crucial role in understanding the change processes. The terrorist attacks were a major external shock and a crucial factor for understanding why the change processes was brought onto the agenda. It opened a window for reforming the relationship between the police and the military. There were, however, no radical change in the relationship

⁵ This is also revealed in the media. See for example Kjell Stormark's cronicle "A betrayal towards the Norwegian People" (AldriMer.no, 24.3 2017) and 'Great collaboration problems in the cabinet' (Aldri.Mer.no 20.9.2015).

between the military and the police in these two cases. In spite of the serious external shock represented by the terrorist attacks, it did not push the relationship between the police and the military to a fast, deep and fundamental change.

In contrast the terrorist attacks seems to produce ongoing turbulence lasting well beyond the immediate crises and casting long shadows at least six years into the future (Boin and 't Hart 2010, Ansell and Trondal 2017). The terrorist attack producing gradual incremental institutional changes rather than radical reforms in line with the Norwegian tradition of a stepwise pragmatic reform style (Jensen, Lægreid and Rykkja, 2018). The decision makers seem to be able to follow some appropriate path dependencies (Olsen, 2017). Most of the changes have been within the existing administrative order and no fundamental changes in the organization for societal security. It has been more order maintaining than order-transforming (Olsen, 2017). As long as the principle of ministerial responsibility is not challenged it seems to be difficult to handle the challenges of transboundary inter-sectoral coordination.

New elements and arrangements are attached to existing institutions which gradually change their status and structure. Old arrangements are adjusted to new goals and aspirations, which eventually can lead to gradual transformation. The process of change was also characterized by new interpretations of existing goals because of environmental change. This is what Thelen and associate label layering and drift (Streek and Thelen, 2005; Mahoney and Thelen, 2010). We see this in the 'Assistant Instruction' case which went through three incremental changes in the aftermath of the terrorist attack and in the 'Object Security' case in which new elements were added to the responsibilities of the police and the military but which produced a difficult gradual transformation.

Conclusion

There has not been a breakdown and replacement in the relationship between the police and the military after the terrorist attacks in 2011. What we see is rather gradual institutional change influenced by both the external shock and internal institutional features. The main organization principles and the governing doctrine of ministerial responsibility have not changed but there has been changes in instructions and regulations and legal frameworks.

The principle of ministerial responsibility often becomes an obstacle for taking responsibility for joint matters. This is because matters that fall within a particular sector often is regarded as theirs alone, meaning that the seated minister holds the primary responsibility. Conversely, the minister may actively choose to opt out on larger matters that are on the intersection between different policy areas. A mindset like this can be negative for coordination and an understanding of joint problems and solving these together (Rittel and Webber, 1973). It creates a division of work that might complicate coordination. This is also referred to as coordination 'underlap' in the exercise of authority implying that when a policy area falls between the remits of different organizations no organization feels responsible (Koop and Lodge, 2014; Christensen et al., 2016).

What then, would be the lessons learned from our analysis? One lesson from these cases is that in response to a crisis such as a terrorist attack, incumbent policy elites are more likely to aim for dynamic conservatism as a crisis management strategy rather than a radical reform strategy (Boin et al. 2016, Jensen, Lægreid and Rykkja 2018). The core idea has been gradual changes and incremental improvement rather than radical redesign. They have adapted policy instruments and organizational structures and processes to accommodate external pressure for change while prevailing core values and governance arrangements (Ansell et al., 2015). Second, with increasing structural and cultural complexity in decision-making processes, it seems that we need to combine and understand the dynamics between the structural and institutional perspectives in order to understand reform processes. Especially the negotiation perspective needs to be included. Third, it seems to be the case that the top political and administrative leaders of the police and the military tends to give a rosy picture of the

collaboration between the police and the military while the Audit Office, the public commissions and also the opposition parties seems to reveal more conflicts and problems in the relationship. This was especially the case of ‘Object Security’. A fourth lesson is that there has been a strong belief in use of legal measures. A main strategy seems to be to change instructions, regulations and laws.

This paper contributes to understanding the puzzle concerning the lack of policy collaboration and implementation of central measures of high importance within this central area of public policy-making (Christensen, Lægveid and Rykkja, 2016). Even a country being in general in a high trust context can obviously experience a lot of turf wars between ministerial areas on tasks and responsibilities. On a general level, the study relates to the concept of ‘negative coordination’ (Scharpf, 1988; Bouckaert et al., 2010) and the consequences of non-interference across organizational boundaries. Our argument is that in systems with strong sectoral government structures ‘local rationality’ will constrain efforts to implement coordination action. Such coordination is crucial in dealing with ‘wicked problems’, particularly in settings where structures of responsibility relations are ambiguous such as in the transboundary field of societal security and crisis management. The paper also adds to our understanding of the implications of coordination ‘underlap’; when policy issues fall between different organizations so that no organization feels responsible (Wegrich and Stimac, 2014). Because of its ‘wickedness’, public administration in this field is often characterized by complex responsibility relations and lack of coordination. In the Norwegian context, this relates to the existence of strong sector-ministries with overlapping authority, and also a rather weak coordinating role for the overarching ministries MJ.

What happens onwards in the regarding regulation and practicing ‘Object Security’ and the “Assistant Instruction” remains to be seen.

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