SEKSUALFORBRYDERE I DET STRAFFERETLIGE SYSTEM

RAPPORT FRA NSFK'S 26. KONTAKTSEMINAR

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Forord

Seksualforbrydere påkalder sig særlig opmærksomhed indenfor mange videnskaber, herunder også indenfor strafferetten og kriminologien. Når det gælder seksualforbrydere er der væsentligt større opmærksomhed på særlig udredning under efterforskning og individualisering af straffen end når det gælder nogen anden form for lovovertræder. Nordisk Samarbejdsråd for Kriminologi har som en af sine opgaver at bidrage til formidling af erfaringer imellem teori og praksis og emner vedrørende seksualforbrydere i straffesystemet er både aktuelt og relevant herfor.

Derfor blev der arrangeret et kontaktseminar om temaet. Seminaret fandt sted i dagene 21.-23. oktober 2013 i Reykjavik, Island.

På seminaret blev der præsenteret 12 oplæg fra Danmark, Finland, Grønland, Island og Norge. Tematisk spredte oplæggene sig fra holdninger til seksualforbrydere over håndteringen af dem i anklager- og fuldbyrdelsessystemet til deres tilbageføring til samfundet. Oplæggene blev præsenteret af forskere og praktikere med forskellige perspektiver.

Hermed foreligger en samlet rapport med 10 ud af de 12 oplæg, der blev præsenteret. Formålet med rapporten er dels at fastholde erindring og kontakt for deltagerne, dels at viderebringe viden og inspiration til såvel forskere, praktikere og beslutningstagere.

De menings- og erfaringsudvekslinger, de forskellige oplæg blev suppleret af under seminaret, er det alene deltagerne, der får fornøjelse af.

NSfK vil hermed gerne sige tak til deltagerne for deres engagement og særlig tak til de to initiativtagende rådsmedlemmer Kolbrun Benediktsdóttir og Aarne Kinnunen samt Islands kontaktsekretær, Snorri Árnason, som tog sig af alt praktisk i forbindelse med seminaret.

Aarhus, maj 2014
Anette Storgaard
rådsleder

Indhold

Program for kontaktseminaret om ressourcer til seksualforbrydere

Reykjavik, Island 21. – 23. oktober 2013

Mandag den 21. oktober

18:30 – 20:00 Velkomst ved NSfK's rådsmedlemmer Kolbrun Benediktsdóttir og Aarne Kinnunen. Introduktion til formålet med seminaret og programmet. Præsentationsrunde blandt alle deltagere.

Tirsdag den 22. oktober

8:30 – 8:45 Introduktion til dagens program v. NSfK's rådsmedlemmer: Kolbrun Benediktsdóttir og Aarne Kinnunen

8:45 – 10:30 **Samfundets holdning til seksualforbrydelser og seksualforbrydere:**

Aarne Kinnunen, Finland
"Treatment of sexual offenders in the context of criminal policy in Finland"

Svala Ísfeld Ólafsdóttir, Island
"Childmolesters and their characteristics. Can they be identified?"

Beth Grothe Nielsen, Danmark
" The Use of Children for Adult Sex – Discursive Strategies"

10:45 – 12:30 **Seksualforbrydelser og seksulaforbrydere i anklagerens perspektiv:**

Nina Törnqvist, Sverige
"Getting emotional, getting professional? – Notes on the use of empathy, anger and other emotions in court proceedings concerning sexual violence"

Kolbrun Benediktsdóttir, Island
"Options to imprisonment in cases concerning sexual offenders"

Yrjö Reenilä, Finland
"Sexual offending as seen in the prosecutor's perspective"

13:30 – 14:45 **Fuldbyrdelse af domme for seksualforbrydelser, straf/behandling:**

Hans Jørgen Engbo, Grønland
"Seksualkriminalitet og strafferetlige følger heraf i Danmark og Grønland"

Nancy Kamene Bornemann, Danmark
"Psykiatrisk/sexologisk behandling af sædelighedsdømte i Danmark, med særligt fokus på Anstalten ved Herstedvester"

15:15 – 17:00 **Fuldbyrdelse af domme for seksualforbrydelser (fortsat):**

Thore Langfeldt, Norge
"Understanding the treatment of sexual offenders"

Anna Newton, Island
"The outliers - Children and adults who sexually offend against children."

Katarina Alanko, Finland
"Treatment of child sexual offenders, and potential offenders, within and outside the criminal justice system in Finland"

Onsdag den 23. oktober

8:30 – 9:15 **Afslutning på fuldbyrdelsen og tiden umiddelbart efter:**

Thea Myrvang, Norge
"The role of the Norwegian police in the post-release follow up of convicted child sex-offenders"

9:15 – 10:00 Konklusion, fremtidigt samarbejde og afsluttende bemærkninger

Samfundets holdning til seksualforbrydelser og seksualforbrydere:

Child Molesters. A study of judgments pronounced by the Supreme Court of Iceland

Svala Ísfeld Ólafsdóttir, associate professor, faculty of law, Reykjavik University, Iceland.

Introduction

For my contribution to this informal kontaktseminar I would like to present a study that I have conducted of all the judgments of the Supreme Court of Iceland that have been pronounced in cases involving sexual crimes against children – and to tell you about some of the principal conclusions of the study, particularly with regard to the offenders. I choose to take this route – because in all the extensive discussions that have been on going on crimes of this kind and on possible responses – it is important to understand *who these offenders are*. Only then can we hope to assess in a sensible manner how investigations of such crimes would be best conducted, among other things whether we should employ proactive investigative methods, against whom such methods should be directed, whether and to what extent punitive measures are effective, e.g. whether they should be made more severe, or whether preventive action directed at children are desirable and useful recourses – and finally whether greater emphasis should be placed on the treatment of convicted people rather than their punishment as such. Better knowledge of the offenders provides a basis for sensible responses to these questions.

My study is based exclusively on judgements of the Supreme Court. In other disciplines studies of offenders have been conducted, and will be conducted, by scientists with backgrounds in criminology, psychology or psychiatry. Those people, in their studies, use the methods that apply in their respective disciplines.

With this reservation, and the reservation that my conclusions are not yet fully finalised, I would like to present my study to you.

Study materials and methods

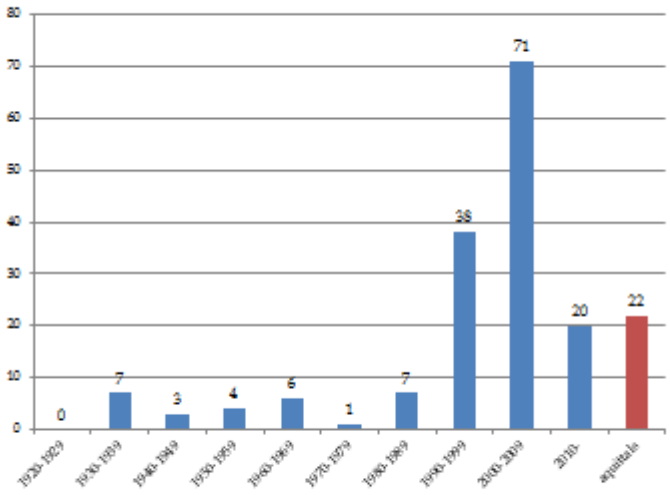
The study covered all the judgments of the Supreme Court since its establishment in 1920 down to March of this year. The objective was to collect all judgments involving formal charges of sexual crimes against children (Penal Code, Articles 194, 200, 201, 202 and/or 209, where the victim was under 18 years of age). The study revealed 179 cases where judgments have been passed, either of guilt or innocence. A total of 157 cases concluded with full or partial convictions, while acquittals were 22. The acquittals include only

judgments where the accused person was exonerated from *guilt* – not judgments where guilt was proven but the accused escaped punishment, e.g. as a result of the statute of limitation. Such judgments are included in the study, as they concern crimes which have demonstrably been committed.

Before going any further it is helpful to say a few words about judgments in general as a basis for a study of this kind. In my opinion, the principal advantage of judgments is that they are unequivocal evidence that a crime in the understanding of the Penal Code – of various different kinds and degrees of seriousness – has been committed. The study therefore rests on a clear and legally delimited "concept of sexual crime", which is important for any comparison of individual victims. We know, with a considerable degree of certainty, that the person in question has been the victim of a crime and we know what kind of crime it was. This is sometimes missing in studies in this field – especially in studies based on questions asked of individuals – who *themselves* believe that they were victims of a crime – without it being established whether an actual punishable crime was involved or what kind of event was involved in the understanding of the law. Such studies are based on the victim's perception of what constitutes a crime and what does not. On the other hand, a disadvantage of judgments – for instance in comparison with studies based on standard questions asked of a number of participants – is that each judgment has its own individual features. The particulars, for instance, are to begin with never precisely the same in all regards and, also, the information available differs from one case to the next. The preciseness and focus of the information available in judgments will tend to differ – and it cannot be assumed that information on certain matters which is available in case A will also be available in case B, even if the two cases address the same crime in the understanding of the law. Therefore, when judgments are used in a study of this kind it is not possible to make any fixed assumptions beyond the basic information that is formally required in any bill of indictments or judicial decision. A judgement is not a standard document where there is full material consistency from one judgment to the next with regard to the information disclosed. Nevertheless, the consistency is sufficient in my opinion to enable processing of credible statistical information from which reliable conclusions can be drawn.

Number of judgments by period

The study period, which extends over 90 years, can be divided into decades to gain a picture of the number of judgments in the course of time.



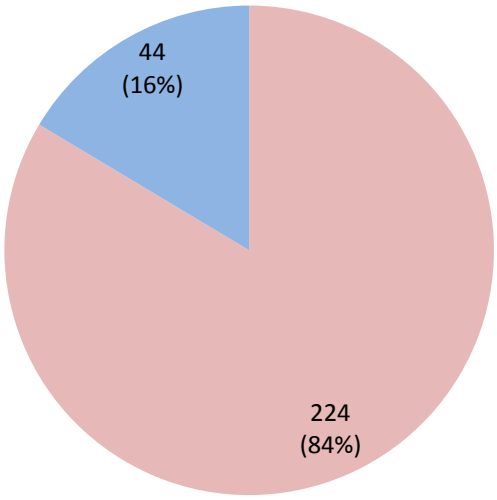
- Convictions: 157
- Acquittals: 22
- Total: 179

Between the decades 1980 to 1989 and 1990 to 1999, the number of cases grew almost fivefold (442%). The number of judgments then almost doubled again between the decades 1990 to 1999 and 2000 to 2009 (86%). Also, over 30 judgments have been passed in just over three years of the present decade. It can be assumed that the eventual number of judgments will be between 60 and 70 if the trend continues.

Gender of offenders versus victims

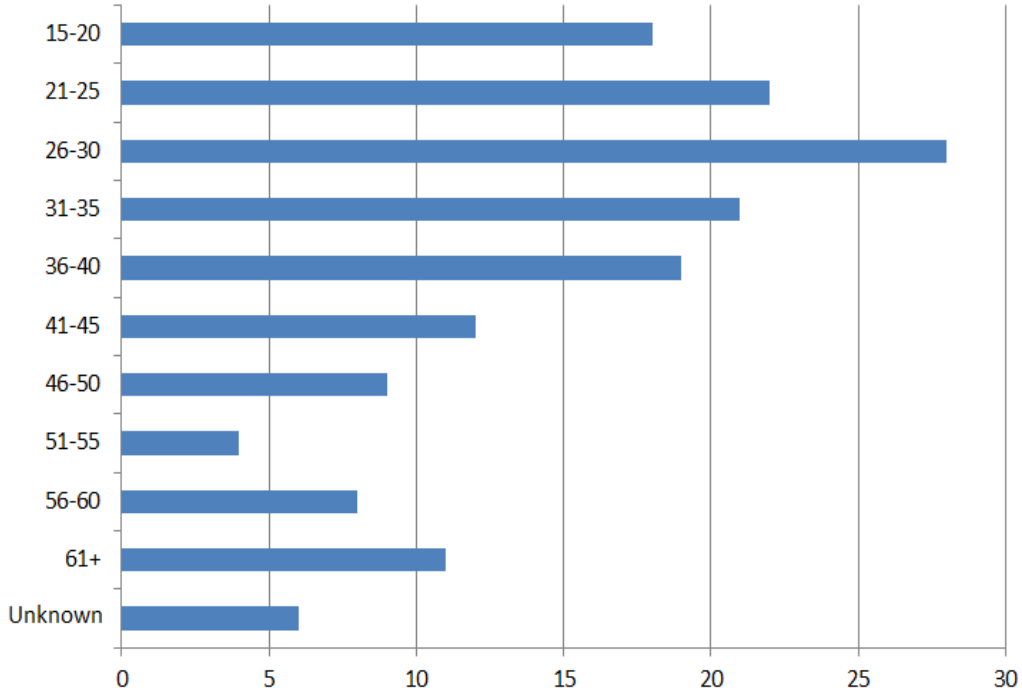
The *offenders* are all male – 166 in number. An offender is almost without exception acting alone. Only in 5 cases was there more than one offender. The largest number of offenders was 4 in a judgment from 1992 (H 422/1992). In that case, one man was convicted of raping a 14 year old girl and three others were convicted as accessories in the crime, among other things for holding the girl and stroking their sexual organs.

The *victims* of these 166 offenders are 268 children – 44 boys and 224 girls.



The greatest number of children was involved in a judgment from 1956 - 12 boys and one girl (H 127/1956). Also, a known offender here in Iceland, Steingrímur Njálsson, was convicted in three judgments in cases involving six victims – boys in all cases.
On the evidence of judgments of the Supreme Court it is 5 times more likely for a girl to be a victim of a sexual crime in childhood than a boy.

Age of offender versus age of victim
The age of the *offender* is based on the time of the crime in my study. In cases of more than one crime, or if a crime extends over a period of time, the age is based on the first instance. An example of the time over which crimes of this kind can extend is provided in a case from 2012 (H 257/2012). In that case a man was convicted of sexually abusing a girl from the time that she was 10 years old until she was 18 years old. The person charged and the girl were linked by family ties and she spent a great deal of time at his home after the death of her father. The accused was 53 years of age when he began his offences against the girl and was past the age of 60 at the time that they ended. The case involved repeated instances of rape and other sexual offences. He was sentenced to five years in jail – the district court had passed a sentence of six years.

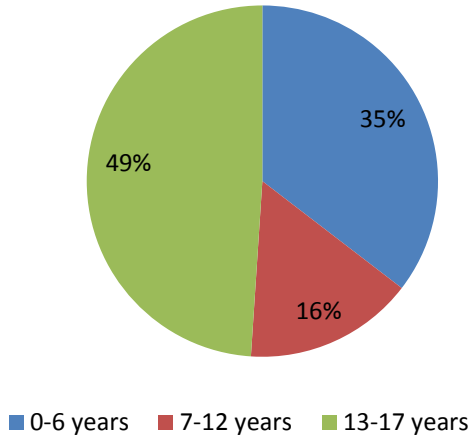


The age distribution of offenders is wide. The youngest was 15 years old and the oldest - who abused his grandchild - was in his nineties. Most offenders are in the age range of 26-30, with the average age being 36 years. This is the same average age as in a study conducted by the State Prison Administration of convicted persons in 235 judgments who were convicted of sexual offences against a child from 1985 to 2010. The age in that study was based on the time of pronouncement of judgment. Their average age was 36 years. The youngest was 15 years old and the oldest ninety years old.

