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From Public Service to Corporate Positions: A Critical Policy Analysis on Swedish Regulation of Public Officials Transitioning to Non-State Activities

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Abstract

The topic of government and state officials leaving public service for the private sector has been a recurring talking point in the last decades with multiple countries in the OECD enacting different forms of regulation to contain potential conflicts of interest. In Sweden, legislation specifically regulating the phenomenon was not passed until 2018, when the Act Concerning Restrictions in the Event of Ministers and State Secretaries Transitioning to Non-state Activities (2018:676) (henceforth the Act) was enacted. The Act came with caveats such as the lack of sanctions in case of breach against the regulation as well as only limiting its legal subjects to ministers and state secretaries. This thesis investigates the problem representation that led to the provisions in the Act by conducting Bacchi & Goodwin's (2016) policy analysis called What's the Problem Represented to Be (WPR approach) on the legislative history of the Act. By employing Gramsci's (1971) theoretical concepts of ideology and hegemony and Fisher's (2009) capitalist realism, the thesis finds that the legislative history sees the issue of transitions between public and private sector as a problem if individuals misuse the otherwise positive exchange of information and knowledge between the public sector and private sector which could erode public trust in state institutions. The findings also indicate that the legislative history does not highlight the role of the private sector, e.g. major corporations, as a recruiter of ministers and state secretaries and that the legislative history delegates the state's duties of enforcing the regulation to the legal subjects and to the media. The thesis concludes that the effects of corporate presence on the issue yet tacit omission in the legislative discourse could contribute to the increasing of blurring lines between the state and the private sectors.

Keywords: public officials, public sector, private sector, revolving door, policy analysis, WPR, capitalist realism, hegemony.

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1. Introduction

In the last ten years, there has been an ongoing political debate on the so-called "revolving door", i.e. movements of persons between powerful positions in the public and in the private sector in Sweden (Svenska Dagbladet 2014; Aftonbladet 2016; Expressen 2016; Svenska Dagbladet 2018). The focus of the debate, which has mostly been conducted in the op-ed sections of major Swedish newspapers and in the halls of the Parliament in Stockholm, has been that of high-ranking politicians leaving office and taking positions in corporations or conducting business in the private sector (Aftonbladet 2018; Swedish Parliament 2016). Although a concern of international public administration and political science research for decades (Roberts & Doss, Jr 1992; Scott & Leung 2008; Blanes-I-Vidal et al. 2012), the public debate in Sweden recurred during and after the tenure of the Fredrik Reinfeldt led coalition government of conservative and liberal parties between 2006 and 2014 (Svenska Dagbladet 2014; Aftonbladet 2016; Expressen 2016; Svenska Dagbladet 2018).

Critics pointed to members of the departing government subsequently entering employment or consulting at major corporations such as financial institutions and private healthcare institutions. For example, former minister of finance Anders Borg served as consultant for finance giant Citigroup and former health and social security minister Göran Hägglund was subsequently employed by private healthcare provider Aleris (Svenska Dagbladet 2014; Svenska Dagbladet 2018). These and similar moves by politicians, from top political office to top positions in industries overseen by the former office of the politicians were criticised as setting precedence for politicians to enact policies and regulate with future employment in mind (Aftonbladet 2016; Expressen 2016). This conjunction was made by arguing that one of the reasons for increasing privatisations in the healthcare sector in Sweden during the Reinfeldt administration could be explained by this so-called "revolving door" between public and private sector (Aftonbladet 2016; Aftonbladet 2018).

Similarly, opponents of the revolving door argued that the austerity measures in governmental agencies and the increase in government procurement and outsourcing were a way of solidifying the Reinfeldt government's reputation as business friendly with a potential post-public career in mind. It was however, not only former conservative and liberal ministers under the scrutiny of newspapers. Swedish daily newspaper *Svenska Dagbladet* tracked the post-public careers of former ministers in the preceding social democratic government and of high-ranking politicians and political advisers (of diverging ideological backgrounds) at regional level and observed revolving door activities in these groups as well (Svenska

Dagbladet, 2014). The concerns of this phenomenon are not only limited to the suspicion of politicians acting in their own interest while in office, it also extends to the risk of diminishing trust in public institutions if citizens suspect that government officials are sacrificing the public good for the benefit of their own careers and private actors. Critics against revolving door activities such as politicians transitioning to the private sector after leaving office are therefore in favour of regulatory measures to prevent the conflicts of interest, potential corruption and eroding public trust connected to this phenomenon (Expressen, 2016; Aftonbladet, 2018).

After years of public debates, in 2016, the incumbent Swedish government ordered an official Government Inquiry in order to determine if and how regulation on the issue was to be enacted. This inquiry resulted in a report (SOU 2017:3) that served as the basis for the government's bill (Prop. 2017/18:162) on legislation of the transition of ministers and state secretaries to non-state activities and on legislation of instructions for an oversight committee for ministers' and state secretaries' transition to non-state activities (Expressen, 2018). In June 2018, the bill passed and two new laws were passed in Parliament: the Act Concerning Restrictions in the Event of Ministers and State secretaries Transitioning to Non-state Activities (2018:676) (from now on referred to as the Act) and the Act with Instructions for The Board for the Examination of Transitionary Restrictions for Ministers and State Secretaries (2018:677) (Swedish Parliament, 2018). The Act (2018:676), however, came with a few question marks. For instance, it addresses only ministers and state secretaries, excluding for example other high-ranking government and agency employees and elected officials. It also does not include sanctions for individuals that do not comply with the restrictions stated in the Act (Svenska Dagbladet, 2018). By looking at the legislative history of the Act, this thesis seeks to understand the discourse(s) used to (re)present the problem of the revolving door in the first Swedish legislation specifically targeting the revolving door.

1.1 Aim

The aim of this thesis is to contribute to the literature on the so-called "revolving door", i.e. movements from public office to the private sector, using a qualitative approach, policy analysis, on the Swedish legislation of the phenomenon. To this end, the thesis seeks to investigate how the discourses and the framing of the problem of public officials transitioning from public office to the private sector are shaped by socio-political factors, as they appear in the legislative history of the Act (2018:676).

1.2 Research Question(s)

- How does the legislative history of the Act frame the problem of ministers and state secretaries transitioning to non-state activities?
- In what discursive terms do the roles of ministers and state secretaries appear in the legislative history of the Act?
- How can the manifestation of socio-political factors in the legislative history explain how the problem is framed and the discourses on the roles of ministers and state secretaries are constructed?

The first two research questions will be answered by employing a policy analysis tool by Bacchi & Goodwin (2016) called *What's the problem represented to be* to explore the framing of the problem and the roles of ministers and state secretaries in the legislative history's discourse. To investigate how this framing of the problem and the discourse on the roles of ministers and state secretaries is shaped by wider socio-political factors, the thesis is informed by Gramsci's (1971) concepts of ideology and hegemony as well as Fisher (2009) theory of capitalist realism.

1.3 Relevance for Sociology of Law

This thesis is congruent with the tradition in sociology of law of transcending the legal practitioner's focus on the legal/not-legal binary by deploying the empirical and analytical tools of sociology (Banakar & Travers, 2005, p. 12). Theoretically, the thesis explores how the legal system and its elements are dependent on the wider social structures. Methodologically, this thesis contributes to the "law in context" literature (Banakar 2009, p. 69) that employs sociological methods such as poststructural analysis (Cannella & Swadener 2006; McDonald & Smith 2004) and policy frame analysis (Choudry 2016; Molla & Nolan 2019; Spehar 2015) to study policies and the context in which they emerge.

1.4 Delimitation

The thesis is limited to the legislation on the transitions of ministers and state secretaries from public office to the private sector. It does not investigate related areas such as outside influence of politics, also known as lobbying (although it appears in the literature review, see section 3). Furthermore, the thesis investigates the problem representation of two documents in the legislative history, the Government Report (SOU 2017:3) by a special investigator or inquiry chair and the Government Referral by the Swedish Government. It does not include

the government bill, but it does present the Act that was enacted at the conclusion of the legislative history (see section 2).

1.5 Disposition

The thesis is structured in the following way. Section 1 introduces the topic and presents the aim, research questions and relevance of the thesis. Section 2 gives an overview of the legislation concerning restrictions for ministers and state secretaries transitioning from public office to non-state activities. Section 3 is a literature review exploring previous research. It maps the post-public careers of officials, the rise of policy-influencing professions and existing regulation around the world. Section 4 presents the theoretical framework of the thesis, Gramsci's (1971) concepts of ideology and hegemony, and Fisher's (2009) theory of capitalist realism. Section 5 presents the methodological approach of the thesis. Section 6 presents the findings and analysis of the thesis. Section 7 draws conclusions from the analysis, theories and previous research and discusses the findings and ways forward for future research.

2. Legal Framework

This section covers the legal framework enacted in 2018 in cases of ministers and state secretaries transitioning to non-state activities. It intends to give the reader the concrete legal provisions before diving into the context of how these legal provisions have come about in the analysis. The legal framework consists of the main law enacted by parliament on the issue, the Act concerning restrictions in the event of ministers and state secretaries transitioning to non-state activities (2018:676). The Law with Instructions for The Board for the Examination of Transitionary Restrictions for Ministers and State Secretaries (2018:677) (henceforth, the Act on Instructions for the Board) is also mentioned together with a brief description of the role of the Board for the Examination of Transitionary Restrictions for Ministers and State Secretaries (2018:677).

2.1 The Act (2018:676)

2.1.1 The Legal Subjects

The Act begins by describing, in the first section, the legal subjects of this legislation. It states that the legislation applies to persons that occupy or have left the office as minister or an employment as state secretary. The Act then proceeds to affirm that a person that is subject to this legislation, in connection to transitioning to a new assignment, employment or establishing a new business, shall strive to act in a manner that does not risk causing economic damage for the state, special treatment of an individual or risks damaging the public's trust in the state (The Act 2018:676, §2). The third section of the Act proclaims that before a person subject to the Act begins an assignment or employment in a non-state entity or establishes a business (political assignments are exempt from this provision), the person should report this to the Board for the Examination of Transitionary Restrictions for Ministers and State Secretaries (from now on referred to as the Board). According to the Act on instructions for the Board (2018:677), the Board is an authority acting directly under the Swedish Parliament and is tasked with examining the transitions of ministers and state secretaries to non-state activities in accordance with the Act. The obligation to report a new assignment, employment or business applies to such activities that will begin within 12 months after the minister or state secretary has left office. In addition to this, if within the 12 months the conditions or contents of the assignment, employment or business establishment are significantly changed, a new report must be filed. The Board can then decide, if necessary, to restrict a minister or state secretary's transition in the form of a waiting period restriction or subject restriction or a combination of both restrictions, according to section four. The waiting period restrictions means that the minister or state secretary cannot begin a new non-state

assignment or employment or establish a business and the person cannot be in contact that is not of practical relevance with their future employer or assignment supervisor. The subject restriction means that the legal subject of this act cannot associate with specifically stated areas or tasks in their new endeavour.

According to section seven of the Act, reporting a new assignment, employment or business shall be done according to the requirements of the Board and the person reporting must report all information that the Board needs in order to examine the case. The Board also reserves the right to gather information elsewhere; however, the person reporting will have the opportunity to complete his or her report before the Board can gather information elsewhere. In the tenth section, the legislation states that a former minister or state secretary that is not entitled to severance compensation and severance pay, has received a decision of a restriction, and thus cannot begin their new employment, assignment or business, has a right to monetary compensation during the period of the restriction. The monetary compensation should be the equivalent of the remuneration they received at the time when they left state office. For former ministers this means that the monetary compensation will be reduced in accordance with the regulation of ministers' severance pay. For former state secretaries this means that the compensation will be reduced in accordance with regulation of state secretaries' severance pay.

2.1.2 Decisions on Restrictions

In the fifth section of the Act it is stated that a decision of restricting the transition of a minister or state secretary shall be announced if the person to whom it concerns in their time in public office has acquired information or knowledge that could lead to economic damage for the state, preferential treatment of an individual or the loss of public trust for the state, if the person transitions to non-state activities. If the risk for economic damage or loss of public trust can be avoided by either a waiting period restriction or a subject restriction, then the Board should select the latter.

The Act continues by addressing the potential waiting period, it asserts that the duration of such should be decided by considering if the information or knowledge possessed by the minister or state secretary from their time in public office can cause a risk for the damage or special treatment mentioned above (The Act 2018:676, §6). However, the waiting period may last a maximum of 12 months after the person has left public office. The remaining sections (§8, §9, §11 and §12) of the Act state that the examination of the Board should communicate a decision (i.e. restrictions and potential compensation) within three weeks, provided that the

person applying has provided a complete report. The Act also affirms that during the time of case processing, the person can neither begin nor perform any tasks for his or her new employment, assignment or business activity. Lastly, the Act asserts that the Board can re-examine a case at the request of the person to whom the decision concerns, however a decision cannot be appealed to another instance.

3. Literature Review

In order to map the existing literature on a topic, a literature review is imperative. For this thesis, a literature review was conducted to understand the main themes, arguments and theoretical points (Hart, 2018) on the topic of public officials entering the private sector after leaving office. This literature review also sought to understand the methodological approaches of researchers investigating the topic (Hart, 2018). Most importantly, however, was to identify ways to contribute to the literature (the famous "gap in literature"), especially from a socio-legal perspective (Banakar 2019, p. 9; Hart 2018, p. 31). In this literature review section, the procedure for the search for relevant literature and the main findings are presented.

As I am interested in the topic of politicians and other public officials joining the private sector after leaving office, it was from this position I began my search for literature. Using Lund University library database Lubsearch, I searched for literature by typing in the following key words: "politicians AND private sector AND career", "politicians AND career AND corporations" and "post political careers".

