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Nordisk Samarbejdsråd for Kriminologi

NSfK's 60. Research Seminar

14. - 16. May 2018, Hotel Rantapuisto, Helsinki



Report including most of the papers that were presented during the NSfK Research Seminar 2018
(Hotel Rantapuisto, Helsinki, Finland 14.-16.5.2018)

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Foreword

The Scandinavian Research Council for Criminology (NSfK) convened its 60th research seminar in the beautiful surroundings of Hotel Rantapuisto in Helsinki, from the 14th through the 16th of May 2018. The main theme of the seminar was “*Power, Politics and Crime Control. Understanding the links between power, politics, criminalization and crime*”. The understanding behind the title lies in the phenomena, that power and politics are connected to how we define criminal behavior and how criminality should be controlled. The key question is how current Nordic criminology can contribute to this discussion.

The seminar began with excellent plenary presentations. From the outset, Director of Research Jussi Pajuoja (FIN) addressed the audience. Pajuoja gave a good amount of examples of the crimes of the powerful in present day Finland. Pajuoja concluded that there seem to be a strong tendency of the authorities to trust each other in the Nordic countries and therefore criminal or corrupt cases stay easily hidden because of the unwillingness to report of the wrongdoings of the colleagues.

After Pajuoja journalists from leading newspaper in Finland Helsingin Sanomat, Susanna Reinboth and Minna Passi (FIN) talked about investigative journalism and the crimes of the powerful. Reinboth and Passi presented their book *Emperor Aarnio*, a compelling narrative about the heady rise and eventual fall of former Helsinki drug squad chief Jari Aarnio. The book is based on extensive reporting on a case in which a top anti-drug police officer was eventually indicted on a series of offences including official misconduct, fraud, accepting bribes and drug offences.

Amongst the most interesting plenary presentation was also Kjersti Lohne’s (NO) presentation Penal power beyond the nation state: the politics of international criminal justice and Eva Stambøl’s (DK) presentation Criminalization and crime control at Europe’s southernmost geopolitical border: EU justice and home affairs in Niger, Mali and Senegal. Both Lohne and Stambøl stated that violations of international criminal law are a common occurrence around the globe. One need only to read international news to be exposed to the vast numbers of crimes of states, paramilitaries or militias. However, there has been relatively little attention paid to these types of offenses by criminologists. Due to the complexities of these types of atrocities there has been little to no development of a theoretical model for the analysis of such crimes.

The seminar interacted between plenary sessions related to the conference’s main theme as well as parallel sessions with different topics. The parallel sessions included over 50 highly informative presentations. It is worthy to note that discussions within the workshops were vivid and with high intellectual content.

The participants were requested to provide written feedback after the seminar. Several respondents praised the supportive atmosphere of the seminar. The participants appreciated the high standards of keynote speakers and workshops. The seminar’s nature to being a platform for both new and more experienced researchers was highly valued. A request plenary sessions to broaden the perspective and go beyond the traditional criminology was expressed. Furthermore, subjective and reflective speeches from the research journey of the more experienced researchers was requested. These are valuable observations which will be taken into account when the planning of the next NSfK research seminar in Denmark in May 2019.

Most of the presentations of the seminar are published in this report. NSfK does not hold property rights to the presentations. Results of the papers can also be published elsewhere.

Finally, I would like to express my greatest gratitude to NSfK's executive secretary Laura Mynttinen and Finnish board members Anne Alvesalo-Kuusi and Natalia Ollus and contact secretary Karolina Henriksson for the remarkable and well-done organization of the seminar.

Aarne Kinnunen

Helsinki, November 2018

Chairman

Program for NSfK's 60th Research Seminar

Hotel Rantapuisto, Helsinki

May 14-16, 2018

Monday May 14

- 10.00 – 12.00 Arrival with public transportation to the hotel and check-in
- 12.00 – 13.00 Lunch
- 13.05 – 13.15 Welcome – Aarne Kinnunen (FIN), Chairman NSfK
- 13.15 – 13.30 Opening speech –Jussi Pajujoja (FIN), director of research, legislative drafting and oversight of legality, University of Eastern Finland

Plenum 1

Scrutinizing the crimes of the powerful

Chair: Aarne Kinnunen

- 13.30 – 14.45 Susanna Reinboth and Minna Passi (FIN) – *Investigative journalism and the crimes of the powerful*
- Anne Alvesalo-Kuusi (FIN): *The unsuitability of research ethics in corporate crime studies*
- 14.45 – 15.15 Coffee break
- 15.15 – 17.00 Parallel sessions

1a. Social welfare and crime control

Chair: Per Jorgen Ystehede

Rennerskog (SWE): *Coercive care as a welfare project*

Rönneling (DK): *Socialfagligt arbejde som crime control?*

Prieur (DK): *Youth in confinement: Ambiguous practices of protection and care in secure institutions*

Obstbaum (FIN): *The relevance of declined alcohol use for the decline in young people's delinquent behavior?*

1b. Hate crimes and radicalization

Chair: Natalia Ollus

Rauta (FIN): *The Finnish hate crime monitoring system*

Fredriksson (FIN): *Negotiations of racist hate crime in the criminal justice system in Finland: hate motive as a ground for penalty enhancement*

Kelekay (FIN): *"Beyond ethnicity: The case for critical race theory in Nordic criminology"*

1c. Domestic and gender-based violence

Chair: Timo Korander

Jonasson (IS): *Feelings of unsafety and vulnerability in downtown Reykjavik: What affects fear of crime?*

Tanskanen (FIN): *Does intimate partner violence victimization and other violent victimization have similar etiologies?*

Pórisdóttir (IS): *Domestic violence cases typology*

17.05 – 18.50

Parallel sessions

2a. Drugs and crime

Chair: Helgi Gunnlaugsson

Roumeliotis (SWE): *Ideological closure: Drug prevention in a post-political society*

Silva (SWE): *A crime prevention approach to an open-air drug market: Preliminary results of the 'Navet' project.*

Kinnunen (FIN): *The old school: Hard drug users in 1960's and 70's Helsinki*

2b. Criminal policy and crime control

Chair: Anne-Julie Boesen Pedersen

Gålnander (SWE): *Being willing but not able: Structural barriers, fatalism and power in the early stages of desistance*

Johansen (NO): *Funnelling disobediant individuals: On the declining importance of penal law in order production*

Helminen (FIN) and Mills (NZ): *Exploring the role of penal voluntary sector in a neoliberal Anglo-Saxon and Nordic welfare state: Comparison of the stories of New Zealand NZPARS and Finnish KRITS*

Bjarnadóttir (IS): *Restoration of honour*

2c. Police methods

Chair: Rannveig Þórisdóttir

Neequaye (SWE): *Facilitating information disclosure in intelligence interviews: The case of subtle influence*

Sarwar (SWE): *Systematic metacognitive monitoring improve credibility assessment of eyewitness memory reports*

Diderichsen (DK): *Policing false positives: Power and significance in the age of big data*

Kaufmann (NO): *Predictive policing and the politics of patterns*

18.50 – 19.30

Free time

19.30

Dinner

Tuesday May 15

07.00 – 09.00

Breakfast

09.00 – 10.45

Parallel sessions

3a. Victimization and violence

Chair: Snorri Arnason

Heber (SWE): *Analysing victimology: What can current victimological theories explain?*

Kataja (FIN): *Violence in the drug scene – Finnish context*

Lundell (FIN): *Transformation from interpersonal mistreatment into corporate violence*

Lomell (NO): *Digitalt borgervern*

3b. Constructivist approach in criminology

Chair: Pål Meland

Holkeri (FIN): *Producing definition, producing control: (Self)reflection of the academic constructions of “school shooting threats”*

Søderholm (NO): *Doing good or seeking thrills? Journalistic identities and the construction of crime news in Norway*

Ystehede (NO): *Magdalene’s Mirror: prostitution, art and criminological theory*

3c. Ethnicity and control

Chair: Annick Prieur

Huhta (FIN): *A case study on a prison ward that had its first African backgrounded prisoners*

Fredriksson (SWE): *An othering perspective – An intersectional approach to narratological prison studies*

10.45 – 11.15

Coffee Break

11.15 – 13.00

Parallel sessions

4a. Development of police work and crime policy

Chair: Daisy Iversen

Kostiainen (FIN): *Decision-making, discipline and power in Finnish police education after the Second World War*

Conrad and Mikkelsen (DK): *Policing change – The changes in police assignments throughout the different political paradigms of modernity*

Korander (FIN): *Power, politics and control on the streets*

4b. Prison studies

Chair: Anette Storgaard

Bien & Rönneling (DK): *Vold og trusler mod ansatte i Kriminalforsorgen*

Engbo (DK): *'Totalinstitutioner' eller 'totalitære institutioner' – findes de i vor tid?*

Lähteenmäki (FIN): *Perceptions of legitimacy among offenders serving monitoring sentence and the working values of criminal sanctions officials: work in progress*

4c. Defining crimes

Chair: Alberto Chrysoulakis

Kruize (DK): *Should identity theft be criminalized in Denmark?*

Gunnlaugson (IS): *From banning beer to cannabis: The power to define what is legal or not*

Sollund (NO): *The Norwegian wolf killing regime: Legal and moral issues*

Malik (FIN): *Working experiences of Polish workers in Norway, Sweden and Finland – already a crime?*

13.00 – 14.00

Lunch

Plenum 2

International crime control

14.00 – 15.15

Chair: Lars Holmberg

Kjersti Lohne (NO) – *Penal power beyond the nation state: the politics of international criminal justice*

Eva Stambøl (DK) – *Criminalization and crime control at Europe's southernmost geopolitical border: EU justice and home affairs in Niger, Mali and Senegal*

15.15 – 15.45

Coffee break

15.45 – 19.00

Free time OR organized program

19.00 – 19.30 Pre-dinner drink
19.30 Dinner and party!

Wednesday May 16

07.00 – 09.45 Breakfast

Plenum 3 **Changes in criminal policies**

10.00 – 11.30 Chair: Felipe Estrada

Alice Mills (NZ): *Penal populism, crime and criminal justice in New Zealand*

Magnus Hörnqvist (SWE): *Power, politics and crime control – anything new or anything Nordic?*

Sigríður Björk Guðjónsdóttir (IS): *New approach to domestic violence in Iceland*

11.45 – 12.00 Summing up and saying goodbye

12.00 – 13.00 Lunch

13.00 Departure with public transportation to the airport

Program notes:

- All parallel session panels entitled
 - o a) take place in the Auditorium
 - o b) take place in room “Kuohu”
 - o c) take place in room “Hyrsky”

- All plenary sessions take place in the Auditorium

PRESENTATIONS IN PLENARY

Penal power beyond the nation state: the politics of international criminal justice

Kjersti Lohne

The great Finnish scholar Martti Koskenniemi once said: international law is the crystallization of politics. Another great man, albeit a Prussian General and long gone by now, [Carl von Clausewitz](#), famously defined war as politics by other means. That international criminal law thus comes to mind in a conference on politics, power, and crime, is thus perhaps quite fitting, although, as a research field, it has primarily been the domain of international law and politics, and dismissed by critical and realist scholars alike as reflecting nothing more than the justice of those with power to define history.

My interest however, is penal power, and specifically, what happens to this type of power when it is disembedded, or delinked, or liberated even, from its associations with the nation-state. This may have some more general interest because it speaks to characteristics, dynamics, and elements of punishment – or penalty, as David Garland defines it – that we can or cannot recognize from what we already know about punishment in society as we know it, that is, as part of nation-state society.

My topic is therefore politics in and of international criminal justice; my perspective is criminological, or more specifically the body of work known as punishment and society; and my research inquiry concerns what characterizes penal power when it is delinked from the nation-state framework. I approach this question based on my study of human rights NGOs in international criminal justice, and my analysis of penal power proceeds in four steps, namely through a focus on (i) actors, (ii) rationalities and logics, (iii) sensibilities and representations, and (iv) materialities and structures. I argue that these elements are all part of understanding how penal power operates beyond the nation-state.

First, however, what is power? I am not only interested in power as in the power to decide, to make decisions, to punish. I am also interested in the power to set the agenda, to control the context in which decisions are made. And, I am interested in normative power, or ideological power, that is, the power to control what people think is 'right'. These are what Steven Lukes refers to as the three dimensions, or faces, of power.

Similarly, we need a more sociological view on the field of international criminal law. It is a system of law, or a legal regime, that is relatively young. Its birth is often attributed to

the military trials in Nuremberg and in Tokyo following the victory of the allied powers in World War II. Yet, it was not until after the Cold War ended that the field began to properly materialize. There are nine international or internationalized criminal courts – including the UN ad hoc tribunals, the International Criminal Tribunal for the former Yugoslavia, and the International Criminal Tribunal Rwanda in the aftermath of the genocide in 1994. Now however, there is a global and permanent International Criminal Court in The Hague, which began its work in 2002. States sign up to be members of this court, and so far, 123 of the world's 195 countries have done so, meaning it has given the court jurisdiction to prosecute international crimes on its territory or committed by its citizens – international crimes being defined here as genocide, crimes against humanity, and war crimes.

However, I am interested in international criminal justice as more than law, or legal system; as more than punishment; as more than crimes – although obviously it is connected to the abysmal, incredible, and limitless violence and suffering that is now codified as crimes against humanity, as crimes against us all by nature of its very inhumanity. I am interested in the 'complex' of international criminal justice, including its laws, its institutions, its practices – punishment included – but also its discourses, its performances, its rituals and symbols. I am interested in international criminal justice as a site of penalty – as a penal field embedded in social structures and cultural meaning. In this way, penal power is not only factual in the sense of having power to punish, but becomes productive of the context in which the power to punish arises, and becomes normative. In this way, penal power beyond the nation-state becomes central to understanding the making of international society, or global society, if you will, as a particular site of crime, justice and community.

Although there are trade-offs to any research method, the grounded and critical impulse of ethnography led me 'naturally' to engage with the question of boundaries, meaning, basically, to identify the where, how, and the who that make up international criminal justice as a social field; and in a way that doesn't uncritically reproduce the borders, discourses and 'rules' of international criminal law and its professionals.

It is multi-sited, simply, because that is the work of international criminal justice.

Conflict and mass violence in one part of the world are transported into the courtrooms in another; here they are rendered intelligible through law and legal experts who, with reason and logic, search for justice in the form of individual accountability. This trajectory of justicemaking is imagined to come full circle once the deliberations are over, when blame has been attributed, and 'justice' is dispersed back to the site of conflict and mass violence. Similarly, networks is what both materializes and legitimizes the linkage of unbounded global society. Following networks is thus a way to insert oneself into the rhythms of the field, its connections and disconnections. What I did was to trace the networks of human rights NGOs advocating for the ICC, and I did that for two reasons:

First, I have previously looked into conceptualizations of post-conflict justice in Uganda after a civil war that had devastated the northern regions of the country for well over two decades. Then, I was struck by the dominant voices of organizations such as Amnesty International and Human Rights Watch that advocated forcefully for intervention by the International Criminal Court – for prosecutorial justice. I found this particularly interesting – or, unnerving really – that their call for justice was not the type of justice that large segments of the civilian population wanted. They wanted the fighting to stop, they wanted peace, security – for their kidnapped children to return home. However, as the ICC intervened in the midst of ongoing peace talks, the warring parties had nothing to win by laying down their arms, and everything to lose if they showed up to the peace talks as they then would be sent to the Hague. The Ugandan situation therefore became something of a battleground between peace vs. justice, with the international NGOs firmly placed on the justice-side. The other reason for focusing on NGOs brings us right into the analysis, NGOs are penal actors beyond the nation state – they are transnational carriers of discourses on justice.

Building on this research, this paper delves into penal power beyond the nation-state by asking: Who are the drivers of punishment beyond the nation state – the moral entrepreneurs of the fight against impunity for international crimes? What are the aims and rationalities of international crimes control? What are the logics that justify it as the proper way to deal with global disorder? And in a field as morally charged – as politicized – as international criminal justice: what are the role of emotions, of penal sensibilities when there are no electoral votes to pursue? Finally, how are these actors, these rationalities, and these ways of feeling situated in ways of being, in social structures and global inequalities.

Penal Populism, Crime and Criminal Justice in New Zealand

Dr Alice Mills

Senior Lecturer in Criminology, University of Auckland, New Zealand

In the last 30 or so years the prison population in New Zealand has risen considerably, and this increase shows no signs of abating. In this paper, I discuss the punitive nature of New Zealand's criminal justice system with reference to the notion of penal populism and who has the power to influence criminal justice policy in New Zealand. I end with some comments on the potentially diminishing influence of penal populism and future directions in penal policy in New Zealand.

Crime in New Zealand

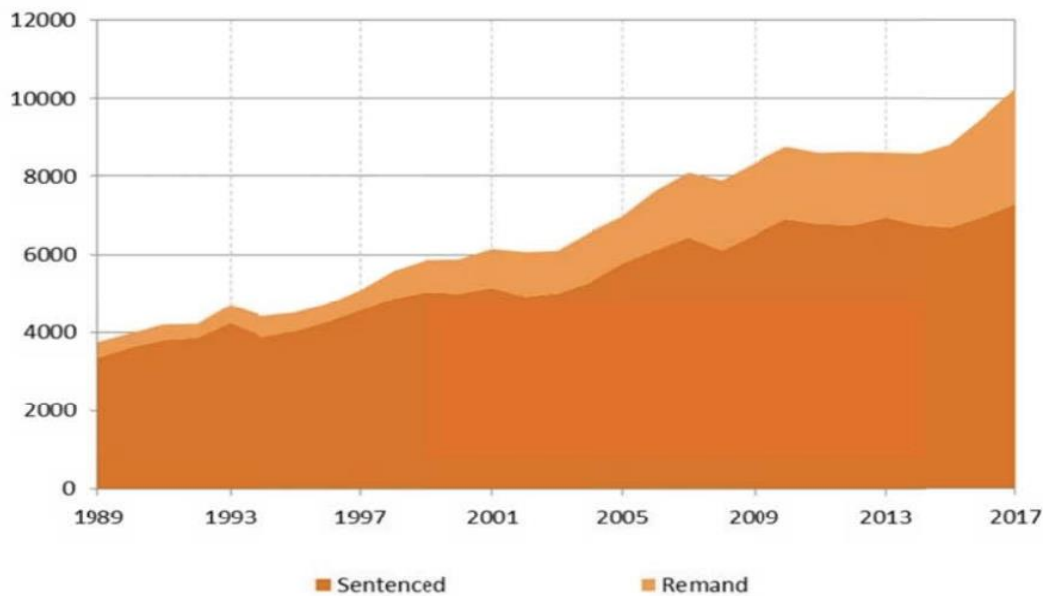
Recorded crime levels in New Zealand are currently at their lowest level since the end of the 1970s and since 2009 crime rates have been falling steadily (Gluckman and Lambie 2018). This is largely due to improvements in security, which are likely to have led to a decline in property offences (Farrell 2013). For example, dishonesty crime fell 45% from 1997 to 2014, serious assaults peaked in 2007 to 2010 but have since dropped by 17% and incidents of robbery dropped sharply after 2006 (Newbold 2017). Nevertheless, despite the obvious decrease in most forms of crime, perceptions of crime in New Zealand remain high, with 71% of New Zealanders reporting that they felt crime was increasing in a 2016 survey (Binnie 2016).

Imprisonment in New Zealand

New Zealand has one of the highest rates of imprisonment in the OCED at around 220 per 100,000 people, in comparison to an OCED average of 147 per 100,000 (OECD, 2016). As Pratt has noted New Zealand has long had a high imprisonment rate as it has been intolerant of people who are seen to have threatened this 'perfect society' of settlers (Pratt 2006). However, recent increases in the rate of imprisonment means that New Zealand has now joined the Eastern European rather than the Western European league of imprisonment (Pratt 2017).

In Dec 2017, the New Zealand prison population stood at 10,394, an increase of almost 20% from 2013. Māori, the indigenous population of New Zealand, who constitute 15% of the general population are drastically over-represented at every stage of the criminal justice system, particularly in prison where they constitute 56% of prisoners and (Statistics New Zealand 2016). As can be seen from Figure 1, the remand population has more than doubled since 2000. Between 2005 and 2012 there was a 53% increase in the number of bail conditions imposed (Henderson 2014) which is likely to have increased the risk of breaches and therefore the likelihood of remand (Gluckman and Lambie 2018). There has also been an increase in the number of long-term prisoners (those serving over 2 years) and those serving preventive detention (Pratt 2017).

Figure 1. The New Zealand prison population (Gluckman and Lambie 2018)



The increasing prison population: The rise of penal populism

There are various explanations for the rise in the prison population over the last 30 years. Policing priorities and the composition of crime have both changed in this time. New Zealand police have recently started to focus on high crime locations and more serious offending, particularly family violence (Gluckman and Lambie 2018). As property crime continues to decline so the proportion of the crime problem associated with harmful, personal-level offences, which are more likely to lead to imprisonment, has risen (Gluckman and Lambie 2018). Furthermore, the increase can be attributed to the introduction of various 'tough on crime' policies, which have been heavily influenced by 'penal populism'. Within penal populism, offenders are thought to have been favoured at the expense of victims and the general public, leading to public disillusionment with the criminal justice establishment (Pratt 2007). In response to this, politicians have sought to pass law and order legislation to meet the perceived public demand for tougher sentences, particularly for serious violent and sexual offenders (Pratt and Clark 2005), in order to win votes rather than reduce crime or promote justice (Pratt 2007). In 1999, the Withers referendum - promoted by Norm Withers after his elderly mother, Nan Withers, was badly beaten during the course of a shop robbery – asked the New Zealand public:

‘Should there be a reform of our justice system placing greater emphasis on the needs of victims, providing restitution and compensation for them, and imposing minimum sentences and hard labour for all serious violent offences?’

Nearly 92% of the population agreed with this statement (Grey and de Roo 2010) and as a result of this referendum there followed a series of criminal justice acts in 2002, including the Sentencing Act, Parole Act and Victims Rights Act, designed to increased penalties for serious violent and sexual crimes, restrict parole and enhance victims' rights.

In the climate of penal populism, public opinion is perceived to be much more important than experts or bureaucrats who in New Zealand have been side-lined in favour of organisations who claim to speak on behalf of the people (Pratt 2007). Probably the most prominent of such organisations is the Sensible Sentencing Trust (SST) which was established in 2001 in response to the police prosecution of Mark Middleton for making threats to kill Paul Daly, the killer of Middleton's stepdaughter. The SST campaigns 'with a view to ensuring effective sentencing and penal policies that reduce re-offending and ultimately to keep the public safe' (SST 2018a). However, their focus is undeniably to make the criminal justice system tougher to punish offenders and deter would-be offenders. Some of its key campaigning goals including the idea that life should mean life, parole should not be an automatic consideration and offenders should receive the most severe penalties. For multiple crimes, sentences should run cumulatively rather than concurrently (SST 2018b). According to Pratt (2007), the SST have been able to arrange the terms of the penal debate. During the 2002 election campaign, politicians from all but one of the main parties were running to catch up with their demands that the Withers referendum result be honoured (Pratt 2007). For many years after this the SST has been called upon by the media to provide authoritative commentary around high profile crimes and changes of penal legislation. Their influence has been enhanced by the disproportionate focus on crime in the New Zealand media which contain little discussion of the causes of crime, and prefer to portray crime as caused by criminals who are in need of harsh punishment (Gluckman and Lambie 2018).

One recent example of punitive legislation promoted by the SST which has had a sizeable impact on the prison population is the Bail Amendment Act 2013. This is otherwise known as Christie's Law after the murder of Christie Marceau, a young women who was killed in her own home by Akshay Chand. Chand had been released on bail to an address just 300 meters away from Christie's home after previously assaulting and threatening her. Prior to the 2013 Act, under the New Zealand Bill of Rights Act 1990 there was a presumption in favour of bail unless there was 'just cause' for detention (Gledhill 2014). Bail was granted as of right for offences with non-imprisonment penalties and for most crimes with a maximum sentence of less than three years imprisonment. The Bail Amendment Act 2013 extended the list of serious violent and sexual offences that qualify a defendant for a reverse burden of proof. Anyone charged with such an offence now has to prove that they are not a risk (Gledhill 2014). It was initially thought that this measure would require just 50 extra prison places, but these changes have led to the need for an additional 500 prison places each year (Cowlshaw 2017).

Challenges of and to penal populism

As a consequence of these stringent and punitive criminal justice measures, the justice sector is the only area of public expenditure to show substantial growth over the last 20 years. Spending on justice doubled from 1994 to 2009 (Pratt 2017). In this punitive atmosphere, the SST and similar groups have been able to create the master frame of criminal justice, dictating the problems and the solutions and dominating society's perceptions of victims, victims' rights and criminal justice (Grey and de Roo 2010). As noted by Grey and de Roo (2010), this has ensured that the political

and social environment has been very hostile to civil society groups seeking penal reform and the advancement of prisoners' rights and rehabilitation and has reduced their ability to communicate their own message. As the former director of the Howard League for Penal Reform noted: 'We are seen as defending the indefensible because we are trying to further the humane and decent treatment of prisoners' (Dunstall 2009 cited in Grey and de Roo 2010: 14). Similarly in a qualitative interview study with 18 civil society and criminal justice stakeholders, conducted by the author, leaders of civil society organisations working with offenders noted the difficulty of obtaining funding from community sources in this punitive environment. For example, one of them stated:

'Until recently it's been hard to convince any sort of funders that would rather donate money to rugby clubs or saving endangered horses or whatever and our sort of organisations are not popular at all' (Civil society interviewee 2).

Another noted:

'There is a very big societal constraint here. We are a very punitive nation as you know... so we are fighting against the public every step of the way' (Civil society interviewee 5).

One of the reasons that penal populism has been so pervasive is the lack of any kind of co-ordinated oppositional voice (Workman 2009, cited in Grey and de Roo). In 2012, 12 civil society organisations formed the Justice Coalition to have an influence on policy formation and promote just, effective and positive justice sector strategies, but this organisation folded after a short time. Nevertheless, the sheer cost of a punitive criminal justice system provides some hope that the era of penal populism will come to an end in New Zealand. Pratt (2007) has predicted that when penal populism adversely touches the lives of ordinary people through cuts to other public services, due to the need to service the criminal justice system, then public support and political will to maintain this level of penalty may begin to retreat. In 2011, the then Finance Minister, Bill English noted that prisons are a 'moral and fiscal failure' (Otago Daily Times, 2011) and the current Labour-led coalition government has stated its wish to reduce the prison population by 30% in 15 years. Furthermore, there has also been some suggestion that the star of the SST is waning (Grey and de Roo 2010). In March 2018, the Director and Founder of the SST, Garth McVicar responded to an incident where the police shot and killed a 29 year old man by tweeting his congratulations and noting that it was 'one less to clog the prisons!'. The public and media response to this was swift with many feeling it was totally inappropriate, leading to calls for the charitable status of the SST to be revoked (New Zealand Herald 2018)

Conclusion

According to the current Minister of Justice, Andrew Little, New Zealand's prison system is in 'chaos and crisis' (Walters 2018). Despite a greater emphasis on rehabilitation and reintegration by the Department of Corrections, it recently failed to meet a target to reduce re-offending by 25% by 2017. This may be in part because just NZD 10 million of the NZD 1.2 billion Corrections operating budget was spent on reintegration services (Pratt 2017), but also because reintegration requires the

acceptance of the community which is exceedingly challenging to achieve in a punitive society such as New Zealand.

Despite growing awareness that the current level of imprisonment in New Zealand is unsustainable, expensive and counterproductive, the chances of challenging penal populism and introducing legislative reform to reduce the rate of imprisonment seem increasingly slim. Recent plans by the Minister of Justice to repeal the punitive three strikes laws were recently scuppered when the Labour party's coalition partner declared that they could not support it (McCulloch 2018). Furthermore, the main opposition party continues to take a 'tough on crime' stance, and to declare that any measures to reduce the prison population are evidence of a 'soft on crime' approach (New Zealand National Party 2018), suggesting that changing the attitudes of New Zealanders and the public support for imprisonment will be a highly difficult task.

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Beyond the Neoliberal Carceral state: Emerging Nordic trends

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The paper builds on the simple observation that the timeline matters. During the 30-year period between roughly 1975 and 2005, the area of criminal justice changed dramatically.

- The US mass imprisonment (emerged in the 1970's)
- The internationalization of policing (1970's)
- The pursuit of terrorism (TREVI 1970's)
- The politicization of crime control (1970's)
- The war on drugs (1970's)
- Border control and international co-ordination on refugees (Within the EU, agreements since the mid-1980's)
- The internationalization of criminal justice to persecute war crimes and some other 'crimes of the powerful' (1970's domestically, the 1990's internationally)

Throughout this period, the rise of US mass imprisonment arguably stood out as the key empirical – and moral – point of reference. It addressed central social divisions (poor, black, male) and the construction of ever more prisons appeared massive and heavily symbolic.

The interpretations offered by Garland, Simon, Wacquant and others offered key points of reference in the international discussion, also in the Nordic countries – and still do. The development was understood through notions such as 'governing through crime' (Simon), the culture of control' (Garland), 'punishing the poor' (Wacquant), and the 'government of risk' (Hood et al).

The main theoretical work was published in the period 2001-2009. What has happened during the last decade? Are there any new trends in sight, or is it just more of the same? One answer is: we do not know. For two related reasons; a simplistic analysis of neoliberalism and a lack of interest in non-penal forms of regulation.

If the exponential increase of the US prison population was the main moral concern within the contemporary sociology of punishment, its theorizing has been preoccupied with – or indeed organized around – the supposedly strong link between neoliberalism and the carceral state, or prison system. Sweeping references to 'neoliberalism' as opposed a 'hollowed out' welfare state are invoked to explain the increase of the prison population. The central dividing line is drawn between neoliberalism and the welfare state. The division underlies dominant explanations to 'the punitive turn'. 'Neoliberal' societies such as the UK or the US are thought to be more prone to resort to exclusionary measures, whereas strong welfare states and extended social safety nets are thought to be casually related to penal leniency.

The distinction can be made either historically, with respect to the 'golden years' (1945-1975) of economic expansion and regular employment in the Global North, or geo-politically, between different countries in the contemporary world. On the one hand, then, there is penal populism, shrinking welfare, neoliberal policies, which are often associated with the US and mass incarceration. On the other hand: a strong welfare state, penal moderation, some level of economic redistribution, which are often symbolized by Scandinavian countries.

The accuracy with which the rise of the prison population is documented is matched by a misleading and simplistic notion of neoliberalism. There is a lack of discussion of the wider regulatory framework. David Garland recently noted the marked difference with respect to the 1970's when macro-level issues were at the forefront; '... contemporary theorizing addresses more closely specified, middlerange phenomena..' (Garland 2018: 12; P & S, 20th anniversary issue). The tacit assumption seems to be that there is no need to address wider issues of 'crime control and social structure', or the current crisis of neo-liberal regulation (if there is one).

In line with several Nordic papers presented at the conference, I will argue for one particular analytical move to break the current impasse. There is need for a holistic analysis, for which perceived security (as opposed crime control) is absolutely central. The provision of protection against crime and the provision of social security and well-being must be analyzed together.

A number of recent works have stressed the analytical (and the political) centrality of perceived insecurity. In a Swedish context, the word *trygghet* refers to security in an encompassing sense, including economic wellbeing and a sense of attachment (Barker 2018; Hermansson 2018).

Such an analysis needs to take into account that:

- All states in the Global North are welfare states.
- All states in the Global North are fundamentally reshaped by 'neoliberal' reforms.
- Security is provided by many institutions, across the punitive – social welfare divide.
- Simply looking at one institution, such as the apparatus of criminal justice, will provide a partial or even skewed view of social power.
- Anything can be securitized; be presented – and perceived – to pose a threat to the well-being and sense of security.
- On the other hand: anything can provide security (the criminal justice system, the welfare state, the labor market, family members, civil society organizations, or private protection).

It is thus necessary to bring into analysis the entire institutional field that provides security in an encompassing sense. I would argue that a holistic analysis reveals a penal-welfare regime, which has been stable over the course of the last thirty years or so. Its stability can be attributed to a peculiar dynamic, according to which it simultaneously produces security and insecurity within

broad sections of the working and the middle classes. The dynamic unfolds both in the dimensions of criminal justice and of social security.

Criminal justice

At heart: a dynamic play between perceived security and perceived insecurity.

- The internationalization of policing
- The pursuit of terrorism
- The war on drugs
- Border/refugee control
- The 'justice cascade'/crimes of the powerful
- Mass imprisonment

Taken together, all criminal justice processes, which make up the punitive turn, reproduce fears of the world as a dangerous place, while producing ontological security. The constant anti-terrorist campaigns make populations both secure and insecure at the same time.

Social security

- An enduring welfare state
 - High benefit levels (in case of unemployment, illness etc)
 - High quality social services (education, health care)
 - A precarious labour market
 - Spread of insecure employments
 - Spread of workplace supervision into managerial positions

Also the 'left hand of the state' (Bourdieu) simultaneously produces security and insecurity, while interacting with the developments in the penal field. The labor market and the social safety net produces security through income guarantees, while at the same time exposing employees and welfare beneficiaries to high demands and insecure conditions.

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Criminalization and Crime Control at Europe's Southernmost Geopolitical Border: EU Justice and Home Affairs in Niger, Mali and Senegal

Eva Magdalena Stambøl

Abstract

“The Sahel constitutes Europe's southernmost geopolitical border: any instability here will automatically contaminate the European neighborhood”. In stating this, the EU's Strategy for Security and Development in the Sahel (2011) highlighted the immediate importance of a stable Sahel region for Europe's internal security, and EU foreign policy objectives were re-articulated to combat cross-border security threats of terrorism, organized crime and irregular migration – policy issues traditionally pertaining to the Justice and Home Affairs (JHA) area. In the years that followed, and particularly in the aftermath of the 2015 Valletta Summit, West African countries would witness a massive proliferation of EU-funded initiatives focusing on security, including (biometric) civil registries, border security and technology, police, gendarmerie, and military, as well as ‘alternative development’ schemes. While the extraterritorialization of the European border and securitization of EU external relations have been the concerns of a growing body of literature, disciplinary contributions from Criminology have been scarce despite the growing role of supporting criminalization, criminal justice and crime control in EU external action. Moreover, little research has been done on how these EU policies look like at the level of implementation. Based on four months of fieldwork in Niger, Mali and Senegal in the winter of 2017-18, this paper aims at bridging these research gaps by unpacking the EU's conceptions of and responses to ‘crime’ as they meet the complex realities on the ground in these countries.

Introduction

Internal security objectives – i.e., fighting criminalized ‘security threats’ such as terrorism, transnational organized crime and irregular migration – are increasingly driving European foreign policy and external relations. The reason is that these ‘cross-border illicit flows’ have increasingly been conceptualized by the EU and its member states as spilling into Europe from the neighbourhoods and beyond. Consequently, one of fastest growing areas of European aid goes to bolstering criminal justice and security apparatuses of third countries to combat the alleged threats that top the EU's security agenda. The EU and its member states are increasingly protecting Europe ‘at a distance’ by outsourcing the fight against transnational crime and security threats to third countries.

The Sahel

The Sahel is a region seen by the EU as particularly threatening to Europe in terms of terrorism, transnational organized crime and migrants irregularly crossing on their way northwards to Libya and Algeria and allegedly to Europe. EU action towards this region is increasingly geared towards combating these so-called security threats. In 2015 the EU Trust Fund for Africa was established

following the Valletta Summit on migration, now comprising 3,5 billion euro¹ – much of which goes to strengthening the internal security and criminal justice apparatuses of African states.

Research questions and methodology

The question that have guided my research are:

-How are European crime control models and tools exported by the EU to third countries?

-How does the 'external dimension' of EU Justice and Home Affairs play out on the ground in third countries (including intentions-implementation gaps and (un)intended consequences)?

To explore these questions I did fieldwork for four months (winter 2017-18) in Senegal, Mali and Niger – the 3 of 5 countries receiving most EUTF funds. The fieldwork comprised of observations and 85 in-depth interviews with a wide range of relevant actors: EU diplomats and staff, international organizations implementing EU money (IOM, UNODC, INTERPOL, ECOWAS, AU), EU member states' embassies, civil servants in these countries' Ministries of Interior, Justice and Foreign Affairs, prison authorities, judges and prosecutors, police, gendarmerie, customs authorities, civil society and human rights organizations, journalists, and (in Mali) leaders of Tuareg rebel groups.

The following is one preliminary finding from a work in progress

Whose crime and whose security?

In Critical Security Studies there has long been a research agenda asking "whose security", whether human, societal, national. I turn this to a criminological equivalent, asking, "whose crime?" Andreas & Nadelmann argue in "Policing the Globe" (2006) that 'global prohibition regimes' and transnational criminal law are essentially Northern countries' internationalization of their domestic crime definitions. In Africa, the EU, UN are assisting African states to implement international conventions, such as the 2000 UNTOC and protocols, one of which is Migrant Smuggling Protocol. They are negotiating and assisting in the drafting of penal codes, criminal policies, strategies and action plans both at a (sub-)regional and national level.

The crime definitions that the EU exports, pushed by aid conditionality, are purported as universal crime categories. However, they are locally very much contested. One such example is the 2015 law criminalizing the smuggling of migrants in Niger. However, the criminal offence of 'migrant smuggling' is opposed by a wide range of actors as this criminalizes an activity – guiding people through the desert – which has been a traditionally noble role within Touareg nomad communities for centuries.

Moreover, the efforts aimed at enforcing the new migrant smuggling law, which have been sponsored to a large extent by EU aid and training of police and internal security forces, have a lot

¹ https://ec.europa.eu/trustfundforafrica/content/homepage_en [Accessed: 9.8.2018].

of negative and dangerous consequences. Geared more towards satisfying European constituencies than local communities in (northern) Niger, these efforts have upset micro-political stability. Many so-called smugglers have been arrested and vehicles confiscated, and the migration route through northern Niger has been partly blocked. However, this has led the economy of the region of Agadez to completely collapse. Alternative livelihoods are not materializing. Idle young men seek alternative income and have turned to armed banditry, something which increases insecurity in the region. Ethnic tensions, particularly between Touareg and Toubous, have been aggravated. Migrants are travelling more clandestine and dangerous routes – and there have been much more migrant deaths in the desert.

In short, the EU has used criminalization as a tool to stop migration at all costs. And indeed, the costs have been high – including migrant deaths, economic collapse, growing insecurity, instability and ethnic tensions. Such are the dangers when crime control templates are designed top-down in Brussels or European capitals designed to protect European security instead of human security.

PRESENTATIONS IN PARALLEL SESSIONS

PARALLEL SESSION 1A: Social welfare and crime control

What happens when the coercive power of the state is exposed to competition? Exploring the development of state driven coercive care of children operating on a quasi-market.

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This paper is an elaboration on the project plan of my PhD thesis and is thus a work in progress.

Placing children in coercive care can be said to be one of the outmost expressions of the society's expressions of power over individuals. During the last century the responsibility of locked institutional care has gone in a pendulous movement, back and forward, between the state, municipalities and private actors (Lundström 2017). The latest turn in the shifts of responsibility was in 1993 when it went from being a municipality concern to becoming a matter of the state placed under the Ministry of Health and Social Affairs. At this point the public authority Statens Institutionsstyrelse (SiS) was founded and is today the only institutional care with the mandate to hold children in locked institutions and to perform so called special acts of authority (*särskilda befogenheter*) – such as isolation and body inspections – and is regulated by the Care of Young Persons Act, LVU (1990:52). Since the founding of SiS there has been a widening of the procedural requirements and together with a number of governmental assignments this indicate that the state is aiming at widening the assignment of the public authority (Vogel & Enell 2017). Consequently, a wider and more heterogenic group of children are being placed at locked institutions. In other words, a net-widening process can be said to be on-going and thus, an expansion of the use of the coercive power of the state over children.

Although a vast amount of studies has been done on the coercive care of children in Sweden, few have explored SiS as a political institution executing the coercive power of the state. As pointed out by Vogel & Enell (2018) SiS is a public authority performing both operative regulation on an individual and private level and is given governmental assignments from the Ministry of Health and Social Affairs. The founding of SiS in 1993 meant that the public authority became the only state driven institutional care operating on an otherwise private and for profit driven market – a so called quasi-market – regulated through New Public Management (NPM). There is no single definition of NPM and the concept does not constitute one single model, rather it can be described as an umbrella term covering ideas and methods inspired by the private market with the aim of achieving more effective governance of public authorities. Broadly speaking, the development of

NPM can be understood as a part of a neo liberal critique of bureaucracy and a promotion of decentralization of public authorities. In the light of this, and at a time where a comprehensive privatization of the social welfare is occurring, it is reasonable to ask why there have been no political discussions on a privatization of these institutions. As argued by Vogel & Enell (2017) the reason may be connected to the special acts of authority that SiS has the mandate to perform, which fall under the exercise of public authority. The line for privatization of the social welfare has been drawn exactly at this point, at the exercise of public authority, in other words exercise of power through decisions over individuals (Vogel & Enell 2018). However, even though the institutions are public, SiS still has to relate to the private market due to the authority's economic conditions – two thirds of the coercive care are financed by the social services which means that SiS is economically dependent on the social services and competes with private actors on the market. Although placement decisions of coercive care are decided by the administrative courts, it is the social services in each municipality that take the decision of whether the child should be placed at so called HVB-home (home for care or living), other private homes such as family-home or at a SiS institution. That money does matter is demonstrated by Vogel & Enell (2018), showing an increased number of placements at SiS as a result of subvention of social services if placing children at state-driven institutions. Another example that may be related to of exposition of competition is the lowering of competence requirement for treatment staff in 2016 – a result of shortage of staff – and today the only requirement for employment as treatment staff at SiS is a high school degree.

Officially, the coercive care is formulated as a protective legislation, aiming at protecting the child from either a harmful environment or a harmful behaviour. However, the legislation is constituted by aims, purposes and methods of criminal law, social welfare regulation and the idea of the child as a rights holder (Kaldal & Tärnfalk 2017:241). Although these regulations in many cases can be seen as complementary, they are to some extent also conflicting. It is possible to talk about these as three central paths, building upon three different ideologies; punishment, prevention and repression versus care, treatment and control, as well as the child as a legal subject of its own. These three ideologies together create the principles defining the limits of the coercive power of the state towards its citizens when it comes to coercive care of children. The aim of my thesis is to explore the tension within this and what it means for the coercive power of the state, executed through SiS, when it is forced to operate on a quasi-market and is regulated through New Public Management.

Theoretical and methodological approach

According to Bo Rothstein (1994), a political institution like SiS can be seen as intentionally created and shaped by strategically actions by centrally placed political actors with the purpose of having a norm shaping effect. In Rothstein's analytical model on the relationship between political institutions and societal norms the former causes the latter. According to this model, the introduction of a political institution will not only change what future actors will acknowledge as a rational act, but also what they will view as morally correct (1994). The norms in question here are

the ideologies constructing the coercive power of the state executed through SiS. However, contrary to Rothstein who can be placed within a rather structuralistic approach, I do not view the creation of the new political institution as simply intentionally created and a result of strategic acting by an elite. Rather, I see it as a dynamic process driven and shaped by intersecting and competing discourses that has to be situated and contextualised in relation to the society in large. I see the power not as isolated at the level of political elite within the state; but also situated within the private market and within the political institution itself. I situate my research in the intersection of post-structuralism and phenomenology, drawing on the work of Sara Ahmed (2006) and especially her concept of orientations. I believe Ahmed's way of combining these two theoretical fields gives strength to their respective weaknesses. As expressed by (Berggren 2014:244) the strength of post-structuralism is "to foreground subjects as positioned by various intersecting and conflicting cultural norms (discourses) and to deconstruct that is seemingly intact or stable". However, phenomenologists would consider this a weakness and a critique towards post-structuralism regards the neglecting of lived experiences. As summed-up by Berggren (2014:244); "...phenomenology needs post-structuralism's deconstructive critique of power and discourse, while post-structuralism needs phenomenology's recognition of embodiment and lived experiences". Ahmed's concept of orientations allows us to recognize political power as an effect of work that has already taken place – an effect of history (2006:40). The "work" in this context is the actions, thoughts and ideologies that has left traces on the development of SiS and the coercive care. Ahmed (2004:91) conceptualizes these traces of work as "what sticks" where she views bodies as carriers of history, of "sticky" impressions; "what sticks 'shows us' where the object has travelled through what it has gathered onto its surface, gatherings that become part of the object, and call into question its integrity as an object". This allows us to direct attention to the background, to go beyond as well as behind Rothstein's political elite and towards the proximity of them and of the political institution operating the coercive care and its net-widening process. Viewing it as an effect of work of some bodies – the dominating powers and ideologies – rather than others, who and what that has left traces and impressions and who/what has not. The combining of post-structuralism with phenomenology brings attention to "that which must take place in order for something appear" as well as the "...things relegated to the background in order to sustain a certain direction" acknowledging what is not there and whom that is not heard (2006:37-38, 31). A study of an institution become, following Ahmed (2012:20), a matter of explaining by giving "an account of how they emerge and take form".

This perspective enables an analysis of what the regulation of SiS and the coercive care is oriented from as well as what it is oriented towards where the ways the net-widening process is oriented function as ways to correct bodies (children and families) and social norms. That a net-widening process is taking place at a political (and judicial) level has been shown by Vogel & Enell (2017). However, what kind of work and by whom this process is an effect of, as well as who (what bodies and in what positions) and what (ideologies and norms) it is oriented towards remain to be explored and is the main questions of this project. The coercive care is both an effect of work and what allows the state to work, or in other words, what allows the state to make practice of its

coercive power over children. This work has to be understood in the context of several dominating trends in the society, such as the surrounding political climate with a growing focus on safety and control, the rise of new Public Management and the coercive care's entrance on a quasi-market, all shaped by intersecting factors such as gender, class, race and ability.

Material

As noted above, the level of analysis is situated at the level of political practises. To understand the work behind the foundation and orientation of SiS and the competing discourses within its coercive power I will look at documents which can reveal what has "stuck" in net-widening process. The point of departure will be the governmental proposition and inquiry leading to the decision-making of the founding of SiS. Through these and similar documents, such as regulation letters, on the continued regulation of the coercive care I will explore the political ambitions of the foundation and regulation of SiS and the coercive care between 1992 and 2017. As I don't see the regulation of the coercive care and the execution of the coercive power of the state as a linear or top down process I will look at how SiS as a political actor correspond with and answers to the Ministry of Health and Social Affairs through responses to regulation letters and governmental assignments as well as to the general advices and reports from the National Board of Health and Welfare. Simply stated, I will look at how SiS view its own assignment(s). To achieve this I will also explore annual reports and consultation responses from SiS as well as regulatory reports and complains from the Health and Social Care Inspectorate (IVO) – the public authority operating inspection of the coercive care aiming at controlling whether the care runs according to laws and other regulations. However, material from IVO is only available from year 2001 and forward. Before that, the inspection of the coercive care was operated by SiS itself. Inspection reports by both SiS and IVO and responses to these will be included in the analysis as well as media coverage and SiS's responses to these.

Contextualizing the coercive power of the state within the coercive care – an inseparable intertwining of punishment and care?

When internationally comparing different social systems, Sweden is normally categorized as a 'child welfare oriented system' (Lundström 2017) However, the increasing emphasis on child protective elements in governmental investigations during the last decade theoretically places Sweden closer to what is often called a 'child protection system'. While the child welfare system emphasizes aid-directed social work aiming at supporting and assisting the family and child rather than control and intervene, the child protective system aims to identify at risk children, followed by interventions. The latter is illustrated by for example the increased use of risk assessment instruments within the social welfare which, according to Lundström (2017) constitutes an ideological break. A third model is also illustrated in the governmental inquiry 'A new LVU' (SOU 2015:71) – the child as a citizen of its own. If the Swedish child welfare model is built upon the idea that the child's development is a question both for parents and society, this latter model emphasizes the child's own relationship with the state, which, according to the inquiry takes an even greater role as a paternalistic supervisor. Not only when the child is in need of protection, but

also in cases of prevention. The meaning of the emphasize on the child rights perspective is debated in research. According to Kaldal & Tärnfalk (2017) this can be seen as a break from a control- and disciplinary perspective. However, at the same time Östberg (2017) argues that the last years' development of the legal regulation and guidelines of child welfare, with its focus on prevention, have gone towards an increased focus on control and risk-assessment. Independently of the influence of the idea of the child as a legal subject, the coercive care encapsulates a tension between punishment and care. While the criminal law focuses on the society's reactions toward criminal behaviour and do not have to show that it has a "good" effect, interventions following the social welfare regulation is motivated by individual treatment, needs and "good results" (Kaldal & Tärnfalk 2017). This tension between is hardly a new one, however, what is "new" is the idea of the child as a rights holder, which makes it even more complex.

Actualized in the tension between punishment and care within which the child takes a greater role as a legal subject is the question of liability. The idea of the child as an autonomous legal subject is, according to Kaldal and Tärnfalk (2017), expressed through discussions of the best of the child and the child's own liability of their behaviour. The criminal law positively discriminates children who have committed criminal actions, for example by excluding children under age 15 from legal liability and by sentencing the child to coercive care instead of prison sentence. The underlying idea of this positive discrimination is that children are more sensitive to legal sanctions, and not yet are able to understand the causes of their actions and thus unable to be held fully responsible. However, judicial discussions on children's rights claim that punishment and liability are to be seen as separate terms. Thus, the positive discrimination of children "is not about that children are not to learn to take responsibility of their actions" (Kaldal & Tärnfalk 2017:243). The founding of SiS and the development of state driven coercive care can, according to Lundstöm (2017), be seen as part of a long going trend towards more severe interferences, *hårdare tag*, towards youths (Cf. Than 2018). Thus, the present widening of the coercive care, defined as a legal "benefit of the child" (Kaldal & Tärnfalk 2017:248), should be situated and studied in relation to the contemporary trend of a more repressive system and reactions towards antisocial behaviour.

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Youth in confinement: Ambiguous practices of protection and care in secure institutions

Annick Prieur

N.B: The presentation is exceptionally accepted to the report in a powerpoint-form.

Youth in Confinement: Ambiguous Practices of Protection, Treatment and Punishment in Danish Secure Institutions

**Ann-Karina Henriksen &
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- The “disciplinary apparatus” (Foucault 1979) of penal institutions have always included various forms of work, education and treatment.
- The idea that confinement can and even should be beneficial for the confined lies at the heart of modern penal rationalities (Garland 2001).
- Prison-based treatment took a blow in the 1970-ies, referred to as the discouraging era of “nothing works” (Martinson 1974).

The wish to do good while delivering pain (with Christie's words)

- Analyse how competing aims of providing protection, treatment and punishment to troubled and troublesome young people merge in Danish secure institutions.
- This blend of purposes is in many ways experienced as problematic, confusing and unfair by the confined.

Aim

- Garland (2001) has argued that a neoliberal era of punishment took over, characterized by a strong punitiveness and little interest for offenders' background, wellbeing and future.
- While Garland suggested that the punitive turn in the UK and the US mainly *replaced* rehabilitation and treatment, we would rather claim that rehabilitation ideas have somewhat *changed focus and merged with punitive practices* in new ways.

What happened to the ideal of rehabilitation?

- *Deterrence & incapacitation*: correspond to a vision of the offender as evil or morally flawed
- *Resocialization*: Corresponds to a vision of the offender as ill or uneducated.
- Both visions are in play in the Danish secure institutions, but partly to different kinds of confined.

Visions of the offender

- *Deterrence*: By a punishment felt as a punishment
- *Incapacitation*: By making it impossible for offenders to commit the act (protect society, possibly also the offender)
- *Resocialization*: Through learning, training and/or treatment
- Punishment – protection – treatment = this is the nexus to be explored

3 ways of preventing offenders from re-offending

- Denmark: Age of criminal responsibility 15, age of majority 18. Very few minors in prison.
- Today 106 places in secure institutions for youth.
- 75 % of the confined either serve a sentence or are on pre-trial remand. All from 15-18 years old, mainly boys.
- 25 % placed on social grounds, for "pedagogical observation" or for "protection" (considered dangerous to themselves or others). Age range 12-18, many girls.
- High increase in the latter (8 to 58 from 2010 to 2017) – following decrease in juvenile delinquency.
- But still, a self-harming girl may be placed in a unit where all the others are boys placed on legal grounds.

Clientele of secure institutions

- Those placed on social grounds: In the same units of the institutions, and with the same regime.
- But without rights to legal aid or to file complaints.
- Pre-trial remand is limited to 4 weeks (open to extension by court), while protective care have no finite date of release.
- Average length: 65 days, some stay more than 6 months.
- Regime: Locked institutions, locked in rooms at night, no right to mobile phones, computers, social media ...

Violation of human rights and/or of convention of the child?

- Interviews with management in all 8 secure institutions
- Fieldwork in 4 institutions / 10 units.
- Interviews with 25 confined, 15 staff
- Observation 2-3 days in the 10 units. Daily activities, staff meetings etc.
- 10 of 12 girls placed on social grounds, 10 of 13 boys on legal grounds.

Data – Ann-Karina's fieldwork

- The analysis organized into three sections, based on how the staff define the purpose of a certain practice: Treatment, protection and punishment.
- But this division corresponds, as showed, neatly to the three ways of preventing reoffending: rehabilitation, incapacitation and deterrence.

Analysis

- Staff: *"These boys really profit from the structure in here. It is a time out from their chaotic everyday lives. They need that stability and that is what we give them."*
- Adil, 17: *"If they think, you shouldn't sit quite like that on the chair, because they think it looks stupid or because they wouldn't sit like that, then no one should sit like that. That's what happens with them, how can I say it, they have too much power. They have a say on irrelevant things, they control things they shouldn't be controlling."*

Treatment: Pedagogical rather than medical

- Placement due to drug abuse, criminal involvement, running away – and self-harming behaviour.
- Use of force only permitted for protection.
- But why intervene when a girl breaks the furniture, the interviewer asks?
- Staff: *"And end up with a huge bill for repairs, a broken TV, broken furniture? It could cost her thousands of kroner, we have to protect her from that kind of expense."*
- May have room searched and stripped, 24-h. surveillance. Frequently experienced as punishment.

Protection – of whom?

- Mohammed, 17: *"They forced me in here, now they want to force me to change. No, thank you."* (Rejects attending ART – Aggression Replacement Training - or counselling aimed at changing a so-called "criminal mind-set")
- Sanctions are understood as pedagogical tools.
- Staff: *"It's not about punishment. In here we don't punish them, we leave that to the judge. We teach them about consequences. When you don't attend school it has consequences, when you don't do chores it has consequences."*

Punishment – without the name

- The sanction sectioning: "Individual time" (often inflidged as "protection")
- No TV: "Time for reflection"
- Collective punishment (no smoking if a bud is left outside the bin, no warm meal if the person in charge is sectioned): "Teaching of consequences, collective responsibility and team unity"

The new language of social control

- Age of sexual consent: 15. May somebody placed on social grounds then be denied a sexual life?
- A girl suspected of having sex with several boys was sanctioned to keep tightly to a staff member: *"I will explain to her that we are worried about her and that it is so abnormal. It is not healthy for you to have sex with all of them."*
- Girl: *"It makes me feel like a dog."* Stayed in bed, waiting for time to pass.

What is this? Treatment, protection or punishment?

- The realization of Stan Cohen's dystopic vision of social control?
- A hybrid institution: Remand prisoners are not observed and assessed by staff. Children in residential care are not locked up and not subjected to panoptic observation. Patients in psychiatric hospitals are not simply offered a structured training of everyday practices.
- A tight 'disciplinary apparatus' of behavioural regulation and control.

So, what is a secure institution?

- Not so easy to understand, when the purposes are blended the way they are.
- The institutions strive to realize all three dimensions of offender rehabilitation at the same time: Punishment, incapacitation and resocialization.
- Results in confusion.

"So, why am I here?" (girl, 17)

The relevance of declined alcohol use for the decline in young people's delinquent behavior?

Yaira Obstbaum Federley

Introduction

Young people of today on average **drink less** alcohol than young people did ten or fifteen years ago. This is a trend in many Western countries, and it is highly apparent in the Nordics. The rapidly falling youth consumption rates have occurred even at times of increasing drinking among adults. (Bye 2012; Vedoy & Skretting 2009; Lintonen et al. 2000). During the same time the prevalence of many delinquent acts among young people have declined in Finland and internationally (see for ex. Näsi 2016).

There is an intimate connection between alcohol use and delinquency; alcohol use contributes to delinquency both as a situational factor raising the risk for violent acts and other risky behaviour, but alcohol use may also be as factor in a lifestyle where delinquent acts such as shoplifting, risky behaviour and use of other drugs etc. are prevalent. (for example, Lavikainen et al. 2011; Ellonen et al 2012)

This does of course not directly mean that the declining alcohol use would be the reason for declining delinquency among youth. Although, there is reason to believe that declining alcohol use may be part of the explanation, there may also exist factors influence alcohol use and delinquency at the same time. One central question is which of these factors have changed over time so that they may account for changes in alcohol use over time and may thus have impact on the changes in both alcohol use and in delinquency.

This paper explores some Nordic literature on explanations on declining youth drinking and is based on an ongoing project on gathering information on the reasons for the decline. This paper raises questions about in which way the explanations for the decline in youth drinking may have relevance for the decline in youth delinquency.

Declining alcohol use in all Nordic countries

Until the end of the Millennium it was young adults and middle-aged people that drunk more often and in larger quantities than older people. Youth drinking seemed to constantly be on the increase and the public and researchers viewed as problematic and worrisome. Until around the millennium adolescent drinking followed the total consumption of alcohol quite closely. (Bye et Østhus 2011). However, after the 1990:s, although total consumption of alcohol in the whole population increased, youth drinking started to decline. This seems to be the case in both Norway and Finland (Bye 2012; Vedoy & Skretting 2009; Lintonen et al. 2000). In Finland the number of young people (15-year olds) who completely abstain from alcohol has grown (25 % of boys and 28 % of girls were abstainers in 2015). Young people are older when drinking for the first time. Among those who do drink, The number of drinking occasions has declined and the share of

heavy drinking has declined. Girls and boys' drinking habits have become more similar. Also smoking has declined among 15-16 year olds. (snuffing and using e-cigarettes however has not). The share of young people who have tried drugs has been unchanged. Cannabis is the most common drug used by young people. The attitudes against especially cannabis use have become more lenient; young people of today do not perceive cannabis as risky as young people did ex. ten years ago. (Raitasalo 2015). The same tendencies seem to apply in all Nordic countries. However, when it comes to drugs the very latest Young on Oslo (Ung I Oslo) study seems to indicate a increase in use of marijuana or hashish and delinquent behaviour among young Norwegians in Oslo. (Bakken 2018)

Alcohol related harm

The concept of alcohol related harm is central in conceptualizing the link between alcohol use and delinquency; There are many harms associated with adolescent drinking. Some harms occur at the time of intoxication or as a more direct consequence of the drinking and some harms are more indirect and may be associations of drinking.

Alcohol is a toxic substance that may have impact on physical health and the growing adolescent brain. (Monti et al. 2005, see also Kaarre 2017). Also mental health problems may be associated (for ex. Torikka 2001.) Youth who drink are more prone to accidents and also to violent victimisation. For instance, in Finland about 30 percent of 15-19 year-old boys' fatal accidents and violence were found to be related to alcohol (Mäkelä 2003). Alcohol use also raises the risk for risky behaviour or being subjected to such (Englund 2014; Lavikainen et al 2009). Alcohol use is connected to risky behaviour of many kinds, such as an earlier sexual debut. Lavikainen et al (2009). Alcohol use is a central explanatory variable for many kinds of delinquent acts. Young people who use alcohol also more probably engage in delinquent behaviour of many kinds ranging from graffiti shoplifting, thefts, and driving without a license to fighting and assaults (f.ex. Salmi 2012; Obstbaum 2006). A recent Norwegian study pointed at connections between alcohol use and positive attitudes toward delinquent behaviour. (Nordfjærn et al 2013). The connection between alcohol use and violence is particularly well established. The relationship between alcohol and young people's violence seems at times to be direct but also at times connect to a lifestyle where alcohol use is only one part. (Aaltonen 2007; Ellonen et al 2012). It is known that the prevalence of alcohol-related aggression among adolescence varies considerably across countries, and it seems to be significantly higher in drinking cultures where intoxication is relatively more prevalent. (Bye & Rossow 2010)

Drinking style may have significance for what type of harm may connect to drinking. Heavy or drunkenness related drinking harm and harm later in life (Lavikainen 2011; Berg & el. 2103)

Drinking style in adolescence has a connection both to the type of harm adolescents may experience as young, and, also later in life. While under-aged youths experience many problems in relationship to their alcohol use, analyses among adolescents who had answered the Finnish self-report delinquency study indicate that drunkenness-oriented drinking style was strongly

associated with variety of alcohol-related harms. In the study physiological and social harms were especially connected with situational heavy drunkenness, whereas delinquency and sexual risk-taking behaviour were associated with both drunkenness and frequency of alcohol drinking. (Lavikainen et al. 2011).

The level of drinking and drinking style impacts the level of harm

Alcohol-related harm among young people to some degree seems to be connected to the level of alcohol drinking among youth at large. (Thor et al 2017). However, the connection is not straightforward. The level of binge-drinkers, seems to be decisive for the level of harm. (Nordström & Raninen 2017) But the level of binge drinkers is connected to the level of overall consumption (cf., Skog 1986); It indeed seems that when the level alcohol use declines among young people, all drinking groups drink less, (Nordström & Raninen 2014: but see Hallgren 2014).

When it comes to youth drinking it indeed looks like drinking has declined in all consumption groups; In Sweden researchers have argued over whether a polarisation according to drinking frequency exists. Norström and Svensson (2014) suggested that a reduction was observed in all drinking groups, from light to heavy consumers. (See also Raninen et al 2014). Norström & Svensson 2014 found in a drinking has declined over time both among those, who drink a lot and among those who drink less. But there are also studies with conflicting results (Hallgren 2012).

However, for example Arnarsson (2018) found that even if alcohol use and cannabis use had gone down in Iceland the group of young people who used cannabis more than 40 times – and also exhibited a large part of other problem behaviours – had grown. The Icelandic example emphasizes the fact that mixed use of alcohol and other drugs is a problem behaviour that should be looked at in detail in connection to other harmful behaviour.

Declining delinquency

When it comes to very serious crimes like serious violence or robbery, police or justice statistics are a reliable source, but when it comes to less serious acts, the self-report delinquency studies are a valuable source. They measure deeds such as shoplifting, taking part in fights, assault, driving without a drivers' license, damaging property etc. (For ex Kivivuori 2011)

According the Finnish Self report delinquency study Delinquency among young people has declined during the same time as youth drinking has declined. The share of young people who have not taken part in any delinquent acts has grown and was in 2016 well over 60 percent compared to the year 1995 when the percentage was around 40 percent. Also, the share of deeds committed under the influence of alcohol has declined. Not even this directly means that declining alcohol use is the reason for the decline in delinquency but indicates that it plays a part. Or that there are factors that may lie behind both decline in delinquency and decline in alcohol use.

Factors influencing youth drinking that may or may not influence youth delinquency

Trends in youth drinking have been followed quite closely. However, there seems to be some questions regarding what the changes in background factors are, that may have led to changes in youth drinking. Pape et al (2018) have reviewed the most recent literature on the matter and concluded that it most likely is a question of many factors working at the same time. Decline in drinking could be most likely be ascribed to changes in exposure to risk factors or protective factors. Changes in the impact of risk factors or protective factors.

Aveek Bhattacharya (2016) has listed seven explanations that have figured in discussions and literature as contributors to the decline in youth drinking. The factors are: The seven points that are: 1 better legal enforcement 2. Rise of New Technology, 3. Changing Social Norms, 4. Happier and more conscientious children, 5. Better parenting, 6. Demographic Shifts, 7. Lower affordability and Economic confidence. These factors have received more or less support in the Nordic context (for comments on this see Obstbaum-Federley 2018 forthcoming).