For comparison, the average age of offenders against boys is slightly higher, at 40 years, and the most common age is 44 years.

Fourteen offenders, just over 8%, were still children when they committed their crimes, i.e. 15, 16 or 17 years old.

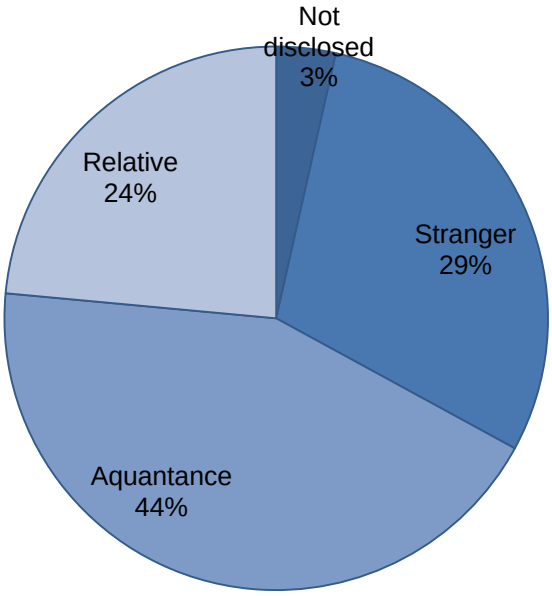
The age of *victims* is also based on the time of the crime, or the time of the first offence in cases of multiple offences or criminal activity extending over a period of time.



The conclusions of the study show that children in the age group 7-12 years old are most likely to be victims of sexual abuse, with about half of the children belonging to this age group. 15% of victims were 6 years old or younger, and the youngest was 2 years old. That case involved a niece, and the offender was on the borderline of being mentally retarded.

It is interesting to examine the *age of boys as victims* specifically, as the study revealed that their average age at the time of suffering a sexual crime was 12 years. This indicates that boys at the age of puberty are more at risk of sexual abuse than pre-pubertal boys.

Relationship between offender and victim



The conclusions of the study showed that the offender and victim know each other in the majority of instances, or 70%. In about a quarter of the cases the offender is a member of the child's family. In that category, fathers and stepfathers of the victims were the most frequent offenders, in about 13% of cases.

In comparison, it is noted that when boys were studied separately there was only one instance of a relative, the uncle of the victim. In those cases, strangers formed the majority of offenders.

In six judgments, the offender and victim became acquainted on the Internet, where the victims were 11 girls at the age of 12-17.

Scene of the crime

The most common scene of the crimes was within the walls of the home of the offender or victim – or in their joint homes. This applies in over half of the cases. This is consistent with the conclusion that the offender and victim know each other in a large majority of cases. The next most common crime scene is a vehicle in the possession of the offender.

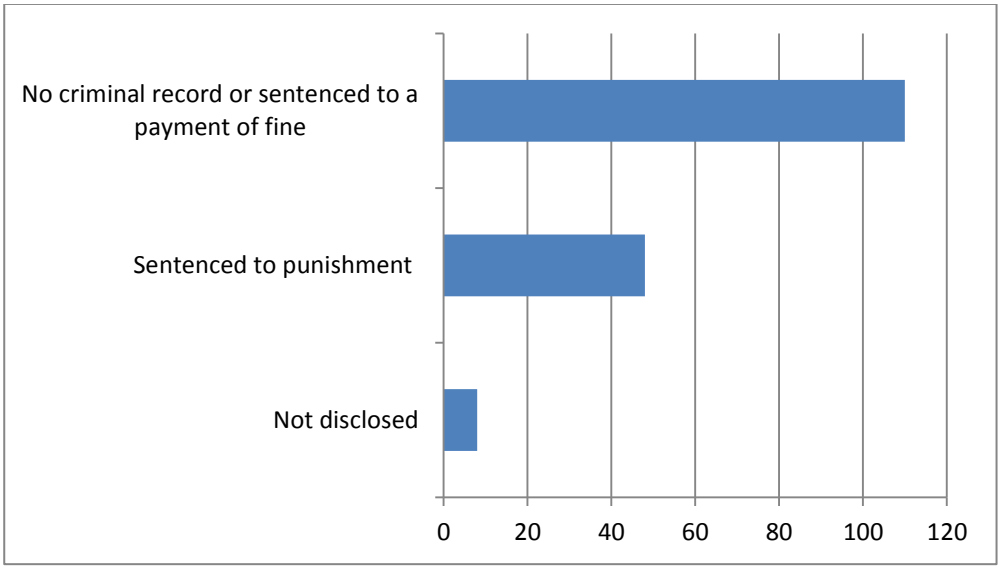
Offenders' background

The information available in judgments regarding the personal circumstances of offenders varies greatly. In many of the judgments information on the offender, apart from the information required in the bill of indictments, is extremely limited. Nevertheless, certain information is more often revealed than other information, such as social status, marital status and education. Also, the circumstances in some cases have the effect that the

judgments included information, e.g., on alcohol and substance abuse by the offender, sexual orientation, youth and upbringing or clinical data. In cases of expert assessment of offenders in connection with a case, judgments often contain diverse information that provides a more clear picture of the offender.

Even though information on offenders is not consistently to be found for all offenders, it can still provide us with certain indications. Here are some examples:

Criminal record of the offender
Information was provided on the criminal records of all but eight offenders.



Over half had no criminal record. Of the offenders with criminal records, 16% had been sentenced only to the payment of fines. Of the 48 offenders who had previously been sentenced to punishment, only nine had been convicted of sexual crimes, and only in four cases of sexual crimes against children. This means that most of the offenders who had earlier been convicted had been convicted of crimes other than sexual crimes.

Steingrímur Njálsson is exceptional as regards criminal record. One judgment reveals that he had a record of 23 convictions for various crimes.

Had the offender been subjected to sexual violence in youth?
The study specifically addressed the question of whether the offender had been subjected to sexual violence in youth. Only four judgements showed that the accused had been the victim of crimes of this kind. One of the offenders had been a victim of Steingrímur Njálsson at the age of 14. Another offender revealed in an interview with a psychiatrist that he had suffered sexual abuse by a youth when he was a child. Also, one offender had suffered sexual harassment and been the victim of sexual violence for many years as a

child, and a fourth offender recounted that he had been abused by his foster father since he was six years old.

It is interesting that in a judgment of 1994 it is stated in expert testimony submitted by a psychologist, who was asked to perform a psychological analysis of the accused in light of the fact that he had been abused at the age of 14 by Steingrímur Njálsson, that "studies of sexual criminals show that the majority of them suffered sexual abuse in their youth". Is this true? Helgi Gunnarsson responds in his article in *The Unspeakable Crime*. He says that a number of studies have shown that it is common for persons found guilty of sexual crimes against children to have been abused themselves in their youth. He adds that "links of this kind do not mean that the majority of those who are subjected to sexual advances in youth subsequently become sexual abusers; only that there is a greater likelihood that those who commit such offences themselves had to endure them in youth."

Lust for children (paedophilia)
19 judgments discuss the sexual orientation of the accused, including the question of whether they are paedophiles. Nine offenders fall into this category.

It is prominent in these cases, where the victims are boys, how attention is focussed on the accused's sexual orientation. It is my impression, after examining a great number of judgments in this field, that greater attention is focussed on the sexual orientation of the offender when the victim is a boy.

The marital status of the offender
Information was included on the marital status of 98 offenders. A large proportion was married or in co-habitation or 60%. Divorced men were just over 30%.

Substance abuse
Information was included on the drug use of one hundred offenders. A significant number of offenders was under the influence of alcohol at the time of their crimes, or 53.

The stereotype and the reality
I asked a 10 year old girl to draw what came into her mind when I said "sexual abuse of a child". This is the picture that forms in the mind of a child:

The offender is a *man.* He is a *stranger.* The child is a *girl.* He lures her using *sweets*. There is a great difference in *size* between them – which reflects a great difference in age. The scene is a *schoolyard* – the man is threatening the child in the child's territory.It is *broad daylight.*

I imagine that this is the stereotype that comes into the minds of many – both children and adults. But is this the reality? Are children in greatest danger from strange men?

Let us compare this picture with the reality reflected by the judgments of the Supreme Court. These are the principal features of the persons who had been convicted by the Supreme Court of sexual crimes against children: *Male* at the *age of 26-30. Married* or in *cohabitation. Employed. No criminal record*. Likelihood of *influence of alcohol* at the time of perpetration. The victim is a *girl* – aged *7-12* – *that the offender knows*.

Are the offenders of sexual crimes against children sick people who do not belong in jail?

We look at this group of offenders as competent to stand trial. We see them as being in control of their actions at the time of the perpetration and that punishment will return results. I reviewed the judgments to see how many of those accused for a sexual crime against a boy had been subjected to psychiatric evaluation in the course of investigation and process of the case in question. This was done in the case of 35% of offenders (8 cases out of 22). The reason for the psychiatric evaluation was suspicion of incompetence to stand trial in only two cases. In one of those cases (H 511/2002) the accused was on the borderline of being mentally retarded. He showed symptoms of brain damage resulting from repeated blows to the head that he suffered as a youth. In the other case (H 11/2002) the accused had suffered severe injuries to the head in a traffic accident, which left him as 75% disabled.

The purpose of psychiatric evaluation was not, therefore, to investigate the possibility of incompetence to stand trial, but to attempt to discover what could possibly explain action of this kind. What was the underlying reason? What possesses a man to abuse a child sexually? In one case the accused himself had been a victim of Steingrímur Njálsson at the age of 14. It was considered proper to "investigate the mental condition of the accused in the light of the crimes that he was accused of in the present case, and at the same time to look into the possible consequences and impact of the conduct to which the accused had been subjected in his youth on the conduct forming the subject of the present charges."

Prison or treatment?

Since we do not regard sexual abusers as patients, they are subjected to punishment for their crimes. According to law, the maximum penalty for serious sexual crimes against children – who are under the sexual minimum age – is *16 years' imprisonment*. A study conducted by Ragnheiður Bragadóttir of the trends in penalties imposed by the Supreme Court in 1992-2009 in cases involving sexual crimes against children revealed that *generally speaking the penalties imposed for these crimes have been getting more severe.* Since the time of that study they have become still more severe. Since 2009, four judgments have been passed, three Supreme Court judgments and one district court judgment which was not appealed, where the accused was sentenced to *8 years' imprisonment*. These are the heaviest sentences that have been passed in Iceland in cases of this kind, with the exclusion of a Supreme Court judgment of 1961, where a man was sentenced to 10 years' imprisonment for raping a 12-year-old girl in a violent manner after cutting away her clothes using a knife; among the consequences of the assault was a fractured skull.

Number of offenders in Icelandic prisons at the present time

Sexual criminals are in the vast majority of cases sentenced to unsuspended imprisonment. They are summoned immediately to serve their sentences and generally not granted parole until they have served 2/3 of their sentences. Those who have been sentenced for sexual crimes against children under the minimum sexual age are not entitled to recourses such as *Vernd* (a convict aid and halfway house organisation) and therefore do not qualify for electronic surveillance. In general, community service is not an available option for this group.

Those who commit sexual crimes against children are not only looked at askance in society, but also in the prisons. In order to restrict persecution by other prisoners, and to enable them to draw strength from one another to meet the hostility of the rest of the prison community they are usually housed in a separate corridor in the Litla Hraun State Prison. Attempts are made to meet the needs of this group of prisoners during their prison terms and they are encouraged to seek psychological treatment. This is achieved by means of motivational interviews. At the outset of serving the sentence a psychologist of the State Prison Administration conducts a risk and needs assessment of the sexual offender in

question in order to ascertain the nature and extent of his problem, e.g. whether he is a paedophile and also what his social conditions are, and, not least, to assess what prison is most appropriate to his needs. A risk and needs assessment is then conducted again when a prisoner has applied for parole – primarily for the purpose of assessing the risk of repeated offences. Sex offenders take precedence when it comes to psychological services in prisons.

Currently, the proportion of prisoners who are in prison for sexual offences accounts for about 20% of the total prison population, or 27 prisoners. Of these prisoners, eleven committed their offences against children under the sexual minimum age. Nine prisoners are housed in an open prison, i.e. *Kvíabryggja* or *Sogn,* two are in the *Vernd* halfway house and 16 are housed in a closed prison at *Litla Hraun* and in Akureyri.

Prison or treatment?

Sex offenders are a varied group and not homogeneous at all. Not all offenders against children are paedophiles and those who are paedophiles do not necessary abuse children. The study of judgments reveals that nineteen cases address the sexual orientation of the accused and in 9 cases it was concluded that the person in question was a paedophile. The opinion is steadily gaining ground that imprisonment alone is not adequate for sexual offenders and that concurrent treatment is also necessary. Studies have shown that treatment reduces the likelihood of further undesirable sexual behaviour. Canada, the United States and England are at the forefront when it comes to forms of treatment for sexual offenders in prisons. Also, the Danes have sentenced offenders to suspended sentences on the condition that the offender agrees to undergo treatment to resolve his problem.

In light of the importance of treatment in reducing the risk of further offences it is worth consideration whether offenders should increasingly be sentenced to *suspended prison sentences* on the condition that they agree to undergo long-term treatment. This could, for instance, be suitable for young offenders, where it is easier to assist in correcting harmful behaviour. It is also worth considering whether sexual offenders should be granted parole, e.g. after serving half of their sentences, on the condition that they agreed to undergo treatment for their problem during the parole, or even whether a general condition of long-term treatment should be established for this group. In this way, sexual offenders could be supported and assisted in gaining control of their problem following release from prison – even for a period of years. They would not only receive help in resolving their problem, but they would also be kept under observation.

The advantage of these two options that I mentioned is the *pressure* induced by *the fear of imprisonment* – the deterrent effect of the prison cell. In these circumstances we are in a position to place pressure on offenders to undergo treatment – if they do not accept, the prison cell awaits. The prison sentence could be used in this way as *positive inducement* to

encourage offenders to undergo treatment. They would know what is in store if they do not keep up their end of the bargain.

In light of the *serious nature* of sexual crimes – particularly when the victims are children – and in particular in light of the *fact* of the number of prisoners incarcerated in Icelandic prisons for sexual crimes – I believe that it is an urgent priority to improve and extend the options available to convicted offenders and prisoners for treatment, inside and outside the prisons.