The searches generated approximately 50, 50 and 100 results, respectively. The first two generating peer-reviewed articles and the last generating broader, mixed results of peer-reviewed articles, journalistic articles and books, thus it had to be reduced via subject, date, discipline and language screening. I proceeded to abstract screen the first two searches and found that a significant amount of the literature referred to the topic of politicians leaving office for the private sector as the "revolving door". This prompted me to use the phrase "revolving door" in additional searches, e.g. "revolving door politicians" (31 peer-reviewed articles) and "public private sector AND revolving door AND regulation" (20 peer-reviewed articles). The initial abstract screening also led to the search for material found in the reference section of the most frequently cited articles on the topic of the "revolving door" (e.g. Cerrillo-i-Martínez 2017 and Etzion & Davis 2008). The search thus evolved into a snowball search and it finally generated 26 relevant articles, presented below.

3.1 The Post-Public Careers of Officials

The main part of the previous research found on the topic of public officials transitioning to the private sector deals with the post-public careers of former government officials, Member of Parliaments and other public servants and the relationship between the political sphere and the private sector. This literature investigates the link between pre-political career, political career and post political career of politicians (Mattozzi & Merlo 2007; Baturo & Mikhaylov 2016; Gagliarducci & Nannicini 2013), the effects of political careers on individual post

public careers (Palmer & Schneer 2015; Byrne & Theakston 2015; Würfel 2018; Musella 2015) and the political connections of corporations (Shin et al. 2017; Lee & Rhyu 2008; Gónzalez-Bailon et al. 2013; Lester et al. 2017).

3.1.1 Before, during and after Politics

This part of the literature on former public officials in the private sector investigates the career trajectories of individuals who have served in public offices. Baturo & Mikhaylov's (2016) study on the career trajectories of 800 former democratic heads of state/government between 1960 and 2010 finds that 14 percent have turned to the private sector after leaving office. They find that factors such as CEO compensation rates, cultural norms, personal background and having served in an Anglo-Saxon country are the most significant factors related to the attractiveness of former leaders to businesses and vice versa. They also find that economic outcomes and policies while in office, most notably economic growth and reduction in state spending is associated with a business career after office. In a similar study of former heads of state in democratic countries, Musella (2015) mapped the pre and post presidency careers of 441 heads of state in 78 democratic countries. The author concluded that modern presidents reach the highest office relatively quickly (and thus their political careers peak at an earlier stage) and this leads to the individuals wanting an active career after leaving office. Many choose business employment or ventures, as they are attractive to corporations due to their relevant information and networking resources (85.4 percent are elected as heads of government after previously occupying a political post).

A study by Palmer & Schneer (2015) in the US shows that holding elected office as a governor or senator results in an approximately 30-percentage point increase in future company board service. Developing expertise and connections, particularly in finance and military committees, is associated with increased possibility of joining the board of a company after leaving office. However, they do not find significant correlations between past employment or political ideology and future service on a board of directors. Etzion & Davis' (2008) network analysis on the Clinton and Bush administrations shows that government service can be a springboard to joining corporate elite, service on financial and military matters in government corresponding to post-public employment by financial institutions and military industry.

Studies on Members of Parliament (MPs) in different countries show conflicting results. Byrne & Theakston (2015) analysed post-elected office careers of 225 MPs who left the *House of Commons* in the United Kingdom in 2010 and found vague evidence that MPs

transition to lucrative business dealings in the private sector. The survey among those that left the *House of Commons* in 2010, shows that 50 percent received the same or less remuneration than when in the House, most respondents were "somewhat" or "mostly" satisfied with their post-House careers but many respondents (especially those that left due to a lost election) experienced a labour market that did not deem them to have valuable skills/to have obsolete skills or experience in the private sector. The number of respondents who were still out of work one year after leaving office, which was 11 percent, illustrates this.

In Germany, Würfel (2018) analysed the post-public careers of 646 MPs who left the *Bundestag* between 1998 and 2009. The study found that holding a an attractive private sector position after leaving the Parliament was related to having held a higher position in the Parliament or one's party and that serving on economic or finance committees increased one's chances by 18 percent. Similar to Palmer and Schneer (2015), Würfel (2018) found that having the executive experience on an economic or finance committee was attractive due to the assumed skills and important experience and because of the presumption of having connections with politicians serving in those committees. Baturo & Arlow's (2018) study on Irish MPs' post public career reveals that 11 percent turn to corporate employment but this is in contrast to the significantly higher number of 29 percent of ex-government top officials (ministers and civil servants) moving to the corporate sector.

3.1.2 The Corporate Benefits of Political Connections

When it comes to the consequences of the revolving door, a part of the literature investigates how the presence of political human capital in the corporate sector affects corporations. Studies in South Korea show that close ties between the political sphere and major corporations has significant impact on the performances of the corporations (Lee & Rhyu 2008; Shin et al. 2017). Lee & Rhyu (2008) investigated informal networks between government and private sector by looking at so-called parachute appointments, i.e. "political appointments of ex-politicians and ex-bureaucrats into public and private corporations… as a political intervention in the formation and management of informal networks". They found that during economically uncertain times in the external business environment, businesses and political leadership appoint politically connected (with the incumbent leadership) former officials to major corporations (public and private corporations) through different informal networks. For private corporations, this activity is done with the presumption that close ties to political leadership leads to decreased business risks during difficult economic times (Lee & Rhyu, 2008).

Shin et al. (2017) also explore the unique Korean context of ties between government and business sector by looking at the roles and effects of politically connected outside directors (PCODs) in major Korean firms. These directors help firms increase profit and thus enhance market performance, e.g. by securing government contracts due to their political connections and they serve as protection against external business risks such as having a positive relationships with regulators (Shin et al., 2017).

Lester et al. (2017) dissected the trend of former US government officials joining boards of directors after leaving office and found that from 1973 to 1998 the number of these individuals increased from 14 to 53 percent. They conclude that former government officials provide intellectual resources such as relevant information and strategies (on regulation, market instruments, sector changes etc.) and networks and links to other stakeholders as well as enhancing the corporation's legitimacy reputation. For ex government officials, the attraction to future corporate appointment, they argue, cannot be precluded from influencing their decisions while in public office.

González-Bailon et al. (2013) contest the latter argument, however, in their study on corporate directorships of former UK MPs, government officials and civil servants. By comparing these former public officials as board members to other board members, they found that only a small minority of these former officials receive positions and rewards in the boardroom. For example, they generally do not possess better social capital compared to their non-political counterparts, according to the authors' inter-firm network measurement. The authors do note that, similarly to Palmer & Schneer (2015) and Würfel (2018), ex officials from the departments Treasury and Ministry of Defence are most likely to work in the corporate world after leaving office (González-Bailon et al. 2013).

This part of the research tends to investigate the prevalence of the phenomenon and the measurable effects of it. Although it is an important form of research, it does not investigate and interrogate how the transition of powerful persons from the public sector to the private sector has come to be. Nor does the research inquire into the origins of the phenomena in a meaningful way, i.e. has it always been the case that high-ranking government and state officials move to important private sector industries and if so/if not, how come it is more prevalent today? What are the social conditions that make the phenomenon a "problem" or not?

3.2 Revolving Door and Lobbyism of "Policy Professionals"

When searching for relevant literature on the topic of public officials moving to the private sector after leaving political office, the term "revolving door" reoccurred as a shorthand for the movement of high-ranking personnel between the public sector and the private sector (Blach-Örsten et al. 2015; Cerrillo-i-Martínez 2017; Palmer & Schneer 2015). The term frequently appeared in the literature with another closely related phenomenon, namely lobbying. Lobbying refers to the attempt to impact political decisions by non-public actors such as non-governmental organisations, corporations and industry sectors (Selling 2015; Maskell 2010).

In their papers, Selling (2015) and Blach-Örsten et al. (2015) mapped the revolving door phenomenon in Sweden (Selling 2015) and Denmark (Blach-Örsten et al. 2015), departing from the historical development of lobbying. According to the authors, the rise of lobbying in Sweden and Denmark came with of the increasing mediatisation and professionalization (e.g. the increasing need for science and evidence-based policy proposals) of policy-decision making in the 1980s and 1990s. Selling (2015) elaborates on the term mediatisation by explaining the increasing role of the media as the "primary source of information and main shaper of political discourse" in Sweden. Political logic (political ideology and objectives), Selling (2015) argues, is replaced by media logic (carefully curated messages and media strategies based on selected audiences).

Blach-Örsten et al. (2015) and Selling (2015) then point to the already established lobbying market in the United States as an influence on the Swedish and Danish systems. Both countries went from a state of "corporatism" in which corporations, unions and NGOs were guaranteed a seat at the power table in the legislative machinery to a "pluralistic system", i.e. industry sectors and other non-state interests not being included in the political decision-making and thus competing to have access to the political system and further their interests (Selling 2015; Blach-Örsten et al. 2015).

Selling (2015) concludes that the personnel walking through the revolving door in Sweden are to a lesser extent Members of Parliament but rather their political aides, political experts and press secretaries, relatively new professions referred to as "policy professionals" because of their knowledge of the inner-workings of the political arena (Selling, 2015). Inquiring into the opinions of these policy professionals, these "revolvers" ascribe the attraction of the lobbying industry to avoiding the scrutiny of being a politician yet having the power to influence policy (Selling, 2015). In a study on the role of political consultants in policy processes, Beveridge

(2012) examined the legislative process of the privatization of the Berlin Water Company in 1999. Beveridge (2012) found that, driven by neo-liberal ideology of efficient governance, the local government collaborated with policy consultants tasked with providing expertise, (secretively) making procurement deals with private companies and even writing drafts of the legislation of privatising the public Berlin Water Company. He concludes that this prominent role of consultants is the "arena shifting" or "depolitization", of policy processes, i.e. the process of political decision-making moving to extra-formal venues and including actors who are not part of the political system and thus are not subject to the legal and public scrutiny of politicians and other public officials, a so-called "institutional void" (Beveridge, 2012).

Alfonsi (2019) also explores the opposite movement in the revolving door (from private to public) in relation to technological companies' privileged access to congress and government in the United States. These companies not only recruit former government and state officials to lobby, consult and sit on their boards of directors, but they also frequently act as experts on government committees concerning technological development and regulation due to the lack of expertise within government and state premises. Blanes-I-Vidal et al. (2017) found that ex-government officials turned lobbyists in the US with personal connections to serving senators lose considerable lobbying revenue once the serving senator leaves office. For example, lobbyists connected to senators serving in the Finance and Appropriations Committees lose 36 percent and 45 percent in revenue, respectively, when those senators leave office.

This part of the literature gives an initial glimpse into the issues of the revolving door by connecting it to an academically established topic such as lobbying. This literature however, needs further exploration on the socio-political factors that help to sustain the lobbying industry such as the transition of former government officials to the lobbying sector. Evidently, there is need for more studies in a Swedish context, as only one study (in the literature review, Selling 2015) investigates the revolving door in Sweden.

3.3 Regulating the Revolving Door

The remainder of the research found in this review of the literature concerns the regulation of the revolving door and lobbying in different jurisdictions as well as conflicts of interest regulation in the context of the revolving door. Roberts & Doss, Jr's (1992) early analysis of US federal regulations on government ethics and conflict of interests contends that these regulations raise public expectations without solving the problems. According to the authors, these regulations are merely symbolic and do not address the rebuilding of public confidence in government and personal integrity.

In Ireland, Murphy et al. (2011) conducted a survey on the attitudes of politicians, administrators and lobbyists on lobbying regulation. The questionnaire inquired on why they thought lobbying regulation had not been established in their jurisdiction, if they believed there should be a register for lobbyists in government and parliament and if political party campaigns should disclose lobbying contributions publicly. Although there was no unanimity on the reasons for no or weak attempted lobbying regulations, the majority of respondents believed that a lobbying register should be put in place and that political campaigns ought to disclose lobbying contributions publicly. For lobbyists, such disclosure regulations would "remove suggestions of impropriety of their industry and the implication of nefarious dealing being conducted behind closed doors". Some research on regulation of the revolving door does dive deeper into the socio-political factors behind regulation and possible consequences of it.

Brezis' (2017) analysis on revolving door regulation focuses on the three groups of stakeholders in the regulation, the political elite, bureaucratic elite and business elite. She employs the concept of bureaucratic capital, i.e. "building good relationships within the bureaucracy for future gain", to explain the stakeholders' roles in the policy creation process. She concludes that the political elite deems the existence of the revolving door to be optimal (and thus the creation of bureaucratic capital) because restricting the revolving door would entail lower quality of bureaucrats in the economy and consequently lower economic growth. When discussing the revolving door and its implications, Alfonsi (2019) argues that, there is no inherent fault in private and public sector exchanging expertise and policy knowledge as long as regulation stipulates that influence of private sector in the public sector is transparent.

Zaring (2013), in turn, offers scathing critique on the revolving door research, arguing that it has exaggerated the malicious significance of the revolving door (while downplaying its positive consequences, e.g. skilled public officials and governmentally trained personnel in the private sector) and criticizes the Obama administration's introduction of extensive lobbying and revolving door laws. The complete restriction of the revolving door, he notes, would have serious constitutional ramifications with breaches against contract and labour law equally standing in the way of such an action. He also dismisses the assumption that public officials' strongest incentive is post-public employment, his study of publicly elected New York District Attorneys (prosecutors) concluding that reputation, effectiveness and mission fulfilment is more important for the participating prosecutors (Zaring, 2013).

Finally, a portion of the literature takes a descriptive approach to the regulatory efforts in different countries. Maskell (2010) provides the description of revolving door laws for federal employees in the United States and highlights the following provisions among others: (I) a lifetime ban for former executive branch employees to represent a private party on the particular matter that they personally and substantially worked on for the government. (II) A one-year "cooling-off" period restricting representational communications of former senior officials to their former departments or agencies. (III) A one-year restriction "on certain former high-level officials performing certain representational or advisory activities for foreign governments or foreign political parties" (Maskell 2010, p. 323).