Although, there might be common factors behind the decline in youth drinking and youth delinquency, one should keep in mind the many differences of the two phenomena. Delinquent behaviour differs from youth drinking in many ways. Especially more serious criminal behaviour are not majority behaviours. Although it is not uncommon for young people to take part in delinquent behaviour – especially in earlier times, since today young people seem to be increasingly conscientious – delinquency or crime, is however, not probably not something that the majority of young people plan to do in adulthood. Drinking alcohol on the contrary, is something that most young people at least try in youth and something most people plan to do when they are adults.

There are however undoubtedly common issues that are beneficial to explore both regarding drinking and delinquency. These could be at least: Cultural change in youth culture (also drinking culture), Control changes (parenting, connection to parents), The question of a small part being less well off as the majority will be better and less delinquent/drinking less. (Hardening/polarisation of groups).

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PARALLEL SESSION 1B: Hate crimes and radicalization

The Finnish hate crime monitoring system

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Suspected hate crimes reported to police

Reports on racist crime have been published annually by the Police University College of Finland and the Ministry of Interior's Police Department since 1998. In 2009 the system of compiling information on racist crime was developed into a more comprehensive system of monitoring hate crime.

The Criminal Code of Finland does not include a definition of hate crime, only as an aggravated circumstance. For the purpose of the reports, hate crime has been defined as a crime against a person, group, somebody's property, institution, or a representative of these, motivated by prejudice or hostility towards the victim's real or perceived ethnic or national origin, religion or belief, sexual orientation, transgender identity or appearance, or disability.

Collection of raw data

Data for annual reports on hate crime is collected from the national police information system (PATJA) by searching for reports of an offence, using specific search criteria. The raw data consists of all the reports of an offence recorded by the police in the target year that have been collected from the police information system through the use of the following search criteria:

1. All reports of an offence the police have marked with the hate crime code.
2. All reports of an offence that include the letter combinations 'racist' or 'racism'.
3. All reports of an offence that include one of specified criminal titles AND one of the used search terms (271 search terms.)
4. All reports of an offence classified as discrimination, work discrimination, extortionate work discrimination, ethnic agitation, aggravated ethnic agitation, genocide, preparation for the commission of a genocide, crime against humanity, aggravated crime against humanity or torture.
5. All reports where a special (TUPA) code was used. This code was taken into use in 2015 in order monitor crimes and police action in relation to the present asylum situation.

Classification of hate crimes

After cathering the raw data, the reports are read through carefully to decide which cases to include in the final data. For the 2016 report, approx. 10,000 reports of an offence were located for review. The classification of a case involving hate crime is based on the narrative incident descriptions which the police have recorded and which are included in the reports of an offence.

A report of an offence is primarily classified as hate crime if one of the injured parties or the police considered the motivation for the crime to be the victim's real or perceived membership of a reference group, such as an ethnic minority. The classification of a case can also be based on other clues about the motivation for the crime that are mentioned in the police report. Typical clues are insults used during the offence that refer to the victim's reference group. The suspect does not have to be a member of the majority population, nor is the victim of the crime necessarily a member of a minority group. Crimes committed against the majority by the minority or crimes between minority groups can also be classified as hate crime. Also crimes against majority groups by other majority groups, for instance when the injured party represents a minority group (e.g. asylum center workers).

The final reports classified as suspected hate crimes are further categorized according to the bias motive, such as ethnic or national origin, religion or belief, sexual orientation, transgender identity or appearance, or disability. For all the reports of an offence in the final data, information on suspected crimes, injured parties and suspected offenders is recorded and converted into numeric variables. Parts of the information for the variables are collected from the police information system as they are, such as the city where the incident happened and the personal information about both the injured party and the suspect. Some of the variables are reconfigured (e.g., time of the incident), and some have to be determined on the basis of the narrative information included in the reports (e.g., location of the incident, relationship between the victim and the suspect). The analysis of this numeric data gives information on suspected hate crime reported to the police in the target year, and the results are documented in the annual hate crime report.

Number of suspected hate crimes reported to police 2016

Year 2016, a total of 1,079 reports classified as suspected hate crimes were recorded in Finland (Rauta, 2017). In the previous studies by the Police University College, there were 1,250 such reports in 2015 and 822 in 2014 (Figure 1). The number of hate crimes reported to the Police thus decreased by 14 per cent compared to the previous year, but did not return to the pre-2015 level.

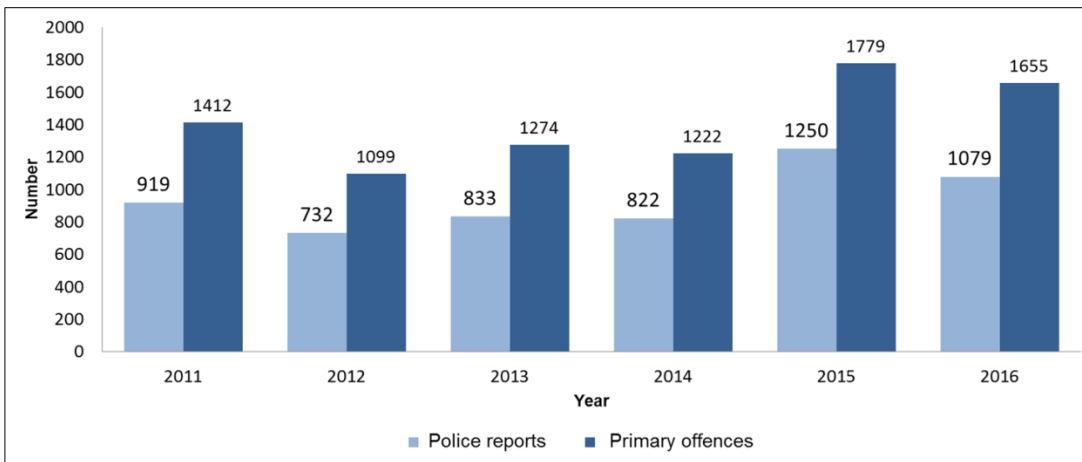


Figure 1. Number of suspected hate crimes 2011-2016.

As before, the majority (77 %) of the hate crime reports in 2016 included features related to ethnic or national background (Figure 2). Cases motivated by the victim's religious background constituted 13,8 % of the cases. Sexual orientation was the motive in 4,2 % of the cases, and in 3,9 % it was disability. Twelve hate crimes (1,1 %) were identified as being based on the victim's transgender identity or appearance.

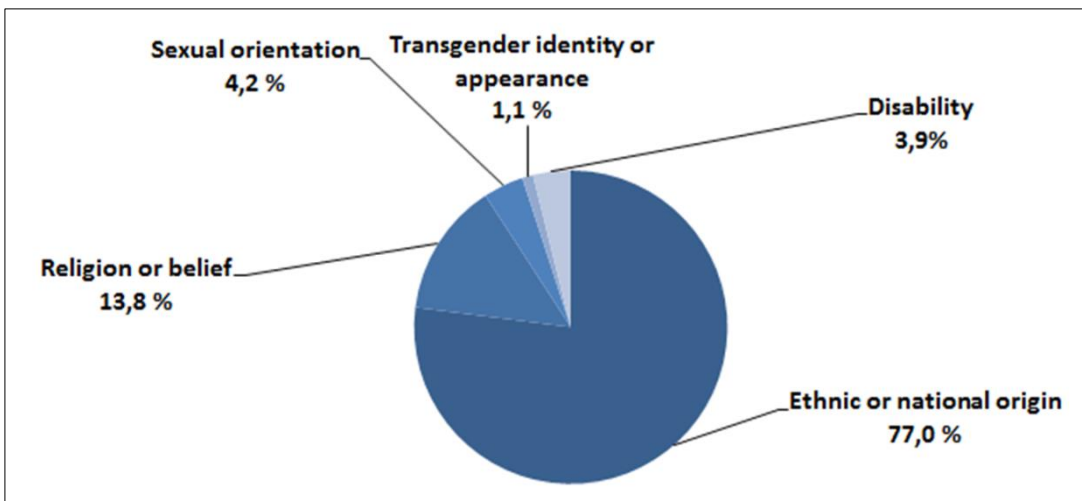


Figure 2. Hate crime reports by bias motive 2016.

In 2016, 831 reports of offences based on ethnic or national origin were filed. In the majority of the cases, prejudice or hostility was directed towards a member of an ethnic or national minority by a member of the majority population. The most common suspected hate crimes were assaults. The most common scenes of the suspected crimes based on ethnic or national origin were public outdoor locations such as roads or city market places, immigration stations as well as restaurants and their vicinity. As in previous years, the majority of crimes based on ethnic or national origin were committed in the evening and at night time. In relation to the number of foreign citizens resident in Finland, the citizens of Irak experienced the highest frequency of crimes motivated by ethnic or national origin in 2016.

Reports of offences on hate crime cases based on religion or belief increased 12 percent compared to year 2015. The most common targets in these cases were Muslims. Almost half of the crimes

were assaults. Most common location of the suspected crimes based on religion or belief was immigration station.

The number of hate crimes motivated by the victim's real or perceived sexual orientation, transgender identity or appearance, is seven percent lower than in the previous year. Assaults were the most common crimes based on the victim's real or perceived sexual orientation, transgender identity or appearance and in 44 percent of the cases the suspect was acquaintance to the victim.

In 2016, 42 reports of offences on hate crimes based on the victim's disability were found, that is 51 percent less than in previous year. Almost half of the cases were assaults and the suspect was familiar to the victim.

Critical factors and things to consider

The statistical method described above does not locate a hate crime if it is not reported to the police at all. A hate crime victim survey published by the Ministry of Justice indicates that 80% of those who have encountered hate crime have not reported it to the police (Oikeusministeriö, 2016).

The identification of suspected hate crimes depends significantly on how the case report has been written by the police officer. Therefore, for example reports with typing errors might not be found.

The backgrounds of the victims/offenders can only be derived from what is written in the police report. However, this information can only be determined via information provided on nationality and place of birth. There is no separate recording criterion for ethnic background.

Related issues

The amount of hate speech on the Internet and, in particular, in social media has increased over recent years to such an extent that the police have no longer had the means to intervene in all cases. In part, this may explain why the number of hate crimes reported to the police has leveled out from the 2015 spike. In early 2017, a national hate speech investigation team was established at the Helsinki Police Department, tasked to intervene in punishable hate speech on the Internet. Additionally, 40 police officers have received trainer training related to hate crime, and they, in turn, have now arranged training sessions in their own districts in around 1,000 additional police officers. In this way, the police aims to comprehensively ensure that the hate motive is taken into consideration at all stages of the pre-trial investigation so that the prosecutor will be able to demand the statutory grounds for increasing the severity of the punishment.

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Negotiations of racist hate crimes in the criminal justice system in Finland

Malin Fredriksson, PhD student

Introduction

This paper presents the background and some central themes of my PhD project on the criminal justice processing of racist hate crimes in contemporary Finland. In the past decades, Finland has transformed from being a rather homogenous society into an increasingly pluralist, multicultural, and multireligious society (Puuronen 2011). Approximately 90 % of all reported hate crimes in Finland target the victim's nationality, ethnicity or religion (e.g., Tihveräinen 2014). In a pluralist and democratic society, the criminal justice system is expected to guarantee equal rights and safety for all – and especially the rights, safety and well-being of vulnerable groups and minorities. Crimes motivated by prejudice against an individual because of his or her ethnic, racial, and religious characteristics (etc.), also known as hate crimes, are considered a threat against societal cohesion and democratic principles and values. One aspect of the diversification of society is the introduction of hate crime legislation. The capacity of the criminal justice system to investigate and identify hate crimes, and successful sentencing, affect the legitimacy and credibility of the legislation and potentially future reporting rates (Bell 2002). However, it should be observed that the hidden figure of hate crime is particularly large. Approximately even 80 % of the total number of hate crimes in Finland are not reported to the police (Ministry of Justice 2016).

Monitoring and policing hate crime in Finland

Hate crime is not a separate category of offence in the Finnish Penal Code, rather the hate crime legislation consists of several categories of offence, such as ethnic agitation, blasphemy, and illegal discrimination. In addition, hate motive is an aggravating circumstance in sentencing (Penal Code, chap 6. sec. 5 § 4)², which serves as the focus of this study. According to this statute, any crime motivated by prejudice towards particular, presumed characteristics of the victim (nationality, ethnicity, religion etc.), should result in a harsher penalty. Racist motive as an aggravating circumstance was enforced into Finnish legislation in 2004.

Since 1997, the Ministry of the Interior and later the Police University College, collect annual statistics on police-reported hate crime in Finland (e.g., Tihveräinen 2014). However, there is scarce information on how hate crime cases are processed in the criminal justice system. The monitoring of the effects of the statute of hate motive as an aggravating circumstance has been insufficient, since the annual official statistics on prosecution frequency and sentencing are inadequate (Peutere

² Penal Code, Chapter 6, Section 5, § 4: “*commission of the offence for a motive based on race, skin colour, birth status, national or ethnic origin, religion or belief, sexual orientation or disability or another corresponding grounds...*” Unofficial translation provided by the Ministry of Justice. <http://www.finlex.fi/fi/laki/kaannokset/1889/en18890039.pdf> (accessed 30.05.2018)

2008; 2010). For instance, Finnish authorities have not been able to provide complete official data on prosecutions and sentenced cases to the Office for Democratic Institutions and Human Rights (ODIHR), which collect hate crime data in Europe³. Because of the difficulties in retrieving complete statistics on to what extent bias motive is taken into consideration as an aggravating circumstance, it is even more important to conduct qualitative studies which trace the criminal justice processing of hate crimes. A previous qualitative study, conducted at the Police University College (Peutere 2008; 2010), indicates that bias motive is rarely considered in sentencing; the verdicts are of inconsistent nature and few in number. These results indicate that legal practice had not been established since the law was enforced in 2004. Therefore, it is not only important to examine how, and on what grounds, bias motive is considered as an aggravating circumstance, but also, most importantly, the mechanisms and dynamics which may explain why the law *is not* implemented.

The socio-cultural boundaries of hate crime

International research on hate crime legislation and criminal justice processing predominantly concern the North-American and English legal context. Initially, the category of hate crime and hate crime legislation emerged in the 1970–80s in the US. In the past 20 years, hate crime research has grown significantly in disciplines such as legal studies and criminology (e.g., Bell 2002; Morsch 1991). In the 1990s and 2000s, the category of hate crime and hate crime legislation have been introduced also in Continental Europe and the Nordic countries (Bell 2002). In recent years, the increasingly interdisciplinary field of hate crime research, including both theoretical development (e.g., Brax & Munthe 2015) and empirical case studies (e.g., Granström & Åström 2017), has grown significantly in the Nordic countries. This is an important step in recognizing the peculiarities of hate crime in different socio-cultural and political contexts.

The aim of this project is to explore the legal, socio-cultural and ethical aspects of hate crime in the Finnish criminal justice system and examine how cultural categories, stereotypes and ethical values affect how criminal justice agents identify xenophobic and racist bias motives. ‘Cultural category’ is one of the main tools of the conceptual framework. ‘Hate crime’ is itself a cultural category, constructed by policy-makers, victims, civil society, and researchers (see Chakraborti 2015). The concept of ‘hate crime’ does not primarily refer to the expression of ‘hate’ reduced to emotion per se (Bell 2002). Rather, it refers to how we understand ourselves and others in cultural categories, such as the distinction between “Us” and “Them”, which in turn might be associated to the spectrum of bias, stereotypes and prejudice, xenophobia, and racism (see Fredriksson 2018). Cultural categories are socially shared views and ideas on phenomena in our surroundings. Categories are given more exact definitions or explanations in their various contexts, and thus tell us something about that category. In this sense, categories are associated with activities; they are about ‘doing’ and action. These categories also have some kind of connection to each other, and thus produce a moral order or hierarchy of categories, which acquire their meanings in relation to

³ See ODIHR/OSCE official hate crime data of Finland <http://hatecrime.osce.org/finland> (accessed 29.5.2018)

each other (Jokinen et al 2012). This approach is fruitful also when it comes to understanding hate crime as a phenomenon: Why is hate crime legislation needed? Which social groups and characteristics should be considered especially vulnerable and in need of legal protection? On what grounds should a bias motive be considered in sentencing?

The occurrence and understandings of hate crimes are shaped within the prevailing socio-cultural and political milieu. For example, the historical, cultural and political circumstances shape which social groups are decided to be protected by law and which forms of “non-acceptable prejudice” needs to be punishable (Chakraborti 2015). ‘Cultural hate’ is more extensive socialized patterns of prejudice and racism, which are present in different sectors of society and in people’s everyday lives. Obviously, the criminal justice system and its inherent practices are not isolated from the surrounding socio-cultural milieu, which inevitably affects also criminal justice processing (see Kemppinen 1990). For instance, which forms of prejudice, xenophobia and racism are naturalized – and perhaps overlooked – in the Finnish criminal justice system?

The symbolical, normative and ethical dimensions of hate crime legislation

The symbolical, normative and ethical dimensions of hate crime legislation concern both the basic assumptions of why legislation is motivated and how it is enforced. One of the aims of hate crime legislation, as promoted by policy-makers, is to break down destructive societal cultural patterns such as intolerance, xenophobia, and racism. Consequently, the judicial measures taken to criminalize bias-motivated acts are important means to combat intolerance, xenophobia and racism, at least in the sense that these measures maintain the common ideals and values of a democratic society (Perry 2010). Hate crime legislation is thus laden with symbolical value in addition to its instrumental aims (that the enforcement of the law provides justice for the victims) (Grattet 2008). However, the symbolical and instrumental aims and actual implementation often differ from each other.

In addition, hate crime legislation is based on several normative ethical assumptions. Brax and Munthe (2015) examine the ethical grounds of hate crime legislation. Generally, hate crimes are perceived as more harmful to the victims and society than other crimes. A distinct feature of hate crime is that its consequences (harm, sense of insecurity, fear) reach beyond the individual victim, to the social group that the victim is assumed to belong to, and even to other vulnerable groups or minorities. Hate crimes are often characterized as ‘message crimes’, which signal both to other individuals (potential future victims) and society at large, that targeted individuals are not equal to ‘others’. Hate crimes can also be considered as particularly blameworthy, since offenders target individuals who often already are in a vulnerable position. These explanation models are only few examples of how hate crime legislation provides an ethical basis for combating hate crime. However, they may not work in actual criminal justice proceedings. Although each of these arguments are sufficient to cater the victim’s experiences, are they all required for conviction (Brax & Munthe 2015)? Furthermore, these ethical assumptions also raise questions about how to connect policies and law to the actual identification of bias motives: what exactly is enough

evidence to prove a bias motive to result in successful enforcement of the law?

Challenges in identifying and proving bias motives –beyond procedural reasons?

Characteristic to identifying and investigating hate crime cases is the necessity to prove a bias motive. In the criminal justice processing of hate crime, it is central to identify the bias motive at each stage. In parallel offences (offences without bias motive), the prosecutor needs to prove only the intent of the suspect. An intent is the desire that a particular consequence will follow. In contrast, the identification of the motive takes one step further; the motive is an explanation to *why* that consequence was desired (Morsch 1991). In other words, the motive is 'in the offender's head', beyond circumstantial evidence (Brax & Munthe 2015). International legal and criminological research suggest that bias motive is seldom considered in sentencing for both procedural and cultural, interpretational reasons (e.g. Morsch 1991, Owusu-Bempah 2015). A procedural issue is that proving a bias motive is associated with a heavy burden of evidence. There are also examples of how interpretations of penalty enhancement statutes may result in net-widening. This means that the law is implemented in a way that differs from the intended implementation, and is used more broadly for, for example, punishing behaviour instead of motive (e.g., Ringnalda & Kool 2012).

Procedural reasons may explain why many hate crimes are not processed as hate crimes explicitly, but it is even more difficult to trace the influence of socio-cultural factors in the criminal justice processing. For instance, the criminal justice system contributes to creating and maintaining cultural categories of victims and offenders, also known as 'ideal victims' and 'ideal offenders'. The ideal victim is innocent, in a vulnerable position, and emphasizes his or her position as a victim. Meanwhile, the ideal offender is superior to the victim and described in a negative manner (Christie 1988). As Mason (2014) argues, the symbolic purpose of hate crime legislation is based on ideas of which groups in society "deserve" empathy in the form of legal protection and fulfil the imagery of the ideal victim. Consequently, the question is; how do ideal-typical cultural understandings affect the criminal justice processing, since descriptions and views on victims and offenders in actual cases seldom meet the ideal typical criteria (see e.g., Lindgren 2004)? Similarly, stereotypical ideas of what is a 'true' hate crime and ideas of what counts as an 'actual' insult, and is so to say "offensive enough" in that particular context, may also prevent cases from successful proceeding (Lantz et al 2017). In actual hate crime cases (in contrast to ideal typical or stereotypical ideas), mixed motives and peripheral motives are not unusual. These initial observations provide reasons to explore the socio-cultural and ethical aspects of identifying, investigating and sentencing hate crimes.

Most hate crimes are committed by 'ordinary people' in 'everyday situations', whilst hate crimes conducted by ideologically motivated organized hate groups are marginal (Perry 2010). One of the major challenges in policing and criminal justice processing of hate crimes is to recognize the ordinariness and naturalization of racist characteristics in the context of crime: to observe the connection between the micro-dynamics played out in individual hate crime scenes and the larger

socio-cultural processes which prejudice, xenophobia and racism are part of (Chakraborti 2015). In general, criminal cases are processed as individual incidents, which tends to disconnect the particular, individual incident from the larger patterns of cultural reproduction of xenophobia and racism. When it comes to investigating and identifying motives, Brax and Munthe (2015) suggest that bias motives rooted in prejudice, xenophobia and racism are difficult to prove, since these are perceived as subjective, temporary, and seem to have an unclear connection to the criminal act (for example, depending on whether bias was expressed before, during, or after the incident).

If the connection between the bias motive and the criminal act is considered unclear, several questions concerning the ethical aims of the legislation will follow: What is considered 'offensive enough' and 'racist enough' in the eyes of the criminal justice agents? Is the confession of the offender enough to prove the bias motive? Is it morally justifiable to punish, in case the connection between bias and act is unclear? Or should the benefit of society (that the law is implemented for its symbolical and instrumental function) be the main concern? By exploring the challenges of investigating and identifying bias motives beyond procedural issues, I hope it is possible to answer at least some of the questions.

Concluding remarks

The aim of the present project is to explore how socio-cultural and ethical aspects, beyond explicit procedural aspects of the criminal justice process, may explain difficulties in identifying, investigating and prosecuting hate crime. Legal and socio-cultural meanings of hate crime are simultaneously shared, disagreed on and contested within the criminal justice system, which results in different interpretations, actions and practices in decision-making. There is an urgent need to tie together interdisciplinary theoretical perspectives with empirical studies of actual hate crime cases, in order to understand how the legal, socio-cultural and ethical boundaries of hate crime constantly are in a process of negotiation among criminal justice agents.

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Beyond Ethnicity: The Case for Critical Race Theory in Nordic Criminology

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Critical criminologists have long examined the role of power and politics in processes of criminalization and discourses of crime control. While critiques of class relations are most developed in the criminological literature, feminist criminologists have in the last few decades engaged the role of patriarchy not only in relation to women and crime, but within the field of criminology, as well (Burgess-Proctor, 2006; Chesney-Lind, 2006; Chesney-Lind, 2002). With the rapid increase of non-European immigration in the past three decades, immigration has become a hot topic of debate throughout the Nordic countries, with concerns about integration, crime, and safety dominating both popular and political discourse. As a response, Nordic criminologists have increasingly begun to examine questions about migration, crime, and criminal justice. Often, however, immigration (and immigrants themselves) is implicitly presented as the cause of the social issue to be solved, rather than centering questions about the politics and power relations that structure criminogenic forces in immigrant communities. Furthermore, I argue that both the language of migration and of ethnicity are inadequate to capture the social life of racialized communities in the Nordic countries, including our understandings of crime and violence.

In this project, I explore the current state of Nordic criminology's engagement with immigration and ethnicity and make the case for the usefulness of a *Critical Race Theory* framework in Nordic criminology. I argue that a critical engagement with racialization is crucial for criminologists' ability to examine the politics of crime control and its impact on marginalized communities as well as criminology's historical complicity in the production and maintenance of social hierarchy and exclusion. I will briefly introduce the tenets of critical race theory and their application to criminology, after which I will discuss the problem with contemporary discourses of race, ethnicity, and migration in Nordic scholarship, and concluding with reflections on some of the applications of a critical race theory framework in Nordic criminology.

Emerging in the United States in the 1980s as a critique of both Critical Legal Studies and liberal post-civil rights era scholarship on race, Critical Race Theory offers a theoretical framework for examining the relationship between power, racialization, and law. Developed by legal scholars of color, Critical Race Theory (hereafter CRT) specifically examines the mutually constitutive constructions of race and racism through law. Kimberlé Crenshaw (K. Crenshaw, 1991) further introduced and developed intersectional theory, which has become central to theorizing overlapping systems and structures of oppression, domination, and discrimination and a critical advancement of feminist theory. While critical race theorists hold that 'race' is socially constructed, race is nonetheless considered socially real with real material consequences. Thus, CRT takes the ontological position that racism is routine rather than aberrational, thereby shifting focus away from individualistic queries about whether or not racial bias persists towards examinations of the

legal, cultural, and political mechanisms by which racialized hierarchies are produced and maintained in society (Delgado & Stefancic, 2007). CRT also emphasizes the historical and material contingencies of what Delgado has called 'differential racialization' – in other words, how dominant society racializes different populations at different times is dependent on shifting needs, such as the labor market (Delgado & Stefancic, 2007). Other tenets of CRT include a dedication to reflexivity, social change, and the critical analysis of epistemology, as such centering not only the experiences but also the knowledges of marginalized communities.

While legal scholars have discussed CRT's usefulness for criminology (K. W. Crenshaw, 2011; Delgado & Stefancic, 2007; V. C. Romero, 2003), CRT remains severely underutilized in criminological research, with a few notable exceptions. Although not always explicitly engaging with CRT, the past decade has seen the development of critical scholarship in line with what criminologist Karen Glover (2009) termed *critical race criminology*. Perhaps the most significant strand of such work has traced the historical evolution of racialized carceral regimes in the United States (Alexander, 2012; Camp, 2016; Haley, 2016; Muhammad, 2011; Wacquant, 2002). Others have more explicitly engaged a critical race theory framework in studies of the privatization of prisons (Hallett, 2006), racial profiling (Glover, 2009), the policing of gangs (Muñiz, 2015), and the rise of the criminalization of migration, or 'crimmigration' (M. Romero, 2008).

Nordic criminologists have in recent years begun to pay more attention to questions about ethnicity, migration, and social exclusion as they pertain to crime and criminal justice. In the case of Sweden, this has included studies of hate crimes (Andersson & Mellgren, 2016; Bunar, 2007; Sporre, 2007; Wallengren, Mellgren, Malmö högskola, & Institutionen för kriminologi, 2017), discrimination in the criminal justice system (Sarnecki, 2006), so-called ethnic profiling (Hydén, 2006), and critical analyses of the politics of 'radicalization' (Hansen Lövstrand, 2015; Hörnqvist & Flyghed, 2012), urban uprisings (de los Reyes & Hörnqvist, 2016), 'crimmigration' (Barker, 2012), and the criminalization of the mobile poor (Barker, 2017). I stress, however, that while providing valuable analytical tools, the general tendency to rely solely on the language of migration and ethnicity is insufficient for fully capturing the experiences of racialized communities in the Nordic countries, including our understandings of criminalization and the politics of crime control.

By defaulting to the language of immigration without engaging the racialized discourses that frame ethno-national belonging, the role of social structure in shaping the experiences of 'migrants' is rendered invisible. The language of immigration also fails to capture the experiences of non-White first- and second-generation Finns, Swedes, Norwegians, Danes, and Icelanders since the insistent reliance on the language of 'second-generation immigrant' rather than engaging with racialization discursively reinforces the perpetual foreignness of Nordic citizens of color (Lundström & Teitelbaum, 2017). Furthermore, historically racialized peoples include not only (particularly non-European) immigrants and their descendants, but also local minorities that have historically experienced structural and interpersonal marginalization, including Sami and Roma communities.

The failure to critically engage with racialization as an organizing force can be attributed to the 'myth of Nordic exceptionalism'. Narratives of Nordic exceptionalism not only permeate discourses of Nordic criminal justice policy as exceptionally humane (Barker, 2013), but also rely on a generalized Nordic self-image as bastions of social progressive policy and equality. As Michael McEachrane (2014) points out, this includes the myth of the Nordics as "colorblind" countries that have somehow kept their hands clean of the messiness of racism. Not only does this framework erase the historical participation of the Nordic nations in the production and maintenance of global White dominance (Keskinen & Andreassen, 2017; Loftsdóttir & Jensen, 2016), but it also erases the critical role of the social sciences – including criminology – in the development and justification of racist logics under the guise of 'science'. Given the contemporary political climate across Nordic countries, including shifts in both carceral and welfare regimes, and the centrality of racialized discourses about crime and violence in the mainstreaming of right-wing, xenophobic, Islamophobic, and racist political discourse, it is increasingly imperative for criminologists to theorize and engage empirically with racialization in studies of the politics of crime control. The application and extension of Critical Race Theory to the Nordic context is a fruitful starting point in what will hopefully culminate in a more comprehensive and locally situated approach to examining racialization and its place in Nordic criminological scholarship.

PARALLEL SESSION 1C: Domestic and gender-based violence

Feelings of Unsafety and Vulnerability in Reykjavik City Centre: What Affects Fear of Crime?

Jónas Orri Jónasson, Sædís Jana Jónsdóttir, and Rannveig Þórisdóttir

Abstract

For decades, researchers have used questions on how safe people feel alone in their neighbourhood and in urban areas to measure fear of crime and feelings of safety. The most prominent difference in fear of crime between societal groups across studies has been between the genders, where women are more likely to feel unsafe in urban areas than men are. This gender difference in fear of crime has been explained by an increased sense of vulnerability in women, especially regarding their perceived vulnerability to protect themselves against violent crimes and sexual assault. The focus of this study is to measure fear of crime and feelings of safety in urban Reykjavik. Which societal group is most likely to fear crime and do they behave in a certain manner to increase their perception of safety in situations where they experience fear? Is there a vast gender difference in this safety behaviour? These questions will be answered using data from an Icelandic victim survey conducted by the Social science institute, Reykjavik metropolitan police and, the National commissioner's office. The findings highlight that women are more likely to fear crime than men are, mostly because they feel they are less able to protect themselves. For this reason, women are much more likely to behave in a certain manner in fearful situations, such as holding their keys in their fingers, staying away from ill-lit areas and watching their drinks.

Introduction

Feelings of safety and fear of crime has been a hot topic in criminological research for decades. Gunnlaugsson (e.g. Gunnlaugsson and Galliher, 2000) conducted the first study on fear of crime in Iceland in 1989 and studies have been conducted regularly since that time (see, Gunnlaugsson, 2008; Jónasson and Gunnlaugsson, 2012; Jónsdóttir, Þórisdóttir and Gunnlaugsson, 2015). Since 2007, the Reykjavik Metropolitan Police, along with the National Commissioner of the Icelandic Police, have measured feelings of safety and fear of crime. These measures have shown that Icelanders feel rather safe in their own neighbourhood, and about nine in ten Icelanders report feeling safe where they live. Feelings of safety change dramatically when asked about feelings of safety in Reykjavik city central. For the past ten years or so, about 50 percent Icelanders report feeling safe walking alone, at night, in the city central.

Previous research has shown that gender and age are the most prominent factors that influence fear of crime (LaGrange and Ferro, 1989; May, Rader and Goodrum, 2009; Jónasson and Gunnlaugsson, 2012; 2013). That is, women are more likely to report fear of crime than men, and,

older individuals are more likely to fear crime than younger individuals. Reports have also shown that individuals living in urban areas are more likely to report fear of crime than individuals living in rural areas. Disorder and less closeness between people have been shown to be the reason behind this difference. Factors such as graffiti and vandalism influence this feeling of disorder and are often considered to be related to crime, and, therefore, increase feelings of unsafety, and fear of crime (Garofalo, 1981; Will and McGrath, 1995; Killias and Clerici, 2000). Some researchers have reported a relationship between previous victimization and fear of crime. That is, individuals who have been victimized before are more likely to fear crime than other individuals are (Balkin, 1979; Skogan and Maxfield, 1981; Gomme, 1988; Swaray, 2007). However, not all researchers in this field agree on this. It has been reported that indirect experienced victimization through media coverage has a significantly stronger effect on individuals than direct victimization. This indirect experience may also explain why older individuals are more likely to fear crime than younger generations (Bennett and Flavin, 1994; McGarrell, Giacomazzi, and Thurman, 1997; Cook and Fox, 2012; Covington and Taylor, 1991; Ferraro, 1996; Hayman, 2011).

Vulnerability has been considered a key factor in explaining the difference in feelings of safety between societal groups. Research has shown that women and older individuals are more likely to feel unsafe because they tend to be more vulnerable, and do not consider themselves capable of defending themselves if attacked (Warr, 1984; Ferraro, 1996; May, Rader and Goodrum, 2009). Researchers have also mentioned the gender fear paradox phenomenon. That is, women report more fear of crime than men, but are in fact less likely to be victimized by street crime. One possible explanation for this is the so-called Shadow of Sexual Assault Hypothesis, which is that the fear of being a victim of sexual assault is an overarching fear for women, causing them to report greater fear of crime than men do. Some researchers have pointed out that this is an unrealistic fear, focusing on the “stranger danger”, when sexual assault is more likely to take place between friends or acquaintances (Riger, Gordon and LeBailly, 1978, 1982; Warr, 1985; Pain, 1995, 2001; Ferraro, 1996; Franklin and Franklin, 2009).

Research has also shown that women are more likely to change their behaviour to increase their feelings of safety. These behaviours have been categorized as preventive and self-protective behaviours. Preventive behaviour is described as staying away from specific areas, such as less travelled streets and ill-lit areas. Self-protective behaviour is described as carrying weapons or turn everyday-objects into weapons in order to protect themselves, such as carrying their keys in their fingers.

Data and method

The data in this research is from a yearly survey, ran by the Reykjavik Metropolitan Police, along with the National Commissioner of the Icelandic Police, where the general public is asked about their opinion of the police, feelings of safety, fear of crime and victimization. The data collection was conducted by the Social Science Research Institute in the University of Iceland. The sample

included 2,000 individuals, 18 year old or older, living in the Reykjavik Metropolitan area, who had agreed to be part of the institutes' web-panel. Data collection took place in May and June of 2017. The number of respondents was 1,271 and the response rate was about 64 percent. The data was weighted by age, gender, and education in order for the sample to represent the whole population.

Results

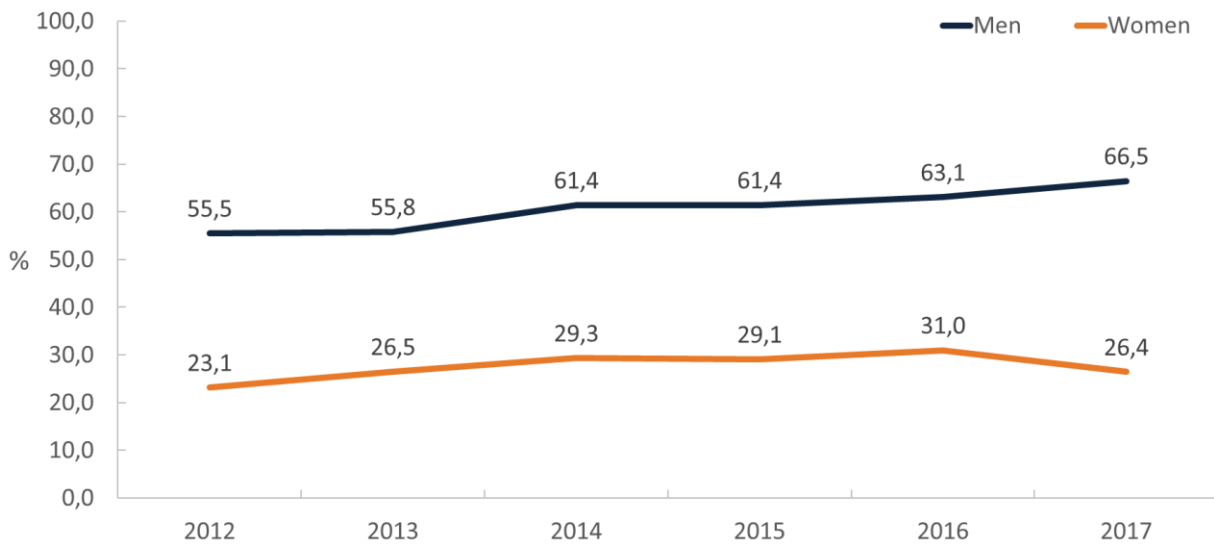


Figure 1. Feelings of safety by gender in Reykjavik city centre from 2012 – 2017.

Icelandic men are much more likely than women to feel safe walking alone, in the city centre, after dark or after midnight, on the weekends. About two out of three Icelandic men felt safe walking alone in the city centre in 2017, but only about one out of four women. Figure 1 shows that feelings of safety among men has been increasing since 2012. In 2012, around 56 percent of men reported feeling safe and in 2017 that number had increased to around 66 percent. The figure does not show the same story for women, where feelings of safety in Reykjavik city centre have not changed significantly that much in this six-year period.

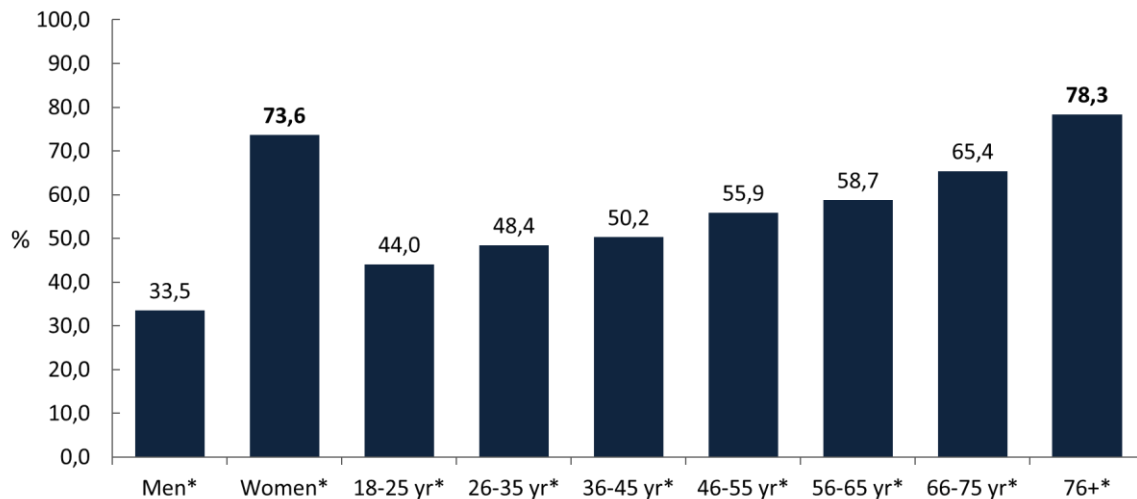


Figure 2. Feelings of unsafety in Reykjavik city centre in 2017, by gender and age.

Figure 2 shows that women, and the older generation, are more likely to have reported feeling unsafe in Reykjavik city centre after dark. The figure also shows that feelings of unsafety increase with age. Around 44 percent of individuals in the age range of 18 – 25 years old report feeling unsafe, but about eight of ten individuals in the age range of 76 or older.

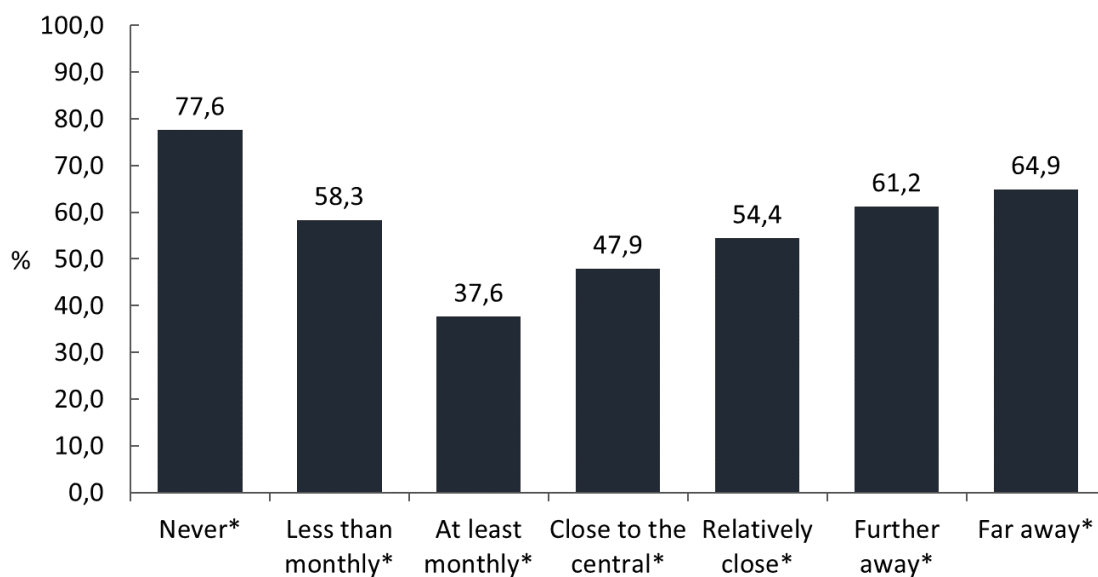


Figure 3. Feeling unsafe in Reykjavik city centre in 2017, by how often participants visited the city centre and residency.

Figure 3 shows that individuals who never go to the city centre after dark, are more likely to feel unsafe there, compared to individuals who go to the city centre at least once a month, and the difference is significant. About four out of five individuals who never visit the city centre after dark, or after midnight on the weekends, feel unsafe, but only around two out of every five individuals who go regularly to the centre. The figure also shows that people living the furthest away from the city cent are more likely to feel unsafe, compared to than individuals living in the

city centre or close to it. Around 50 percent of individuals living close to the city centre feel unsafe walking alone, after dark or after midnight, on the weekends, and around 65 percent of individuals who live the furthest away.

Figure 4 shows that the main reason both men and women feel unsafe in the city centre after dark is the fear of not being able to protect themselves and fear of the aftermath of an attack. Media discussion seems to have had more effect on women than on men, since around 40 percent of women reported media discussion as the cause of fear, compared to 30 percent of men.

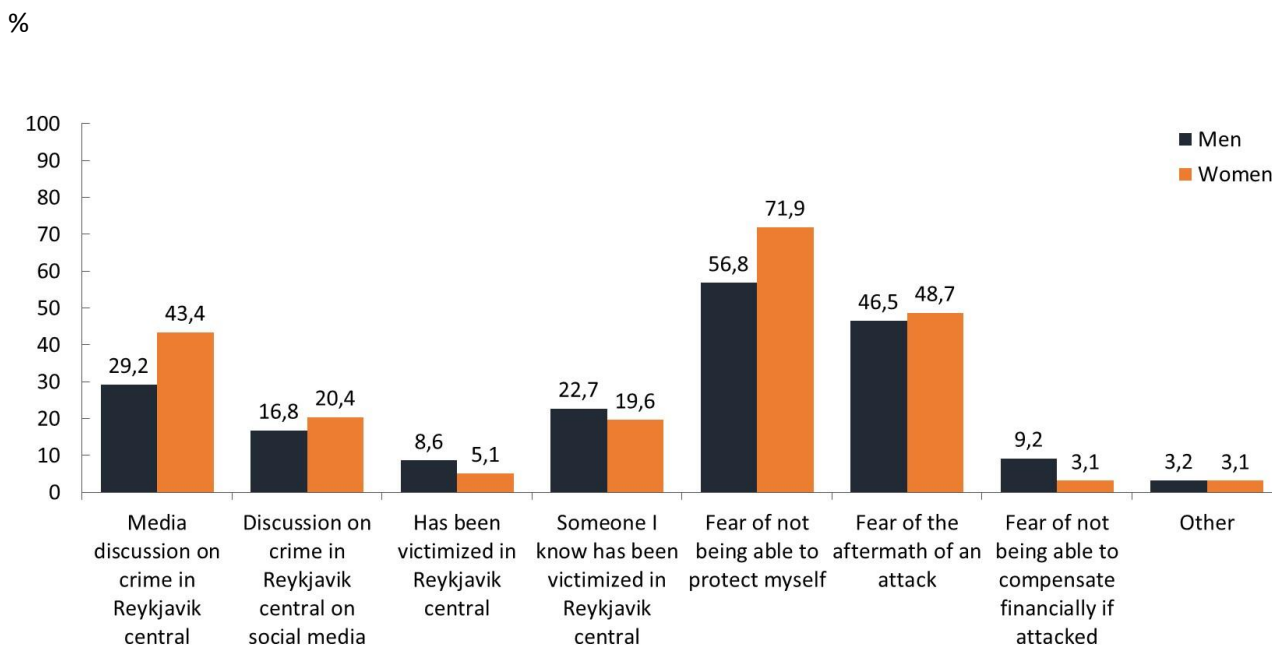


Figure 4. What causes feelings of unsafety in Reykjavik city center, by gender.

About one out of three individuals reported having feared being a victim of physical assault in the year 2016. Figure 5 shows that the difference between men and women was not significant. However, the difference was greater when asked about sexual assault. About three out of ten women reported having feared being sexually assaulted in 2016 and less than one percent of men.

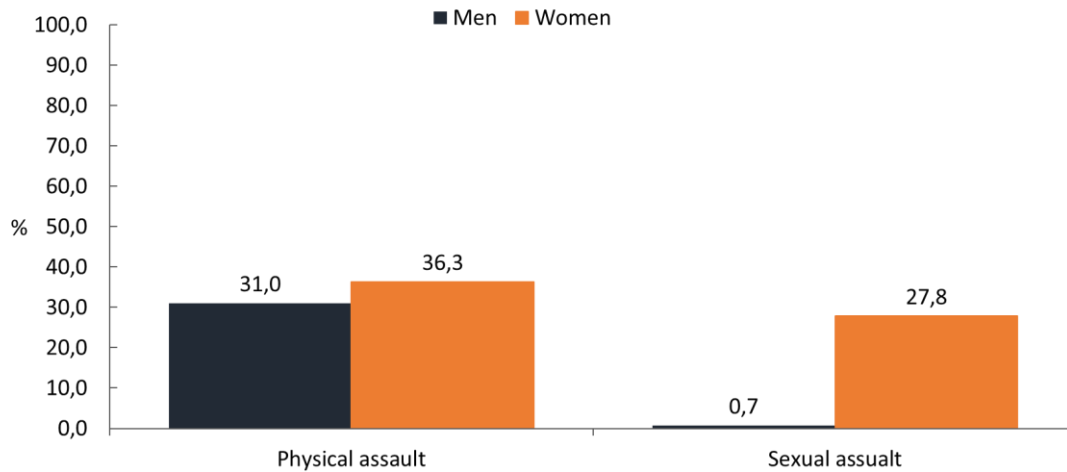


Figure 5. Fear of being victims of physical and/or sexual assault.

Women were much more likely than men were to have emitted a safety behaviour in Reykjavik city centre. Figure shows that around nine out of ten women had done something to increase their safety but only around one out of two men. Most women avoided walking through areas with poor or no streetlights and/or had their phone in their hand to call for help if needed.

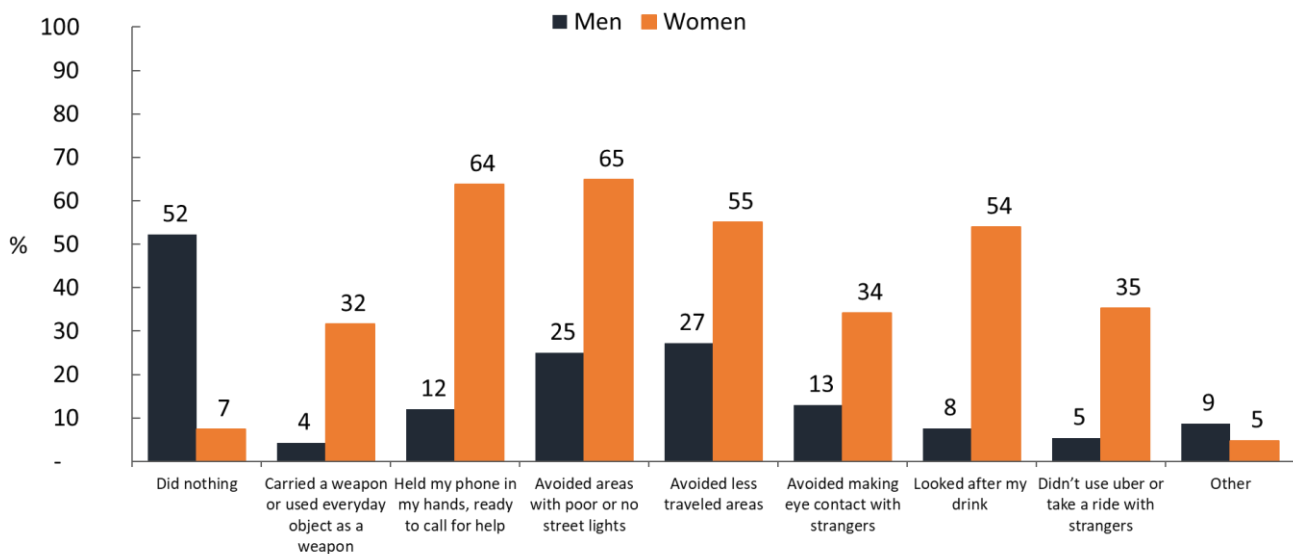


Figure 6. Safety behaviour: Participants who feared being victims of physical and/or sexual assault in 2016, by gender.

Conclusions

Women, older individuals, people living far away from Reykjavik city centre, and individuals who do not go downtown on the weekends, are most likely to feel unsafe in Reykjavik city central after dark, or after midnight, on the weekends. Perception of defencelessness and fear of the aftermath of an attack had the greatest effect on feelings of unsafety in downtown Reykjavik as well as media coverage also having some effect. Defencelessness had more effect on women and younger

individuals (the group that is most likely to go to Reykjavik city centre) than on men and older individuals (who are less likely to go to Reykjavik city centre).

Women were more likely than men were to fear being victims of physical and/or sexual assault in 2016 and almost no men feared being victims of sexual assault.

The majority of those who feared being victims of physical and/or sexual assault in 2016 avoided areas with poor or no streetlights and/or had their phone in their hand, ready to call for help.

Women were more likely than men were to have altered their behaviour to feel safer in downtown Reykjavik. About five out of ten men did nothing to feel safer.

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Do intimate partner violence victimization and other violent victimization have similar etiologies?

Maiju Tanskanen

Introduction

Intimate partner violence (IPV) is often conceptualized as violence against women. In Finland, as in many other countries, women do experience more violence committed by their partners than men: according to the Finnish National Crime Victim Survey 2012, ten percent of women have experienced IPV whereas the corresponding percentage for men is six (Danielsson & Salmi 2013). The observed gender asymmetry in IPV has led certain social scientific research traditions to see IPV as gendered violence per se. In the western countries, this has had a strong effect on how IPV has been addressed as a social problem (Dutton 2006; Dixon & Graham-Kevan 2011).

The gendered perspective into IPV is based on the feminist paradigm and it sees the patriarchal gender system as the main cause of IPV. Thus, IPV is by definition violence experienced by women and committed by men (Dutton 2006, 95–97; Dobash & Dobash 1992, 4). This kind of idea about the nature of IPV has been criticized based on empirical evidence that shows that IPV is not as asymmetrical as the gendered perspective assumes: women do commit violence towards their partners as well (Dixon & Graham-Kevan 2011, 7). In addition, the causal explanation on IPV made by the gendered perspective has been found problematic: explaining violence based on patriarchy at societal level implies that every man is equally likely to commit violence and every woman is, correspondingly, equally likely to become an IPV victim. This assumption is at odds with empirical studies considering risk factors for IPV (e.g. Felson & Lane 2011; Ouellet ym. 2016; Salmi & Danielsson 2014).

Consequently, it has been argued that IPV may be affected by same causalities than other violence and those causalities concern both genders (e. g. Dutton 2006; Archer 2000). This so-called violence perspective sees IPV as a part of a general violence tendency. This kind of view on IPV has been criticized by feminist researchers as an attempt to deny the gendered nature of IPV (Johnson 2011).

In this study, I consider the question of whether intimate partner violence and other violence have similar etiologies from the victimization perspective. In order to answer the question, risk factors for IPV and other violent victimization will be determined and compared using an empirical data, the Finnish National Crime Victim Survey. The general criminological model predicts that the correlates of IPV and other violence are similar whereas the gender model predicts that they are different, and this research design thus proposes to test these two conceptual models in empirical data.

On a larger criminological perspective, this topic is connected to the ongoing discussion on whether different types of crime should be considered as different forms of the same phenomenon or if they should be studied as separate research interests. Also, as different research traditions may lead to different implications to practice and policy (Dixon & Graham-Kevan 2011, 3), discussion on potentially flawed assumptions of the nature of IPV is important not only from theoretical perspective but also from the point of view of practical policy implications.

Prior research

Some studies have been made that handle the topic from the perpetrator perspective. According to those, some well-known risk factors of violence in general, such as socioeconomic disadvantage (Kivivuori & Lehti 2012), criminal history, alcohol and drug abuse and prior violent victimization (Felson & Lane 2010), seem to be predictors of IPV as well. In addition, some people tend to commit both IPV and other violence as IPV perpetrators often have history of violent behaviour (Ouellet et al. 2016). Overall, these results seem to support the idea of IPV as a part of the general violence tendency.

There is plenty of prior research considering risk factors of IPV victimization. Based on those, there are several risk factors for IPV victimization: for example, young age (Palmetto et al. 2013; Franklin & Kercher 2012; Koepfel & Bouffard 2014; Franklin & Menaker 2014), alcohol or substance abuse (Gilbert et al. 2013; Li et al. 2010; Reigle et al. 2014; Salom et al. 2015), belonging to an ethnic minority (Li et al. 2010; Palmetto et al. 2013; Martin et al. 2013; Reingle et al. 2014), low educational level (Koepfel & Bouffard 2014), economic difficulties (Salmi & Danielsson 2014), violent socialization and prior victimization (McMahon et al. 2015; Murphy 2011; Renner & Whitney 2010) and elements of social disorganization on a neighbourhood level (Blumensteinin & Jasinskin 2015) increase the risk of IPV victimization. Interestingly, these seem to be known risk factors of general violent victimization as well.

Research questions

The gender perspective argues that IPV is different from other forms of violence as it is primarily a result of patriarchal gender system whereas according to the violence perspective, similar causalities may affect both IPV and other violence. In order to test the assumptions of these two perspectives, the following questions are posed:

- ❖ Are those who have experienced IPV more likely to have experienced other violence as well?
- ❖ Are risk factors for IPV victimization same for women and men?
- ❖ Are risk factors similar for IPV and other violent victimization?

Data and methods

The data used in this study is the Finnish National Crime Victim Survey which is an annually collected, nationally representative sample of the Finnish adult population aged 15–74. For the

purpose of this study, six sweeps (2012, 2013, 2014, 2015, 2016, 2017) of the Finnish National Crime Victim survey data were combined in one dataset (N=40 555). Using the combined data is reasonable when studying a relatively rare phenomenon such as IPV. Specifically, large data allows separate analysis on IPV experienced by men.

In the analysis, IPV victimization is defined as physical violence committed by a partner or a former partner during the preceding 12 months whereas other violent victimization is defined as physical violence committed by some other person during the same time period.

As for explanatory variables, property crime victimization is used as a measure of a general victimization tendency. Also, previous studies have shown that property crime victimization is associated with low self-control (Schreck 1999; Pratt et al. 2014). Thus, it is also an interesting explanatory variable when it comes to criminological theory.

Self-evaluated social disorganization on a neighborhood level is used as another theoretically driven explanatory variable. Social disorganization may indicate low social control (Kivivuori et al. 2018, 212) which, based on the routine activities theory, may increase risk of crime in form of lack of surveillance (Cohen & Felson 1979). Notably, elements of social disorganization increase the risk of IPV victimization according to previous studies (e.g. Blumensteinin & Jasinskin 2015) so it is well-grounded to test this with the data in question.

Education and economic difficulties are used as explanatory variables as previous studies have shown them to be associated with IPV victimization (e.g. Salmi & Danielsson 2014; Koeppel & Bouffard 2014). Gender and age are also used in the analysis as explanatory variables.

The preliminary analyses are conducted using cross-tabulations and logistic regression analysis. In order to answer the research question, the same regression model is used for separate analyses for women and men. Also, another model is used to compare IPV and other violent victimization. Actual results of the regression analyses are not presented in this paper but are briefly described and discussed.

Preliminary results

Table 1 presents the results of a cross-tabulation between IPV and other violent victimization during the past 12 months. It shows that of those who have not experienced IPV 8,3 % have experienced other violence whereas for those who have experienced IPV the corresponding percentage is 18,2 %. In other words, IPV victims are more than twice as likely to have experienced other violence as well.

		Intimate partner violence victimization: No	Intimate partner violence victimization: Yes
Other violent victimization: No	N	35232	1223
	%	91,7	81,8
Other violent victimization: Yes	N	3203	273
	%	8,3	18,2
Total	N	38435	1496
	%	100	100

Table 1: IPV and other violent victimization during the past 12 months

As for the logistic regression analyses considering predictors of IPV for men and women, all the explanatory variables apart from education (that is, other violent victimization, property crime victimization, high level of social disorganization, economic difficulties and young age) turned out to be statistically significant predictors (at least on $p < 0.05$ level) of IPV victimization for both genders. Interestingly, tertiary education compared to primary education did increase the risk of victimization for men on a statistically significant level but the effect was not statistically significant for women.

As for the regression analyses for IPV and other violent victimization, property crime victimization, high level of social disorganization, economic difficulties, female gender and young age were all statistically significant (all at least on $p < 0.01$ level) predictors of both kinds of victimization. Education's effect, again, was rather surprising: as for IPV, tertiary education compared to primary education increased the risk of victimization on a statistically significant level whereas the risk of other violent victimization was highest for those with secondary education.

Preliminary conclusions

Some very preliminary conclusions can be made based on the results presented and described above even though more work on the data and analysis is needed to make more solid arguments.

Firstly, as IPV victims are more than twice as likely to have experienced other violence compared to those who have not experienced IPV, it does seem that IPV may be a part of a general violent victimization tendency at least to some extent. Also, the fact that property crime victimization turned out to be a rather strong predictor of IPV victimization may indicate a more general victimization tendency in which IPV is included.

Secondly, IPV experienced by women and men may have similar etiologies as, based on the analysis, predictors of IPV victimization are very similar for men and women. Of course, not all the possibly relevant risk factors were considered in the analysis but at least nothing seems to indicate that women and men would be totally different in this matter.

Thirdly, IPV and other violent victimization seem to be quite similar when it comes to the risk factors that have been taken into account in this study. This supports the idea that IPV and other violent victimization have similar etiologies. Overall, the results seem to support the violence perspective into IPV.

Finally, it is noteworthy that the theoretically motivated explanatory variables that were used in the analysis turned out to be rather strong predictors of IPV victimization. Property crime victimization as a predictor of IPV may indicate a risky life-style (Hindelang, Gottfredson & Garafalo 1978; Cohen & Felson 1979) or low self-control (Gottfredson & Hirchi 1990) that make people more vulnerable to IPV victimization, and social disorganization as a predictor of IPV may indicate low social control (Shaw & McKay 1969; Hirchi 1969). Clearly, it can be argued that general criminological theories may have explanatory power when it comes to IPV even though they are quite rarely used in IPV research.

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Family violence in the Metropolitan area Development from 2006/2007 to 2016/2017

Rannveig Þórisdóttir

In the past decades a number of attempts have been made to better formalize and improve how the Icelandic police handles and investigates domestic violence. Before 2005 there were no formal working procedures for these types of cases but changes were made in 2005 and then again in 2015. Although the effects of these changes has been evaluated, none have attempted to compare how these changes in the working procedures has materialized in the work of the police. Here I attempt to evaluate this by comparing how domestic violence is registered within the police systems and how this registration can indicate how these cases are viewed and handled by the police.

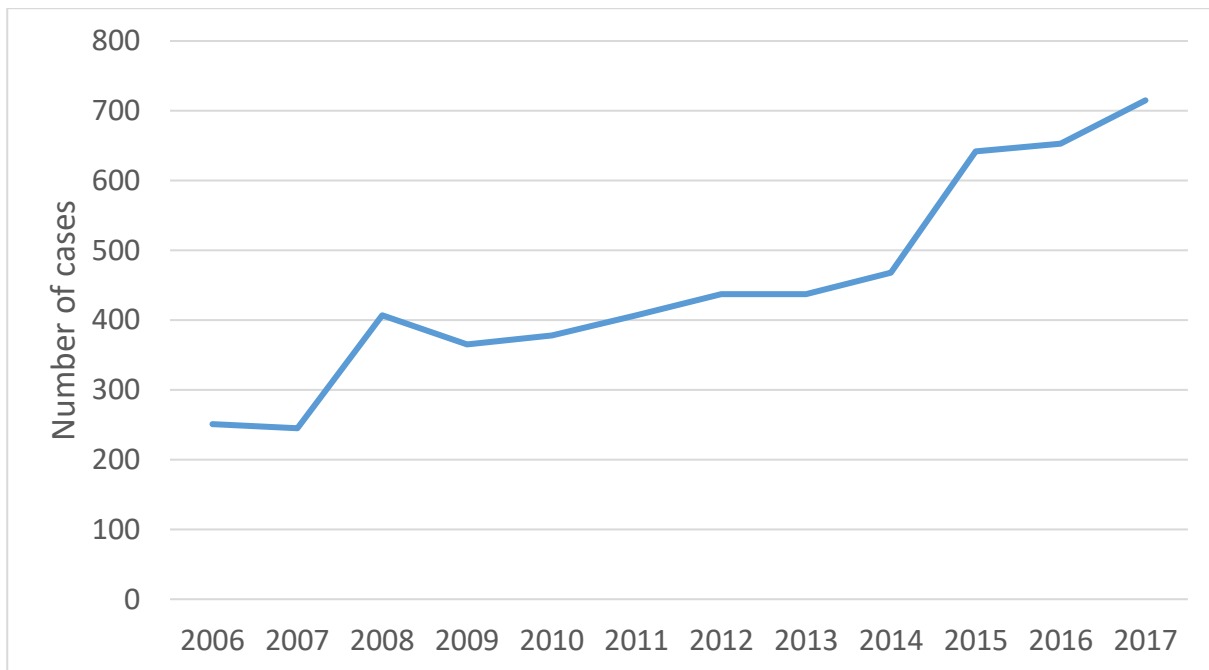
Reports and other police data indicates that in general violence within family has been defined rather narrowly, looking exclusively at violence between partners or ex-partners rather than including other types of family violence (Guðbjörg S. Bergsdóttir and Rannveig Þórisdóttir, 2010). Furthermore, partner violence has often been viewed as a personal or social problem rather than an offence. Therefore police officers often saw their role as “going in to settle the situation” rather than to investigate a criminal offence (Sonja Einarsdóttir, 2009). An example of this is the fact that domestic violence was not defined as a criminal offence in the police registry and the registration of other offences were seldom included in the files.

In 2005 the National commissioner of the Icelandic police adopted a new working procedure for family violence. Prior tradition of only including partner violence was countered by formally defining family violence as violence, threats, vandalism and such including family members or individuals related through family relation. For the first time it was also emphasized that the police would always include the criminal offence at hand but not just register the incident as domestic violence. The focus on police reporting to child welfare was also included in these procedures. In 2014 these working procedures were updated and changed considerably with more detailed instructions on how to work on these cases, changes in investigation, registration and follow up of these cases. The new approach also included much more co-operation between institutions such as social service, child protection service and the police.