Conclusion

To minimise the likelihood of a person convicted for a sexual crime against a child – with all the consequent damage to the victim – repeating his offence, it is extremely important to offer appropriate *treatment*. A number of studies have indicated that it is possible to treat sexual offenders successfully, so that they can, following treatment, reside in society without repeating their offences. It is also important to look at preventive measures. *Education* on sexual health and appropriate sexual behaviour is important both for those who raise children and for the children themselves. The earlier that inappropriate behaviour of young people is addressed, the less likely it is that the person in question develops unnatural sexual urges which can lead to sexual crimes against children later in life. It is extremely important to *strengthen and support expert knowledge* relating to the evaluation and treatment of sexual offenders.

The Use of Children for Adult Sex – Discursive Strategies

Beth Grothe Nielsen, lic.jur., tidligere ansat som lektor ved Juridisk Institut, Aarhus Universitet

In my book "Sagt og usagt. Om brug af børn til voksensex" ("Said and not said. About the use of children for adult sex") which was published by Gyldendal in 2011, I made a change of concept. The usual expression: "sexual abuse of children" (seksuelt misbrug af børn), was altered to: "the use of children for adult sex/sexual gratification", the reason or justification being that "misbrug/abuse" is the opposite of "brug/use" and seems to indicate that the latter is acceptable. On the other hand: brug/use of children may sound worse than misbrug/abuse? Language is that tricky.
Focus on children's situation comes and goes. With almost exactly one hundred years' interval – during a couple of decades from around 1860 and 1960 respectively – observant people began noticing that some children were exposed to various forms of maltreatment by their parents and other adults. At the beginning, doctors were the ones who saw it and said so, in the 1800'es e.g. in France, in the 1900'es in the USA and later in the rest of the Western world. First the doctors were concerned about physical violence; but when they were joined i.a. by psychologist who began including sexual violence in their diagnoses, the discussions became heated in both periods. The use of children for adult sex was and remains a controversial theme. The following are short versions of some of the topics covered in my book.

Contemporary discourse
How do we (professionals, politicians and common people) today talk about the use of children for adult sexual gratification? My book is mainly about what we do and do not say about the victims (the children) and only indirectly about the perpetrators.
No criminal acts are committed in a social or cultural vacuum. That is true for sexual crimes as well. The content of societal reactions is closely related to the ongoing debate, the discourse. That is true for possible lack of reactions as well.
At a conference in Denmark in 2005 organized by "Børns Vilkår", a charity NGO working for the benefit of children, child sexual abuse were called "the world's most complicated cases" by a long row of professionals working with children's issues. The phrase: "we must talk about this difficult (disgusting, revolting) topic" has been repeated in Denmark at least since the early 1980'es. To a certain extent, this kind of public discourse may function as legitimacy for non-intervention and an excuse for half-hearted intervention.
In 1978, Jørgen Vesterdal, professor of pediatrics, was one of the first in Denmark to include sexual abuse among his examples of maltreatment of children. He stated: "På grund af de stærke tabuforestillinger, som er knyttet til dette emne, kommer der let kraftige følelsesmæssige reaktioner blandt folk, hvilket viser sig ved, at man enten nægter at

beskæftige sig med dette problem eller også bliver voldsomt forarget, medens en mere afbalanceret stillingtagen er vanskelig".
(Because of the strong taboo ideas connected with this topic, there will easily emerge intense emotional feelings among people, which will show itself as either refusal of dealing with this problem or as fierce indignation, while a more balanced approach is difficult. (My translation)).
When, in 1991, my first book on child sexual abuse in the family (incest) was published, describing how the criminal justice system handled these cases, it was received positively among most police, prosecutors and child psychologists. The book (and I, personally) was also met, however, with some very hostile attacks, interestingly enough from a group of elderly male psychiatrists, among others.

Silence
Michel Foucault, in his book on the history of sexuality (1976, dansk 2002), noted as follows: "Det er ikke hensigtsmæssigt at spalte op efter, hvad man siger, og hvad man ikke siger; det, der må tilstræbes, er at bestemme de forskellige måder, hvorpå man ikke siger tingene, hvordan der sker en fordeling, mellem dem, der kan tale om tingene, og dem, der ikke kan, hvilke diskursformer der autoriseres, eller hvilken diskretionsform, der kræves af hver enkelt".
(I is not appropriate to distinguish between what one is saying and what one is not saying; the aim must be to determine the various ways of not telling things, how there is a distribution between those who are allowed to talk about things and those who are not, what forms of discourse are authorized or what form of discourse is claimed of the individual person. (My translation)).
The messengers as well as the victims are silenced. Silence and silencing are powerful strategies. It has been said that the so called incest taboo is not as much a taboo against committing incest as it is a taboo against talking about it. It is true for victims as well as perpetrators and their environment.
The Josef Fritzl case in Austria is an extreme example of a father's ability to keeping his behavior inside the family a secret, including getting the mother not to tell and the neighbours not to suspect anything for more than twenty years.

Disbelief
An indirect way of silencing is to signal that children are not to be trusted. There is a long tradition of disbelief in the psychological and psychiatric professions: Children (and women) are lying, fantasizing, working up false memories, exaggerating, misunderstanding etc. especially again when the issue is incest.
When in the late 1800's some forensic doctors in France published reports on widespread physical and sexual abuse of children by their fathers (and in a few cases mothers), these reports were met with ferocious counterattacks. The "war" between child psychologists

and witness psychologists has raged all over the Western world ever since. This story is described in some detail in my book.

Exaggeration and its opposite

Undoubtedly, from around 1970 there was a tendency – first in the USA end later in Scandinavia - among certain groups of (female) child care workers and psychologists to exaggerate the extent of incest and other forms of the use of children for adult sex. There were reasons for criticism. But the criticism often developed into pure denial, trivializing, and demonizing the messenger.

In a historical perspective one can talk of "cycles of discovery and suppression". Olafson, in the journal Child Abuse and Neglect (1993), wrote that sexual abuse of children "has repeatedly surfaced into public and professional awareness in the past century and a half, only to be resuppressed by the negative reaction it elicits".

Change of focus

Incest has always been the most controversial topic among a variety of adult use of children. It is difficult for common people as well as – unfortunately – for professionals to comprehend that fathers are able to use their own children for sexual gratification.

One way of avoiding the fact of incest and still admit that sexual abuse takes place is to concentrate focus i.a. on child pornography and sex tourism in Thailand. The police in Denmark have used many resources in order to investigating the internet. When they came across pictures of an identifiable father using his daughters for sex, which happened some years ago, the case was referred to as pornographic, not incestuous. When the video was shown in open court as evidence, the judge was criticized for showing child pornography. Child pornography on the internet, by the way, is called IT-crime – a total disguise of what is at play.

Seductive little girls

Jørgen Voigt, a forensic doctor having conducted research on victims of sexual crimes over a ten year period in Copenhagen, stated in an article in 1972 that he was unable to judge whether there was a preponderance of "Lolita-types" among the very young girls in his research. But he could tell that 4% of the youngest and 54% of the older ones below the age of 15 were physically very well developed for their age.

In 1969, Kai Tholstrup, Danish professor of child psychiatry, warned a legal audience not to underestimate children's own contributions to men's indecent behavior. According to him, there will often be an interaction between "the partners" which makes it difficult to decide who is the victim and who is the perpetrator. Tholstrup wanted to supplement the concept of "enticer of children" (børnelokker) with the concept of "enticer of adults/men" (voksenlokker). However, "the seductive child" was not his invention. The concept of "victim precipitation" was introduced as a research topic in victimology in its early days (1950'and 1960'es).

"Lolita" is the protagonist in Vladimir Nabokov's famous novel from 1955 and has been interpreted as a seductive 12 year old little American seducer of a decent 40 year old intellectual European immigrant. My book describes the many ways "Lolita" is used even today to indicate exactly that seductiveness, maybe not by professionals any more, but then definitely in public discourse. Lolita-dolls, Lolita-type prostitutes, Lolita-porn, Lolita-fashion etc. are not difficult to find in cyber space and advertizing. Men are (indirectly?) excused for being trapped because they are surrounded by these little "minxes" (Nabokov's expression).
"Lolita" has changed from being a girl's name to become a concept of an object. The following quotation from the European Council Recommendation No. R(91)11 (1991) on "Sexual exploitation, pornography and prostitution of, and trafficking in, children and young adults" is an example: "The committee noted that children's pictures and even voices could be used to create an erotic atmosphere for various purposes. "Lolitas" (both male and female) seem to have come back into fashion in the cinema and show business, appealing to the unwholesome taste of a certain section of the public". Lolita in plural and intersexed.

Backlash

The public and professional "disclosure" of child sexual abuse may be described as the construction of a social problem by a social movement (e.g. feminism). Sociologists claim that social movements are almost automatically met with so-called backlash movements. Social movements have a kind of "natural history". They come and go. Moral panic is a label that is often attached to a social movement which has succeeded in constructing a social problem. Hysteria and witch hunt are others. My book analyses examples of this backlash discourse and describes examples of the "circles of discovery and resuppression" over the last 150 years.

What can men do?

Most perpetrators of sex crimes against children are men. My book does not include any discourse on men or at least only indirectly as examples of silence. The Danish researcher Kenneth Reinicke who defines himself as a feminist has pointed out, talking about prevention of prostitution, that the male customers are invisible in the debate, at least in Denmark. Likewise, it can be said that advice on the prevention of the use of children for adult sexual gratification is mainly addressed towards the victims: Children must learn to say "no", professionals must learn to spot abuse at an early stage and react appropriately, etc. Prevention initiatives are focused on trying to influence potential victims' behavior, not that of potential offenders.
Campaign after campaign, legal initiative after legal initiative talk about everything else than the fact that men are the problem (some of them). Only after they have committed sex crimes are they addressed. Then they are targets for punishment and (sometimes) treatment.

The latest "Abuse Package" from the Danish ministry of social affairs includes 39 recommendations from an expert panel. 315 million kroner are earmarked for implementation. One main theme is focus on prevention as cross-disciplinary cooperation. Sub-themes under this point are: bridge building between professional groups, cooperation between police and municipal authorities, strengthening of professional management, better management of close-knit families who escape the authorities by moving from place to place with short intervals (in order for the authorities to remove early on the children from an abusive father, not the father from the children unless he is sentenced). There is nothing about targeting men as such, contrary to the following website:
The question: "What can men do?" is posed by Rape Crisis Network Europe (www.rcne.com). "Consciousness raising" is the answer: "As sexual violence is overwhelmingly male violence meaning it is the result of men's behavior, it can only be solved by men in the long run. The young generation of boys badly needs male role models who have a nonviolent, sensitive, and emphatic approach to women and children. . . . If you want to do something about violence against women you will have to start by thinking over your own attitudes about women and your potential prejudices and violent behavior toward them. We have so much grown used to stereotypes and prejudices about women that we no longer recognize them. . . . If you happen to meet such stereotypes, make a point that you do not think remarks degrading women or portraying them as sexual objects are funny. Intervene if you witness violence against women and children -. . . It may also be the case that you yourself use or in the past have used violence to "teach" or "punish" women and children. You must know that your violence, be that in the form of hurtful words, hitting, or relentless sexual approach, is exclusively your responsibility . . . you must at all cost give up using violence as a means to unwind your stress or forcing things to be your way. If you feel unable to give up, ask for professional help."

Discourse after the fact

How do we (professionals, politicians and common people) talk (if we do talk) about men (and the proverbial woman) who use children for sexual gratification? Are the perpetrators considered to be criminal perverts who deserve harsh punishment, monsters who deserve the death penalty, sex maniacs who deserve chemical castration, mentally ill persons who deserve psychological or psychiatric treatment, or wayward males (and females) who deserve cognitive/behavioral intervention? Do professionals talk of "treatment and therapists" or "training and coach"? What effects do various discourses have on our approach to handling the offenders? These are questions which I have not covered in my book; but I believe the discourse on perpetrators can and will influence the choice of reactions and is, therefore, a relevant subject of research in the future.

Seksualforbrydelser og seksulaforbrydere i anklagerens perspektiv:

Att bli emotionell, att bli professionell?
Tankar kring åklagares användning av empati och vrede i mötet med personer som är tilltalade för sexuellt våld

Nina Törnqvist, doktorand i kriminologi, Stockholms universitet.

Inledning

Rättegångar är en känsloladdad situation och de förväntas skapa starka känslor hos de inblandade. Känsloladdning förväntas vara särskilt påtaglig när det gäller rättegångar som rör sexuellt våld. Ilska, rädsla, sorg, kränkhet, skam och skuld är några av de känslor som antas väckas i samband med rättegången. Känslorna som uppkommer i samband med rättegångarna antas vara mycket intensiva och okontrollerbara, med ord som 'känslostormar' och 'känsloutbrott' förs tankarna till övermäktiga naturkrafter. De kraftfulla känslorna förknippas med brottsoffren och förövarna, intressant är att det i den känslostorm som vi tänker oss att rättegångar rör upp finns en grupp som förväntas vara oberörd och neutral, de rättsliga aktörerna. Domare, åklagare och försvarare förväntas inte uttrycka känslor utan vara behärskade och lugna. Vidare vilar en stor del av det moderna rättsparadigmet på ett antagande om att deras arbete och beslut styrs av objektivitet, neutralitet och rationalitet; yrkesmässiga ideal som i traditionell mening till stor del utesluter känslor (jf Parson 1951).

Med detta bidrag till NSfK's rapportserie vill jag utmana och nyansera föreställningen om de rättsliga aktörernas känslomässiga neutralitet som beskrivs ovan. Jag menar att det finns goda grunder att ifrågasätta föreställningen som professionalitet som en slags 'affektiv neutralitet' både utifrån teoretiska som empiriska grunder. I ett emotionssociologiskt perspektiv framstår själva idén om att arbetsrelaterade situationer skulle kunna innefatta ett känslomässigt neutrum som en omöjlighet då ett grundantagande inom detta perspektiv är att alla människor är emotionella varelser och att emotioner genomsyrar alla sociala strukturer, institutioner och relationer. Även om objektivitet, professionalitet och känslomässig neutralitet framstår som centrala värden i de intervjuer som jag har genomfört med ett trettiotal svenska åklagare som är specialiserade mot våld i nära relation, våld mot barn och sexuellt våld är bilden av emotioner som framträder i dessa intervjuer långt mer kom-

plex.[1] Åklagarna är lika tydliga med att de värdesätter ett känslomässigt engagemang i sitt arbete och ser det närmast som en självklarhet att de på olika sätt berörs av att arbeta med dessa brott. Vidare talar åklagarna också i stor utsträckning om hur de använder känslor under huvudförhandlingar för att skapa känslor hos andra, målsägande och tilltalade framförallt men också hos försvararen, domaren och nämndemännen. Känslor framstår således som en central aspekt som skär genom många olika dimensioner av åklagares arbete med våld i nära relationer, våld mot barn och sexuellt våld. Att bli emotionell kanske till och med i vissa sammanhang kan uppfattas som att bli professionell?