In Spain, regulation of the revolving door tackles public officials' transitions in Law 3/2015. For example, for public officials transitioning to the private sector there is a two-year waiting period to work in private entities that were affected by their public decisions and former officials cannot, for two years, work for companies or organisations that are under the supervision of the official's previous public office. Sanctions for serious violations of these provisions include publications in a government paper on infringement committed by individual officials, losing state pension and returning undue amounts as well as further bans on occupying positions in the companies for an additional five to ten years (Cerrillo-i-Martínez, 2017). These provisions only apply to senior public officials in the state administration and thus do not capture the actions of local and regional officials.

Great Britain and Hong Kong adopted a "soft law" approach to regulate senior civil servants' post-public activities (Scott & Leung, 2008). When making the transition to non-state employment or business ventures, individuals must apply to a committee tasked with vetting applicants' possibilities of making the transitions and making recommendations. Recommendations by the committees include cooling-off periods and subject restrictions, soft-law versions of the legislations observed above in Spain and the US (Scott & Leung 2008; Cerrillo-i-Martínez 2017; Maskell 2010). Scott & Leung (2008) conclude that continuous and comprehensive "values-training" is needed and regulation and sanctions are improbable and difficult to implement constitutionally and practically (the extent of restrictions and adequate control mechanisms).

In sum, this part of the literature offers an overview of the regulatory efforts of different jurisdictions and investigates whether these efforts have an effect on restraining the problem. Here there is need for more qualitative investigations on the reasons behind the decisions to enact or abstain from regulation as well as attitudinal surveys among important stakeholders

(private sector, public sector and among the citizenry) on regulatory measures. There is also need for policy analysis that goes beyond descriptions and looks at the discourses surrounding the creation of policies.

4. Theory and Conceptual Framework

In this section, I present Antonio Gramsci's (1971) conceptualisation of ideology and hegemony as well as Mark Fisher's (2009) theory of capitalist realism that will contextualise the analysis of the legislative history in terms of the meanings and socio-political factors in the texts and their potential material effects.

4.1 Gramsci on Ideology and Hegemony

In Antonio Gramsci's (1971) arsenal of conceptual tools, we find two that are particularly valuable. The first one is his concept of ideology, which he sees as a "system of ideas" that needs a historical analysis in terms of their material effects on structural relations (Gramsci, 1971, p. 706). He steps away from the classical Marxist argument that ideology is hollow and does not affect structural relations. Instead, Gramsci contends that ideology plays a necessary role for some structures in that it has a "psychological" effect in "organising human masses, and creating the terrain on which men move, acquire consciousness of their position and struggle" (Gramsci, 1971, p. 707). He points to Marx's observation on the "solidity of popular beliefs" and that widely held convictions often might "have the same energy as material forces" (Gramsci, 1971, p. 707).

Ideology is an essential ingredient in Gramsci's concept of hegemony. Hegemony refers to the relationship of domination of bourgeois classes over subordinated classes (that accept this relationship as normal or natural) through ideology, i.e. dominant groups must obtain the consent of subordinated groups (Gramsci, 1971, p. 145; Fairclough 1995, p. 76). Hegemony, then, is not simply the domination of subordinated classes but also about "constructing alliances, and integrating through concessions and ideological means to win their consent" (Fairclough, 1995, p. 76).

To achieve and maintain hegemony, Gramsci argues, the dominant groups use two institutions and their mechanisms: the coercive and restrictive mechanisms of the State apparatus and the "productive" (in Foucauldian terms) and integrating functions of civil society institutions (e.g. education, church, culture etc.). The coercive element of the state, commonly known as the Law, operates to enforce the values and norms of the dominant groups while civil society (non-state) achieves "consensus" (of subordinated groups) through ideological means (Daldal 2014, p. 156-157; Gramsci 1971, p. 506-507). To sum up, hegemony requires a dialectic relationship between two or more groups. The dominating group "acquires" positions or locations of possible struggle through ideological means to receive the consent of

subordinated groups, which legitimizes the unequal relationship (Daldal 2014, p. 157; Fairclough, 1995, p. 76).

The concept of ideology will introduce a pathway to dissect the different ideas and concepts that underpin how the problem of transitions from public to private is framed. It will aid the analysis in identifying the legislative history's attempt to describe the problem in certain terms and accordingly prescribe solutions that advance certain desirable outcomes. The concept of hegemony guides the analysis in looking for instances where the problem definitions and the construction of legal subjects (those targeted) are portrayed in ways that assume or seek universal agreement in the legislative history. Thus, it is a departure for deconstructing and investigating the unexamined problematisations and "solutions" in the legislative discourse. This theoretical concept will provide an explanatory tool on how the formulation of the policy on the "revolving door" might affect societal groups unequally, i.e. to maintain the status quo of the unequal relationship between dominant groups and subordinate groups.

4.2 Capitalist Realism

Mark Fisher (2009) offers critique of capitalist ideology by investigating its appearance and its effects in most aspects of the social world, e.g. the economy, the political system, social relations and popular culture. He begins by illustrating how the ideas, values and symbols of the capitalist system are so pervasive in every aspect of the social world that even dystopian or catastrophe films, set in a distant future end-of-the-world scenario, still contain the signifiers of capitalism such as a wealthy population in gated communities with luxury items. This is to introduce to us his concept of capitalist realism which he sees as "'the widespread sense that not only is capitalism the only viable political and economic system, but also that it is now impossible even to *imagine* a coherent alternative to it" (Fisher, 2009, p. 6). Capitalist realism's power, Fisher argues, comes partly from its "system of equivalence" which is the ability to assign to all that is cultural or has its socio-historical roots in the "lifeworld", monetary value. This is the ability of capitalist realism to "subsume and consume all of previous history" (Fisher, 2009, p. 8). The capitalist realist argument of this omnipotent mechanism of calculation is that it saves us from the arbitrariness of belief and propaganda associated with other "systems" such as religious rule or communism. This however masks the vast inequalities of the capitalist system where labour is exploited and mass poverty prevails.

Fisher (2009) sees this comparison of systems as an essential ideological tool of capitalist realism as the consequences of capitalism in the form of vast inequality; poverty and imperialist exploitation of the Global South are excused, as they are not as explicitly violent as the atrocities committed by religious nationalists or Stalinist communist regimes for example (Fisher, 2009, p. 9). According to Fisher (2009), attempts to highlight, recognize and resist capitalism and its failures, only serve to reinforce it. He contends that throughout society, there are acts of anti-capitalism but they fail to imagine solutions in terms of political re-organization or presenting an alternative political-economic model to capitalism. This is capitalist realism's greatest strength as an ideology, to constrain the contestation of its opponents, in some cases integrate this contestation, and re-package it to fit within the frameworks of capitalism, such as in advertising and philanthropic initiatives (Fisher 2009, p. 13; p.18-19).

Fisher (2009) also emphasises that capitalism is incapable of exercising responsibility and that even if the main agents of capitalism, i.e. corporations can be held accountable in the legal sense, they cannot be asked to act ethically in the same way as individuals because they are themselves constrained the intangible force, i.e. capital (Fisher, 2009, p. 73-74). He attributes this incapability to the fact that capitalism is an impersonal structure, a system that lacks a central piece to which moral or ethical contestation can be directed. Instead, more often than not, the responsibility of the failures of capitalism (such as exploitation and mass poverty) is put on individuals that "abuse the system" (Fisher, 2009, p. 73).

Fisher (2009) goes on to argue that capitalist realism is an omnipresent "atmosphere, conditioning not only the production of culture but also the regulation of work and education, and acting as a kind of invisible barrier constraining thought and action" (Fisher, 2009, p. 20). Fisher (2009) points to the limitation of ethics as a base of argument in capitalist society to illustrate how anything that cannot be assigned monetary value is simply not relevant or part of *reality*. By positioning capitalism as the *only* alternative, it has limited opposition to capitalism and naturalized its mechanisms to the point where negative effects of capitalism (e.g. poverty and exploitation) are inevitable parts of reality and not results of series of political decisions. An example of the effects of this construction of *reality* is how the business ideology has led to the pervasive privatization of systems that one initially would not associate with monetary value, such as healthcare and education, but that in capitalist society can be run as businesses (Fisher, 2009, p. 21).

Fisher (2009) also describes the contradictory nature of capitalism's system of equivalence by showing its propensity to turn tangible things to mere symbols and public relations tools in the frame of increasing bureaucracy (Fisher, 2009, p. 46). This means that the constant calculation and measurements of performances in domains that are resistant to such quantifications (e.g. education, healthcare) has led to the representations of the work being valued rather than the work itself (ibid). Fisher (2009) concludes this argument by affirming that "… real world effects matter only insofar as they register at the level of (PR) appearance… hospitals perform many routine procedures instead of a few serious, urgent operations, because this allows them to hit the targets they are assessed on (operating rates, success rates and reduction in waiting time) more effectively" (Fisher, 2009, p. 48-49).

The theory of capitalist realism is valuable in contextualising how the phenomenon of public officials transitioning from public to private occurs within and is conditioned by the capitalist system. In this context, the formulation of a policy that seeks to limit potential conflicts of interest in cases of former public servants joining the private sector is adequate to analyse through the lens of a theory on capitalist influence on different corners of society, e.g. the legislative process.

In sum, Gramsci's (1971) concepts provide the blueprint to investigate the non-examined elements of policy and the role of legal instruments in power relations. Fisher's (2009) theory contextualizes the way in which these non-examined elements appear in policy and how the make-up of policies are influenced by the socio-political conditions of the environment in which they are enacted.

5. Methodology

5.1 Empirical Material and Sampling

The empirical material of this thesis is the legislative history of the Act concerning restrictions in the event of ministers and state secretaries transitioning to non-state activities (2018:676). The specific documents of this legislative history, which will be subject to policy analysis, are the following: the Swedish Government Official Report 2017:3 (*Statens offentliga utredningar, SOU 2017:3*) and the referral from the Swedish government sent to the Council on Legislation (*lagrådsremiss*).

In 2016, the incumbent Swedish government ordered an official Government Inquiry in order to determine if and how regulation on the issue of high-ranking government officials transitioning to the private sector was to be enacted. This inquiry resulted in a report (SOU 2017:3) that will be examined and subject to analysis in this thesis. The relevance of this document is the fact the government has commissioned it with instructions on what it desires to know regarding potential regulation. The report contains problem formulations, comparisons, arguments and conclusions and thus gives an insight on how the regulation has come about.

The other document that will be analysed is the government referral to the Council on Legislation, which is based on the government report and is amended into a legislative proposal. This referral is presented to the Council on Legislation in order to make sure that it does not contradict or overlap with any other legislation or is unconstitutional (Swedish Government, 2019) and is later presented to the parliament for voting. This document contains the legislative proposal of the government, the reasons and justifications behind each provision in the proposal as well as the opinions of several consultation bodies (agreeing or contradicting the proposal), i.e. experts, private or public organisations and interest organisations or groups that might be affected by the pending legislation (Dahlman, 2010). The government report is a 202-page document; however, only relevant chapters pertaining to the aim of this study will be subject to analysis. The government referral is 78 pages and similarly to the government report only certain chapters are relevant for the study. To give the legislative history additional context and give the reader an overview of what the legislative history resulted in, a section presents the new legislation and its provisions (see section 2).

5.2 Analysis of Material

5.2.1 What's the Problem Represented to Be? (WPR approach)

Bacchi & Goodwin (2016) present an approach to analyse policy that springs from the poststructural analysis of Michel Foucault. This analytical approach sees government policy as not simply the governing practice through which government *addresses* an existing problem, but how in describing or framing a problem as a particular problem, *creates* it (Bacchi & Goodwin 2016, p. 14). This means to consider policy as a *productive* activity. According to Bacchi & Goodwin's (2016, p. 15-16) WPR approach, the task of the researcher is to analyse the policy to reveal taken-for-granted statements or presuppositions and assumptions made by the policy. It introduces a form of critique in which questions and descriptions of problems and their subsequent proposals cannot be regarded as "neutral" or natural. Rather, they should be seen as results of discursive practices (i.e. mechanisms and procedures behind the way in which specific things operate and are talked about) (Bacchi & Goodwin 2016, p. 37), historical struggles and actions and counter-actions and thus need scrutiny and a contentious approach (Bacchi & Goodwin 2016, p. 15).

The authors offer a set of seven steps or questions to guide the researcher in the practical implementation of "identifying, reconstructing, and interrogating problematizations", i.e. a critical analysis of the policy's framing of a problem and its prescribed solutions (Bacchi & Goodwin 2016, p. 20). The first step is to identify the problem representation of the policy. This means departing one's analysis from what is problematised and the implicit or explicit goal of the policy (Bacchi & Goodwin 2016, p. 20-21). The second step asks, "What presuppositions and assumptions are behind the representation of the problem"? Here the objectives are three-fold. First, the researcher must analyse what conditions allowed for the existence and adequacy of this particular problem representation by identifying presuppositions and assumptions or taken-for-granted ways of thinking within the policy. Second, the research must look at the how that problem representation is constructed through the utilisation of key concepts and binaries. Third, the researcher must identify and analyse possible forms of problematizations that "signal the operation of a certain political or governmental" rationality (Bacchi & Goodwin 2016, p. 21).

The third step is a Foucauldian genealogical approach that seeks to trace how a particular problem representation historically has come to be. For the researcher, this means "detailed mapping of practices that produced identified problem representations". In this mapping, the analysis of power relations and struggles for the monopoly of "knowledges" (i.e. how things

are tacitly understood and done in a specific discipline) becomes essential (Bacchi & Goodwin 2016, p. 22). The fourth step, involves the critical reflection of what is not there, i.e. what is left unsaid or unproblematized, where the "silences" are or if the issue could be problematized in another way. This helps to expand the researcher's imagination and guides them to understand the context of the problematization, e.g. in terms of "the problem could only be framed this way due to… but it could be framed this way if…" (Bacchi & Goodwin 2016, p. 22).