Some evaluation has been made on the impact of these changes (Erla Hlín Hjálmarsdóttir, Kristín I. Pálsdóttir and Rannveig Sigurvinsdóttir, 2016) but none that includes a comparison between 2005 and 2015 to see how these changes appear in police statistics. In my presentation I reported preliminary results from such a comparison. However, the aim of this work is to examine how the number of reported cases has changed throughout the period, identify whether the characteristics of these cases have changed and look at how these changes are in relation to changes in the working procedure.

Summary

The data I use comes from the police registry including all reported cases to the police in the years 2005/2006 and 2015/2016 which took place within the Metropolitan area. Of course only a small number of family violence is reported to the police but one of the goals of renewing the working procedure was to motivate and increase the likelihood of these cases being reported to the police.



Graph 1. Number of reported cases in the metropolitan area from 2006 to 2017

As shown in graph 1 the number of reported cases has grown severely in the period at hand going from an average of 20 cases pr. month in 2006 to almost 60 cases pr. month at the end of 2017. Victimization surveys indicate that throughout this period the percentage of individuals that report having experienced domestic violence in the previous year has stayed more or less the same. This indicates that family violence is not grooving in society but is more likely now to be reported than before.

Preliminary results indicate that a higher percentage of domestic violence incidents which take place within the Metropolitan area are reported to the police now than in 2006 and 2007. Despite changes in working procedures there are little changes in the typology of reported cases but through registration there are indications that the cases are now seen rather as offences than social problems. For example offenders are more likely now to be included in the registration but before they were often excluded indicating that the case was not seen as an offence that needed to be investigated. The same picture appears with the development in the percentage of cases that include a criminal offence as a part of a case. Much more work needs to be done to be able to draw any real conclusions from this data but there are indications that changes in working procedures

influences the likelihood of an offence to be reported and recognized by the police as well influence the working methods of the police when it comes to how family violence is handled.

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PARALLEL SESSION 2A: Drugs and crime

Ideological Closure: Drug Prevention in a Post-political Society

Filip Roumeliotis, PhD

Introduction

In the following paper I present the main analyses and conclusions from my PhD project⁴. In this project I have been interested in examining what could be described as a tension between two opposing governmental logics: those of *democracy* and *technocracy*.

The field of drug prevention seemed to me to be a fruitful case to study since the current organization of drug prevention displays very clearly all the signs of a “rational” technocratic management of social problems such as the quest for evidence based solutions and the centrality of researchers as the main actors responsible for solving the various problems gathered under the heading of “drug prevention”.

On a conceptual level, I have approached the issue of drug prevention in terms of a *field of problematizations*. This means an examination of how certain *political technologies* aiming at influencing the behaviors of individuals and groups have been constructed within this field, how this field connects to certain modes of governance, how and under which conditions it constitutes its problems, the questions it asks, its implications in terms of political participation and representation, the various bodies of knowledge through which it constitutes the reality upon which it acts, and the limits it places on ways of being, questioning, and talking in the world.

So the questions I have posed are, how are drugs problematized in current political and scientific discourses and practices, how are limits established for legitimate *political* practices, what is *left out* in this field of problematizations, under which conditions is this field established, and what political implications and values can be drawn from this “rational” mode of governance?

Drug prevention: The Swedish case

The 1970/80's

In 1977, the Swedish government launched an extensive inquiry into the extent, causes and character of the drug issue. This inquiry led to the publication of several commission reports. In these reports, the drug problem was constructed as inherently complex, marked by unpredictability and flux and not possible to describe in precise terms. The reports positioned the “problem” of drug use in a dynamic process together with several other problems, such as unemployment, economic troubles, and housing issues, and these problems interacted to create a

⁴ Roumeliotis, F. (2016). *Ideological Closure: Drug Prevention in a Post-political Society*. Stockholm: Stockholm University, Department of Sociology.

complex phenomenon. In the last instance, the problem that this inquiry constructed for itself was centered on a notion of *social exclusion*.

A report published in 1981, on adolescence, drugs and preventive work, stressed the negative effects on those living in 'less good conditions, those who do not have safety at home, do not have equal possibilities of work or study, those who have economic problems' (Ds S 1981:11, p. 50). The report argued that access to work, good living environments, absence of stress and positive emotional relationships constituted fundamental conditions for people's inner and outer balance. Consequently, the commission's proposals on drug prevention activities stressed actions aimed at the social structure, in the shape of political social reforms, as the problem was ultimately constructed as being about social exclusion.

Social exclusion in this case included issues such as the exclusion from housing, education, work and financial security, as well as the possibility to participate in political life. However, it could also be seen as a threat to the social democratic welfare project, whose fulfilment demanded an active citizenship. This is to say that while the welfare state was to offer generous social rights to its citizens, inclusion in the welfare project was based on *obligations* of labor market participation, conformity to established social norms and social responsibility.

In the reports discussions on the causes and solutions of this problem, the individual was seen as embedded within a larger social context and dependent on enabling structures which would be provided by the institutions of the welfare state and the larger community. The interviews conducted by UNO and other inquiries participated in the constitution of a body of knowledge on the life histories and social conditions of individuals, which enabled a specific kind of representation of drugs as a problem. At the same time, this representation made possible a specific form of governance which relied upon the mutual responsibility of the state and its citizens. It also constructed a "social domain" against which politics could act through its emphasis on social structures. In this way, knowledge had a central role in stabilizing a governable domain for politics to act upon.

Following this mode of problematization, it is a logical consequence that in these publications drug experimentation as a gateway to what was termed "heavy drug abuse" was downplayed by this inquiry in favor of social factors relating to processes of social exclusion. Overall, what could be called the "epidemic theory", which focused on the drug itself as *the* problem was absent in these reports. Instead, a "symptom theoretical" perspective dominated in which drug use was rather a symptom of wider social problems. This, however, was to change during the 1990's...

The 1990's and onward

In the 1990's, drugs were increasingly decoupled from critical discourses aimed at social structures, and the use of drugs, rather than the social context of use, was seen as constituting the problem (the epidemic theory became dominant). Taking a substance-centered approach to

prevention, the public reports published from 1994 onward advocated that political action be directed at the behavior of individuals and groups – especially children and adolescents – rather than social structures.

Collective solutions were now replaced by an increased responsabilization of the family and the individual. Most important, drug use was seen as resulting from liberal or permissive attitudes toward drugs. The search for solutions was therefore centered upon the search for effective methods through which individuals were to be gotten to refrain from using drugs, among those suggested in the reports was so called “life skills training” and social and emotional training programs.

This shift to technocratic solutions of various problems (technocratic since prevention experts are expected to provide the solutions in the shape of effective methods) has taken the shape of a search for evidence-based methods and programs, and has led to the emergence of what is called *prevention science*, which might partly explain why sociological or criminological research was not considered in the public reports. This brought with it that problem representations of drugs shifted from being political in a public participatory sense to being technical in that experts were to handle the “problem” by utilizing efficient methods.

Today, what could be called a marketization of prevention has occurred, a market in which competing expert driven prevention programs exist and which municipalities or schools buy. Furthermore, this shift has meant that political accountability within the prevention field has dissolved by transferring the issue of drugs from the political arena to the expert arena.

The emergence of prevention science

During the early 1990s, there is a coming together of a number of techniques for the governance of a range of human problems such as adolescent delinquency, and drug and alcohol abuse through preventive measures. Most important, these techniques emerged from within a new scientific discipline – prevention science – which was consolidated during this period.

However, the emergence of prevention science did not come about without resistance. For instance, the conceptual framework inherent in prevention science was criticized for its reliance on the concepts of dysfunction and disorder, which according to one critic, constitute “a medical skeleton in the closet of the prevention model”. Others criticized it for its emphasis on the physical causes of clinical disorders and its neglect of prevention models that rather stress social injustices. According to these critics, this logic is dependent on an individual disease model which denies the causal power of social environments.

One of the central aims for prevention science has been the development of evidence-based methods and policies for the prevention of various problems such as drug use. Among the requirements for what counts as legitimate knowledge is the analysis of interventions aimed at reducing risk factors for clinically diagnosable disorders as defined by the Diagnostic Statistical

Manual (DSM). The subject in prevention science is constituted as a neoconservative rational choice actor to be inculcated with the skill in exerting self-control in relation to drug use.

Conclusion

With the valorization of a specific kind of scientific knowledge, the particular technologies formed in the prevention field have been legitimized. This risks naturalizing the problem formulations for which these technologies are seen as the solution. As demonstrated above, the way drugs have been problematized has varied over time and has been dependent upon considerations that are not necessarily possible to establish by scientific means but rather through political/democratic debate. In this sense, prevention science exerts significant ideological closure upon alternative ways of constructing the problems facing society today through its insistence on that these problem formulations are scientific rather than political.

A Crime Prevention Approach to an Open-air Drug Market:

Preliminary results of the “Navet” project

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Mid Sweden University

ABSTRACT

The ‘Navet’ project has extensively analyzed an open-air drug market at a local bus station in Sundsvall, a medium-sized city in Northern Sweden. Using a problem-oriented approach, the project aims to propose a crime prevention strategy based on the field evidence. We collected information on crime reported, interviewed drug users and key informants, including ex-bus drivers and social workers, and completed our knowledge of the area’s social environment through several months of ethnographic observation. Preliminary results show that the prevalence of crime reported is low. In 2016, Navet accounted for only 3% of crime committed in the city, of which 37% was drug-related crimes and 20% violent crimes. In a high proportion of the violent crimes, victims and offenders were acquainted. Three groups of suspected users with different social needs were identified as congregating at Navet: (1) a visible group that uses Navet as a place to meet, openly consuming alcohol and more discreetly using other substances (e.g. cannabis and pills), (2) a group more dispersed, socially isolated and much less visible to the public eye, who appear to have a wider age range and more basic needs as they are homeless and use charitable services to feed themselves, and (3) a highly volatile group, largely composed of youths of normalized appearance who occasionally congregate but leave the area immediately after they have met with specific males (i.e. suspected dealers) in a manner that suggests that they wish to steer clear of the stigmatization of drug use. Prevention strategies should target all of these groups and include making treatment and rehabilitation more attractive to long-term users as well as providing social support for those who are more in need, while at the same time averting the incorporation of new users to the market via addiction prevention programs in schools and neighborhoods. A market devoid of customers would soon fade away through a strategy that could become more cost effective for the criminal justice system than arrests and the imprisonment of vulnerable low-level users and dealers.

INTRODUCTION

It is quite common for retail-level drug markets to become established close to transport hubs, locations where a high volume of people in constant movement provides good camouflage for traffickers who can easily spot potential ‘customers’. The three factors of the crime triangle – motivated offenders, suitable targets, and the lack of capable guardians – (Cohen & Felson, 1979) find a convenient environment in such locations. Open-air drug markets represent a major challenge for the police and local authorities since they frequently disrupt public order and unsociable behavior frequently occurs (e.g. public urination, public drinking, loitering). Violent

crimes are more likely to be concentrated around such locations (Weisburd & Mazerolle, 2000), which also increases the local population's fear of crime. Furthermore, traditional police intervention usually has limited success. Trafficking and crime related to drug use quickly resumes after police crackdown operations, more or less independently of arrests and confiscations, while a certain level of crime displacement to the surrounding areas is also a likely outcome (Best, Strang, Beswick, & Gossop, 2001; Dovey, Fitzgerald, & Choi, 2001; Maher, & Dixon, 1999; Mazerolle, Price, & Roehl, 2000; Wood, et al., 2004). Coomber, Moyle and Mahoney (2017) suggested that police crackdown operations in drug markets might be a symbolic exercise (i.e. the objective is to achieve a symbolic effect, for example, making citizens feel that 'something has been done' rather than actually solving the problem) opposed to an evidence-based practice. Tough police intervention might even have perverse effects such as impacting the quality of drugs and enhancing the motivation for drug use (Galenianos, Pacula, & Persico, 2012), which would further complicate the problem for law enforcement and public health managers. In light of the above, it is clear that an increase in the likelihood of success in interventions directed at substance abuse and trafficking must incorporate tactics beyond identification, arrests and imprisonment of low-level players in the drug market. Beyond intelligence-led policing directed at heavy suppliers, different studies found that the best strategies for disrupting street drug selling utilizes problem-oriented methods instead of traditional hotspot policing or standard, unfocused police efforts (see Mazerolle, Soole, & Rombouts, 2006). Since drug markets operate in a similar way to legal markets – observe laws of supply and demand – (Wood et al., 2004), the development of a problem-oriented approach focused on the prevention, treatment and reduction of addiction problems, aimed at depleting the market of customers, might actually work. A market with no demand would soon fade away. Such a strategy would naturally require shared responsibilities among local authorities, public institutions, private sector and law enforcement, rather than being exclusively taken charge of by the police. In Sweden, collaboration among social partners is deemed essential within the new program of crime prevention recently developed by the government⁵. Such a trend in policy might extend to other countries in the near future.

The 'Navet' project

In Sundsvall, a medium-sized city in Northern Sweden, an open-air drug market has existed for many years at the local bus station, a location that is generally busy with citizens commuting to their work places/homes, and by many adolescents traveling to school in the morning and returning home in the afternoon. There is a publicly shared feeling that the location is unsafe and

⁵ A version in English (summary of the Swedish version) can be downloaded at: <http://www.government.se/information-material/2017/06/combating-crime-together--a-national-crime-prevention-programme/>

An integral version in Swedish can be downloaded at:

<http://www.regeringen.se/49550c/contentassets/d0b212f61d0d49828e5e257f47e892ad/tillsammans-mot-brott---ett-nationellt-brottsforebyggande-program-skr.-201617126>

the local media has repeatedly published negative reports about drug use and crime in the area, strengthening the causal link between drug abuse and criminal activity, an effect that has already been reported in previous studies (Coomber, 2006; Taylor, 2008). Many citizens fear and avoid being at Navet as much as possible, consistent with the idea that “drug crimes and drug use are understood as symbols of disorder or threat to the social values of a community” (Coomber, Moyle, & Mahoney, 2017, p. 2). In 2016, at a public inquiry among the population, Navet was identified as a problematic area that should be dealt with by the police. Drug trafficking is believed to take place at a high frequency and uncivilized behavior by intoxicated people occurs. Within a preventive framework, the ‘Navet’ project has comprehensively analyzed the problem in order to propose an intervention strategy based on the best knowledge of the field. As Vito and Higgins (2015) pointed out, strategic thinking, planning and operations are required to address the sources of crime problems, both individual and systemic. In this sense, the collection of data and the compilation of evidence are essential for developing effective interventions. Beyond the drug trade and the players involved, the project aims to analyze the social and physical environment that could contribute to the public fear of crime in a more broader perspective.

METHODS AND DATA

Three sources of data were analyzed for the purpose of this paper: (1) Crime reported to the police over one year (2016) to identify the prevalence of different types of crime in Navet, starting with the belief that drug-related and violent crime such as robbery, assault and threats would be high. (2) Interviews with active users and key informants, including social workers engaged in active projects, and bus drivers, to gain a picture of the drug market from their perspective. (3) Ethnographic observation to identify patterns of social interaction and social activity in the area.

Crime reported was provided by the police, in a file that included type of crime and spatial-temporal coordinates.

Active users were contacted at Slink-In, a place that is operated by social services, which is aimed at socially excluded people. Snowball access, via word-of-mouth, also provided some participants. No reciprocal payment was made for their contribution. After confirmation of inclusion (i.e. daily use of drugs such as opioids, amphetamine, benzodiazepines, cannabis, etc.) and exclusion (i.e. insufficient language understanding and expression) criteria, participants were guaranteed confidentiality. Ten persons agreed to be interviewed.

The focus group interview was carried out with four voluntary bus drivers. Since all bus routes converge on Navet and bus drivers work in shifts they were all able to discuss topics concerning what they had witnessed and experienced in their job role in relation to the drug market on different days of the week, and at different times.

Individual interviews were also conducted with social workers who had a role in a project directed at young users and with a social worker with more extensive knowledge of drug use among youths in the city.

Interviews were transcribed and the data were coded and thematically analyzed, while the police file was analyzed using SPSS.

A certain level of discordance between the results obtained from the crime reported file, the information gathered from the interviews with drug users and the information from the interviews with key informants necessitated a further source of information that could permit triangulation. We therefore decided to go ahead with ethnographic observation. The field work took place between November 2017 and April 2018, included observations during working days and weekend, and observations at different hours from 07.30 to 23.30. Night observations were not possible but were also deemed unnecessary as the sale of drugs and social activity seems to occur almost exclusively during the day.

PRELIMINARY RESULTS

The specific weather characteristics in Sundsvall, with intense cold and a few hours of sunlight during the winter months (from November until late April), and the opposite conditions during the summer months, could impact the drug trade and social environment in the area. For example, during the winter, the waiting room located in a building alongside the bus stops was identified as an important spot for conducting part of the drug trade, particularly during the afternoon and at weekends. After all, standard winter attire consists of gloves and thick coats that prevent subtle handshakes or the use of items such as newspapers to effect drug-money exchanges. Hence, during the winter, the volume of trade that occurs in enclosed spaces (vs out in the open), and is therefore more susceptible to police control, is possibly higher than during the summer. Hypothetically, this may have a deterrent effect during the winter that might not be evident during the summer. Future observations from April to November are necessary to complement the study. Thus, the results offered in this paper are preliminary in nature.

Crime reported

In 2016, a total of 4,374 crimes were committed in the city of Sundsvall and the surrounding neighborhoods, from which only a small percentage (3.6%, $n = 159$) were committed at Navet. In this part of the city, the types of crime that more frequently occurred were, as expected, drug-related (i.e. use, possession and trade), which account for 37% of the total. Only 20.1% were classified as violent offences (e.g. assault, robbery, threats, intimidation of public servants), in which a high proportion of offenders and victims were acquainted.

The crime rate presented a similar distribution on the different days of the week with the highest peak on Friday (21.4%) and lowest on Sunday (7.5%). On working days, 63% to 81% of crimes were committed during the day (between 08.00 and 19.00) while at weekends, the volume of crime committed at night increased (43% to 67%).

Contrary to the researchers' expectations, Navet could not be considered a hotspot for drug-related crime nor for other types of crimes generally associated with drug addiction (e.g. types of robbery in which the victim is unknown to the offender). Since several factors are known to impact the

volume of crime reported to the police, such as the willingness of victims to report, or, in the case of use, possession or trafficking of illicit substances, reflect police activities, we decided to ask different players who, through their lifestyle or work activity, have privileged knowledge of a 'normal' day at Navet.

Interviews with users who visit Slink-In

The participants who were active users varied in age from 21 to 42 years, were unemployed, largely homeless and either had distant bonds or had completely severed their ties with family and friends. Some revealed close relationships with partners who were drug users themselves. For them, Navet was clearly associated with the supply of drugs (Subject 1: "I don't want to be at the hub [Navet], but you can get hold of anything [types of drugs]. Unfortunately, that's how it is. It's terrible, really, when you think it's so open [easy access]") and alcohol too, since the liquor store is close by (Subject 3: "I wake up at the shelter or at SJ [railway station] or something and then wait [until] 10 o'clock to go to the Systembolaget [liquor store] and [...] buy some beer to get rid of the worst"). Navet is not a place to spend time or to sleep at night. During the day they visit Slink-In to eat (i.e. have breakfast and/or lunch), to rest if they had a 'bad night', and to shower. They also spend time in parks and other public spaces in the city center but not at Navet itself (Subject 2: "I'm always at church on Mondays helping them because then we get food there... yes, every Monday. Then I'm there from half past four to eight in the evening"). Those who were homeless indicated that shelters, the railway station or public restrooms around the town were places they used to sleep (Subject 7: "... now I'm sleeping at SJ like a tramp, but not so ... But that-yes").

To summarize, to active drug users, Navet is somewhere they go to buy drugs but not somewhere they choose to be.

Key informants

A) Individual interviews with social workers

Social workers identified two different groups of substance users that are usually present at Navet. To their knowledge, the first group comprises around 15–20 persons from their late 40s to middle 50s who use alcohol as their main substance although it is likely they also use other drugs. They meet at Navet in small groups almost every day, very frequently around the liquor store and particularly in the morning. When they gather, they are noisy and rude but are general friendly towards each other. They form a distinctive group and are easily recognized by anyone passing by. They sometimes consume alcohol openly. They have been using drugs for a long time and have been in and out of treatment for a major part of their lives. Some of them, to a lesser or greater extent, have long criminal careers. The majority are Swedish natives and many of them receive welfare benefits, which allow them to pay their rent. Some of them keep in touch with their families, who live locally, in many cases.

The second group identified by the social workers overlaps with the people we had interviewed at Slink-In. They primarily use various kinds of drugs more than alcohol. They do not seek help from and refuse any contact with social services. Many of them are immigrants and some are awaiting

deportation. They refuse contact with any other person than their suppliers and, in general, are non-violent

From the social workers' perspective, Navet is generally not a violent location and any violence that occurs is not a direct consequence of the drug market there. In their view, the violent incidents that have taken place at night originated in young men who had been drinking in nightclubs, where friction had arisen with other young men. Afterwards, they all converge on Navet to wait for buses to take them home. This is when they become physically violent towards each other, as a consequence of the various disputes coupled with the alcohol and drugs they have taken when visiting the nightclubs.

B) Focus Group interview with bus drivers

The bus drivers in the focus group interview agreed that there is a drug market at Navet although the exchange of drug-money is not easy to spot. However, a closer look at certain individuals reveals behaviors that raise the suspicion of drug-dealing activity (Subject 2: "You might not see it that often, but there are a lot of handshakes and such like").

For the general public, there are no other activities at Navet beyond waiting for buses, so people have no motive to stay. Thus, they 'flee' from the place as fast as the buses arrive to take them home.

People who loiter only do so because they have a role in the drug market. They form part of a mixed group of people – some use drugs, others use alcohol while some are homeless – and can be easily identified from their attire (Subject 2: "Those who are addicts are the ones who may turn up [...] in very little clothing, wearing a thin jacket when it's -20°C outside). These persons, labeled by the bus drivers as 'typical old addicts', start appearing at Navet after the rush hour, around 9.00–10.00. During the day it is always possible to spot one or more of them around the place. From 19.00 to 20.00 they start to progressively disappear and then the young people take over the place.

Navet is not perceived as a dangerous place by the bus drivers [Subject 2: "... it's a bad place [but] it's not a dangerous place"] although, together with the general public, they share a feeling of insecurity in the area due to a perception of the unpredictability of the social environment rather than genuine threats or the use of violence.

To summarize although the drug trade is not evident there are clear signs that it is taking place. There is no other activity at Navet beyond waiting for buses so the general public uses Navet for this purpose only. People seen loitering at Navet conform to a group of mixed people that could be related to drug or alcohol use but who could also just be people who have no other place to go. The general feeling of insecurity is attributable to a certain unpredictability regarding the behavior of people who are intoxicated or are suspected of using drugs.

Ethnographic observation:

For a better understanding of the social environment at Navet, and for research purposes, we divided the results of the ethnographic observations into two groups of individuals: those we

perceived as having a role in the drug trade and those we perceived as not having a role in the drug trade. Within these groups, we made a new subdivision, resulting in seven groups.

A) People with no role in the drug trade

In relation to those who appeared to not have any role in the drug market, we identified four different groups.

Firstly, Navet is busy for parts of the day, especially during the morning from around 08.00 to 09.00 and in the afternoon from 16.00 to 17.00 by people using the bus to travel between their work places and homes and by teenage school children commuting between school and home. For many bus users, this is the only reason for being at Navet and they are only there for the time it takes to board the bus.

Secondly, we identified a small group of people who appeared to have an immigrant background, men and young women with their young children who used the place to congregate and visit the two restaurants in the area that are run by persons apparently from a similar immigrant background. Neither the visitors nor the restaurant owners seem to be part of the drug trade.

Thirdly, is a group of beggars, immigrant men and women, who sometimes congregate at Navet. Some of them store their possessions in nearby locations. When they disperse, some of them stay close to the doors of the surrounding stores while others take buses to places where they beg.

A fourth group of people that appear to have no connection with the drug market is made up of a few isolated individual men and women both young and old, who usually make no verbal or eye contact with anyone. They just sit at the bus stops as if they were waiting for a bus but don't ever board any bus. Their neglected appearance and lethargic behavior gives us reason to suspect that they suffer from some type of mental disorder. They stay for a while at Navet without any evident purpose and then just disappear.

There is no contact between these four groups. Although beggars and suspected mentally ill individuals appear to not take part in the drug trade or display violent behavior, they could contribute to the feeling of insecurity revealed by the general public and reinforced by the stereotypes.

B) People who appear to have a role in the drug trade

In relation to the group of individuals who appear to have a role in the drug trade (i.e. sellers and/or drug users), we identified three different groups that occasionally interact, but the clusters are clear, in any case.

The first group overlaps with one of the groups already identified by social workers. It comprises individuals with an average age of around 50 years, who appear to be Swedish natives and who are predominately men. The few women that were seen, some of them younger, some of them in the same age range, were always accompanied by men of this same group with whom they appeared to have a close relationship. Individuals in this group start gathering at around 10.00

waiting for the liquor store to open, which makes us think that alcohol may currently be their main substance of use although their physical appearance suggests long-term drug abuse problems. Thus, the normal concomitant use of alcohol and drugs cannot be ruled out. They all appear to know one another and use Navet as their 'social network meeting place'. More than just a place to buy or sell drugs, Navet is a 'living room' where friends can meet. Sometimes, some of these individuals consume alcohol openly and, on a few occasions, the smell surrounding them suggested they were smoking cannabis. Some of them looked as if they might be taking pills. Occasionally, some of them acted as if they were intoxicated, demonstrating uncivilized behavior, such as swearing at each other, speaking loudly and throwing empty beer cans or trash on the ground. As already stated by the social workers, these individuals do not seem to be homeless, most likely because they receive welfare benefits or, alternatively, selling drugs allows them to have their own accommodation.

A second group of individuals observed by the researcher overlaps with those who were interviewed at Slink-In. Socially isolated, they are less visible to public view than the individuals in the previous group. They do not use buses or any other means of transportation; they just walk everywhere. They have been seen at Navet waiting to meet their suppliers. On some occasions, their restlessness is clear, suggesting a certain level of drug withdrawal, although during the registered observations no violent incident on the part of these persons occurred. Their suspected suppliers appear to be socially connected to them and they spend some time talking, especially in the mornings. They frequently search through trash bins and collect bottles that they can exchange for small sums of money. Their gaunt and dirty look, and their unseasonal attire makes us suspect that they are homeless, which is consistent with the information provided by the interviewees at Slink-In. Many of them appear to have an immigrant background, which could explain their social isolation. They are younger than the individuals in the previous group, and their social needs are perceived as being more basic.

A third group identified during field observation comprises male and female youths, the majority from an apparently immigrant background, although some are clearly Swedish natives. A number of them appear to be very young, of compulsory school age (i.e. below 16 years) while others appear to be young adults in their 20s. The very young ones are spotted at weekends but not as much on weekdays. Those who loiter on weekdays may have dropped out of school when compulsory school attendance finished in 10th grade. Some of them are seen wearing expensive brand clothing, shoes and accessories, clearly suggesting that they have a substantial source of income, probably through the drug trade. Individuals in this group come and go from Navet all the time and are very coordinated in their meetings through their use of cell phones. They don't spend more time at Navet than is required to complete a drug transaction and then they quickly disappear, as if into thin air. They never arrive from the same direction and they also leave via a different route. Some of them appear to have a personal relationship but any interaction is always brief. They were never spotted using drugs in situ, most likely because they wish to steer clear of the stigmatization of drug abuse.

During the field observation, no violent incident has been witnessed at Navet by the researcher. The private security personnel employed by the municipality who patrol the location from 09.00 to 18.00 appear to stifle the unsociable behavior of intoxicated people but have no deterrent effect on the drug trade. The police mainly patrol in cars, which is no deterrent to the drug trade, either.

PRELIMINARY DISCUSSION

Navet has a complex social environment that brings together people of different ages and from multi-ethnic backgrounds. The open air-drug market coexists with normal transport hub activity in a relationship of total lack of 'capable guardianship' in the context of the routine activity theory (Cohen & Felson, 1979). Informal surveillance that might be provided by persons who do not appear to have a role in the drug trade has no deterrent effect and the formal surveillance by private security personnel and the police is not effective at all.

Users and sellers do not comprise a homogeneous group, which could easily be targeted by, for example, hotspot policing. On the contrary, the market seems to be supplied by multiple sellers who address different groups of users and do not show the traditional hierarchical pyramidal organization that was common to the drug trade in the 1990s. Police intervention on these low-level traders would most likely cause only a minor, temporal disturbance, easily resolved by the redistribution of the supply and relocation of trade to adjacent streets, as has occurred in the past (Best et al., 2001; Dovey et al., 2001; Wood et al., 2004). Beyond situational prevention, individual programs to users directed at the addiction problem and their social needs are required. Striking the market from the bottom with the objective of ridding it of customers is an alternative intervention. In this sense, beyond policing, the intervention of the social and mental health services is deemed to be essential in order to shut down the market, avoiding even further social exclusion for some users.

The preventive work should also target youths. Any disruption to the supply of drugs in places like Navet could have the negative effect of increasing the motivation to use drugs (Galenianos et al., 2012) and promoting darknet drug purchases primarily by young people who have more access to and greater knowledge of the web environment and cryptographic processes.

To summarize, from a crime prevention perspective, the best strategy for striking the retail market for illicit drugs at Navet would be to work on three levels: (1) through intelligence-led policing work to cut the supply at the source, before the drugs arrive on the streets, (2) through the social and health services, motivate those people with a more or less extensive history of abuse to have treatment. This should be individualized and aligned with the individual's specific needs, and (3) develop drug prevention programs for adolescents in schools and in neighborhoods with the aim of reaching those who have dropped out of non-compulsory education (+16). The conjoined efforts of various social partners will most likely be a more cost-effective and certainly a more responsible solution (Ekblom, 2011) than the use of law enforcement on its own.

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The Old School: Hard drug users in 1960's and-70's Helsinki

Aarne Kinnunen

The presentation summarizes the results of a research project analyzing the life stories of hard drug users who have spent their youth in the suburbs of Helsinki during the first drug wave of the 1960's and 70's. The study is based on 30 semi-structured qualitative interviews (26 men, 4 women, average age of 55 years). The aim of the study is to open a historical window into the drug culture of Finland during this time as described by the users themselves. The research group has published the results in a book *Vanha liitto* (Kainulainen et al. 2017).

In this paper, special attention is paid to drug trafficking and drug markets. The paper briefly talks about the travels made by these users to Stockholm and Copenhagen and the connections made during this period. Lastly, the role of prison sentences on the drug user's deviant lifestyle and marginalization will be addressed.

Several social factors led to the increase of drug use in Helsinki in 1960's and -70's. Among them are transition from an agricultural society to modern capitalism, the rise of consumerism and a welfare society, urbanization and suburbanization trends, and finally, the impact of international youth and drug subcultures. A research group used interview material to describe the path taken by the drug user from an idle street kid towards a marginalized and criminalized hard drug user tightly controlled by the criminal justice system.

In many respects, the formation of the Old School took place when society was in transition because of a large-scale migration within a country. Families with children moved from countryside to the suburbs built around the Helsinki city center. In the suburbs, the children easily found each other and experimented with new and strange intoxicants in surrounding forests or in cellars of the apartment houses or in youth clubs. The drug use of the youngsters was labelled by ignorance. The drugs were a new matter for the experimenters themselves, but the parents and the teachers knew even less. Not parents, authorities nor teachers intervened to the drug use of the youngsters. This had a detrimental effect to the lives of the Old School drug users. For some, drugs were just a one episode in their life circle and the use ended when users entered the labor markets and started family formation. Nevertheless, many continued their use for a long time, some until up to today.

From the outset, few words about the history of drug use in Finland. Prior to the first drug wave in 1960's, the drugs were purchased from domestic supplies. They were typically legally or illicitly acquired pharmacy supplies (Ylikangas 2009). There has been little evidence of smuggling of narcotics prior 1960's (Hakkarainen 1992, Westling & Riippa 1956).

When young people from the Old School began to become acquainted with drugs in the 1960's, the Finnish drug markets were immature and relatively small. The first drug wave in 1970's brought the changes. Popularity reached cannabis, illicitly manufactured amphetamine and LSD

(Hakkarainen 1992, Koskinen 1997, Salasuo 2004.) The expansion of supply increased the diversification of drug markets.

The various drugs formed different markets. Cannabis was smuggled from outside of the country, but distributed mainly between friends and acquaintances (Määttä 1975). In Helsinki, there were only occasional public trading sites where cannabis was sold to outsiders. (Salasuo 1999.) The smuggling around hard drugs begun in 1970's amphetamine being the most popular hard drug (Hakkarainen 1992). Despite the smuggling of illicit drugs, use and trade of pharmaceutical drugs maintained to have a strong position among users.

One distinguishable group of users was veterans from the Second World War (Germain 1980, Koskinen 1997). Substances used by veterans were mainly heroin, morphine, methadone and amphetamine. For example, heroin, which doctors used as an analgesic, was considered a cheap and effective drug for substance abuse since after the war. In the interviews, drug users of the Old School often raised the importance of the drugs-dependent veterans in initiating to drug use and access to drugs. Two user generations seemed to work effortlessly in the same market. Experienced veterans, on the one hand, served as a warning example and, on the other hand, helped the younger generation to learn and operate on different drug-related habits. In terms of criminology, according to learning theory, criminality or abnormal behaviour is taught by own reference group (Sutherland 1937). In addition to that, drug research often emphasizes the importance of older users as initiators and teachers of younger generation (Becker 1963). Furthermore, veterans had a good access to medicines due to their ailments. At the same time, youngsters were able to help them in various everyday tasks to ease their lives.

In addition to veterans, the Old School made acquaintance with other more experienced drug users. The interviewees reported that older siblings could help in the inauguration of drug patterns. Following older users, the younger learned to buy pharmaceutical drugs suitable for substance abuse. Older users could put younger on the shop with advice as pharmacists did not always agree to sell the medicines they wanted. The users gradually learned that for example, certain slimming medicines contained amphetamine. Ephedrine with its various medications worked also very well for intoxicant use. Various cough medicines contained opioids. In addition, the barbiturates were widely used as intoxicants.

According to the interviewees, the importance of medicines received from pharmacies was high in the 1960s. Some of the medicines were legally available, but most of the drugs were under prescription. The most common gateway to drugs was the doctors who wrote false prescriptions (see also Germain 1980.) Doctors may have had a number of motives for their actions, but some asked money. The informants told about pharmacists, who needed money apparently to cover their personal drug consumption or gambling debts. It could happen that the pharmacists lost their occupational licence due to the state supervision of the doctors. It was popular to cheat physicians in several very inventive ways (see also Koskinen 1997). For example, a fake medical report was presented to doctor or a fake identity was used to make the swindle successful.

The users of the Old School got substances from pharmacies also by using other illicit means. The users realized that the stocks in pharmacies included large quantities of substances of interest to them. Pharmacies became a target of series of burglaries. The fact that the pharmacies were not protected against burglaries facilitated the incidents.

Some members of the Old School lived and visited densely in Stockholm or Copenhagen. They had escaped from their parents, school, or army conscriptions. As young boys, they went openly looking for adventures and when older, they tried to restart a new life after difficulties in homeland.

According to estimates made by Danish social authorities in 1972, about 700 Finnish alcoholics or drug users lived in Copenhagen in 1972. Most of them were alcoholics, although drugs, especially cannabis, were also widely used. The World War II veterans had created a community with their own rules and support networks in Copenhagen. Some had settled in the free city of Cristiania. The veterans had built their own dungeons in which they could live under modest conditions in the margins of society. (Murto, 1974). In the case of young people interested in intoxicants, the Finnish veterans made it easier to stay in Copenhagen and get to know the way around. On the other hand, the differences in the cultures of alcoholics and drug users caused tensions between the generations. Conflicts also occurred in relation to the local population. Many marginalized Finns never adapted to the Danish society.

The early ignorance of drug cultures in the Finnish society and therefore quite liberal drug control changed as narcotics started to become a problem for some users and open drug markets gained media attention. The most significant change occurred when the new Act on Narcotic Substances entered into force in 1972. The law criminalized all drug-related activities, including use of drugs. The tighter control policy and the authorities' actions changed the liberal atmosphere, and drug users and brokers hid themselves from watching eyes. The users of the Old School were the first to feel the effects of the new law. Drug using youngsters quickly caught the police's attention: they were intensively controlled and even literally chased. The police arrested the users and did home searches without sufficient grounds. The Old School users felt that police activities were often oversized or unfair. Furthermore, drug users were often suspected of various crimes they never committed. Prison terms became an essential part of their life circle. This deepened the marginalization process of the users.

Living in the margins of society and the "drug user" stigma has always been present in the life of the Old School drug users. After being labelled as criminals, entering the labour markets has been difficult. Users looked after support amongst themselves and they have kept contact with each other many of them have stayed with drug use up until today.

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PARALLEL SESSION 2B: Criminal policy and crime control

”Nej men då skiter jag i det här”

Om strukturella barriärer, fatalism och handlingsutrymme i tidiga stadier av upphörande med brott.

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Inledning

Inom livsförloppskriminologin har forskningen om vad som får människor att upphöra med brott sett ett uppsving under de senaste åren (Broidy & Cauffman 2016). Teoretiskt lägger upphörandeforskningen mycket vikt vid betydelsen av individers vilja att förändra sina liv. Denna vilja, som brukar ges den teoretiska benämningen *agens*, har varit ett närmast självskrivet inslag i livsförloppsforskningen i stort ända sedan fältet expanderade i slutet av 80-talet. Emellertid menar jag, med stöd av David Matza (1969), att det finns en överhängande risk för att viktiga aspekter missas om forskningen alltför ensidigt ser till viljestyrka som avgörande faktor för individers framgång i sina upphörandeprocesser. ”Being willing is not quite the same as being able”, skrev Matza redan år 1969 (s. 112), och indikerade således att det finns andra faktorer att ta hänsyn till för att förstå vad som hjälper och hindrar individers försök att upphöra med brott.

Faktum är att momentana avbrott från upphörandeprocessen, det vill säga återfall i mindre allvarlig brottslighet, är vanligt bland individer som försöker sig på den livsstilsomställning som upphörandeprocessen innebär (Halsey, Armstrong & Wright 2016). Detta har forskning visat gälla även bland individer som kan anses ha kommit långt i sina upphörandeprocesser och som påbörjat en etablering av en ny, laglydig identitet. Det har även föreslagits att sådana mindre avbrott lär vara ännu vanligare under den första perioden som en individ försöker upphöra med brott (Halsey et al 2016). Hur kan vi förstå dessa avbrott från upphörandeprocesser hos individer som har viljan att förändra sina liv och sluta begå brott? Vad hindrar dem på sin väg mot en förändrad identitet som laglydiga och delaktiga samhällsmedlemmar?

I detta paper kommer betydelsen av hindrad måluppfyllelse, här specifikt kopplat till förhoppningar om arbete, att hållas centralt. Genom exempel hämtade från intervjuer med tio kvinnor som försöker att förändra sina liv och upphöra med brott belyser detta paper hur hindrad måluppfyllelse kan leda till en känsla av hopplöshet som utsätter upphörandeprocessen för stor risk för återfall i brott.

Tidigare forskning

Tidigare forskning har visat hur upplevda motgångar hos individer som strävar efter att upphöra med brott kan få individen att överge sin upphörandeprocess, åtminstone tillfälligt, via återfall i brott. Forskningen visar att det främst är upplevelsen av upprepade motgångar, som beror på

något som individen inte själv upplever att hon kan kontrollera, som är särskilt skadligt för upphörandeprocessen. När individen vid upprepade tillfällen upplever sig hindrad i sin strävan att leva laglydigt kan det leda till en frustration som tar sig uttryck i ett ifrågasättande av huruvida det är värt att fortsätta gå igenom den påfrestande upphörandeprocessen. I detta skede finns det risk för att individen "skiter i"⁶ att kämpa vidare på den inslagna vägen, och istället återfaller i tidigare beteendemönster som inbegriper brottsliga aktiviteter (Carlen 1988; Halsey et al 2016).

Teoretiskt ramverk

Nugent & Schinkel (2016) belyser hur upphörandeprocessen inbegriper en rad smärtsamma erfarenheter (pains of desistance). Författarna listar tre sådana smärtor som är särskilt skadliga för upphörandeprocessen; isolering, misslyckad måluppfyllelse samt hopplöshet. De menar att isolering är mycket vanligt förekommande bland individer som försöker upphöra med brott, eftersom dessa känner sig tvungna att säga upp kontakten med sitt tidigare, kriminellt aktiva umgänge för kunna genomgå livsstilsförändringen. Inte sällan behöver den villige upphöraren byta bostadsort, vilket också kan spä på en känsla av isolering. Vidare är det mycket som behöver komma på plats för att livsstilsförändringen ska upplevas som framgångsrik. Upphöraren behöver knyta nya sociala kontakter med människor som inte begår brott. De behöver inte sällan hitta nytt boende, och de strävar ofta efter ett meningsfullt arbete (Nugent & Schinkel 2016; Bottoms & Shapland 2011; Bersani & Eggleston Doherty 2018). Om något av dessa viktiga områden inte utvecklas i den riktning som upphöraren upplever behövs kan detta leda till en känsla av besvikelse kopplad till misslyckad måluppfyllelse. En sådan utveckling kan i värsta fall leda in upphöraren i ett tillstånd av hopplöshet, och det är i detta tillstånd som upphörandeprocessen är särskilt sårbar för återfall i brott (Nugent & Schinkel 2016).

Metod

Inom mitt doktorandprojekt intervjuar jag tio kvinnor som vid projektets början befann sig i det initiala stadiet av sina respektive upphörandeprocesser. Jag träffade kvinnorna för intervjuer vid upprepade tillfällen, ungefär var sjätte månad under två års tid. Intervjuerna var öppna och fokuserade kring kvinnornas erfarenheter av att försöka förändra sina liv och upphöra med brott. Förutom att prata om vad som var viktigt för dem just nu, och vad som hjälpte men också hindrade dem i sina försök att upphöra med brott, innehöll intervjuerna även tillbakablickar på händelser, personer och erfarenheter som påverkat dem tidigare i livet. Dessutom innehöll intervjuerna framåtblickande inslag där jag bad dem att reflektera över vad det var de ville uppnå i framtiden, vad de drömde om eller hoppades skulle hända.

Kvinnorna var i olika åldrar, allt emellan 23 och 53 vid tidpunkten för den första intervjun. De hade alla olika erfarenheter av vad en kriminell livsstil kan innebära. Alla utom en hade tagit narkotikaklassade preparat regelbundet tidigare. Att själv inta narkotika är olagligt i Sverige, men förutom det hade kvinnorna även varit aktiva i vad som brukar benämnas gaturelaterad brottslighet, såsom narkotikaförsäljning, rån, misshandel, stöld och inbrott. Till följd av detta

⁶ Pat Carlen (1988) benämner detta som "Sod it syndrome", medan Halsey et al (2016) kallar samma företeelse för "Fuck it moments".

hade alla utom en kvinna suttit i fängelse under en, eller oftast flera perioder av sina liv. Längsta totala strafftid hade en kvinna som, alla straff sammanvägda, hade suttit fängslad i 11,5 år.

Genom att intervjua dessa kvinnor vid upprepade tillfällen under två år fick jag möjlighet att följa deras försök att förändra sina liv och upphöra med brott. I närstående tid fick jag således ta del av händelser i kvinnornas liv som hjälpte dem men även hindrade dem i sina försök till livsstilsförändringar. Denna studiedesign möjliggör för mig att belysa sårbarheten i de tidiga stadierna av sådana upphörandeprocesser, vilket är vad detta paper fokuserar på.

Resultat

För att illustrera hur ett återfall i brott inom en pågående upphörandeprocess kan te sig återger jag här ett fall som är talande och typiskt för vad kvinnorna i min studie går igenom. Detta avsnitt kommer att behandla Malins historia om hur hon vid 53 års ålder, efter ett liv av amfetaminanvändande, narkotikaaffärer och annan brottslighet försöker ändra på sitt sätt att leva. När jag träffade Malin för första gången hade ungefär åtta månader gått sedan hon avtjänade sitt senaste fängelsestraff. Ganska snart efter att hon kommit ut hade hon fått anställning i en second-hand butik. Anställningen var tidsbestämd, till ett år, och Malin stortrivdes verkligen med sitt arbete. Hon sa *"Det är en förutsättning för att jag ska hålla mig. Ens kunna klara av det här. Att jag har ett jobb"*. Hon både trodde och hoppades kunna behålla jobbet efter att den ettåriga perioden var över. Arbetsplatsen var mycket nöjda med hennes insatser, och hon hade fått ansvar för flera områden inom verksamheten. Det beslutet låg dock hos Arbetsförmedlingen, som i så fall skulle behöva gå in med finansieringen av ett lönebidrag för Malin.

När jag träffade Malin för andra gången, cirka sex månader senare, hade den ettåriga anställningen löpt ut. Arbetsförmedlingen hade inte velat förlänga hennes anställning med lönebidrag, med hänvisning till att hennes arbetsplats var olämplig. Något närmare skäl ville de inte ge henne. Malin blev mycket upprörd över detta, och tog strid med arbetsförmedlingen. Hon berättade för mig:

Malin: Men liksom det är som jag sa till henne att "ja men det är bara för att/ ja ni sparkar undan benen på dom som redan ligger! Ja men man försöker komma tillbaka liksom såhär. Och då sparkar ni bara undan benen på en!"

Efter att ha fått höra ifrån arbetsförmedlingen att hon inte kunde få vara kvar på sitt dåvarande arbete ville Malin veta vad deras plan för henne var istället. Handläggaren berättade då att Malin kunde få A-kassa i ett år, medan hon sökte nytt arbete. Och om Malin fortfarande inte fått något arbete när det året var till ända kunde A-kassan troligtvis förlängas med ytterligare ett år. På detta svarade Malin:

Malin: "Jaha?", sa jag, "så du räknar med att jag ska vara arbetslös i varje fall minst två år då?" sa jag. Det trodde inte jag, jag tänkte liksom några månader kanske liksom. För det är väl vad man klarar av.

Några månader hade passerat sedan den här ordväxlingen när jag träffade henne för andra gången. Och inom dessa månader hade Malin tagit ett återfall, på amfetamin. När jag frågade hur det kom sig svarade Malin att hon blev så uttråkad av att inte ha något att göra på dagarna. Då var

det lätt att falla tillbaka i gamla beteenden, vilket i hennes fall innebar ett samtal till en gammal bekant för att få köpa ett rus på amfetamin. Malin menade att det bara var en engångsförseelse, men att det ändå kändes olustigt att hon hade släppt på den spärren över huvud taget. Hon menade att hon ju egentligen ville jobba, men att hon blev alltför rastlös när hon inte fick möjlighet att göra det.

Malin var mycket besviken över att Arbetsförmedlingen inte kunde hjälpa henne att komma i arbete. Som hon såg det skulle hon inte behöva vara arbetslös en enda dag, eftersom hon trivdes så på sitt tidigare arbete, och arbetsplatsen var mycket nöjd med hennes insatser. Malin reflekterade över vad den här besvikelsen kunde innebära för hennes pågående livsstilsförändring och upphörandeprocess. Så här tänkte hon kring det:

Malin: Naturligtvis ska jag försöka liksom, men det är inte så att man överanstränger sig då om jag säger så.

Robin: Nej?

Malin: Med motgångar och motgångar så, då gör man ju inte det!

Robin: Nej, om man inte får nånting tillbaka?

Malin: Ja, men jag är ju ändå missbrukare i grunden. Det är ju så lätt att falla tillbaka. Ja men man regredierar eller vad säger man? [...] Liksom "nej men då skiter jag i det här".

Robin: Ja.

Malin: Fast det egentligen bara är en själv det drabbar.

När jag träffade henne för vår fjärde och sista intervju, ytterligare ett år senare, hade hon fortfarande inte blivit erbjuden någon form av sysselsättning genom arbetsförmedlingen. Istället hade Malin jobbat svart, utan någon myndighets vetande, som försäljare. Svartarbetet var fysiskt ansträngande och innebar mycket resande runt omkring i Sverige för Malin, och hon tyckte om det. Arbetet fyllde Malins dagar med mening. Det var något att göra, det innebar mycket kontakt med människor, och runtresandet dämpade effektivt den tristess som Malin annars hade lätt för att känna, när hon var hemma. Under tiden hade Malin emellertid också använt amfetamin relativt regelbundet. Det var mindre doser nu än tidigare, och hon var noga med att poängtera att det var fråga om "självmedicinering" mot oro, håglöshet och tristess. Även om användandet inte skapade några fysiska bekymmer för Malin tyckte hon ändå att användandet var något av ett misslyckande. Hon ville leva sitt liv fritt ifrån amfetaminet. Så länge hon tog amfetamin kunde hon exempelvis inte påbörja processen av att återta sitt indragna körkort. Hon var också orolig för vad som kunde hända henne om polisen skulle gripa henne för innehav. Under året hade hon försökt att lägga ner amfetaminanvändandet vid flera tillfällen. Det som främst saknades för att hon skulle lyckas menade hon var en stabilare vardag, med ett "riktigt jobb", som kunde ge rutiner och mening i tillvaron, och något att bygga vidare på.

Nu hade tiden kommit då Malins ettåriga A-kassa löpte ut, varpå hon riskerade att förlora en viktig, stadig inkomst. Vid hennes senaste möte med Arbetsförmedlingen hade Malin fått veta att

hon istället för A-kassa nu skulle kunna få aktivitetsstöd. Skillnaden var att aktivitetsstöd var villkorat mot att Malin hade någon form av officiell aktivitet att redovisa. *Aktivitet* är inte detsamma som arbete, och Malin var mycket orolig för att förändringen skulle innebära att hon skulle sättas i "*nån systuga*" och "*pyssla*" iväg dagarna. Malin menar att en sådan utveckling skulle få tristessen som låg bakom det första återfallet att ta över fullständigt.

Malin: Jag skulle ju få spel! Skulle ju aldrig gå! [...] Jag skulle inte klara det liksom.

Robin: Nej apropå allt det som är bra med (svartarbetet). Att det händer grejer, du får komma ut och träffa lite folk. Det är liksom motsatsen/

Malin: Ja det är raka motsatsen liksom! Att sitta och pyssla.

Det dilemma som Malin lyfter här är något som återkommer i intervjuer med flera av de andra kvinnorna. De har tidigare levt mycket aktiva liv med omfattande sociala kontakter varje dag, där de omsatt pengar snabbt genom narkotikaaffärer. När de vill förändra sina liv hoppas de på att få "*vanliga*" eller "*riktiga*" arbeten, men oroas över att Arbetsförmedlingen endast erbjuder dem "*Aktiviteter*" eller "*Arbetsträning*", som exempelvis innebär att "*hålla på med tyger*". Malin är långt ifrån ensam i hur hon reagerar på sådan misslyckad måluppfyllelse, och samma process har fått andra kvinnor i min studie att återfalla i narkotikamissbruk⁷, narkotikahandel, skadegörelse samt stöldbrottslighet.

Diskussion

Malins fall är bara ett av alltför många exempel på hur myndigheters (in)aktion leder till känslor av frustration, misslyckad måluppfyllelse och hopplöshet (jmf Halsey et al 2016). När kvinnorna i min studie bestämde sig för att försöka förändra sina liv och upphöra med brott skapade de sig samtidigt delvis nya mål angående vad de ville få ut av livet. De har tidigare levt mycket aktiva liv, och nu önskar de genomgående att få arbeta lagligt med något som känns meningsfullt. De är vana vid omfattande sociala kontakter, att prata med och träffa nya människor på daglig basis, och det är säkert att säga att deras tidigare liv innehöll ett stort mått av spänning och ovisshet i vardagen. När de beslutade sig för att förändra sin tillvaro såg de framför sig ett mer ordnat liv, med en mer pålitlig och stadig inkomst från lagligt och "*vanligt*" arbete. Tidigt i sina upphörandeprocesser kom kvinnorna därmed till arbetsförmedlingen med gott hopp om att få sådant arbete. Snart insåg de dock att utvecklingen inte kommer att gå varken i den hastighet eller riktning som de hade trott och önskat. När de efter lång väntan istället för "*ett riktigt jobb*" blir erbjudna att "*hålla på med tyger*" i någon källarlokal i förorten innebär detta en krock med kvinnornas förväntningar. Det "*aktivitetsstöd*" som Arbetsförmedlingen kan erbjuda blir således inte något annat än en misslyckad måluppfyllelse för kvinnorna. Efter att ha väntat mer än ett år för att i slutändan ändå inte bli erbjuden något annat än vad kvinnorna upplever som meningslös sysselsättning bygger en sådan besvikelse på en redan befintlig frustration. I värsta fall kan ett sådant händelseförlopp leda in kvinnorna i ett tillstånd av hopplöshet, och i ett sådant tillstånd är det lätt för kvinnorna att ifrågasätta värdet i att fortsätta på den inslagna vägen (jmf Nugent & Schinkel 2016). Frustrationen och hopplösheten kan få kvinnorna att överväga att "*skita i*"

⁷ Benämningar av narkotikaintag som bruk eller missbruk bygger här på kvinnornas egna definitioner.

upphörandeprojektet och istället falla tillbaka i tidigare beteendemönster, som innefattar brottslig aktivitet. Kvinnornas upplevelser ligger således i linje med tidigare forskning (se Halsey et al 2016) och teori om upphörande med brott (se Nugent & Schinkel 2016) som visat på betydelsen av frustration, misslyckad måluppfyllelse samt hopplöshet för förståelsen av villiga upphörares återfall i brott.

Kriminalpolitiskt innebär detta empiriska fynd att samhällets olika myndigheter behöver arbeta hårdare för att stävja känslor av misslyckad måluppfyllelse, frustration och hopplöshet hos individer som önskar förändra sina liv och upphöra med brott. Myndigheter kan och bör bli bättre på att möta förhoppningar och drömmar hos individer inbegripna i processer av upphörande med brott. Sådana drömmar är ofta mycket modesta (se Bottoms & Shapland 2011), men i dagens kriminalpolitiska klimat utvecklas insatser för populationen tidigare dömda främst utifrån en bedömning av hur stor risken är för att de ska återfalla i brott (se Kriminalvården 2018), istället för utifrån vilken potential populationen har att tillföra samhället något positivt. Myndigheternas uppfattning om vad behovet består i för att hjälpa individer att sluta begå brott skiljer sig därmed från vad uppfattningen av detsamma är hos individerna själva. Detta är något som behöver ses över för att i framtiden kunna ta fram mer resurseffektiva och lyckosamma stödprogram för människor som försöker förändra sina liv och upphöra med brott.

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Funneling disobediant individuals: On the declining importance of penal law in order production

Nicolay B. Johansen

This paper concerns the development of order politics on a more general level of abstraction than how it is ordinarily perceived. Penal politics is intertwined with welfare politics and the development of administration more generally. As I have shown (2015), changes in political culture inform these areas and create related historical trajectories. In this presentation I proceed to argue that the mandate traditionally delegated to the criminal Justice system, within some areas are in fact taken over by institutions from the administrative field. However, this means that the role traditionally attributed to the police and courts are not taken over by a different institution. What we have seen is that it is that for some unruly categories of people it is possible to discern an emergence of indirect politics deploying contributions from a dispersed set of institutions.

Many attempts has been made to categorize contemporary penal policy. Garlands "Culture of control" is the most famous of them (Garland 2001), with Simons "governing through crime" (2007) and Simon and Feeleys "New penology" also in contention (1994, see also Johansen 2015). Barker has given the latest contribution in her "Penal nationalism" (2017). Barkers book makes a bridge between the literature on the development on penal policies and the growing literature on the relation of crime control and immigration control (Aas and Bosworth 2013). In my opinion, none of these attempts grasps the trends I have found in my work regarding irregular migrants (Johansen 2013, 2014, 2015, 2018) and the visiting Roma population in Norway (Johansen 2014, 2015).

I have termed the emerging pattern of control policies "funnel politics". Funnel politics may be identified as relying on a (simple) "mechanism". The mechanism can be described as a simple model:

Present situation < alternative situation

The strategy is to make the condition associated with the unwanted behavior worse than those associated with conformity. This way the person involved with deviance will choose to abstain from the unwanted deeds. Funnel politics is rarely manifestly expressed; it is most visible as an underlying rationality. This rationality permeates decisions made by independent organizations. The total outcome of these decisions are in some instances that they produce a totality of conditions characterized by deprivations.

The Prime minister in Great Britain, Theresa May made a rare reference to this rationality in an interview in 2012 (at the time, she was Home Secretary). In an interview she described a new Immigration Bill as an attempt to "create a really hostile environment for illegal migration" (referred in Bowling and Westenra 2018: 17).

Expressions of this kind are hard to find. My own searches in deliberations in parliament and policy documents failed to produce explicit manifestations of funnel political rationality, although it was possible to detect indirect references to it. However, in newspapers and interviews they are easier to find (from my own research, not published). As these strategies are rarely expressed manifestly, there is no element of monitoring of coordination. There are no judgements of the cumulative effect of deprivations. Nor are there any benchmarks for the acceptable destitution experienced by the targets of these decisions. And furthermore, there are never any explicit deliberations on the assumed burdens associated with the two positions; deviant or conformity.

As mentioned, I have argued that funnel politics has crept into control politics. It cannot be identified through policy documents; it has to be judged on the merits of specific decisions and the rationality that can be associated with it. For a recent example I will highlight developments in Great Britain.

The spring of 2018, British newspaper The Guardian disclosed that many citizens has been denied access to ordinary health care, denied citizenship and deported (Guardian 2018). The citizens in question are some of the persons who were invited to Britain for employment in the 50-ies and 60-ies, and their descendants, especially from the Caribbean (Jamaica). This is the so-called “windrush generation”, from the name of the boat that carried them over the Atlantic. As the ball rolled and the political implications were disclosed, the minister of the Home Office was forced to resign and the scandal cast a dark shadow over an already troubled Prime Minister. The scandal started with one man of Caribbean origin who was denied cancer treatment. It turned out that this perfectly British person had simply never asked for a passport. This way, he was not registered in all databases regarding citizens. As the newspaper dug into this particular case, they discovered a landslide of similar cases, where people from the windrush generation had been subject to degrading treatment and harassment. This case turned out not to be an accident or a matter of human error, it became clear that it was the result of certain political strategies. The political strategies had been made as part of a more strict stance on migration generally and preventing irregular migrants to have a foothold in the social fabric of society. This was the political regime May referred to as to create “a hostile environment”.

In the spirit of “charity”, an interpretation of the outcome could be that the consequences had not been properly anticipated. But there is a pattern of outcomes in hostile environments that turn administrative decisions against their interests. A similar situation occurred in Norway in 2010, when the tax authorities looked through their registers to single out persons from the Balkans who were suspected of received child benefits several time for the same child. In this process, they also found more than 100 Ethiopians who received their tax licenses, who should not have them. With these licenses they were made able to hold regular jobs and lead normal lives, despite being in Norway irregularly. The result of the activity was then, that more than one hundred families lost their income and foundation for their lives.

A lot could have been said about this incident, it prompted heated debates and resistance from the Ethiopians themselves (Dagne 2014). The incident resulted in 100 persons, and their families, were

deprived of their livelihood. It was an administrative feat with life-changing implications. Obviously, the affair appeared unjust to the Ethiopians, but the end result was nothing more than the fulfilment of manifest political goals, as they were decided in parliament.

There are differences between the Ethiopians and the case of the Caribbean population that makes them difficult to compare. Yet, the cases share the feature that administrative decisions pull the plug, so to speak, of the lives lead by groups on the margins of the established society. They are results of decisions made in line of a political regime that produce obstacles and deprivations on a level that is not accounted for. The windrush generation and some of their ancestors were included in this regime, because of an error. Eager to produce a stricter regime, they were not careful enough to avoid making the scope too broad, and so to include citizens.

The term “hostile environments” capture the regimes quite effectively. A hostile environment means that one creates unwelcoming, unpleasant conditions for the people residing on the territory. The idea is that the conditions are so bad, actually, that the targeted group feels it more attractive, literally speaking, to leave. They are drawn elsewhere.

The attempt to create a hostile environment involved a more systematic shake-up of their people’s registers. This meant that they lifted the threshold for admitting people formal residency. People had gone through life in Britain for decades, working, paying taxes, voting, loving, raising children, - divorcing, being cared for in hospitals. But those who had not kept their tickets and other documents from their arrival, or had ever applied for a passport, they would be nowhere to be found in the peoples registries. When the activities within the hostile environment was implemented, the windrush generation came out as if they were irregular migrants and were denied health care, citizenship and many were also deported for committing ordinary crimes (Bosworth 2014, 2013; Kaufman 2013).

The Ethiopians in Norway and the windrush scandal are but a couple of examples of an emerging pattern of control policies. The argument here is not that traditional penal policies are obsolete. The ambition with this paper is to point to the emergence of developments that has not had the attention it deserves, and hopefully to raise some interest in the topic. Despite some early attempts (Hynes 2011, Van der Leun 2003), this topic has not been scrutinized properly. And it is not possible to present a full exposition of funnel politics and its relation to traditional penalty at this junction.

But as a final point, I want to address a vital element in funnel politics in the Nordic countries as well as Great Britain, it has developed in welfare states. The concept “welfare states” has a positive ring to it. No doubt, the welfare state is a historic phase in humanity. For penology the welfare state has had a big impact, penal institutions has become intertwined with a state that takes an active role in structuring society and its individuals. Garland (1985) coined the term “penal welfarism” to describe this phenomenon. And the main point of penal welfarism is that novel techniques are invented to produce an obedient population, and, within the same programme, making deviants abstain from deviance.

However, looking at punishment at welfare in combination still leaves many questions unresolved. In regard to some groups of deviants, the welfare state is mostly visible as provider of goods on the conditions that they conform to certain standards, that may be unrealistic. The benchmarks for aid is unrealistically high. The role of the welfare state for these groups is to demonstrate the limits to deviancy, and to add deprivations to people who do not comply with certain norms. In Midrés terms, the welfare state functions as an “institution of curtailment” (Lødemel and Trickey 2001). Within the rationality of funnel politics, welfare institutions are drawn into a bigger picture, and becomes involved in order production in more subtle ways.

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Exploring the Role of Civil Society Organizations in Nordic and Neoliberal Anglo-Saxon Welfare Societies: A Comparison of Finnish KRITS and New Zealand NZPARS

Maija Helminen and Alice Mills

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Introduction and background

Despite their importance in the lives of prisoners and ex-prisoners, until recently civil society organisations (CSOs) have attracted little attention among criminologists. However, the recent large-scale privatisation of criminal justice functions in England and Wales (Hucklesby and Lister, 2018) and the consequent increased share of government contracts for some large CSOs have raised concerns that accepting state service contracts may jeopardise CSOs' independence, distinctiveness, ability to work according to charitable missions, provide alternatives to state services and to act as critics of government policies (Corcoran, 2009, 2011; Maguire, 2012; Mills et al., 2011). Yet others have argued that a large number of CSOs working in the penal voluntary sector⁸ remain unaffected by the recent pressures of 'marketization' (Tomczak, 2014), which broadly defined refers to introduction of markets, market forces and market(-like) principles and practises in the delivery and management of public goods and services (Birch and Siemiatycki, 2016).

In this paper, we explore the meaning of marketization for two penal voluntary sector organisations in Finland and in New Zealand – KRITS⁹ and NZPARS¹⁰ – by using thematic analysis of their annual reports. We examine how, if at all, adoption of neoliberal *modus operandi* in state administrations and marketization of the past couple decades manifest themselves in these reports and how, if at all, they have affected KRITS' and NZPARS' abilities to pursue their value-based missions and ultimately, their fundamental roles as CSOs.

Finland and New Zealand are both relatively wealthy liberal market societies, and until the 1980s both could be described as social democracies with high level of universal welfare benefits. Yet, whereas Finland has continued to maintain comparatively generous welfare state, New Zealand has turned away from its welfarist ethos to more fully embrace free-market neoliberal ideology (Cavadino and Dignan, 2006; Valkonen and Vihriälä, 2014). Furthermore, both in New Zealand and in Finland the relationship between the state and CSOs begun to change due to influence of

⁸ Tomczak (2017: 3) defines penal voluntary sector as 'charitable and self-defined voluntary agencies working with prisoners, (ex-)offenders, their families and their victims in prison, community and policy advocacy programmes'. See also Corcoran (2011: 33).