Utgångspunkter, syfte och frågeställningar

Utgångspunkten för den här studien är att åklagare arbetar inom en komplex emotionsregim och att de utför ett stort 'emotionsarbete' i samband med rättegången, det vill säga aktivt förhåller sig till de känslor som de förväntas ha och visa upp i en huvudförhandling. Studien vilar i ett emotionsteoretiskt antagande om att aktörer inom professioner och organisationer möter motstridiga emotionella förväntningar i sitt arbete och ständigt hanterar normer i fråga om vad, när, var och hur vi ska känna och uttrycka känslor i ett professionellt sammanhang (Wettergren 2010; Sieben och Wettergren 2010; Bloch 2007; Fineman 2003; Flam 2000; Bloch 2002; Fineman 2000). Dessa förväntningar kan förstås som en professionell emotionsregim, ett teoretiskt begrepp som här beskriver ett samlat, diskursivt system som länkar samman kulturella värderingar och sociala maktordningar med normer för vad vi ska känna i en given professionell situation samt hur vi ska uttrycka dessa känslor (jf Wettergren 2013).

Syftet med bidraget är att belysa den emotionsregim som åklagare arbetar inom och utforska det komplexa förhållandet mellan föreställningar om professionalitet, känslor och praktik bland åklagare som är specialiserade mot våld i nära relation, våld mot barn och sexuellt våld. I fokus för analysen står de emotionella processer som åklagarna upplever i mötet med personer som är misstänkta för sexualbrott i samband med rättegången. Utifrån de kvalitativa intervjuerna framstår två emotioner som särskilt centrala i detta möte; empati och ilska. Dessa emotioner relateras alltid till professionalitet som även det kan förstås som ett emotionellt tillstånd, en affektiv neutralitet. Analysen är inspirerad från socialkonstruktivistiska och interaktionistiska teorier om emotioner och handlar om:

I vilka situationer uppfattas empati respektive ilska gentemot de tilltalade som passande respektive opassande bland åklagare?
Hur uppfattar åklagare att de använder empati och ilska under rättegången och på vilket sätt legitimeras dessa känslor?
Hur kan de emotionella processer som åklagarna beskriver förstås i termer av makt och status?

[1] Material som analysen bygger på är insamlat i samband med mitt avhandlingsprojekt vid Kriminologiska institutionen, Stockholms universitet. Av utrymmesskäl har jag valt att inte gå in på någon metod- eller materialdiskussion.

Brott är starkt förknippade med moral och trots brottens kraftiga känsloladdning är det få kriminologer som har intresserat sig för brottslighet med specifikt ett emotionssociologiskt perspektiv.[2] De emotionella processer som olika brott är förknippade med är outforskade, det gäller även de emotionella dynamiker som finns som i rättsprocessen. Förhoppningen är därmed också att bidraget ska kunna ge ny kunskap och väcka intresse för dessa dynamiker och processer.

Med emotioner i centrum – ett par teoretiska utgångspunkter

”a very large class of emotions results from real, imagined, or anticipated outcomes in social relationships.”
Kemper 1978:43

”Human emotionality is an ongoing stream pervading every aspect of our social life.”
Bloch 2002:113

Även om emotionssociologin är ett ‘ungt’ fält har detta fält expanderat kraftigt sedan ‘den emotionella vändningen’ på slutet av -70-talet och är i dag ett omfattande och brokigt forskningsfält som det inte går att göra rättvisa i en text som denna. Ambitionen med detta avsnitt är inte att ge en uttömmande bild av emotionssociologins teoretiska fält utan att lyfta fram de teoretiska utgångspunkter och begrepp som används i den här analysen. Som det framgår av syfte och frågeställningar ligger min tyngdpunkt i studien på de interaktionella och socialt konstruerade aspekter av emotioner.

På ett övergripande plan går det att säga att det emotionssociologiska perspektivet vilar i ett par grundantaganden om det sociala livet. Emotioner är sociologiskt intressanta eftersom de är konstitutiva för våra sociala verkligheter (Barbalet 1998; Doyle McCarthy 1989; Collins 1984; Hochschild 1983/2003). I detta teoretiska synsätt förstås emotioner som en involvering i ’verkligheten’ och de känslor som vi förknippar med en person, sak, situation, händelse eller sammanhang säger något viktigt om hur vi uppfattar och värderar denna person, sak, situation, händelse eller sammanhang – och hur vi uppfattar och värderar oss själva i förhållande till dessa. Emotioner blir utifrån detta tankesätt en central analytisk länk mellan individ och struktur (Barbalet 1998) och visar på graden av individers sociala band (Scheff 1990). Ett annat centralt antagande inom det emotionssociologiska perspektivet lyfter fram just emotionernas relationella aspekter. Enligt Clark (1987) markerar emotioner individers positioner i en social hierarki, såväl upplevda positioner som den position de tillskrivs av andra. Emotioner är således intimt sammankopplade med makt och status (Clark 1987; Collins 1984; Kemper 1978) och känslor blir särskilt

[2] Det innebär inte att känslor inte är en central aspekt av vissa kriminologiska begrepp eller områden; tex Braithewait 1984 om reintegrative shaming eller det kriminologiska fält som rädsla för brott utgör, tex Jackson & Gray 2010; Farrall & Gadd 2004)

framträdande i situationer där makt eller status förskjuts eller försöker förskjutas inom en etablerad social ordning (Kemper 1978). Utifrån detta antagande handlar mänskliga möten om kontinuerliga utbyten och förhandlingar om erkännande respektive icke-erkännande och i dessa möten uppstår och hanteras känslor. I en mening kan emotioner också förstås som en slags valuta, en bytesvara i sociala interaktioner, där vi 'ger' en känsla till en annan person med en förväntan om att de ska ge en annan känsla tillbaka (Clark 1987). Det känslomässiga utbytet både skapar och ibland till och med definierar relationen, som exempelvis kärleksrelationer. Olika känslors '(bytes)värde' lärs in genom en kontinuerlig socialisering, ett exempel är när föräldrar säger till sina barn att säga tack när de får en present (och därigenom visa tacksamhet och kanske känna tacksamhet) men även bland vuxna sker en ständig socialisering där ett oväntat känsloutbyte möts med korrigerande 'ledtrådar' som blickar, kroppsspråk eller verbala uttryck för besvikelse, irritation eller frustration (Hochschild 1983/2002). Genom 'kunskapen' om olika känslors bytesvärde använder vi egna känslor och känslouttryck för att skapa känslor hos andra (jf Clark 1987; Hochschild 1983/2002). För att beskriva det flöde av känslor som uppstår och används i ett möte använder Wettergren (2013) begreppet 'emotionell process' i syfte att visa på emotionernas relationella och interaktionella dimensioner.

I linje med detta synsätt så finns det i såväl professionella som i mer vardagliga sammanhang en uppsättning med känslomässiga förväntningar i fråga om vad, när, var och hur vi ska känna och hur vi ska uttrycka dessa känslor. I samband med exempelvis en fotbollsmatch förväntas segrarna uttrycka glädje med jubel och kramar när slutsignalen går medan de som förlorade väntas uttrycka besvikelse och nedstämdhet. Varken vinnarna eller förlorare får emellertid uttrycka för mycket av de förväntade känslorna. Om vinnarna visar för mycket glädje framstår de antigen som skadeglada eller löjliga. För att kunna uttrycka sin stolthet över vinsten behöver vinnarna också uttrycka ödmjukhet. Om vinnarna å andra sidan visar för lite glädje kan det i sin tur uppfattas som drygt och nedsättande gentemot motståndarlag. På samma sätt förväntas förlorarna att uttrycka deras besvikelse på ett sätt som gör att de inte betraktas som 'dåliga förlorare'. Och om vi inte känner något alls i samband med vinsten eller förlusten kanske vi börjar ifrågasätta varför vi spelar matcher överhuvudtaget.

Precis som normer i allmänhet är således normer som rör emotioner ofta komplexa, motstridiga och svåra att leva upp till. Hochschild (1983/2003) som myntade begreppet 'känsloregler' menar att vi inte alltid känner det som anses passande i en given situation och att människor på olika sätt hanterar detta glapp mellan de sociala förväntningarna och de egna känslorna, vilket Hochschild kallar för 'emotionsarbete' eller 'emotionshantering'. Hanteringen sker dels genom ett 'djupagerande' där vi försöker mana fram vissa känslor och hålla tillbaka andra, det vill säga faktiskt försöka känna den passande känslan, dels genom 'ytagerande' där vi ger uttryck för den passande känslan utan att egentligen för-

söka känna den. Istället för begreppet 'känsloregler' använder ett flertal emotionsforskare istället begreppet 'emotionellt script' (Fineman, 2003).

Med en emotionssociologisk blick på rättegångar i sexualbrottsmål – en kontextualisering

Precis som vi förväntar oss vissa känslor i samband med en fotbollsmatch förväntar vi oss vissa känslor från de som är inblandade i en rättegång rörande sexuellt våld, innan jag kommer i på den djupare analysen av mötet mellan åklagare och tilltalade utifrån intervjuerna vill jag därför först säga något om hur åklagarna uppfattar de emotionella scripten som omfattar dem själva, de målsägande och de tilltalade. Emotioner och emotionella processer är alltid situerade och även om den senare analysen visar att den bild som presenteras här mycket förenklad – är det enligt min uppfattning en väsentlig kontextualisering som är nödvändig för att kunna skapa en förståelse för de emotionella processer som åklagare upplever i mötet med de tilltalade.

Rättegångar menar jag kan analyseras som en avgränsad emotionell process, det vill säga ett sammanhang där det emotionella flödet mellan de inblandade parterna har en situerad, specifik dynamik.[3] Rättegången kan förstås som en ritualiserad emotionell process. Begreppet 'ritual' används här i vid bemärkelse med inspiration från Goffman och utifrån Collins definition där ritual förstås som 'an interaction ritual is an emotion transformer, taking some emotions as ingredients, and turning them into other emotions as outcomes (Collins 2004:xii)'. På ett övergripande plan kan syftet med rättegångar ses som ett sätt att hantera känslor av hämnd, vedergällning, skuld, skam och kränkthet och att vända dessa känslor till upprättelse och försoning (Maroney 2011; Karstedt 2003). Dessa övergripande föreställningar om rättvisa och rättegångar skapar emotionella script för de inblandade parterna.

I jämförelse med andra typer av brottmål uppfattas rättegångar gällande sexualbrott som särskilt känsloladdade. Känsloladdningen hänger givetvis samman med vår förståelse av dessa brott, i en samtida, svensk kontext betraktas våldtäkt och sexuella övergrepp mot barn som bland de allvarligaste och mest kränkande brotten. Den föreställda känsloladdningen kan vidare relateras till de känslouttryck som de inblandade parterna förväntas ge uttryck för under rättegången, i första hand då kanske till brottsoffren. En utbredd bild i den samhälleliga diskursen är en bild av en gråtande, näst intill hysterisk målsägande som kämpar med varje ord och som kanske bryter ihop vid något tillfälle under rättegången. I mötet med ett brottsoffer förväntas åklagaren känna in brottsoffren och på så sätt 'parera' deras emotioner genom att få dem lugna och trygga i en mycket utsatt situation. Av intervjuerna framkommer det att även mötet med de tilltalade kan vara särskilt laddat när det

[3] Med avgränsad menar jag inte att emotioner under rättegången börjar eller slutar i samband med själva rättegången dock menar jag att rättegångar har en specifik emotionell dynamik som kan studeras i sig ###

gäller sexuellt våld. Även detta hänger samman med vår förståelse av dessa brott och de sociala stigman och tabun som brotten är förknippade med.

Föreställningar om vad en rättegång handlar om och hur en rättegång ska gå till skapar emotionella script för de olika aktörerna, vilka känslor de förväntas uttrycka och vilka känslor de kan förvänta sig att andra uttrycker gentemot dem. Utifrån åklagarnas egna berättelser så förväntar de sig på ett generellt plan aggressiva känslouttryck från tilltalade och försvaret, en av de intervjuade åklagarna beskriver det som att åklagare 'inte (är) älskad av alla'. Den övergripande professionella emotionsregimen bland åklagare i förhållande till deras egna känslor är att vara lugn, trygg, orädd, behärskad och känslomässigt oberörd. Som analysen kommer att visa mer på ska åklagarna parallellt med dessa känslor också vara empatiska, respektfulla och engagerade – och emellanåt även arga och aggressiva.

Oavsett vilken typ av brott som den tilltalade är anklagad för så finns det på ett idealt plan en förväntan om de tilltalade under rättegången erkänna, visa ånger och känna skam och skuld för det som de har gjort. På ett annat plan finns det en stark bild av att de tilltalade ska förneka och försöka dölja sina gärningar med lögner eller bortförklaringar. Detta agerande kan naturligtvis förstås som en möjlighet och önskan om att frikännas men kan också relateras till att undkomma de sociala konsekvenserna av att stå för vad en har gjort, bland annat att 'tappa ansiktet' och känna negativt förknippade känslor som skam och skuld. Samtidigt som ett förnekande av brottet är det agerande som åklagarna förväntar sig från en tilltalad så kan det samtidigt uppfatta just frånvaron av känslor som ånger, skuld och skam som provocerande och problematiskt bland en del åklagare. I relation till en gruppvåldtäkt beskrev en åklagare hur provocerad och arg hon hade blivit när de tilltalade satt och log under rättegången.

Enligt Scheff (1990) är känslor av skam ett tecken på styrkan i individens sociala band och skam visar på en grupptillhörighet. Vidare menar Scheff att det finns en stark samhällelig förväntan att den som har begått ett brott eller annan normöverträdelse ska känna skam, skammen är ett sätt att visa en medvetenhet om att den egna handlingen var en överträdelse och en önskan om att fortsätta tillhöra gruppen. I linje med detta kan Braithwaites teori om 'reintegrative shaming' bidra med att förstå hur skam kan vara både stigmatiserande och integrerande (Braithwaite 1989). I Braithwaites teori framstår skam som en social relation och att det är beroende på hur skammen 'görs' av båda parterna i denna relation huruvida skammen inkluderar och exkluderar.

Utifrån dessa resonemang är det rimligt att anta att det förväntade emotionsarbetet hos åklagarna upplevs som större än i andra typer av brottsmål, både sett till att hantera egna men också andras känslor.

Där empati bor granne med vrede – om åklagares användning av emotioner och egna förståelse av denna emotionsanvändning

I intervjuerna med åklagare som arbetar med våld i nära relation, våld mot barn och sexuellt våld är tre känslor i förhållande till de tilltalade särskilt framträdande; empati, vrede och affektiv neutralitet. Det väckte min nyfikenhet och förundran då dessa emotioner ter som motstridiga, åtminstone vid en första anblick. Går det att förena dessa emotioner på något sätt som framstår som rimligt? Finns det något som en empatisk vrede eller inkännande neutralitet? Vilken mening ger åklagarna det egna emotionella agerandet och hur knyter detta an till en övergripande emotionsregim?