Step five calls on the researcher to consider the effects of a particular problem representation. This means political ramifications (rather than measurable outcomes) that Bacchi & Goodwin (2016) terms *discursive effects, subjectification effects* and *lived effects*. Discursive effects refer to how the reference system created by the problem representation can limit the way in which the problem is talked about and is thought about. Subjectification effects is the way in which the problem representation creates different types of descriptions for subjects, i.e. their authority or power and their rights or status. Lived effects analytically connect the discursive and subjectification effects and shows how they apply to the everyday lives of people (Bacchi & Goodwin 2016, p. 23). The sixth step highlights how and where the problem representation has been promoted and/or defended. Conversely, it highlights the points of resistance or struggle, i.e. how or where it has been contested. This, similar to step four, inspires the researcher to contest the assumptions and naturalised form of the problem representation (Bacchi & Goodwin 2016, p. 24). The final step encourages the researcher to apply these six steps to one's own point of view and "self-problematize" given our own situated place in the realm of knowledge production (Bacchi & Goodwin 2016, p. 24).

5.2.2 Use of the WPR Approach

Using Bacchi & Goodwin's (2016) WPR approach (introduced first in Bacchi 2009), I analysed both policy documents departing from the steps or questions described above in the WPR method. The steps were adequate tools to answer the research questions and in addition to this, the theoretical frameworks of Gramsci (1971) and Fisher (2009) strengthened the exploratory and analytical purposes of the thesis.

The first step or question was the departure for an analysis on how the policy document identified the problem. Key words such as "*legislation*", "*regulation*", and "*rules*" were identified in the background sections of the document as they proceed after an initial problem formulation. For example, "… regulation is therefore needed" is a sentence that reveals that regulation is a solution to a problem. The sections where the policy documents make

suggestions of legal provisions (entitled "*Överväganden och förslag*", i.e. *Considerations and proposals* and "*Författningskommentarer*", i.e. *Comments on Statutes* in SOU 2017:3 and "*Skälen för regeringens förslag*", i.e. *Reasons for the Government's proposal* in the Government Referral) were also searched through to trace the problem description that precedes *each* proposed legal provision (Bacchi & Goodwin 2016, p. 20). These justifications of proposed legal provisions led me to step two that expands the analysis to how the problem representation is based on deep-seated assumptions and presuppositions. Using the conceptual tools of Gramsci (1971) and Fisher (2009), I was able to discern the socio-political assumptions behind the problematisation of the documents and the proposed solutions (Bacchi & Goodwin 2016, p. 21). For example, the identification of certain key words and binaries such as "*risk*", "*might*" and "*misuse*" that signify that certain assumptions (or ideologes) were at play in the documents, was made through the guidance of Gramsci's (1971) understanding of hegemony as a dominant group's attempts in "constructing alliances, and integrating through concessions and ideological means to win their [dominated groups] consent" (Gramsci 1971, p. 76). This means that I looked at *all* instants in which the legislative history attends to the interests of those calling for legislation (i.e. the dominated) as well as those targeted by the proposed legislation, by employing cautious language (see key words above) that acknowledge both sides' predicaments.

The third step of mapping the evolution of the discursive practices in the legislative history, in a Foucauldian tradition of tracing origins, was not used due to the limited space and time dedicated to this thesis. The fourth step of identifying the missing pieces or the silences in the problem representation were also identified with the help of the theoretical framework. The theories established a critical thinking that helped me question the taken-for-granted statements in the documents as well as providing alternative ways that certain problems could be framed (Bacchi & Goodwin 2016, p. 22-23). The analysis in this step was also dependent on my own frame of reference and of the knowledge obtained in the literature review. For instance, I could discern what was left out of scenarios in the documents that illustrate a problem and provide alternative scenarios, thanks to my knowledge of the particular Swedish context.

The fifth step of identifying the effects that are produced by the problem representation was accomplished by looking at how the documents *selected* and *justified* the selection of the legal subjects (*subjectification effects*) and the previous step of identifying key words that support the initial problem description helped to identify how the documents constrained the problem

representation in the rest of the documents (*discursive effects*) (Bacchi & Goodwin 2016, p. 23). Question six of how and where the problem representation has been produced and defended was identified by searching for instances where the legislative history refers to other authorities to legitimise its position (e.g. experts, previous legislative attempts and existing legislation that supports the current stance). By unearthing these instances, the findings and analysis of step four helped provide counter-arguments and contestation of these positions (Bacchi & Goodwin 2016, p. 24). The last step of the analysis that encourages a self-problematization of one's analysis was useful when analysing my own propositions and alternative ways of framing the problem. In some instances, I tried to imagine possible counter-arguments to my own arguments. For example, I highlighted my insertion of an ethical dimension in my arguments against the legal arguments made in the policy documents. This last step is discussed further in the section below.

5.3 Methodological Discussion

The approach of Bacchi & Goodwin's (2016) is a poststructural one in that it assumes a general sceptical position towards the Enlightenment presuppositions "concerning reason, emancipation, science and progress" (Bacchi & Goodwin 2016, p. 4). The authors adopt a form of analysis that connects this tradition to today's social inequalities through the tracing of the array of practices, constructs and political contingencies that have led to our realities and that are taken-for-granted. These constructs that require the analysis of its origins, shaping and deconstruction can be well-established concepts and practices such as "organizations", "the economy" or "nation-states" (Ibid).

The authors use the poststructuralist approach of Michel Foucault to analyse critically different policies. Foucault's approach takes departure from an expansion of the concepts of government and governing (Bacchi & Goodwin 2016, p. 4-5). To Foucault the term "government" refers to the "conduct of conduct", meaning any type of activity that "aims to shape, guide, or affect the conduct of people" (Bacchi & Goodwin 2016, p. 5). This definition then, goes beyond the traditional understanding of government as involving state institutions, political institutions and even civil society and social movements. It gives space to "numerous sites, agencies, and 'ways of knowing' that interrelate in important ways to shape social rules" (Ibid). It emphasises the plurality of practices and "knowledges", meaning that "the realities we live in are contingent, open to challenge and change" (Bacchi & Goodwin 2016, p. 4). Foucault also places a relational emphasis on the concept of power, interpreting it as "exercised from innumerable points, in the interplay of nonegaliterian and mobile relations"

and entails “ceaseless struggles and confrontations and points of resistance in the power network” (Foucault 1978, p. 92-95; Bacchi & Goodwin 2016, p. 31).

The reasons for not incorporating Foucault’s theoretical concepts (mainly the concepts of government and power) are multiple. First, the location of government and governing in everyday activities is not suitable for this thesis, as it would require investigating practices of individuals’ everyday lives and how *those* practices contribute to the construct of the social fibres of society. I also do not give as much weight to the practices and reiterations of individuals in shaping social rules as I consider those practices to be more influenced by the individuals’ situated knowledge and position and by their social conditions.

Secondly, Foucault’s concept of power is not ideal in analysing policy documents because I do not see policy documents as displaying the *full* struggles and confrontations within power networks. Policy documents are rather reports of political projects in which the power to formulate policy and the power to highlight potential struggles and confrontations are curated in the hands of a selected *policy maker*. In this regard, I have assumed the position that sees the policy documents as instruments of the powerful to engage in and perpetuate dominance over society. Although Foucault’s concepts invite the analysis to contest and question authority and naturalised meanings in phenomena and practices, they lack in providing “solutions” or “ways forward”, when the analysis has provided different, competing interpretations (Bacchi & Goodwin 2016, p. 24).

Thus, I have used the more dialectic approach: the Marxist and neo-marxist critique of Gramsci (1971) and Fisher (2009), with the binary analysis of dominating and dominated groups. I contend that Gramsci’s (1971) analysis is suitable to Bacchi & Goodwin’s (2016) approach because its concepts of hegemony and ideology are tools that question the reality and normalised practices of the capitalist system. These concepts aid in the revealing of how unequal relationships between groups occur and are maintained through the very mechanism of establishing consensus in society (e.g. formulating the law). They encourage us to deconstruct the normalised by identifying the operation of *politics* where politics are seemingly absent.

Fisher’s (2009) theory of capitalist realism also compliments the poststructuralist analysis in that it also provides scepticism of the very *reality* or *imagination* of reality that guides many aspects of the social world. It presents a critique that attempts to disrupt the “natural order” and reveal how this order is influenced by the omnipresence of capitalist ideology. This

theory then, has contributed to the socio-political *contextualisation* of policy documents as well as an expansion of the imagination to be able to contest and offer rebuttals to meanings, assumptions and arguments that are understated and naturalised by the policy documents.

5.4 Limitations

One limit of the analysis could be that an investigation of the *lived effects*, i.e. effects on the daily lives of people, of the policy's problem representation would solidify the analysis and the importance of studying this topic. However, this would require employing additional methods such as interviewing and surveys, a task that also requires more time and resources (Bacchi & Goodwin 2016, p. 23).

As mentioned, the analysis is many times dependant on my frame of reference, knowledge and language skills. The latter is particularly pertinent since I have translated all quotes from the documents' original language of Swedish. Although I have tried to stay true to the literal meaning, it is likely that some translations do not capture the complete sentiment of particular words and phrases. In sum, my knowledge is located in a specific place that is not universally shared. Like other researchers, my analysis is mediated by the aggregate of my previous education, life experience, political opinions and cultural understanding (Haraway 1988; Bourdieu 1990; Della Porta & Keating 2008).

The exclusion of an historical analysis (Foucauldian genealogical analysis, step 3 in WPR) of the phenomenon of the revolving door and its legislation might lead to the omission of an important variable in the analysis, namely path dependence. Path dependence is a concept in political science and economy and refers to the way in which policies have come to be depends on how they historically have been shaped, operated and structured in the confines of their institutional settings (Trouvé et al. 2010; David 2000; Pierson 2000). In other words, it means that "once a path is chosen [e.g. the way policies are constructed], it is difficult to change it because the processes become institutionalized and are reinforced over time" (Trouvé et al. 2010). In the context of this thesis this could mean, for example, that the policy proposals and the policy document have been structured in a way that appears to be obfuscating details, when in fact it is due to the institutional requirements of how policy documents have structured and presented historically.

5.5 Ethical Considerations

I have observed few if any ethical considerations during the course of this study. For one, the thesis has not included any contacts with people, such as informants, interviewees or

gatekeepers, which would have required considerations of privacy, informed consent and confidentiality (Della Porta & Keating, 2008). I also have only conducted the research on documents that are public under the constitutional principle of public access to official records.

6. Analysis

In this section, an analysis of the legislative history is provided, connecting the WPR method, the theories and previous research. The first part of the analysis, section 6.1, looks at the construction of the problem and the key concepts and terms used in the framing of the problem. The second part, section 6.2, continues the dissection of the problem representation by looking at how the legislative history integrates societal institutions and relations in the discourse using certain key concepts. Section 6.3 of the analysis covers the discursive construction of legal subjects and section 6.4 concludes the analysis by looking at the legislative history's discussion on enforcement of the legislation.

6.1 The Problem of Public Sector to Private Sector Movement

6.1.1 A Reluctant "Problem" Definition

In this first part of the analysis, the first and second step of Bacchi & Goodwin's (2016) WPR approach are employed to tease out the problem representation and the key assumptions supporting it in the policy documents (Bacchi & Goodwin, 2016, p. 20-21). Step six in the WPR method is also utilised to see where the problem representation "has been produced, disseminated and defended" (Ibid).

In the background section of the Government Report (SOU 2017:3), we are introduced to the topic with a brief statement affirming: "*An exchange between the public and the private is essentially positive. Movement between the two sectors contributes to developing competence in both sectors. Simultaneously, the risk of conflicts of interests of different types might increase*." We are subsequently notified that one of the conflicts of interests that might arise is when politicians or public servants move from the public sector to the private sector (SOU 2017:3, p. 47). The Government Referral begins by stating that the Committee on the Constitution (the parliamentary body that ensures that the Government acts constitutionally, *Konstitutionsutskottet*) has dismissed previous legislative proposals addressing minister transitions to non-state activities with the rationale, among other, that "*current legislation provides good protection for the State's interests when [personnel] leave the State for service in the business sector*" (GovRef 2018, p. 20). However, the Committee concedes that it cannot be disregarded that some situations of ministers joining the private sector post-office *might* erode public trust.

This introduction gives an initial glimpse into the legislative history's stance on the matter; the first appearances of the text's assessments present themselves. The "problem" (the phenomenon) at its core is not described as a problem (in the negative sense) but rather the

unrealized (see the use of the word "risk") consequences of its existence are a problem. Risk suggests that something is exposed to damage or in a state of danger. Negative consequences are something that might happen as opposed to the phenomenon itself being an *active* problem. The problem here is represented as the potential deviation from the fixed program; the program being the mutually beneficial exchanges between private and public sector. Recalling Gramsci's (1971) concept of ideology as a conditioning tool with consensus creating character, he posits that the role of ideology is to advance a contestable position or idea to the point where it becomes naturalised. We observe here how the description of a problem in terms of a *potential* danger operates to obfuscate the inherent faults of the system itself. In other words, what is said is that the act of transitioning from public to private sector would be perfectly fine if it were not for people doing it the "wrong" way. We are prone to agree with this sentiment because we are not granted the opportunity to question if the danger of misusing the otherwise "benign" act of transitioning from public to private is not simply a consequence of one sector being non-profit (public) and the other basing its whole operation on profit (private). If the private sectors (the profit seeking part of it) were not operating for profit, then the State or anyone opposing these transitions would not need to worry about them creating conflicts of interests.

Fisher's (2009) analysis of capitalist realism fits equally well in this first description of the problem, in that he argues that opposition to the capitalist model is appropriated in terms of a capitalist understanding due to the curbing of non-capitalist imagination. This means that the problems manifested in the capitalist model are not symptomatic of the inherent faults of the model but are merely reparable malfunctions that can be dealt with within the parameters of the capitalist model. The Government Report continues the description of the problem:

"*Two types of risks are usually mentioned in this context. The first type of risk appears in situations where a person is still employed by the State and it is a risk of undue influence due to the promise of a new employment. The second type of risk is the situation where a person has left the State and abuses information, knowledge or contacts with previous co-workers, which can lead to special treatment. We focus especially on the latter type of risk. The mere suspicion, i.e. it not necessarily an actual case, that such abuse might exist can influence trust in the State and entail erosion of trust. The damage is of economic nature as well as trust"* (SOU 2017:3, p. 48).