⁹ Finnish Foundation for Supporting Ex-Offenders. Previously the organisation used the English name Probation Foundation Finland.

¹⁰ Also known as the New Zealand Prisoners' Aid and Rehabilitation Society.

neoliberal ideas in state administrations at the end of 20th century. The change was more radical in New Zealand where the withdrawal of state-provided services in the late 1980s ensured that CSOs not only became more involved in providing services, but also subject to a market ethos and more rigorous accountability mechanisms based on New Public Management (Christensen and Laegreid, 2013), including quantifiable, tightly-defined outputs, rigid specifications and burdensome reporting demands (Tennant, 2007; Holland, 2008; Crack et al., 2007). Competitive contracts became the main mechanism by which CSOs were given state funding. This 'contract crunch' (McCarthy 1995: 8) has been extremely unpopular with CSOs which felt that their values and strengths have been misunderstood and neglected and instead they have been required to 'accept government-specified standards and outputs' (Tennant, 2007: 126; Community and Voluntary Sector Working Party, 2001; Nowland-Foreman, 2016).

Also in Finland the expansive welfare state started to be seen as a burden at the end of last century (Julkunen, 2000; Yliaska, 2014: 79-84), and the government sought new ways to cut costs and make public sector services more efficient including the adoption of New Public Management in state administration. As a result, Finnish municipalities have started to view themselves as commissioners of welfare services and begun to contract out their service provision to private companies and CSOs (Möttönen and Niemelä, 2005: 82-84). The increase of funding available for service contracts is reflected in the budgets of Finnish CSOs, although Veikkaus grants still make up a large share of CSOs' funding, especially for smaller CSOs (Peltosalmi et al., 2016; Saukko, 2012). Amidst these changes, CSOs have reported experiencing increasing bureaucracy, insecurity, competition with other CSOs and have registered their concerns about the deteriorating quality of services (Peltosalmi et al., 2014; see also Helminen, 2016). It has been argued that as municipalities started to increasingly use CSOs as providers of their services, they have at least partly lost their roles as initiators, and advocacy and development-orientated actors (Ruuskanen et al., 2013: 23). CSOs have also faced growing competition from private companies, which have now exceeded CSOs as providers of social and health care services (Peltosalmi et al., 2014: 78-79; Särkelä, 2016: 41-43).

Methodology

The above described relatively similar but still different contexts allow us to evaluate the potential power of neoliberalism for the penal voluntary sector in Finland and New Zealand. Our data consist of annual reports from KRITS and NZPARS supplemented by previous literature and, in the case of KRITS, speeches from the executive manager and chairperson at the KRITS' 10th anniversary seminar. Included in this analysis were the annual reports of KRITS from 2003 until 2015 and the annual NZPARS reports from 1988 to 1999 and 2002 to 2009.¹¹ As NZPARS closed in 2009, we continued our analysis by using reports from PARS Inc,¹² the largest remaining PARS

¹¹ We were unable to acquire the NZPARS reports from 2000 and 2001.

¹² Auckland PARS but became PARS Inc in 2012. It is the largest and by far the most prominent of the existing PARS organisations.

organisation, from 2012 to 2015. Our findings are based on a thematic analysis of these documents (Braun and Clarke, 2006). As Bryman (2016) notes documents such as annual reports are likely to be authentic and meaningful. However, annual reports may provide an opportunity for CSOs to convey a particular image of their organisation and to portray their own version of various events. Such documents cannot therefore be viewed as objective accounts (Bryman 2016), and where possible, we have sought to supplement our analysis with reference to other sources.

KRITS and NZPARS

KRITS was founded in 2001 with the aim of supporting correctional treatment work and its development, reduce recidivism and its harms as well as advance the availability and arrangement of rehabilitative services (KRITS, 2001: 2, 3 §). The main activities of KRITS consist of supported housing services for released prisoners funded through different contractual arrangements with municipalities, peer support services, child and family work, an ombudsman office for offenders in addition to various short-term projects funded by the state-owned gaming company, Veikkaus (KRITS, 2018).

NZPARS was a federate body of over 20 local PARS societies in New Zealand from the late 1950s until end of 2000s. Throughout its existence, NZPARS received a central government grant from the Ministry of Justice, which it then distributed to the local societies. PARS societies offered assistance at court and aid to prisoners and their families, ran prisoner visiting schemes and four post-release hostels (McGurk, 1989). NZPARS provided support for the local societies including training and assistance with fundraising for specific initiatives. Additionally, it sought to represent the interests of prisoners and their families.

Findings

In comparison to KRITS, the effects of the public sector marketization have been more drastic for NZPARS, largely due to its high level dependence on state funding rather than other sources of charitable funding (NZPARS, 1988; 1996). The new competitive contracts with the Department of Corrections in the mid-1990s were highly specific about the services NZPARS was to provide (NZPARS, 1996) and a number of traditional PARS services were not covered, threatening the autonomy of NZPARS and its ability to fulfil its charitable mission (NZPARS, 1996; 1998). For example, support to prisoners' families, key part of NZPARS's *kaupapa*¹³, was explicitly excluded from the contract with Corrections in 1997 and 1998 (Tennant, 2002; NZPARS, 1997; 1998). NZPARS noted the need to seek additional funding to continue its fundamental philosophy in the new climate, recognising that 'the effectiveness of PARS is in danger of being diluted, if PARS is not aggressively determined to adapt to change, but not to be changed beyond recognition' (NZPARS, 1997:1).

¹³ *Kaupapa* is a Māori concept which in this context roughly translates as the purpose or principle of an organization.

Furthermore, around 2007 Corrections told NZPARS that it has to introduce more centralized systems (Collins, 2010), which led to growing concerns amongst local societies about preserving their autonomy (Howard League for Penal Reform, 2010). The restructuring attempt failed (Collins, 2010), leaving NZPARS with an operating loss of over 100 000,00 NZ dollars (NZPARS, 2009). The Minister of Corrections ordered a financial review, and NZPARS was declared insolvent. Thus, along with NZPARS itself some of the smaller societies were forced to close (Howard League for Penal Reform, 2010).

Following the downfall of NZPARS, PARS Inc (formerly Auckland PARS) is by far the most prominent PARS in New Zealand. In contrast to NZPARS, PARS Inc appears to be more committed to the language and ethos of the market and managerialism in order to maintain and enhance their position in a competitive environment. For example, it has participated in a 'Business Capability Assessment' to identify critical success factors, and recognised the need for re-branding to 'maintain our position as a leader in reintegrating prisoners' (PARS Auckland 2012).

Unlike for NZPARS, the effects of adopting market-like practises in Finnish municipalities have been less disastrous for KRITS, mainly due to its lesser dependence on public sector contract-funding and because Finnish municipalities – the main contractors for KRITS – have not pursued competition as forcefully as New Zealand authorities. KRITS also has alternative funding from the Finnish gaming company, Veikkaus, which enables it to carry out projects independently from the direct demands of the public sector. Nevertheless, since its inception KRITS has gradually increased the provision of supported housing services for released prisoners the most densely populated areas of the country. Initially, the municipalities bought these services from KRITS based on individual 'payment bonds', where municipalities agreed to pay rent and/or support for a client based on partnership agreements without open tendering process, but more recently KRITS has had to participate in competitive tendering when municipalities have sought providers for supported housing services (KRITS, 2013: 28).

Nevertheless, provision of services especially on behalf of municipalities has not been without problems. KRITS' previous executive manager has discussed various problems in relation to the increased marketization of social services, which has been perceived as threatening the development of meaningful services for KRITS' client groups (KRITS, 2013: 3; 2014: 3; Mäki, 2011: 7). For example, market-like practises have been seen to reduce flexibility (KRITS, 2015: 3), opportunities for voluntary work and the long-term development of services that meet the needs of the clients (Mäki, 2011: 7) as well as forcing CSOs' service provision to fit the same format as those of businesses (KRITS, 2011: 5) and increasing bureaucracy and costs (KRITS, 2014: 3). Around early 2010s KRITS' chairperson also emphasised that in the current 'marketizing and hardening world', KRITS must be able to show its distinctiveness and impact of its work as well as justify why it should be a partner of the public sector and why it requires grant funding from Veikkaus (Murto, 2011: 3; also KRITS, 2014: 32). However, the critique towards contracting mechanisms used by municipalities has faded at the end of period analysed (KRITS, 2015).

Discussion

The stories of NZPARS and KRITS illustrate how the marketized environments can threaten the opportunities of CSOs to meaningfully contribute to the development of services to meet the needs of their clients and create change in the criminal justice system. In such environments CSOs are obliged to listen more to the needs of the system than the needs of their real clients particularly if they are dependent on state funding in order to survive. In the case of NZPARS, the change to competitive commissioning and contracting rather than grant funding, affected their autonomy by changing their service priorities and even the groups for whom they were able to provide services. Although we did not find similar pressures to change from KRITS, the pressures of marketization were clear from the criticism, which emerged in the period around the 2010s in our analysis. Nevertheless, steady funding from Veikkaus gaming company has enabled KRITS to initiate and run activities independent from the preferences of other agencies and pursue its underlying mission. In contrast, the lack of alternative funding, due to the dearth of large-scale private philanthropy in New Zealand (Tennant et al. 2008) has made it virtually impossible for NZPARS to take such independent initiatives. Indeed, the funding from Veikkaus and its predecessor Finnish Slot Machine Association, which derives from the monopoly for gaming and lottery activities has been crucial for KRITS' ability to develop and introduce new elements to the Finnish penal sector.

However, it should be reminded that the analysed reports were not exhaustive sources of information and some issues faced by these organisations may have been left undiscussed and therefore omitted from our analysis. Furthermore, our research concentrated on just two CSOs and exploration of work of other CSOs may produce different kinds of narratives depending on, for example, the nature of their involvement in the penal sectors. Nevertheless, the accounts of NZPARS and KRITS are likely to reflect the conditions in which similar organisations in Finland and New Zealand operate and the opportunities of CSOs have to pursue their missions and change in these criminal justice systems.

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PARALLEL SESSION 2C: Police methods

Facilitating Information Disclosure in Intelligence Interviews: The Case of Subtle Influence

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Abstract

A wave of crime in the form of terror attacks is on the rise across Europe. One of the promising ways to mitigate these attacks is to motivate informants to share information about potential threats, security personnel require practical and scientifically robust interview tactics to achieve this goal. An emerging body of psychology research indicates that, indeed, subtle influence tactics—such as priming—could be used to motivate informants to share sensitive information. For instance, it has been found that informants can be primed to be either open and forthcoming with information, or closed and hold back information. However, as with any nascent scientific field, the underlying mechanisms that give rise to the influence of primes on information disclosure remain unknown. Identifying the specific processes and conditions that lead primed informants to share information is particularly important because such knowledge affords interviewers the opportunity to implement their subtle tactics efficiently and accurately. This paper presents data from a series of experiments, which form part of the author's doctoral dissertation, that delve into when and how priming tactics influence information disclosure. In all, the work suggests that primes predispose informants to disclose information. However, beyond such predisposition, an interview style that draws on the primed disposition may work symbiotically with the prime to facilitate information disclosure. The practical implications of these results are discussed.

Keywords: disclosure, priming, investigative interviewing

Introduction

Terror attacks are on the rise across Europe. Recently, Sweden suffered an attack. Reports indicated that security services received some prior information about the attacker; however, the information was incomplete (Sakerhetspolisen, 2017, April 8). Thus, it is possible to mitigate such attacks through tips from informants. An emerging body of research suggests that informants' (henceforth will be referred to as interviewees) disclosures of sensitive information could be improved by priming (i.e., activating) their motivations to share information. Priming is generally defined as covertly increasing the ease with which a motivation comes to an individual's mind in order to influence a subsequent target behavior in a manner suggested by the prime (e.g., Molden, 2014). In their research, Dawson, Hartwig, and Brimbal (2015) found that priming motivations of trust—by activating interviewees' memories about close confidants—may increase primed participants' disclosures about an impending mock terrorist attack (cf. Dawson, Hartwig, Brimbal, & Denisenkov, 2017). This research, though suggestive, opens up the possibility for interviewers to

utilize priming as a tool to harness interviewees' motivations for the purposes of increasing information gain. However, the mechanisms that give rise to priming influences in investigative interview contexts remain unknown. Mapping out the processes that influence primed interviewees' disclosures is vital because such knowledge will inform interviewers better on how to tailor and implement priming effectively in the field. My doctoral project delved into this objective.

The mechanisms of priming. The project was based on a synthesis of current theoretical perspectives that explain when and how priming effects occur. In all, the theories propose that a prime first increases the ease with which the primed motivation comes to an individual's mind — This is called mental accessibility. This initial step facilitates the priming process because previous research indicates that individuals typically draw on motivations they can easily remember when making decisions (e.g., Mussweiler & Strack, 1999). Thus, primes affect behaviors because they lead individuals to draw on motivations they can easily remember when making decisions (for comprehensive overviews, see Bargh, 2014; Molden, 2014). Critically, however, proponents of priming note that priming effects are more likely to occur in situational affordances that promote the enactment of behaviors suggested by the prime (e.g., Loersch & Payne, 2014; Barsalou, 2016). In line with the priming theories, my collaborators and I proposed and examined the following theoretical propositions about the underlying mechanisms that give rise to the impact of priming on information disclosure. We theorized that priming first increases interviewees' mental accessibility to a disclosure-related motivation thereby predisposing them toward sharing information. Second, an interview style which draws on such predisposition is most likely to maximize the effect of the prime and increase disclosure.

Helpfulness priming and information disclosure. We implemented helpfulness priming as a means to promote disclosure since previous research has demonstrated that priming individuals' helpfulness increases their cooperativeness in various domains (Arieli, Grant, & Sagiv, 2014; Capraro, Smyth, Mylona, & Niblo, 2014). Increased helpfulness motivations align with the interviewer's task of soliciting information because, in investigative interview contexts, interviewee cooperation is akin to sharing reliable information (Hartwig, Meissner, & Semel, 2014).

Summary of Methods, Findings, and Discussion

We used a similar research design in all the studies included in the dissertation. Each study was guised to appear as two independent experiments in order not to give our hypotheses away. We used the following cover stories: (a) In the parts of the studies related to interviewing, we told participants that we were examining a range of interview techniques; (b) The helpfulness priming manipulation was administered in an alleged unrelated experiment about language and communication. Next follows the general procedure protocol used in each of the studies.

Participants were invited to prepare for an interview assuming the role of a semi-cooperative informant with some information about an upcoming terror attack. Prior to the interview, we primed half of the participants with helpfulness motivations and the other half received a prime

that was relatively neutral to helpfulness. The prime was delivered using a guided imagination and writing task. We instructed the participants in the helpfulness priming condition to reflect on, and write about, a previous helpful action focusing on their internal states right before they had engaged in the action. Scholars have theorized that this procedure protocol is most likely to increase primed goal motivations (Lieberman, Förster, & Friedman, 2007). Participants in the control priming condition reflected on and wrote about their morning routine, which is relatively neutral to helpfulness. After the priming, we assessed the extent to which each participant was predisposed to be helpful using an implicit cognitive helpfulness mental accessibility (i.e., the ease with which helpfulness came to mind). Next, all the participants were interviewed about the attack. The interviewer used either a helpfulness-focused or control interview style. In the helpfulness-focused condition, the interviewer drew on interviewees' helpfulness motivations by making it readily obvious that helpfulness can be exhibited, during the interview, by sharing information. The control condition consisted of direct questions. We created the differences between the interview styles by phrasing the same questions differently. For example, when asking about the location of a bomb, the helpfulness-focused question indicated: "Could you *help* me with information about where the bomb will be placed?" The control question, on the other hand, did not seek help: "Could you give me information about where the bomb will be placed?"

There were two key findings in this project. First, we found that the helpfulness—compared to control—priming increased disclosure significantly only when the helpfulness-focused interview style was used (see Figure 1). In line with our theoretical propositions, this result suggests that when a disclosure-related motivation has been primed, a complementary interview style that draws on the primed motivation may work symbiotically with the prime to increase information gain.

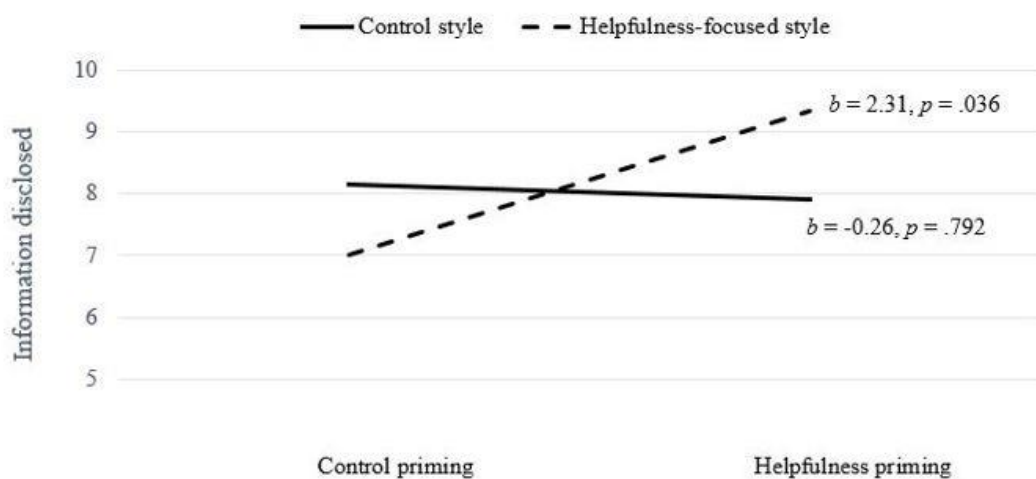
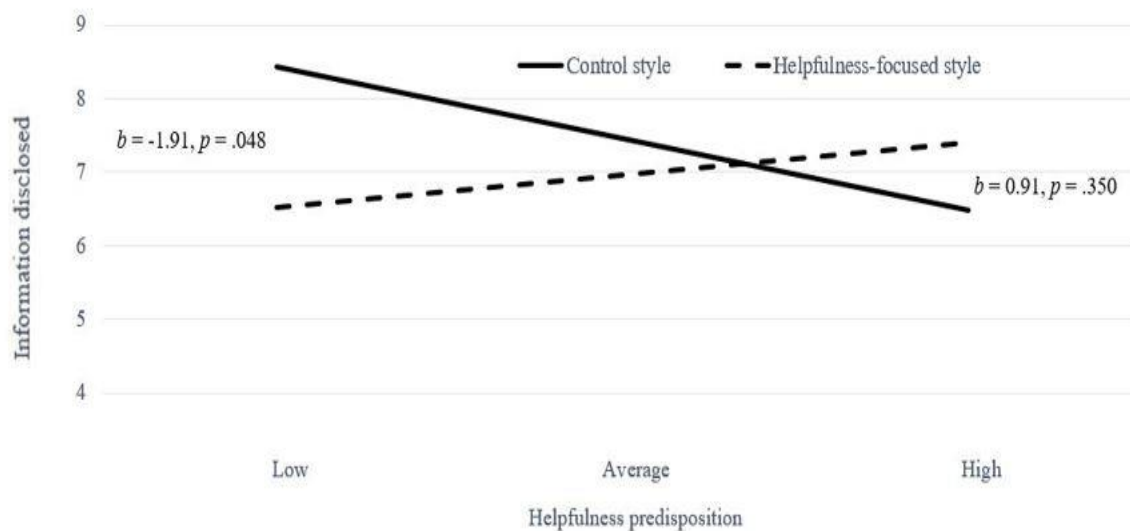


Figure 1. Information disclosed as a function of helpfulness priming and interview style.

Second, we discovered that regardless of priming condition, the helpfulness-focused (vs. control) interview style decreased information disclosure among the participants who were least predisposed to be helpful (see Figure 2). This result suggests that using an interview style that draws on a primed motivation could counteract the goal of information gain when the interview is not sufficiently predisposed to the primed disclosure motivation. Thus, it is recommended that interviewers tailor their priming tactics to fit a specific disclosure-related characteristic of the interview to ensure effective predisposition to the motivation of interest.



An Illustrative Anecdote

Ali Soufan, a former FBI intelligence interviewer describes an instance in his book—*The Black Banners*—where he uses priming tactics in an elaborate strategy that ultimately lead an al-Qaeda operative—Anas al-Mekki—to disclose sensitive information (Soufan, 2011). The available information on al-Mekki indicated that he valued respect highly. Hence, Soufan primed al-Mekki to feel respected by changing the previously bare interview room to resemble an inviting living parlor. To further increase al-Mekki’s perceptions that he was respected, Soufan allowed al-Mekki to remain uncuffed during the interview. Finally, when eliciting information, Soufan complemented the respect-priming tactic with an interpersonal approach that drew on al-Mekki’s increased respect perceptions by being firm but friendly and respectful.

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Understanding The Accuracy Of Eyewitness Memory Reports

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Eyewitness memory accounts are important pieces of evidence (Boyce, Beaudry, & Lindsay, 2007) and often it is the case that eyewitness memory accounts are the only source of evidence available to the criminal justice system. For example, a person robbed in the middle of night while walking alone to his home. Unfortunately, eyewitness memory evidence is very fragile and prone to extinction and distortions in a fashion that can cause an incorrect reconstruction of the forensic event (Wells & Loftus, 2013). Moreover, there is no tool available for the investigators and courts that can be used to judge the accuracy of the event details provided by the eyewitnesses. This project is planned to investigate the effectiveness of systematic monitoring of metacognitive judgements in judging the credibility of eyewitness memory reports. This is work in progress and in the following text we will be presenting theoretical contributions.

Relationship Between Confidence and Accuracy

Legal professionals use eyewitness' confidence as an indicator of accuracy in eyewitness testimony (Brewer, Potter, Fisher, Bond, & Luszcz, 1999), which can be a useful strategy since research findings show a positive correlation between confidence and accuracy (Bothwell, Deffenbacher, & Brigham, 1987; Luss & Wells, 1994; Sporer, Penrod, Read, & Cutler, 1995). However, the problem is that there is no method available that jurors can use to decide which level of confidence in eyewitness memory reports can assure accuracy. US judges (Wise & Safer, 2004) and jurors (Luus & Wells, 1994) predict the accuracy of eyewitness statements using their own subjective evaluation of the confidence expressed by the eyewitnesses. These subjective evaluations probably are less likely to take into account the factors that can potentially distort the sensitive relationship between confidence and accuracy. Below we briefly review some important findings about factors that distort confidence accuracy relationship in forensic contexts.

Different social contexts can make people express lower levels of confidence when they are afraid that they will be held responsible for providing incorrect information because of the *accountability effect* (Tetlock, 1983b) consequently the witnesses are also likely to show lower levels of confidence because they know whatever they will say will have a serious consequences for the other person. Eyewitnesses are also likely to show lower levels of confidence if they are afraid that other witnesses may contradict to their version of the event (Shaw, John, Zerr, & Woythaler, 2001). The relationship between confidence and accuracy is also affected by the kind of information that is confidence judged. Research literature shows that participants show better confidence accuracy relationship for action details as compared to the descriptive details (Ibabe & Sporer, 2004; Sarwar, 2011; Sarwar, Allwood, & Innes-ker, 2014). An eyewitness' personal understanding about how good she is at remembering things affects the confidence accuracy relationship (Perfect, 2004). A

positive or a negative feedback (e.g. from a co-witness or interviewer) about the accuracy of eyewitness' statements is likely to affect the confidence level of an eyewitness in a direction congruent with the feedback without any effect on accuracy level (Wells & Bradfield, 1998, Allwood, Knutsson, & Granhag, 2006). Furthermore, the number of times the information is recalled may also increase the confidence levels without any corresponding increase in accuracy, which is referred to as the *reiteration effect* (Hertwig, Gigerenzer, & Hoffrage, 1997). Also, asking the same questions twice, which is frequent in forensic interviewing, witnesses may interpret it as an indication that the first answer was wrong or unacceptable, which may lower the eyewitness confidence in the subsequent recalls as well (Krähenbühl, Blades, & Eiser, 2009; Hartwig, & Wilson, 2002).

The effects of different types of questions and techniques for eliciting event memories and confidence judge those memories may be understood within the framework of Koriat and Goldsmith's (1996) model of *free report monitoring and control (Meta-cognitive Monitoring)*.

Meta-cognitive Monitoring

In Koriat and Goldsmith (1996) study the participants were able to improve quantity and accuracy of their memory reports by the use of strategic control according to the stakes involved. Moreover, in line with previous research, the participants' confidence accuracy correlation was high for the free report condition in contrast to the forced report. In this context, the concept of "report-option" is relevant. Placed under pressure to report, for example by follow-up questions, a witness can resort to lower confidence level for the answers: i.e., guessing out of compliance. Sometimes, witnesses are pressed to answer all of a set of questions, in which case the witness' voluntary report regulation is offset, as it is with forced report instructions in research contexts. If a witness can choose whether or not to report (as in open, free recall), one may say that she is given a report option. Both free recall and forced report (to different degrees) are used and needed in forensic witness interviews and cognitive interview (CI) protocol. Further research is needed on differences in accuracy of memory reports and quality of confidence judgments of the different kinds of recall (with or without report option), such research will be instrumental in determining the cut-off confidence levels for witnesses in different age-categories.

Koriat and Goldsmith's (1996) predictions were based on a model of *free report monitoring and control*. According to this model the monitoring and control process are based on *monitoring effectiveness*, *control sensitivity*, and *strategic control*. *Monitoring effectiveness* helps to differentiate between a correct and an incorrect answer. *Control sensitivity* is a subjective control over what to share after receiving a feedback from *monitoring effectiveness*. *Strategic control* finally determines the consequences of sharing correct or incorrect answers, which is based on the implicit subjective confidence level about the correctness of a piece of information. So when people need to share their memories they confidence judge their memories internally and implicitly regulate what they should share and what they should withhold based on the *strategic control* (Kelley & Lindsay, 1993; Koriat & Goldsmith, 1996; Shaw & McClure, 1996).

Credibility Assessment of Eyewitness' Memory Reports

Determining the credibility of information received from eyewitnesses is both complex and difficult. There is no agreed upon and research based method available to the police or other legal professionals to assess the accuracy of information shared by the eyewitnesses. Research show that the most often used method by the professionals in the legal system to determine the credibility of eyewitness memory reports is to rely on the eyewitness' own confidence in their memory reports (Cutler, Penrod, & Stuve, 1988; Luus & Wells, 1994; Smith, Kassin, & Ellsworth, 1989; Wise & Safer, 2004). However, the relation between witnesses' accuracy and confidence, as discussed above, is weak and highly variable (Brewer & Wells, 2011; Sporer, Penrod, Read, & Cutler, 1995; Wells, Memon, & Penrod, 2006).

Judging the accuracy using confidence becomes even more complicated as the findings about the relationship between confidence and accuracy are based on group performance, and how that knowledge should be translated into applied contexts at individual level is not clear. Further research is needed to understand the best possible way to use confidence as an indicator of accuracy especially in the context of different kinds of interview techniques and types of event reporting (i.e. action or descriptive details) and how to put such knowledge to use for legal professionals when making assessments in legal proceedings or witness interviews. The present research plan investigates the usefulness of the *systematic monitoring of metacognitive processes approach* with *calculation of cut-off values* (briefly explained below) for determining the likelihood that I specific memory report statement in reliable.

The Metacognitive Monitoring Approach

In this project it is suggested that a *systematic monitoring of metacognitive processes* can be helpful in judging the credibility of information gain both from child and adult eyewitnesses. It is expected that this method is likely to improve our assessments of the accuracy of information provided by eyewitness considerably. The *systematic monitoring of metacognitive processes* is done in the following steps: first a *cut off confidence level* (mean level of certainty) needs to be decided for an individual eyewitness in a specific event report. Then one can consider the pieces of information with confidence level higher than the *cut off confidence level* as likely to be correct. While the pieces of information with confidence level lower than the *cut of confidence level* can be considered as likely to be incorrect. The factors, which are likely to influence the confidence-accuracy relationship, need to be controlled when finding a *cut off confidence level*. Below the two steps are described in detail.

This project is planned to investigate a method that can determine a cutoff confidence level for an eyewitness. The aim is that this cutoff confidence level can be used as a criterion by the practitioners and researchers to decide if the information shared by an eyewitness is likely to be correct or in correct. The results of this project will be published soon in a scientific journal and principal investigator can be contacted for more detailed information.

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Policing False Positives: Lessons from Epidemiology

Adam Diderichsen

Modern crime control technologies often rely on a combination of massive amounts of data and some kind of test that allows law enforcement agencies to select interesting cases ('positives') from a background noise of uninteresting cases. Often, it is assumed that more data equals better security, since a larger data set will lead to more hits. This is in particular the assumption behind mass surveillance. Drawing lessons from epidemiology, I shall however argue that large data sets mean that the signal from true positives will drown in the noise from false positives. I shall then pursue the implications of this idea on two levels. First, the practical implications for policing of the notion that 'small is beautiful' when it comes to surveillance. Second, the political and ethical implications for both civil liberties and for the relation between state and citizens that the attempt to police false positives may have.

In this paper I want to discuss a specific type of policing that becomes still more prevalent in today's security landscape. I have in mind the use of automatic test run by computer programmes on large data sets. Such IT-tools can be made using or combining various different technologies, including artificial intelligence, multi-linear regression analysis, point scores systems and many more. Whatever the precise nature of the technology used, the system compiles some sort of hot-list of citizens, prisoners, corporations or other entities that are of special interest to authorities. Sometimes such systems are directed towards the past and pick out offenders and suspects guilty or suspected of already committed offences. Sometimes they are oriented towards the future, identifying potential offenders or victims of crime, before the offense has actually been committed; in the latter case, the relevant technologies (including social technologies such as work methods and organisational forms) are often branded 'predictive policing'. Moreover, these technologies are used by a wide array of different authorities, including not only the police, but also customs, tax authorities, environmental agencies, intelligence agencies, social services, and financial regulators, to mention some of the other entries on a list that grows longer by the day. In the following, the term 'Policing' should thus be taken in the most general sense, including not only various tasks performed by the Police as an organization, but more generally any law enforcement and regulatory activity performed by public authorities.

These technologies often spur considerable public controversies. Often cited grounds for concern are that they may not have the claimed predictive capacities and that the sciences and technology that go into constructing these systems may not be nearly as solid as its proponents assume. Furthermore, using these technologies may lead to discriminatory practices, enforcing perhaps an already regrettable tendency in policing to focus on the stereotypical usual suspects, leading both to discrimination and less effective enforcement (Harcourt, 2011; O'Neil, 2016).¹⁴ To this list may be

¹⁴ Big Data analysis may however also be used for combating police discrimination, cf. (Goel, et al., 2017).

added other ethical issues, such as the mass surveillance and intrusion in privacy that such systems may entail, the secrecy and lack of public transparency that often cloud both their use by authorities and the actual technologies, such as algorithms that may be protected by copyrights. Moreover, we may question whether the ethical and juridical foundation for ‘preventive justice’, i.e. the use of predictive tools to prevent crimes before they occur (Ashworth & Zedner, 2014). What comes next is very often a discussion of the use of ethically problematic (‘dirty’) means to achieve ethically desirable (‘good’) ends, or an attempt to settle the question of how we should strike the right balance between different conflicting goods, such as security and privacy (see (Zedner, 2009) for a critique of the ‘balance’ metaphor).

In this paper, I shall however focus on a different set of concerns. Drawing lessons from epidemiology, I shall discuss the problem of *false positives*. This is obviously not because I do not believe that the above-mentioned grounds for concern are unimportant; all of them would be good reasons to be both suspicious of some of the grand claims made in advance of these technologies and critical of their actual deployment by authorities. Nonetheless, I shall permit myself to assume in the following that these technologies actually work as intended, that authorities are able to use them in an intelligent and non-discriminatory way, and that we have adequately addressed the various ethical, juridical and political questions raised by mass-surveillance. I shall then argue that even given this obviously quite generous set of assumptions, the problem of false positives gives us sufficient ground for severely limiting the use of these technologies for law enforcement and regulatory purposes.

Epidemiology and medical screening

Using a software tool for compiling a list of interesting cases (‘hits’) resembles in many ways the use of a test in screening for a medical condition. We may thus liken the use of ‘enforcement test’ on big data sets to the use of medical testing in mass-screening for, say, breast cancer.

Obviously, medical testing rests on much more solid epistemic and ethical foundations than automated enforcement strategies.¹⁵ But given my set of heroic assumptions, we may pretend that enforcement screening tools have an equally solid epistemic and ethical foundation.

In order to evaluate a medical test and decide whether, and if so in which circumstances, it should be used, we need to know at least two things: 1) How good (reliable) it is, and 2) what side-effects it may have, so that we may decide whether its possible side-effects are proportional to the diagnostic advances that we hope to gain from the test.¹⁶

¹⁵ Thus, a new medical test is only introduced after extensive testing, which, as I shall argue later in the paper, we should also require of enforcement tests. As for the ethical foundation, medical testing normally requires informed consent and is therefore both transparent and voluntary. Moreover, the testing is done for the express purpose of helping the tested person. None of this is true of the use of testing in law enforcement, where the situation would be more akin to the use of a secret medical test used for the benefit of society as a whole rather than the tested person (say for cutting down public health expenditures).

¹⁶ In practice, we often also need to consider the financial costs of the test, but I shall leave that issue out of the question in the present context.

As for the first question, we need to know how likely the test is to correctly identify the condition we are screening for. Even the best test is fallible and will sometimes give us the wrong answer. More particularly, we need to know both the test's *sensitivity* (also known as its *true positive rate*, i.e. how likely the test is to correctly identify cases where the patient does in fact have the condition) and its *specificity* (the true negative rate, i.e. how likely the test is to identify patients that do not have the condition). Ideally of course both of these figures would be 100% with the perfect test always correctly identifying both positive and negative cases. But perfection never exists in the real world, and the pertinent question is rather how imperfect the test is. Moreover, we also very often face a trade-off between sensitivity and specificity, where we will have to decide which of the two we deem most important (think for instance of a pregnancy test with a high sensitivity, but low specificity – if it turns out negative, you should try again (perhaps in more than one sense)).

Now, an important lesson from medical science is that false positives tend to crowd out true positives in large scale medical screening, in particular if the condition is rare. The larger the population and the rarer the condition, the more dominant false positives will become. This is because the number of negatives (people who do not suffer from the condition) will normally, and especially if the condition is rare, be much higher than the number of positives (people with the condition), even if we assume that the false positive (or false negative) rate is quite low.

Returning to law enforcement, I shall illustrate this point by imagining that the Police have constructed a new automatic test, which it intends to run on a big data set containing crime data and other information about all the inhabitants in a major city with 1.000.000 inhabitants. The Police plan to use the system to compile a hot-list of active criminals who should be singled out for preventive law enforcement measures. Let us assume that the system is quite good and capable of correctly identifying 90 % of the active criminals in the city (sensitivity or true positive rate), which is another way of saying that the system only has 10% false negatives. Let us furthermore assume that the system is even better at identifying law-abiding (innocent) citizens, perhaps because it has been programmed to give citizens the benefit of the doubt, so that it is able to identify 99 % of innocents (specificity or true negative rate), having thus a 1% false positives rate.

I think it is fair to say that my imagined system is far better than any system, which a real police force anywhere in the world would be able to construct, even if we imagine that it had unlimited resources and free access to the best possible technical know-how. But since the number of law-abiding citizens is far higher than the number of criminals, we could still end up in a situation where false positives outnumber true negatives. So, let us assume that 99% of the population consists of law-abiding citizens and that only 1% are criminals.¹⁷ In that case, we may summarise system's findings in the following table:

¹⁷ Whether these are realistic figures would of course depend very much on how we define 'criminal'. In a modern regulatory state, more or less everyone is a criminal, if we mean by that a person who has broken a law, not matter how serious, including for instance minor traffic offences. But then again, we would hardly need a complicated and expensive IT-tool to identify criminals in this sense (a look in the mirror would suffice), nor would it be particularly helpful, since the compiled hot-list would enlist more or less everyone and therefore be unhelpful in assisting the Police in picking targets and prioritising the use of spare police resources. So, let us assume that the system is meant to identify

	Law abiding	Criminals (1%)
Population	990.000	10.000
Detection rate (90%)		9.000 (90% of 10.000)
False positives	9.900 (1% of 990.000)	

As the table shows, the number of false positives (9.900) out-weights the number of true positives (9.000). So even given a set of very generous assumption about the systems technical capabilities and the capacity of the Police to use it in a suitable manner, it will be wrong in more than half of the cases. It will, to put it bluntly, lead to the arrest of thousands of completely innocent citizens.

Note in particular that it is more likely that a particular arrestee is innocent than guilty. An untrained observer could perhaps be tempted to make the mistake of thinking that since the system correctly identify criminals in 90% of the cases (and innocents in 99%), it would be quite likely that a person is a criminal, if the system identify the person as such – and we would be excused, I believe, for thinking that the Police could very well make this mistake. But this is not true: The system identifies a total of 18.900 persons – 9.900 innocents and 9.000 criminals. So, the probability that an identified person is in fact a criminal is only $9.000/18.900$ or about 48%. A particular identified person is thus more likely to be innocent than a criminal.

I will leave it as an exercise for the reader to compute the corresponding probability given less optimistic and more realistic assumptions about the systems sensitivity and specificity. Note however that the large number of false positives should lead us to question the soundness of the often-heard ‘I have nothing to hide’ defence of mass-surveillance: You may have nothing to hide, but you may still be targeted by authorities, because you are a false positive. In fact, it is exactly *because* most people have nothing to hide that most ‘hits’, perhaps even the majority, will be false positives.

Side-effects

This brings me to the next thing that we need to take into account when considering using a particular test, namely its side-effects. I hope to have shown that false positives are a serious problem. But in order to decide *how* serious, we need to get a better grip on the seriousness of the side-effects, i.e. how damaging it is for a person to be falsely identified as a criminal. After all, it may be that the side-effects are so light that the fact that the system produces many false positives may not be such a big problem.

Now, clearly the seriousness of the side-effects depends on the precise nature of the law-enforcement activity that we imagine would follow after a positive identification. The side-effect is

only (possible) perpetrators of serious crimes, and that it moreover only identifies active criminals as opposed to persons with a record who have moved on to more civilised pursuits than crime.

obviously different in nature and seriousness if you are simply registered on a hot-list without further consequences than if you are, in some future dystopia, being gunned down by an automatic law-enforcement drone. So, in order not to exaggerate the problem, I shall assume that identified persons are simply questioned by the Police in a manner, which do not seriously disturb their everyday life. Even so, I would argue that the system has at least three sets of important side-effects that we need to take into account:

- 1) False positives may have serious consequences for public trust in the Police.
- 2) The system seriously undermines the legitimacy and transparency of the Police. Not only will the system lead to the arrest of thousands of innocent citizens; they will be arrested without probably cause, since the system will not be able to supply a legally valid reason for their arrest. They have been arrested because a computer algorithm considered it likely that they would commit a crime, but they have not done anything, which in itself would give the Police cause for arresting them.
- 3) Since the persons targeted have a mind of their own, we can expect the use of these technologies to influence the behaviour of criminal and other targeted groups, and over time perhaps also of the population at large. In particular, people may try to 'game' the system, avoiding things that would draw unwanted attention to them (even if not in itself a criminal activity) or using the system to direct attention to their enemies (say, giving a terror hot line an unfounded tip off about a former lover).
- 4) The system may amount to a sort of cyber obstacle course, which citizens with few resources would have to negotiate. Socially vulnerable citizens may already have several of the characteristics (risk factors, 'points') that also characterise the suspected persons that the system tries to identify. They hence have a much smaller 'margin of error' than ordinary citizens, because they only need a few extra points in order to turn up as a positive. Vulnerable groups may therefore feel that they are unfairly targeted by authorities and are punished by much smaller mistakes than others – which in turn may lead to further alienation and social vulnerability.

Recommendations

Clearly, we do not have sufficient knowledge to gauge how serious each of these side-effects are. Moreover, the list of possible side-effects may turn out to be considerably longer. We simply do not know. But this, I believe, is in itself a good reason to be wary of introducing such systems: We would never accept using a medical test with untested and unknown side-effects. Nor should we, when it comes to law-enforcement.

Nonetheless, these technologies are already in use, and it is fair to believe that they are going to be introduced in much larger number in the coming years. I shall therefore conclude the paper by a short discussion of some of the things we may do to use these systems in the most effective and appropriate way, while limiting the potential damage that they may cause. Here are some of the

things that I believe will help us use these tools both more efficiently and in a politically and ethically responsible manner:

- 1) Demand proper testing of the test. Much more knowledge is needed, before we introduce these technologies in enforcement activities. As a minimum, we need to know the sensitivity and specificity of the system and its likely side-effects. In other words, we need to be as careful and critical of these systems as we are of medical testing.
- 2) Small is beautiful. Because large-scale screening will increase the relative number of false positives, especially if use for screening for rare conditions, we are often better off using these systems on small data sets only. Having the right (small) data set is much better than having a large data set. Note in particular that mass-surveillance is not an effective use of public resources and is likely to severely increase the number of false positives and thus the side-effect of screening tools. This is especially so, because mass-surveillance is often used in combatting 'rare conditions' such as terrorism and organised crime. 'If you see something, say something' may be a bad piece of advice.¹⁸
- 3) Clinical assessment is often much better than mass-screening. Using a medical test in cases, where a trained medical practitioner suspect that the patient has a specific condition, is totally different from using the same test for mass-screening. Since the test is only used when relevant, the number of false positives will likely be much smaller and may even be negligible for practical purposes. The same is true of enforcement tests. Instead of using mass-surveillance technologies, we may therefore want to direct more attention to developing relevant tests and other technologies for use by trained law-enforcement practitioners, for instance structured assessment tools.

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¹⁸ It may for instance be bad news that the number of tip offs to MET's anti-terror hotline has increased by 600 % (https://www.policeoracle.com/news/terrorism_and_allied_matters/2017/Aug/17/Terror-hotline-tip-offs-up-600-percent-_95554.html, downloaded August 17 2017).

Algorithmic analysis and the role of patterns for predictive policing

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Software packages for predictive analytics are increasingly used in police work across many countries. Some of them have gained much international attention, like *PredPol* in the US and *PrecoBS* in Europe or *Hunch Lab* in Australia. In addition, many smaller software projects are currently developed by the police forces, at universities or in research projects to assist police in identifying hotspot areas and dispatching police officers. In a sense, this trend is a digital continuation of pen-and-paper policing methods that existed since the 1940s, or even ancient war strategies that worked with the idea of collecting information about ‘the enemy’, reducing it to meaningful information, giving form to it and then acting according to it. Hence, we have to study the developments in predictive policing software as part of a tradition of bureaucratizing police work and of adopting technological tools.

Current research in criminology and sociology focuses on the role of information for predictive policing and the different modes of analyses that enables (Bennett Moses and Chan, 2016). Others have studied the socio-technical aspects of predictive policing (Sanders and Condon, 2017). While our argument builds on such insights, it can also be placed in the larger context of the digitization of predictive policing.

Even though some elements of policing and patrol dispatch that we know from analogue approaches are still prominent in digital policing tools, such as geographic coordinates and variables of time, digital technologies have re-launched the work processes of predictive policing. As opposed to most analogue data, digital information is characterized as “numeric, countable, computable, material, storable, searchable, transferable, networkable and traceable, fabricated and interpreted” (Kaufmann and Jeandesboz 2016: 309). This means that digital tools can, for example, work more rapidly and with larger quantities of data than analogue tools. Indeed, the idea that police can now analyze whole databases for predictive purposes has been discussed as big data policing (Aradau and Blanke 2017). However, when we take a closer look at predictive policing tools, we also find that some datasets are still very selected and small.

A second shift that digital data instantiated in predictive policing are new ways of calculation. These new ways of calculating crime also provide for new forms of reasoning about crime: predictive policing works with a strong sense of sorting or compartmentalization, which also means that any social information must be rendered computable. With that, the intention of computing crime is to allow for action, and not for explanation. In fact, Chris Anderson, *wired* editor at the time, challenged the centrality of causal theory in the ‘era of big data’ with his provocative statement: “Forget taxonomy, ontology, and psychology. Who knows why people do what they do? The point is they do it, and we can track and measure it with unprecedented fidelity” (Anderson, 2008). This fidelity in algorithmic and data analysis is the reason why

discourses of predictive policing are often inspired by narratives of big data (Babuta, 2017; Beck and McCue, 2009) – echoing the belief that a sufficiently large amount of data would render the world, if not better understandable, at least better predictable. Such views and suggestions come no longer as surprise to those who are updated about recent technological developments. Indeed, the qualities of patterns that can be identified in big (and small) datasets are already at the core of the spirit of efficient law enforcement. They are the vantage point for actionable insights that digital data analysis can offer to police work.

As such, patterns hold an authority in forecasting that is hard to challenge. In our paper, we see and acknowledge the authority of the pattern. It is an authority that is intimately tied to the logic of forecast: without a pattern, we cannot deduce strategic placement of police. Beyond that, however, the paper's intention is to show that different patterns rise from different kinds of reasoning about crime. Any identified pattern is dependent on a number of decisions and narratives. For example, specific understandings of crime are already at work when the data to be analyzed is structured and prepared. We extend this argument by showing that not just the datasets, which are often prepared by the police, but also the algorithms that search the data imply certain understandings of crime. Together, datasets and algorithms identify patterns of crime. These patterns are upheld by the networks that stand behind them, including the specific software employed, the databases used, as well as the different actors and decisions taken by them.

This argument is based on a quite extensive empirical study. Our material comprises seven different predictive policing software models, 48 in-depth expert interviews with representatives from police and software companies mainly from Europe, but also in the English-speaking world, ethnographic observations, and internal police documents. We spoke to software owners, programmers, and users about their decisions when programming an algorithm to find patterns. We have used this material to identify the many different kinds of patterns and how they intend to make human behavior actionable. Patterns make police see where to engage. As mentioned above, this has been the case for a long time. However, we develop the argument that with digital tools (policing software) patterns have become re-launched. Digital "(d)ata are not useful in and of themselves. They only have utility if meaning and value can be extracted from them" (Kitchin 2014: 100). Such patterns, however, never come in the same kind of shape or form, but vary greatly; they vary in form and explanatory power. In building this argument, we demonstrate that the notion of the pattern itself is not a given, but that patterns reflect specific epistemologies and ontologies about crime, which are tied to theoretical assumptions and concrete methods and approaches to policing.

As criminologists we already know quite a bit about patterns and how different they can be. A central example is the near-repeat pattern (Townshley et al., 2003), which is the idea that certain crimes are followed by a similar offence in the immediate vicinity and future. The near-repeat hypothesis is an extension of Rational-Choice theories, which state that a successful offender optimizes his or her behaviour by following up with a similar crime in a similar environment, because risks and benefits are now known and can be weighed in a corresponding analysis (Johnson et al., 2007). Another type of pattern well-known to criminologists is the spatial one.

Here, GIS-tagging and other digital geographic information in police records have relaunched earlier approaches to the pen-and-paper mapping of hotspots (Chainey and Ratcliffe, 2005; Bowers and Johnson, 2014). In a digital format, geographic information is utilized to determine spatial regularities within historic material and project them into the future as risky areas or near-repeat affine neighborhoods. Geographic patterns sit at the center of many data-based approaches. Other types of data, such as socioeconomic data, weather data, data about events and the like are mapped in relation to spatial coordinates. Even though the amount of different geographic patterns is as vast as the data that they are based upon, the variable of people and their movement is still a crucial one in geographic patterns.

In addition to spatial patterns, we do find temporal ones. Temporal patterns are mapped against spatial ones when offenses are recorded over longer periods of time.. As a result, one would see the historic development of crime patterns in a given geography. Hence, without the temporal dimension, geographic patterns would be not usable for police dispatch. Another temporal pattern is in use when software identify *at what time* incidents tend to happen in specific areas. Beyond spatial and temporal patterns, we find behavioral patterns for predictive policing, which often differentiate between different types of offenses.

Not all behavioral patterns are mapped in relation to geographic and temporal coordinates. Some software models, for example, trace patterns in the shape of criminal networks by mapping transactions, communication patterns and agreements between different people. Instead of being used for the dispatching of officers in everyday policing, such patterns are rather used for intelligence policing software. While most databases do not integrate the offender, meaning actual individuals, into the dataset for ethical reasons, future software versions that include such information are thinkable. An example of this is the “strategic subject list” from the Police Department of Chicago (Saunders et al., 2016). That said, some software owners argue that only professional offenders – whether known to the software or not – can be targeted with a policing software as only they are said to act in a predictable fashion.

The above overview of patterns may already be well-known to criminologists, but it reminds us that only those offenses that follow some kind of regularity can actually be predicted. However, at the same time, the overview already begins to portrait the many ways in which policing software come to their results. Even if policing tools work with a typical set of patterns, such as geographic, temporal and behavioral patterns, each pattern is the unique result of a database and the algorithm that identifies it. This alone puts the epistemological authority of the pattern into perspective.

In the final paper, we use this overview of patterns as the entry point to the more central and in-depth discussion of the paper, namely the way in which patterns are actually recognized by algorithms. Here, we show the collaborative efforts needed for different pattern recognition approaches. From a multitude of case studies, we identify four abstract styles of pattern recognition that illustrate the various levels of pre-structuring data, of embedding theory in algorithms and of programming each algorithm to focus on specific targets.

An overview of these styles of pattern recognition finally leads us to a discussion of the limits and limitations of a pattern-based approaches to policing. Here, we expand on the different understandings of crime algorithms or approaches of pattern recognition embody. More importantly, we discuss the way in which algorithms render such understandings less transparent at the same time as they also transport and foster a specific notion of crime as ‘different normalities’ (Kaufmann 2018).

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Prediction software

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Hunch Lab: <https://www.hunchlab.com> (Accessed 15 May 2018)

Precobs: <http://www.ifmpt.com> (Accessed 15 May 2018)

PARALLEL SESSION 3A: Victimization and violence

Viktimologi & teori – Dåtid, nutid, framtid

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Inledning

Dagens viktimologi, läran om brottsoffer, beskrivs ibland som teorifattig men rik på empiri. Det är en framställning som är både rätt och fel på en och samma gång. Viktimologin har framförallt vuxit fram ur empiriska studier om offerskap, men idag används många olika teorier för att förstå utsatthet för brott. En del viktimologiska teorier, tankegångar och begrepp härstammar från sociologins grunder, andra är specifikt kriminologiska, medan några kommer från nya discipliner som genus- och postkoloniala studier. Utifrån de teoretiska, men även empiriska, ingångarna kan det viktimologiska forskningsfältet grovt delas in i en traditionell och en kritisk viktimologi. Det här kapitlet är tänkt att utvecklas till att presentera dessa två viktimologiska fält, baserat på en genomgång av viktimologiska läroböcker. Detta utkast är en inledning till forskningsfältet. Här ges en genomgång av viktimologins framväxt där jag kommer visa hur dagens viktimologi har vuxit fram. Kapitlet kommer så småningom även att skrivas om för att ge en framåtblick på hur viktimologin kan utvecklas utifrån den tidigare historien och dagsläget.

Viktimologins framväxt: krig, uppror och statistik

Ur spillrorna från andra världskriget började forskningen om brottsoffer växa fram. De som intresserade sig för brottsoffer under efterkrigstiden hade yrken som advokat, psykolog, psykiatriker, och politiker. Dessa personer är idag kända för att ha varit med och grundat det vi nu kallar för viktimologi: Marvin Wolfgang, Benjamin Mendelsohn, Hans von Hentig, Frederick Wertham och Henri Ellenberger. De riktade ljuset mot det negligerade brottsoffret, lyfte fram behovet av viktimologi som ett eget ämne och introducerade begreppet viktimologi. En del av dessa tidiga viktimologer, lyfte fram offer för brott mot mänskligheten, i spåren av världskrigen, för att förstå hur dessa kunde äga rum. De uppmärksammade även brottsoffret i rättsprocessen och gjorde grupperingar av brottsoffer genom att studera interaktionen mellan brottsoffer och gärningspersoner. De tidiga viktimologerna gjorde olika bedömningar av hur pass medskyldiga de tyckte att brottsoffren var till sin egen utsatthet (Daigle 2012; Doerner & Lab, 2017). Detta skiljer sig avsevärt mot hur vi idag förhåller oss till brottsoffer; den typen av skuldbeläggande forskning har kritiserats och kommit att kallas för *blaming the victim*. (Ryan, 1971).

Forskningen om brottsoffer tog därefter fart i 60-talets USA. Under denna period fanns det en ökad oro för gatubrott och presidenten tillsatte en kommission för brottsbekämpning och uppmanade till forskning om brottsoffer. I USA var det samtidigt flera studentuppror, det mest uppmärksammade på universitetet i Berkley, och allt fler protesterade mot kriget i Vietnam. Den här perioden gjordes också några av de tidigaste statistiska brottsofferundersökningarna där även frågor om rädsla för brott ingick. Forskningen fick delvis en psykoanalytisk prägel samtidigt som

brottsoffertypologier och offerprovocerade brott/våldtäkter fortsatte att diskuteras, men började även att kritiseras. Ett decennium senare importerades mycket av viktimologin från USA till Europa, och tog med sig en doft av uppror och statistik. Dessutom fick den en ännu mer revolutionär prägel när allt fler grupper engagerade sig i brottsoffret (Burcar, 2005; Åkerström & Sahlin, 2001; Wergens 2002).

Den feministiska kvinnorörelsen, marxistiska och kritiska samhällsvetenskapen formade både viktimologin och brottsofferrörelsen. Mänskliga rättigheter, med en betoning på rättigheter för kvinnor och barn, lyftes fram allt mer i brottsofferdebatten. Tidigare politiskt svaga grupper kunde nu ställa krav på rättigheter och kompensation (Tham, 2001). I Sverige blev det en stor debatt om skuldbeläggandet av våldtäktsoffer, vilket utlöstes av en utredning om lagstiftningen kring sexualbrott (Sexualbrottsutredningen, 1976). Debatten har beskrivits som en "milstolpe och vändpunkt i brottsoffrens historia i Sverige" (Tham, 2001: 29). Under denna period etablerades begreppet brottsoffer i Sverige, och den första brottsofferundersökningen genomfördes av Statistiska centralbyrån år 1978. De många statistiska undersökningarna visade att brottsoffer och gärningspersoner ofta hade kopplingar till varandra (Wergens, 2002; Åkerström & Sahlin, 2001).

Under 1980 och 1990-talet exploderade brottsofferforskningen inom akademien i de Anglosaxiska länderna och Europa. En ny, radikal och mer kritisk gren av viktimologi växte fram som ifrågasatte den snäva definitionen av brottsoffer och det ensidiga fokus som tidigare hade riktats mot traditionella brott (Walklate, 2007). Denna forskningsgren intresserade sig för konstruktioner, diskurser, avvikelser, och inte minst föreställningarna om ett *idealt brottsoffer* (Christie 1986). Det personliga blev inte bara politiskt utan ibland även kriminaliserat. Exempelvis bidrog den feministiska debatten till att 'lägenhetsbråk' omkategoriserades till 'våld mot kvinnor', och etablerades som ett framträdande socialt problem i den kriminalpolitiska debatten i Sverige men också i stora delar av Västvärlden. Förståelsen för att offer och förövare inte alltid var separata grupper började lyftas in i forskningen; likheter utifrån både livsstil, demografiska egenskaper och socioekonomisk status skildrades (Fattah, 1992).

Konsekvenser av brottsutsatthet uppmärksammades också mer än tidigare under denna period. Ett exempel på det är framväxten av reparativ rättvisa med fokus på medling mellan brottsoffret och gärningspersonen. Ett annat exempel är brottsoffrets möte med rättsväsendet, och hur dåliga bemötanden riskerar att drabba brottsoffret ytterligare, en s.k. *sekundär viktimisering*. Även den delen av kriminologin som har kommit att kallas för *left realism* lyfte fram brottens konsekvenser för offer. Förespråkarna betonade att brott är reella samhällsproblem för många, samtidigt som det drabbar människor ojämnt utifrån socioekonomisk status (Young, 1986; Lea & Young, 1984). Parallellt lyfte forskare fram brottsoffrets livsstil (Hindelang, Gottfredson & Garofalo, 1978) och rutinaktiviteter (Cohen & Felson, 1979) för att förstå varför vissa utsätts för fler brott än andra.

Den kritiska grenen av viktimologi fortsatte sin framväxt under 2000-talet och etablerades mer och mer som en relevant del av viktimologin. Inom denna inriktning lyfte forskare fram brott som vanligen inte studeras, som folkmord, brott av Staten och miljöbrott (Doerner & Lab, 2017). Brott mot mänskligheten intresserar således åter viktimologer, efter att ha varit ur fokus nästan ända

sedan efterkrigstiden. Politiskt har brottsoffret kommit att bli en central del av kriminalpolitiken i Västvärlden (Garland, 2001). Beskrivningar av brottsoffret påverkar politiken och lagstiftningen, inte minst när det gäller vilka åtgärder mot brott som politikerna förespråkar. Statliga organisationer och ett stort antal frivilligorganisationer har etablerats i Sverige för att stödja brottsoffret, exempelvis Brottsoffermyndigheten, brottsofferjourer och kvinnojourer (Tham, 2011).

Från att brottsoffret historiskt sett har varit negligerat, har det idag en betydande plats inom både den kriminologiska forskningen, kriminalpolitiken och lagstiftningen. Idag talar vi inte längre om offerprovocerade brott, även om en del av skuldbeläggandet lever kvar. Istället ser vi på brottsoffret som en person med rättigheter, både till upprättelse och ekonomisk kompensation. De statistiska brottsofferundersökningarna har vuxit i antal, men också kompletterats med andra sätt att studera offerskap, som intervjuer. Viktimologi ses även nu som ett relativt nytt ämne, och sorteras vanligen in under kriminologi eller psykologi. Samtidigt har brottsofferörelsen och engagemanget för brottsoffer från praktiker och aktivister gjort att några menar att viktimologi inte är ett vetenskapligt ämne då det bland annat är för ideologiskt och inte alltid utgår från tidigare forskning (O'Connell, 2008). Oavsett denna ståndpunkt, är viktimologi numer ett etablerat, akademiskt ämne.

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Violence as a part of drug scenes - Finnish context

Summary

Kati Kataja

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Introduction

Violence is most commonly used a means of exercising authority, control and oppression, while also sometimes used as the last resort for defending oneself and one's integrity. Certain environments offer few opportunities for putting an end to violence. Drug scenes are considered as such environments. In this context, violence is perceived as part of the way of life, inherent to the system and thus justified (Parker & Auerhahn 1998, Lalander 2001). Organised crime is also connected to drug-related violence, which means that violence occurs as part of its practices (Resignato 2000, Singer et al. 2001, Sandberg 2009). Public discourse often perceives people with problematic substance use as either unpredictable or intimidating risks to safety or pathetic persons who have experienced multiple forms of abuse. (Resignato 2000, Sandberg 2009). While the phenomenon is recognised, relatively few studies have focused on exploring the violence of the drug scenes as well as related activities and relationships of power based on the subjective experiences of drug users. Particularly little attention has been paid to the perspective of the perpetrators of violence (Resignato 2000, Nunes & Sani 2015).

This paper aims at bridging this gap in knowledge by describing violent activities in the drug scenes. The purpose is to make visible attitudes towards violence among drug users, and give meanings and explanations to these views. Our focus lies on the cultural aspects of the phenomenon, and we highlight the subjective experiences and agency of the users. The examination is guided by a question of what kind of agency is related to the violence occurring in connection with drug use. In this paper, we ask: What are the violent activities related to drug use like as an experience by the users, what meanings do they attribute to it and how do they construct a relationship with it?

We use the concept of *systemic violence* to refer to the social and cultural structures of the drug scenes that produce and perpetuate violence (cf. Small et al. 2013, Seffrin & Domahidi 2014.) Our examination also pays attention to the gendered factors of violence. We use the concept of *systemic gendered violence* to refer to a dynamic of violence wherein different meanings connected to gender are attributed to the ways women and men commit and fall victim to violence. This concept is

underpinned by an idea that a cultural understanding of gender and gendered roles are connected to the way women and men commit acts of violence and are victimised in different situations and with different probability (Lidman 2015, Niemi et al. 2017).

Data and analysis

Our data comprised of the interviews of 56 people with simultaneous drug, alcohol and pharmaceutical abuse. The data were collected as part of our Making Sense of Polydrug Use research project funded by the Academy of Finland (no. 274415). We conducted the interviews in five cities in 2012–2013. The selection criterion for the interviewees was that the person had experiences in using multiple different illicit drugs. The participants were recruited from health counselling centres, day centres and user associations. We also applied the snowball sampling technique. The average length of an interview was around one hour. The interviews were recorded and transcribed.

The majority of the interviewees engaged in problematic substance abuse. Intravenous drug use and the abuse of different psychoactive medicines was common. The research participants had undergone long therapeutic relationships with different drug treatment facilities and had faced problems related to their substance use, including homelessness, health issues, debt and crimes related to their lifestyle. Their history of drug use spanned several years and their social networks had been reduced to the drug scenes. The interviewees were 20–57 years old.

Content analysis was used as the method of analysing the data. We extracted the sections of the interviewees' narratives where they made reference to violence. We analysed the recounted episodes of violence according to the following positions 1) a person experiencing violence (victim), 2) a person committing violence and 3) a person witnessing violence. These positions are often parallel and overlapping, which results in ambiguity in distinguishing them, but it is necessary to do so for the analysis of the research findings.

Results

Experiencing violence

The interviewees reported that they had often encountered a threat of violence and victimisation in connection with drug use situations. Acts of violence are explained by, and sought understanding based on, the used substances, particularly amphetamine or a simultaneous use of alcohol, pharmaceuticals and/or drugs. The perpetrator is often explained to have undergone a substance-induced psychosis or acted violently and unpredictably due to a delirious state.

In the narratives of those who have spent a long time in the drug scene, violence is also often contributed to the hazards of problematic substance use and the chosen lifestyle. In this case, violence is attributed a systemic content maintained by the cultural model narratives of the activities in the drug scenes (Copes et al. 2015, Koo et al. 2008). Indeed, the interviewees described their experiences of falling victim to violence not only as the downside to their lifestyle and as part of the system, but also as a consequence of substance abuse.

In the drug scenes, the domestic abuse experienced by women can also be perceived as part of systemic violence and a risk and consequence related to the lifestyle. This means that violence is observed as something internal to the drug scenes which raises the threshold for intervening in the matter. Drug addiction and a violent relationship create circumstances where opportunities for agency are rare and limited. These are often desperate situations characterised by control, extortion, threats and being the victim of physical violence. Based on the narratives of the women in the drug scene, sexual violence is often related to settling of internal disputes in the drug scene, drug debts, snitching or taking revenge against the woman's boyfriend.

Committing violence

In our data, men who had been part of the drug scene for a long time and were deeper in the system described committing acts of violence most frequently. They had often spent time in prison for drug offences and other deeds related to the lifestyle on several occasions. These men describe their violent actions as a part of the practices of the drug scenes and emphasise a spirit of "fair game". In their narratives, violence is not an end in itself, but rather something pertaining to hierarchy and honour. A reputation of fairness and justness is important to these men. They connect their violent actions to situations they have perceived as unfair and justify their deeds in the situations. These include threats made to outsiders, snitching or debts. Moreover, violence is also described as sort of heroic activity resulting in saving an innocent party and punishing a wrongdoer. This kind of violence is related to masculine bravado in which aggression is seen as part of the masculine operating culture, a method for proving one's status (McNeil et al. 2014). Many of the interviewees explain their violent actions as something detached from themselves. They either justify their actions as part of the practices inherent to the system or externalise the violence they have committed from their actual self.