Om användningen av respekt och andra emotioner kopplade till empati

Empati, respekt och engagemang lyfts i intervjuerna fram som de viktigaste egenskaperna för åklagare, så även i mötet med de tilltalade. Även om empati, respekt och engagemang av en del uppfattas som förmågor eller färdigheter snarare än direkta känslor menar jag att även denna förståelse av begreppen inkluderar en hög grad av 'känslomässig kompetens'. Min utgångspunkt är dock att empati, respekt och engagemang är emotioner, det vill säga i det här fallen en känslomässig involvering i en annan person som säger något om det relativa värde vi sätter på oss själva i förhållande till dem. Goffmans menar att alla sociala interaktioner som sker ansikte-mot-ansikte innefattar 'acts through whose symbolic component the actor shows worthy he is of respect or how worthy he thinks others are of it' (Goffman 1967:19). I likhet med Goffman menar jag att visa eller inte visa någon respekt handlar om ett emotionellt utbyte som skapar både relationer och känslor. Relationsmässigt handlar respekt liksom empati om bekräftelse och tillhörighet.

I intervjuerna framkommer det att respekt och empati gentemot de tilltalade värderas högt bland åklagarna och framstår således som normativa. De är emellertid inte känslor som bara finns där, de är varken självklara eller oproblematiska att hantera. Utifrån åklagarnas berättelser är det känslor som måste kännas och uttrycka på rätt sätt för att uppfattas som passande. Bland annat upplevs det som problematiskt att känna för mycket eller för lite empati, *'inte så att jag menar att jag har en känslokyla, jag har (empati) och jag förstår men jag behöver inte ta målsägandes smärta eller den misstänktes smärta och stoppa in i mig*'. Att ta in de andras smärta i sig uppfattas som problematiskt samtidigt som åklagarna inte vill framstå som känslokyliga. På ett personligt plan relateras gränserna för empatin ofta till ett skydd för det egna måendet, åklagare upplever inte att de kan bli för empatiska för att då skulle de inte orka med arbetet eller till och med gå in i väggen. Andra åklagare menar att det är viktigt att de är empatiska men det är '*inte så att jag sitter och gråter (under förhandlingar)*'. För mycket empati kan också uppfattas som problematiskt i den bemärkelsen det blir ett hot mot professionaliteten, kanske framförallt utifrån en föreställning om att de andra aktörerna eller parterna ska uppfatta en som oprofessionell.

Överlag framgår det av intervjuerna att empati uppfattas som en känsla som förstärker åklagarens professionalitet. I intervjuerna talar åklagarna mycket om empati och respekt och framhåller hur viktigt det är att kunna att leva sig in i andras situation för att kunna göra ett bra arbete. Att ha ett eget intresse för människor beskrivs som en förutsättning för att kunna ge ett gott bemötande. Att hälsa på den tilltalade innan rättegången och att lyssna på dem är andra former av respekt som också används för att visa på den egna objektiviteten. Genom att kunna leva sig in i de tilltalades situation kan åklagarna känna av vilka frågor de ska ställa till just den här tilltalade och när de kan ställa dessa frågor. Genom att visa intresse och ge den tilltalade utrymme att berätta sin version av vad som hände skapas den respekt och det förtroende som många åklagare anser är nödvändigt för att de tilltalade ska fortsätta att berätta.

Åklagare: Det som jag har lärt mig, det är väl med förhöret med den tilltalade, att bemöter man med ett lugn och med respekt så får du mycket bättre svar. (n: mm) Det blir trevligare tror jag för honom under förhöret om han inte hela tiden blir ifrågasatt. Utan man visar ett naturligt intresse att jag vill veta vad du har att säga om den här saken och vad din minnesbild är. Så får ju tingsrätten själv bilda sig en uppfattning. Men många gånger så kan jag tycka att är man bara lugn i det förhöret så blir ju berättelsen betydligt mer fyllig än om du går in med hårdhandskarna redan från början. (n: mm) mm

I likhet med många av de andra åklagarna som jag har intervjuat gör den här åklagaren det egna lugnet och respekten till en professionell resurs. Denna resurs handlar om att använda sig av egna känslor som lugn och empati för att få de tilltalade att berätta, få mycket bättre svar och på så sätt ge tingsrätten ett fylligare underlag. Samtidigt som åklagaren i det här citatet också poängterar att det respektfulla förhållningssättet gör att det blir trevligare för den tilltalade är också mer aggressiva agerande som ifrågasättande och 'gå in med hårdhandskarna' närvarande. I flera intervjuer framkommer det att respekten bygger på en ömsesidighet, åklagare ska inledningsvis vara respektfull mot de tilltalade och så länge de tilltalade visar åklagaren respekt tillbaka fortsätter åklagaren att visa respekt. Om de tilltalade inte upplevs vara respektfull behöver åklagaren markera och sätta gränser. Utifrån detta synsätt uppfattas respekt som en passande i de fall de bygger på en reciprocitet men i andra fall ska åklagaren vara beredd att gå in med hårdhandskarna.

Om vi ser respekt och empati som något som vi gör oss förtjänta av kan de människor som har begått sexuella övergrepp som våldtäkt och sexuella övergrepp mot barn utifrån en samhällelig diskurs inte längre anses förtjäna respekt eller empati. I intervjuerna är åklagarna måna om att framhålla att de är respektfulla mot och empatiska med den tilltalade som människa men att de tar starkt avstånd från själva brottet. De lutar sig här mot en demokratisk tankegång om ett essentiellt människovärde. Denna syn på respekt och empati med de tilltalade gör dem till önskvärda och passande känslor men är för den sakens skull inte alltid lätta att leva upp. I en intervju där åklagaren har haft en längre ut-

läggning om vikten av empati när det gäller målsägande frågar åklagaren om hon har lika lätt att känna empati med den tilltalade svarar hon:

'Alltså det beror ju på vad det är för brott måste jag ju säga. (n:mm) (paus) Det kan ju vara avskyvärda saker som vi avhandlar ibland och om jag skulle känna empati med en person… Jag tänker precis på en man där jag vet att jag inte kände empati utan det var snarare äcklad över allt vad han hade gjort. (n:mm) Övergrepp mot flera barn, riktigt bestialiska övergrepp. Det var hans egna barn. […] Om empati i det här sammanhanget är att jag skulle förstå honom så har jag inte det i alla mål. (n:mm) Men om empati är nånting annat, att jag kan leva mig in i situationen som han känner i rättegången, då kan jag känna mig empatisk med (n:mm) med en bestialisk gärningsman. (n:mm) Men empatin kan aldrig bestå i att jag förstår varför han har gjort det om det (n:mm) är nåt bestialiskt, äh, jag kan aldrig förstå varför man har utsatt nån annan för övergrepp (n:mm) oavsett våld eller sexuella övergrepp. […] Men jag kan ju förstå om att de är nervösa och rädda, känner obehag (n:mm) i rättegången och jag vill ju inte göra det mer besvärligt för dem men jag ställer ju inte snälla frågor (n:mm) utan jag måste utreda målet. Så jag kan väl upplevas som besvärlig då naturligtvis, men jag kan ju förstå och känna empati att de känner sig rädda eller obehaglig till mods (n:mm) eller ledsna eller så (n:mm) mm. […] Det kan ju faktiskt vara så att gärningsmannen har kommit dit hän att de vill erkänna […]och de förhören blir ju helt annorlunda i rätten (n:mm) […] De är rätt svåra de förhören. Det är ju enklare om jag kan vara den elake åklagare som ställer tricksiga frågor. (n:mm)'

Som citatet visar är empati en sammansatt emotion som kan ges en rad olika betydelser. Möjligheten att känna empati relateras inledningsvis till vilken typ av brott det handlar om, här lyfter åklagaren fram att det på ett sätt är svårare att känna empati med en gärningsperson som har begått 'bestialistiska' övergrepp mot sina egna barn. Empatin kan delvis uppfattas som svårare att uppnå eftersom den känsla som åklagaren initialt känner är äckel, det menar jag kan tolkas som att det är ett större emotionsarbete att hålla tillbaka äckel och mana fram empati än i ärenden som inte väcker lika starka känslor. Delvis ligger svårigheten i att känna sig empatisk med en gärningsperson i en förställning om att empati också innefattar en förståelse eller till och med en slags acceptans för själva brottet. För att kunna uttrycka sin empati med de tilltalade gör åklagarna nästan alltid en reservation där de tar avstånd från brotten, eller som i det här exemplet där åklagaren uttrycker att hon tycker att brotten är 'avskyvärda'. Dessa reservationer kan förstås utifrån att empati ofta tolkas som ett uttryck för en slags närhet och att de för att kunna uttrycka denna närhet behöver beskriva vad den inte består i för att inte missförstås. Intressant är också att åklagaren efter den här utläggningen ändrar sig och menar att svårigheten att känna medkänsla med förövarna är densamma oavsett brottets grovhet om det gäller våld eller sexuella övergrepp, utifrån det egna resonemanget hade hon ju annars i viss mån visat en acceptans mot dessa brott. Vidare kan behovet av att så starkt distansera från de sexuella övergreppen också relateras till den 'klibbighet' som finns i dessa brott, i likhet med andra

former av ’dirty work’ klibbar den starka stigmatiseringen av dessa brott även fast i de personer som arbetar med dem med en underliggande misstänksamhet om vad de är för slags personer egentligen (Hughes 1951).

För att empatin ska uppfattas som passande behöver den således riktas från brottet, mot människan. I den här intervjun talar åklagaren om att hon kan känna empati i förhållande till de tilltalade rörande deras känslomässiga upplevelse av rättegången. Empati blir mer legitim när den omhuldar en svagare part som känner nervositet, rädsla, ledsna och obehag. De tilltalade framstår här som mycket utsatta och empatin kan förstås som ett sätt att kontrollera den egna makten och aggressiva emotioner. Som citatet också visar så finns det också en gräns för hur mycket empati åklagaren kan känna med de tilltalade även i förhållande till deras utsatta situation under rättegången, åklagare behöver fortfarande kunna ställa de besvärliga och ’inte snälla’ frågorna för att utreda brottet. Empati kan här tolkas som ett hinder för professionalitet och får alltså inte känna så mycket empati att de inte förmår att ställa de svåra frågorna och ifrågasätta den tilltalades berättelse.

I den avslutande delen i intervjuutdraget kommer åklagaren in på en situation där vikten av att visa empati uppfattas som särskilt viktigt men samtidigt särskilt krävande, när den tilltalade vill erkänna ett sexuellt övergrepp (eller våld i nära relation vilket är en del av utdraget som jag har klipp bort). Dessa förhör upplevs som svårare och den här åklagaren uttrycker att det är enklare att vara den elaka åklagaren än den empatiska. I intervjun frågar jag vidare varför dessa förhör uppfattas som svårare och hon relaterar det till de tilltalade skäms och att även om de vill erkänna och stå för sina handlingar är det svårt för dem att berätta om just dessa brott. För att de tilltalade ska ’vända ut och in på sig själva’ under förhöret behöver de känna ett förtroende för henne och för att skapa den känslan menar åklagaren att ’man kanske inte går på dem lika hårt som man gör annars. 'Kan du berätta för mig?' (mjuk röst) (ip: skrattar till) […] man blir mer personlig än vad man är med en tilltalad annars’. För att förmå den tilltalade att berätta om brotten och få dem att förbise sin egen skam behöver åklagaren visa olika former av empati, tala med mjukare röst, bli mindre hård och mer personlig. Genom att använda den egna empatin upplever åklagaren att hon både går utanför den professionella normen och blir mer personlig än vad hon vanligtvis är med de tilltalade, samtidigt framstår empatin som professionell eftersom den också har ett syfte.

Empati värderas högt i samhället och att vara empatisk betraktas i allmänhet som något eftersträvansvärt. Även om denna allmänna föreställning av empati gör det enklare för åklagarna att framhålla och relatera till egna empatiska emotioner i jämförelse med vrede och aggressivitet är det som analysen visat inte helt okomplicerat för åklagare att känna empati med eller uttrycka empati för förövare av sexuellt våld. När det gäller just dessa brott framstår det i intervjuerna som att empati kan vara både lättare och svårare att känna i dessa fall. Det är lättare för att sexualbrottens tabubelagda karaktär gör det lättare att

förstå att en tilltalad förnekar eller har svårt att berätta om dessa brott i rättegången. Det blir således lättare att känna med de tilltalade och dela deras nervositet, rädsla och obehag. Svårare i den mening att det egna emotionsarbetet blir större då många åklagare uttrycker att de har lika starka känslor inför dessa brott som alla andra. På ett personligt plan beskriver åklagarna att de kan känna hat, avsky och äckel inför dessa brott men att de för att upprätthålla en professionalitet behöver hålla tillbaka dessa känslor och istället visa upp empati eller neutralitet. Trots att respekt och empati anses vara bärande delar i ett professionellt ideal om gott bemötande framhålls de sällan som rena egenvärden, i likhet med ilska och aggressivitet lyfter många åklagare fram användbarheten med dessa känslor.

Om användningen av vrede och andra emotioner kopplade till aggressivitet

En framträdande känsla, om än inte lika framträdande som empati, i de intervjuade åklagarnas berättelse är vrede. Det som jag kallar vrede här är egentligen ett mer sammansatt och komplext spektrum av emotioner som jag kopplar samman med någon form av aggressivitet. Aggressivitet kopplas ofta samman med fysisk aggressivitet men det som jag syftar på här är i första hand verbal aggressivitet, det vill säga talhandlingar som på något sätt angriper, hotar eller utmanar den andras sociala plats. I agerande rör det sig om ett spektrum av handlingar från ifrågasättanden, irritation och 'avslöjanden' till att ta till brösttoner och kränkningar som att vara förminskande, raljant eller ironiserande mot någon. Även om det finns tydliga skillnader i vilka innebörder och värderingar vi lägger in i dessa emotionella ageranden menar jag att de rör på samma skala i och med att de använder ojämlika resursförhållanden för att förhandla om makt och status. I jämförelse med respekt och empati värderas dessa emotioner lågt och ses som mindre civiliserade, möjligen då med undantag av ifrågasättande och avslöjanden.

Utifrån att samtliga av de intervjuade åklagarna framhåller vikten av empati, respekt och gott bemötande är det intressant att relatera denna bild mot alla aggressiva emotioner som de beskriver i samband med mötet med den tilltalade i rätten. När exempelvis åklagarna beskriver hur de själva tror att de tilltalade uppfattar dem i rätten används ord som: ifrågasättande, aggressiv, elak, besvärlig, pushig, hetsande, slå hål på och hacka på. Att vara empatisk beskrivs i vissa sammanhang som svårt medan det uppfattas vara lätt (men opassande) att vara förminskande, ironiserande, raljerande, nonchalerande, trycka till någon eller sätta sig på någon. Ilskan framstår på ett sätt som den 'naturliga' känslan som åklagarna behöver hålla tillbaka under rättegången.