The Government Report here, proceeds to describe the *risks* that are "*usually mentioned*" in the context of transitions from public to private sector. Here, the report affirms that the first

risk is the situation where a public official is still employed in the public sector and can be *unduly influenced* by promises of a new employment. The second risk pertains to the situation where a public official has left public office and "*abuses information, knowledge or contacts with previous co-workers which can lead to special treatment*" and it is this second risk that is the focus of the report (SOU 2017:3, p. 48). The report continues by positing that a "*mere suspicion*" might affect and damage public trust for the State. The damage for the State might be "*economic damage*" and the "*erosion of trust for the State*" (SOU 2017:3, p. 48). In Gramsci's (1971) analysis of hegemony and its tool, ideology, we learned how the naturalisation or the act of stating contestable phrases in a matter-of-fact manner signals the hegemonic position of the text author. Here it is evident in the delimitation of the problem representation; first as risks of outside influences on public employees and second as risks of privileged access of former employees to the State. Are these two risks the only ones associated with the problem? If that is the case, by whom are they "*usually mentioned*" as the two main risks? Perhaps, this delimitation is an expression of the political ideology of the sitting social democratic government in Sweden and it is not representative of all criticizing this problem. The first risk is then unilaterally neglected as not being a focal point of the report. No explanation is offered as to why the investigation will not dissect "*undue influences*" of public officials still in office by promising private sector positions. Is it obvious why this part of the problem can be left unattended? Has it already been discussed and an agreement has been reached to leave this part out the legislative inquiry? Since this document was produced in a political setting, the retort to these questions could be that these are purposely-political assertions.

However, by being informed by Bacchi & Goodwin's (2016) method of policy analysis and Gramsci's (1971) concepts of hegemony, we have observed the importance of dissecting *representations* of problems that appear in apparent "neutral" terms or formulated in a way that presumes universal understanding and acceptance. Moreover, the very act of a government report or legislative inquiry is seen as a neutral act of seeking objective facts on a "complex" issue and making judgments and recommendations based on the findings of the inquiry as described officially by Government on the purpose of inquiries and inquiry committees (Swedish Government, 2019). The Government Report goes on to exemplify instances where transitions have garnered attention:

"*In October 2002, then Minister of Enterprise resigned from office. Shortly after he accepted a position as 'senior adviser' within the Stenbeck conglomerate, in which among others, Tele*

2, a competitor to Telia [partly state-owned telecommunications company] belongs. The report sent to the Committee on the Constitution it was required that the Committee reviews the role of the prime minister in approving or accepting the former minister's new assignment. In the report to the Committee it is referred to the fact that the former minister had great insight into the business dealings of Telia and its strategic plans" (SOU 2017:3, p. 49).

Here, the report further confines the problem into one of economic damage for the state and erosion of public trust for the state. To describe the economic damage that is potentially afflicted on the State, the report again refers to the Committee on the Constitution and its review of the a 2002 case where then Minister for Enterprise resigned and was subsequently employed as senior adviser by the Swedish business conglomerate Stenbeck. In this case, the potential damage is described as the fact that the minister oversaw business decisions in partly state-owned companies that were competitors to the companies of his new employer. The Committee did not think that the move by the minister warranted restrictions according to the regulations in place and that regulations in place (e.g. the Secrecy Act and the Act on Insider Trading) were robust enough to protect state interests. Moreover, the Committee concluded that both the private and public sectors benefit from "*experience from all societal sectors*". However, the committee also concedes that public trust in state institutions might decline due to suspicions of public officials abusing contacts between public and private sector (SOU 2017:3, p. 49).

"*The Committee continued by expressing that it, in principle, deems that both the public sector and the private sector benefit from experiences from all societal sectors. The Secrecy Act and the Insider Trading Act with their penal codes grant protection of state interests in case someone leaves a position in the State, for example for an employment in the business sector*" (SOU 2017:3, p. 49).

Evoking past attempts to regulation and the stability of current legislation in this instance is a way to grant legitimacy to the fact that legislation on this problem has been long overdue and a way to show that the State is well-protected. Once more we are reminded of Gramsci's (1971) concept of hegemony where effective domination of the powerful consists of seeking consent of the dominated by ensuring that points of potential disagreement are presented in a manner which seems as though they cannot be refuted or are simply the natural order of how things have been done or talked about. The hegemonic technique here is that critics (those calling for legislation) are offered both an explanation and potential remedies to their worries

as well as providing a basis for how the new legislative proposal will be constructed in a non-disruptive or non-radical way that does not budge the status quo. In other words, if state interests are well-protected anyway, the new legislation need not be unnecessarily harsh such as having sanctions for non-compliance. In Gramscian terms, the consensus is created by acknowledging the problem and enacting legislation and thus satisfying the critics (the public, the media etc.) however, the coercive element of the law serves to maintain the status quo that protects the interests of a certain strata of the population, i.e. high-ranking politicians and those interested in their services such as private businesses.

Furthermore, the proposed restriction of up to 12 months waiting period for ministers and state secretaries is justified in an understated manner in the Government Report. The decision to limit the restriction to 12 months is presented as being due to insider information and knowledge being "*perishable*":

"*Information and knowledge that can warrant a restriction in many cases should be perishable, for example information that a particular decision in a particular matter will be taken in the near future. In that case, it is our contention that a shorter restriction time on a transition is warranted. Sometimes, however, a later expiration date on the information and knowledge, for example if a minister has detailed insight into a particular company. In that case, a longer restriction time might be necessary […] in summary, we believe that shorter and longer transition restrictions will occur, however no longer than 12 months.*" (SOU 2017:3, p. 141)

To analyse this statement, we recall Bacchi & Goodwin's (2016) second analytical question that invites us to question the deep-seated assumptions and presuppositions that precedes a certain problem representation. In this instance, the question becomes how has this conclusion of information and knowledge obtained in a position such as minister or state secretary being perishable, come about. Is it common knowledge that the value of insider information obtained by ministers and state secretaries only lasts 12 months? The Government Report argues the following:

"*When assessing the durability of a transition restriction, the interests of the public and of the individual must be weighed against each other. The transition restriction must be reasonable. There is a lack of basis or empirical substance to how the durability of transition restrictions should be decided. It is of interest however to look at how the question has been resolved in the Sveriges Riksbank Act (*Swedish Central Bank Act*) and in the Railways Act. A member of*

the board of the Central Bank and the director-general of the Swedish Transport Agency can be restricted from entering new employment or beginning a new assignment for up to a year after leaving their previous office" (SOU 2017:3, p. 140).

If what Baturo & Mikhaylov (2016) observed, i.e. that high-ranking government officials are likely to receive corporate positions based on their political decisions in office, is of value the question becomes whether the political decisions of public officials are not as important to examine in legislation as the durability of information and knowledge. In other words, such a justification of limiting the restriction period to 12 months should not only consider insider information and knowledge but an examination of the way in which political decisions are affected by a potential post public office career should be discussed.

6.1.2 State Interests

In this section, we continue using step two and four of Bacchi & Goodwin's (2016) WPR approach to analyse how the problem representation is underpinned by some major presuppositions or assumptions and what is left unproblematised by the problem representation.

The major point of discussion is the ideological definition (or non-definition as is customary in ideology) of "state interests" that we have seen above. One of the utilisations of the term "state interests" in the government report centres on potential economic damage and needs revisiting. When illustrating how the transitions from public sector to private sector, the text exemplifies the problem by using a case of a minister leaving office to join a private sector giant. The problem is then represented as the conflict of interest that could arise in him joining a specific corporation that competes on the market with a partly state-owned corporation in which he had insight.

Revisiting Fisher's (2009) concept of capitalist realism, he demonstrates how all aspects of society are engulfed by the values, ideas and symbols of capitalism to the point where even the imagination cannot escape the force of capitalist/market terms. This is a signifier of the ideological nature of capitalist realism; although the discussion (and perhaps one of the objectives) of the legislation is partly about consolidating the separation of the Market and the State by restricting unhindered transitions from public to private, the features of the Market are so ingrained in all aspects of society that the legislation cannot reach the objective of a clear separation, even in discourse, if the State operates on the Market as a shareholder of corporations. The State is thus expected and required to adhere to and reconcile with the

conditions of the Market and thus orient its discourse around this fact. This leads to a two-part discussion on how the State is defined and what economic interests are supposed to be protected by this legislation according to this representation of the problem. The first discussion on how the legislative history treats the "State" in the term "state interests" concerns the question of whom or what the State is. The second discussion concerns what those interests entail.

In the government report's proposal of a new legislation, it is affirmed that "*regulation of ministers' and state secretaries' transitions to non-state activities should be implemented. Non-state activities means all activities in which the State is not principal. The regulation also concerns companies that to some part are owned by the State*" (SOU 2017:3, p. 122). The government referral echoes this statement by proclaiming, "*companies totally or partly owned by the State are to be considered non-state activities in this legislation*" (GovRef, 2017, p. 45). Here we can see the reappearance of the inclusionary/exclusionary binary in defining the makeup of the State; inclusionary in the admission that the State is a player on the Market and thus is similar to other proprietors of products and services and exclusionary in that it seeks to be treated as a unique entity by not recognising elements of the Market such as owning companies as part of its apparatus. Gramsci's (1971) concept of hegemony informs us that the domination of one group over another hinges on the naturalization or commonsensical character of this relationship of domination. This objective can be reached if the dominated accept this relationship as natural through the means of a (for the dominant group) suitable ideology. Therefore, if we consider the potential audience of the above quote, the definition does not seem as contradictory as it appears at first hand. Those calling for the implementation of this policy and that do not want the State and its resources to be subject to the whims of the Market are reassured that the legislation intends to regulate movement to state-owned companies as well. Simultaneously, those opposing the legislation (presumably the Market) and those it seeks to restrict can be certain that the government is not averse to businesses (the government is a business owner itself) and this signals that in fact, State-owned companies are not in a position of privilege and will be adhering to the same rules. Evidently, the same statement will be interpreted and understood differently, depending on the perspective of the recipient but have the ultimate aim of common acceptance.

If we return to Fisher (2009), we have seen that one of the features of capitalist realism is the ability to convert things associated with the lifeworld, i.e. Habermas' (1984) term for the everyday lives (social relations, meanings, thoughts, emotions) of individuals (Habermas

1984; Jensen et al. 2020; Regmi 2017), to monetary or economic terms. In its attempt to isolate the State from the Market, the legislative history in its definition portrays the State as an organisation standing to lose investment in its business dealings by pointing to the potential economic damage of state-owned companies. It fails to describe the fact that the State is essentially the aggregate of society's collective efforts and that perhaps "state interests" are the interests of society.

Protecting the economic interests of the State, and here we arrive at the second point of this discussion, means protecting the collective interests of society. The economic interests of the State, although not mentioned in the above definition, pertains not only to the state-owned company but includes the issue of how to fund other State operated systems such as healthcare, education and infrastructure. Consider for example the healthcare system in Sweden, which allows for the existence of privately owned and operated but nonetheless state-subsidised healthcare service corporations (Swedish Institute, 2019). Private healthcare giant Aleris hired former health and social security minister Göran Hägglund after he had served an eight-year term in government (Svenska Dagbladet, 2018). This accentuates an alternative view of how the issue of the state's economic interests could be framed, i.e. the questioning of whether (I) healthcare should be a sector that can operate with the help of state subsidies and be profitable for individual proprietors and (II) whom is in a position to benefit from a marketization of an essential service such as healthcare.

Furthermore, protecting the State's economic interests implies that they somehow are in peril. This is the point that is vaguely present but not pronounced in the legislative history; if the economic interests of the State need protecting it is because another entity that is not the State benefits from state interests being exposed. Once more, we can find the explanatory power of Fisher's (2009) capitalist realism in this absence or non-pronunciation of certain points that require such pronunciation. Fisher (2009) highlights that the lack of a viable alternative reality to capitalism leaves us to accept such things as the supposed natural position of the State as a speculator on the Market. Moreover, the State, with its mission of working for the benefit of all its societal members, can be in a position to forego some of its means as a consequence of its participation on the Market in the present paradigm of capitalist realism where the Market is omnipresent. This is a point of discussion that will be discussed further in this thesis (see section 6.3).

6.2 Public Trust in the State and the Mediatisation of Politics

In this section of the analysis, step two of Bacchi & Goodwin's (2016) WPR approach aids in disseminating where assumptions and presuppositions appear in the form of ideological use of certain concepts. Step four in WPR is also utilised to explore how the problem representations "silence" certain aspects of the problem and how certain parts of the problem representation are left unproblematic.

In the legislative history, a theme that reoccurs in representing the problem is the issue of erosion of public trust due to public officials transitioning to the private sector. The Government Report initially states that one of the risks of this movement of public officials to the private sector is the "*damage of trust in the State*" if suspicions arise that former officials have *abused* information, contacts and knowledge obtained while in office to gain personal advantage (SOU 2017:3, p. 48). In the Government Referral, another reference is made to the Committee on the Constitution and its previous inquiries into the issue of transitions of public officials where it concludes "*situations where a minister leaves public office for an employment or an assignment that erodes public trust might occur. For example, the public might question whether the minister has performed his duties without consideration of a future employment or mission or if the minister in his or her new employment or assignment receives advantages in contacts with representatives of the State*" (GovRef, 2017, p. 20-21). This portrayal of transitions from public to private being a liability for the public trust in state institutions can be connected to the phenomenon we observed in the previous literature, namely lobbying as a consequence of the mediatisation of politics (Blach-Örsten et.al 2015; Selling 2015). Mediatisation of politics has reformed the political sphere because the media now operates as the main shaper of political discourse and political logic such as ideology and societal change has been replaced by media logic, i.e. packaging and (re)shaping messages for a specific political base (Blach-Örsten et al. 2015; Selling, 2015).