However, some of the interviewees remarked that they had looked forward to situations where they could use violence. In these cases, violence manifests as an activity emphasising violence fantasies and stimulating the person to commit acts of violence. Drug use and the culture it represents, including its dimension of violence, provides an opportunity for a new kind of agency; an outlet from the position of a victim and the related sense of powerlessness. Lindegaard and Jacques (2014) describe the logic related to the escalation into crimes and a criminal lifestyle of individuals who have committed serious crimes as the dark side of their agency. This involves enforcing one's status, interests and sense of authority with irrational and harsh ways, in accordance with the lifestyle. Seeking empowerment through aggression can be cautiously interpreted as the dark side of agency, allowing the person to process a past trauma and related feelings of hate, even taking revenge on bullies or others like them (Schulman 2004, Honkatukia et al. 2007).

Witnessing violence

Those with problematic drug use live on the streets or in uncertain circumstances in temporary housing. Their lives revolve around day-to-day survival and their activities are focused on scoring

and using drugs. They are familiar with a threat of violence and are often exposed to it. While witnessing violence as a bystander is common and accepted as part of the lifestyle, being witness to violence is also traumatic as a personal experience (Schulman 2004). It is not easy to confront or accept the fact that one has often stood back and watched as a person close to them has been harmed. Bystanders are passive participants in the violent activities. Inaction becomes action if the person fails to defend the victim but, instead, allows the activity to continue. Subsequently, this sort of an attitude may appear as involvement in the act of violence and cause both experiences of guilt as well as questions of why the person failed to do anything about the matter.

According to Sandberg (2009), the drug dealers living in the drug scene are both victims as well as tough, brutal men. These roles exist simultaneously and are presented in different contexts. The drug scenes allow no room for vulnerability. The environment emphasises masculine bravado and the role of a tough guy (e.g. Messerschmidt 1993; Hearn 1998; Honkatukia et al. 2006, also 2007). Violence serves as a means to indicate a distance to being seen as weak and pitiable, characteristics associated with those with worst drug addictions (Koo et al. 2008, McNeil et al. 2014) or those forced to engage in street prostitution in order to score drugs (Geiger 2006, Shannon et al. 2008). Nonetheless, the damaging nature of violence is sustained and one cannot disregard it as a bodily experience. Once a person attempts to give up drugs, the acts of violence they have experienced, witnessed and committed are bound to resurface.

Conclusion

In this paper, we examined the violence related to problematic drug use from the perspectives of those experiencing, committing and witnessing violence. Based on our observation, these positions are intermixed, often overlapping and intertwined in the drug scenes. In the reports by users, violence is neutralised and justified by connecting it to the operating practices of the drug scenes.

The relationships of women and men with violence take on different forms and contents, emphasising different explanation models. For female drug users, this is not simply a matter of systemic violence related to substance abuse but also intimate partner violence, which occurs in an intimate and private context. It undermines the victim's agency and is destructive to her self-image. Concerning men, the psychopharmacological factors appeared in the externalisation of the acts of violence, including those experienced as well as committed by the person. For its part, the systemic method of explanation anchors violence on masculine bravado and agency, which is perceived as inherent to the practices, concepts of honour and agreements of drug use. Individuals rarely associate violence as part of their personal identity.

The narratives of both the female and male interviewees reveal the wounding nature of the experiences of violence. Once persons distance themselves from the drug scene, the violence they have encountered becomes concrete, particularly as an intimate and visceral experience that makes one question his or her self-worth and personal values. The person is forced to confront the experience at this point. Room must be provided to the related emotional processes whether the person has experienced, committed or witnessed violence. Explanation models helping people in

dealing with their experiences of violence in a constructive manner are beneficial. It is particularly important to process the traumatising aspects of violence. This promotes putting an end to violence once the person distances himself or herself from the drug scenes.

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Transformation from interpersonal mistreatment into corporate violence

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Abstract

This paper aims to examine the organisational responses to employees' allegations of workplace bullying. The paper is based on a substudy of my doctoral thesis. The results of the study are based on qualitative data comprising interviews, tape-recorded courtroom narratives and documents related to workplace bullying cases. As a result of the present study, I have identified a specific dynamics of workplace victimisation. In this paper, I will describe this dynamic which results in further victimisation and accumulation of the detrimental outcomes of the mistreatment.

Background

In recent years, media coverage of workplace bullying (WPB) cases in Finland has raised multiple questions regarding why those cases have been ended up to occupational health and safety authorities and in costly legal processing instead of being settled inside a work community. According to the Finnish Quality of Work Life Survey, near two of five Finnish workers had witnessed WPB at their workplace at least sometimes. Every fourth respondent had experienced WPB at some point in their working career. Bullying is more prevalent in the public sector workplaces than in the private sector. (Sutela & Lehto 2014)

Adverse effects of WPB have been well documented in the previous literature on WPB (e.g. Hogh et al. 2011, Kivimäki et al. 2003, Mikkelsen et al. 2003). Research on WPB has demonstrated that exposure to WPB can have various detrimental consequences on an employee's well-being and workability and it can also result in an early exit from the labour market. There is plenty of empirical evidence that WPB is associated with mental health problems like depression, burn out and post-traumatic stress disorder. WPB also increases the risk of having severe health problems like cardiovascular disease (Kivimäki et al. 2003). Moreover, co-workers who are witnessing their colleagues being bullied, are likely to suffer from adverse outcomes like stress-related symptoms as well. Hence, exposure to WPB has been identified as a significant psychosocial risk factor regarding the safety of the work environment.

The emphasis of the previous research on WPB has been on individual and interpersonal aspects of WPB. However, in recent years research on WPB has become increasingly interdisciplinary and approaches focusing on the interplay between micro-, meso- and macro-level processes and practices have emerged in the literature on workplace violence (Berlingieri 2015). Research focusing on how bullying evolves and how HR professionals have responded to bullying allegations have been relatively scarce until today. As the awareness of the negative impacts of WPB on the targets, bystanders and organisations have increased, bullying has received

worldwide attention, and anti-bullying legislation and policies have been adopted in European countries and elsewhere as well.

This paper aims to examine the organisational responses to employees' allegations of mistreatment. The paper is based on the findings of the sub-study of my doctoral thesis "Mobilization of the law in workplace bullying cases". The thesis is focusing on WPB cases that have been ended up to authorities and legal processing. The aim of the thesis is to examine why WPB cases have been ended up to occupational safety authorities and legal processing, how WPB and its consequences have been constructed in legal settings as well as how the targets of WPB have experienced the procedures and the decisions that have been made by the authorities. As a result of the present sub-study, I have identified a specific dynamic of WPB victimisation. In this paper, I will describe this dynamic through which the targets of WPB become double victimised.

The data of this sub-study comprises 25 interviews (WPB victims, OSH representatives, authorities), tape-recorded courtroom narratives of 5 cases as well documents related to the cases of the study (e.g. emails, meeting memos, court decisions). The study also comprises follow-up interviews (n=13) and documentation. The findings of the study are based on multiple case studies and thematic examination of the narratives and documents.

Dynamics of double victimisation

Without exception, the bully was the victim's superior or another person in a managerial position. Often the targets explained their supervisors' abusive behaviour with their pathological personality and autocratic leadership style. In many cases also other co-workers in the work community had been subjected to mistreatment of their boss. Sometimes the target could not find any reasonable explanation for being exposed to the supervisor's hostile behaviour. Often the bullying behaviour originated from some minor disagreement with the superior or from issues that the victim had raised regarding the supervisor's conduct or decisions that (s)he considered unfair or otherwise adverse. Especially among public sector workers, experiences of unfair performance review or competence assessment besides ambiguous salary determination were rather typical issues that the victims had brought up.

Usually, the victims had repeatedly tried to raise the issues with their supervisor without success. By contrast to the victims' expectations, the situation had worsened as a result of the supervisor's hostile and resentful responses to their attempts to resolve the issues. As a consequence of this dynamic, the victims had become targets of their supervisor's mistreatment. Examples of the supervisors' abusive behaviour included e.g. yelling, insulting comments, spreading malicious rumours, denying training or promotion opportunities, undeserved critique and poor performance assessment, tasks with unreasonable demands and deadlines, excessive monitoring and micromanaging, ignorance of ideas and opinions, exclusion from important meetings or social networking opportunities, sabotaging one's work and occupational reputation, arbitrary decisions concerning the target's employment and silent treatment.

While the victims' situation had worsened despite their efforts to resolve the issues, they made a complaint of mistreatment to HR professionals or upper-managers to get assistance in resolving the situation. However, instead of giving support and assistance, the upper-management belittled or denied the victim's experiences of mistreatment and blamed her/him for being a troublemaker. If actions were taken, from the target's point of view they usually meant unwelcome measures like being transferred to another work unit or major changes in his/her assignment. The victims experienced these unilateral "solutions" unfair and hostile since they resulted in substantial impairment regarding their employment conditions while the bully remained untouched and protected. Moreover, these measures violated the victim's dignity and professional identity. As the situation remained unsettled and the victims went on resisting the unfair decisions and mistreatment, they became targets of the upper management's disciplinary countermeasures.

The more persistently the victims resisted the unfair measures and defended their right to an unbiased treatment, the tougher the management's countermeasures became. These disciplinary measures were justified by blaming the victim and by referring to an employer's legitimate right to supervise the work. Often the management's hostile measures extended also to other members of the organisation, like occupational safety representatives and other individuals, who tried to support the target. Also, organisation's external agencies like occupational health care professionals, who had engaged in dealing with the cases, had experienced pressuring by the management.

Some of the targets were offered a possibility for mediation with their supervisor. However, they regarded mediation with the aggressor as unreasonable, especially due to the substantial damages that the disciplinary measures had already caused to their employment and wellbeing. By contrast, from the victim's point of view, mediation appeared as an additional form of abuse, since the framework of workplace mediation framed the issues as a conflict between equal parties. Hence, the power imbalance was overlooked, and the victimisation was implicitly denied. Furthermore, while the victim refused to participate in mediation, this was used as evidence of his/her troublesome character and unwillingness to settle the arguments. Thus, mediation was used as a weapon against the victim.

In some cases, while the victims had realised that resolving the issues inside the organisation is impossible, they had contacted occupational safety and health inspector or made a police report. At this point, the victimisation had usually continued from months to several years resulting in accumulation of the detrimental consequences to the victims' mental and physical well-being and workability. After the target had contacted the external agencies, the management's disciplinary measures intensified, and a vendetta was launched to terminate his/her employment. In most cases, the victims had resigned or were dismissed after the victimisation had continued several years and in some cases for months.

Consequences of victimisation

In most cases, the employer had anti-bullying policies and guidelines for dealing with the employees' bullying allegations. However, the victims had realised, that especially when the bully

was the target's superior or otherwise in a powerful position to them, these policies and guidelines were not applied. Instead of providing protection to the victims, the management protected the bullies, while the targets were punished and further victimised. Hence, from the targets' point of view, these managerial practices were completely at odds with the organisation's official policies. The management's neglect to intervene the mistreatment exacerbated the victims' psychological distress and experiences of injustice. As the victimisation continued, it resulted in gradual loss of psychological, social and occupational resources. Consequently, the negative outcomes of the victimisation accumulated, and the coping efforts consumed the target's psychosocial resources. Moreover, the target's ability to accomplish his/her assignments successfully impaired due to the loss of individual resources and social support.

Most of the victims labelled their experience of victimisation as form violence. Without exception, the victimisation had resulted in various detrimental outcomes on the victim's wellbeing, employment possibilities, social relationships and overall life quality. The longer the exposure to victimisation had taken place, the more harmful the consequences had evolved. The targets had suffered from various kinds of stress-related symptoms, feelings of inferiority, reduced self-confidence, depression and other mental disorders, burn out and health problems. Impaired workability was also a common outcome of the victimisation, and most of the victims had been on sick leave from weeks to several months, sometimes for years. In addition to occupational and health-related harms, the outcomes of victimisation burdened the victims' family members and private life relationships as well. Withdrawal from social relationships was a common consequence of the victimisation, as the victims experienced that due to the victimisation they lacked the ability for mutual interaction with other people. Some of the victims explained withdrawal from social relationships by wishing to avoid burdening other people with their problems.

Besides the immediate short-term outcomes, the victims had suffered from various long-term outcomes too. For the most targets, recovering from traumatic experiences was difficult, and sometimes the victimisation resulted in lifetime impacts on the victims' well-being and life quality. Many of the victims had suffered from post-traumatic stress disorder, depression and psychological distress for several years, sometimes tens of years after their employment had ended. The victims explained how situations that somehow reminded them of their traumatic experiences had elicited painful memories of the victimisation. Some of the victims were afraid of ending up in a similar situation in a new workplace since they had lost their ability to trust others, especially in the professional contexts. Since in most cases the victimisation had resulted in resignation or dismissal, experiences of impaired career opportunities and difficulties to find new employment were common outcomes of the victimisation. Some of the victims with long work careers before the victimisation had been unemployed for several years before leaving on an old-age pension. Thus, in addition to other losses, victimisation had impaired one's possibilities of making a living and resulted in a permanently reduced income level.

Discussion

This paper aimed to examine the organisational responses to the employees' allegations of mistreatment. The findings of the study suggest that organisational failure to respond adequately to the employees' complaints of mistreatment intensified the negative consequences of mistreatment and resulted in further victimisation. The data of this study also suggests that the most harmful and long-lasting outcomes of mistreatment are likely to result from the dynamics through which the victims become further victimised by managerial bullying.

Because of the managers' negligence in intervening the mistreatment and countermeasures targeted to the victim, victims were doubly victimised: first by experiencing mistreatment from their supervisors and then by becoming targets of adverse countermeasure of the upper management. The findings of this study indicate that organisational practices as such can amount to various forms of abuse, which can be labelled as corporate violence. Similar findings have been reported in the studies focusing on abusive power dynamics and managerial or institutional bullying and (Hurley et al. 2016, Hutchinson & Jackson 2015, Liefoghe & Mackenzie 2001).

Moreover, this study suggests that the most harmful outcomes of workplace mistreatment result from long-term exposure to abusive treatment enabled by the dynamics of double victimisation. This observation is in line with previous studies suggesting that long-term exposure to mistreatment is a traumatic stressor and likely to affect anyone irrespective of the target's individual characteristics (Hogh et al. 2011, Keashley & Jagatic 2011). The management's negligence to take action to deal with the target's experience of mistreatment is a crucial factor that enables the victimisation to continue and escalate. It is evident that the failure in protecting an employee from psychosocial risks like bullying violates her/his right to a safe work environment. Apart from that, while a powerful actor with authority to intervene the abusive treatment, is turning a blind eye instead of taking action, can as such amount to bullying. Moreover, if the victim's experience of mistreatment is denied and the (s)he is labelled as a troublemaker and additionally is punished by the management, the target becomes further victimised. Subsequently, besides prolonged exposure to victimisation, this dynamic results in accumulation of the detrimental consequences and impaired ability to cope with these outcomes.

To conclude, this study suggests that multiple contextual aspects and levels of victimisation play a crucial role in workplace victimisation and its detrimental consequences. In order to develop a comprehensive understanding on various manifestations and outcomes of workplace victimisation, besides individual and interpersonal aspects, the analytical framework should involve examination of the interplay between these various contextual aspects and organisational levels as well as power relations involved in the dynamics of victimisation. A comprehensive and multidimensional framework is also needed in developing more effective anti-bullying policies and practices in order to manage effectively the psychosocial risks related to various forms of workplace victimisation.

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Digitalt Borgervern

Heidi Mork Lomell

Abstract

Presentasjonen tar utgangspunkt i virksomheten til stiftelsen «Barnas trygghet» i Norge. De utgir seg for å være mindreårige på nett, der de søker kontakt med voksne som foreslår at de møtes for å utføre seksuelle handlinger. På møtestedet blir den voksne filmet og konfrontert, de ringer politiet og overleverer bevismateriale. I tillegg publiserer de filmer og chat-logger på sosiale medier. Virksomheten har ført til at enkelte har blitt domfelt for såkalt «grooming», men de har også selv blitt domfelt for brudd på privatlivets fred.

I presentasjonen vil virksomheten bli satt inn i en større sammenheng. Denne formen for digitalt borgervern er for det første utbredt i mange land, og da særlig i tilknytning til seksuelle overgrep mot mindreårige. For det andre er også politiet selv stadig mer aktiv på nett med falske profiler. Rettslig sett aktualiserer Barnas Trygghet både et fornyet blikk på fenomenet provokasjon og på privat rettshåndhevelse.

Avslutningsvis vil jeg ta opp til diskusjon om fenomenet også kan ses på som en konsekvens av en stadig mer omsegripende preventiv ideologi og justis i samfunnet, der det å komme kriminaliteten i forkjøpet blir sett på som både nødvendig og uproblematisk. Konsekvensene av denne utviklingen både kan og bør diskuteres.

Sammenfatning av presentasjonen

Barnas Trygghet begynte som en [facebookgruppe](#) i 2015. De har per dags dato (April 2018) over 137 000 følgere. De beskriver sin virksomhet slik (April 2018): «Vi avslører og konfronterer voksne som søker seksuell kontakt med mindreårige på nett». Metoden deres går ut på å opprette og vedlikeholde en mengde falske profiler på ulike chattetjenester og datingnettsteder som gir seg ut for å være mindreårige barn, hovedsakelig jenter, i alderen mellom 12 og 15 år. Hensikten er å lokke voksne menn til å ta kontakt og foreslå at de møtes for seksuell omgang.

Når tid og sted for et møte er endelig avtalt, blir politiet varslet og chatteloggene oversendt. Deretter tar de med filmkamera og filmer mennene og den påfølgende konfrontasjonen med representanter fra Barnas Trygghet. Ofte møter en patrulje opp og pågriper mannen, dette blir i tilfelle også filmet. I etterkant blir filmene publisert på deres Facebook-side eller på deres [nettside](#). De har også en egen kanal på [YouTube](#) der filmene legges ut. I tillegg har de en [Instagram](#)-konto der bilder legges ut. Mennene blir eventuelt siktet og dømt etter den såkalte «grooming»-bestemmelsen i straffeloven (§306).

Metoden har lenge vært den samme; først lage en profil som indikerer at brukeren er mindreårig, så etablere kontakt og avtale møte, deretter konfrontasjon, filming og publisering av filmen. Fra 2015 til 2018 har deres popularitet økt voldsomt, og særlig videoene blir delt og «likt» i stort antall.

De «går viralt», som det heter; En av videoene har blitt delt over 3 millioner ganger. Deres virksomhet har fått stor medieoppmerksomhet, og nyhetsoppslag har også ofte lenket til videoer og utskrifter fra chattelogs som Barnas Trygghet har delt med mediene. En dokumentar om deres virksomhet ble laget i NRKs programserie «Innafor», der vi følger deres arbeid med å avsløre menn som søker mindreårige på nett.

Det har også stormet rundt deres virksomhet, og de har også selv blitt dømt – for brudd på privatlivets fred. Kritikken har hovedsakelig handlet om to forhold: Provokasjon og uthenging¹⁹.

Provokasjon

Har mennene i videoene blitt provosert til å avtale et møte med den fiktive mindreårige? Har de blitt provosert til å foreslå seksuell omgang? Svaret avhenger blant annet av hvordan samtalen har foregått. Barnas Trygghet innrømmer selv at de i starten ikke tenkte over om det var de eller den andre som foreslo å møtes og/eller utføre seksuelle handlinger.

Politiet går tidlig ut og advarer mot virksomheten: «Dette liker vi ikke i det hele tatt. Dette er jo ren provokasjon, og det er i utgangspunktet ikke lov i Norge».²⁰

Også domstolen finner i en av sakene at tiltalte var utsatt for «en planlagt tilskyndelse». Denne saken fører først til frifinnelse i tingretten men deretter til domfellelse i lagmannsretten. Mens Sør-Trøndelag tingrett frifant fordi de mente mannen hadde blitt utsatt for en ulovlig privat provokasjon, mente Frostating lagmannsrett at mannen var utsatt for «en planlagt tilskyndelse», men at han «utvilsomt ville ha gjennomført møtet med fornærmede og hatt seksuell omgang med henne, om hun hadde vært en virkelig person».²¹

Etter dommen i lagmannsretten, reagerer Marius Dietrichson, leder av forsvarergruppen i Advokatforeningen, kraftig. Han mener at retten slår fast at private aksjonister kan bruke metoder som ikke en gang politiet får bruke: «Det er et prinsipp like gammelt som rettsstaten selv, at ingen bør straffes for handlinger de har blitt overtalt, lokket eller lurt til å begå».²² Også Hans Fredrik Marthinussen, professor i rettsvitenskap ved Universitetet i Bergen, er kritisk: «Vi vil åpenbart stoppe overgrep mot barn. Spørsmålet er om vi ender opp med å dømme noen for en handling de ikke ville ha foretatt med mindre de ble satt i en situasjon hvor det var mulig», uttaler han til Dagbladet.²³

Dommen medfører også kritikk fra politikere. Hårek Elvenes (H) mener saken reiser et prinsipielt spørsmål: «Jeg er veldig nysgjerrig på tankesettet som ligger til grunn for at personer kan narre eller forlede andre personer ut i kriminalitet uten at det får konsekvenser».²⁴ Han ber Justisministeren ta initiativ til å se på om lovverket i tilstrekkelig grad forhindrer at personer begår

¹⁹ Lomell, H. M. 2018. Investigation or instigation? Enforcing grooming legislation. I: FYFE, N. R., GUNDHUS, H. O. I. & RØNN, K. V. (red.) *Moral issues in intelligence-led policing*. Abingdon, Oxon: Routledge.

²⁰ «Politiet kritisk til sexfeller på nettet» Nrk.no 9.2.2016

²¹ «Krever svar fra justisministeren om pedojegeres virksomhet». Dagbladet, 24.12.2016

²² «Dømt etter pedojegeres avsløring» Dagbladet, 20.12.2016

²³ «Filmes og henges ut» Dagbladet 20.12.2016

²⁴ S.s.

en straffbar handling de ikke ville ha foretatt, med mindre de ble satt i en situasjon hvor det var mulig.» I dommen legges det frem chattelogg og video produsert av Barnas trygghet, og dette får Elvenes til å reagere: «Politiet kan ikke benytte seg av slike metoder. Her har man benyttet seg av slike metoder indirekte.» Signaleffekten av dommen bekymrer politikeren, som spesielt er bekymret for at privat rettshåndhevelse kan spre seg i samfunnet. Kjell Inge Ropstad (KrF) er imidlertid ikke like bekymret: «Det er opp til domstolene å vurdere hvilke bevis de vil bruke. Jeg har full tillit til at de gjør gode vurderinger». Samtidig er han klar på at «Vi ønsker ikke å komme i en situasjon hvor private driver med etterforskning».²⁵

Etter dommen i Frostating endrer Barnas Trygghet sin strategi på nett. De innrømmer selv at saken inneholdt mye provokasjon, og for å tilpasse seg regelverket gjør de følgende endringer: De tar ikke lenger initiativ til kontakt, men venter passivt på at mennene tar kontakt. Når mennene begynner å skrive om sex eller i en seksualisert tone, svarer de ikke tilbake i samme tone, men mer nøytralt. De oppfordrer ikke lenger til å møtes, men venter til mennene gjør det.²⁶ I en dom fra Oslo Tingrett i 2018 kommer retten til at handlingen ikke var framprovosert: Tiltalte var den aktive parten, han stod for «grisepraten» og det var også han som tok initiativet til at de skulle treffes.²⁷

Uthenging

En annen kontroversiell side ved deres tidlige virksomhet, er publisering av filmene og offentliggjøringen av navn på mennene. Den første tiden legger de ut filmene uten sladding og anonymisering. Tvert imot, de offentliggjør også navn på mennene. I tillegg til at alle deres følgere på Facebook får denne informasjonen, ringer de også i en rekke tilfelle familiemedlemmer og arbeidsgivere og forteller om chatten og konfrontasjonen. I en sak ringer de mannens samboer og begrunner dette med at «Hun skal være klar over hva hun har i hus».²⁸

Gruppens følgere på Facebook er begeistret, de «liker» og «deler», kommer med sterke reaksjoner på videoene i kommentarfeltene og sterk støtte til gruppens arbeid. Også politikere kommer på banen. Liv Gustavsen fra FrP støtter gruppen, og hun skriver i et innlegg på Facebook at «organisasjonen 'Barnas Trygghet' får gjerne gå langt over streken for min del for å stoppe disse mennene med denne diagnosen som heller mot galskap». Gustavsen er medlem av Stortingets justiskomité. Hun skriver videre: «Egentlig er jeg sterkt imot at andre enn påtalemyndigheten tar aksjon. Men når det kommer til slik galskap som halvgamle norske pedofile menn utsetter naive unge jenter for, ja da er min motstand veik.»²⁹ Når journalisten ber henne om å utdype hva hun mener med at Barnas Trygghet bør kunne gå langt over streken, svarer hun at «Jeg mener at de skal holde seg innenfor loven», men at «de kan anholde personene, konfrontere dem, og holde dem til politiet kommer».

²⁵ S.s.

²⁶ «Lokker nettovergripere i fella» Dagbladet, 12.3.2017

²⁷ «Pensjonist (69) avtalte sex med 13-åring – nå har dommen kommet» Rakkestad avis, 10.1.2018.

²⁸ «Mann trodde han skulle møte 13-åring for sex» nrk.no 25.2.2017

²⁹ Medlem av justiskomiteen synes det er greit at gruppen Barnas Trygghet går «langt over streken» i jakten på pedofile. Raunnes, 1.3.2018

Men ikke alle er like begeistret. Uthengingen vekker sterke reaksjoner, og både politi, politikere og media kommer på banen. Politiet kaller det kritikkverdig og en offentlig gapestokk.³⁰ En beskriver virksomheten deres på følgende måte: «De framprovoserer, etterforsker og dømmer, og gjennomfører faktisk straff ved uthengning».³¹

En av gruppens grunnleggere, Stian Kalsnes, idømmes tidlig en bot på 6000 kroner for å ha publisert en video hvor han stemplet en mann som pedofil.³² Etter den dommen skriver han på Facebook: «Da har man fått sin første straff for å hjelpe til i samfunnet!» (s.s.) Og videre: «Hvis det er prisen for å ta sanne folk, så er det verdt det.» (s.s.)

I 2017 dømmes han til fengsel i 75 dager for brudd på privatlivets fred (Str.l. § 266 «for ved skremmende eller plagsom opptreden eller annen hensynsløs atferd å ha krenket en annens fred»). Fem av mennene som ble utsatt for Barnas trygghets metode, anmeldte grunnleggeren. Alle fem hadde blitt filmet av Barnas Trygghet, og filmene hadde blitt publisert usladdet på Facebook. Av de fem ble en domfelt for grooming, en fikk et forelegg (ikke vedtatt), to fikk saken henlagt etter bevisets stilling og den siste fikk saken henlagt på grunn av «intet straffbart forhold».

Politiet mente at publiseringen av bildene var ulovlig og tiltalte Kalsnes for å ha krenket en annens fred og brudd på åndsverksloven.³³ Publiseringen av filmene fikk store konsekvenser, blant annet trusler, hærverk, sjikanering og voldsepisoder. Selv om ikke tiltalte eller Barnas trygghet stod bak eller støttet disse aksjonene, var de medvirkende til at det retten kaller en offentlig «lynsjестemning» ble utløst. Retten er særlig opptatt av å sende et allmennpreventivt signal ved å gi en streng reaksjon (75 dagers fengsel, hvorav 45 betinget). Den strenge reaksjonen skal understreke det problematiske i at privatpersoner «gjennom publisering på internett forhåndsdommer mennesker i saker som ikke har vært behandlet i rettsvesenet».

Hvilke konsekvenser fikk avsløringene og publiseringene – som på den tiden var helt usladdet, og med fullt navn? En av mennene ble kastet ut hjemmefra og deretter skilt. Han mistet kontakt med familien og har bodd i bobil siden filmen ble lagt ut. Publiseringen gikk også hardt inn på døtrene. En annen mistet jobben, kona ble spyttet på i butikken, og huset har blitt utsatt for hærverk. En tredje ble angrepet med balltre og ble slått i kjeven. Han ble også truet med pistol. Konas bil ble utsatt for hærverk og datteren har hatt problemer på skolen. Han har flyttet utenlands. En fjerde ble skilt og mottok mange trusler på Facebook. En femte ble utstøtt av familie, omgangskrets og idrettsmiljøet. Han har vært sykmeldt siden publiseringen. Av de fem som gikk til sak, ble det reist sak i fire av sakene. En ble dømt, en fikk forelegg, og to ble henlagt etter bevisets stilling.³⁴

Kalsnes forsvarer publiseringen med at «Vi måtte vise navn og ansikt på disse mennene. Hvis ikke hadde folk trodd det var fake news».³⁵ Videre forteller han at «Jeg ville vise hva som befinner seg

³⁰ «Tryggere Barn: Svarer på kritikken» Glåmdalen, 12.1.2018

³¹ «Filmes og henges ut». Dagbladet, 20.12.2016

³² «Hokksund-mann avslørte pedofile: Må selv møte i retten» Eikerbladet, 9.11.2017

³³ Dømt for å legge ut bilder av pedofile. Drammens tidene, 20.11.2017

³⁴ Ble avslørt og avbildet da de ville kjøpe sex av mindreårige: Mange fikk problemer. Drammens tidene, 21.11.2017

³⁵ «Barnas Trygghet-grunnlegger i retten» Nr.no 9.11.2017

der ute.» Hans forsvarer, Jørgen Mowinckel, uttaler at «Han har ønske å beskytte barn mot det han har oppfattet som klare overgripere. Han ville beskytte dem og deres foreldre ved å fortelle hvem denne personen er. Det er derfor han har valgt å identifisere».³⁶

Vigilanter

Vi finner lignende organisasjoner som Barnas Trygghet i en rekke land. Et tidlig og kjent eksempel er den amerikanske gruppen «Perverted Justice» (PJ). De begynte å opptre som mindreårige online i 2002, og når de fant voksne menn og samtalen ble seksuelt eksplisitt, avslørte de sin identitet, ringte familie, naboer og arbeidsgivere og kontaktet politiet.

Også i PJ ble det tidlig en splittelse, der en av grunnleggerne var ute etter å samarbeide tett med politiet for å sikre domfellelse, mens den andre ønsket en mer ekspressiv og konfronterende linje³⁷. PJ samarbeidet tett med programmet *Dateline NBC: To Catch a Predator*, et realityprogram som gikk ut på å lokke potensielle overgripere i en felle, dvs avtale å møte dem i et hus der TV-stasjonen hadde installert kameraer. Da de møtte opp, ble de konfrontert av en programleder og tvunget til å svare på en rekke spørsmål. Når de slapp ut av huset, ble de møtt av uniformert og bevæpnet politi, alt filmet. TV-programmet var et samarbeid mellom NBC, PJ og politiet. Det ble voldsomt populært inntil et selvmord i kjølvannet av en sak snudde opinionen og det ble nedlagt. Mannen som tok sitt eget liv hadde kommunisert seksuelt med en falsk profil, men hadde ikke ønsket å møte vedkommende. Programlederen og fotografer tok seg da inn i huset og konfronterte han, hvorpå han skjøt seg selv. Hans søster ble tilkjent 105 millioner dollar i erstatning fra NBC, reklameinntektene stupte, kritikken raste og programmet ble tatt av lufta.

I en interessant analyse av programmet, peker Kohm og Greenhill på at i kjernen ligger den offentlige ydmykelsen. Programmet utviser skillet mellom virkelighet og underholdning. Kommersielle interesser styrer, publikum og seertall er sentrale. De følelsene videoene og sakene vekker, er viktige, for de binder "oss" sammen i kampen mot "dem": "Individuals reading about crime in the news may not only feel personally outraged, but may feel joined to others in an imagined community similarly outraged by crime" (s. 189). Emosjonelt sett slutter vi rekkene med ofrene. Selv om Barnas Trygghet ikke har bidratt i reality-programmer, så er deres videoer tydelig inspirert av slike programmer. Budskapet fra Barnas Trygghet passer i tillegg som hånd i hanske med den medierte beskrivelsen av kriminalitet:

«Since the 1970s, the routine conceptualization of crime presented in media and popular culture is that crime is out of control, everyone is potentially at risk, and the only solution is to get tough by dispensing with procedural softness in the system and allowing cops and other vigilante figures to get tougher (Rafter 2006). The blurring of reality and fiction in contemporary media formats has the effect of further reinforcing this taken-for-granted 'reality' of crime." (s. 193)

³⁶ S.s.

³⁷ Kohm, S. A. & Greenhill, P. 2011. Pedophile crime films as popular criminology: A problem of justice? *Theoretical Criminology*, 15, 195-215.

Et oversett aspekt ved pedojegere eller vigilanter og deres virksomhet, er «publikum», som kanskje er de viktigste mottakerne av det budskap de medierer gjennom sin nettside. Publikum er brukere og mottakere – eller kanskje rettere forbrukere? De inviteres til å donere penger og «like» facebooksidene, og dette kan ses på som en sterk symbolsk og sosial markør som skiller «oss» fra «dem». Å være på mottaker- eller konsumentensiden av videoer og utskrifter som henger ut og ydmyker andre «is a profoundly symbolic act, affirming our difference from the object of humiliation», på en og samme tid både en «guilty pleasure» og en lettelse (s. 195).

Barnas Trygghet og lignende vigilanter utfordrer politiets monopol på etterforskning. De har ingen utdanning i etterforskningsfaget eller i avhørsteknikker. Videoene som ligger på deres facebook-side, er fulle av eksempler på en konfronterende og aggressiv tilnærming, stikk i strid med politiets retningslinjer for avhør, men mer i tråd med hvordan avhør fremstilles i tv-serier og på film. Barnas Trygghet kaller det heller ikke avhør, men «konfrontasjon». Mange av de som jobber med digitalt borgervern er uttalt kritiske til prosessuelle kjøreregler. Et eksempel fra Barnas Trygghet er når de frustreres over at noen av sakene de overleverer til politiet henlegges. «- det er dessverre tilfelle for mange av dem. Det virker som om en nesten må være tatt på fersken for at det skal skje noe, men vi gir oss ikke i arbeidet vårt med å forebygge vold og overgrep mot barn.»³⁸

Ved at Barnas Trygghet overleverer utskrifter fra chattelogg og videoer til politiet samtidig som de publiserer informasjon om sakene på nettet rett etter pågripelse, koples konvensjonell og ukonvensjonell rettshåndhevelse sammen.

³⁸ «Pedo-jegere» avslørte mann på Haugalandet. Hauganytt, 22.12.2017

PARALLEL SESSION 3B: Constructivist approach in criminology

Producing definition, producing control: (Self)reflection of the academic constructions of “school shooting threats”

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Abstract

The choice of how to conceptualise a phenomenon is about power, as the way a phenomenon is defined has repercussions on its control, especially in the criminological context. As academics partake to the processes of defining, it is crucial to examine the way academic knowledge is produced. I qualitatively analyse how threats made at schools have been defined in academic and governmental publications (n= 72) after a school shooting in Finland in 2007, as the control of threats has drastically changed. My preliminary findings suggest a discrepancy between empirical examples and the dominant way academic and governmental publications define threats as linked to school shootings. The findings also suggest a problematic reference practice. Conclusions and final findings will be discussed in the forthcoming article.

Please do not cite the results, as they are preliminary.

Introduction

In 2007, a student killed eight people and himself in a school in Jokela, and in 2008, in Kauhajoki, another student killed ten people and himself. After the shooting in Jokela, a term “school shooting threat” appeared in Finnish discussions. There were first news media articles about “school shooting threats” that were reported to the police, and later the term appeared in research literature. In 2010, I started researching threats against schools as part of my master’s thesis. There was not much research of threats in Finnish context and the first articles that focused on the phenomenon were published in 2012 (Lindberg, Sailas, et al. 2012; Lindberg, Oksanen, et al. 2012)). However, there was research that mentioned the phenomenon of threats while focusing on other issues. I noticed that some of these research documents speculated with the motives of those making the “school shooting threats”, without basing these speculations on empirical information.

Due to this finding, I collected police data of Finnish “school shooting threats” (for more details about the data see (Holkeri et al. 2014)). The data included cases, where there were references to the shootings in Jokela and in Kauhajoki, but also for example a case describing a scribble “666 DR SAtan’s ferrari F1 place feat (the first name of the principal of that school)” that was found on school property. I was surprised as I had expected that every case in the data would have clear links to the school shootings. The source of this expectation, I claim, was in the academic and governmental publications I read at the time. Thus, there was a discrepancy between the way

threats were presented in the police data and in the academic and governmental publications. At the same time, the control of the phenomenon of threats tightened. Teachers and police were obliged to follow zero tolerance: teachers in reporting (Oikeusministeriö 2010) 73 and police in investigating all “school shooting threats” (Oikeusministeriö 2009) 72. More recently, there have also been signs of tightening school disciplinary legislation (see eg. HE 66/2013 vp).

The ways threats are discussed and controlled seem to be in a discrepancy with the heterogeneous empirical reality of threats as they appear in the police data. Due to this reason, I argue that it is vital to systematically analyse how threats are discussed in the academia and to what knowledge these discussions rest on. The main research question of my article is: “How threats against schools are defined in academic and governmental documents published after the school shootings?”

This paper is a first draft of an article that I plan to later publish and incorporate into my article based dissertation. I build my theoretical framework around academic defining of phenomena. In the final article, I will discuss this in detail. Shortly, I develop two arguments. First, I discuss defining as playing a part in constructing a crime and in the dynamics of crime control (see in the context of economic crime control (Alvesalo 2003)). Secondly, I discuss defining as the centre of the research process: how the choices made when defining the research objects are reflected to the whole research (Kiilakoski 2009) 15–17. Basically, scientific discourses refer to their research objects, but in addition, are practices which systematically form the objects they are discussing (Foucault 1972, 49).

Data and methods

My data consists of 72 documents, which either focus on the threats against schools (n=6) or mention the phenomenon in some part of the text (n= 66). All of the documents have been published after the school shooting in Jokela in 2007. I used search words school* and threat* (including the same words in Finnish), yet I modified and extended these depending on the options available at the various different databases. I did not use terms related to school shootings. Among the data set, there are two articles I have co-authored, which I analyse alongside the rest (about subjectivity and self-reflection, see Holkeri forthcoming).

I utilise the social constructionist idea, according to which “*the way a phenomenon is conceptualized affects the way it is addressed*” (Niemi-Kiesiläinen et al. 2007) 80. I use discourse analysis as a textual analysis tool for identifying hegemonic discourses. I understand the academic defining of a phenomenon through the structure of an argument: it consists of a claim and grounds for that claim. I identify dominant claims about the nature of threats and the grounds (references to previous research or results derived from empirical data) these claims are based on. In addition, I have developed an approach to identify the knowledge base of the threats: I follow the references to their references and to their references and so on, until I find the “end source” of the information.

Preliminary results

Claims

I identified four dominant claims. First, there is a claim of a certain chronological order of events. Threats are said to take place after the shootings: “-- in Finland there were hundreds of school shooting threats made after Jokela and Kauhajoki” (Raittila et al. 2010). Some publications go further and describe a causal link: “The Jokela and Kauhajoki school shootings started a cycle of school shooting threats” (Holkeri et al. 2014).

Second, there is a claim about the motives. Threats are said to be made in order to copy the previous shooters and/or to get attention. The shootings received so much publicity and media attention, that they incite making threats. Those who make threats are described as copycats, engaging in rather mindless action because others have done it too. “The immense media publicity the school shootings gained was one factor in the growing amount of threats, as attention seeking persons used the shootings for their own ends.” (Savolainen 2013) [Translation EH]

Third, there is a claim that the content of the threats is linked to the shootings. There is rarely anything specific or concrete mentioned about the nature of threats. What in detail has been voiced, who has been threatened and how, is left open. If the nature of the threats is in any way described, there is usually something similar to these quotes: “Threats of repeating the events of Jokela and Kauhajoki” (Oksanen et al. 2014); “circulating threats about similar attacks” (Holkeri et al. 2014). The similar connection is implied with the common use of terms like “school massacre threat” or “school shooting threat”.

Fourth, there is an age claim: threats are described to be made by youth. For example, threats are a stepping stone for discussing youth problem, youth behaviour, and youth marginalisation. The documents rarely make an open statement about the age, but use these words to describe the actors: students, pupils, boys, girls, young adults, older boys, and adolescents.

Grounds

In connection with the claims, less than half of the publications used a reference. Among the documents where a direct reference is mentioned, the reference led to a document, which itself did not use any references or describe empirical results. Few documents referred to sources which used “original knowledge” of threats. According to my preliminary analysis, these sources are 1) six news media articles which contain information received from police concerning the amount of reported threats, and 2) five academic articles with original data sets which contain information about the content of threats and those who have made the threats from two institutional perspectives - police (Holkeri et al. 2014; Oksanen et al. 2015), and psychiatry (Lindberg, Oksanen, et al. 2012; Lindberg et al. 2013; Lindberg, Sailas, et al. 2012; Oksanen et al. 2015). I argue that the same knowledge base can contest the claims identified above.

The first claim of chronology seems to heavily rest on news media accounts about the risen amount of police reports. However, a rise in reported crime does not necessarily mean a rise in

crime. It can also be a question of changing tendencies to report certain crime. Also, I argue that some of the threats described in the police data have common traits with threats reported during the 90's as part of teacher victim surveys (see (Kivivuori 1996; Kivivuori 1997; Kivivuori et al. 1999)), contesting the idea that threats are something new that started after the shooting in Jokela in 2007.

As for the second claim, attention seeking has been identified as a motive, yet it remains marginal. In the psychiatric data, *"wanting attention"* appears as a motive in 4 out of 77 cases (5 %). Other motives include *"revenge against identified persons"* (44 %), *"anger and hatred in general"* (35 %), *"desire to die (homicide-suicide fantasy)"* (31 %), *"joke"* (4 %) and *"unclear"* (3 %). {Lindberg:2012bf, 7} In the first article utilising police data, wanting attention has not been named as a motive. Motives are described in the following way: *"a) jokes or humor; (b) expressed when angry; (c) thoughtless acts or expressed on the spur of the moment; (d) expressed while intoxicated; (e) expressed to achieve a specific goal, for example in order to obtain a diploma despite missing school work."* (Holkeri et al. 2014) 414 In the latter publication using the same data, *"getting attention"* is identified as a motive in 2 cases (Oksanen et al. 2015) 154. Links to idolising and copying previous shooters as a motive are not clear. Concerning the psychiatric data, it is however stated that in 75 % of the cases there were *"positive attitudes towards previous school shootings"* (Lindberg, Sailas, et al. 2012) 7.

The third claim remains interestingly open. Even in the articles utilising the data sets, the specific content of threats is left without clarification, and the link to shootings is hinted or revealed later, after the threat has been made. These articles include some case descriptions, but otherwise provide only quite generalised abstract information about the threats. The focus is on the person of the threatener. The fourth claim about the age can be contested as the police data set included adult suspects.

In general, the dominant claims seem to connect the phenomenon of threats to the school shootings. The connection to school shootings is implied in various ways throughout the data set: it seems to form the thought base of the documents. Almost all documents mention school shootings, usually even in the same paragraph or immediate vicinity of discussing threats, and half of the documents mention school shootings in their title. School shooting research is among the list of references in the majority of the documents and, in almost half of the documents, it is referred to in the same paragraph as threats are discussed.

Preliminary discussion

Based on my preliminary results, it seems that threats are defined in a manner that quite dominantly links them to school shootings. In the background, I have identified problems in the reference practices and the omnipresence of school shooting research. I argue that the same knowledge base available about the threats could lead to an alternative picture of the phenomenon - for example seeing threats on a continuum of school violence that does not start from the shooting in Jokela. There are signs in the data of alternative yet marginal ways of discussing the phenomenon. I aim to analyze and address these ways before my final conclusions and the

publication of the article. The diverse alternative ways of understanding the phenomenon would help to adjust the control of the phenomenon.

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Spenning og etikk: Krimjournalistiske identiteter og nyhetsnarrativer

Tara Söderholm

Introduksjon

Media kan sies å være en selektiv lupe å se verden gjennom som ikke er direkte representativ (Greer, 2010:201) og det er bekymringer knyttet til medias portrettering av kriminalitet, spesielt relatert til statistikk og mønster. Mest fokus gis til diskurser om moralsk forfall, hvor media anklages for å sensasjonalisere avvik og glamorisere enkelte lovbrudd, samt å fremheve frykt og risiko knyttet til kriminalitet (Greer & Reiner, 2012; Reiner *et al.*, 2001: 178). Å forstå prosessene bak media og nyhetsbildet er essensielt med tanke på mediens posisjon i samfunnet, både som «en fjerde statsmakt», men også som kanskje den viktigste informasjonskilden publikum har. Mediens innflytelse strekker seg over det offentlige ordskiftet og inn i den private sfære, og former inntrykkene vi alle har av kriminalitet og kriminalitetskontroll. Journalistene står sentralt i denne skapelses- og utvelgelsesprosessen, men hvordan forholder de seg til forholdet mellom kriminalitet og nyheter, og hvordan former de bildet vi ser? Dette er det som undersøkes her: norske krimjournalisters egne historier. Det gir en inngang til både utvelgelsen og skapelsen av nyheter.

Gjennom 12 dybdeintervjuer, kommer det frem hvordan to forskjellige historier tar form og forhandles. Den ene fokuserer på pressens samfunnsoppdrag, den andre på spenningsfylte opplevelser. Hvordan journalistene ser på sitt eget arbeid og sin rolle, påvirker hvordan de utøver nettopp det arbeidet. Det foreslås her at de narrative mulighetene som begge identitetene åpner for, former hva de ser på som riktig å gjøre, styrer nyhetsinteresse og avgjørelser. Det er forholdet mellom disse to som styrer hva som er nyhetsverdige og verdt å gjøre.

Nyheter og identitet

Både nyheter og identitet kan forstås som kulturelt skapte konstruksjoner. Der hvor Presser (2009: 82) argumenterer for å se identitet som kontekstuell, og da spesielt hvordan identiteter skapes og uttrykkes når vi verbalt redegjør for adferden vår, fremhever også Jewkes (2011: 41) hvordan det medierte nyhetsbildet ikke er virkelighet, men en versjon av den som er kulturelt betinget. Ved å bruke et narrativt rammeverk vil begge disse aspektene belyses.

Media er avhengig av spesielt to kulturelt betingede faktorer: hvordan det formes av produksjonen og strukturer innad i nyhetsorganisasjonene og hvordan organisasjonen former og produserer nyheter rettet inn mot publikum (Jewkes, 2011). Det er opp gjennom de siste tiårene blitt fokusert mye på forskjellige tilnærminger til nyhetsverdi. En av disse tilnærmingene er å identifisere nyhetskriterier, en tradisjon som går tilbake til Galtung og Ruges (1965) sin kjente studie, bygget på Østegaard (1965). Nyhetskriterier er også et internt journalistisk begrep, som de fleste journalister lærer under utdanningen sin. Der brukes ofte akronymet «VISAK», som står for vesentlighet, identifikasjon, sensasjon, aktuelt og konflikt (Handgaard, Simonsen and Steensen, 2013). Dette er da helt bevisste kriterier journalister ser etter, men det er også en rekke ubevisste prosesser som foregår

i utvelgelsen og skapelsen av nyheter. Dette kan blant annet være styrt av en magefølelse i tråd med det Schultz (2007) finner i sin studie, eller taus kunnskap lært gjennom praksis (Chibnall, 1977).

Symbolisk grensearbeid brukes i dette tilfellet for å belyse de narrative prosessene knyttet til nyhetsarbeidet. Symbolisk grensearbeid forsøker å identifisere posisjoneringen og dermed identitetsforhandlingen, gjennom å studere hvordan personer bruker konseptuelle grenser som verktøy for å kategorisere andre aktører og kulturelle praksiser (Lamont, Michele and Molnár, 2002: 168), en prosess som er sentral i posisjoneringen av selvet. (Lamont, Michèle, Pendergrass & Pachucki, 2015: 3.2).

Analysen baserer seg på 12 dybdeintervjuer gjort med krimjournalister fra fire store medieorganisasjoner i Norge. Intervjuene ble gjennomført med en semi-strukturert intervjuguide med et utforskende utgangspunkt.

Journalistens identiteter

Krimjournalistisk identitet ser ut til å komme til uttrykk gjennom to forskjellige fortellinger. «Den samfunnsbevisste journalisten» tar utgangspunkt i identitetsarbeid i relasjon til samfunnsoppdraget. Journalistene legger mye vekt på krimfeltet som et vanskelig, men viktig område, og tre distinkte grensedragninger forsterker denne oppfatningen. Det er mot nasjonale medier, internasjonal presse og aktører innad på arbeidsplassen. «Den spenningsøkende journalisten» tar utgangspunkt i spenningsfylte opplevelser og erfaringer knyttet opp mot arbeidet. Den fokuserer på maskulinitet, jakten på de gode sakene og de gode opplevelsene. Her er det grenser mot ressurser, kjedelige aktører og journalistiske kvaliteter.

Den første distinksjonen i «den samfunnsbevisste journalisten» er i relasjon til andre norske medier. En av journalistene forteller at han mener de blir holdt til en høyere etisk standard enn de andre mediehusene, og at de får mye urettmessig kritikk på grunn av det. Han mener at de må ha en høyere etisk standard enn resten fordi folk er mer opptatt av hva de skriver, siden de har så mange lesere. Han nøytraliserer kritikken de får ved å peke på hvordan denne kritikken ikke bare er urettmessig, men et tegn på at de har en høyere standard og flere lesere enn andre. En annen journalist snakker om et internt journalistisk begrep «skomakerdrap». Det er en betegnelse på et helt uinteressant drap, gjerne en narkoman som har knivstukket en annen narkoman. Han peker på hvordan VG, som satser tungt på krimfeltet, ikke bryr seg om slike saker, men at VG derimot ville dekt en sak fra Sverige, hvis det var en ung jente som var drept. Han mener dette er å rangere menneskers verdi og at de selv prøver å være oppmerksomme på slike ting.

Den andre grensen er mot utenlandsk presse. Her snakkes det om norsk presse som en helhet, hvor de tidligere grensene mellom norske mediehus viskes vekk. En av journalistene snakker om det han kaller en forsiktighetskultur i norsk presse, noe han mener er positivt, og det later til å være konsensus om at norske medier er mer varsomme enn andre.

Terje: De har et helt annet tankesett når det kommer til disse tingene der. De viser jo også fulle folk nakne, og legger det på forsiden. De har en helt annen etisk standard. Så kan man jo selvfølgelig være

enige eller uenige i det, men sånn som vi er oppdratt så er det ikke så godt folkeskikk å vise frem ting som offentligheten ikke har noe med, for eksempel.

Utenlandske medier mangler altså grenser for hva som er akseptabelt, så for en etisk god krimjournalist kan ikke slike ting rettferdiggjøres å publiseres.

En siste grense relateres til andre innad på arbeidsplassen, spesielt til de som «kun vil skrive feature». Det er et klart skille mellom «myke» og «harde» saker, hvor krim faller inn i sistnevnte kategori. Jon, en av journalistene sier:

Men igjen, tilbake til den klassiske, det er fortsatt grunnpilaren i yrket vårt, mener jeg da. Man kan godt ansette masse programmerere her og der, det ser vi jo, hvor flinkere du er på data jo mer lykkes du kanskje, på dette jobbmarkedet. Men jeg mener at man skal aldri glemme hva det er, hvilke egenskaper som fortsatt er viktig i journalistikken, heldigvis.

Medielandskapet endrer seg raskt, og de journalistiske profesjonelle rollene konstruerer i en tid preget av destabilisering (Wiik 2009). Wiik (2009) peker på det journalistiske idealets legitimitetskamp i et endrende post-moderne samfunn, hvor samfunnsoppdraget journalistene legitimerer sin rolle med, er i endring i takt med de institusjonene som samfunnsoppdraget tilsier de skal vokte. Som et resultat av dette destabiliserte og fragmenterte samfunnet, møter journalistene et økt krav om fleksibilitet og mobilitet. De daglige oppgavene deres blir mindre konkrete og forutsigbare, samtidig som det forventes at de skal kunne «multitaske», både i form av tekniske ferdigheter, men også i stoffområde. Medielandskapet er i en endringsfase og en vanlig klage er at de ikke har tid til å prioritere de gode sakene lenger. De som evner å manøvrere dette farvannet ses som å inneha ekstra kvaliteter som gjør de til «stayere».

Ved å se identitet eller narrativ som fragmentert, innebefatter ikke å rangere de ved å si at noe er mer ekte enn noe annet. Derimot åpner det for å se på funksjonen de forskjellige delene har.

«Den spenningsøkende journalisten» baseres på spenningsøkende opplevelser knyttet til arbeidet. Ikke alle saker kan anses som viktige samfunnsmessige anliggende, og flere av journalistene beskriver hvordan en typisk kompleks «viktig» sak ofte oppfattes som kjedelig av leserne. I slike situasjoner er det godt å flere strenger å spille på, for å kunne møte kravet om lesertall. En av journalistene kaller snakker om «cowboy-journalistikk», hvor fokuset ligger på å få høyest lesertall eller siteringer, eller å få den ene spesielle kilden til å stå frem. Det er her de mer underholdene aspektene av arbeidet kommer inn.

Denne adrenalinpumpende identiteten fremheves gjennom blant annet ressurser. «De har flere folk enn oss» er en vanlig frase når de snakker om VG, landets største avis. Å innta en underdog-posisjon er en vanlig måte å ramme inn disse historiene på. Et underdog-narrativ bidrar ikke bare til å ramme inn sluttpoenget eller det ferdige produktet, men kanskje spesielt også veien dit. Svein oppsummerer det slik: «Men da har du det der reset på en måte, da var det det actionelementet. [...] Når du er på en annen jobb og får beskjed om at det går fly om to timer, også skal du slå de [VG]. [...] Det er gøy. Det er den action-biten da.» Fokuset i historien er ikke hvordan de skal oppfylle

samfunnsoppdraget, ikke engang hvordan de skal lage en god sak. Han forklarer hvordan saken ikke nødvendigvis er så viktig, men at det er gøy. Fokuset er på forskjellige action-elementer, hvordan oddsene er imot de, men at de likevel får det til.

Like viktig som det er å vise hvordan de tar sine etiske ansvarsområder viktig, er det å vise hvordan de også er spennende aktører, spesielt i forhold til andre mediehus. Noen legger vekt på hvordan andres stil er kjedelig, mens andre vektlegger hvordan større organisasjoner ikke gir unge journalister mulighet til å skrive de «kule» sakene. For Erik er det nettopp kombinasjonen av saker som er spennende. Han forklarer at selv om saker ikke nødvendigvis er så viktige, er de fortsatt viktige for folk, og nettopp det gjør de interessante.

Erik: Det handler om den miksen og det handler om saker som engasjerer folk, selv om det ikke er det viktigste i verden, så er det også ting som er viktig for folk. Og som er engasjerende og det er jo litt forskjell fra oss da, og andre medier, men det er nok ting som, det gjør oss mer, det at vi skal nå så bredt og både på, for leserne våre og på saksfeltet gjør jo at noen også kan kritisere oss for det da. Men det er jo det vi står for.

I møtet med kritikk, endrer Erik det negative andre kritiserer, til det som gjør de spennende som mediehus. Vi kan kanskje se dette som det Brurås (2012) kaller «tabloid og stolt av det». Likevel er det kanskje ikke bare en stolthet, men en legitimitetsforhandling, for å vise at mer spenningsrelaterte kvalitetene også har et legitimt journalistisk formål.

Den siste grensen som blir fremhevet dreier seg om journalistiske kvaliteter. Det later til å være en enighet om at ikke alle har det som skal til for å være en krimjournalist. På spørsmål om å rykke, forklarer Jon hvordan det å rykke er knyttet til spenning fordi du er midt alt som skjer. Han kaller for «adrenalinjournalistikk», og sier at ikke alle liker den type arbeid fordi det er utfordrende.

Ikke bare skal du være der det skjer, du må også hente hjem det beste. Det som ingen andre har. Men jeg liker det. Det er kanskje litt urettferdig, men det er noen som sa en gang "alle kan rykke, men det er ikke alle som kan være gode journalister". For som regel så holder det ikke å være flink til å transportere deg selv fra A til B. Du må gjøre en jobb når du er på rykk, men også når du kommer hjem igjen, og ellers i hverdagen.

I tråd med Connell og Messerschmidt (2005: 832) sin definisjon av hegemonisk maskulinitet som den mest anerkjente måten å være mann på, kan det argumenteres for at disse kvalitetene og ferdighetene journalistene peker på i disse fortellingene, er en narrativ posisjonering av deres hegemoniske maskulinitet. Gjennomgående beskrives det en actionsøkende, kapabel og handlekraftig person. En av journalistene beskriver hvordan følelsesmessig involvering er en distraksjon, og at man ikke har tid til å «sitte og ta hverandre på følelsene». Det er disse kvalitetene de peker på som skiller ofte de erfarne journalistene fra de mer uerfarne eller ikke passende journalistene.

Muliggjørende motpoler

De to identitetene henger sammen gjennom etiske vurderinger og sterke opplevelser som føles viktige og meningsfulle. Etiske avgjørelser er knyttet til hele prosessen ved å jobbe med krim saker, spesielt knyttet til identifisering og arbeid med kilder. Det gjennomsyrrer alle aspektene ved journalistenes fortellinger.

Identitet ses ikke som fast eller ferdig, men som kontekstuellet og de to identitetene i oppgaven ses ikke på som motsetninger, men som gjensidig muliggjørende. De møtes gjennom etiske beslutninger og sterke opplevelser. Den første identiteten kan ses på som en ramme, et handlingsrom hvor man arbeider som spenningsøkende journalist, men samtidig viser seg og være en samfunnsbevisst journalist. De står både i kontrast til hverandre, og henger sammen. Uten den spenningsøkende journalisten hadde man ikke hatt samme mulighet til å møte kravene og forventningene om saker med gode lesertall, igjen siden mange av de viktige sakene ikke ses som åpenbare leserhitter. Men man kan ikke være «helt cowboy» heller. De etiske vurderingene muliggjør å kunne operere litt på kanten, jakte de gode vinklingene, de tingene som kanskje ikke oppleves som så viktig, å være litt cowboy. Men en cowboy som vet hvor grensene går. Det gjør også at man på en måte får lov til å like de store hendelsene, som uunngåelig er de mest negative innen kriminaljournalistikk.

Journalistene former og forhandler identiteter gjennom blant annet symbolske grenser, og på én måte kan man se hvordan konteksten, samfunnets oppfatning av journalistikk og metanarrativ, utgjør hva som faktisk er tilgjengelige forståelser eller rammer å fortelle narrativer innenfor. Hvordan strukturen former hva som er tilgjengelige identiteter, og at deres bruk av den samfunnsengasjerte journalisten kan ses på som at de former identitet innenfor den rammen. En annen måte å se det på er at det fremhever journalistenes agency, ved å forstå bruken av den samfunnsengasjerte journalisten som en måte å kontre kritikk og en negativ forståelse og definering av seg og sin gruppe.

Det foreslås derfor at de narrative mulighetene som begge identitetene åpner for, påvirker hva og hvordan de ser på sin egen journalistiske rolle, som dermed former både utvelgelsen og skapelsen av nyhetene. Det er i spenningsforholdet mellom identitetene at de oppfatter hva som er nyhetsverdig og hvor de setter grensen for akseptabel journalistisk atferd.

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PARALLEL SESSION 3C: Ethnicity and control

The shift in the meaning of ethnicity in one Finnish prison ward

Helena Huhta

The Nordic prison populations have undergone a fast change during the last decades as the number of prisoners with foreign nationalities has risen to 19-31 percent of all the prisoners (WPB). In Finland, the number of foreign citizen in the prisons started to grow as late as in the 1990's. At the moment, they form nearly one fifth of the prison population. Although the change has been widely acknowledged, there is very little academic knowledge about how the change has affected the everyday life inside prisons. Many questions are unanswered regarding to the special needs of the ethnic minorities, the fulfillment of equality, challenges that the officers confront, the relations among prisoners and the experiences of the ethnic minority prisoners. It is important to recognize that these issues concern a wider group of prisoners than the statistics capture. The immigrants who have gained Finnish citizenship, the second generation immigrants and the Finnish Roma people often experience similar challenges in prison as those who are counted as foreigners. Overall, the prisoners with foreign backgrounds have interested greatly from the perspective of radicalization, but very little from the point of view of equal circumstances or the experiences of these prisoners.

James Jacobs (1979) argued that the North American prison studies were "color-blind" until the 1970's. Gresham Sykes (1958), for example, who studied the inmate norms and roles did not write about the race relations even though half of the prisoners in his study prison were Afro-Americans. Not even the race riots and the politicization of the black Muslims in the 1950's alerted researchers to the issue of race in prison. Only after the introduction of conflict theory in the sociological paradigm, did scholars begin to see prison in a political light, bringing ethnicity to the agenda of academic prison studies. It was revealed, for example, that the prison culture and norms were not as uniform as had been thought before and that race was one of the most significant if not the one above all factor in forming inmate groups. (Jacobs 1979.) The researchers in Nordic countries can no longer overlook ethnicity as the recent prison studies concentrating on different themes have shown (Ruckenstein and Teppo 2005; Haller 2015). However, the study of Thomas Ugelvik and his colleges on a Norwegian prison which houses solely foreigners is a rare initiative in Nordic countries to focus explicitly on the topic. (Smith and Ugelvik 2017; Ugelvik and Damsa 2017).

Smith and Ugelvik (2017) argue that the rise of the amount of foreign citizens in prisons poses challenges for the "exceptional" penal tradition across Nordic countries. The request for humanitarian prison conditions and minimizing the suffering of vulnerable populations (eg. Lahti 2000; Pratt 2007b) now has several new aspects to take into account. The study of Smith and Ugelvik (2017) in

Norway has shown that the ideals of rehabilitation and supportive arrangements after release are poorly fulfilled when it comes to the foreign citizen. Among the reasons for this are the deportations which await many foreign national convicts, adding an extra punishment on top of the prison sentence. What it comes to the prison everyday life, both Norwegian and Finnish studies have shown that ethnic minorities experience racism while being incarcerated (Honkatukia and Suurpää 2007; Huhta 2012; Ruckenstein and Teppo 2005; Ugelvik and Damsa 2017).

While Norway has opened a prison which houses solely foreign prisoners (Smith and Ugelvik 2017) a Danish ethnographic study on drug treatment wards reveals that the Danish prisons are divided into foreigners' and Danish wards (Haller 2015). In Finland it has been discovered that the prisoners who are transferred to other prisons or protection wards because of the fear of other prisoners, often belong to ethnic minorities (Ruckenstein and Teppo 2005).

These studies illustrate the significance of ethnicity when examining the contemporary Nordic prisons. This work in progress explores the social world inside prisons that hold prisoners from majority ethnicity background, foreign citizen, immigrants, "second generation immigrants" and old ethnic minorities such as Roma people. The study provides understanding about the prisoners' relations, prison culture and coping practices.

The data for the study was collected during a nine-month period of ethnographic field work in two closed male prisons. Additionally, a third prison was briefly visited. With the help ethnography, it is possible to study the daily life of prisons exploring simultaneously institutional arrangements, interaction and experiences. Hence, the analysis is not limited to the study of talk and discourses. The data includes 70 interviews. The interviewed informants include ethnic minority prisoners, prisoners from an ethnic majority background and prison personnel (guards, senior sanction officers, rehabilitation staff and management).

Two chapters of the forth coming book introduced in the NSfK:s 59. research seminar explore the manifestations of ethnicity in the prison space. As Doreen Massey (1993) writes, the social order and relations are organized in space. The observation of how prisoners use the prison space reveals the aspects of the relations between prisoners with different ethnic backgrounds. The spatial organization of the prisoners has not only symbolical meaning but also concrete consequences on equality. This is an outcome of interplaying factors deriving from the prisoner hierarchy and the institutional arrangements.

The factors that influence ethnic segregation in prison are scrutinized deeper in a case-study of one residential ward. The special feature of this particular ward was that during the ethnographic fieldwork it had its very first inmates with African backgrounds. The analysis of this ward exposes first of all a few administrative changes that have made it easier to place certain discriminated prisoners in normal open wards. Secondly it reveals the attitudes of the ethnic majority prisoners that are in constant process of change and thirdly the abilities and characteristics of the men with

African backgrounds that were essential for them to be accepted among other prisoners against general expectations.