I åklagarnas berättelser finns det emellertid gott om exempel på att det är en viss typ av vrede som är opassande medan en annan typ av vrede är passande och *bör* uttryckas i vissa sammanhang. Bland de åklagare som jag har intervjuat uppfattas de flesta av de emotionellt aggressiva delarna av deras arbete som självklarheter, de hör till yrkesrollen. En av de nyare åklagarna som jag har intervjuat menade dock på att hon i början tyckte att

det var jättejobbigt att faktiskt anklaga folk och möta dem i rätten. Detta uttalande menar jag pekar på mer generella normer där det i många sammanhang uppfattas som negativt att vara konfrontativ och konfliktsökande men att det är något som åklagarna uppfattar ligger implicit i deras yrkesroll. Detta blir särskilt intressant om vi sätter detta 'faktum' i förhållande till den vikt de lägger vid respekt, empati och gott bemötande. Kan vrede uttryckas på ett respektfullt sätt? Kan en vara empatisk med dem som en är arg på? I denna del av analysen kommer jag att gå in på hur de åklagare som jag har intervjuat förhåller sig och naturaliserar den egna användningen av olika aggressiva emotioner gentemot de tilltalade men kommer också försöka förstå vad ilskan betyder i mötet med de tilltalade i relation till makt och status. Precis som när det gäller empati och respekt visar intervjuerna att åklagarna har svårt förhålla sig dessa känslor och följande citat menar jag är talande för denna ambivalens.

Åklagare: Vi må(ste) ställa motfrågor och ifrågasätta. Det måste man ju få göra men man kan ju samtidigt på ett personligt… Men samtidigt (ip skrattar till) måste vara professionellt. Samtidigt ändå bry sig att det är en människa, visa medmänsklighet absolut. Så att man inte går över gränsen. Det skulle vara så lätt så att säga som sagt att kränka de här människorna. Att man håller igen, att man inte låter egen irritation eller aggressivitet göra, få en, göra att man har ett behov av att spy ut saker eller ge igen som sagt. Om han har varit lite nonchig mot mig (n: mm) under förhöret eller så där. Mm (paus) Ja, att inte ge igen helt enkelt för det är ju oproffsigt (n: mm)

Som citatet belyser så uppfattar åklagarna motfrågor och ifrågasättande som en naturlig del av deras arbete, som åklagaren i citatet säger '*det måste man göra*'. Ifrågasättandet och dessa frågor uppfattas stå i en slags motsättning till hur hon tänker om de tilltalade på ett personligt plan, den här åklagaren menar på andra ställen att hon har lätt att empatisera med de tilltalade och att hon ser dem som '*trasiga själar*' med '*en trasig barndom*'. Denna personliga inställning konstrasteras mot en professionalitet som upplevs ha företräde i mötet med den tilltalade måste hon vara professionell. Denna professionalitet ställs i sin tur mot andra ideal i mötet med de tilltalade, att bry sig om de tilltalade och att visa medmänsklighet. I den här åklagarens berättelse balanserar agerande som förknippas med yrkesrollen, exempelvis att ifrågasätta och ställa motfrågor, hela tiden mot en gräns där åklagaren upplever att hon kränker de tilltalade. Av citatet framstår det som att det är lätt hänt att en åklagare råkar kränka en tilltalad på grund av att deras roll under rättegången ser ut som det gör. Vidare visar citatet att de emotioner som åklagaren menar behöver hållas igen, irritation och aggressivitet, kopplas samman med den egna personen, inte den professionella rollen. Att släppa efter för dessa emotioner eller ett personligt behov av att ge igen uppfattas som oproffsigt.

Vrede och andra aggressiva emotioner är samtidigt passande och bra att ge uttryck för när de länkas till en föreställning om professionalitet. I fråga om sin egen stil eller det egna

agerandet i rätten talar åklagarna om att vara offensiva och drivande. För att få den tilltalade att svara på frågor beskriver en åklagare att hon 'gnetar in' sig på de ställen där de tilltalade berättelser är motsägelsefulla, en annan åklagare säger att det är viktigt att:

'man faktiskt väntar på svaret för då kan det också bli lite grann en sån där psykologisk effekt. Den som förväntas svara sitter där och kanske blir lite illa till mods och faktiskt svarar på nånting som man kanske inte hade tänkt sig svara på. (n: mm) Och det kan vara väldigt bra i rätten, särskilt när man hör de tilltalade då att de kan lätt… Så att våga vara tyst. Den pinsamma tystnaden vinner ju vi på (n: mm) så att säga'

Den känsla som åklagaren här vill åstadkomma hos den tilltalade är att de känner sig illa till mods och av den anledningen säger saker som de inte har tänkt sig. Den pinsamma tystnaden beskrivs som en situation som åklagaren vinner på, ett maktmedel som antingen får den tilltalade att prata eller att framstå som skyldig genom att inte vilja prata. Detta exempel men även flertalet av de emotionella handlingar som nämns ovan menar jag kan förstås utifrån Blochs begrepp 'face-threatening acts', det vill säga handlingar som hotar eller gör att den andra personen tappar ansiktet i en situation (Bloch 2010). Att 'tappa ansiktet' är att förlora respekt och anseende och att 'få någon att tappa ansiktet' kan utifrån Goffman tolkas som en form av symboliskt våld, i detta sammanhang kan i första hand relaterat till ett fråntagande av de tilltalades status (Goffman 1974; Goffman 1967). I samband med rättegången kan det uppfattas som professionellt då det agerande antingen kan få de tilltalade att erkänna eller åtminstone gör att de framstår som motsägelsefulla och icke-otrovärdiga.

Den återkommande betoningen av respektfullt bemötande förstås som ett sätt att hantera den påtagliga ambivalens som åklagarna känner inför det egna emotionellt aggressiva agerandet gentemot de tilltalade. Att få någon att tappa ansiktet kan som citatet nedan visar skapa känslor av skuld och skam hos åklagarna.

Nina: Just när man blir känslomässigt engagerad (ip: ja) för sin egen del (ip: ja) antingen att man inte själv bemöts respektfullt eller så. Hur brukar (du) hantera de situationerna?

Åklagaren: Ah' man får ta på sig skyddsvästen. Det är vår roll. (n: mm) Vi är inte älskade utav alla och man får höra att man är dum i huvudet och '- Tror du att jag ska svara på det?'. Men inte behöver du bli arg för den skull. För det är ju det de vill (n: mm) många gånger och då blir det ju en vinst för dem om de har fått åklagaren att bli uppretad. Utan det är väl bara att ta det vackert. Sånt bryr jag (n: mm) mig inte om. Men visst ibland kan det ju bli så när det gäller själva frågandet, att har du hållit på och sicksackat framochtillbaka. Och de faktiskt… Men det är inte så mycket i den här brottsligheten utan de kanske sitter fast med fingrarna i syltburken i samband med en stöld (n: mm) eller nånting då kan det ju slinka ur en eller annan raljant fråga till slut. Det kan det ju och då är

man ju inte jättestolt över sig själv, det kan jag ju inte påstå. (n: mm) Men vi är ju människor vi också (n: mm) ja

Förutom att citatet belyser just en skamkänsla i förhållande till att ställa en raljant fråga till någon som *'sitter fast med fingrarna i syltburken'* pekar åklagarens uttalande också på en stark norm av att vara känslomässigt oberörd under rättegången, här framförallt i förhållande till den tilltalade. Liknelsen av att behöva ta på sig skyddsvästen skapar en bild av den egna utsattheten där åklagaren behöver skydda sig för att kunna ge sig in i en emotionell skottzon. Åklagaren framhåller att det är rollen och därmed inte den egna personen som är utsatt. Att göra denna separation mellan yrkesrollen och det egna jaget kan tolkas både som ett skydd men också som en förväntan av att behöva tåla mer i yrket än vad vi skulle göra som privatpersoner. Att bli arg eller upprörd beskrivs som onödigt och inte önskvärt, särskilt som det av den här åklagaren uppfattas som något som de tilltalade eftersträvar. I relation till Kempers teoretiska resonemang kan den innebörd som ges till den egna ilskan tolkas som att den egna autonomin blir ifrågasatt och att de tilltalade upplevs ha lyckats rubba åklagarens maktposition. Utifrån den här tolkningen kan normen att inte bli arg framstå som ett sätt att bibehålla eller manifestera den egna maktpositionen. Att vara känslomässigt behärskad är att vara i kontroll och normen kan således även kopplas samman med en traditionell förståelse av professionalitet. Som den avslutande delen av citatet visar *'då är man ju inte jättestolt över sig själv, det kan jag ju inte påstå. (n: mm) Men vi är ju människor vi också (n: mm) ja'* så kan den skam som åklagaren uttrycker över att ha varit raljant också förstås som att den visade ilskan upplevs som en normöverträdelse av en professionalitet. Den brist på professionalitet som den raljanta frågan tolkas som förklaras och naturaliseras dock av att 'vi är alla människor', den raljanta frågan blir därmed svår att kritisera eller uppröras över.

I detta stycke har jag velat visa på några aspekter av det komplexa förhållandet som åklagare har till emotioner som vrede och andra aggressiva emotioner. Som det framgår uppfattas ilska som passande ibland och opassande ibland. Till viss del återspeglar de olika inställningarna till ilska en individuell variation där vissa åklagare uppfattar ilska som oproblematiskt och i vissa fall legitim i högre grad än andra. Jag menar dock att det inte går att nöja sig med det som förklaring – variationen kan både läsas som ett tecken på normers obeständighet men också på deras ständiga närvaro, det vill säga *att* vi förhåller oss till normen ger inte ett givet *hur* vi förhåller oss. Eftersom ilska jämte empati är den emotion som åklagare har talat mest om är det min tolkning att en denna emotion är central för att förstå hur åklagarnas uppfattar det egna arbetet och att en normativ reglering används för vad de lägger in i att göra ett gott arbetet.

En del av komplexiteten i om ilska kan tolkas som en passande eller opassande känsla ligger i att kontexten spelar så stor roll. Normerna innefattar ett *när* ilska kan anses passande, ilskan är befogad när de tilltalade 'dummar sig', 'tramsar runt', 'blåljuger' eller ställer per-

sonliga motfrågor till åklagaren. Ilskan kan på så sätt professionaliseras genom att det blir ett maktmedel att (åter)ta kontrollen i rätten och kunna driva ärendet framåt som yrkesrollen föreskriver. Ilskan är legitimerad i situationer där den professionella statusen eller den personliga integriteten hotas (jf. Kemper, 1978). För att ilskan ska uppfattas som legitim räcker det dock inte bara att förhålla sig till ett när, lika viktigt är också ett hur eller kanske snarare ett varför. Den legitima ilskan behöver vara kontrollerad och vara rationell, den får således inte överdrivas och användas i andra syften än att skapa en känsla hos de tilltalade som får dem att följa ordningen i rättegången, exempelvis svara på åklagarens frågor. Syftet med ilska får inte svara mot personliga behov att ge igen, inte ens om det skulle uppfattas som befogat då den tilltalade inte upplevs ha varit respektfull eller nonchalant mot åklagare (annat än om den riktar sig mot åklagaren som person). Vidare visar analysen av intervjuerna att ilska som uppfattas kränka den tilltalade ses som en normöverträdelse även om det är svårt att särskilja när en aggressiv emotion kränker respektive inte kränker den tilltalade, vilket skapar en viss ambivalens kring att använda dessa emotioner gentemot de tilltalade. Att kunna visa upp 'den kontrollerade ilskan' eller 'den rationella ilskan' kan också tolkas om att ett sätt att hantera egna skam- och skuldkänslor som är kopplade till den maktposition som åklagaren har gentemot de tilltalade, i formella termer men många gånger även i mer symboliska termer som socialt kapital.

Avslutande diskussion

Empati, aggressivitet och neutralitet är de mest framträdande känslorna i åklagares beskrivningar av mötet med de tilltalade i rättegångar som rör sexuellt våld. Dessa känslor är emellertid inte fria att kännas eller uttryckas hur som helst under rättegången – som analysen visar de är känslor som kräver ett stort emotionsarbete för att kunna passera som passande. De ska kännas och uttryckas på rätt sätt, vid rätt tillfälle och med rätt intention. En central aspekt i den professionella emotionsregim som åklagare verkar inom är en uppdelning mellan ett professionellt kännande jag och ett personligt kännande jag som handlar om känslornas *varför*, en central gränsdragning mellan passande respektive opassande går således vid känslornas intentioner. Det vill säga en och samma känsla som uttrycks på samma sätt vid samma typ av situation kan vara passande men också opassande beroende på om emotionen anses vara ett uttryck för den egna personen eller för yrkesrollen.

I åklagarnas berättelser av mötet med de tilltalade kan två så motstridiga känslor som empati och ilska uppfattas som passande och legitima, så länge de presenteras som användbara och rationella i förhållande till arbetsrelaterade mål som att driva målet och få den tilltalade att prata. Känslorna och användningen av känslor knyts i åklagarnas berättelser samman med professionella ideal som objektivitet och rationalitet. Känslorna och användningen av dem legitimeras genom att åklagarna konstruerar dem som professionella och opersonliga. Den självbild som framgår i intervjuerna reflekterar således en bärande

tankegång för hela det rättsliga systemet; att de rättsliga aktörerna styrs av rationalitet och förnuft snarare än personliga värderingar och känslor.

En stark norm som träder fram i intervjuerna är att känslor som uppfattas som personliga ska hållas tillbaka och inte visas under rättegången. Även denna emotionshantering handlar i grunden om professionalitet, det vill säga om att inte uppfattas som oprofessionell. I intervjuerna framkommer det att åklagare känner något inför de personer som misstänks för sexuellt våld, dessa känslor kan vara medlidande men också äckel och avsky. Enligt den professionella emotionsregimen och dess starka betoning på affektiv neutralitet behöver åklagarna arbeta för att hålla tillbaka och inte ge uttryck för dessa känslor. Att ge utlopp en personlig irritation genom att raljera kring de tilltalades motstridiga svar kan förstås som att själv 'tappa ansiktet' och följs av skamkänslor hos åklagaren. Samtidigt som det i åklagarnas berättelser finns en emotionell dissonans mellan vad de faktiskt känner och vilka känslor de förväntas uttrycka menar jag att det också framgår av intervjuerna att åklagarna inte vill förändra de personliga känslorna på ett djupare plan. De personliga känslorna ses visserligen som ett hinder för deras objektivitet men känslorna gör samtidigt åklagarna mänskliga och humana, vilket återspeglar en västerländsk diskurs kring emotioner. Enligt Lutz (1986) förstås känslor å ena sidan som motpolen till förnuft men å andra sidan också som motpol till gemenskap och tillhörighet. Att inte ha några känslor eller vara helt igenom affektivt neutral innebär därmed också att ge uttryck för en amoralitet och en alienation.