The concern of previous public officials that have transitioned to employment in the private sector using their social capital to receive advantages is a concern of lobbying, i.e. attempts to influence political decisions by non-state actors (Maskell 2010; Selling 2015). As we have seen in previous literature, the concern of the *image* of lobbying is also prevalent among those in the political sphere because of the widespread suspicion of undue influences on political decisions in the lobbying industry (Murphy et al. 2011). The illustration of a public suspicion of a former minister attempting to influence political decisions is a clear ramification of the mediatisation of politics because such a conclusion can only come from the observation of

how the public consumes information about politics. The policy proposal, its description of the problem and subsequent solutions, must then reflect this reality by curating its symbolic message according to how a potential audience will see it.

In light of the reality of mediatised politics, it is worth discussing whether the concern of the optics of the revolving door problem is viewed as a public relations issue or if there is genuine fear of decline in public trust in state institutions and how that will impact society. This question is relevant because, neither a definition nor an elaboration on the importance of public trust in government or state institutions is offered in the texts. In Gramsci (1971), we have seen that hegemonic rule operates through the advancement of ideologies in practices and in discourse to establish a "normal" (as in undisputed) state of domination of one or several groups over others. In order to escape the process of this ideology advancement by non-definition, we need an explicit definition of what public trust in institutions entails. In political science, the prevailing definition of trust in government or political trust is the evaluative tool of whether state or public institutions act in accordance to the publicly held expectations of competent and ethical behaviour from these entities (Pinem et al. 2018; Frye & Borisova 2019; Koch 2019; Intawan & Nicholson 2018).

This definition means that trust in public institutions is a two-way street in which public trust, which makes the public more receptive to governance and thus reduces potential frictions of living in a society, is predicated on the positive actions of state authorities. In situations where the public office can be misused such as in a revolving door situation, it is important that authorities in *practice* set up frameworks that prevent this from happening. This means that authorities must anticipate the vulnerability of public interests being used to benefit a minority and set up legal frameworks that hinder such development instead of relying on the possible outcry of the public, which we have seen is mediated through media channels. If, in fact, trust in state institutions is to be maintained, then state institutions should be the primary defender of state interests. Consider the following quote from the Government Referral when explaining the reason for the proposed legislation.

"*There are famous and criticised cases of ministers and state secretaries that after finishing their [public] assignments or employments have transitioned to other assignments or employments or established businesses. In light of this the Government deems it necessary to enact regulation of ministers and state secretaries transitioning to other activities*" (GovRef 2017, p. 21).

The use of the words “famous” (in the text the Swedish word used is *uppmärksammade*, the literal English translation of which is “drawing attention”) and “criticized” signal that the events reached an audience and said audience did not approve of the events. Fisher (2009) brought up the extensive ideological reach of capitalist realism, particularly in the domain of media and culture (i.e. news media, films, art, music etc.). In the media and in cultural institutions even the creation of works or depictions of social relations that are meant as critiques of the capitalist order cannot present an alternative reality that does not include capitalism symbols. This leads us to consider if reliance on media as an institution that drives opinion is reasonable if the media sphere is equally susceptible to the ideological forces of capitalist realism that constrain thought and action opposing capitalism. Media and cultural institutions have the right to display images and opinions of choice, even those that promote, or do not oppose, such phenomena as transitions of officials from the public sector to the private sector. This is in addition to newspapers and other news media traditionally being followers of different political ideologies (Salgado & Nienstedt 2016; Eilders 2002; Larcinese et al. 2007; Pineda & Almirón 2013).

It is therefore a fallacy to assume that mistakes, incompetence or infractions committed by public officials will come to public knowledge and thus be “criticized” since we cannot assume that media is one entity and thus can unite behind one cause. In the wake of the US election of 2016, we were explicitly reminded of how the consumption of information could be influenced by economic interests. In 2018, it was revealed that a company, Cambridge Analytica, had harvested personal information, without consent, of millions of Facebook users in order to create personalised political advertisement and other political messages for election campaigns in the United States and United Kingdom (Heawood 2018; Berghel 2018). The problem with Cambridge Analytica, was not only that it illegitimately acquired personal information in order to target certain demographics, but that the content that appeared on the pages of the targeted persons was suspected in many cases to be deliberate misinformation (Ibid). This is an example that shows how the diverse media landscape, where social media platforms have now become a site of information consumption, negates the assumption that events such as politicians transitioning to private businesses will reach a wide audience and will be reported or displayed in similar fashion on different media platforms to cause unified criticism.

6.2.1 The Media as a Judicator and Correctional Institution

The reliance on media to garner opinion on the problem of former officials transitioning to the private sector appears more explicitly when in the Government Report the absence of sanctions in the proposed regulation is explained.

"*It is important that the regulation and its application is disclosed publicly. Among other things, it contributes to public knowledge of potential non-compliance. However, we do presume that those affected by the proposed regulation will loyally comply with it. In the unlikely event that a minister or state secretary fails to comply with the regulation, we are certain that they will receive considerable criticism from their own party, in the political debate and by the media. This criticism will be harsh and likely more tangible than a legal, proportional sanction*" (SOU 2017:3, p. 162).

At this juncture, we must evoke the concepts of Gramsci (1971) to discern the mechanisms operating in this statement. We are compelled to recall that an ideological project consists of actively neutralising points of potential struggle to eventually establish and maintain a relationship of dominance. The concept of hegemony also informs us that the coercive element of Law is also another tool of which the dominant group maintains its position. This statement reflects both activities in that it posits that it is *certain* that party and media criticism and the (presumed) moral compass of those deviating from regulation poses greater obstacles than legal sanctions. To assume that partisan criticism can hinder potential offenders is to ignore that their own party might not disagree with their actions and it is a presumption that across the political spectrum there is an agreement on the legitimacy of the regulation. It is also presumed that those that are targets of the regulation will "*loyally comply*" with this regulation, even without legal repercussions. This is contradictory because if it is certain that they will comply, even in the absence of legal sanctions, then the regulation is redundant. If the regulation is redundant, then the proposed legislation functions merely symbolically to appease someone else, perhaps another audience. This conclusion is supported by the affirmation, in the quote, that offenders of the new regulation will be subject to media critique and that this will undoubtedly be more hurtful than sanctions.

To further highlight the fallacy of this overreliance on media as a neutral and non-partisan opinion maker, we can use Fisher (2009) and the context of capitalist realism. As we have seen the depiction of "reality" is mediated by the material and "psychological" forces of capitalism and for the media or producers of information, this is no different. This is related to the fact that media channels (e.g. news media) much like most entities in contemporary

society are constrained by the economic and socio-political realities of a capitalist society. News media are dependent on substantial financing to meet the requirements of covering national and international events in an increasingly globalised world. This and the age of digitalisation has led to the imposition on news media of the necessity of new means for revenues (in order to produce content), e.g. advertising and the emergence of new corporate structures for media companies (Mukherjee 2015; Åkesson et al. 2018). The independence of newspapers and other news media in reporting and opinion building is then liable to become influenced by audience demands and the financial reliance on advertisers and owners of the media house.

The commodification of news can be driven by audience demands as the audience becomes a consumer of a product to which the supplier's "manufacturing" must comply as well as tailoring news and op-eds to the interests of owner companies and advertisers. In a recent study on the media coverage of the US Supreme Court ruling on "*Citizens United*", a decision that proclaimed that "independent political expenditures by corporations and unions qualified as protected speech under the First Amendment", Snow Bailard (2016) showed that media outlets with multiple TV stations (an indicator of the size of the company) covered the decision more favourably than media outlets with one or no TV stations. Johnson's (2014) interview study with actors in media corporations in Argentina and Uruguay concludes that although the media outlets are able to balance the interests of being an independent public investigator and serving their own interests as corporations, interviewees perceived that the companies' commercial interests, especially in economic uncertain times, affected the editorial side of investigation and reporting if the issue could affect the business interests.

As we see here, relying on the media to perform the role of a correctional institution is to neglect that: (I) the media is not a one-dimensional unit working in socio-political harmony and (II) that the media is equally subjected to the capitalist reality that shapes its investigating and reporting. In Bacchi & Goodwin's (2016) terms, relying heavily on media is evidence of two major elements operating simultaneously. One element is the use of underlying assumptions and deep-seated presuppositions (WPR step two) of the behaviour of those that are subjects of regulation, the media and the public, i.e. persons complying with regulation without sanctions and the media inevitably afflicting criticism to potential transgressors. The other element, which is related to the first, is the hidden or unspoken factors (WPR step four) that would not make the assumptions plausible. This means that crucial factors are "silenced", such as subjects and the media not being monolithic groups or entities and blindly loyal to the

letter of the law. The absence of an explicit discussion on the reality of an economic paradigm constraining or impacting the actions of the subjects and the media also reflects this lack of an alternative problematisation.

6.3 The Process of Regulating

6.3.1 Constructing Legal Subjects

Here the analysis utilises Bacchi & Goodwin's (2016) fifth step in the WPR method that dissects how certain problem representations in the policy "produce" certain legal subjects, the so-called *subjectification effects* (Bacchi & Goodwin, 2016, p. 23).

Throughout the legislative history, the roles of ministers and state secretaries are depicted in terms of *trust* and *confidence*. In the background section of the Government Report, we are referred to a report from the parliamentary Expert Group for Studies in Public Economy (*Expertgruppen för studier i offentlig ekonomi, ESO*) on the topic of revolving doors and on whom potential regulation should affect. When proposing legal provisions, the Government report also mentions the confidence based nature of the positions of minister and state secretaries.

"*When it comes to the risk of eroding trust, according to the report [ESO report], it should be higher at higher levels of decision-making, such as among others, state secretaries and ministers."* (SOU 2017:3, p. 62)

"*A minister and a state secretary are in similar positions as persons of trust and operate at the absolute peak of the political sphere. How their actions are perceived in different situations carry great implications on public trust for the state.*" (SOU 2017:3, p. 130)

As we can observe in the first two quotes above, the choice of regulating ministers and state secretaries is predicated on the fact that they are representatives of the State. They operate at the highest levels of the political sphere and thus are expected to act in such a way as to not cast a shadow on the State. The statements reflect yet another pivot from the rhetoric of guarding the State's economic interests to one of the public relations aspect of the proposed legislation. The Government Referral goes further by adding that "*the way in which ministers and state secretaries act or are perceived in their actions is significant for public trust in the governing powers, politicians in general and society in general*" (GovRef 2017, p. 22). Before analysing these statements further, we employ Bacchi & Goodwin's (2016) fifth element on the effects of a problem representation, especially on how specific problem representations in policies create specific subjects. This means that in representing a problem

in the legislative process, it is essential that subjects that are to be regulated or protected, are constructed in terms of their authority, their rights and obligations. Through this lens, the above description of ministers and state secretaries is not a complete description. Ministers and state secretaries not only represent state institutions, they are also individuals appointed by elected officials to govern the operations of an apparatus that directly affects the daily lives of the population. The general description of their actions being significant for "*society in general*" is not enough to describe their duties. An elaborate description of, for example, a minister's tasks can however be found in the Government Report. Here we can see a clearer picture of the work performed by ministers and through this description, it becomes obvious that the actions of a minister affects society more than in general.

"*One such task [performed by ministers] is the weekly Government meetings, where Government matters are decided. At the meetings, decisions are made based on the so-called joint drafts prepared by each minister and his ministry. The decisions pertain to such things as proposals to the parliament, government referrals to the Committee on the Constitution, appointments of heads of public authorities or different decisions on economic matters*". (SOU 2017:3, p. 70)

In this example alone, we find several instances where ministers are in a position to impact society in a direct way. For example, the proposals to the parliament is an activity in which the minister and the ministry (a place that hosts state secretaries as well) he or she presides over have the power to formulate a problem and prescribe a solution. Employing Gramsci's (1971) concept of hegemony, where dominating groups exercise power over subordinate groups partially through the coercive element (i.e. the Law), we see that ministers (and state secretaries) have the authority to formulate the makeup of this coercive element. The way in which this coercive element is formulated is a parliamentary vote away from having direct affluence on the population. The appointment of heads of public authorities is another instance where ministers are directly impactful on how the daily lives of people will be affected. For example, the person that a minister of labour appoints as head of the public employment authority will be tasked with strategic operations such as budgeting and other financial decisions that are crucial to unemployed people that are dependent on the authority. As we can see then, the actions of minister impact more than the public's perception of state institutions, they also have bearing on the lives of individuals.

Continuing the presentation of reasons why the position of minister is relevant for legislation, the Government Report points to the nature of the position and its constitutional status in the following way:

"*Ministers are appointed by the prime minister. They are not employees in a labour law sense but rather individuals with a remunerated assignment and they do not possess employment security. If the parliament proclaims the prime minister or any other minister to lack the confidence of the parliament, the speaker of the parliament shall dismiss the minister (chapter 6, section 7 in the Instrument of Government).*" (SOU 2017:3, p. 69)

This quote, in turn, manifests elements of an attempt to assign to the subjects of the regulation a powerful status as well as a position of vulnerability to avoid restricting them disproportionally. Equally applicable here is the hegemonic concept introduced by Gramsci (1971) in the sense that the coercive element of the law is employed to maintain the status quo where the position of dominant groups' interests are protected. This is at play in the statement above as in a legislative document with proposals of restricting the immediate transitions of public officials to the private sector, we are reminded that ministers do not "*possess employment security*" because they can be dismissed on, presumably, more arbitrary grounds than workers that are protected by labour law. This statement is perhaps inserted to function as pretext to avoid a regulation that would restrict these individuals more than the proposed legislation does, e.g. by not introducing sanction and relying on an organic justice created by popular opinion (i.e. media, political party and the public). The assertion that they do not possess employment security is perhaps stretching the truth as the Government Report continues by somewhat refuting that assertion by describing the entitlements of a minister. We find that, in addition to their monthly salary, they are entitled to a severance pay during one year after leaving office as well as special pension (not regular pension) from the National Government Employee Pensions Board (SPV) (SOU 2017:3, p. 72-74).