The study on the meanings of ethnicity for the everyday life in prison provides information about equality in the state institutions. With the help of ethnographic approach it is also possible to generate deeper understanding about the social reality inside prison and processes that both produce ethnic segregation and hierarchies and dissolve them. Finally the study will offer practical suggestions for developing the prisons at a time that poses new challenges for prison administration.

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(an)Othering perspective - An intersectional approach to narratological prison studies

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Introduction

This paper is a first draft outlining the theme of one of the chapters of my doctoral thesis. It discusses how intersectionality might be used to critically engage with the Gothic heritage of the prison system in Western countries with imperial or colonizing histories. My dissertation deals with autobiographical prison novels, which are heavily influenced by a Gothic heritage that is visible in both prison systems and the cultural depiction thereof³⁹. In the past, Victorian prison exteriors were designed with explicit reference to Gothic horror, in the hopes of inspiring new horror stories about how terrible prison life must be among the public⁴⁰. Today, this same function is filled by media and pop culture; warping the image of prison and presenting a Gothitized narrative to the public⁴¹. My dissertation explores how this is visible in popular, autobiographical prison novels written by people who have lived large parts of their lives in prison as inmates, guards or visitors:

You feel it along the walls inside, hard like a blow to the head; see it on the walls outside, thick, blank, and doorless; smell it in the air that assaults your face in certain tunnels. [...] You sense it all around in the pointed lack of ornamentation, plants or reason for hope – *walls built not to shelter but to constrain*. In the same way that a murder forever changes a house, Sing Sing has its own irrevocable vibe, a *haunted feeling* [...] rooted in the ground and in history: *thousands upon thousands of lashings* meted out by my predecessors in the nineteenth century; hundreds of prisoners executed there by the state while strapped down in an electric chair built by other inmates; and for the *untold numbers of prisoners who were locked inside*, an enforced experience of the glacial slowness of time.⁴²

The image presented above draws on Gothic aesthetics to describe prison; constraining spaces, winding hallways, past cruelties haunting the present. This aesthetic is by no means isolated within fictionalized accounts, but appears in prison academia as well:

Her detainment for several weeks in a maximum-security prison shows the extent of criminalization of undocumented migrants. [...] Her detainment also

³⁹ Garland 1990

⁴⁰ Smith 2009

⁴¹ Cecil 2015; Smith 2008; Fleisher & Krienert 2009

⁴² Conover 2011, p.171, emphasis added.

calls attention to the existence of *subterranean holding cells under the gleaming Vancouver International Airport* where Jiménez committed suicide.⁴³

A subterranean prison beneath the gleaming airport, causing the death of a wrongfully incarcerated woman. This lends itself to a number of Gothic concepts and tropes; damsels in distress; the uncanniness of horrors lurking beneath pristine exteriors, unfamiliarizing the familiar; tragic suicides; and patriarchal powers abusing femininity, to name a few⁴⁴. The prison has had Gothicity lurking in its shadows since its inception. The problems of discussing prison's Gothicity pertain to how both prison and the Gothic literary tradition generally express the cultural anxieties of a white, heteronormative and colonizing patriarchy⁴⁵. As a result, the monstrous Other or threat is often a racialized, feminized, or animalistic Other, or a space somehow associated with the colonized⁴⁶; feminine; or homosexual⁴⁷.

Cultural Perspectives on Fear and Otherness

While there has been developments in Gothicity in terms of both fiction and academia which incorporate feminist and post-colonial studies, Gothicity remains a largely white, heteronormative and masculine enterprise. A Gothic framework might fit prison studies simply because both canonical Gothic fiction (and the concepts articulated through studies thereof) and the prison system express and handle the fears experienced by the same group of people; white, straight, male westerners. From this point of view, both Gothicity and prison address and distill cultural anxieties, aiming them at specific bodies by rendering them as deviant, monstrous or otherwise Other. The bodies in question are thus frequently everything that the colonizing patriarch views as different in a negative sense; non-Western; non-white; non-male; and non-heterosexual. While developments in Gothic scholarship and fiction alike have dealt with queer, feminist, and to some extent colonial takes on fear and otherness, the Gothic tradition still has its roots in a white, middle-class, and masculine point of view; in "colonial definitions of the colonized"⁴⁸. The bodies marked as monstrous in the Gothic canon, and the bodies criminalized and imprisoned in Western societies, both tend to be defined from such a viewpoint.

Adopting an intersectional framework allows for a critical engagement with both prison itself and the Gothic tradition that haunts it. In order to show the prison's Gothic heritage without reproducing the notion that what white Westerners fear is an objective threat, a discussion of

⁴³ Hill Collins & Bilge 2016, p.153

⁴⁴ Creed 1993; Chaplin 2011

⁴⁵ Khair 2009; Höglund 2011; Wester 2012.

⁴⁶ A current exploration of the boundaries of canonical Gothicity, as well as an interesting example of what happens when the norm of whiteness-as-subject is deviated from, can be found in the recently released horror movie *Get Out*, by Jordan Peele. This film, meant as a kind of documentary horror story, was met with confusion from large parts of the white movie-going audience, which is perhaps best exemplified by how it was nominated for the Golden Globes – as a comedy. As such, the response to this film is an interesting example of what happens when a horror movie shows fear from the opposite end of the spectrum compared to the traditional Gothic aesthetics of fear. In *Get Out* the light, rather than the dark, is what frightens, which has clearly been difficult to process within the cultural framework of a white horror-canon.

⁴⁷ See, for instance: Höglund 2011; Chaplin 2011; Khair 2009.

⁴⁸ Khair (2009) 2015, p.8

prison's Gothicity necessitates a simultaneous discussion of what Othering processes underpin the Gothic imagery and concepts visible in prison narratives. Since the Gothic genre has a history of prioritizing white, colonizing, patriarchal voices, utilizing Gothicity as a critical device in prison studies, or criminology in general⁴⁹, becomes inherently problematic for precisely the same reason as why it works – they all deal with the Othering of non-Western bodies, albeit in different ways.

The racial discrimination inherent in the prison system and the legal processes surrounding it has been addressed in both American and European contexts⁵⁰. The multifaceted oppression of lower classes by means of imprisonment and legislation has also been subject to several studies⁵¹. Histories of slavery and colonization haunt present imprisonment practice through how legislation and policing targets minorities, and “the increasing overrepresentation of racialized people within prisons in many countries with multiethnic and multiracial demographics” has inspired criminologists to incorporate “intersectionality’s analytical frameworks for intersectional critiques of mass incarceration”⁵².

Among other things, intersectional frameworks have been used to discuss how urban policing as well as maintenance of national borders seem to contain and exclude people of colour and asylum seekers, rather than protect them⁵³. Similarly, prison reforms have been considered as a form of societal relief *from* the poor or other marginalized groups, as opposed to reforms that would be implemented *for* said groups⁵⁴. Studies have also investigated who and what counts as being incarcerated, and how a site of incarceration ought to be conceptualized and redefined to unveil the full extent of American mass-incarceration – showing a “deep interconnection in [different people-housing institution’s] logic, historical enactment, and social effects”⁵⁵. Following this line of thought, the link of between slavery and imprisonment becomes particularly salient in a post-colonial context, since these are both people-processing institutions operating with a similar logic of civilizing and educating (or ‘rehabilitating’) the savage or brutal Other – the image of which has inspired most Gothic monstrosities⁵⁶.

The following description of intersectionality offered by Hill Collins & Bilge is helpful in tying prison studies to studies of Gothicity:

An intersectional analysis reveals how violence is not only understood and practiced within *discrete* systems of power, but also how it constitutes *a common thread that connects racism, colonialism, patriarchy, and nationalism*, for example. By questioning how forms of violence within separate systems might in fact be

⁴⁹ Picart & Greek 2007

⁵⁰ E.g: Barker 2013; Hill Collins & Bilge 2016

⁵¹ E.g: Hörnqvist 2013; Comfort 2003

⁵² Hill Collins & Bilge 2016, p. 39

⁵³ Hill Collins & Bilge 2016, p.156

⁵⁴ Wacquant 2009; de Giorgi 2013

⁵⁵ Hill Collins & Bilge 2016, p.157

⁵⁶

interconnected and mutually supporting, intersectionality's analytical framework opens up new paths for investigation.⁵⁷

This illuminates how literary conventions of the Gothic genre on the one hand, and the prison system on the other, both manifest the same violent, Othering tendencies. Furthermore, prison literature has absorbed much of Gothic genre conventions, further showing how prison owes part of its being, such as it is understood in Western culture, to the Gothic tradition. Racist, post-colonial patriarchy is visible in both Gothic literature and in the formation of the prison system – which drew explicitly on Gothic literary conventions in its early days⁵⁸. Thus, the “common thread” of colonizing patriarchy runs through both prison and Gothic fiction; visible in the mutual exchange of praxis and cultural depictions. The seemingly separate systems of Gothic fiction and mass-imprisonment are therefore not at separate as they appear, but rather “interconnected and mutually supporting” spaces for abjecting the Other in a Kristevan sense. As different yet interlocking arenas, both the prison system and Gothic literature frequently construct non-Western bodies as threatening and/or in need of assimilation, either to the individual or collective Western self; physically, mentally, or spiritually⁵⁹.

Ubiquity of the White Gaze

Historically, the Gothic aesthetic is expressed from the point of view of white identity and its experiences of Otherness. This can be said of prison as well, since the prison system is largely filled with non-white bodies. As such, reading prison narratives as having a Gothic aspect to them without critically engaging with why studies of Gothicity have unveiled certain critical devices and concepts might risk recreating notions of Otherness that privilege white perspectives. Studies of Otherness always produce an Other,⁶⁰ and this necessitates a careful and critical approach to the studying subject as well as the subject under study.

Issues inherent in the institutionalization of academic knowledge production has also been subject to some debate in intersectional scholarship. Given intersectionality's political, activist roots and its practical implementations in policies and praxis⁶¹, institutional streamlining of the concept of intersectionality has been met with critique. A main argument in this critical approach to the ‘all-inclusive’ feminist claim to intersectionality and its resulting institutionalization as an academic endeavor is that it “denies the very original purpose and ethical stance of intersectionality turning it into an all embracing approach, model or even in some cases a new paradigm or methodology inadvertently reproducing the universalist *color-blind stance*⁶²”. In short, this critique centers on how “intersectionality has been invited to settle down within, *instead of unsettling*, the established frames of knowledge production and dissemination⁶³. Because of the problems of academic

⁵⁷ Hill Collins & Bilge 2016, p.55

⁵⁸ Smith 2009; Garland 1990

⁵⁹ Chaplin 2011; Wester 2012; Khair 2009

⁶⁰ Puar 2012, p.52

⁶¹ Hill Collins & Bilge 2016, p.57

⁶² Tlostanova p.3, emphasis added.

⁶³ Hill Collins & Bilge 2016, p.87, emphasis added.

incorporation, scholars have emphasized that intersectional methodologies need to “illuminate how intersecting axes of power and inequality operate to our collective and individual disadvantage *and how these very tools, these ways of knowing, may also constitute structures of knowledge production that can themselves be the object of intersectional critique*”⁶⁴. The academic tools themselves might reinforce inequalities that they aimed to explore, critique or reduce. In a similar fashion, using Gothic concepts to analyze prison as a cultural institution without critically engaging with the content of Gothic analytical categories might be a settling-in rather than an unsettling of Otherness in prison studies. Similarly, Khair discusses how there are tendencies in Gothic literature to prioritize and express “colonial definitions of the colonized”⁶⁵, rather than let non-Western authors works redefine Gothic canon. Given that academia is predominantly white, it comes as no surprise that the scholarship pertaining to Gothicity displays issues regarding prioritizing whiteness as both a subject and a point of view.

Intersectional Engagements with Gothic Tropes in Prison Narratives

Hill Collins & Bilge helpfully point out how, instead of creating categories based on difference and then comparing them to one another, intersectionality might work as an analytical tool for negotiating differences in specific contexts:

Rather than downplaying or dismissing differences, an intersectional methodology requires negotiating differences that exist within discrete scholarly and political traditions of race, class, gender, sexuality, ability, nationality, ethnicity, colonialism, religion, and immigration. The dialogical methodology *assumes no preformatted connection between them*. The goal is to make those connections within specific social contexts.⁶⁶

For the purposes of the present study, the “specific social context” is that of fictionalized prison narratives, and how they express prison’s Gothic heritage. This entails a negotiation of differences within and between criminological and literary disciplines and their respective perspectives on and studies of Othering, as well as negotiating the differences that make up Western concepts of Otherness. Otherness here becomes a question of how difference is articulated in prison narratives, and from what perspective. Intersectional tools might therefore inform my close readings of prison narratives and how they build characterization-as-Otherness.

For instance, the characterization of black trans inmates in *Newjack* becomes more interesting when one considers that it is narrated by a straight, white, cis-gendered man of the middle class. Describing three different inmates, the narrator, Conover, points out that “all three seemed to feel they were actually women”⁶⁷, however he still insists on referring to them with male pronouns throughout the narrative. Conover tells us about “a black inmate named Sam” who is described as “a big-boned *guy with breasts*” who “wore his state pants tight and exaggerated his hip movement

⁶⁴ Cho, Crenshaw & McCall 2013, p.795-6, emphasis added.

⁶⁵ Kahir p.8

⁶⁶ Hill Collins & Bilge 2016, p.168, emphasis added.

⁶⁷ Conover 2011, p.258

when he walked”⁶⁸. Another trans inmate, “in his forties whom the other black inmates called Grandma”⁶⁹, is described as “poor, black, and gay”⁷⁰; as well as “by far the most freakish”⁷¹:

Under *his sagging, mango-sized breasts protruded a potbelly*. A bun, which he had fashioned out of an uneven coil and tried to angle forward, did not hide the fact that his hairline was in full retreat. *His teeth were long and yellow*; behind black-frame glasses, you could see he had plucked and then redrawn his eyebrows. *He was short and slightly swaybacked*.⁷²

This shows an image of racial and sexual Others, as described by an educated, middle-class Western man⁷³. There are motifs here which align with traditional Gothic narratives of monstrosity; animalistic traits; sexual ambiguity; old age and masculinity as constitutive of repulsive femininity. This particular passage paints a picture of a short, crooked black man with thinning hair and long, yellow teeth who freakishly masquerades as a woman – since the narrator refuses female pronouns.

This makes Grandma an impostor, whose femininity is that of a cross-dressing, gay man rather than that of a straight transwoman. This characterization aligns Grandma with a kind of sexual ambiguity not uncommon in horror iconography; the feminized, often mentally unstable, male killer, notable examples including characters like Norman Bates in *Psycho* and Buffalo Bill in *Silence of the Lambs*. Along with hair loss and a crooked back, attention is drawn to Grandma’s “long and yellow” teeth; a fairly common trope in narrating several monstrosities such as cannibals, vampires and zombies. These monstrous motifs are all largely sprung from colonizing imagination; “colonial definitions of the colonized” as something monstrous and threatening⁷⁴. There is an animalistic touch to Grandma’s characterization in this focus on teeth and sub-human posture, making her reminiscent of another classic, literary Grandma with noteworthy teeth; the Wolf in *Little Red Riding Hood*.

These intertextual ties imply that Conover’s point of view – and therefore also the readers – ascribes a predatory or duplicitous nature to Grandma’s character, in spite of her never explicitly being shown as violent or threatening in her actions. This can thus only be attributed to her being a black transwoman of age. I would argue that this reads as an example of racist, cis-sexist transphobia in the story’s narration⁷⁵. While “no individual lives every aspect of his or her existence within a single identity category”⁷⁶, the same cannot always be said of characters.

⁶⁸ Conover 2011, p.258, emphasis added

⁶⁹ Conover 2011, p.259

⁷⁰ Conover 2011, p.261

⁷¹ Conover 2011, p.259

⁷² Conover 2011, p.259

⁷³ While Conover is both narrator and author, my study is not concerned with authorial intent and therefore discusses the character and narrator Conover; rather than the author or ‘real’ Conover.

⁷⁴ Khair (2009) 2015, p.8, 55

⁷⁵ Again, I would like to emphasize how this pertains to the narrator *in* the text; I make no claim as to the personality of the author *of* the text.

⁷⁶ Chun, Lipsitz and Shin 2013, p.923

Therefore, narratives can highlight how prejudice manifests through stereotypical, demonizing characterization. As such, studies of how narratives treat characterization and representation of characters who are not white; heterosexual; cis-gendered; or male, can shed light on intersecting forms of oppression. Moreover, focusing the narrator's place in social intersections as a potential place of Othering, rather than on characters as monstrous Others, might be useful in unveiling the colonialism, racism and sexism which underpins much of the Gothic genre's tropes and motifs.

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PARALLEL SESSION 4A: Development of police work and crime policy

Towards a humane monopoly of violence?

Situating societal change in police education in Finland after WWII

Aura Kostiainen

Introduction

This paper is based on research conducted along a book project celebrating the 100 years of police education in independent Finland. It will be published in autumn 2018 by the Finnish Police Academy. The study aimed to find out how the changes in the society from the 1960s onwards, especially democratization and the rise of human rights, were reflected in police education. More specifically, how did the role of the police and ideas of it change? How did the police ideals change in relation to the role of the police? How did the practices in police education change in relation to these?

I searched for change in several sources. Firstly, I looked at the legal base for the police authority in legislation. Secondly, I studied decision makers' views on the role of the police in the society and police ideals by studying committee and workgroup reports. Thirdly, I studied selection criteria and recruit testing as well as educational contents for police ideals and educational practices, and fourthly, inner guidelines rules and disciplinary practices for educational practices and police ideals.

This paper deals with some of my main findings from the study. While it turns out that new police ideals took place among the decision makers after the legal base for the police was founded – the Police Code was given in 1966 – the practices and educational contents were slower to change.

The new police ideal – “A social, intelligent and representative police force”

According to Furuhausen, the ideal of a Swedish “social, intelligent and representative police force”, found by Hydén and Ljungberg, was already constituted after the WWII. A social police officer understands people, has good collaboration skills and has a high inner ethical code of conduct. An intelligent police officer is independent and capable of solving problems. A representative police force consists of the whole population, including women and minorities. A more representative police force is supposed to give the police a higher degree of legitimacy and better contact with the public.⁷⁷

⁷⁷ Furuhausen, Björn (2015): 'The making of a social, representative and intellectual police force - Recruitment and education of police trainees in Sweden during the 20th century'. *Nordisk politiforskning*, vol. 2, nro 01, 6–8.

In the Finnish material, a similar development was found in the committee and workgroup memoranda and reports a bit later, from the 1970s onwards. This ideal did break through especially in the 1980s.⁷⁸ Swedish police education was seen as an example, and Swedish representatives lectured in Finnish seminars about police ethics.⁷⁹

These views were reflected also in the contents of the education, and in the leading role were new subjects like psychology, sociology and police ethics. The goals for general police studies in 1988 were to “enhance the development of the personality of the policeman, and to reinforce generally accepted principles of human worth and rights, behaviour according to human value, and duties as a policeman and an individual, in relation to the society and other individuals, by promoting understanding and tolerance between people”.⁸⁰ In a way, one could state that the police “grew up” to be an independent, adult human being making their own ethical decisions.

Paradox 1: Continued normality

In spite of the new police ideals, there existed a continued requirement of normality by using normalizing techniques Foucault distinguishes two normalities. Legal normality, according to Foucault, means a process where a norm is formed and according to that is concluded what is normal. A normalizing technique, on the other hand, happens when normal is constructed through the population and an individual’s normality is based on the comparison between her and the population. The enabler for normalizing techniques was the invention of the normal curve.⁸¹

After the world war and until the 1970s the police officer had to be ideally normal. That means, that *he* had to be an example to the people, thus represent the upper half of the normal curve. The police norm was a (politically) trustworthy man with conservative views, good physical condition and above average intelligence. In the 1970s cracks emerged into this ideal. In 1978 a working group gave a report where they apparently could not make up their mind whether the policeman should represent the exemplary normality of the older ideal, or a new social and representative ideal.

“In general, the policeman should primarily belong to the practical human type, which is active, strong, steady and conventional. In addition, he should have characteristics from the social type to add positivity towards humans, initiative, and criticalness. The most common positive expressions used of a policeman are calmness, balance, purposefulness, courage, objectivity, kindness and honesty. Clearly negative characteristics are showing off, pettiness, crookedness, impulsivity, passivity and tenderness, turmoil and bohemian traits. A policeman should be tolerant, democratic, law-abiding and athletic.”⁸²

⁷⁸ See e.g. the report of the Parliamentary Police Committee from 1986.

⁷⁹ See the Police Academy Archives, Material related to the Seminar of Police ethics, 1988.

⁸⁰ Translated by the author. A response to an inquiry on police ethics in education by the assistant manager of the Police Academy. Police Academy Archives, Material related to the Seminar of Police ethics, 1988.

⁸¹ Foucault, Michel (2007): *Security, territory, population. Lectures at the Collège de France, 1977–1978*. Basingstoke: Palgrave Macmillan, 62–63.

⁸² Translated by the author. Working group report on police selection, 1978.

In the 1980s, at the latest, a new normality emerged, when the Parliamentary Police Committee gave their report in 1986. This new ideal was normal as mediocre, ordinary. The police officer was no longer an example for the people, but one of the people. This meant a new recruitment strategy in order to assure that the whole population was to be represented.⁸³

Still, this did not mean that the ideal normality requirements would have vanished. Physical requirements still continued to exist, and the minimum height requirements now even followed the general height of the population. Intelligence tests were criticized for not measuring essential aspects of police work, but they still continued to be used in the entrance examination. Moreover, a police officer had to be free from social deviance as well.⁸⁴

How is this continuation to be explained? One possible explanation lies in the role of the police in the Finnish law. In 1996, the source of authority transformed from customary to law-based. That means that the older tradition of *politia* law ceased formally to exist and the regulation of the police belonged to the realm of administrative law. In the realm of police law, the rule of law in a constitutional continental sense only emerged in Finland after the enactment of the Police Code.⁸⁵

Due to the *politia* law tradition, the police still has strong powers and the right to interfere with the rights of citizens. This status is based on administrative law, not criminal law. Following this, it is not surprising, that the norm of the police has been, and still is, an order maintenance police, who works on the streets and who has to be stronger than “the ordinary citizen”.

Paradox 2: Old and new ideals colliding

Another paradox is that while the new independent police emerged in theory, in practice, the police recruits had to conform to a strict hierarchy well into the 1990s. Studying practices and rules in internal disciplinary regulations, one could say that the housing conditions of police education resembled those of the Foucauldian Panopticon. The recruits lived in a boarding school or a boarding house, had a tightly regulated schedule, in the 1980s they were not allowed to lock the doors of the rooms, and the staff could make inspections in the rooms. The possession and use of alcohol in the rooms were not allowed until 1992. The police recruits, like all police officers, were required to behave during their free time in ways that did not harm “the dignity of the police”.⁸⁶

Disciplinary practices existed also in class. The pupils were required to stand up when the teacher

⁸³ Report of the Parliamentary Police Committee, 1986, 16, 298–299.

⁸⁴ See e.g. Jalava, Sanna-Kaarina (1986): *Uusien poliisimiesten valintamenettelyn yhteys poliisin peruskoulutuksessa ja ammatissa menestymiseen: tutkimusraportti*. Tampere: Poliisikoulu. Report of the Parliamentary Police Committee, 1986, 16, 696–697. Laitinen, Marko (2005): *Poliisin valintaperusteet Suomessa 1918–2005*. Tampere: Tampereen yliopisto (Suomen historian aineopintojen tutkielma, julkaisematon), 13. Selection criteria and method of application to the basic police education, 1990, 7.

⁸⁵ On *politia* law see e.g. Sinisalo, Kari (1971): *Poliisin toimivallan määräytyminen. Tutkimus poliisin vallasta ylläpitää yleistä järjestystä ja turvallisuutta*. Helsinki: Suomalainen Lakimiesyhdistys; Pihlajamäki, Heikki (1999): 'Ius *politiae* - havaintoja *politia*oikeuden pirstaloitumisesta ja rikosoikeuden kehityksestä 1800-luvulla'. *Lakimies*, nro 4.

⁸⁶ See e.g. the internal disciplinary regulations of the Police School, 1986 and the Police Academy 1992.

came in the class, at least until 1985, possibly even later.⁸⁷ The use of uniform was obligatory, and the student could face sanctions due to e.g. careless buttoning of the shirt.⁸⁸ The students were referred to as “pupils” until 1992, and until 1982, the task of the student union was to promote discipline among peers.⁸⁹

The recruits were socialized into their profession by using them as work force. This was meant to teach them obedience and loyalty. The main form of this was the rotating duty system. The duty was organized hierarchically, where higher ranking duty officers were ordered from higher courses and lower from basic courses. The duty officers were surveilled by an inspector. The duty officers also formed the inner police of the police education.⁹⁰

The strict rules and disciplinary practices may be explained by Foucault’s concept of disciplinary power, which aims to make the subjects docile while at the same time utilizing their capabilities.⁹¹ In the previous years, the police officers had to be able to give orders while at the same time conforming to hierarchy. This created some tension between docility and utility. By the 1980s, this tension increased along with new ideals of “the social, intelligent and representative” police force. The new ideals emphasized independence, critical thinking, and personal ethics, while at the same time the police still had to provide the monopoly of force for the society’s needs.

Reiner’s understanding of the “diabolical” as a role of the police is useful in studying this paradox. According to Reiner, the police is at the same time a center, a user of power and a tool of power. Simultaneously, it promotes the common good by securing a peaceful society, while this order always favors some elites more than other people.⁹² I suggest that the diabolical role means that the tension between docility and utility, or the commander and the commanded, is essentially in the heart of the police. It influences and modifies how the changes in the society are reflected in the role of the police, police ideals and practices in police education.

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⁸⁷ The internal disciplinary regulations did not require the pupils to stand up after that, but e.g. according to the principal of the current Police Academy, this practice existed until the 2000s. See e.g. the internal disciplinary regulation of the Police School 1986.

⁸⁸ Orders of the day 1981–1985, Police Academy archives.

⁸⁹ See the regulations of the Police Academy & the Police Course Center, 1970 & 1982, Police School annual reports from 1992 & 1993.

⁹⁰ See the internal disciplinary regulations of the Police Academy, Police Course Center & the Police School from 1961–1962, 1975, 1986, 1996 and 2005, Police Academy archives.

⁹¹ Foucault, Michel (1977): *Discipline and Punish. The Birth of the Prison*. London: Penguin Books, 134–169; Hoffman, Marcelo (2011): ‘Disciplinary Power’. Teoksessa Taylor, Dianna (toim.): *Michel Foucault: Key Concepts*. Durham: Acumen, 28–30.

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The role in society and changing assignments of the Danish police in the three phases of Modernity

Lars Nørr Mikkelsen & Malte Conrad

What makes the history of the police interesting from a general sociological perspective? We believe that because of the key role the police force plays as the state institution with the widest monopoly on the use of force, to study the police is in many ways to study the state. More visible than most state institutions, the police force pushes through the ideas of the state and of society about right and wrong (Diderichsen, 2011, p. 9). As a consequence, major changes in the paradigms of state governance and social cohesion become very apparent in the organization, strategies and assignments adopted by the police.

The history of the police has been studied in several different ways, ranging from analyzing how specific major events, such as World War II, have affected policing (Stevnsborg, 2010), to analyzing power struggles between important actors (Christensen, 2013; Stevnsborg, 2016). The focus of these studies also varies between questions of *what*, *how*, or *why* changes occur (Ellefsen & Larsson, 2014, p. 35). In this paper we attempt to address the 'what', the 'how', and the 'why' of the changes in policing altogether, by analyzing how major changes in the political and economic paradigms have affected the functions and tasks of the police force in different ways. Thus, we attempt to analyze the relationship between macro level governance paradigms on the one hand and the concrete assignments of the police on the other.

The historical framework used to study changes in policing practice

It has been argued by several criminologists that criminal policy underwent a major paradigm shift somewhere between 1970 and 2000, depending on country and context (Balvig, 2003; Christensen, 2012; Garland, 2001; Johansen, 2015; Volquartzen, 2011; Wacquant, 2008). The authors vary in how they describe and characterize this paradigm shift, but overall they agree that the new paradigm is more punitive and repressive than the previous one. Our project leans on the insights of these authors, and not least on how they all emphasize major societal changes as a significant part of the explanation for policy changes in the field of crime and punishment.

Modernity itself is a multidimensional concept with cultural, political, technological and economic aspects (Carleheden, 2007). Theorists of political sociology and political economy often operate with a model of modern history in which Modernity is divided into different phases characterized by different paradigms of economic and political governance (Carleheden, 2007; Crouch, 2009; Stahl, 2017; Wagner, 1994, 2011). Such paradigms define the relationship between citizen, state and market in the upcoming capitalist democracies. Even if these paradigms vary greatly from one another, there are some common, fundamental themes regarding the relationship between citizen, state and market during the whole period of Modernity. The idea of individual liberty is one of these themes. Therefore, we find it meaningful to use the term *Liberalism* as a central concept in the

naming and description of all the major phases of Modernity we can identify, with a special emphasis on the economic and political aspects. The dominant version of Liberalism changes, but the idea of individual rights and liberties remains central in all the governance paradigms of Modernity. We identify three paradigms which we name *Utopian Liberalism*, *Social Liberalism*, and *Neoliberalism*. That a phase of Modernity is described as e.g. "Social Liberalism" does not mean that Utopian Liberalism has vanished. Both paradigms may exist at the same time, but when we describe a period as e.g. "Social Liberalism" or "Neoliberalism" it means that we see this paradigm as the dominant one shaping most the policies of the state, and thus also the workings of the police. As we shall see, the transition from one paradigm to another does not happen overnight, but over several decades. Nor does it happen peacefully. Indeed, the transition from one paradigm to another invariably happens as a consequence of severe global economic and political crises. In the following pages we will briefly describe the content, historical setting and police assignments of each of these paradigms.

Utopian Liberalism

The introduction of Utopian Liberalism was driven by major economic, technological and societal changes, and the ideological content was in many ways defined in opposition to Pre-Modernism. Before the first constitution in 1849, Denmark was an absolutist nation state with an autocratic monarch. From the actual foundations of the European nation states in 1648, state power had as its main purpose to centralize power and keep the conduct of the public in line with the interests of the monarchy. The Danish Police was mainly about securing the rules of minor trade, and the mode of enforcement was first and foremost fines and beatings (Stevnsborg, 2010, p. 17-18, 41). The police also played an important role in suppressing trade unions and other challengers of the royal hegemony (Christensen, 2011; Stevnsborg, 2010; Volquartz, 2009). The Premodern police force was thus mainly a disciplinary institution, using force to create docile subjects (Johnson, 2014, s. 9-12).

Utopian Liberalism evolves with the civic revolutions with which liberal democracy is introduced in western nation states during the 18th and 19th century. From this period the role of the state institutions changes from a primarily disciplinary function to having to serve the public. The state now needs to legitimize itself vis-à-vis the individual citizen. The main purpose of the state is increasingly defined as securing the safety of citizens, who are supposed to be able to live without unnecessary interference from the state, as long as they do not break the laws and, especially, infringe upon the property rights of other individuals. The criminal code of 1866 in many ways embodies the contemporary understanding of the nature of criminality as well as the understanding of the individual as such. The criminal code views criminals as deviant individuals, who are supposed to be deterred from criminal acts by the threat of proportional punishment (Borch, 2005, p. 29-30). The presumption of the individual as rational, the crime as interest-maximizing, and the fear of unpleasant punishment as a deterrent are central characteristics of criminal policies of the Utopian Liberal phase.

It goes without saying that this shift towards the Utopian Liberal paradigm did not happen overnight. It is also worth noticing the contradictions of the period, such as the state increasing individual liberties, but at the same time expanding and consolidating its own power (though now mainly referring to the public good). In general, it is problematic to pin down the exact time of the change from one historical period or governance paradigm to another. The political ideas of Utopian Liberalism began to be visible from the mid-18th century in other parts of Europe, while a primarily capitalist market economy emerged during the 18th and 19th centuries, a system which achieved dominance around the middle of the 19th century. We define the Utopian Liberal phase as lasting from 1830 to 1930, but whether this was in practice the dominant paradigm differed greatly from one country to another. With our focus on the police, the Danish constitution of 1849 was an important milestone, but it took several decades for several of the institutions of the state, and perhaps especially the police, to change their role in practice. A strong example of this was the occasion of the 'Battle of Fælled' in 1871, when the police met a gathering of social democrats with drawn swords, despite the right to assemble now being constitutionally guaranteed (Kold, 2017; Stevnsborg, 2010, p. 51f). The repressive methods of the police continued well into the 20th century (Stevnsborg, 2010, p. 41; Christensen, 2011, p. 50);

The first direct attempts to modernize the Danish police can be traced back to the police reforms of 1863 and 1871, which were inspired by the English Metropolitan Police, and especially by Robert Peel's principles of policing, in which the interests of the police and the public coincided, and the police for the first time became formally dependent on the acceptance of the public (Christensen, 2012, p. 52). A key aspect of the reforms was an emphasis on the sanctity of individual rights of legal security and private property. This was also the time when the idea of a dedicated investigative police was born. Again, the idea was that the public was not only to be controlled, but also to be served. In practice, the investigation of crime was still mainly carried out by private detectives, but this changed as the phase proceeded (Vendius, 2016, p. 24). The Danish state police was established in 1909 as an independent institution under the Ministry of Justice and gained extended powers such as the right to arrest (Christensen, 2012, p. 68). It started out as a tiny body consisting of only 36 officers, but already by the 1930s it employed around 700 men as the police gradually took over investigative assignments (Stevnsborg, 2010, p. 74; Vendius, 2016, p. 24ff).

If we turn towards the changes in policing roles and assignments in relation to the health and social authorities, we notice interesting differences from today. In this phase, drug enforcement was not mainly a job for the police, but for the health authorities, as drugs were not actually criminalized until the 1950s (Kragh, 2008). The control of prostitution was a job for the police even then, but in a fundamentally different way than today: it was mainly focused on limiting the spread of disease out of consideration for the functioning of the market (Stevnsborg, 2010, p. 37-38; Thomsen, 2009, p. 31). Handling mentally ill people could occur as a police duty, but unlike nowadays this was a relatively rare occasion, as it was mainly an area for hospitals and mental institutions, who had wide powers to carry out their work (Mortensen, 2016, p. 15f). Officially, this is also the case today, but as we shall see, in practice there have been some significant changes.

Social Liberalism

At the beginning of the 20th century, the paradigm of Utopian Liberalism was increasingly fighting for its survival, peaking with the economic crises of the 1920s in both Europe and the USA (Poulsen, 2017). The critique was partly about the laissez-faire economy and the 'invisible hand' as a leading principle for the economic policies of the state (Wells, 1990), and partly about the deficient ability of the political sphere to meet the needs and interests of different social groups, which became apparent in the rise of labour unions as well as different totalitarian movements (Schmitt, 2016; Stevnsborg, 2010, p. 81). A major role of the police in this transition period consisted in fighting communists, Nazis and other radical groups who were gaining momentum as a result of the worsening economic situation.

With wide-reaching political programmes such as the New Deal of 1932 in USA and the Kanslergade Agreement of 1933 in Denmark, a movement towards more centralized state control gained traction (Balvig, 2003, p. 52). The new economic paradigm, in contrast to the ideal of laissez-faire economics, was highly influenced by Keynesianism, in which the state plays a major role in balancing the economy, in order to avoid growth bubbles and unemployment (Kaplan-Lyman, 2012, p. 186; Wacquant, 2014). The state also gained a much more active role in improving the general health and living standards of the public (Ploug et al, 2004). Rather than earning its legitimacy strictly from maintaining the safety of citizens and their property, the state was now also occupied with enhancing citizens' living standards. In this more "tamed" version of Liberalism, the state interferes more in everything from economics to health and childcare.

The view of crime in this phase was characterized by collectivist ideas, such as the idea that the misfortunes and crimes of individuals were to some extent a collective responsibility, since society apparently has not been able to give its citizens a worthy life without the propensity or need to commit crime (Balvig, 2003, p. 46). Illness and poverty are thus increasingly used as explanations for crime, which is especially apparent in the criminal code of 1930, in which circumstances such as youth, alcoholism, or insanity made a person less culpable. Criminal policy was not a big public topic in this period, which made it relatively easy for the social liberalist ideology to have an influence, particularly through the behavioural and social sciences.

Like several other public institutions, the police force increasingly became centralized and professionalized (Christensen, 2011, p. 151-152). A large amount of new policing duties were invented or added to the police's list of assignments, many of them administrative. A lot of police time was spent on tax collection, writing out hunting permits, collecting fees for various public licences, handling stray dogs etc. In a 1949 publicity campaign, the police described themselves as "taking care of anything"⁹³ (Stevnsborg, 2010, p. 137).

In the Social Liberalism phase, drug use, previously seen as a private matter, began to be regulated much more in view of the harmful effects on health as well as the increasing development of a black market. In 1955 Denmark's first drugs legislation came into force, making the possession of

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The authors' own translation. The original Danish text is: "Politiet ta'r sig af alt".

narcotics illegal (Kragh, 2008, p. 7). Thus, the police gained a new task registering drug abusers, who in many cases were then passed on to mental institutions for treatment. Under Utopian Liberalism, prostitution was already subject to quite intrusive measures by the police in the form of compulsory health treatment, and now it is increasingly criminalized. But the important difference here is that now the force used by the police is justified to a large degree by reference to the good of the people being policed. The quality of life of the citizenship, both as a whole and as individuals, becomes to a significant degree the responsibility of the state. This is a central characteristic of the socialist state, and the police service as the ultimate enforcer plays a key role.

The area of crime prevention grows strongly in the post-war period and measures change from deterrence to increasingly thinking in terms of a wider array of social initiatives. Again, the police force is a major actor. No longer is preventative policing restricted to compulsory health checks on prostitutes and keeping potentially subversive groups in check, now policing strategies are increasingly aligned with the new general criminal policy regime, in which people have the possibility to change, given the right opportunities. Initiatives that still exist today were launched in this period. Among these were The Police Youth Club (Politiets Ungdoms Klub) in 1952, where sport and socializing were and are used as tools to keep vulnerable young people away from crime and other trouble; the Danish Crime Prevention Council in 1971, making public information campaigns and cooperative initiatives between government actors as preventive measures, and the School–Social Agencies–Police units (SSP), in which the police worked with both schools and social authorities to develop support programmes for vulnerable young individuals.

In the 1960s crime started to increase considerably, until it had quadrupled by the 1980s. It is remarkable how all through this period, rising crime rates were never really met with a moral panic or a “tough on crime” policy as in the US as well as a number of other European countries, but on the contrary with an increasingly “soft” approach. Thus, criminal policy is full of new initiatives such as shorter punishments, community service etc. (Balvig, 2003, s. 43; Borch, 2005). In a parallel development, it is in the arena of police work that preventative rather than deterrent measures against crime are mainly carried out.

Neoliberalism

The neoliberal ideology was first formulated in 1938 but became predominant in the 1970s in relation to the impact of the 1973 oil crisis on the economies of the USA and western Europe (Wacquant, 2014; Monbiot, 2016). State control of the economy had not averted the crisis and judicial policies formulated by 'experts' had not reversed the increase in crime statistics. The neoliberal paradigm called for and led to tax reductions, privatization, and a fight against trade unions for control of working practices and conditions in the USA and Britain under Ronald Reagan and Margaret Thatcher (Monbiot, 2016). In Denmark a new centre-right coalition took power in 1982 and their introduction of the first easily identifiable neoliberal policies marked the rise of Neoliberalism in Denmark (Fink, 2017).

Contrary to the USA, Great Britain and other countries in which the neoliberal paradigm became dominant in criminal and judicial matters at the same time as in the economic arena, in Denmark the response to crime remained very depoliticized right up to the 1990s. Thus, while USA started to reorganize their prison system from the latter half of the 1970s, eliminating resocialization programs, giving higher prison sentences and privatizing prisons, the Danish Ministry of Justice published a report in 1977 arguing that prison punishment counteracted resocialization and that early parole and community service should be used much more extensively. Nevertheless, by the end of the 90s the shift towards a more neoliberal approach to punishment and crime begins here too and the social democratic government introduces longer sentences (Lehmann, 2008; Volquartz, 2009, p. 45f). A few years later, when the centre-right government takes power in 2001, increased sentencing is introduced in the areas of violent crime and sex crime as well as for drug- and gang-related crimes (Clausen 2013, p. 249). It is important to stress that although Neoliberalism had become the dominant paradigm even in Nordic countries such as Denmark, Social Liberalism was still an important influence in most areas of the public sector, even on criminal justice policy. However, as we shall see, many developments from the 1990s onwards indicate that the neoliberal paradigm had become the dominant way of governing state institutions such as the police.

With the police reform of 2007 it became clear that the new paradigm had taken over. The reform has had a direct influence on how the police work and what they spend their time doing up to and including the present day. It made New Public Management (NPM) the central management tool of the police just as had already happened in other public institutions during the preceding decades (Stevnsborg, 2010, p. 205-206; 2016, p. 401-402). One of the goals of NPM was to create a transparent and effective public sector. This does not reduce government control, rather it changes how that control is exercised, and focuses on more quantitative parameters, e.g. how many traffic-related fines each officer should hand out or how many gang members should be in prison.

From this time onwards, the Danish national police have promoted 'co-creation' with private stakeholders, and public-private partnerships between police and private security firms were first piloted in a police district west of Copenhagen (Dansk Politi 2016; Stevnsborg, 2016, p. 501). The private security industry has itself boomed and by 2016 there were twice as many security firms operating as in the year 2000. Not only has the number of companies employing security guards and bouncers increased, but new technology-based security businesses have sprung up and engaged in widespread surveillance activities. Also, insurance companies have taken over some of the functions which previously were the monopoly of the police force, such as crime investigation and gathering criminal intelligence. Thus, the neoliberal goodwill towards the private market shines through, both when it comes to how the public sector should be run, and also in offering attractive business partners in the exercise of the primary functions of the police.

The collective responsibility of the social liberal paradigm is erased under Neoliberalism and the individual is increasingly seen as the only person responsible for his or her actions or destiny. The acts of criminals are no longer to be explained in relation to their social backgrounds and life

experiences (Balvig, 2003, p. 47). As in most versions of Utopian Liberalism, the human being is understood to be self-centered, and therefore a system of rewards and penalty will govern and control his individual choices, but in Neoliberalism the state plays a much larger role in most areas of society and in the lives of the governed. The political climate from the year 2000 onwards has demanded that the police should focus on violent crime, burglary, organized crime and terrorism, and on increasing the public's sense of safety (Volquartz, 2009, p. 35-36). Thus, the police have come to focus more on combatting drug dealing and organized crime, and less on more general preventive work. The police intelligence agency (PET) has grown many times in size and budget, while financial crime and tax fraud in this period has not been prioritized to the same degree as drugs, terrorism and violent crime. This seems to be a clear prioritization of who is to be policed, as the downgrading of financial crimes has taken place at the same time as globalization, technological developments and the deregulation of the financial sector have made this kind of crime the obvious choice for those with the competence and resources to carry it out (Heltoft & Olsen, 2014; Sommer & Christiani, 2016).

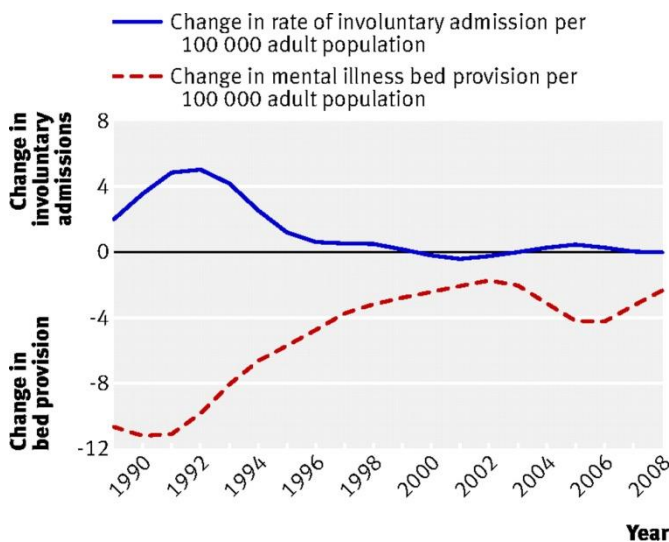
In relation to prostitution, the police have been assigned a role that primarily seems to be driven by business needs, as in the first phase of Modernity. Thus, as part of the gentrification of Vesterbro in Copenhagen, they have simply moved a part of the prostitution and drug scene away from the most central and visible areas. As a result, prostitutes and drug dealers reappear half a mile away, where they are less visible to tourists and the commercial areas.

The developments described show mainly the direct qualitative and quantitative changes in how the police respond to both new and old policing challenges. However, the extent of certain traditional police tasks is also *indirectly* affected by the effects of the neoliberal paradigm. Contrary to what might be expected from the social liberalist worldview, the downgrading of various welfare services has apparently not produced more crime. Still, this does not mean that more police work is not being created. The relationship between the mental healthcare system and the police is a strong example of how cuts in welfare services can help to create more police work. For decades, psychiatric hospitals have struggled with diminishing resources per patient and fewer beds for in-patients. Under the neoliberal paradigm, health authorities have justified 'care in the community' programmes as a way of including mental health patients in society and encouraging them to 'stand on their own feet' instead of isolating them in institutions. However, the resources have not been made available to adequately take care of the needs of the rising number of such patients left to sink or swim amongst the general population. When mental health patients are moved out of the hospitals and onto the streets, it becomes another police job to handle the consequences. Frequently that means taking mentally ill people in charge and bringing them to hospital. When they are admitted, the doctors then have to decide who to push back out onto the streets in their place. Looking at the number of beds in psychiatry in comparison to the number of involuntary admissions with police assistance, this tendency seems clear. In 1976, when local authorities took over the state hospitals, there were about 11,000 beds, but this has gradually decreased and by 2016 it was down to 2,600 beds, a reduction of 40%. During the same period the

number of involuntary admissions with police assistance increased from about 600 in 1976 to over 4000 a year in 2017 (Nigaard, 2008, s. 187; Scharling, 2017).

Many other western countries are experiencing the same problem; British researchers have correlated involuntary admissions to psychiatric units in England with lack of provision of permanent in-patient care (Figure 1).

Figure 1. Change in the rate of mental illness beds and involuntary admissions (Keown et al. 2011).



Our own research indicates that the forced hospitalization of mentally ill people is only the tip of the iceberg. We conducted a survey of police patrol officers in Denmark which showed that 41% of the 360 respondents had dealt with at least one mentally ill person during their most recent shift. Furthermore, they spent 11% percent of their whole work time on such assignments. Most of these assignments were about involuntary admissions, transportation, suicide attempts, breach of the peace, noise complaints etc. The respondents reported having to use force in 36% of the assignments.

This development is an example of how police officers under the neoliberal paradigm have gained a new role as the garbage collectors of society, handling any incidents that the health and social services are no longer able to manage (Sørensen & Walther, 2013, p. 317). What was a question of social disadvantage in the former paradigm becomes a question of law and order in the new paradigm.

The future of policing?

We suggest that even if the development of policing practice can meaningfully be understood through several different lenses, it has first and foremost been driven by large-scale societal trends far removed from the actual core area of traditional police work. As we have seen, the dominant political and economic paradigms have both a *direct* effect on the focus and strategies adopted by the police force and an *indirect* effect by creating more work for the police as a consequence of how

the paradigm affects the funding and governance of other sectors. We are still in the third phase of Modernity, defined by the dominance of neoliberal ideology. But just as the two previous phases were challenged and subverted by severe global economic and political crises, we are now witness to several signs indicating that the neoliberal paradigm is already facing a serious crisis of legitimacy. Since 2008, economic discourse has gradually changed to a degree in which even the key global institutions hitherto aligned with the neoliberal paradigm, such as the OECD and the IMF, have started criticizing neoliberal policies and the severe inequalities in society which these have given rise to. The global legitimacy crisis indicated by Brexit, the election of Donald Trump, and the general rise of populist movements from both sides of the political spectrum all point towards a governing paradigm in crisis. What the governing economic and political paradigm of the next phase will look like is difficult to predict. But we believe that it will inevitably lead to fundamental changes in the organization, strategies and assignments of the police force.

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Power, Politics and Control on the Streets

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The Nordic Exceptionalism in criminal policy is very well known in criminology. It means rational, lenient and human penal policy.⁹⁴ Same time there exist opposite politics, very low level tolerance on the streets, the public spaces and "half-public" spaces by law enforcement and public order activities made by the public police and private police. In penal and criminal justice policy there is the principle of the last measure, *Ultima Ratio*. But the principle in public order policing policy is opposite. Measures, the intervention is fast, not last, it is performed even before the problem, as preventive measure, as preventive crime and disorder control. This paper analyzes how power is applied by this politics on the streets and what kind of problems there exist. On the empirical level, how different control targets meet tough public order politics on the streets and half-public spaces in Finland?

Introduction to "non-intervention risk"

Order Maintenance Policing (OMP) is based on the Police Act in Finland (an administrative law). It orders that police should make preventive intervention, when there is possibility, that problems could escalate. A Neo-Conservative think tank (Manhattan Institute) published the article of the Broken Windows (B.W.) theory – icon of conservative public order policing policy (Wilson & Kelling 1982). One broken window must be fixed as soon as possible, so it saves other windows. Effective police action against small crimes, misdemeanors, can stop large-scale crime developing. I show in my study, that the ideology of the Broken Windows hypothesis has been built in Finnish police act and actions on the streets. It is seen in police act.

Police Act; Chapter 2 (General powers), Section 10 is: *"Preventing an offence or disturbance: Police officers have the right to remove a person from a place if there are reasonable grounds to believe on the basis of the person's threats or other behavior, or it is likely on the basis of the person's previous behavior, that he or she would commit an offence against life, health, liberty, domestic premises or property, or would cause a considerable disturbance or pose an immediate danger to public order or security. A person may be apprehended if his or her removal is likely to be an inadequate measure and the offence cannot otherwise be prevented or the disturbance or danger otherwise removed. The apprehended person may be kept in custody ... period may not exceed 24 hours from the time of apprehension."*

Broken Windows (B.W.) ideology – I have named it as "non-intervention risk"-ideology. It is risk not to make intervention. It has been written into Police Act (above). Opposite is "intervention risk": It is risk to make intervention, because, for example civil or human rights. My assertion is: In Finland we have long time had "non-intervention risk", alias B.W. & Zero Tolerance (ZTP) Order Maintenance Policing (OMP) as ethos of policing on the streets. Police in Finland can have, when

⁹⁴ This paper is mostly based on doctoral thesis: Korander 2014.

they want to have ZTP attitude. This means, that B.W. attitude is built in police occupational culture.

Amounts of "Taken into custody" is the first indicator of public order toughness (1980's 1990's). There are arguments, that the police would have been much lenient in order maintenance policing OMP compared to the 70's and 80's, because from 1987 custody figure was 200 000 and in 1994 it was 100 000 (Figure 1.). But there are three things, which might have also caused the drop. At first, same time homelessness reduced almost to half – from 18 500/1987 to 10 000/1996 (Figure 2.). Many homeless alcoholics have been regular visitors in jail. Secondly same time organized care and treatment for alcoholics improved in many ways (Obstbaum et al. 2011, 35). Furthermore researchers (Rahkonen ja Sulkunen 1987) suggested in 80's, that Finland should have "lower standard" beer bars for marginalized, where they could spend their time, not on the streets. And exactly that happened during 1985–1999: Amount of restaurants and bars increased from 250 to 750 (Ruoppila & Cantell 2000, 37) in Helsinki, most of them small "lower standard" pubs, i.e. places for those otherwise drinking outside.

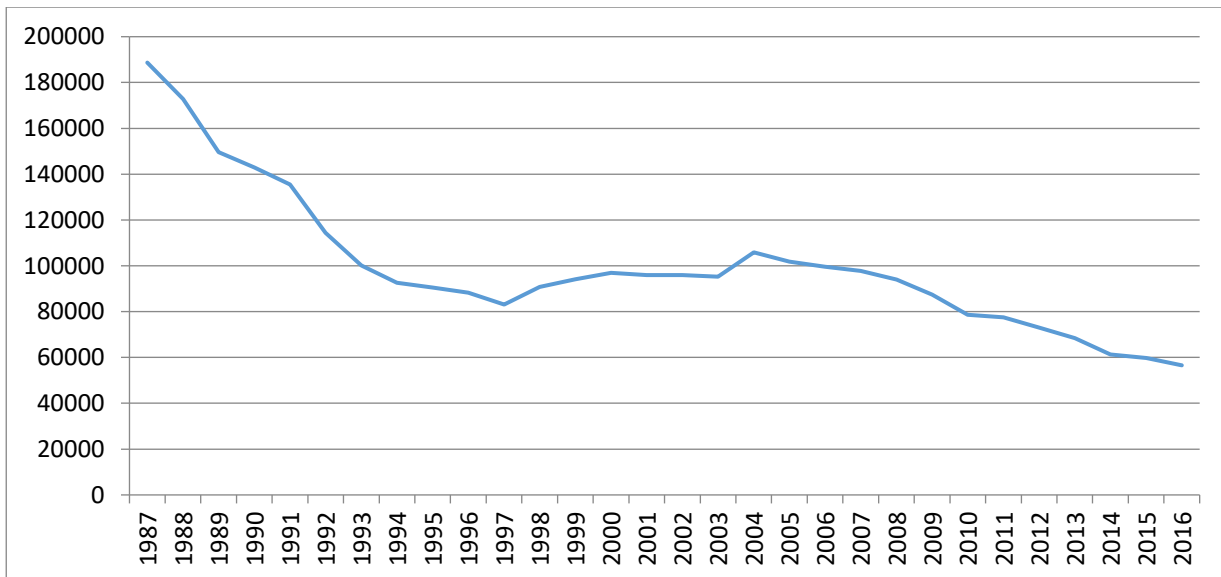
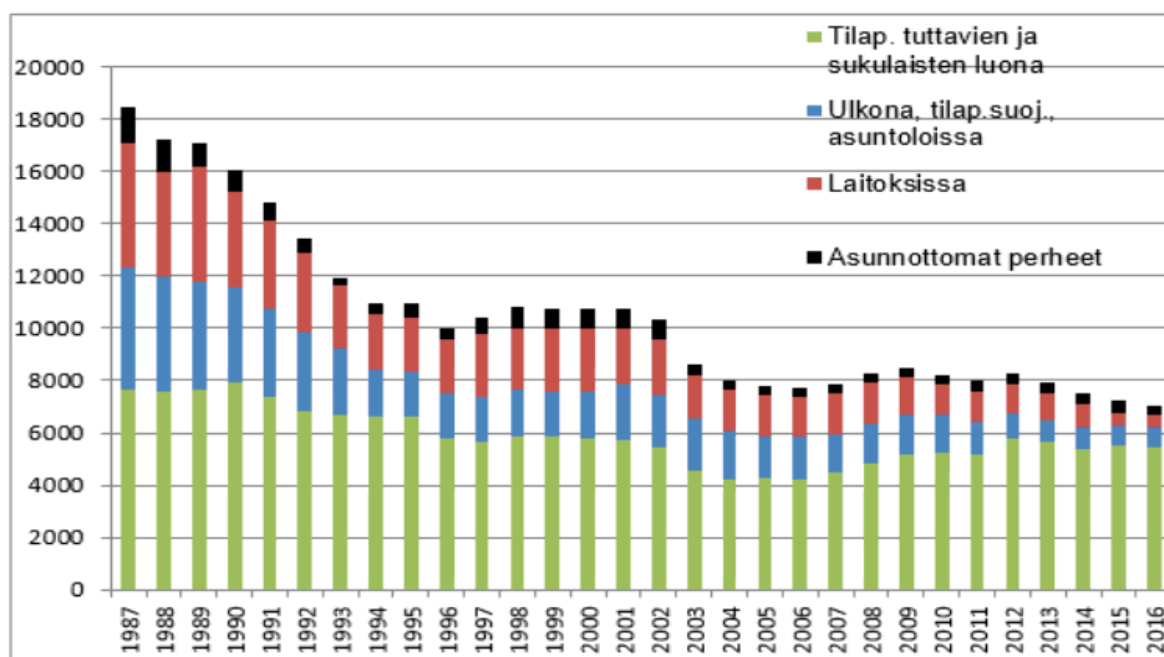


Figure 1. Taken into custody because of public order in Finland 1987-2016 (Source: Statistics Finland, www.stat.fi).



Asunnottomuus 1987-2016

Figure 2. Homelessness in Finland 1987-2016 (Ara.fi)

Taken into custody numbers are still moderately decreasing, but still about 55 000 are taken in custody every year. Custody and homelessness figures both decrease moderately. Still 151 persons per every night is in jail (on average). Much of traditional older "drunkards", (homeless) alcoholics are dead, (and pyramid of age is upside down, age groups are decreasing also). Numbers of mixed users have grown. There is few new detoxification centers and shelters for people in need in bigger towns and cities, service of social and health care. Police patrols also have taken home customers annually from 1998 to 2015 about 23 000-29 000 times (for different reasons). Police patrols anyway do not want to be "taxis" for intoxicated.

Taken in to custody figure is the main evidence of the culture of control ethos in Finland – evidence of "non-intervention risk"-ideology, B.W. & ZTP & Tough OMP -ideologies. But there are more empirical evidence of tough public order politics from streets. We have many other problems, where the non-intervention risk ideology is used as a solution. The ethos of tough OMP -ideology is found in several cases. There are different kind of targets of Zero Tolerance Policing:

- Youngsters getting together and possessing alcohol,
- young tag- and graffiti-painters, young shoplifters
- heavy drinkers, homeless alcoholics
- marginalized mixed users,
- hand-rolled drug smokers, drug users and pushers,
- those whose are supposed to start a riot
- street prostitutes,
- and some ethnic minorities.

In New York, there was famous NYPD Zero Tolerance policy in 1990's. It was listed (Bratton 1997), that the atmosphere of disorder, discomfort and the fear of crime is created by illegally travelling passengers, beggars and bums, homeless alcoholics, illegal peddlers, tags and graffiti drawers, beer drinkers, hand-rolled drug cigarette smokers, young time killers and by other rule breakers, street prostitutes, "squeegee men" etc. I will analyze these next.

Control of children and youth by different Early Intervention Zero Tolerance –projects is an evidence of tough preventive policy. In Finland there is many Early Intervention –projects and programs and policies. One example was zero tolerance project I evaluated in Tampere (Korander 2014). In many cases police and social work and child welfare are involved in intensive co-operation. In these cases, police informs social work and child welfare when children or youngsters had been drinking or have been guilty of illegal possession of alcohol or were caught for shoplifting or vandalism (e.g. graffiti). Negative effects of early interventions are seldom analyzed. There are exceptions – e.g. "The Stairway of Fear" (Satka et al. 2011, 75–79) – we will come back with these later.

One example of tough public order policy is ten years (1998-2008) "Stop to Smudges"-criminalization of all graffiti art ("Stop Töhryille"-project) in Helsinki. It was tens of millions of Euros project: Zero Tolerance against all kinds of graffiti. Private security guards (e.g. VR, State Railway company) had special forces who hunted painters. Police had special investigator unit. There were many cases where guards were accused they had used too much force, even violence, when catching painters. It seemed that guards had B.W. logic, but no police ethics. As many paintings and tags as possible were cleaned with millions of Euros. There were no evaluation of the project – did the project work at all. It was confessed that the project was a mistake (in newspaper Helsingin Sanomat 26.10.2011).

"Smash Asem" -case was an prevention of demonstration and riot. ASEM is The Asia–Europe Meeting, which is an Asian–European high level political dialogue summit (in Helsinki 9.9.2006). Anarchist had informed that they will have demonstration against the ASEM meeting. Potential demonstrators and rioters were surrounded by the riot police (about 300 officers) when they were starting the protest. Many were apprehended and taken into custody. Also the legal demonstration was prevented same time. So demonstrators faced the "non-intervention risk". Ombudsman criticized police, e.g. apprehension of innocent bystanders, for example journalists who were taken into a apprehension bus (Eoak 1836/2007).

The displacement of the street-prostitution is one evidence of tough public order policy and hard control culture. Prostitution was constantly in the headlines decade 2010 – see headlines beneath. It "popped-up" in different places in Helsinki, and always police chased prostitutes away. Afterwards trade has moved into Internet. Prostitution is legal, but in Public Order Act selling sex is a disturbance, misdemeanor. "Pop-up"- street prostitution in news headlines 2010-2012 (translated):

- YLE: *Street-prostitution is increasing in Helsinki (Helsingin Sanomat, HS 22.7.2010);*

- Sex business disturbs entrepreneurs on Eriks street (HS 4.8.2010);
- Prostitution came back to the streets. Sex commerce is again open in Helsinki at nights (HS 8.8.2010);
- Police made intervention on street prostitution (HS 21.3.2011);
- Police of Helsinki is getting rid of street prostitution (HS 26.4.2011);
- There is so many prostitutes that some of them sell sex on the streets (HS 28.8.2011);
- Sex business happens in night clubs (HS 28.8.2011);
- Prostitution is back to the streets (Ilta-Sanomat 26.9.2011);
- Six had fines of sex marketing (HS 26.9.2011);
- MTV3: Secret "sex gave" was found in Helsinki (HS 5.10.2011);
- Police started to control prostitution (HS 2.12.2012);
- Street prostitution is decreased (HS 2.12.2012).

In semi-public-spaces private guards have more strength, crew, more video surveillance, more intensive control compared to the police in public places. Studies of private order maintenance and guards shows, that in "Semi-public-spaces" control is more intensive than in real public places, where only police is allowed to patrol. Private guards have more crew, more video surveillance and more intensive control in traffic-centers, shops and shopping centers. Because the areas are much more smaller, the zero tolerance is much more possible.

In semi-public spaces it is easier to throw away bums, noisy youngsters or smelling alcoholics and street musicians who disturbs paying customers. In studies ethnic minorities, young people and homeless alcoholics tell much more negative encounters and experience in the hands of the private guards compared to the police (Korander 2014). The professionalism and ethics of the police seems to be partly missing from the private sector. There is about 16 000 private guards in Finland, and about 7000 police officers. The budget of private security exceeded police year 2000 and has grown yearly about 5-10%.

Studies of drug policy in Finland show, that Finland has two ways to deal with drug problem: 1. Criminal Justice Systems penal policy and police control; 2. Harm reduction by social and health care. The first one is overriding and has hard zero tolerance especially against drug users (See Figure 3.). There are several kinds of general and special police control against drug users. Small amounts of drug use or possessions are detected and punished. Police control mainly keeps drug using and market away from the streets – it happens inside ("drug caves").