Sammanfattningsvis pekar analysen av intervjuerna på komplexiteten i den emotionsregim som åklagare arbetar inom. Åklagare uttrycker stor ambivalens inför den egna användningen av empati, ilska och neutralitet. Ambivalensen kan relateras en grundläggande konflikt mellan medmänsklighet och professionalitet som alla som arbetar inom yrken som innefattar mellanmänskliga möten står inför och behöver hantera. I mötet med de tilltalade i rätten har åklagarna en komplex roll, dels ska de få den tilltalade att prata om det brott som de är åtalade för och för att uppnå det behöver åklagarna skapa en förtroendefull kontakt, dels ska åklagaren 'avslöja' de tilltalade och bevisa att de är skyldiga i linje med det åtalade brottet. Komplexiteten adderas ytterligare i förhållande till de motstridiga professionella idealen angående respektfullt bemötande och att vara drivande och ha kontroll över rättegången. Rättprocessen kan förstås som både en formell och symbolisk fördelning av skuld och kan därmed också förstås som en slags maktritual. I fördelningen av skuld och skam är åklagaren en central och drivande aktör under rättegången. I den antika Grekland fanns det två aktörer i den rättsliga processen, den misstänkte och åklagare. De två parterna kallades för *aidos* (skam) och *anadeia* (skamlöshet). Lynd (1958) menar att skamlösheten då liksom idag inte var en odelat positiv position - den skamlösa förväntas kunna bryta mot gängse normer för en interaktion utan att skämmas (Lynd 1958 i Dahlgren och Starrin 2004). På samma sätt som den åtalade förväntas försöka dölja sitt handlande förväntas åklagare lyfta fram och

synliggöra denna handling. Med Goffmanska termer handlar åklagarens arbete till viss grad om att få de tilltalade att 'tappa ansiktet', något som Goffman menar att vi i det vardagliga livet undviker i så hög utsträckning som möjligt för att undvika förödmjukelse och en förlägen stämning (Goffman 1974). Att förödmjuka är svårt för såväl den förödmjukade som den förödmjukande. Collins (2004) menar att maktritualer handlar om order och lydnad och att en framgångsrik maktritual alltid skapar en kluvenhet hos den överordnade genom att denna har använt sig av sin överlägsna position gentemot en svagare part. På ett teoretiskt plan kan den emotionella ambivalens bland åklagarna bland annat relateras till den överordnade position som åklagaren har gentemot den tilltalade i rättssalen. Att visa empati och vrede, respekt och aggressivitet i ett och samma möte kan framstå som oförenliga men jag menar att just denna dubbelhet är ofrånkomlig för åklagarnas position i förhållande till de tilltalade och vad de förväntas uppnå under rättegången. På detta plan reglerar de olika känslorna varandra, en åklagare blir aldrig för empatisk om de också kan visa upp vrede och vice versa.

Genom att lyfta fram de emotionella aspekterna av åklagares arbete menar jag att vi kan få en djupare förståelse av de rättsliga processerna. I mötet med de tilltalade i domstolen sker ett emotionellt utbyte som på ett grundläggande plan handlar om att visa eller inte visa respekt i en process som syftar till att fördela skam och skuld. Ambivalensen i hur åklagare förhåller sig till professionalitet, emotioner och den egna praktiken visar på vilken komplex situation rättegångar är också på ett emotionellt plan. Förhoppningen är att detta bidrag har kunnat ge nya insikter om de emotionella processer som också pågår i rättsprocessen och väcka till tanke och reflektion hos såväl praktiker som forskare.

Litteratur:

Barbalet, J. (1998/2001). *Emotion, social theory, and social structure. A Macrosociological Approach*. Cambridge: Cambridge University press

Barbalet, J. (2002). Science and Emotions. I: Barbalet, J. (red.) *Emotions and Sociology.* Oxford: Blackwell.

Bloch, C. (2002). Moods and quality of life. *Journal of Happiness Studies*, 3:2, 101-128.

Bloch, C. (2007). *Passion and Paranoia. Følelser och følelsekultur i Akademia.* Odense : Syddansk universitetsforlag.

Bloch, C. (2010). Negative Acts and Bulying: Face-Threatening Acts, Social Bonds and Social Place. I: Sieben, B. & Wettergren, Å. *Emotionalizing Organizations and Organizing Emotions*. London: Palgrave.

Braithewait, J. (1989). *Crime, Shame and Reintegration*. Cambridge: Cambridge University Press.

Clark, C. (1987). Sympathy Biography and Sympaty Margin. *The American Journal of Sociology*, 93:2, 290-321.

Collins, R. (2004). *Interactional Ritual Chains*. Princeton: Princeton University Press.

Dahlgren, L. & Starrin, B. (2004) *Emotioner, vardagsliv & samhälle : en introduktion till emotionssociologi*. Malmö : Liber

Fineman, S. (red.) (2000). *Emotions in organizations*. London: SAGE.

Fineman, S. (2003). *Understanding Emotions at work*. London: SAGE.

Flam, H. (2000). *The emotional "man" and the problem of collective action*. Berlin: Frankfurt am Main.

Hochschild (1983/2003). *The managed heart. Commercialization of human feeling*. Berkley and Los Angeles: University of California Press.

Hughes, E. (1951/2009) *The sociological eye. Selected papers*. New Brunswick: Transaction Books.

Goffman, E. (1967). *Interaction ritual : essays in face-to-face behavior***.** Chicago : Aldine.

Goffman, E. (1974). *Jaget och maskerna : en studie i vardagslivets dramatik***.** Stockholm : Rabén & Sjögren

Karstedt, S. (2003). 'Handle with care: Emotions, Crime and Justice'. I: Karstedt, S. Loader, I., Strang H. (ed.) (2011) *Emotions, Crime and Justice*. Oxford and Portland: Hart publishing,

Kemper, T. (1978). *A social interactional theory of emotions*. New York : Wiley.

Lutz, C. (1986). 'Emotion, Thought, and Estrangement: Emotion as Cultural Category'. *Cultural Anthropology*. Vol. 3, pp. 287-309.

McCarthy, D (1989). "Emotions are Social Things: An Essay in the Sociology of Emotions". *Sociology Faculty Publications.* Paper 5.

Parsons, T. (1951). *The Social System*. Glencoe, Illinois: The Free Press.

Scheff, T. (1990). *Emotions, The Social Bond, And Human Reality. Part/Whole Analysis*. Cambridge: Cambridge press.

Sieben, B., & Wettergren, Å. (red.) (2010). *Emotionalizing Organizations and Organizing Emotions*. London: Palgrave.
Wettergren, Å. (2010). ”Managing unlawful feelings: the emotional regime of the Swedish migration board”. *International Journal Work Organisation and Emotion*. Vol. 3, No. 4, pp 400-419.
Wettergren, Å. (2013). *Emotionssociologi.*Malmö: Gleerups Utbildning.

Resources in cases concerning sexual offences in Iceland

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Sex offences take up a large portion of all cases that the public prosecutor handles. As a prosecutor for the Director of public prosecutions in Iceland resources in cases concerning sex offenders is therefore a topic that is very relevant to me and my work.
The prosecution system in Iceland is only on two stages. The police directors on the one hand that have prosecution powers in their own districts for all minor offences and offences against special criminal law i.e. traffic law violation and drug law violations. On the other hand there is the office of the public prosecutor that handles all other offences. According to procedural law the Director of public prosecutions is supposed to have an overview over criminal cases, give guidelines to other prosecutors at the police level and so on. It is therefore important that the public prosecutor has a stand in how to deal with sex offenders, especially young sex offenders. It was therefore a very welcoming opportunity to take part in a contact seminar on the topic of resources in cases of sex offending. Getting an opportunity to map the situation in Iceland, what is being done, what we should be doing and what´s maybe most important – getting feedback from other participants that are all specialists in the field.
The prosecutors with the public prosecutor have had the feeling for some time that sex offences committed by young people, particularly young boys, have been increasing. This has unfortunately not been examined but looking at the numbers in table 1 it can be seen that it is not necessarily so. The table shows all sex offences committed by offenders under the age of 18. The blue columns show offences against children under the age of 15 and the orange columns show all other sex offences.

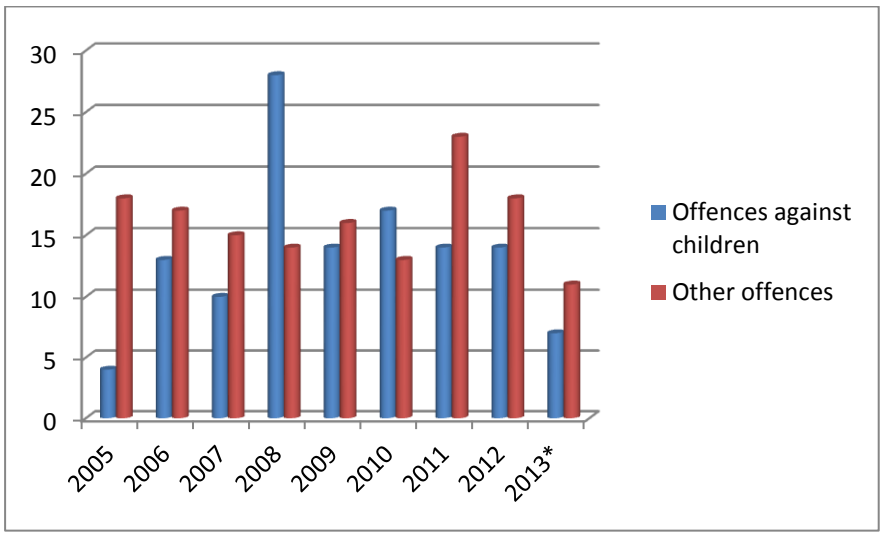


Table 1: Sex offences committed by young offenders under the age of 18 from 2005-2013
*Number of cases from Jan 1. to May 1.

In 2007 changes were made to the general penal code in Iceland. Now it is prohibited to have sexual relations with a child under the age of 15 instead of under the age of 14 before the law changed. This change likely explains the rise in the blue column for the year 2008. A part from that a slight increase can be marked from year to year but the number of cases varies between years and the total number of cases is not high. Therefore each case has a significant effect on the whole picture. As mentioned before these cases have not been examined so assumptions should be made with precaution.

Nevertheless my colleagues at the public prosecutor office have all marked an increase in the seriousness of cases. And there has been a rise in cases where young boys are molesting young children. These are offences that should lead to a sentence of imprisonment but Iceland does not have a special juvenile prison and we are therefore faced with the problem what to do with these offenders. Iceland has ratified the United Nations charter on the rights of the child and there it is specifically stated, as a main rule, that children, under the age of 18, are to be kept separate from grownups if sentenced to imprisonment. In order to try to fulfill Iceland´s obligations the Prison and probation administration and the Government agency for child protection have made an agreement so if a child under the age of 18 is sentenced to imprisonment the main rule is that the judgment is served in a rehabilitation center run by the child protection agency. What does this mean? All in all there are four such centers or homes available and for the most part the children staying there are dealing with serious behavioral problems, drug problems and so on, and it is not always the best solution to put young sex offenders there.

Options to imprisonment

In my opinion, when a young child commits a very serious sexual offence we have to consider if a sentence to imprisonment, to be served in one of these rehabilitation centers, is the right thing to do. Sometimes we could be dealing with cases where there is nothing else in the situation but to deprive the offender his freedom but I don´t think this is the case with most of them. This is a very ethical question though – are we ok with the idea that someone that molests a very small child is not deprived of his liberty?

According to Icelandic law options from imprisonment could be to conditionally suspend indictment, suspended sentencing and suspended sentencing with special conditions. Article 56 of the Icelandic general penal code no. 19 of 1940 contains rules on suspended indictment. It is a condition that the offender has confessed to an offence. Other conditions are that the offences were 1) committed by persons of the age of 15 - 21 years, 2) the situation of the offender is such that supervision or other measures under para. 3, Art. 57, may be considered more likely to have more durable result than a penalty, provided the offence is not such as to necessitate prosecution with a view to public interest. The measures provided for in para. 3, Art. 57 are those special measures that a judge can order

when given a suspended sentencing and will be mentioned later. Suspended indictment is used in some cases concerning sexual offences.

Number of suspended indictment

2011	2012	2013
3	6	0

Table 2: Number of suspended indictments

In only one of these cases special conditions were laid down alongside the general condition that the offender does not reoffend during the period of conditional suspension. In that case indictment was conditionally suspended for three years in a case were a young boy with retardation admitted to have touched a young girl´s genitals outside her clothes. He had already started in a program with the government agency for child protection for children that show unwanted sexual behavior. The special conditions were that he saw a named therapist 12 times and then he would have 4 follow up sessions on a yearly basis throughout the suspension period if the therapist deems it necessary.

When found guilty in a court offenders that do not have a long criminal record and the case does not involve the most serious sexual offences usually get suspended sentencing. I think that this is something worth looking at. When a young offender commits a sex offence we should use tools that the law provide and suspend sentencing with special conditions. According to para. 3, Art. 57 of the penal code the special conditions are the following:

1. That the person be subject to the supervision of individual persons, an association or institution. A person shall generally be subject to such supervision if conditions are laid down for him/her in accordance with the provisions of clauses 2 - 5 below.
2. That the person obeys the instructions of the supervisor concerning place of stay, education, employment, interrelation with other persons and use of leisure hours.
3. That the person does not during the conditional period use alcohol or narcotics.
4. That the person accepts commitment to an institution for a specified period if deemed necessary for up to 18 months if rehabilitation from alcohol or drug use is needed or alternatively for up to 1 year.
5. That the person accepts limitations to his/her right of use of his/her income or other control of financial affairs.
6. That the person makes as far as possible financial compensation for damage caused by his/her offence.

It is not very common that these special conditions are used in judgments of suspended sentencing in Iceland. From 2000-2013 special conditions were only used in 101 cases and only 14 of them involved sexual offences. Table 3 shows an overview of these cases.

Date	Conditions	Age	Provisions of the penal code
4.2.2000	Suspended determination of penalty for 3 years. The accused was to be under the surveillance of child services during probation period, have therapy and spent up to one year in a treatment facility.	16	202.1.1
13.2.2001	18 months, suspended for 3 years (Conditions acc. to point 1, 2 and 4 of art. 57 para 3).	18	194, 202.1
18.7.2001	8 months, suspended for 3 years (Conditions acc. to point 1 and 2 of art. 57 para 3).	18	202.1.1 244
22.1.2003	6 months suspended for 3 years (Conditions acc. to point 1, 2 and 3 of art. 57 para 3).	20	196
6.3.2003	12 months, suspended for 5 years (Conditions acc. to point 1 of art. 57 para 3).	19	202.1.1
11.7.2003	10 months, suspended for 4 years (Conditions acc. to point 1 and 2 of art. 57 para 3).	22	202.1.1
1.7.2004	3 months imprisonment + 21 month, suspended for 5 years (Conditions acc. to point 1, 3 and 4 of art. 57 para 3).	36	202.1.1, 200.1, 200.2, 202.2
18.6.2007	Suspended determination of penalty for five years (Restraint from alcohol and drugs for one year.).	16	202.1
4.6.2010	Suspended determination of penalty for 2 years (The accused has therapy every three months).	21	202.2
23.3.2011	6 months, suspended for 3 years (Conditions acc. to point 1, 2 and 4 of art. 57 para 3).	17	202.2, 202.2, 209
27.5.2011	18 months, suspended for 3 years (Conditions acc. to point 1 and 2 of art. 57 para 3, be under the care of a therapist and accept therapy that reduces the likelihood to show	17	202.1, 164.1, 202.2, 201.2, 200.3, 257.1

	dangerous sexual behavior again).		
28.6.2011	15 months, suspended for 3 years (Conditions acc. to point 1 and 2 of art. 57 para 3).	20	202.1
14.1.2013	2 months, suspended for 3 years (Conditions acc. to have therapy, points 1 and 2 of art. 57. para 3).	41	199.1, 209
11.4.2013	18 months, suspended for 4 years (Conditions acc. to point 1 and 2 of art. 57 para 3).	16	202.1

Therapy as a part of the solution

In all of these cases the offenders are relatively young. Sometimes it is clearly stated in the judgment what the special conditions are, i.e. the offender is to see a therapist once a month for a year, and have follow up therapy two to four times a year for the next two years and so on. In some cases where the condition is therapy it is only mentioned but left to the prison and probation office to decide how it should be implemented. It could be better to state clearly in the judgment how exactly the therapy should be organized so the courts can better intervene if the offender breaches the conditions. Nevertheless the judge should then get a recommendation from a specialist/therapist when given the judgment. If the details of the therapy are left to the prison and probation office on the other hand it gives a better opportunity for the therapist treating the offender to adapt the treatment as it goes on.