In the literature review, we also observed that former government officials in many Western countries received corporate sector positions after serving in government. Baturo & Mikhaylov's (2016) historical overview showed that former heads of government, especially in Anglo-Saxon countries, were attractive to the corporate sector. Lester et al. (2017) and Etzion & Davis (2008) studied the post public careers of former government officials and concluded that serving as a government official increased the chances of employment in the corporate sector due to their exclusive knowledge and networks in government and state

institutions. This is also acknowledged, in the Government Referral as the following justification of the new legislation is presented:

"*Persons that have held these positions [ministers and state secretaries] should be very attractive for employers and taskmasters in both the private sector and the public sector. The possibility for them to receive assignments and employment after holding office as minister or state secretary should generally be strong, even if restrictions on the possibility to transition to other assignments and employment are enacted. After an overall assessment it is the opinion of the Government that the interest of enacting regulation transcends the potential damage inflicted on individuals with these assignments and employment."* (GovRef 2017, p. 22)

Using Bacchi & Goodwin's (2016) approach on a policy's subjectification effects, i.e. how "subjects" are created in the problem representation as a specific subject, we observe in this quote a shift in description of those that are subject to the proposed legislation. The narrative goes from the ministers being individuals without "*employment security*" to ministers being "*very attractive*" on the labour market and thus being subjects that can withstand the constraints of legislation and maintain their social capital. The question is then, how can such borderline contradictory descriptions appear? To analyse this, we can employ Gramsci's (1971) concept of hegemony. Specifically we recall the element of hegemony not only being about enforcing the interests of dominating groups but also about "constructing alliances with and integrating" the interests of dominated groups. It is therefore adequate to consider that those two narratives fulfil the requirements of those calling for legislation without actually threatening the interests of the subjects of legislation. This is done in the following way: those calling for legislation are reminded that ministers lack employment security and thus it would be cruel to impose too many restrictions on their freedom of labour and then a concession is made that ministers in reality are attractive on the labour market and therefore restrictions would not be impede them in serious ways. The restrictions that are then imposed on them lack sanctions in case of transgressions and they depend on self-reporting by individuals, the consequences of the latter will be discussed later in this analysis (see section 6.4).

6.3.2 Alternative Subjects of Regulation

Here the analysis is informed by Bacchi & Goodwin's (2016) and a combination of step five on *subjectification effects* of a problem representation in a policy and step four on how certain representations obscure or leave some things unproblematised.

With the proposed legislation set on regulating ministers and state secretaries and attributing it to these actors' actions having great implications on society, the question becomes whether there are other representatives of the State that could be included in the legislation. The Government Report attends to this query by presenting the different transition regulations in place for other public officials. Members of the board of the Swedish central bank, the Riksbank, are exemplified as persons that departing their position, as member of the directory, cannot transition to banks or other corporations that are under the supervision of *Finansinspektionen*, Sweden's financial supervisory authority, for up to a year. The legislative history of this regulation cites the importance of the inside information acquired by these individuals as the reason for imposing restrictions. The Council of the central bank decides on the restrictions of these transitions, such as the "cooling-off" period. (SOU 2017:3, p. 93-94). The Government Report continues by expressing that although there are no existing regulation on transitions to non-state activities for heads of public authorities, most director-generals are subject to the rule of period of notice when departing their position. This rule states that if the individual wants to step down from their position as head of public authority they must observe up to six months period of notice to the employer and according to the Government Report, this essentially functions as a cooling-off period.

"*In case the period of notice is actually six months, this could practically be seen as impeding the individual from beginning a new assignment or something similar, during this time*". (SOU: 2017:3, p. 100)

In continuing with Bacchi & Goodwin's (2016) approach on what is left unproblematic in this presentation of a solution to a potential problem, we must investigate what such a rule of period of notice would mean in a concrete situation. If a high-ranking official of a public authority gives their employer a letter of notice of their resignation, it could mean that they have been offered an employment or an assignment elsewhere. Consider for example the recent events at *Finansinspektionen*, the Swedish financial supervisory authority. Deputy director-general and director of the authority's banking section, Martin Noréus, notified his employer that he intended to step down from his position and become Chief Compliance Officer at Swedish bank Handelsbanken. Noréus subsequently observed a six months long cooling-off period before beginning his new employment (Finansinspektionen 2019; Handelsbanken 2020). What is left unsaid is that the announcement came in September 2019, during the time multiple Swedish banks were and still are under scrutiny by financial authorities in the US, the Baltic Countries and Scandinavia due to disclosures of money

laundering being conducted through accounts in Swedish bank, Swedbank and Danish bank, Danske bank (SVT 2019; Dagens Industri 2019; Aftonbladet 2019).

Reviewing Fisher's (2009) issue of capitalist realism as a reality in which the appearance of accomplishments is more significant than actual accomplishments, we can see this mechanism at play in the quote above on the regulation of director-generals and similar positions. The example of Noréus and *Finansinspektionen* and the context of the transition to *Handelsbanken* is significant because Noréus' move is questionable in several respects. Noréus was certainly recruited by *Handelsbanken* before being offered a position, which places question marks on how ethical such a courtship is in the middle of Noréus and his employer investigating potential wrongdoing by Swedish banks. The six months of cooling-off period in our example did impede Noréus from beginning his new employment at *Handelsbanken*, however, and this is assuming Noréus was barred from investigating matters regarding *Handelsbanken* after notifying his employer, he possessed enough knowledge of the current events in other banks to be able to benefit his new employer greatly. A counter-argument to this would be that the Noréus' transition was legal and there is benefits to a bank hiring a competent person to ensure that banks comply with the law.

To recall Fisher's (2009) where in the realm of capitalist realism there is no room for ethical conundrums, we must disrupt this reality and invoke the question on the ethical adequacy of Noréus and *Handelsbanken* to refute this argument of legality being the priority. Aside from the fact that only *Handelsbanken*, which is a privately owned, for-profit bank (Handelsbanken, 2020), benefits from Noréus' move, it poses the question of whether this switching of sides is morally acceptable especially during circumstances such as those where a leading actor in a country's financial supervisory authority in the middle of investigating banks accepts employment to work for a major bank in that country.

In continuing with Bacchi & Goodwin's (2016) method on searching for the unproblematised or "silences", there is another problem which is not pronounced in the legislative history's problem representation and the exclusion of other high profile state officials as subjects of legislation. This is the question of *whom* benefits most from the transitions of personnel such as that of the deputy director in our example but also *when* they benefit the most from such a move. As we have seen in the literature review and in the analysis above, the transitions of high profile public officials to the private sector is likely in the direction of large corporations (Baturo & Mikhaylov 2016; Etzion & Davis 2008; Lester et. al 2017). The beneficiaries of the knowledge, inside information and social capital are not only the individual officials

themselves but also the corporations that seek to employ them. The roles of corporations in benefitting from these transitions is not elaborated on in the legislative history and in cases where there is a presence of corporations in the discourse of the text, it is relegated to the periphery. The following paragraph is found in the Government Referral's section describing the criteria for restricting ministers and secretaries from transitioning to a new assignment or employment:

"*As an example of the risk of damage for the State of any kind, it can be mentioned that a former minister in a contract negotiation between a potential new employer and a public authority can use information and knowledge that he or she acquired due to their previous assignment to which others do not have access. This could also entail a risk for undue advantage for an individual. Such a risk is also present if a person during their time as minister has been involved in discussions about new rules in a particular area and details of these rules have yet to become public knowledge. If this former minister begins working for an employer in this particular area, the new employer might receive undue advantages*" (GovRef 2017, p. 46).

As evident by this quote, the "actor" or the active in this scenario is the former minister. He or she "*can use information and knowledge*" and the potential new employer is carefully painted as a passive recipient that "*might receive undue advantages*", a loss of agency that needs discussing. It is here we are reminded of Fisher´s (2009) observation that the onus or responsibility on acting ethically, e.g. by not using information and knowledge obtained in the public sector, is put on individual ministers. There is a glaring lack of analysis or emphasis on the fact that corporations extract the knowledge and information and thus, labour, of individual former ministers much like in any other relationship of capital-worker. As the literature review and the legislative history itself remarked, former ministers are attractive to the corporate sector and this is because corporations are aware of how much profit the knowledge, information and social capital of former ministers can generate. Although, as the literature review and the legislative history equally observed, the individual ministers are well compensated for their services by corporations, the inherent feature of capitalism, i.e. seeking profit, dictates that a calculation has been made that the profit from the services of former ministers exceeds the costs of their labour. In this instance, we must defy Fisher's (2009) notion of capital not being able to exercise responsibility and ask if the legal burden of officials' transitions to private corporations should not equally befall corporations themselves (discussed further in section 6.4).

The next point that needs emphasis is *when* corporations benefit particularly from recruiting former public officials, i.e. under which circumstances corporations can benefit more from recruiting respected and in some cases trusted individuals such as former public officials. In the literature review, Lee & Ryu (2008) and Shin et al. (2017) remarked that South Korean corporations were prone to recruit former politicians and public officials in economically uncertain times, in part because of these individuals' ability to decrease business risks during economically difficult times (e.g. by having good relationships with regulators and political leadership).

An example of this is when corporations are under public or legal scrutiny due to suspicions of criminal or unethical activities and in their subsequent quest for image-repairing, they hire former public officials with wide support or social capital as respected individuals. This phenomenon is referred to as *trust transference* and refers to the process of transferring trust from a trusted actor or institution to a scandalised actor or organisation, e.g. by opening public inquiries, external investigations or appointing respected individuals to represent the disgraced organisation (Bachmann et al., 2015). This hypothesis derives from studies showing that third parties can act as intermediaries who broker trust between two conflicting sides (Coleman, 1990) and that trust in a third party can serve as a basis for trust in an unknown counterpart (Krackhardt, 1992).

A recent example of former public officials being hired by corporations as an attempt to repair the corporation's image is when Swedish bank, Swedbank was accused of being the site for money laundering and in the midst of the crisis elected former social democratic Prime Minister, Göran Persson as Chairman of the Board of Directors. Swedbank then hired former state secretary of the finance ministry in the Persson administration, Jens Henriksson, as new CEO of the bank (Swedbank 2019; Expressen 2019; SVT 2019). Both individuals lacked previous (extensive) experience in the banking sector and thus it became clear that their socio-political capital was the crucial variable in their appointments. Persson and Henriksson pointed to their political service and international networks respectively to convince the public of their suitability to their new appointments (Swedbank 2019; Expressen 2019). The problematic aspect of this example is that individuals with this type of influence might aid corporations escape ethical (and in the previous example of Noréus at *Handelsbanken*, perhaps legal) responsibility by polishing the corporations' reputation or providing ways to circumvent legal responsibilities because of their ties to political leadership and regulatory authorities.

6.4 The "Individualisation" of the Legislative Discourse

In this part of the analysis, Bacchi & Goodwin's (2016) step five in the WPR method, specifically on how a problem representation establishes specific "terms of references" or *discursive effect*, on how a certain topic is framed and is discussed, is utilised to understand the type of discourse framing that reoccurs in the legislative history.

The Government Referral, when approaching the legal provisions of the proposed legislation, expresses the need to "*balance between the public's demands on securing economic and democratic values on the one hand and an individual's wish and right to freely accept employment and assignments, on the other hand*" (GovRef, 2017, p. 21). We are then referred to this very objective being subject to a provision in the Swedish constitution (Instrument of Government, chapter 2, section 17) that states that limitations in the right to employment or establishment of business can only be enacted to protect public interests and never to benefit one individual or corporation. This is yet another instance of Gramsci's (1971) perspective on hegemony possessing the element of invoking and integrating the interests of the dominated while maintaining protection of the interests of dominating groups. In this instance, the legislative proposal confines the possibility of legal subjects to individual's seeking employment, assignments or establishing businesses. Even if corporations are alluded to as stakeholders or actors with interests in former public officials transitioning to non-state activities, i.e. as employers, there is no discussion on potentially regulating them. The problem of officials transitioning to the private sector is packaged as individuals threatening the economic interests and democratic values of the public and not that the problem is a consequence of a system in which monetary value can be extracted by Capital from any part of society, including from the State. Fisher (2009), as we recall, sees this as a feature of capitalist realism where the capitalist system, an impersonal structure, evades the act of responsibility and instead individuals bear the burden of responsible actions.

The "individualisation" in the discourse of the proposed legislation can also be seen in the provision that dictates that former ministers and state secretaries must report to a special committee when they intend to transition to non-state activities as well as the discussion on why there should not be any sanctions attached to non-compliance to the legislation. The obligation to report one's coming non-state activity is presented in the Government Referral with an elaboration on the reservations that come with it. First, it is mandatory that individuals report *all* activities they intend to begin within 12 months of leaving office, meaning that it is not the individual minister or state secretary's decision whether an employment or assignment

they intend to begin is subject to regulation or not (GovRef, 2017, p. 25). Furthermore, it is the obligation of the concerned individual to file a new report if there are significant changes to the nature of the assigned tasks of their new employment or assignment (GovRef, 2017, p. 26). This is justified in the following way:

"*As the investigator [from the Government Report] has pointed out, this provision is appropriate in order to prevent misuse, but also to make sure that a proportionate restriction is applied. For those that have begun an employment, this obligation [to report changes in tasks] may affect the way the employer's instructions are fulfilled. For those that have agreed to an assignment this obligation can lead to limitations on how the assignment can progress. The person filing the report should therefore clarify, to their counterpart, about the requirements of the regulations before agreeing to employment or assignment*" (GovRef, 2017, p. 26).