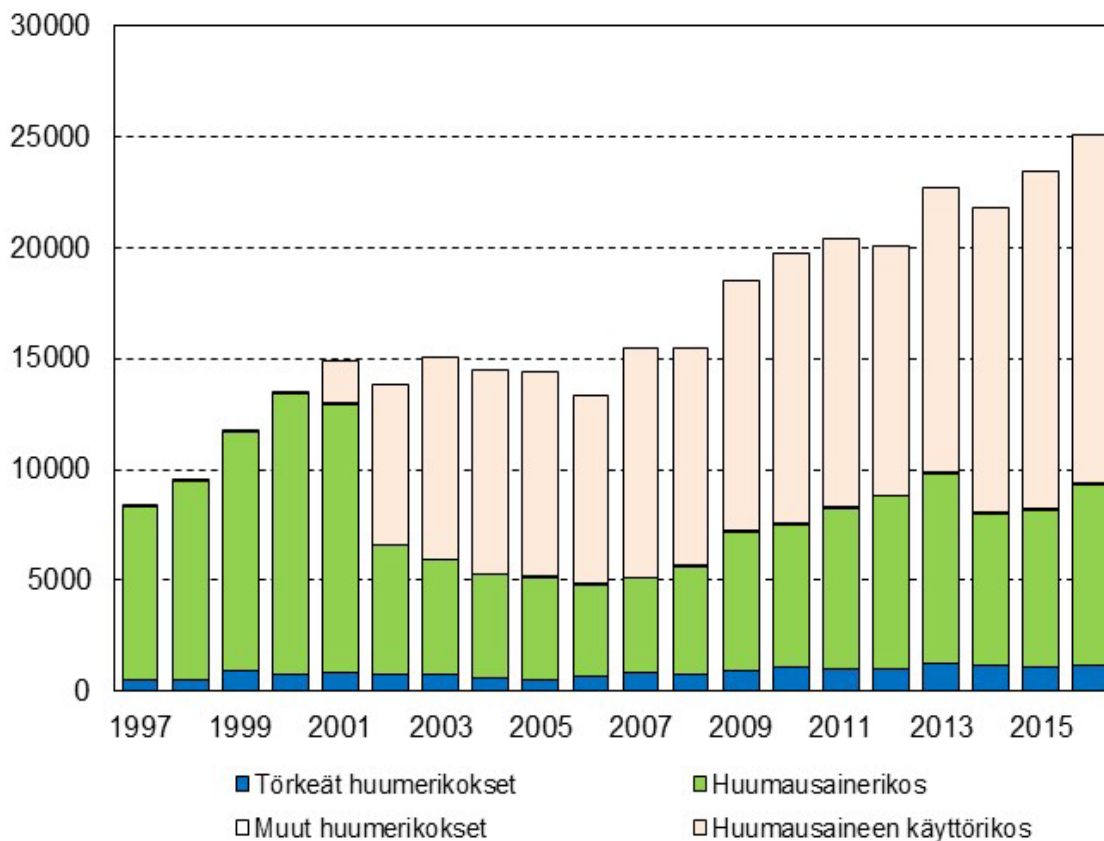


Figure 3. Drug crimes in Finland 1997–2016: Drug use (pink), Other drug offence (black), Drug offence (green), Aggravated drug offence (blue). Source: Niemi & Virtanen 2017, 193.

Zero Tolerance drug policy means punishments to users, because it is controlled by criminal law (vs. taken into custody because of alcohol use it is not an offence). It has been said that control is very tight. Perälä (2011, 221) made participant observation among drug users. He says: "Police control seems to be very tight ... many has get caught ... and have had prison sentence." There are several negative consequences, we will come back.

Ethnic profiling is illegal. Still it is in use in police control. It shows that "intervention risk", risk to violate human rights is not so important compared to "non-intervention risk" in police culture, culture of control ethos on the streets. Thought pattern goes like this: "They might be illegal immigrants or criminals, because of their ethnic appearance, we must check them, even though it is forbidden reason to stop and search." In new study "The Stopped" there were 145 interviewed and most of them told experiences of ethnic profiling. (See: "The Stopped - Ethnic profiling in Finland" research report <http://www.profiling.fi> Keskinen et al. 2018).

To sum up, conclusion of empirical evidence of B.W. & ZTP & "Non-Intervention risk" is built in Finnish police culture ethos and politics of control. To conclude so far:

- Homeless alcoholic and drunken louts – still 55 000 jailed for a night per year (based on Police Act, not on criminal process),

- "Smash Asem" - "Potential Rioters" were taken in custody before riot about 100 persons as "collateral damage",
- "Stop to smudges" - "Stop Töhryille" criminalization of all graffiti art,
- Tightening Youth control – countless early intervention projects,
- Prostitution when appeared on the streets or restaurants – police will roll up immediately,
- "Semi-public-spaces" – private guards, police – more strength, crew, more video surveillance, more intensive control,
- No street dealing of drugs in Finland, traffic indoors.

Furthermore there are also discussions, that begging should be criminalized. Romanian Romas – begging grandmothers - are demonized as henchmen of organized crime in this discourse. Furthermore "Spontaneous Urban Happenings" are trapped in bureaucratic license applications process in cities and towns. These both goes in conjunction with tough public order policy.

Why Non-Intervention Risk (B.W. & ZTP) –ideologies are a problem? Police is effective. It works! Look: There is no drug use, drug selling, prostitutes, tags and graffiti, young drinkers and shoplifters, older alcoholics, homeless people, bums and potential rioters and even some suspicious ethnic persons on the streets. Those make people feel unsafe. Many of those are dirty, noisy and ugly. Why criticize? Because all those still exists somewhere. What has happened is the Displacement of people: "Out of sight, out of mind!" The Problem is: Negative counter- and side-effects of tough control i.e. counter- and side-effects of "Non-intervention risk" ideology:

1. Displacement of people: "Out of sight, out of mind!":
 - Homeless are not seen, but it is still problem: 7000! Need for social supported housing.
 - Towns should take care by social- and health care of alcoholics, who end up now onto cold concrete/cement floor of police custody, jail. Need for humane treatment, rehab!
 - Youngsters displaced from the city center and drank –not less – in suburbia's (Tampere evaluation)
 - Youngsters felt they do not belong to the city.
2. Targeted control means hard life in many ways to homeless, marginalized and all other groups mentioned.
3. Stigmatization and demonization of these groups – labelling theory in work.
4. Collateral damages e.g. riot control, "innocent" also controlled, even apprehended.
5. Targets of police and security guards control feel: shame, embarrassment, experiences of injustice, even fear: children, young, marginalized, ethnic minorities. Some have met harassment, even guard violence: graffiti painters and alcoholics.

6. Ethnic profiling of order maintenance policing is specially against young blacks – focused stop, question and frisk (SQF) generate feeling of unjust treatment:
 - Less trust in police, official state and whole society
 - No or less information flow to the police
 - Grows defiance and rebellious attitudes
 - Even stories of negative experiences have bad influence

7. Zero Tolerance in drug control : Criminal law control have many problematic consequences to users – employment problems, labelling, marginalization, "prisonation". Social and health care, treatment, rehab would be better way to deal with drug problems.

8. Early intervention programs can be very negative to children and their parents: "The Stairway of Fear" (See below).

Early Intervention programs might have also negative effects as "Stairway of fear" here shows. Negative effects of early interventions are seldom analyzed critically. There are exceptions (see Satka et al. 2011, 75–79): "Stairway of Fear" goes like this: At first security guard catch a child of shoplifting or alcohol possession, takes him/her to guards room and calls the police. "It's a panic!" from the view point of children. Secondly police comes, calls parents and contact child welfare officers. Official arsenal feels huge both from a view point of parents and children. Third step is invitation to the formal discussion of the case, the reprimand. Which gives feelings of humiliation and shame to parents and children. Some children have been scared for beating by parents. (Satka et al. 2011, 75–79)

Fourth stage is the formal discussion – the reprimand – with child welfare officers or project worker, where all can see a possible future for child as a career criminal. Fifth step is markings into the data systems of the child/social care and the police. The police data is not everlasting, but social workers data might be. Negative effects to: trust between child and parents, to self-esteem of children – also potential labelling theory effects. (Satka et al. 2011, 75–79) In Tampere case, in a research project 90% of young people who were targets of early intervention process – targets of "Stairway of Fear" – did not want to give interview to researchers of the project. (Korander 2014, 106-107). It should be studied: What kind of influence there is in early intervention projects to self-esteem or self-respect and dignity of children and trust between adults, parents and children and youngsters?

Conclusion: Lenient criminal and penal policy benefits from tough public order politics – Non-Intervention risk-ideology. There is less nuisances, less problems seen on the streets means less discomfort, less feelings of unsafety and insecurity, less fear, less worries specially to the white mid-class, mid-age majority. Less guilty feelings as "We and our welfare state take care marginal and people with problems, because we do not see them." It means more trust to the state, criminal justice system and the police and guards. There is less moral panics, because preventive control of

"signaling" crimes and order problems. "Signaling" crimes and misdemeanors were important in the change of *Culture of Control* (Garland 2001), where there was the move from welfare state to (new-liberal & new-conservative) high-crime states. But tough public order politics have several counter- and side-effects, which should be taken into consideration, while planning policies of streets, analyzing and planning of Power, Politics and Control on the Streets.

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PARALLEL SESSION 4B: Prison studies

Vold og trusler mod ansatte i Kriminalforsorgen

Natalia Bien & Anita Rönneling

Indledning

Vold og trusler mod kriminalforsorgens ansatte har stor bevågenhed i Danmark såvel politisk, som i medier og i kriminalforsorgen internt. Et par spektakulære hændelser i 2016, herunder bl.a. en skudepisode mod en fængselsbetjent, satte ekstra blus under bevågenheden, og det er i denne kontekst, at ønsket om en undersøgelse af problemstillingen blev født.

Kriminalforsorgen har forskellige datakilder, der stiller oplysninger om vold og trusler mod personalet til rådighed, og med afsæt i disse oplysninger bliver problemstillingen også fulgt tæt i forskellige interne fora. Kriminalforsorgens analyse- og evalueringsenhed har imidlertid vurderet, at der er brug for en mere tilbundsående analyse af problemstillingen, end hvad de tilgængelige datakilder har dannet baggrund for. I slutningen af 2017 blev der derfor igangsat en omfattende undersøgelse af vold og trusler mod kriminalforsorgens personale med det formål at give et grundigt indblik i karakteren af de hændelser, der finder sted på kriminalforsorgens tjenestesteder.

Konkret består undersøgelsen af **tre dele**:

Delundersøgelse 1 analyserer udviklingen – og i særdeleshed den stigning – der kan observeres i antallet af registrerede sager om vold og trusler mod personalet i perioden 2007 – 2017. Analyserne fokuserer blandt andet på udviklingen for forskellige typer overgreb, omfanget af ofre og gerningspersoner gennem tiden, og hvilke karakteristika der gør sig gældende for hhv. de ansatte, der udsættes for vold og trusler og de indsatte, der begår et overgreb.

Delundersøgelse 2 fokuserer på den aktuelle situation vedr. vold og trusler mod kriminalforsorgens personale. Undersøgelsen vil bibringe viden om hvor, hvordan og hvorfor volds- og trusselsepisoder opstår, hvilke situationer der udgør en særlig risiko for personalet, og hvordan episoderne udvikler sig. Endvidere har undersøgelsen til formål at afdække, hvordan fængselsbetjentene forholder sig til det at blive udsat for vold og trusler, herunder hvad de oplever kan bidrage til forebyggelsen.

Delundersøgelse 3 vil præsentere risikoprofiler for både ansatte og indsatte. Hvor delundersøgelse 1 præsenterer de umiddelbare karakteristika, der kan identificeres ved ofre og gerningspersoner gennem tiden, leverer delundersøgelse 3 en dyberegående analyse af de aktuelle risikoprofiler ved at sammenligne oplysninger om den gruppe, der er registreret som hhv. gerningspersoner og ofre for vold eller trusler og den gruppe, der ikke har været involveret i volds- eller trusselsepisoder.

Delundersøgelse 1 er netop afsluttet, og delundersøgelse 2 er aktuelt under udarbejdelse. Oplægget på NSfK's forskerseminar 2018 i Helsinki såvel som dette paper tager udgangspunkt i den

igangværende delundersøgelse 2. Undersøgelsen er meget omfattende, og det betyder, at denne korte redegørelse kun kan give et begrænset indblik i de forskellige perspektiver, der bliver undersøgt. Det skal endvidere bemærkes, at redegørelsen ikke indeholder egentlige resultater. Eftersom undersøgelsen er igangværende, og de analyser, som blev præsenteret i forbindelse med NSfK's forskerseminar, løbende justeres og forfines, er det endnu for tidligt at redegøre for konkrete analyseresultater.

Delundersøgelse 2 - episodernes karakter og udvikling

Temaet for delundersøgelse 2 er, hvorfor og hvordan episoderne opstår og udvikler sig. Analyserne tager udgangspunkt i episoder med vold, trusler og krænkelse mod kriminalforsorgens ansatte i perioden august 2016 – august 2017. Selvom krænkelse ikke indgår som en fast del af kriminalforsorgens statistikker over vold og trusler mod personalet, er det væsentligt at inkludere disse episoder i den aktuelle delundersøgelse, da et af formålene netop er at undersøge, hvorfor nogle episoder udvikler sig til mere alvorlige handlinger, mens andre ikke gør. Ud fra både en kvantitativ og en kvalitativ vinkel analyseres det, hvordan episoderne konkret udspiller sig.

Det kvantitative delstudie

Den kvantitative analyse i delundersøgelse 2 bygger på registerdata fra kriminalforsorgens egne registre.

Datagrundlaget er de episoder, der er foregået i perioden august 2016–august 2017. I denne periode er der registreret omkring 760 episoder med vold, trusler og krænkelse. Til brug for det videre analysearbejde er der udtrukket en tilfældig stikprøve, som inkluderer lidt over halvdelen af det totale antal episoder.

Beskrivelserne af episoderne i stikprøven er alle gennemlæst og kodet på baggrund af et skema, der er udviklet til formålet. Den kvantitative analyse vil blandt andet søge efter mønstre for:

- Hvornår på døgnet og hvor konkret udspiller episoderne sig? Er det fx på de indsatte celler, ved fælles toiletter/bad på afdelingen, i lokaler til beskæftigelse eller på personalekontoret?
- Hvilken situation går forud for episoden? Opstår episoden fx i relation til visitation af indsatte eller hans/hendes celle, ved mad- og medicinudlevering, eller kommer overgrebet i kølvandet på, at personalet har måttet formidle en upopulær beslutning til klienten?
- Hvad udløser episoden? Skal klienten fx noget, han/hun ikke vil, eller vil klienten omvendt noget, han/hun ikke må? Har personalet kommenteret klientens adfærd, eller på anden måde sat grænser over for klienten? Eller opstår episoden fuldstændig ud af det blå?
- Hvordan er gerningspersonens sindstilstand? Er vedkommende psykisk uligevægtig eller påvirket af rusmidler?

- Hvordan udvikler episoden sig? Eskalerer episoden fx fra krænkelser til trusler eller vold? Eskaleres eller dæmpes konflikten i de tilfælde, hvor personalet anvender fysisk magt eller får assistance fra andet personale på matriklen?
- Hvor alvorlig er episoden, og kan der identificeres konkrete forhold, der vil øge risikoen for, at en episode udvikler sig til en voldshandling?

Det kvalitative delstudie

Den kvalitative del af delundersøgelse 2 baserer sig dels på gennemlæsning og fortolkning af omkring 200 sagsbeskrivelser om krænkelser, vold eller trusler mod ansatte, dels på en række interviews med fængselsbetjente. Der er gennemført fokusgruppeinterviews med betjente fra otte forskellige tjenestesteder, hvor antallet af deltagere har varieret mellem tre og otte personer. I udvælgelsen af tjenestesteder er der lagt vægt på variation, således at der dels er gennemført interviews i fængsler og arresthuse og på åbne og lukkede afdelinger, dels på tjenestesteder med henholdsvis lave og høje forekomster af volds- og trusselsepisoder. Derudover er der gennemført enkeltinterviews med henholdsvis syv betjente og fire betjentelever og endelig med to undervisere i konflikthåndtering på kriminalforsorgens uddannelsescenter. Formålet med disse interviews har været at få et indblik i, hvordan betjente klædes på til at håndtere vold og trusler, og hvilke forståelser af konflikter de undervises ud fra.

Analysen af de gennemførte interviews er stadig i gang, og der vil derfor ikke blive redegjort for denne del af materialet i dette paper. Redegørelsen vil således udelukkende tage udgangspunkt i gennemlæsningen af de registrerede sagsbeskrivelser. Sagsbeskrivelserne er behandlet som et kvalitativt materiale, hvilket indebærer, at der opridses en række temaer, der kan tjene som en overordnet redegørelse for episodernes karakter og dermed kan anskueliggøre, hvilke typer konflikter indsatte og ansatte er involverede i. Temaerne viser, at der er en stor spændvidde i sagstyper, både når det gælder den type konkrete hændelse, der er tale om, men også i forhold til situationen omkring hændelsen og den gerningsperson, der står bag.

Temaer i sagsbeskrivelser

Det har været muligt at udkrystallisere fire temaer i de gennemgåede sagsbeskrivelser: "psykisk uligevægtig indsat", "autoritetsimmune indsatte", "rammer der skaber konflikter" og "konfliktoptrappende kommunikation?" Foruden vil omdrejningspunktet for de tre første temaer kort blive beskrevet.

Psykisk uligevægtige indsatte

Kernen i dette tema er, at beskrivelsen af den indsattes adfærd giver anledning til at tro, at der kan være tale om en psykisk uligevægtig indsat. Det behøver ikke fremgå eksplicit af sagsbeskrivelsen, at dette er tilfældet, og det er ikke sikkert, at der ville være tale om en decideret diagnose, hvis den

indsatte blev udredt. Men måden, hvorpå den indsatte adfærd beskrives, indikerer, at han i det mindste har et påfaldende ustabil reaktionsmønster.

Langvarige aggressioner

Følgende sammenfatning af en episodebeskrivelse kan tjene som eksemplificering:

Indsatte er anbragt i observationscelle siden morgenstunden pga. aggressiv adfærd. Indsatte dækker glasset i celledøren til med cellens madras. Han bliver bedt om at fjerne madrassen, hvilket han nægter. Indsatte fremkommer derefter med verbale trusler. Da betjente træder ind i cellen, står indsatte midt i cellen og ser anspændt ud. Han bliver bedt om at gå ned i den bagerste ende af cellen og lægge sig på gulvet. Indsatte nægter og står i stedet konfronterende med front mod betjentene. Indsatte bliver advaret om, at der vil blive brugt peberspray mod ham, hvis han ikke følger personalets instruktioner. Indsatte nægter stadig at følge personalets instruktioner, og på trods af yderligere to advarsler om brug af peberspray mod ham, så nægter indsatte stadig at følge personalets anvisninger. Til sidst lykkes det personalet at få indsatte ned på gulvet, og han bliver under modstand pålagt håndjern, fikseret og overført til sikringscelle. I løbet af episoden fremfører den indsatte jævnligt verbale trusler mod personalet herunder trusler på livet. Det er – iflg. episodebeskrivelsen – umuligt for personalet at komme i dialog med indsatte, der ikke vil lytte, men blot bliver mere og mere aggressiv. I de godt syv timer, som den indsatte er anbragt i sikringscellen og derfor er under konstant observation af personalet, er det først efter næsten seks og en halv time, han falder til ro og ikke længere råber, spytter, skriger trusler, stirrer truende, synger, tisser på gulvet og river i håndremmene.

Autoritetsimmune indsatte

Omdrejningspunktet for dette tema er episoder, hvor de indsatte fremstår trodsige over for de ansattes autoritet og autoritetsudøvelse. Hvorvidt det er et decideret ønske hos de involverede indsatte at udfordre de ansattes autoritet, kan ikke fastslås på baggrund af sagsbeskrivelserne. En anden mulig fortolkning er, at de implicerede indsatte trods de ansattes autoritet, fordi det forventes af dem - at de med andre ord gør det med afsæt i et adfærdsmæssigt kodeks hos gruppen af indsatte i mere generel forstand. Udfordringen af de ansattes autoritet og autoritetsudøvelse resulterer under alle omstændigheder af og til i konflikter, der udvikler sig forskelligt. Gennemgangen af denne type sager har også vist, at de ansattes autoritet udfordres på varierende vis, og nedenstående uddrag fra en sagsbeskrivelse udgør således kun et eksempel.

Indsatte fortsætter med at tale i telefon

Tre betjente går rundt på afdelingen for at lukke af for natten. Da de kommer til indsatte i celle 823, sidder han på sengen og taler i telefon. Indsatte bliver bedt om at afslutte opkaldet. Indsatte fortsætter med at tale i telefonen og bliver derfor igen bedt om at afslutte opkaldet. Indsatte stikker hånden op i luften, og det bliver fortolket af betjentene som en afvisning af deres instruktion, og samtidig fortsætter han sin telefonsamtale.

Indsatte får at vide, at han har 10 sekunder til at afslutte opkaldet, hvorefter hans telefon vil blive taget fra ham. Indsatte fortsætter ufortrødent sin telefonsamtale og viser på indendørs måde, at han har tænkt sig at afslutte opkaldet. En af de tilstedeværende betjente tager derfor fat i telefonen for at tage den fra den indsatte, men før betjenten når at trække telefonen til sig, slår den indsatte betjenten hårdt i brystet med en knyttet venstre hånd.

Rammer der skaber konflikter

Kernen i dette tema er den slags situationer, hvor en indsat bliver frustreret og vred, fordi han har et ønske eller behov, der ikke kan dækkes på tilfredsstillende vis set fra hans perspektiv. Årsagen til at behovet ikke kan dækkes på tilfredsstillende vis kan eksempelvis ligge i de fysiske eller personalemæssige rammer på afsoningsstedet, eller i de rutiner og regler, der gør sig gældende på stedet. Temaet drejer sig med andre ord om konflikter, der udspilles på personniveau, men udløses af forhold i det fysiske miljø eller i rammerne omkring den indsattes afsoning. Selvom de ansatte ikke har ansvar for eksempelvis de fysiske eller personalemæssige rammer i et fængsel, går vreden ud over dem, fordi de befinder sig i front og repræsenterer det system, der, i de indsattes øjne, ikke kan tilgodese de indsattes ønsker eller behov. Dette er tilsyneladende med til at forstærke de indsattes oplevelse af frihedsberøvelsen – de er frihedsberøvede og enten afhængige af de ansattes hjælp til dækning af visse behov eller prisgivet til det fysiske miljø – og det kan virke konfliktoptrappende på nogle indsatte.

Når det gælder konflikter, som tilsyneladende udspringer af de rammer, der er omkring afsoningen, kan det for eksempel dreje sig om situationer, hvor en indsat – oftest ufrivilligt - flyttes mellem celler, afdelinger eller institutioner. En anden type situation kan dreje sig om indsatte, der skal vente på, at deres cellekald bliver besvaret. I deres perspektiv er ventetiden urimelig lang, og selv om de præsenteres for en forklaring af de ansatte, så er det ikke en forklaring, der dæmper deres frustration. Et sidste eksempel på konfliktskabende rammer er institutionelle regler, der tilsyneladende fremstår som uklare eller uigennemskuelige for de indsatte.

Opsummering

Vold og trusler mod kriminalforsorgens ansatte har stor bevågenhed i Danmark såvel politisk, som i medier og i kriminalforsorgen internt. Analyse og Evaluering i direktoratet har igangsat en omfattende undersøgelse af problemstillingen for at bibringe mere viden om, hvorfor vold og trusler mod de ansatte forekommer, hvad der karakteriserer episoderne med vold og trusler, og hvordan de ansatte selv ser på problemstillingen. I dette paper er der redegjort for de tre delundersøgelser, som studiet består af herunder de forskellige spørgsmål, delundersøgelserne skal forsøge at besvare.

Da der er tale om en igangværende undersøgelse, har det ikke været muligt at præsentere egentlige resultater. I forhold til det kvalitative delstudie er der dog redegjort for de foreløbige temaer, som analysen af sagsbeskrivelser har givet anledning til. Det er herved blevet tydeligt, at der er en stor spændvidde i sagstyper, både når det gælder den type konkrete hændelse, der er tale om, men også i forhold til situationen omkring hændelsen og den gerningsperson, der står bag. Vold og trusler

mod kriminalforsorgens ansatte er en sammensat problemstilling, og den fortsatte analyse af episoderne og de gennemførte interviews vil netop kunne bidrage med de nuancer, som er nødvendige for kriminalforsorgens fremadrettede håndtering af problemstillingen i forebyggelsesøjemed.

Totalinstitutioner eller totalitære institutioner – findes de i de nordiske lande i dag?

Hans Jørgen Engbo

Siden Erving Goffmann i 1950'erne introducerede begrebet »totalinstitution«, er begrebet blevet hyppigt anvendt i den kriminologiske/pønløgske litteratur om fængsler. Der har været – og er fortsat – en tendens til generelt og ureflekteret at betegne fængsler som totalinstitutioner, og det ligger snublende nær – via en form for idéassociation – også at betegne fængslerne som *totalitære* institutioner uden nogen nærmere analyse af det aktuelle fængselsregime.⁹⁵

Jeg vil i det følgende gøre et foreløbigt forsøg på at klarlægge begreberne demokrati og totalitarisme og sætte dem i relation til nordiske fængselsregimer og vil i forlængelse heraf berøre dele af Goffmanns teori om totalinstitutionen og denne teoris (ir)relevans for nutidens fængselsforståelse i de nordiske lande.⁹⁶

Analysen, som i overvejende grad er juridisk baseret, vil i færdig form blive søgt offentliggjort som tidsskriftartikel.

Demokrati – formelt og materielt

I de vestlige demokratier – ofte benævnt de liberale demokratier – sondres mellem formelt og materielt demokrati.⁹⁷ Med *formelt demokrati* menes folkestyre, som i vor del af verden er udmøntet som et repræsentativt demokrati, dvs. en styreform, hvorunder den politiske magt overvejende ligger hos en forsamling af folkevalgte. Politiske beslutninger, som er resultatet af en demokratisk beslutningsproces, anses pr. definition som formelt demokratiske. Et af kernepunkterne i den politiske beslutningsproces er gennemførelse af frie og retfærdige valg til det styrende parlament.⁹⁸

Med *materielt demokrati* menes beskyttelse af visse grundlæggende samfundsmæssige og menneskeretlige værdier. Nogle af de centrale værdier er knyttet direkte til den formelle demokratiske styreform. Dette gælder de politiske friheder som ytrings-, forsamlings- og foreningsfrihed, som er vigtige forudsætninger for den frie meningsdannelse og dermed for befolkningens reelle deltagelse i den politiske beslutningsproces. Andre værdier er forbundet med de personlige fri- og rettigheder som religionsfrihed, ret til respekt for privatliv og familieliv og størst mulig personlig frihed. Beskyttelsen af disse værdier er et væsentligt led i det liberale demokrati, som vi hidtil har praktiseret i de nordiske lande. For de formelle demokratiske organer indebærer kravet om materielt demokrati dels en begrænsning i magtudøvelsen, dels en forpligtelse til at realisere de nævnte værdier.⁹⁹

⁹⁵ Se fx Hammerlin 2008, s. 174.

⁹⁶ Artiklen er en redigeret og udvidet udgave af artiklen »Totalitære og demokratiske fængselsregimer« i: I.M. Fridhov, B. Johnsen & D. Bakken (red.): Festskrift til Yngve Hammerlin. Lillestrøm: Kriminalomsorgens høgskole og uddanningscenter, KRUS, 2017, s. 51-57.

⁹⁷ Om begreberne formelt og materielt demokrati se fx Rytter 2009 og Koch 2007.

⁹⁸ Jfr. kravet i Den Europæiske Menneskerettighedskonvention, tillægsprotokol nr. 1, artikel 3, om »frie, hemmelige valg med passende mellemrum under forhold, som sikrer folkets frie meningstilkendegivelse ved valget af medlemmer til den lovgivende forsamling«.

⁹⁹ Koch 2007, s. 341.

»Rule of law« (retsstatsprincippet) er et centralt element i det materielle demokrati. Statsmagten (regeringen) er undergivet loven og ikke omvendt.

Det liberale demokrati er i de senere år kommet under pres som følge af politiske indgreb fremkaldt af international terrorisme og af en voksende strøm af ikke-vestlige flygtninge. Vi er nu ganske paradoksalt gået over til at beskytte demokratiet med udemokratiske metoder. Vi må konstatere, at demokratibegrebet i vor del af verden er under forandring. Vi fastholder det formelle demokrati, men materielt er vi på vej til at erstatte det traditionelle liberale demokrati med et *militant* eller *uliberal* demokrati (illiberal democracy).¹⁰⁰

Totalitarisme

Totalitarisme som begreb knyttes normalt til det totale diktatur, som indebærer, at statsmagten – sædvanligvis i skikkelse af en enevældig diktator – ser det som sin opgave at underlægge sig alle samfundets sfærer – også borgernes privatsfære.

I den totalitære stat gælder »Rule of man«. Her er det loven, som er undergivet statsmagten (diktatoren).

Demokratiske og totalitære fængselsregimer

Begrebet »fængselsregime« skal i denne sammenhæng forstås i overensstemmelse med den definition, som the European Committee on Crime Problems (CDPC) under Europarådet har leveret:

»A prison regime consists of the set of factors and activities that constitute a prisoner's daily life and embraces not only a number of aspects of prison life (mention may be made here of prison management, prison work, instruction, vocational training, sport and leisure, social welfare and security) but also specific aspects closely linked with the outside world (e.g. prison leave, public understanding of prison problems, voluntary work, the opportunity for prisoners to keep in touch with the outside world through the mass media, respect for their rights and participation in elections).«¹⁰¹

Det giver ingen mening at spørge generelt, om fængsler er demokratiske eller totalitære. Fængsler drives på forskellige måder i forskellige retssystemer. Selv inden for de nordiske retssystemer kan man finde betydelige og principielle forskelle på fængselsregimer – også når det gælder forhold, som er væsentlige i demokratisk/totalitært perspektiv. Man bliver derfor nødt til at se på hvert enkelt fængselsregime for sig, og for mig er det mest naturligt at kaste blikket på systemerne i Danmark og Grønland suppleret med visse elementer fra fængselsystemerne i det øvrige Norden.

Først kan det slås fast, at nordiske fængsels eksistens og regimer er resultatet af demokratiske (parlamentariske) beslutningsprocesser, og at de derfor på det *formelle* plan må betegnes som demokratiske indretninger.

¹⁰⁰

<http://nyheder.tv2.dk/politik/2016-06-05-eksperter-bekymrede-for-grundloven-vi-naermer-os-militant-demokrati>.

¹⁰¹

The European Committee on Crime Problems: *Prison Regimes: Study Prepared by the Committee of Experts on Prison Regimes and Prison Leave* CDPC (84) 8 rev addendum VI (Strasbourg: Council of Europe, 1986 1. Citeret efter Smit & Snacken 2009, s. 176.

Vender vi os til det *materielle* plan med spørgsmålet om, hvorvidt det regime, som råder i fængslerne, bygger på de grundliggende samfundsmæssige og menneskeretlige værdier, som kendetegner et demokratisk samfund, er svaret ikke helt enkelt. Indtil omkring 1970 ville det stride mod virkeligheden at betegne regimet i danske fængsler som demokratisk.¹⁰² Der blev ikke levnet de indsatte mange muligheder for selv at vælge eller påvirke deres dagligliv. Institutionens ledelse og personale besluttede og tilrettelagde beboernes hele tilværelse. Datidens fængselsregimer må betegnes som overvejende totalitære. Det materielle demokrati havde kun i beskedent omfang fundet vej gennem fængselsporten. De indsatte havde formelt ikke mistet deres stemmeret, men reelt var de udelukket fra at deltage i folketingsvalg, folkeafstemninger mv., idet der i fængslerne ikke var praktisk mulighed for stemmeafgivning. De havde i det hele taget som udgangspunkt kun ganske få rettigheder. De kunne i løbet af afsoningen få tildelt såkaldte »begunstigelser« eller »goder«, hvis de gjorde sig fortjent til det, men disse »behageligheder«, som de også blev benævnt, eksisterede primært som redskaber for fængselsledelsen til opdragelse og disciplinering af de indsatte.¹⁰³

I løbet af 1960'erne og -70'erne slog fængselsystemerne i store dele af den vestlige verden nogle gevaldige regimemæssige kolbøtter. De indsattes retsposition blev vendt på hovedet, så udgangspunktet nu blev, at de indsatte fik status som ligeværdige borgere i samfundet med samme rettigheder som frie borgere. Disse ændringer må ses som et markant paradigmeskifte fra et overvejende totalitært til et overvejende demokratisk regime. Det var ikke længere »rule of man«, som gjaldt i fængslerne. Det var »rule of law« (retsstatsprincippet), som var styrende for de indsattes retsposition. Det blev retten (the law), som herskede, og ikke fortidens næsten fyrsteagtige fængselschef (the man), som ganske vist ikke helt uindskrænket, men dog inden for ganske vide rammer, kunne forme fængslets retsorden efter sit eget hoved. Dette er en meget afgørende forskel på en demokratisk og en totalitær retsorden i et fængsel. *Fængselschefen er underlagt loven og ikke omvendt.*

Paradigmeskiftet indebar blandt andet, at de indsatte i 1970 fik fuld stemmeret, og i 1973 fastslog en ny bekendtgørelse om fuldbyrdelse af frihedsstraf, at »[d]e indsatte har adgang til at udøve deres almindelige borgerlige rettigheder i det omfang frihedsberøvelsen ikke i sig selv afskærer dem herfra«. ¹⁰⁴

Reformerne medførte også øget *medindflydelse* for de indsatte. Begrebet »anstaltsdemokrati« blev taget i brug. ¹⁰⁵ I Danmark fik de indsatte i 1973 lovmæssig ret til gennem valgte repræsentanter (talsmænd) eller på anden måde »at udtale sig om og øve indflydelse på generelle spørgsmål, der angår deres tilværelse i institutionen«. ¹⁰⁶ Ved straffuldbyrdelseslovens ikrafttræden i 2001 blev denne ret yderligere manifesteret gennem detaljerede procedureregler om valg af talsmænd. ¹⁰⁷

Udviklingen i fængslerne efter det nu 50 år gamle demokratiske paradigmeskifte har ofte fået påskriften »normalisering«, hvorved vi i Norden forstår, at de indsatte har samme borgerrettigheder

¹⁰² Se Engbo 2010, s. 159 ff. om det tidligere praktiserede progressive system.

¹⁰³ Fussing 1921, s. 31.

¹⁰⁴ Bekendtgørelse nr. 423 af 21.06.1973 om fuldbyrdelse af frihedsstraf, § 19, stk. 1.

¹⁰⁵ Bondeson 1974, s. 454 ff.

¹⁰⁶ § 18 i bekendtgørelse nr. 423/1973 om fuldbyrdelse af frihedsstraf.

¹⁰⁷ Straffuldbyrdelseslovens § 34.

som frie borgere (bortset fra bevægelsesfriheden) og at rammerne for tilværelsen i fængslerne så langt som muligt skal nærme sig rammerne for tilværelsen for mennesker i det frie samfund.¹⁰⁸

Demokratisk fængselsregime med totalitære træk

Min konklusion er således, at det materielle demokrati i vore dage som principielt udgangspunkt eksisterer i fængslerne i samme udstrækning som i det frie samfund, og at det derfor vil være forkert at påstå, at det danske fængselsregime grundlæggende er totalitært. Hermed være dog ikke sagt, at der ikke kan være elementer i fængselsregimet, som er i demokratisk underskud, og som måske oven i købet kan siges at antage totalitær karakter.

Først må det slås fast, at den magt, som fængselsmyndighederne har hjemmel til at udøve, alene er knyttet til selve den fysiske gennemførelse af frihedsberøvelsen. Enhver magtanvendelse – fysisk og ikke-fysisk, direkte og indirekte samt bevidst og ubevidst – som udøves med andre formål end gennemførelse af frihedsberøvelsen (med tilhørende opretholdelse af orden og disciplin), må derfor anses for illegitim, bortset fra sådanne former for magtanvendelse, som offentlige myndigheder har hjemmel til at udøve over for alle samfundsborgere. Der er navnlig grund til at være på vagt over for formynderisk magtudøvelse i resocialiseringsøjemed.¹⁰⁹ Begrebet »resocialisering« ses ofte brugt i Kriminalforsorgen, selv om det er et højt diffust begreb, som de enkelte myndighedsgrene og medarbejdere i praksis tolker vidt forskelligt. I et demokratisk samfund er det betænkeligt at tolke opgaven sådan, at det er fængslets opgave at »resocialisere den indsatte« – en ofte brugt talemåde. Det bør kun være den indsatte selv som autonomt individ i et demokratisk samfund, som kan »resocialisere« sig. Staten (fængselsmyndigheden) kan hjælpe, støtte og facilitere denne proces, men det vil snerpe i totalitær retning, hvis staten egenmægtigt stjæler denne opgave og gør individet til en råvare, som staten bearbejder ud fra nogle af statsmagten valgte værdier. I et demokratisk samfund skal myndighederne arbejde *for* mennesker og ikke *med* mennesker, som det ellers ofte noget floskuløst siges.¹¹⁰

Forskellen kan belyses ved at sammenligne den danske og den grønlandske formulering af Kriminalforsorgens vision:

Vision for Kriminalforsorgen i Danmark:

»Vi bringer mennesker sikkert videre til et liv uden kriminalitet«.

Vision for Kriminalforsorgen i Grønland:

»Vi hjælper mennesker sikkert videre mod et liv uden kriminalitet«.

I Grønland vil Kriminalforsorgen *hjælpe* den indsatte videre, og derved respekterer man, at den indsatte selv er ansvarlig for opgaven. Den indsatte er med andre ord ansvarlig for sin egen resocialisering. I Danmark vil man *bringe* den indsatte videre, og denne ordlyd signalerer principielt, at Kriminalforsorgen tager ansvaret for (resocialiserings)opgaven fra den indsatte, hvilket selvfølgelig legitimt kan ske efter dennes anmodning, men hvis det er tanken, at det også skal

¹⁰⁸ Se nærmere om nordisk forståelse af begrebet »normalisering« Engbo 2017, s. 327 ff. Bronebakk (2012, s. 176) er for norsk kriminalomsorgs vedkommende på samme linje, mens Y. Hammerlin (2012, s. 40) ved at tale om at »behandle og bearbejde fanger til »normalitet«« giver begrebet et andet indhold.

¹⁰⁹ Se hertil Y. Hammerlin 2008, s. 190 ff.

¹¹⁰ Jfr. Goffmann 1967, s. 60 ff.

kunne ske uanmodet og måske oven i købet tvangsmæssigt, er der tale om påtvunget statsformynderi med totalitære undertoner.

Blandt de *politiske friheder* er det værd at notere, at i Danmark – modsat i Norge – har de indsatte ikke fuld ytringsfrihed på lige fod med andre borgere. Fængselsmyndighederne kan forbyde de indsatte at udtale sig til medierne på grundlag af et så ubestemmeligt kriterium som hensynet til retsfølelsen, og fængselschefen har vid udstrækning ret til at gennemlæse blade, som de indsatte udgiver, og at bortcensurere bestemte artikler, hvis indholdet groft forulemper enkeltpersoner.¹¹¹

Et yderligere element i dansk fængselsret med tvivlsom demokratisk forankring er procesordningen i disciplinærsager. Medens man i den almindelige straffeprocess siden 1919 har fulgt en akkusatorisk procesordning, har man i disciplinærstraffeprocessen fastholdt en procesordning af inkvisitorisk karakter. Formelt kan det hævdes, at man blot følger den almindelige forvaltningsproces, som indebærer, at forvaltningen – her i skikkelse af en forhørsleder – både undersøger sagen og træffer afgørelse, jfr. det såkaldte undersøgelsesprincip. Men en disciplinærsag har så klare lighedspunkter med en straffesag, at det ville være naturligt at læne sig op ad de straffeprocessuelle spilleregler, således som De Europæiske Fængselsregler anbefaler i regel 59. Heri kræves blandt andet, at indsatte, der anklages for en disciplinær forseelse, skal

- underrettes omgående og detaljeret om arten af anklagerne mod dem,
- have tilstrækkelig tid og de nødvendige faciliteter til at forberede deres forsvar,
- have ret til at forsvare sig, enten selv eller med juridisk bistand, hvis dette er nødvendigt for at sikre, at retfærdigheden kan ske fyldest,
- have ret til at kræve vidner indkaldt og afhøre dem eller få dem afhørt på deres vegne.

Disse krav opfyldes ikke i den danske procesordning i disciplinærsager.¹¹² Den indsatte har ganske vist ret til at møde med bisidder til disciplinær afhøring, men han/hun må selv betale for en advokat, så juridisk bistand er reelt en illusorisk mulighed, som yderst sjældent udnyttes. Danmark kunne med demokratisk fordel tage lære af andre landes retssystemer på dette område, herunder ikke mindst den engelske-walisiske procesordning i disciplinærsager.¹¹³

Er »totalinstitutioner« ikke totalitære?

Den canadiske sociolog, Erving Goffmann, indførte i 1950'erne begrebet »totalinstitution« om fængsler og andre faciliteter, hvis centrale kendetegn er, at

- 1) at alle tilværelsens aspekter afvikles på samme sted og under samme myndighed,
- 2) at alle dagliglivets aktiviteter afvikles sammen i en stor gruppe mennesker, som alle behandles ens og er sat til at gøre det samme i fællesskab,
- 3) at alle dagens aktiviteter er nøje skemalagt, så den ene aktivitet på klokkeslæt afløses af den næste, og denne rækkefølge håndhæves oppefra gennem et system af formelle regler og en personalegruppe,
- 4) at de forskellige påtvungne aktiviteter er indarbejdet i en enkel, rational plan, som angiveligt har til hensigt at opfylde institutionens officielle mål.¹¹⁴

¹¹¹ Straff fuldbyrdelseslovens § 59, stk. 2, og § 37, stk. 3. Se nærmere Engbo & Smith 2012, s. 181 ff.

¹¹² Engbo & Smith 2012, s. 281 ff.

¹¹³ Prison Service Instruction (PSI) 2011-047 Prisoner Discipline Procedures. SE også Coyle 2005, s. 143 ff.

¹¹⁴ Goffmann 1967, s. 13.

Goffmanns analyse af »totalinstitutionen« spiller fortsat en betydelig rolle i den nordiske kriminologiske forskning og litteratur, og fører via en idéassociation undertiden til den opfattelse, at fængsler nærmest pr. definition er opbygget med et totalitært regime. Det er dog i den forbindelse værd at hæfte sig ved, at Goffmann indførte begrebet ud fra en analyse af forholdene i US-amerikanske fængsler mv. for omkring 60 år siden, da de indsatte i de amerikanske fængsler havde en slavelignende status i kraft af den såkaldte »hands off doctrine«, som blandt andet havde grundlag i en dom afsagt i 1871 af Højesteret i staten Virginia. Dommen afviste at give en indsat almindelige borgerrettigheder:

»He is civiliter mortuus; and his estate, if he has any, is administered like that of a dead man. (...) The bill of rights is a declaration of general principles to govern a society of freemen, and not of convicted felons and men civilly dead. Such men have some rights it is true (...) but not the rights of freemen. They are the slaves of the State (...)«¹¹⁵

Så sent som i 1958 blev denne doktrin fortsat fulgt af US Supreme Court: »In effect, we are asked to enter the domain of penology (...). This Court has no such power.«¹¹⁶ Først i løbet af 1960'erne og 70'erne fik de indsatte gradvis tildelt borgerrettigheder, jfr. eksempelvis følgende udtalelse i en dom afsagt af USA's højesteret i 1974:

»[A] prisoner is not wholly stripped of constitutional protections when he is imprisoned for crime. There is no iron curtain drawn between the Constitution and the prisons of this country.«¹¹⁷

Tilsvarende skete andre steder, herunder – som omtalt ovenfor – i de nordiske lande samt i Canada, England-Wales og Tyskland.¹¹⁸ I 1975 fastslog Den Europæiske Menneskerettighedsdomstol, at der ikke gjaldt særlige underforståede begrænsninger (implied limitations) for indsatte i centrale konventionsbeskyttede rettigheder.¹¹⁹

Datidens kriminologiske/pønologiske litteratur beskriver også, hvordan fængslets chef i betydelig grad havde i sin magt at fastlægge regimet, eksempelvis i denne tekst fra 1960 af Ruth Shonle Cavan, professor i sociologi:

»It should be clearly understood that prison rules and punishment have nothing to do with the original sentence given the prisoner for his crime; they are solely to maintain whatever degree of routine order the warden thinks is desirable. Wardens who are more interested in the rehabilitation of their charges than in uniformity in all minute details of daily living introduce recreation, libraries, educational classes, and a certain freedom of communication. But these amenities are simply »privileges« that the warden allows; they are not rights that the prisoner can expect or demand. And if the prisoner disobeys regulations these privileges may be withdrawn at the warden's will. This situation places enormous power in his hands. When it is considered that most wardens are

¹¹⁵ Ruffin v. Commonwealth of Virginia (1871).

¹¹⁶ Gore v. US (1958).

¹¹⁷ Wolff v. McDonnell (1974).

¹¹⁸ Canada: Regina v. Institutional Head of Beaver Creek Correctional Camp, ex parte MacCaud (1969); England-Wales: Regina v. Board of Visitors of Hull Prison, ex parte St Germain (1979); Tyskland: BVerfGE 33, 1 – Strafgefangene (1972).

¹¹⁹ Golder v. UK (1975).

political appointees usually without training in either institutional administration or handling criminals, the danger of this concentration of power is apparent. Some wardens, by experience and personal attributes have developed into efficient administrators and humane leaders of the men under their care, but many more are both inefficient and ignorant of how to handle men either for an orderly but unoppressive prison life or a return to normal community living.«¹²⁰

Det var med disse forhold for øje, Goffmann brugte begrebet totalinstitution i sin analyse af blandt andet fængsler, og det er derfor denne forståelse af begrebet, som man må lægge til grund, når man anvender det i nutidens fængselsforskning.

Det skal ikke afvises, at visse elementer i Goffmans analyse fortsat kan have interesse i nordisk fængselsforskning. Men selve kernen i analysen har i Norden mistet kraft efter paradigmeskiftet omkring 1970. De fire ovenfor nævnte grundlæggende karakteristika ved Goffmanns totalinstitution eksisterer stort set ikke længere i nordiske fængsler:

- 1) Alle tilværelsens aspekter afvikles *ikke* længere på samme sted og under samme myndighed. Mange indsatte har tilladelse til udgang og frigang til beskæftigelse og undervisning i det frie samfund. I Norge varetages uddannelse og helsetjeneste af de respektive fagmyndigheder og ikke af fængselsmyndighederne. I danske fængsler er der specialafdelinger for misbrugsbehandling, som drives af eksterne entreprenører og ikke af fængselsmyndighederne, og flere steder varetages også skole- og biblioteksvirksomhed delvis efter importmodellen.
- 2) Dagligdagens aktiviteter afvikles *ikke* i store grupper, alle behandles *ikke* ens og er *ikke* sat til at gøre det samme i fællesskab. Tværtimod tilrettelægges den enkeltes fængselsophold individuelt med udgangspunkt i en personlig handleplan; de indsatte er i dagtimerne fordelt på en række forskellige beskæftigelses- og undervisningstilbud mm., som de i betydelig grad selv kan vælge mellem, og tilsvarende gælder i fritiden.
- 3) Alle dagens rutiner er *ikke* mere skemalagt end daglige rutiner mange steder i det frie samfund. Tværtimod er målet netop, at rammerne for de indsatte tilværelse i overensstemmelse med *normalitetsprincippet* skal minde mest muligt om rammerne for tilværelsen i det frie samfund.¹²¹ Det kan tilføjes, at mere end 80 procent af de indsatte i Danmark indsættes til afsoning af straffen i et åbent fængselsregime, som ligger meget fjernt fra det US-amerikanske fængselsregime, som var genstand for Goffmans analyse.¹²² Men også regimet i lukkede fængsler i dagens Danmark ligger fjernt fra det regime, som Goffmann har beskrevet.
- 4) De forskellige aktiviteter er *ikke* indarbejdet i en enkel, rational plan til opfyldelse af et officielt mål for institutionen. Der er flere mål med aktiviteterne i et fængsel, men i tråd med normalitetsprincippet er det i meget høj grad den enkelte indsatte selv, som sætter målene for sine aktiviteter i arbejdstid og fritid, ganske som det sker blandt mennesker i det frie samfund.

Det er således misvisende generelt at betegne nutidens nordiske fængsler som totalinstitutioner i Goffmans forstand, og det er en fejlslutning at karakterisere regimet i nutidens nordiske fængsler som »totalitært«, alene fordi Goffmann for mere end 50 år siden indførte betegnelsen totalinstitutioner om datidens fængsler i USA. I øvrigt har ordet »totalitær« en ganske anden sproglig

¹²⁰ Cavan 1960, s. 436. Se også Klare 1962, s. 85, om fængselschefers enorme magt i England og Wales.

¹²¹ Normalitetsprincippet i nordiske fængsler er nærmere beskrevet i Engbo 2017.

¹²² Ifølge tabel 1 i Kriminalforsorgens statistikberetning for 2003 blev 7.040 fængselsdømte indsat i åbne fængsler, medens 942 blev indsat i lukkede fængsler – svarende til henholdsvis 88 procent og 12 procent. Siden da er denne tabel af tekniske grunde udgået af Kriminalforsorgens statistik. Det må antages, at fordelingen af de indsatte mellem åbne og lukkede fængselspladser ikke har rykket sig væsentligt siden 2003, bortset fra at flere indsatte, som antagelig ville blive placeret i åbne fængsler, nu sættes til afsoning på bopælen under den såkaldte fodlænkeordning.

betydning end ordet »total«. Goffmann betegnede da også forholdene på totalinstitutionerne som totalistiske (totalistic) og ikke som totalitære (totalitarian).¹²³

Det skal understreges, at Goffman brugte betegnelsen »totalinstitution« om mange andre samfundsindretninger end fængsler, og at jeg kun har forholdt mig til begrebets relevans for fængselsverdenen. Noget kan tyde på, at der blandt såkaldte socialpædagogiske institutioner i Danmark kan være udviklet regimer, som snerper stærkt i retning af den goffmanske totalinstitution, og som tillige har stærke totalitære træk.¹²⁴

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¹²³ Goffmann 1956, s. 314.

¹²⁴ Engbo 2008 og 2014; da Silva 2018.

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Offender's and probation staff's experiences of electronically monitored sanction

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Electronically monitored sanction was adopted to Finnish penal system in 2011.¹²⁵ Prior research on procedural justice and the quality of prison life indicate that perceived legitimacy is essential both for the general compliance with the rules¹²⁶ and the social reintegration process.¹²⁷ Legitimate prisons seem to work with better results. However, little research has been undertaken on electronic monitoring and community sanctions in general, compared to vast research relating to prisons.¹²⁸ Consequently, very little is known about how offenders experience electronic monitoring. This study contributes to the understanding of how the legitimacy of electronically monitored community sanction is perceived by the offenders subject to it. The study includes also interviews with the enforcement officials and probation service on their views of the aims, values and guiding principles, as well the view of major networking associates. What factors may enhance offenders' motivation to comply with the rules? How do offenders feel they are being treated during the sentence? What are the working principles of electronic monitoring and what probably needs to change from probation staff's perspective? This paper addresses these questions briefly by drawing on data from interviews with electronically monitored offenders and probation staff.

What is monitoring sentence?

In Finland, contrary to other Nordic countries, electronically monitored sanction is an independent community sanction imposed by courts. Monitoring sentence may be imposed instead of up to six month's prison sentence if the defendant consents to it and is found suitable. Average daily number of offenders serving monitoring sentence was 45 in 2017.¹²⁹ Half of them were convicted of drunken driving. Since the law amendment in 2013, persons who have denied to serve military or civil service generally carry out electronic monitoring instead of prison.¹³⁰ Interviewees of the study were convicted mostly of drunken driving, assaults, minor property offences and refusal of military or civil service.

Offenders serving electronic monitoring are obligated to work or participate other activities, such as drug treatment. Use of alcohol and drugs is prohibited. Electronic monitoring uses radio-frequency

¹²⁵ Electronic monitoring is usually discussed as front door and back door approaches. Monitoring sentence is a front door practice and this paper does not examine back door practices.

¹²⁶ Tyler 1990.

¹²⁷ Liebling 2004.

¹²⁸ Robinson – McNeill 2016.

¹²⁹ Criminal Sanctions Agency: Statistical Yearbook 2017, p. 22, http://www.rikosseuraamus.fi/material/attachments/rise/julkaisut-tilastollinenvuosikirja/xZlsnncf1/RISE_Statistical_Yearbook2017.pdf, (accessed 18 June 2018).

¹³⁰ Criminal Sanctions Agency: Statistical Yearbook 2017, p. 23, http://www.rikosseuraamus.fi/material/attachments/rise/julkaisut-tilastollinenvuosikirja/xZlsnncf1/RISE_Statistical_Yearbook2017.pdf, (accessed 18 June 2018).

(RF) technology. Offenders placed in electronic monitoring wear signaling devices, “ankle tags”, which communicate with monitoring equipment placed in offenders’ homes. Offenders are required to stay at home during times there is no scheduled activities. If the offender goes out of range of the monitoring equipment, an alarm goes off to the monitoring center. Radio-frequency relays only offenders’ presence or absence at home, and unlike GPS, cannot track offenders’ location outside home. Non-compliance leads usually to verbal or written warning. Serious breaches are prosecuted, which may lead to revocation and serving remaining time in prison.

Data and methods

Data is collected from multiple sources: administrative data, semi-structured interviews with offenders and probation staff and quantitative survey for offenders. Administrative data will be collected from Criminal Sanctions Agency’s files which consist data of offenders serving electronic monitoring. Interview data from offenders, with interviewees’ consent, is combined with administrative data. Administrative data include for example background information of offenders and data of breach proceedings and cases which have been converted to prison. Interviews have been carried out with 11 offenders. 30 interviews have been conducted with probation staff. Interviews concerned topics such as control, fairness, trust and support.¹³¹ A web survey have been made for all Finnish prosecutors to examine prosecutors’ perceptions of the sanction. Results are not discussed in this paper.

Offenders and probation staff’s experiences of electronic monitoring

Control

Electronic monitoring is in literature sometimes referred to as ‘virtual prison’. Nellis has stated that electronic monitoring cannot in itself incapacitate, as offenders are not physically prevented from noncompliance.¹³² As in all community sanctions, the success of electronic monitoring depends on offender’s willingness to abide by the rules.¹³³ This topic was discussed in the offenders’ interviews.

This is not a piece of cake, because you literally serve time at home. And have a prison gate as your door. [- -] Home is prison then. (Offender)

Even if you can be at home, there are these virtual barrels. But that’s probably what this sanction aims at. (Offender)

Interviewees reported they were relieved they were not sent to prison for their current offence.¹³⁴ Many interviewees also expressed that they did not want to go to prison in the future. Offenders were aware that noncompliance may in severe cases lead to imprisonment. Offenders who had been breaching the conditions, stated that non-compliance resulted from problems with timekeeping.¹³⁵

¹³¹ See Liebling 2004, p. 152.

¹³² Nellis 2004, p. 240.

¹³³ Hucklesby 2008.

¹³⁴ See also Hucklesby 2008, p. 59.

¹³⁵ Ibid.

Some interviewees stated that they felt they were under constant surveillance and lived “with a clock in the neck”.

I was over the moon. I have yet been in prison many times and I know what it’s like. [- -]. I was very happy I was even offered this kind of chance. [- -] I have a child and a job, so I would have lost everything if I would have been sent to prison. (Offender)

I was relieved, because prison was the other alternative. [- -] I have never been in prison and I don’t want to go there. (Offender)

Unlike in community service, the use of alcohol and drugs is prohibited during monitoring sentence. Many interviewees stated that they were content with the prohibition, especially offenders who had been serving community service. It was reported in many probation workers’ interviews that offenders, who couldn’t cope community service due to alcohol breaches, can surprisingly manage to carry out electronic monitoring, although the control is much more intensive than in community service.

[INTERVIEWER: What is the best thing about electronic monitoring?] Maybe that you can’t drink alcohol. You can’t drink at all. And of course the weekly schedule. Now that I am used to it, I am a totally different person. My feeling is so different. When the alcohol left, I don’t feel like taking it. (Offender)

Relations with probation staff

Offenders meet probation workers regularly. Besides this, supervision patrols, consisting usually of two officers, visit offenders’ homes without informing beforehand to control offenders’ presence and carry out alcohol and drug tests. In some probation offices, remote alcohol monitoring system have been piloted. Interviewees generally described their relations with probation staff as good. Encouraging and confidential interaction between offenders and probation workers was seen as an important thing both in probation staff’s and offenders’ interviews. Interviewed probation officers and supervision patrol officers expressed that they aim to be courteous and nonjudgmental, even in cases of noncompliance. As Hucklesby has stated, this strategy corresponds to procedural justice principles.¹³⁶

I have never needed to lie or hide anything here. I have been able to talk straight about how things are without being needlessly punished for some old stuff. I have been able to tell everything straight out. And they have helped me very much. (Offender)

We small talked a lot. It was not just an official visit that they come and do all and that’s it, but they sat down and listened and we discussed. They talked about their things and I talked about mine. So it was like interaction. [- -] When they are friendly to you, then you of course act similarly back. (Offender)

¹³⁶ Hucklesby 2013.

Confidential relation with the offender. We try to support and encourage. So that the offender trusts the probation worker, believes that things will go right and is able to talk about his or her own issues. It is important. (Probation worker)

Effects of electronic monitoring?

Most interviewees reported that electronic monitoring had balanced their lives and assisted them to change their lifestyles. Electronic monitoring had provided offenders with daily routines they “never have”. Interviewees who had been in prison previously stated that after electronic monitoring they have better starting points to continue their lives than after imprisonment. Probation workers also expressed that offenders might get an experience of work and notice that he or she actually is capable of working and being sober. Positive experiences may have long-term effects.

Maybe community sanctions mean giving time for motivation? The more time, the more it hurts, and offenders start to think for themselves, the better. Prison looms yet a bit farther away. What then works? Is it the possibility or is it the person, who has got more time? (Probation worker)

My thoughts are brighter. I have started to think about other things than drinking. Now I basically have time. In prison you don't, prison has its own routines. You don't think much in prison, you only want to get out soon. In this (electronic monitoring), it doesn't matter if I have two more months left or not. I don't mind at all. [- -] I think my future further. (Offender)

I'll keep these same routines (after sentence). At least for me they have been helpful. There has to be something to do. Otherwise things go to that point that I start dealing again. (Offender)

According to Linderborg and others, working culture of probation is strongly based on care and helping the offenders. Working measures are familiar to social work and other professions with emphasis on human relations.¹³⁷ It was also reported that working cultures of prisons and probation offices differ in respect of care, support, control and treatment. In prison, order and formal relationships between staff and prisoners prevail. Interaction and cooperation are important in probation. Interviews of this study gave similar results. Electronic monitoring may be perceived as a community sanction with intensive control and intensive care. Monitoring sentence aims to support desistance and has potential to work as an intervention.

¹³⁷ Linderborg et al 2015.

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PARALLEL SESSION 4C: Defining crimes

Burde identitetstyveri/misbrug kriminaliseres i Danmark?

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Identitetstyveri defineret

Identitetstyveri bliver i de fleste tilfælde brugt i forbindelse med internetbrug og internethandel. Digitalisering spiller således i dag en central rolle for misbrug af identitetsoplysninger, men at sløre sin egen identitet har altid været en del af den kriminelle verden. McNally & Newman (2008) påpeger, at der ikke er konsensus om definitionen af identitetstyveri, men at begrebet generelt set refererer til en situation, hvor en person anvender en andens personlige oplysninger til at begå svig eller misbrug. OECD drager samme konklusion, nemlig at der ikke findes en internationalt accepteret definition, og beskriver identitetstyveri på følgende vis:

ID theft occurs when a party acquires, transfers, possesses, or uses personal information of a natural or legal person in an unauthorized manner, with the intent to commit, or in connection with, fraud or other crimes (OECD, 2009, s. 16).

Ifølge McNally & Newman bruges begreberne identitetstyveri (identity theft) og identitetssvig (identity fraud) ofte som synonymmer. Binder & Gill (2005) definerer identitetstyveri (identity theft) som det at overtage og misbruge en anden persons identitet, mens de definerer identitetssvig (identity fraud) som det at antage en fiktiv identitet. Binder & Gill (2005, p. 8) påpeger, at:

Unfortunately, when you review the legislation, many times the term identity theft appears to be used interchangeably with the term identify fraud.

I Europols Organised Crime Threat Assessment (OCTA) betragtes identitetssvig både som misbrug af rigtige personoplysninger og misbrug ved hjælp af fiktive oplysninger, mens identitetstyveri kun knytter sig til misbrug af rigtige oplysninger.

Identity fraud is defined as the use of false identifiers, fraudulent documents, or a stolen identity in the commission of a crime. Identity fraud is broader than identity theft in that identity fraud refers to the fraudulent use of any identity, real or fictitious, while identity theft is limited to the theft of a real person's identity" (Europol, 2006, p. 18).

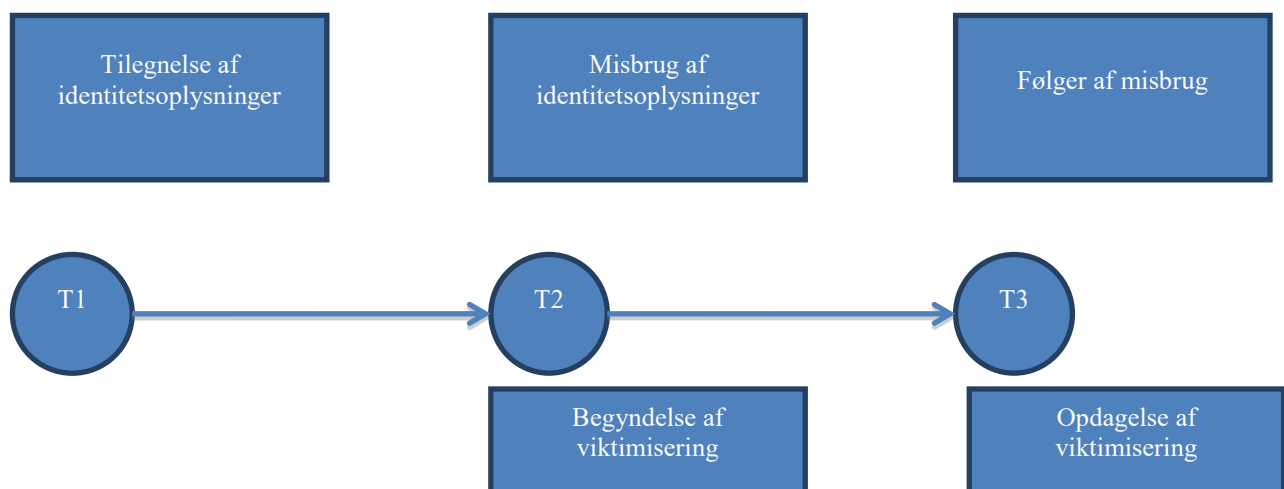
I Danmark hører it-sikkerhed og identitetstyveri til Digitaliseringsstyrelsens kompetence. I 2013 åbnede styrelsen en informationsportal om identitetstyveri. Portalen er tilgængelig på borger.dk, og her defineres identitetstyveri på følgende vis:

- Det er identitetstyveri, når personlige oplysninger bliver stjålet og/eller misbrugt.
- Identitetstyveri dækker altså både over, at nogen ulovligt tilegner sig en andens oplysninger, og over, at nogen misbruger disse oplysninger til fx at optage lån, købe ting eller chikanere på forskellige måder. De personlige oplysninger kan fx være cpr-nummer, adgangskoder, sundhedsoplysninger eller andre følsomme persondata.
- Det er *ikke* identitetstyveri, hvis nogen opsnapper en andens kreditkortoplysninger og misbruger dem.

Digitaliseringsstyrelsen udelukker misbrug af betalingskortoplysninger fra begrebet identitetstyveri og Danmark adskiller sig således fra de fleste europæiske lande. Der har internationalt været debat om, hvorvidt kortsvindel hører under begrebet identitetstyveri. Særligt repræsentanter fra finansverdenen mener, at dette ikke burde være tilfældet (se fx Cheney, 2005, p. 2). Denne diskussion har været aktuel i USA, men The Federal Identity Theft and Assumption Deterrence Act fra 1998 inkluderer kortsvindel i begrebet identitetstyveri. Også Europol (2012) regner misbrug af finansielle data, som betalingskortdata, for identitetstyveri (Identity Theft).

De forskellige varianter af identitetstyveri har det tilfælles, at specifikke identitetsoplysninger fremskaffes af gerningspersonen, og at disse oplysninger på et senere tidspunkt misbruges. Det betyder, at der er en tidsforskel mellem tilegnelse og misbrug. Desuden kan det også tage tid, førend forurettede opdager, at vedkommendes identitetsoplysninger er blevet misbrugt. Nedenstående skema viser processen.

Skema 1 Tre faser af identitetstyveri i tidsperspektiv



Efter: McNally (2008, Figure 1, p. 35)

Tilegnelse af identitetsoplysninger

Der er flere måder, hvorpå en gerningsperson kan tilegne sig andres (identitets)oplysninger. Offentligt tilgængelige registre, fx telefon- og navneregistre som krak.dk, indeholder oplysninger

som navn, adresse og telefonnummer. Desuden lægger privatpersoner ofte frivilligt oplysninger ud på egne internetsider eller på sociale netværkssider som Facebook og LinkedIn. Oplysninger kan også blive franarret, fx ved phishing, eller stjålet. En persons (identitets)oplysninger kan dermed falde i forkerte hænder på tre måder: frivillig upload på internettet, bondefangeri og tyveri.

Der kan skelnes mellem online og offline tilegnelse af (identitets)oplysninger (fx OECD, 2009). Online tilegnelse knytter sig til internettet og det faktum, at når en enhed (computer, smartphone, tablet) tilsluttes nettet, er det muligt at trænge ind i den og/eller kommunikere med brugeren. Offline tilegnelse betyder, at der er tale om en handling i den fysiske verden. Det kan dreje sig om lomme- eller tasketyveri, men kan dog også være af teknisk art, fx skimming. Der kan imidlertid også være tale om, at selve den kriminelle tilegnelse af identitets- eller betalingsoplysninger finder sted offline, fx ved tyveri af en tegnebog eller pung, som indeholder et kørekort og et Dankort, men at misbruget sker online, fx ved bestilling af en vare eller ydelse.

Misbrug af identitetsoplysninger

Først når selve misbruget af identitetsoplysninger opdages, bliver offeret klar over, at han eller hun har været udsat for en forbrydelse. Det antages fx, at det ikke er alle opsnappeede cpr-numre, der benyttes efter et dataindbrud. Omfanget af dette mørketal er – ifølge sagens natur – ukendt. Dermed kan vi i realiteten ikke måle omfanget af identitetstyveri, bortset fra når der er tale om viktimisering (fase 2 i skema 1). Først når identitetsoplysninger misbruges, er der et offer, som kan rapportere om det. Det er derfor mere korrekt at tale om omfanget af identitets*misbrug*. Der skelnes mellem tre former for identitetsmisbrug:

- Misbrug af identitetsoplysninger med henblik på økonomisk gevinst
- Misbrug af betalingskortoplysninger
- Misbrug af personoplysninger med henblik på chikane mod offeret.

Identitetstyveri og den danske straffelov

Identitetstyveri er et ofte anvendt begreb, som dog i Danmark ikke har en juridisk definition. Adspurgt har rigsadvokaten svaret retsudvalget, at en falsk profil på internettet, hvor nogle udgiver sig for at være en anden eksisterende person, som udgangspunkt ikke i sig selv kan betragtes som strafbar. Rigsadvokaten tilføjer, at der imidlertid kan være tale om strafbare forhold i forbindelse med en sådan handling (Justitsministeriet, 2009, s. 2):

Efter omstændighederne vil oprettelsen af en falsk internetprofil, hvorved man udgiver sig for at være en anden eksisterende person – og i den forbindelse videregiver oplysninger om den pågældende – imidlertid kunne udgøre en overtrædelse af straffelovens § 264 d. Efter denne bestemmelse straffes den, der uberettiget videregiver meddelelser eller billeder vedrørende en andens private forhold eller i øvrigt billeder af den pågældende under omstændigheder, der åbenbart kan forlanges unddraget offentligheden. Det er uden betydning for strafbarheden, om meddelelsen er sand.

Tilsvarende må det antages, at oprettelsen af en profil på internettet i en andens navn efter omstændighederne vil kunne udgøre en overtrædelse af straffelovens § 267, hvorefter den, som krænker en andens ære ved fornærmelige ord eller handlinger eller ved at fremsætte eller udbrede sigtelser for et forhold, der er egnet til at nedsætte den fornærmede i medborgeres agtelse, straffes.

I Danmark har der været debat om, hvorvidt identitetstyveri skal være et selvstændigt begreb i straffeloven. Dansk Folkeparti fremsatte den 26. oktober 2011 et forslag til folketingsbeslutning om en særskilt straf for identitetstyveri og identitetssvindler (2011/1 BF 3). Forslaget førstebehandledes i Folketinget den 17. januar 2012 og blev henvist til behandling i retsudvalget, som afholdt en høring den 8. maj 2012. Det viste sig, at der ikke var politisk flertal for en særskilt straffebestemmelse for identitetstyveri. Et mindretal i retsudvalget opfordrede efterfølgende regeringen til at iværksætte initiativer, der sikrer, at myndigheder, virksomheder og privatpersoner står bedst muligt rustet over for identitetstyveri og de kriminelle følger heraf. Desuden opfordrede mindretallet regeringen til i den kommende tid tæt at følge de norske erfaringer og den norske praksis i forhold til en særskilt straffelovsparagraf vedrørende identitetssvindler. Herudfra kan det løbende overvejes, om en indførelse af en sådan særskilt straffelovsparagraf vil tjene et formål i dansk sammenhæng.

Dansk Folkeparti har igen fremsat et lovforslag om en særskilt straf for identitetstyveri og identitetsmisbrug d. 14. april 2016 (B 186). I bemærkninger til forslaget nævnes bl.a., at der er indført adskillige tiltag i forbindelse med identitetstyveri/misbrug siden 2011/2012. I 2014 er det blevet muligt, at anmode om et nyt cpr-nummer i forbindelse med identitetsmisbrug. Folketinget vedtog den 25. marts 2014 en ændring af CPR-loven og ordlyd på bestemmelsen er som følger:

Økonomi- og Indenrigsministeriet kan efter skriftlig anmodning herom i særlige tilfælde tildele nyt personnummer til en person, hvis personnummer indgår eller har indgået i forbindelse med misbrug af vedkommendes identitet (CPR-loven, § 3, stk. 7).

Dansk Folkepartis lovforslag B 186 er dog aldrig behandlet i Folketinget og er bortfaldet. Et lovforslag bortfalder automatisk, hvis ikke de er vedtaget ved folketingsårets slutning (første tirsdag i oktober).

I 2017 er det blevet muligt, at få indsat en markering i CPR om, at borgeren ønsker at advare mod kreditgivning i vedkommendes navn. Folketinget vedtog den 1. december 2016 en ændring af CPR-loven og ordlyd på bestemmelsen er som følger:

Enhver, der er fyldt 15 år, har ret til ved henvendelse til sin bopælskommune at få indsat en markering i CPR om, at vedkommende ønsker at advare mod kreditgivning i vedkommendes navn, med henblik på at oplysning herom fra CPR kan videregives til offentlige myndigheder og private i overensstemmelse med §§ 31, 32, 38, 39 og 42. (CPR-loven, § 29, stk. 3).

Det er en frivillig ordning. I bemærkningen til lovforslag påpeges, at bestemmelsen giver enhver borger (som er fyldt 15 år) mulighed for at advare mod kreditgivning i vedkommendes navn. Det kan være, at borgeren er bekymret for identitetsmisbrug efter vedkomne har mistet sine personlige identifikationsdokumenter eller, at borgeren har været udsat for identitetsmisbrug. I begge tilfælde kan det være relevant at gøre lån- og kreditgivere opmærksomme på, at disse ikke umiddelbart skal yde lån eller kredit til personer, der udgiver sig for at være den pågældende. I bemærkningen til lovforslag gøres også opmærksom på ordningen også er til gavn for erhvervslivet. De hæfter som regel for det økonomiske tab i forbindelse med identitetsmisbrug.

Kriminalisering af identitetstyveri i andre lande

Ifølge OECD (2009) har kun få lande specifik lovgivning vedrørende identitetstyveri. USA må betragtes som foregangsland på dette område, idet identitetstyveri her er en selvstændig forbrydelse. I USA defineres identitetstyveri (ID Theft) på følgende vis:

Knowingly transfers, possesses, uses, without lawful authority, a means of identification of another person with the intent to commit, or in connection with, any unlawful activity that constitutes a violation of Federal law, or that constitutes a felony under any applicable State or local law (OECD, 2009, p. 47).

I Frankrig blev et lovforslag vedrørende identitetstyveri i 2005 ikke til noget, eftersom den franske justitsminister i 2006 trak forslaget tilbage med den begrundelse, at identitetstyveri på tilstrækkelig vis kan straffes efter den eksisterende lovgivning (OECD, 2009, p. 50). Ifølge OECD har der i EU-medlemsstaterne ikke været andre initiativer til at betragte identitetstyveri som en selvstændig forbrydelse.

De seneste år har dog flere lande indskrevet identitetstyveri/-misbrug/-krænkelse i deres straffelove. I Norge er identitetstyveri efter den nye straffelov en selvstændig forbrydelse. Den nye bestemmelse om identitetskrænkelse giver straf til den, som tager en andens identitet, optræder med en andens identitet eller optræder med en identitet, som er let at forveksle med en andens. I tillæg omfattes det at sætte sig i besiddelse af en andens identitetsbevis. Identitet kan indbefatte navn, fødselsnummer, organisationsnummer, e-postadresse eller andre oplysninger, som alene eller sammen med anden information kan identificere en fysisk eller juridisk person.

Med bot eller fængsel inntil 2 år straffes den som uberettiget setter seg i besittelse av en annens identitetsbevis, eller opptrer med en annens identitet eller med en identitet som er lett å forveksle med en annens identitet, med forsett om å

- a) oppnå en uberettiget vinning for seg eller en annen, eller
- b) påføre en annen tap eller ulempe.

(Straffelovens § 202, Norge)

I Holland er identitetsmisbrug kriminaliseret i straffelovens artikel 231b, som er indført 1. maj 2014. Strafferammen går op til 5 års fængsel. Det fremgår af artikel 231b, at der skal være tale om forsæt,

at formålet enten skal være at skjule sin egen identitet eller at misbruge en andens identitet, og at der skal være forvoldt skade. Efter fremsættelsen af lovforslaget i parlamentet blev justitsministeren bl.a. spurgt om, hvorvidt han kunne redegøre for, hvilke situationer der omfattes af artikel 231b. Ministeren fremlagde derefter to eksempler:

- 1) en situation, hvori der lejes noget i en anden persons navn, og udlejer sender regningen til denne person. Altså et eksempel på økonomisk skade som følge af identitetsmisbrug.
- 2) en situation, hvori en person opretter en konto i en andens navn og efterfølgende krænker vedkommendes omdømme.

Artikel 231bs begreb skade kan så stå for økonomisk skade. Dermed får offeret mulighed for at bede anklageren/dommeren tage stilling til et erstatningskrav under den strafferetlige behandling af sagen og behøver ikke nødvendigvis at anlægge et civilretligt søgsmål.

I Sverige blev identitetsmisbrug skrevet ind i straffeloven 1. juli 2016. Ifølge paragraf 6b i straffelovens kapitel 4 kan ulovlig brug af en anden persons identitetsdata med skade eller ulempe som følge (uautoriseret identitetsbrug) straffes med bøde eller fængsel i højst to år.

Den som genom att olovligen använda en annan persons identitetsuppgifter utger sig för att vara honom eller henne och därigenom ger upphov till skada eller olägenhet för honom eller henne, döms för olovlig identitetsanvändning till böter eller fängelse i högst två år (Brottsbalk 4. kap., § 6B, Sverige)

Argumenter for og imod kriminalisering

I anledning af lovforslaget om en særskilt kriminalisering af identitetstyveri i 2012 begrundede Justitsministeriet afvisning af dette forslag med to argumenter. For det første påpeges, at identitetstyveri allerede er kriminaliseret under en række straffelovsbestemmelser. For det andet vil en særskilt lovparagraf være unødigt kompleks.

Når det gælder spørgsmålet om en særskilt kriminalisering af identitetstyveri, indeholder straffeloven allerede i dag en række bestemmelser – herunder reglerne om formueforbrydelser og freds- og ærekrænkelser – som dækker denne form for kriminalitet. De handlinger, der vedrører misbrug af en andens identitet, og hvor der i praksis kan være behov for et strafferetligt værn, er således allerede kriminaliseret.

Hertil kommer, at identitetstyveri spænder meget vidt. En særskilt bestemmelse herom ville således i givet fald skulle omfatte såvel meget alvorlige former for formueforbrydelser begået ved identitetstyveri, herunder groft bedrageri med en strafferamme på helt op til 8 års fængsel, som tilfælde, der (i dag) falder helt uden for det strafferetlige område. Når henses til ønsket om størst mulig præcision og forudsigelighed i straffelovgivning, vil det kunne være vanskeligt at indordne en egentlig strafbestemmelse om identitetstyveri i den systematik, som straffeloven bygger på. En sådan særregel vil kunne medføre afgrænsnings- og

sammenstødsproblemer og dermed være unødigt kompliceret i lyset af, at identitetstyveri allerede er kriminaliseret i de situationer, hvor det kan være praktisk relevant.
(besvarelse af 29. februar 2012 af Retsudvalgets spørgsmål nr. 5 vedrørende beslutningsforslag nr. B 3, 2011-2012)

At alle former for identitetsmisbrug er dækket af allerede eksisterende straffelovsbestemmelser nuanceres af Straffelovsrådet. Straffelovsrådet har i sin betænkning om freds- og ærekrænkelser (2017) overvejet, om der er grundlag for særskilt at kriminalisere brug af en andens identitet (identitetstyveri eller identitetsmisbrug). Rådet bemærker, at kun den mildeste form for identitetstyveri – at udgive sig for at være en anden, herunder ved oprettelse af en Facebook-profil i en andens navn – ikke allerede er strafbar. Derfor mener Rådet ikke, at der er behov for yderligere kriminalisering af identitetstyveri, selvom sådanne former for identitetstyveri kan være meget generende for de personer, som får misbrugt deres identitet (Straffelovsrådet, 2017, s. 126).

I den norske forarbejde til bestemmelsen om identitetskrænkelse påpeges det, at mange handlinger, der omfattes af den nye bestemmelse, allerede er straffbare under den gamle straffelov. Det gælder bl.a. bedrageribestemmelser. Hvis der skal kunne være tale om en straffesag, er det dog her en forudsætning, at en stjålet identitet bruges til at udføre en strafbar handling. Den nye straffebestemmelse gør det enklere at strafforfølge identitetstyveri, idet det nu er lettere at bevise identitetskrænkelse end et forsøg på fuldbyrdet bedrageri.

Identitetskrænkelse kan krenke menneskers integritet og sikkerhet uavhengig av om den rent faktisk fører til videre lovbrudd eller ikke. Det vil også være enklere å bevise identitetskrænkelse enn (forsøk på) den fullbyrdete bedragerihandlingen. (Ot. Prp. nr. 22 (2008-2009), side 44 f)

I det svenske forarbejde til bestemmelsen om ulovlig identitetsanvendelse påpeges ligeledes, at der vil være overlap med andre lovbestemmelser, primært formueforbrydelser, men også dokumentfalsk og falsk vidne. Der forventes 'konkurrence' situationer og der bemærkes, at de generelle regler om konkurrerende bestemmelser er gældende. Formål med lovbestemmelsen er at modvirke misbrug af identitetsdata og beskytte mod integritetskrænkelse.

Så både den norske og den svenske lovgiver anerkender det fremsatte argument af den danske lovgiver, at mange former for identitetstyveri/misbrug allerede er kriminaliseret, men de ser stadig fordele i en særskilt lovbestemmelse. I forhold til det danske justitsministeriums bemærkning, at identitetstyveri spænder meget vidt, som argument imod en særskilt bestemmelse, kan bemærkes, at den norske lovgiver ikke har indført en egen bestemmelse for *grov* identitetskrænkelse, netop fordi handlingen ofte vil være en forberedelseshandling til anden kriminalitet og dermed anses strafferammen som tilstrækkelig høj.

Ved siden af spørgsmålet om identitetstyveri/misbrug er kriminaliseret i allerede eksisterende lovparagraffer nævner Dansk Folkeparti to begrundelser for, at der er et behov for en selvstændig bestemmelse for identitetstyveri og identitetsmisbrug (Lovforslag B 186, 2015-2016):

- 1) Et klart signal om, at det er et kriminalitetsområde, der skal prioriteres i langt højere grad.
- 2) En selvstændig registrering, så udviklingen i denne kriminalitetsform kan følges nøje.

Om disse argumenter holder vand, kan ikke fastslås uden, at der indføres en særskilt bestemmelse for identitetstyveri/misbrug i Danmark. De norske erfaringer kan dog give et peg om hvordan sådan en bestemmelse fungerer i praksis. Den norske straffelovsparagraf 202 er, som sagt, indført i 2009. Under en studietur til Norge i februar 2018 har jeg bl.a. forsøgt at få svar på spørgsmålet om identitetstyveri/misbrug er prioriteret i højere grad efter indførelse af denne paragraf i straffeloven. Det er klart, at et grundigt svar kræver mere af et par interviewsamtaler med repræsentanter af aktører på dette område, men disse samtaler peger i retning af, at indførelsen af lovparagraffen ikke har ført til de store forandringer i politiets efterforskningsarbejde.

Gevinsten ligger ved anmeldelsesprocessen. Udsatte for identitetstyveri/misbrug kan anmelde sagen uden risiko for at blive afvist af politiet. Det vil ikke sige, at det fører til en pålidelig statistik. Af Politidirektoratet fik jeg en oversigt af 'ID-sager' for 2016 (615 sager) og 2017 (547 sager), som skulle omfatte § 202-sager. Oversigten viste også, at ca. halvdelen af disse sager var henlagt af politiet. Politiets repræsentant forklarede, at mange sager af identitetsmisbrug ikke registreres som ID-sager, men fx som bedragerisager. Han havde søgt i politiets systemer på bedrageri med ID som modus og det gav som resultat 1.185 sager i 2016 og 1.573 sager i 2017. Ca. tre ud af fire af disse sager er henlagt af politiet.

Selvom § 202 blev indført i 2009, findes der først siden oktober 2015 tilgængelig som selvstændig statistik på Statistisk Sentralbyrås hjemmeside (www.ssb.no). Der skelner mellem to former for identitetskrænkelser: 1) befattning med annens identitetsbevis og 2) opptre med annens identitet. At handle med en anden persons identitetsbevis er anmeldt 471 gange i 2016 og 466 gange i 2017. At optræde med en anden persons identitet har ført til 2.098 anmeldelser i 2016 og 2.774 anmeldelser i 2017.

Lovparagraffen om identitetskrænkelser har ført til en statistik i Norge, men om statistikken viser nøje udviklingen af identitetstyveri/misbrug, er tvivlsom. Dermed dæmper erfaringer fra Norge forventningerne af en særskilt bestemmelse i Danmark i forhold til opprioritering af og overblik over denne kriminalitetsform.

Behov for en særskilt bestemmelse i Danmark?

Ønsket om en særskilt lovparagraf for identitetstyveri/misbrug kan have flere begrundelser. Set med juridiske briller kan fastslås, at langt de fleste handlinger, som kan betegnes som identitetsmisbrug, allerede er omfattet af andre bestemmelser i den danske straffelov. Det gælder dog ikke for anvendelse af at udgive sig for at være en anden, herunder ved oprettelse af en Facebook-profil i en andens navn. Det vil sige identitetsmisbrug, som kan betragtes som chikane. I Danmark vil sådan en handling høre hjem under freds- og ærekrænkelser. Netop disse artikler kendetegner sig med, at de som udgangspunkt er undergivet privat påtale, jf. straffelovens § 275.

Hvis formål med en særskilt lovparagraf er prioritering af området og/eller bedre overblik, er det spørgsmålet om disse mål ikke kan opnås på en anden måde. Burde straffeloven blive brugt hertil? Kriminalisering kan også føre til uønskede sideeffekter, som påpeget af det norske datatilsyn i deres høringssvar til lovforslaget.

Hovedinnvendingen er at forslaget til straffebestemmelse kan bidra til usikkerhet knyttet til bruk av pseudonymer og kallenavn som spesielt barn og unge sterkt oppfordres til å bruke ved kommunikasjon på internett. Selv om bruk av uriktig identitet kan krenke personvernet, mener tilsynet at slik bruk er utbredt og i de fleste sammenhenger bør anses som legitim. (Ot. Prp. nr. 22 (2008-2009), side 44 f)

Der er dog også, efter min vurdering, gode grunde til at overveje en særskilt paragraf. I Danmark anses udsatte for økonomisk identitetsmisbrug ikke som udsatte i lovens forstand, for det er (for det meste) ikke dem, der lider økonomisk tab; det er banker, forretninger osv. For et par år siden blev en anmeldelse af en person hvis identitet var misbrugt ofte afvist med begrundelse, at personen ikke hæfter for tabet. Denne praksis har ændret sig, men der oprettes stadig ofte ikke et såkaldt skarpt journalnummer (som optræder i kriminalstatistikken) når en person anmelder, at hans/hendes identitet er (forsøgt) misbrugt.

Mest problematisk er de sager, hvor en persons identitet (navn, billeder osv.) bliver misbrugt på de sociale medier og andre steder på internettet. Så længe det ikke er seksuelt krænkende, kan politiet ikke gøre ret meget; hertil mangler politiet de rette værktøjer. Spørgsmålet er dog, om politiet ikke vil drukne i den type sager, hvis der åbnes op for at anmelde og efterforske denne type af sager, og at størstedelen af disse sager bliver henlagt. Muligvis, men erfaringer fra Norge viser, at politiet reelt efterforsker en del af disse sager. Et andet argument for kriminalisering af disse former for identitetsmisbrug er af mere symbolsk karakter. Det er min vurdering, at det støder mange, at det ikke er strafbart i Danmark, når der oprettes falske profiler på nettet med hjælp af andres personoplysninger og/eller billeder. Strafbarstillingen giver det signal, at det ikke er i orden, uanset om politiet reelt efterforsker (en del af) disse sager.

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From banning beer to cannabis: The power to define what is legal or not

Helgi Gunnlaugsson

A conventional definition of what constitutes a crime is a behavior against the penal code. The debate in criminology centers typically on whether this should always be the case. For example, victimless crimes such as drug use, is a crime category which some criminologists want excluded from the criminal law warning us about the dangers of „overcriminalization“, even creating trouble for society.

Beer was prohibited in Iceland from 1915 to 1989, even though all other alcoholic beverages have been available since 1935. Using records of parliamentary debates this paper explores the main arguments regarding Iceland’s beer prohibition to gain some understanding of this peculiar piece of legislation. The persistence of the ban on beer in Iceland also raises questions about what kind of state authority and political power was able to carry out and maintain such unusual legislation for such a long time. Was there a consensus in the political system or a conflict between different social groups? Who advocated the ban and who was against it? Why?

The most influential argument used against beer alone was that adolescents are particularly susceptible to the temptation to drink beer leading them to stronger alcohol abuse. Similarly, prohibition of cannabis has had the same objective: To save youth from what is perceived as a major threat to their well-being.

In this paper presentation arguments used in the debate on both beer and cannabis will be presented and analyzed. What impact did legalization of beer in 1989 have on alcohol consumption, especially on young people? What lessons can be learned from the beer ban regarding the current ban on drugs, cannabis in particular? Are there any side-effects or unintended consequences of prohibition which question the legitimacy of banning substances such as beer and cannabis?

Fra ølforbud til cannabis: Magten til at definere hvad der er lovligt og hvad der ikke er lovligt

Indledning

Alkoholforbrug går langt tilbage i verdenshistorien og er meget udbredt i vestlige samfund. Der stilles dog sjældent spørgsmålstegn ved om spiritus skal være lovligt eller ej, selv om problemer pga. alkoholbrug er både velkendte og alvorlige. Spiritus har dog ikke altid været lovlig og socialt accepteret. I begyndelsen af det tyvende århundrede var alkohol forbudt i mange vestlige lande, heriblandt Island.

Øl blev først forbudt i Island ved indførelsen af det totale spiritusforbud i 1915 (Gunnlaugsson og Galliher, 2000). I 1922 gjorde Altinget imidlertid en undtagelse fra loven og besluttede at tillade

salg af spanske vine. Ved en folkeafstemning i 1933 blev spiritusforbuddet nedstemt med et minimalt flertal, og Altinget vedtog at tillade import og salg af spirituøse drikke fra og med 1. marts 1935, dog med undtagelse af øl. Denne henstandsperiode for øl varede hele 54 år, eller til 1989, da fremstilling, import og salg af øl endelig blev tilladt. Lovforslag om legalisering af øl var i løbet af denne periode blevet fremsat på Altinget mere end 20 gange.

Lovændringen på Altinget i 1935 er på flere måder usædvanlig, idet det ikke er kendt i noget andet vestligt land at loven tillader alle alkoholholdige drikke, med undtagelse af den svageste form, øl. I de fleste andre lande er man af den opfattelse at skadeligheden af spiritus stiger proportionelt med alkoholstyrken i drikken. Følgelig er adgangen til stærkere drikke, og ikke svagere, blevet reguleret af politiske magthavere.

Vi står her over for et centralt spørgsmål om, hvorvidt bestræbelserne for at styre adgangen til spiritus og andre rusmidler udelukkende hviler på et etisk eller moralsk grundlag eller om andre sociale mekanismer også spiller en rolle. Er rusmiddellovgivningen ganske enkelt baseret på de enkelte stoffers styrke, hvor de stærkeste stoffer reguleres af loven mens andre mere uskadelige stoffer ikke styres i samme grad? Eller er det muligt at klarlægge underliggende strukturer af ulige magtfordelinger, hvilket kunne være en hjælp til at forklare forskelle i lovgivningen og i politiske udfald? Det mærkværdige ølforbud i Island vil i dette kapitel blive brugt som eksempel for at forsøge at besvare spørgsmål af denne type.

Forskningslitteratur og analytisk ramme

Den kendte amerikanske videnskabsmand Joseph Gusfield (1963) har påvist, at forbudstiden i USA i perioden 1919-1933 symboliserede den gamle middelklasses overlegenhed og prestige i det amerikanske samfund, en overlegenhed der viste sig i mobiliseringen af tilstrækkelig politisk styrke til at gennemføre forbuddet og i opretholdelsen af den gamle middelklasses værdier og livsstil, i modsætning til livsstilen hos storbyernes arbejder- og middelklasser. Gusfields analyse af den amerikanske afholdenhedsbevægelse og Forbuddet viser yderligere hvordan spørgsmålet om spiritusbrug og afholdenhed blev et væsentligt tyngdepunkt for konflikten mellem protestanter og katolikker, landbefolkning og bybefolkning, indfødte og indvandrere, middelklasse og lavere klasser i det amerikanske samfund.

I samme ånd påpegede Gusfield (1963) at den lovgivningsmæssige respons til afvigelser generelt kunne bestå af såvel *direkte* (instrumental) som *symbolske* (symbolic) indgreb. Det direkte indgreb gennem lovgivning omfatter den egentlige virkning af håndhævelsen, mens det symbolske kun forudsætter bekendtgørelse af loven, uanset hvilken påvirkning håndhævelsen måtte have på befolkningens optræden. Indførelsen af spiritusforbuddet var en symbolsk handling, idet forbuddet blev overtrådt i vid udstrækning og sjældent håndhævet. Spiritusforbuddet baseredes således ikke på materielle interesser eller på, hvor stor en fare det pågældende rusmiddel måtte medføre for brugere men på dets symbolske budskab og på konflikter mellem forskellige sociale grupperinger.

En anden videnskabsmand (Musto, 1987) henførte på lignende måde baggrunden for den amerikanske Marihuana Skattelov af 1937 til en kulturel konflikt og en indflydelsesløs minoritetsgruppe. Brugen af marihuana var ikke udbredt i tredivernes USA og var derfor ikke

blevet forbudt ved føderal lov. Mexicanere var i tyverne indvandret til USA i stort antal og havde bragt brugen af marihuana ind i landet. Denne beruselsesform blev for det meste tolereret, fordi mexicanerne udgjorde en billig arbejdskraft i en periode med stærk økonomisk fremgang. Under den store depression i trediverne blev mexicanerne imidlertid betragtet som konkurrenter om de ledige arbejdspladser, og deres skikke opfattedes efterhånden som truende. Dette var især tilfældet i det sydvestlige USA, hvor der fandtes store koncentrationer af mexicanske immigranter.

I modsætning til Musto (1987) fandt Becker (1963) at grunden til vedtagelsen af Marihuana Skatteloven var en kampagne, der blev kørt af USA's føderale narkotikabureau under ledelse af Anslinger, der optrådte som moralsk entreprenør. Bonnie og Whitebread (1974) har desuden fundet overbevisende dokumentation for at bureauet i begyndelsen af trediverne havde foranlediget en "uddannelseskampagne" om marihuanaens negative virkninger, hvilket medvirkede til at afbilde stoffet som et onde og til at det blev forbudt i mange amerikanske delstater.

Efter denne korte gennemgang af forskellige studier af rusmidler og forskellige styringsstrategier står det klart at moralske og etiske perspektiver ikke er de eneste faktorer, der ligger til grundlag for sociale og formelle reaktioner over for brug af rusmidler. Vi ser, at også politisk manøvrering og økonomiske interesser spiller en vigtig rolle i lovgivning angående brug af forskellige stoffer. Også i de nordiske lande er der blevet udført undersøgelser på dette felt (se f.eks. Gunnlaugsson og Galliher. Kallenautio (1981) påviste, at økonomiske interesser var en del af grundlaget for Finlands alkoholforbud, og Gunnlaugsson og Galliher (2010) fastslog, at ølforbuddet i Island stort set ikke blev håndhævet og således var en symbolsk lov. Ligeledes er det blevet påvist at afholdenhedsbevægelsen havde videre mål og konsekvenser. Sulkonen (2009) har f.eks. fremsat argumenter for, at afholdenhedsbevægelserne i de nordiske lande havde et tæt samarbejde med de nationalistiske folkepartier, agrarpartierne og arbejdsbevægelserne. For alle disse grupper blev overholdelsen af statsforeskrevet afholdenhed betragtet som nøglen til frigørelse, erhvervelse af ligeret og til beskyttelse af almenvellet, en overbevisning der specielt blev udtrykt i afholdenhedsbevægelsens retorik, der i øvrigt lå tæt op ad arbejderbevægelsens.

Den lange varighed af det islandske ølforbud, der strakte sig til hen mod slutningen af det 20. århundrede, vækker uundgåeligt påtrængende spørgsmål om, hvilken slags statslig myndighed og magtstruktur der ville være i stand til at opretholde denne mærkværdige lovgivning i så lang tid. For at kunne besvare dette er det nødvendigt at foretage en analytisk skelnen mellem dels de udtalelser, som Altingets medlemmer i løbet af forbudsperioden har fremsat for og imod forbuddet og dels de underliggende grunde for forbuddet, som dog ikke blev fremsat på tydelig vis og ej heller forelagt offentligheden (Gunnlaugsson, 2012, 2017). Officielt fremførte tilhængere af forbuddet det argument, at øl udgjorde en trussel mod samfundets - og da først og fremmest arbejderklassens og ungdommens - sundhed og velvære. Yderligere argumenter var, at øl ville være en trædesten hen mod de stærkere drikke, som igen ville føre til alkoholproblemer senere i livet. Altinget indtog på denne måde rollen som en faderfigur for islændinge, der ville beskytte befolkningen mod øllets onde og tjene den enkeltes men også hele samfundets interesse. Under forbudstiden blev disse argumenter ofte fremsat i Altinget som støtte for ølforbuddet.

Vi kan dog samtidigt se yderligere underliggende grunde til forbuddet, grunde der ikke blev fremsat eksplicit eller offentligt men dog havde overordentlig stor betydning for ølforbuddets lange varighed. Det langlivede forbud mod øl i Island manifesterede en symbolsk statuskonflikt mellem et Alting domineret af den landlige befolkning og et i stigende grad bymæssigt samfund. Den landlige befolkning, der var stærkt overrepræsenteret i Altinget gennem det meste af det 20. århundrede, forsvarede forbuddet, idet den ikke alene troede på det moralske budskab, som forbuddet afbildede, men også følte sig truet af den tiltagende styrke af de bymæssige befolkning med dens globale og nutidige ideer om individuel frihed og markedsideal. Forbuddets fortsættelse på trods af talrige forsøg på at afskaffe det, viste således en triumf til landområderne over byerne, til traditionstroen over moderniteten, til offentlighedens interesse over individets valgfrihed og til den landlige middelklasse over både de lavere og højere samfundslag i byerne.

Denne konflikt i Island var i visse henseender usædvanlig, idet der under forbudsperioden også dannedes en landlig arbejderklasse-koalition, der styrede byernes middelklasse, hvilket er forskelligt fra konventionelle klassekonflikter som man finder i de fleste andre lande. Mod slutningen af det 19. århundrede var afholdenhedsbevægelser blandt arbejderklasserne ikke usædvanlige i lande så som Storbritannien, Sverige og Finland (Sulkonen, 2009), men var dog sjældent så stærke, som vi ser det i Island, og det endda til langt ind i det 20. århundrede. Som det allerede er blevet påvist (Gunnlaugsson, 2017), ændredes argumenterne for det fortsatte ølforbud ikke meget gennem forbudsperioden. Imidlertid underminerede såvel interne som eksterne samfundsmæssige ændringer i den sidste halvdel af det 20. århundrede gradvist den politiske støtte til forbuddet, indtil det til sidst blev ophævet i 1989. Som vist nedenfor ser man dog endnu i dag lignende meninger om livsstilsstyring i de argumenter, der retfærdiggør forbuddet mod cannabis, og da især marihuana.

Ligheder med styring af cannabis

De mest virkningsfulde argumenter, som op gennem forbudsperioden er blevet fremsat mod frigivelsen af øl, har altid haft det udgangspunkt at unge har sværere ved at modstå fristelsen af øl end andre samfundsgrupper. Argumentet var således, at hvis øl var tilladt, ville unge have en større tilbøjelighed til at misbruge det, med fuldskab og uorden til følge. Ølforbuddet blev således gennem årtier retfærdiggjort i lyset af den ide, at det hjalp med at beskytte unge mennesker mod det skråplan, som legalisering af øl uundgåeligt ville føre dem ud på. Dette teoretiske argument mod øl, dvs. dets tragiske virkning på unge, blev som nævnt ovenfor hyppigt fremført af Altingets medlemmer.

Bekymring om de unges velvære har også været et centralt punkt i styringen af forskellige narkotiske stoffer i USA, og da især marihuana (Gunnlaugsson og Galliher 2010). For eksempel påpeger Himmelstein (1983) at det første forsøg fra den amerikanske regerings side på at styre brugen af marihuana, Marihuana Skatteloven i 1937, først og fremmest blev retfærdiggjort som en redningsaktion for de unge. Bekymringerne fokuserede på, hvordan stoffet kunne skade de unge. Dets påståede udbredelse til de unge betragtedes som en smittesygdom, der i sidste ende kunne ødelægge deres liv. I denne henseende betragtedes unge som mere sårbare end andre samfundsgrupper over for farene, som dette stof medførte. Ligesom med ølforbuddet i Island

havde marihuanaforbuddet i 1937 det mål at redde ungdommen fra noget, der betragtedes som en alvorlig trussel mod dens trivsel.

Udover den opfattelse at legalisering af øl ville skade de unges trivsel er også en anden ide indbygget i argumentet: at indtagelse af øl vil tjene som vejen hen mod indtagelse af stærke drikke (Gunnlaugsson og Galliher 2010). Denne ide, der blev klart formuleret allerede i 1934, var tydeligt det mest effektive argument til at overbevise altingsmedlemmerne om, at øl ikke skulle være lovligt. Dette teoretiske argument går ud på, at den unge først vil drikke øl og på denne måde blive bekendt med virkningen af spiritus. Ølberuselsen vil efterhånden ikke være nok for den unge, der langsomt men sikkert vil gå over til at drikke stærk spiritus. Denne formulering blev meget indflydelsesrig, når lovforslag om legalisering af øl blev diskuteret på Altinget. Tilladelse af øl ville give de unge smag for spiritus og gradvist lede dem ud i alkoholmisbrug. Selv om denne teori er og bliver kontroversiel (Caulkins et al. 2016), har den været af afgørende betydning i retfærdiggørelsen af forbuddet mod marihuana. Teorien går ud på, at brug af marihuana er en faldgrube til afhængighed af heroin (Kaplan 1970). Når begejstringen over marihuana er overstået, vil brugeren efterhånden gå over til heroin. Denne løse påstand blev tyngdepunktet i diskussionen om politikken angående marihuana i halvtredserne (Himmelstein 1983). Nyligt materiale synes dog at vise, at tilgængelighed til cannabis har den modsatte virkning på opioide overdoser (se f.eks. Bachhuber et al. 2014). Ligeledes har undersøgelser vist, at optrapning fra cannabis til heroin delvis er en følge af metoder, der ikke adskiller "hårde" og "bløde" stoffer (se f.eks. McCoun og Reuter 2001).

Den store vægt, der er blevet lagt på årsagssammenhængen mellem forskellige stoffer har været en vigtig faktor både i Island og i USA i kampagnerne for at forbyde øl og marihuana (Gunnlaugsson og Galliher 2010). Argumentet erkender sandsynligvis en vis skepsis over for hvorvidt stoffet i sig selv er farligt, idet argumentet går ud på, at faren netop ligger deri, hvor stoffet vil føre brugeren hen: øl vil føre til brug af stærke drikke, og marihuana vil medføre brug af heroin. Ironien og det helt enestående i den islandske lovgivning er følgende: myndighederne forbød øl men ikke stærk spiritus, der må formodes at være farligere. Den underliggende formodning er, at unge ville drikke spiritus efter først at have drukket øl. Ved at fjerne øl ville man ifølge teorien fjerne et springbræt til alkoholisme og derigennem begrænse tilfældene af alkoholmisbrug betydeligt. Legaliseringen af øl ikke viste dog nogen stigning i alkoholmisbrug blandt unge. Nylige undersøgelser i Island viser en nedgang i brugen af rusmidler blandt unge gennem de seneste år, og Island figurerer nu som et af de laveste lande i Europa hvad angår indtagelse af alkohol blandt unge (ESPAD 2015).

Lighederne mellem øllovgivningen i Island og marihuanalovgivningen i USA ses ikke alene i argumenterne der er blevet fremført af de parlamentarikere, som har villet retfærdiggøre forbuddene mod henholdsvis øl og marihuana (Gunnlaugsson og Galliher 2010). I 1965 anførte en forslagsstiller til et lov om tilladelse af øl at det var ejendommeligt at forbyde øl, eftersom det gjorde drikkeren døsig, mens spiritus let kunne gøre drikkeren iltet og opfarende. Tilsvarende påpegede personer, der ville legalisere marihuana i USA, at stoffet får brugeren til at slappe af og gør ham eller hende tolerant og mindre aggressiv, hvorfor det ikke burde være forbudt (Kaplan 1970). Selv om der findes mange argumenter både for og imod disse rusmidler, anvender tilhængere og modstandere af dem i mange tilfælde meget lignende argumenter. Tilhængere af

legalisering af øl og marihuana fremfører som argument, at rusmidlet vil hjælpe brugere med at slappe af. Modstanderne fremfører derimod som argument at rusmidlerne vil skade unge mennesker, og endda at de i sidste ende vil ødelægge de unges liv ved at gøre dem afhængige af stærkere rusmidler. Ingen af disse argumenter blev dog nogensinde underbygget med beviser.

Ølforbud og den igangværende krig mod narkotika

Ophævelsen af ølforbuddet i 1989 markerede ikke afslutningen af kampen mod rusmidler og medførte heller ikke noget væsentligt misbrug blandt den yngre befolkning, således som det længe havde været frygtet. Kort efter forbuddets ophævelse kom der fornyet kraft i islændingenes modstand mod narkotika, en kraft, der endnu ikke er aftaget (Gunnlaugsson og Galliher 2010). Lighederne mellem spiritusforbuddet og det nugældende narkotikaforbud er slående. Under forbudstiden bemærker vi såvel i Island som i USA konsekvenser, der ligner konsekvenserne af krigen mod narkotika: smugling, farlig hjemmebrændt spiritus, specialstyrker inden for politiet, der optrævler ulovlig markedsføring og forbrug af spiritus ved hjælp af massearrestationer og fængslinger, vold i underverdenen og problemer forårsaget af alkoholmisbrug – alt dette har tydelige paralleller i forbuddet mod narkotika.

Det står klart at den øgede frigivelse af rusmidler, hvad enten det drejer sig om narkotika eller spiritus, uundgåeligt fører til et højere forbrug men ikke nødvendigvis vil medføre større skade på befolkningens sundhed. Én genstand pr. dag pr. voksen vil f.eks. medføre meget færre problemer end hvis det samme kvantum spiritus ville blive drukket af 10 eller 20 procent af den voksne befolkning. I Island har frigivelsen af øl i 1989 og en liberalisering af spirituspolitikken unægtelig medført en stigning i det samlede forbrug af spiritus i samfundet. Samtidigt har en ændring i befolkningens præferencer fra stærke drikke til øl og vin vist sig at være en positiv udvikling.

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The Norwegian wolf policy, a cause of concern

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Abstract

The Norwegian Court, Oslo District Court, rejected on 5 January 2018, WWF Norway's demand that the ongoing licensed hunts on 42 wolves should be stopped while awaiting a thorough assessment of the legality of the Norwegian state's large carnivore policy in Court. The issue concerns whether the Norwegian state breaches with the Nature Diversity Act and the Bern Convention by killing 75 % of the Norwegian wolf population. The hunt started by shooting two packs; the Osdalspack and the Julussapack. During the hunts, several wolves were injured and chased before they were finally killed. In the Court decision from January 5, it was stated that the wolves could be killed due to *special public interests*. In this paper I discuss the legality of the hunts, and the validity of the Court's argument.

Keywords: wolf killings, Bern convention, Nature Diversity Act

Introduction

Since the reintroduction of the large carnivores in Norway, wolf, lynx, brown bear and wolverine, conflicts have evolved concerning the ways in which Norway fulfils its international obligations in preserving these species in a context where many after the extinction policies that lasted up to the 1970ies had become used to a country without predators who disturb their lives; whether during leisure activities such as hunting, or farming (Skogen 2001, Sollund 2015, 2016). In order to balance different interests; the environmental authorities regularly initiate licensed hunts on these predators, particularly wolves. My aim in this paper is, by taking as a point of departure a recent hunt and in relation to that, a Court decision, to discuss Norwegian management of endangered predator species. How successful is the balancing of different interests in Norway concerning the preservation of endangered species?

Endangered species, such as wolves, brown bears, wolverines and lynx' are legally protected in Norway due to Norway's obligations to the Convention on the Conservation of European Wildlife and Natural Habitats – the Bern convention - which was ratified in 1986.

The last decades have witnessed a return of large predators in many European countries, including Norway, suggesting the Bern Convention has had positive effects. One cannot underestimate the practical significance of protecting large endangered predators since the killing of them, whether legal or illegal, has the greatest impact on their number (Liberg et al. 2012, Trouwborst 2010). The Bern Convention has shaped the 55 state parties' legislation and wildlife management, and

consequently the killing of wolves, for instance, may now be a punishable offence in Norway.¹³⁸ These species are therefore – or perhaps rather; should be – protected under the Nature Diversity Act.

However; the protection of large carnivores or conversely the lack of protection distributed to these species in Norway, is contested. It is reason to believe that while the Norwegian state has formally signed the Bern convention and should be committed to it through protecting the large carnivore species, at the same time through licensing hunts on large numbers of animals pertaining to these species annually, they keep these them at an unhealthy brink of extinction, e. g. with inbreeding problems, and fail in fulfilling international obligations (Trouwborst et al 2017). This may be debated from a legal point of view, i.e. how to interpret the *Nature Diversity Act*¹³⁹, and from a green criminology perspective (Sollund 2015, 2017), the latter I leave to another occasion.

The Parliament in Norway has established minimum goals for how many animals of the endangered species shall be allowed to live, and where, in so called designated predator zones (Sollund 2015, 2017). This means that when wolves, wolverines, lynx or brown bears either have more litters than allowed by the state, or when they try to establish territories in zones outside the designated predator zones, the state will authorize killing them. The actual killing is either performed through licensing hunts or the state itself executes the killing through the SNO (*Statens naturoppsyn*) [The state's nature surveillance]. I will give an example of how this is done.

Licensed hunts

On December 1st 2017, the then Norwegian Minister of Climate and environment; Vidar Helgesen decided 42 wolves should be killed in licensed hunts in the winter 2017-2018. These wolves were estimated to constitute more than 75%¹⁴⁰ of the Norwegian wolf population and the decision was met with protest from animal right activists and NGO's such as WWF Norway. WWF Norway brought the state to Court in order to get an injunction to stop the hunts, but this was rejected in a decision made in Oslo District Court on January 5, 2018. Another trial in which WWF accused the Norwegian state for not fulfilling its obligations to the Bern convention and for breach of the Nature Diversity Act took place in Oslo District Court from April 24-27; WWF lost the case in a verdict of May 18, 2018. Twenty eight of the wolves were shot, including all wolves of two packs, which lived partly within the designated wolf zones, the Julussa and Osdalen packs.

¹³⁸ Norwegian verdicts regarding such crimes suggest a move towards stricter punishment by the legal system. On 20 April 2015, in Sør-Østerdal District Court, five men were convicted of the illegal killing of a wolf. Sentences included prison terms of up to 1 year and eight months. The case was appealed and ended in the Supreme Court where the offenders were convicted and sentenced to up to one-year terms of imprisonment.

¹³⁹ <https://lovdata.no/dokument/NL/lov/2009-06-19-100>

¹⁴⁰ According to Rovdata [Responsible for the surveillance of large predators in Norway]; on 5th of March, there were registered 70-72 wolves in Norway, of whom 23 were shot in licensed hunts, and three were shot on 'extraordinary hunt'. In addition, come 38 wolves living on both sides of the Norwegian-Swedish border. <https://rovdata.no/Nyheter/Nyhetsartikkel/ArticleId/4465/Uendrede-ulvetall.aspx>

In the decision of Oslo District Court from January 5th, the judge acknowledged that the Ministry of Climate and environment meant that these wolves represented only a limited potential threat to livestock, since their territories were not grazing grounds for sheep; and that therefore it was *not* legally justified to license hunts according to the Nature Diversity Act § 18, 1st paragraph about hunts in order to prevent damage to livestock. However, since the wolves constituted no danger to livestock, the Ministry determined they should be killed due to *public interests of considerable significance* (§18, second part c), which was supported by the judge of Oslo District Court.

At the same time, the judge made a point that up to date there had been no Court decisions assessing the interpretation of §18, about *public interests of considerable significance* – an issue treated in the Court in April 2018, a verdict I cannot discuss herein. One can ask how the judge in January could decide that it was acceptable to kill these two packs out of ‘public interest’, when the public interests that were mentioned were those of hunters and spread (rural) settlement.

During the debate and protests that arose as a result of the decision, it became apparent that what was considered was not only the interests of hunters, in keeping their prey from the wolf packs and in avoiding the threat the wolves would represent for their dogs, but also the interest of forest owners who sell hunting rights. If the wolves take the elk, they opine there are too few elks left for ‘sport’ hunters. There are at present roughly half a million people registered in the hunters registers of whom 202 300 paid the hunter license in 2017/2018 (SSB 2018¹⁴¹), but the interests of the rest of the Norwegian population, of whom many are in favour of keeping the wolves (and other large predator) population and who find pleasure in knowing these predators exist in Norwegian nature (Skogen and Kränge 2003; Skogen et al 2010), were not taken into account. Since many hunters are ‘passive hunters’ who do not go out to kill animals on a regular basis, one could thus argue that the hunters represent not *public interest of considerable significance*, but rather the *limited* interests of a few (3,8%) in comparison to the total population (5 295 619, SSB 2018¹⁴²) and the majority who do *not* kill for pleasure. What matters in the Court decision, are the interests of those who want to kill animals – both elks and predators they regard as competitors – rather than the interests of those who want to protect the animals from human harm and preserve the species. However, one must balance the importance of having ‘sufficient’ animals to kill for pleasure and the possibility of doing so without being disturbed by predator presence, against the interests in preventing species extinction, fulfilling national and international obligations and individual animal rights (Benton 1998).

The judge chose to ignore a former Norwegian Supreme Court decision from 2016, where it was established (HR-2016-1857-A¹⁴³), that concerning *illegal* wolf hunting, one must take into account the Norwegian wolf population, rather than the total Scandinavian wolf population. Instead, the judge turned to a Swedish decision from Högsta Förvaltningsdomstolen¹⁴⁴ [The Supreme Administrative

¹⁴¹ <https://www.ssb.no/jegerreg/>

¹⁴² <https://www.ssb.no/befolkning/faktaside/befolkningen>

¹⁴³ <https://lovdata.no/pro/#document/HRENG/avgjorelse/hr-2016-1857-a-eng?searchResultContext=893>

¹⁴⁴ <http://www.hogstaforvaltningsdomstolen.se/Avgoranden/Domar-och-beslut/2016/Ovriga-mal/Mal-nr-2406--2408-16-och-2628--2630-16/>

Court] from 2016, where it was argued that licensed hunts reduce social conflicts surrounding wolf management. This is an argument put forward by several scholars, e.g. in relation to the Swedish wolf conflicts (von Essen and Allen 2016; von Essen et al 2016), but which is also debatable (Sollund 2017).

The killing of endangered predator species continues at large speed, exemplified by the recent decision of the Norwegian predator boards to kill three flocks within designated wolf zones. Not since 1919 have so many wolves been shot in Norway.¹⁴⁵

It is good reason to think that this decision, like previous similar decisions are breach of the Nature Diversity Act and the Bern convention (Trouwborst et al 2017), and also breach with the claimed intentions of the massacres, to prevent wolf attacks on sheep. Killing established flocks rather opens territories for new wandering wolves who will not contend themselves with elks, but who will prey on sheep¹⁴⁶.

Conclusion

The Norwegian wolf policy is not based on science but on the decisions made by locals who generally have taken a stand against wolves and their return to Norwegian territory, but who have been delegated political power to decide over the lives and deaths of Norwegian endangered predators through the regional predator boards (Sollund 2017).

The goal of the hunt was, as established in the Court decision, to reduce conflict. No matter how disputable it may be that the hunt would reduce conflict in such a contested area; this was still the reason why this judge found it legitimate to kill all these wolves; even in an area where they should enjoy protection, in the designated wolf zones. The reason for the conflict was not something that the wolves had done. Looking at the Norwegian wolf hatred as this appears in social media and demonstrations gathering wolf adversaries, the issue seems not to be what wolves *do*; it is rather their *existence* that creates conflict¹⁴⁷. It should however also be stated that such conflicts seem overtly media produced¹⁴⁸, but still seem to affect policy in the area. Whether the hunt was also breach of the Nature Diversity Act and the Bern convention will be established in the coming appeal trial, but may likely be appealed to the Supreme Court by either party.

¹⁴⁵ <https://www.ssb.no/jord-skog-jakt-og-fiskeri/artikler-og-publikasjoner/ikke-skutt-flere-ulver-siden-1919>

¹⁴⁶ <https://www.nrk.no/ho/etterlyser-ulvesamarbeid-mellom-norge-og-sverige-1.14101956>

¹⁴⁷ See for example the Facebook site Nullvisjon, [Vision Zero] advancing that all wolves should be exterminated. https://www.facebook.com/pg/nullvisjon/posts/?ref=page_internal

¹⁴⁸ <https://www.dn.no/nyheter/2017/04/25/2052/Miljo/-mange-er-drittlei-av-ulv>

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Working experiences of Polish workers in Norway, Sweden and Finland Methodological premises of the research project “The Formation of Labor Exploitation”

Hanna Maria Malik

Introduction

Since Poland has joined the European Union in 2004, Polish workers have increasingly migrated to other Member States of the European Economic Area, taking advantage of the opportunities provided by the principles of free movement. According to the Nordic Statistics in 2013, over 18,500 Polish citizens immigrated into the Nordic Region, the majority to Norway.¹⁴⁹ According to Polish Central Office of Statistics (GUS) at the end of 2016, there were around 85,000 Polish citizens staying there temporarily.¹⁵⁰ There is also a great deal of Polish citizens staying temporarily in other Nordic countries e.g. 49,000 in Sweden, 32,000 in Denmark, 3,000 in Finland.¹⁵¹ In addition, Poland is the by far most important sender of posted workers, who are employed in Poland and sent by their employer to carry out services in another EU Member on a temporary basis.¹⁵²

The paper presented at the 60th NSfK Research Seminar “Power, Politics and Crime Control”, entitled “Working experiences of Polish workers in Norway, Sweden and Finland – already a crime?” covered the methodological premises and the preliminary findings of the exploratory research study “The Formation of Labor Exploitation – Experiences of Polish Workers in Finland, Norway and Sweden”, which was conducted between October 2017 and April 2018 at the Faculty of Law of Turku University (Finland) and funded by the Scandinavian Research Council for Criminology (NSfK). This report will give a brief overview of the methodological premises of this study. The empirical findings of the research and the discussion will be presented in a comprehensive research report, which is planned to be published in autumn 2018. The overall goal of the research project was to provide better understanding of the complexity and dynamics of labor exploitation of migrant workers. To this end this project aimed first at drawing a picture of the situation of Polish workers in Nordic Countries in sectors mostly exposed to labor exploitation by documenting and examining their personal experiences of working and living in Finland,

¹⁴⁹ The data of Nordic Statistic comprises non-Nordic citizens who obtain a residence permit or a work permit for a period exceeding at least three months and Nordic citizens who move permanently to another Nordic country. The registration method varies between the Nordic countries. See more Nordic Statistics.

¹⁵⁰ Polish Central Office of Statistics (GUS) is gathering information on the estimated size and directions of temporary emigration from Poland in “Informacja o rozmiarach i kierunkach czasowej emigracji z Polski w latach 2004 – 2016”. The available data concerns Polish citizens with permanent residence in Poland, temporary staying abroad, at the end of each year. Until 2006 data includes Poles staying abroad - over 2 month, and since 2007 - over 3 months.

¹⁵¹ Polish Central Office of Statistics (GUS) “Informacja o rozmiarach i kierunkach czasowej emigracji z Polski w latach 2004 – 2016”.

¹⁵² According to the EU-Commission Impact Assessment in 2014, in absolute terms 266,700 posted workers from Poland were sent to single Member States and 428,400 to multiple Member States. In regard to posting to single Member State, Poland is followed by Germany with 232,800 and France with 119,700, The number of posted workers is estimated on the basis of the number of portable social security documents A 1 social insurance certificates see more EU-Commission 2016, Impact assessment, pg. 57.

Norway and Sweden. Second, by employing the structural approach of state-corporate crime scholarship, the study aimed at examining in the larger context the exploitative policies and labor market practices experienced and observed by Polish workers, which may contribute to or enable the exploitation of migrant workers.

Method and Data

The data of this research consists of qualitative interviews conducted with Polish posted and migrant workers and qualitative interviews conducted with Polish-speaking experts from relevant local organizations in Finland, Norway and Sweden, as well as observations of the workshops for Polish workers organized by local trade unions in Norway and Sweden. In addition, to get an overview of the situation of Polish workers, to facilitate future communication with the interviewees, and to ease access to the field, the interviews were preceded by consultation with representatives of Polish embassies, organizations of Polish diaspora, trade unions¹⁵³, and labor inspection authorities¹⁵⁴ in each country. Subsequently, the key informants were recruited via organizations of Polish diaspora, trade unions, online forums and social media. Further interviews were obtained via snowballing method. The research participants were both women and men, ranging between their late 20s to their early 50s. At the time of the interviewing all respondents were staying in the analyzed countries. They came from the main sectors employing Polish workers – the construction-, metal-, and food processing sector. Furthermore, since the wives or partners of the male workers, regardless of their level of education and previous experience often work as cleaners - the cleaning sector was included as well. The majority of the interviewees had a long history of emigration, with several employers, different types of employment, and this also in more than one of the analyzed countries. Hence included were experiences and observations of workers both staying temporarily and permanently in the Nordic Countries, employed directly and via intermediaries e.g. subcontractors or temporary work agency, employed on temporary basis and permanently, as well as self-employed and currently unemployed Poles. Conducted were 22 interviews, including 19 individual interviews, each approximately hour and forty-five minutes long and three group interviews, each approximately three hours long. All together 27 Poles were interviewed, nine in each country. Amongst them four respondents were Polish-speaking experts from Polish organizations and local trade unions. 14 interviews were conducted face-to-face in the university premises, in the premises of local trade unions and organizations of Polish diaspora, as well as in the public spaces. Eight interviews were conducted via online communicators Messenger and Skype. The interviews with Polish workers, the interviews with experts from relevant local organizations and consultations in Polish embassies were conducted in Polish, the native language of the interlocutors. The responsible researcher is herself Polish, which was advantageous for the communication with the respondents. The workshops organized by

¹⁵³ SAK, Teollisuusliitto, Sähköliitto; Byggnads; Elog IT Forbundet; Oslo Byggningsarbeiderforening, Norsk Nærings- og Nytelsesmiddelarbeiderforbund; Fellesforbundet Bergen; Fellesforbundet Hardanger Sunnhordland.

¹⁵⁴ Regional State Administrative Agency for Southwestern Finland, Turku and Helsinki; Arbetsmiljöverket - The Swedish Work Environment Authority, Arbeidstilsynet - The Norwegian Labour Inspection Authority; Servicesenter for utenlandske arbeidstakere (SUA) - Service Centre for Foreign Workers

Swedish and Norwegian trade unions were held in Swedish and English and translated for the workers into Polish. The labor inspector authorities and some local trade unions were consulted in English.

The risks of the research were moderately high. Since the participation in a research study of this sort, might have negative consequences for the workers and the interviews include confidential information, the study were planned and executed according to the ethical guidelines of the Finnish Advisory Board on Research Integrity (TENK). Each interview was conducted after obtaining an informed consent from the respondent, who was informed that the participation in the research study is voluntary, he or she may withdraw from the project at any time, and that his or her confidentiality will be ensured.

The subject of the inquiry

Taking into account short duration of the project (7 months), limited resources and broad research questions, this study from the very beginning was designed as an exploratory research study, with the aim to give the voice to the workers themselves and to provide deeper knowledge of their situation and working experiences in the Nordic Countries. Consequently this study has taken flexible approach to the design of the interview guide.¹⁵⁵ The qualitative interviews conducted with Polish workers were semi-structured. Prior to the interview the respondents were briefly informed about the subject and the goal of the research project and the affiliation of the responsible researcher. To provide genuine insight into the experiences and the problems that workers may face in their day-to-day work, the interviewees were given the maximal latitude to share their stories. After introduction of the thematic focus of the study on six issues: background information, terms of employment, working conditions, general awareness, quality of life and recommendation, the interlocutors were invited to share the story of their emigration and asked an introductory question about their beginnings in the given country. The experts from trade unions and from Polish organizations, in turn, were asked about their observations concerning working and living conditions and the general situation of Polish workers in the given country. The conversation was then steered by structuring questions, prepared on the basis of previous theorizations on labor exploitation in particular the notion of continuum of labor exploitation¹⁵⁶ as well as previous theorizations on labor exploitation as a corporate and a state-corporate crime.¹⁵⁷ Following the flexible approach to exploratory study, the structuring questions were continuously adapted to the new information gained in the course of interviewing phase. Eventually following topic were covered during the interviews: (1) Background information e.g. reason for emigration, professional qualifications, other experiences with emigration, family situation, duration of stay, beginnings and evolution of their situation; (2) Terms of employment including art of recruitment, type of employment, type of contract, wages and benefits, working hours, distribution of work, information about the employer; (3) Working conditions including health and safety conditions,

¹⁵⁵ Brinkman et Kvale, pg. 139 ff.

¹⁵⁶ Andrees 2008, Skrivankova 2010, Lisborg 2012; Ollus 2016.

¹⁵⁷ Kramer et Michalowski 1991; Michalowski et al. (2002); Kauzlarich, Mullins and Matthews (2003); Kauzlarich et al. (2003); Bernat et Whyte 2017; Bruce et Becker 200.

work environment, relationship with the co-workers and the employer, well-being at work; (4) General awareness including awareness of the employment rights, knowledge of local labor law, language skills, experience with unionization, reason for acceptance of or resistance against their situation, coping strategies, access to justice; (5) Quality of life including accommodation, board, feeling of inclusion, relationship with friends and family, future plans, return to Poland; (6) Recommendations e.g. for employer, for local authorities, for Polish authorities. In addition, the interviewees were asked to compare their situation, employment and working conditions with the situation of native workers, and other migrant workers, in particular from the Non-EU countries.

Theoretically anchored interpretations

The interviews, were recorded, transcribed and analyzed with thematic, content analysis in order to identify, group and classify recurring themes in the experiences and observation of Polish workers and experts of local organizations. To further interpret the findings of the content analysis, this study uses the theorizations of state-corporate crime scholarship, which draws attention to mutually reinforcing interactions between corporate and state powers to produce social harm.¹⁵⁸ The research here happens at the periphery of the labor exploitation continuum. Polish workers as citizens of the European Union, covered by the EU-Free Movement Directive are in principle less vulnerable group of migrant workers. Hence special attention was given to the policies and formally legal labor market practices in particular different forms of non-standard and transnational employment that might directly or indirectly enable exploitation of migrant workers, within the European Economic Area. In line with these assumptions the majority of the interviewees did not consider themselves as being exploited and gave account of a generally positive experience of their work in the Nordic Countries. Still, in the course of the interviews the workers indicated various practices, which they themselves considered as unjust or exploitative. Among the problems indicated by the interviewees many were connected to the overuse of the temporary contracts and the non-standard employment. Due to the high workforce turnover and general competition between the workers, in experience of many respondents, temporary contract had negative influence on unionization and were used as an important means to control the workers. Some interviewees, in particular the posted workers, complained about the poor quality of life during their work abroad. Moreover, despite the gradual increase of the wages in recent years, lower wages for Polish and other migrant and posted workers were still indicated as a common practice. Thereby the interviews has confirmed results of previous studies on the situation of Polish workers in Nordic countries.¹⁵⁹ At the same time many respondents have expressed certain understanding of their own situation and considered the use exploitation as rather common business strategy and normal element of migrant workers' life. In this light recent approach to state-corporate crimes that calls to look beyond the immediate interactions of state and corporate power to produce social harm and examine normal state practices and normal conditions of doing business proves to be particularly useful to further interpret the situation of

¹⁵⁸ Braun et Clarke, 2006

¹⁵⁹ to name just a few Carby-Hall, 2008; MSW 2009, 2013; Friberg 2013; Lille et Sippola 2011; Wojtyńska, 2012; Thörnqvist et Bernhardsson 2015.

the interviewees.¹⁶⁰ Following this approach the state corporate crime concept allows to extend the research perspective from the criminal event or social harm itself to the formative factors of harmful conditions for the workers. Thus this study seeks to explain how the formally legal, widely accepted practices such as posting of workers, use of temporary agency work and subcontracting to self-employed contractors are used by different actors – such as service buyers, subcontractors, sending states or receiving states - to enhance their competitiveness on the expenses of the migrant workers.

Possibility of generalizations

One might argue that the abovementioned conclusions are not plausible on the basis of a limited number of qualitative interviews. Interviews, which moreover were conducted with a very diverse group of Poles in three different countries. As mentioned above the majority of the interviewees had a long history of emigration with various types of employment, often without an equivalent in the rest of the analyzed countries. The situation, experiences and observations of different workers varied not only between countries, but also between particular regions of analyzed countries and between analyzed sectors. Taking into account these differences generalization might be difficult to achieve. On the other hand, findings of this research study confirms results of previous qualitative and quantitative studies on the situation of Polish workers in the Nordic countries and in other Member States of the EU. There is already a sufficient evidence that Polish workers are exposed to different forms of exploitation. This was also confirmed by the observation of the interviewed experts and consulted local trade unions and labor inspection authorities. At the same time, the smaller number of interviews with particular focus enable more intensive examination of certain phenomena.

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¹⁶⁰ Bernat et Whyte 2017

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