Here we can see the presence of an interested party in the successful and frictionless transition of ministers and state secretaries to non-state activities, yet no discussion is opened on the obligations this party has. The new employer of ministers and state secretaries is the party that does not want regulations impeding the work of its new employees, meaning that the employer should also be subject to the requirements of the law. Instead, the provision is intended to "*prevent misuse*" of the concerned individuals. The agency of employers in the phenomenon of the public officials transitioning, is again tacitly present but not highlighted in this situation. For example, when it comes to individuals reporting information on their new employment to the Committee, the Government Report sees an obstacle in the ability of individuals to disclose all information concerning their new employment.

"*We are aware that before an assignment or something similar begins, full working instructions are not always available. Many times, it is only after the minister or state secretary has begun in their new role that the content [of the work] is clear. Nor is it certain that the company that the minister of state secretary begins working for wants to reveal whom their clients are*" (SOU 2017:3, p. 145).

What the first part of the statement is alluding to is that it is indeed in the control of an employing company if a potential new employee has all the information they need before entering employment. This means that the obligation of ministers and state secretaries to disclose all information is conditioned by the access to information of their tasks that the employer grants them. The question that follows then is why is the onus on reporting and

disclosing information only on the individuals in this scenario? The second part of the statement on the companies being reluctant to share the identity of their clients is a reference to the Swedish Protection of Trade Secrets Act (1990:409) that protects company secrets from being disclosed. This is the law that the Government Report in an earlier section of the document presents as an existing regulatory mechanism that protects state interests when ministers and state secretaries move to the non-state activity (SOU 2017:3, p. 84-85). In this statement, the fear is that companies might not be willing to share information about the tasks to be performed by their new recruit, information that if shared becomes publicly available under the principle of public access to official records. Therefore, companies might counter this by referring to the right granted by the Protection of Trade Secrets Act, i.e. they are not obligated to disclose information about their business dealings that could hurt the company's competitive ability if publicly disclosed.

Fisher's (2009) proposition of capitalist realism being a pervasive atmosphere constraining regulation, production of culture as well as thought and action is illustrated by this presence of market or capitalist symbols. This is evident in the fact that although the legislative discourse in the above quote is about the obligations of individual ministers and state secretaries there is a tacit admission that perhaps there is an external actor that affects the possible scope of action of ministers and state secretaries, i.e. their new employer. Bacchi & Goodwin's (2016) analytical question of the discursive effects of a policy's problem representation proclaims that the terms of reference that a certain representation of the problem limits the way in which the problem can be further thought about and portrayed. Departing from this query, we identify the legislative history's consistent individualisation as a consequence of the problem representation being painted as the "*misuse*" of individuals rather than a system that privileges capital in most aspects of society. Therefore, an alternative question is what responsibility do those who (want to) recruit ministers and state secretaries have in a situation where ministers and state secretaries transition to non-state activities.

7. Conclusion

In this section, the thesis is concluded by summarizing the findings and answering the research questions. A discussion on the findings of the thesis as well as pathways for future research are provided.

7.1 Summary of Findings

The first research question concerned the legislative history's framing of the problem of ministers and state secretaries transitioning to non-state activities. By deploying step one in Bacchi & Goodwin's (2016) WPR method, the analysis looked at the initial representation of the problem in the legislative history.

In the legislative history, there is an ambivalence in portraying the act of ministers and state secretaries as an inherent problem; rather it is the *risk* of misuse of knowledge and insider information by former officials to gain advantage and preferential treatment, after leaving public office that is preoccupying. The risk of this misuse is also described as potentially damaging to public trust in the State. In fact, the act of transitions itself is described as positive as it benefits the exchange of knowledge between the public sector and the private sector. However, this ignores the conflicting interests of the sectors, where the primary interest of the public is benefitting society and all its members, whilst the private tends to the interests of a few and particular proprietors, as shown by Alfonsi (2019) and Blanes-I-Vidal et al. (2017) on private companies' revenue through lobbying and networking in state institutions. This problem description is coupled with the legislative history's posture that sees the existing legal framework and previous legislative attempts, such as the Secrecy Act and the Act on Insider Trading, as legal tools that sufficiently protect state interests from the problem of transitions. Step six in Bacchi & Goodwin's (2016) WPR approach was used to unearth this instance of where the problem representation has been disseminated, used and defended.

In protecting state interests, the legislative history does not only consider economic interests but also the essential factor of preserving the public's trust in the State. Suspicions of former public officials misusing their status in order to gain advantages in the private sector are identified as a potential source of public distrust towards the State. The publicised nature of such cases (e.g. media attention), the legislative history contends, is a reason to attempt to curb the problematic aspects of the transitions from public to private sector. Step two of Bacchi & Goodwin's (2016) WPR approach on the presuppositions, such as relying on the media, underpinning the problem representation were revealed by identifying the use of key

words and concepts such as *public trust*. Step four in Bacchi & Goodwin's (2016) WPR helped in unmasking the non-pronounced aspects of such problem representations and their assumptions and why they are problematic. For instance, this reliance on the media to create opinion that serves the state's interests is also present in the legislative history's justification of not including sanctions for transgressing the proposed legislation. According to Blach-Örsten et al. (2015) and Selling (2015), this is a result of the mediatisation of politics where the *message* in political actions take precedent over political ideologies. The legislative history's considers the eventual media criticism levied against individuals that do not comply with regulation to be more serious than any proportionate sanction that would be proposed. This line of reasoning does not consider that the media consists of a diverse array of entities with their own political agendas (Salgado & Nienstedt 2016; Eilders 2002; Larcinese et al. 2007; Pineda & Almirón 2013) and thus are conditioned by different ideologies (e.g. capitalist ideology), some of which may not seek to protect state interests (Fisher, 2009).

The second research question sought to understand the legislative history's discourse on the roles of ministers and state secretaries by departing from Bacchi & Goodwin's (2016) step five in WPR, specifically the *subjectification effects* of the problem representation. The justification for specifically targeting ministers and state secretaries in the proposed regulation provides a discourse that frames ministers and state secretaries as powerful individuals, possessing crucial knowledge and information that, used in inappropriate ways, can cause damage to state interests (such as loss of public trust). Their actions are portrayed as important even after they have left office, which demands ethical conduct post public office. However, there is an emphasis on the importance of not imposing disproportionate restrictions as it could infringe on the freedom of labour of individuals. The legislative history did momentarily consider including other individuals with important positions in the state administration, e.g. heads of public authorities, but referred to existing legislation concerning these individuals' conditions of departure as adequate protection of state interests. This is despite previous research pointing to private corporations benefiting from ties to ex-bureaucrats and their relationships with regulators (Lee & Ryu 2008; Shin et al. 2017). Informed by step four in Bacchi & Goodwin's (2016) WPR method on "silenced" aspects of the problem representation, we conclude that: what is left out of consideration is an ethical discussion on such individuals, with similar knowledge and crucial information as ministers and state secretaries, being able to switch sides to the private sector without impediment.

In Gramscian terms, this is the hegemonic technique of creating consensus on the unequal relationship between dominant groups and subordinate groups, by appealing to the interests of the masses (subordinate groups) in a way that does not disturb the interests of dominant groups (the political class and the corporate sector) (Gramsci, 1971). Furthermore, the discussion on the provisions in the proposed legislation puts the responsibility of ethical conduct on individual ministers and state secretaries. This can be observed in the requirement of the legislation for ministers and state secretaries to report their post-public employment activities. What is not emphasised in the discourse on this requirement is the fact that those individuals in many cases enter employment and thus are not entirely capable of providing information on all their activities, but are rather dependent on their employers' willingness to share information on the services the individuals will perform. The absence of the roles that recruiting corporations play, which Fisher (2009) attributes to the capitalist system being incapable of exercising (ethical) responsibility, in the problem of public officials transitioning to the private sector is evident in the discussions of suitable provisions. Throughout, the legislative history there is an "individualisation" of the problem, i.e. a problem representation that concentrates the issue of the transitions from the public to the private sector as individuals failing to play by the rules, rather than a discussion on the system that allows the exposure to misuse of state interests.

The last research question concerns how different socio-political mechanisms present in the legislative history affect the problem framing and the discourse on the roles of ministers and state secretaries. When formulating the problem of ministers and state secretaries transitioning to non-state activities there is an enduring presence of capitalist symbols and signifiers of the market economy. The reluctance in depicting this phenomenon as an inherent, systemic problem but rather as the abuse of individuals is symptomatic of what Fisher (2009) terms capitalist realism. According to this reality in which all aspects of society are dominated by the vision, symbols and values of capitalism, the legislative history's narrative of protecting state interests in cases of minister and state secretaries transitioning to non-state activity is set in a context in which capital is protected by omission and individuals are responsible of conducting themselves in ways that avoid harming state interests.

Using Gramsci (1971) and Fisher (2009) to explain policies' taken-for granted-notions, the ideological strategy of omitting the crucial role of capital in the phenomenon of ministers and state secretaries' transitions can also be observed in the legislative history. This is coupled with the legislative history's attempt to delegate sanctioning authority of transgressors to the

media, an effect of the mediatisation of politics according to Blach-Örsten et al. (2015) and Selling (2015). This act is ideological in that it neglects the susceptibility of media entities to the conditions of capitalism and its values (see Fisher 2009) as well as taking for granted the united stance of the media as pro-state. The legislative history also discursively constructs a legal subject that is capable of wielding its power responsibly and that needs no punishment in case of deviation; however, the legal subject is also conditioned by outside factors of capitalist society (i.e. their employing company) yet those conditioning factors are relegated to the periphery of the discourse, as illustrated by Fisher (2009). In other words, individuals bear the responsibility of conducting themselves ethically post public office even if a party whose interests are those of profit employs them. This is what Gramsci (1971) called hegemony, the state of affairs where dominating groups maintain the relationship of domination with subordinated groups by naturalising this order and creating consensus on this relationship. In this case, the legislative discourse seeks to "address" a problem by creating a legislation that not only hides the responsibility of capitalism and its agents (i.e. corporations) but also by subjecting a powerful group (ministers and state secretaries) to a legislation that does little to curb potential unethical actions and even omitting other powerful groups (e.g. heads of public authorities) capable of similar unethical actions.

7.2 Discussion

The topic of government officials moving from the public to the private sector is one with many aspects of interests for research. The overarching conclusion in this particular thesis is that the presence of market forces or capitalist symbols, as discussed by Fisher (2009), in the midst of government affairs is avoided in the legislative discourse. This seems to be a capitalist reality where there is a normalisation of blurring lines between the public sector and the private sector. In other words, there is a tacit admission of market forces, i.e. private corporations, influencing how regulatory practices are conducted (e.g. how to legislate against individuals and private entities taking advantage of state interests) yet there is limited consideration of whether this is desirable or even appropriate (Ibid). The exchange of knowledge between public and private sector being described in the legislative history as positive for both sides does not explore the full picture of how this functions in concrete situations. The ultimate goals of both sectors are inherently opposing in that the public sector works in the interests of all of society and the private sector works in the interests of private profit. This begs the question, spurred by Fisher's (2009) analysis of capitalism as a system without a central point that can exercise responsibility, of whom is to be responsible for

guarding the collective interests of society if the private and the public are increasingly indistinguishable. Beveridge's (2012) study on the influence of policy professionals in privatization of German state property shares a similar concern. For example in a public health crisis, whom can we hold accountable to act in our interests or provide security if the public sector is engulfed by private interests?

In addition to this tendency to bridge the public and the private sectors, another conclusion drawn is the prevalent discourse of the state's responsibilization in legislation. This means the state delegating some of its supposed duties to other entities of society (e.g. media, political parties and public outrage). In this thesis, we observed this tendency in the legislative discourse's treatment of the obligations of ministers and state secretaries, e.g. self-reporting about one's activities and conducting oneself in a manner that preserves the reputation of the State. This "soft law" approach is one adopted in other jurisdictions such as Great Britain and Hong Kong, as observed in the literature review (Scott & Leung, 2008). It is also worth considering the groups of individuals afforded this opportunity of self-reporting and avoidance of legal sanctions (remember, they will "*loyally comply*", section 6.2.1). Considering Gramsci's (1971) explanation of the hegemonic technique of employing the coercive instrument of the law to preserve the status of dominating groups, this soft law approach towards the political class becomes less difficult to grasp. In addition to being a hegemonic technique, perhaps Fisher's (2009) conclusion that this occurrence of "soft law" is the effect of a capitalist reality that privileges symbolism rather than material action is an adequate analysis.

We also saw how the legislative discourse explicitly referred to the media as a judicator of individual non-compliance to regulation as well as being capable to inflict punishment in case of said non-compliance. The state disavowing its responsibilities can have grave implications on society if and depending on whom assumes those responsibilities. If, as the legislative history contends and as per Blach-Örsten et al. (2015) and Selling's (2015) analysis om mediatisation of politics, the media assumes responsibility such as sanctioning individuals that do not comply with the regulation on transitions, it is likely that sanctions will be dealt unequally among individuals. There is a risk of the issue becoming a partisan issue in different media outlets, where some officials are criticised for their actions but others are not, depending on the political leanings of the reporting media outlet. There is also the risk that media outlets that disagree with the legislation simply do not report on it, an inaction that

would also be ideologically motivated (Salgado & Nienstedt 2016; Eilders 2002; Larcinese et al. 2007; Pineda & Almirón 2013).

7.3 Future Research

As observed in the section on limitations of this thesis (4.4), there is need for an historical mapping of the emergence of the issue in Sweden to understand the evolution and changes in discourse, both in legislation and in public debates. Since the legislation is relatively new, it is too early to know how it is applied. For future research, this could be analysed by looking at how cases are decided. Media analysis on debate of the legislation and its application is another venue for future research. Finally, as observed in the literature review, more research on the prevalence of the phenomenon in Sweden as well as semi-ethnographic research on the actors that are involved in or affected by the legislation is interesting for future research.

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