The most important thing in my view is that a specialist/therapist recommends the treatment and how to implement it. That means that if it is being considered to use this resource, at least in the more serious cases, we have to have some evaluation of the offender by a therapist. This is first of all in order to evaluate if this resource should be used, whether it is justifiable or not, in regards of the offence, the offender and his history, that the offender gets a suspended sentence. Some cases are so serious that it should not be an option to suspend the sentencing. Treatment could be made available in prison or a treatment facility if the offender is under the age of 18. Then evaluation has to be made on what kind of treatment is suitable, for how long, how often and so on. It is my opinion that it should be the judge that decides on these matters after recommendations from a therapist and that it should be clearly stated in the judgment what the conditions are. So if they are not full filled it is clear that there is a violation of the probation that can be dealt with.

Therefore in cases where young offenders have committed serious sex offences and the prosecution is considering recommending this resource or thinks that could be the outcome of the trial, the offender has to be evaluated and the therapist give his statement to the court. In minor cases where the sentence would always be suspended anyway an evaluation by a therapist might not always be essential but the judge could order the offender to seek treatment for a short period. In my view we should use special conditions

more than we do in minor cases concerning sexual offences, specially committed by young offenders but not limited to them.

Treatment cost

Another issue related to the use of special conditions has to do with who is supposed to pay for treatment with a therapist when such a treatment is the condition for a suspended sentencing. If the offender is under 18 the child can go into a special program for young offenders with the Government agency for child services. Local child protection committees can refer these children there free of charge to the child and it´s family. There are also examples of child services committees paying for a therapy with independent therapist.

If the offender on the other hand is older than 18 he cannot go into that program. According to the Prison and probations office expanses for a therapy is not something they pay for so the offender himself has to pay the cost. If a person is supposed to see a therapist once a month for a year and then four times a year for the next two or three years the total cost is great and not everybody can afford that. If they don´t see the therapist it is a breach of their probation and that should lead to the re-opening of the case. It should not depend on the financial means of the offender whether he gets a suspended sentencing and treatment – which is maybe the most import thing– or not.

This is not just a problem in cases concerning offenders just over the age of 18. It has also been a problem in cases where the offender is on the verge of being criminally liable for example because of mental illness, retardation and so on.

If the person is not criminally responsible or he is not likely to understand the punishment the offender is either acquitted or not given a sentence but can nevertheless be subjected to security measures for example ordered to have therapy. In these cases it is the health sector that steps in and provides the treatment free of charge for the offender.

When on the other hand the court's decision is that offenders with such a handicap are criminally liable and understands his actions and that they have consequences it is questionable if they do they belong in prison or not. Sometimes their offences are not the most serious sex offences but they are repeated so they for example breach their suspended imprisonment. Should we suggest suspended imprisonment with special conditions for them? Who is supposed to pay for treatment with a psychologist in these cases if the offender cannot?

This is an actual problem and to give an example there is the case of a man born in 1971 that in the year 2011 was charged and convicted of sexual harassment by repeatedly sending a woman sexual text messages. It was his first offence and he was sentenced to 30 days in prison suspended for 2 years with the general conditions. The man had a mental illness and cohabits in a home for people with mental illnesses. Not long after his first sentence he continued to send sexual messages to the same woman and therefore he had breached his suspended sentence. He was charged again and the prosecutor called for evaluation of the offender. The opinion of his psychiatrist was that it would be likely that a treatment with a psychologist where they would i.e. work with boundaries would be successful. The judge

in the second case sentenced him to 2 months' probation for 3 years with special conditions. But then when the judgment was final and it came to starting therapy it became clear that this man had no means of paying for monthly sessions with a therapist in accordance with the judgment.
This situation is totally unacceptable in my view and very important to change our law of enforcement of sentencing so that it is made clear that the state has to provide for the resources people are subjected to free of charge.

Conclusion
These are real problems that we are facing in Iceland and the main problem is maybe that we are lacking a policy on how to deal with sex offenders in the judicial system. This is a very important topic to discuss within the system, how do we want to deal with sex offenders, who are these offenders, are they a homogeneous group, does treatment work for everybody? We also have to address difficult moral questions for example whether we think it is justifiable for prosecutors to recommend and the judges to sentence sex offenders to a suspended sentencing with special conditions.

Sexual offending as seen in the prosecutor´s perspective

Yrjö Reenilä, District Prosecutor´s Office of Helsinki, Helsinki, Finland.

The Finnish prosecution service

The Finnish prosecutorial organization is a two-tiered structure. It consists of the Office of the Prosecutor General and 11 local prosecution offices with 26 service bureaus. In the Office of the Prosecutor General work Prosecutor General, Deputy Prosecutor General and 13 State Prosecutors. In the local prosecution offices work 11 Leading District Prosecutors, ca. 300 District Prosecutors and ca. 10 Junior Prosecutors.

The Finnish prosecution service is headed by the highest prosecutor, the Prosecutor General. The Prosecutor General sees to the general administration and development of prosecutorial activity. The Prosecutor General appoints all local prosecutors, and as the superior of all prosecutors, he may take up for consideration any matter belonging to subordinate prosecutor. The Prosecutor General may assign a subordinate prosecutor to prosecute a case where he has decided that a charge be brought or order a subordinate prosecutor carry out the consideration of charges in a given case.

All prosecutors have independent powers to decide whether to prefer charges in individual cases before them. The majority of criminal cases are handled in local prosecution offices. The Office of the Prosecutor General mainly deals with criminal cases which have wider significance. A charge must be brought when probable causes support the guilt of a suspect. In Finland there are special prosecutors which are specialized in a specific field of crime, eg. economic crime, narcotics and organized crime, and offences against the person.

The District Prosecutor´s Office of Helsinki

In the District Prosecutor´s Office of Helsinki where I work there are 65 prosecutors, and one of them are a special prosecutor for offences against the person. There are also three other district prosecutors who are dealing with the sexual offences cases. I am one of the three.

Pretrial investigation and the consideration of the charges

Police do the pretrial investigation in sexual offences - as it do in the most of the criminal cases. Head of the investigation decides independently of coercive measures such apprehension, arrest, seizure and house search. The decision on detention is made by a court as well as for example decision on wiretapping. In Finland there are no investigating prosecutors or investigating judges. Starting from 1.1.2014 there is a deeper cooperation between police and prosecutors but the prosecutors are not head of the investigations. Earlier there were also cooperation with the police and prosecutors because the police had to made an advance notification in severe criminal cases.

In the Helsinki Police Department there is a special unit which investigates the suspected sexual offences made in Helsinki. We have regular meetings with the investigators and we know each other which lowers the threshold to be in touch.
Interrogations of children should be done by policemen who have had a special training for that. In the Helsinki Police Department there are several special interrogation rooms for children. Interrogations of children who are under 7 years of age or have some special needs are usually done by youth psychologists or forensic psychologists outside the police department in a centre for children and juveniles. If the person being questioned is under 15-year-old the interrogation will be video recorded because usually under 15-year-olds are not heard personally before the court.
Consideration of the charges is based solely on the pretrial investigation material. Case load among the prosecutors who handle sexual crime cases in the Prosecutor´s Office of Helsinki slows down the time of the consideration of charges: prosecutors have many cases, multiple trial days, sessions in the court of appeal, remanded suspects etc. When the charges are brought the trial date can be in the far future.

In the court
There are special arrangements in the court for the complainants. They can wait the beginning of the session in a separate room. If they do not want to encounter in the accused in the court room they can sit in a room which has a two-way mirror and give their testimony there or they can have screens between the accused and them. It is also possible that they are present in the court room only the time needed for their testimony. Complainants will always have an advocate whose commission will be covered by the state. Complainant can also have a support person. The advocate´s and support person´s fee and compensation are covered by the state funds. Usually the sexual crime trial is a closed hearing without the public attending. Mostly the judgments are public without revealing the injured parties identity.

Criminal sessions in sexual matters are highly emotional. They are usually stressful situations on intimate terms where there has been an invasion of privacy and sexual autonomy. To clear up the matter the prosecutor has to ask specific and detailed questions. According the ruling of the Supreme Court the 15-year-olds and older minors have to be heard personally in the hearing. In they are under 15 years of age during the trial phase their video recorded interrogation will be watched in the session.
Because of the intensive and personal nature of sexual offences there is usually one case per trial day. As a protective measure I keep the distance to the sexual offence cases and their parties. Sometimes the cases can have reflections to own life.

Offences and offenders in the jurisdiction of the District Prosecutor´s Office of Helsinki
There are annually ca. 250 - 400 sexual offence cases (which means pretrial investigation protocols that can have multiple crimes) which are sent to the District Prosecutor´s Office

of Helsinki for the consideration of charges. Offenders are mostly men. If there is a female suspect it is very rare. Persons with a foreign background (= first generation immigrants) are proportionally over-represented in the sexual crime cases. Rapes and child sexual abuses are committed mostly in close relationships. In a sexual abuse of a child the perpetrator is often a new boyfriend, an Internet friend or a person who accommodates the child for a night. Sometimes the victims are children who are running away from home or who have been relocated to a child care facility. Internet related cases are growing and the predators on the Internet can have multiple victims in a short time. There are also some repeated offenders who commit crimes almost immediately after their release on parole. Altogether I do not believe there is an absolute increase in the sexual crime cases people are just more willing to report of a sexual crime suspicion.

Fuldbyrdelse af domme for seksualforbrydelser, straf/behandling

Seksualkriminalitet i Grønland og Danmark – og de strafferetlige følger heraf

Hans Jørgen Engbo, direktør for Kriminalforsorgen i Grønland

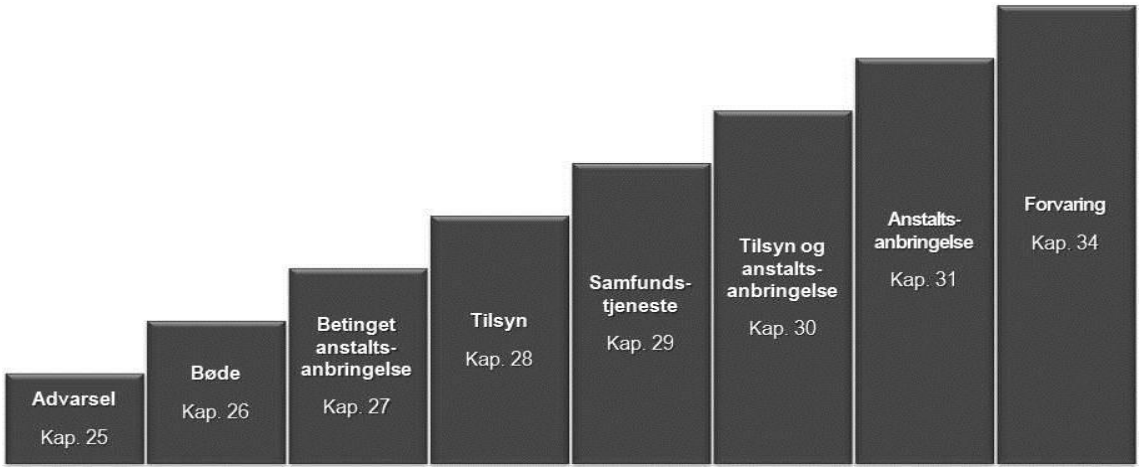
Kriminalretssystemet i Grønland

Før kristendommen kom til Grønland i første halvdel af 1700-tallet, var der ingen organiseret konfliktløsning i de grønlandske samfund. Folk boede i små isolerede samfund, og måtte selv tage affære, hvis der var opstået en konflikt mellem et eller flere af samfundets medlemmer. En hyppigt anvendt – gerne lidt (for) romantisk beskrevet – måde at løse konflikter på bestod i at arrangere såkaldt sangkamp eventuelt kombineret med trommedans. Parterne i konflikten duellerede i fuld offentlighed i at forsøge at latterliggøre hinanden mest muligt. Når duellen var overstået, ansås konflikten mellem parterne for at være løst.

Ved kristendommens indførelse blev sangkamp og trommedans forbudt, og nye konfliktløsningsmetoder blev taget i brug. Man undgik fortsat at bruge indespærring som reaktion på forbrydelser. Hovedreaktionen var bøder, og i øvrigt var det meget individualiserede reaktioner, man tog i brug. Man reagerede ud fra et gerningsmandsprincip, hvilket indebærer at man fokuserede på gerningsmandens personlige og sociale forhold frem for at fokusere på selve gerningen. Medens man i Danmark og de øvrige nordiske lande opbyggede de endnu eksisterende fængselssystemer i midten af 1800- tallet, tog man først i 1967 den første anstalt i brug i Grønland.

Grønland overgik i 1953 fra at have kolonistatus til at blive en fuldgyldig og ligeværdig del af det danske rige, og i den forbindelse fik Grønland en egen kriminallov (1954). Grønland havde indtil da haft et dualistisk strafferetssystem med den danske straffelov gældende for udsendte danskere, medens grønlænderne var undergivet nedarvede grønlandske retstraditioner. Kriminalloven var baseret på den grønlandske retskultur, der som nævnt havde en udpræget individualpræventiv tilgang med fokus på gerningsmanden mere end på den kriminelle gerning. I stedet for (bagudrettede) straffe opererede kriminalloven med (fremadrettede) foranstaltninger, og selv om kriminalloven ved en omfattende revision i 2010 medførte en tilnærmelse af det grønlandske retssystem til det danske system med fokus på både gerningsmanden og gerningen, opererer man fortsat med begrebet foranstaltning og ikke straf, ligesom man fortsat ikke taler om fængsler, men om anstalter.

Kriminallovens foranstaltningssystem kan illustreres med følgende "foranstaltningsstige", som den er blevet kaldt:



Anstalterne i Grønland er alle åbne anstalter, og det kan give problemer, når man af og til har at gøre med domfældte, som har begået meget alvorlig kriminalitet, og som det desuden på grund af psykisk afvigelse eller på grund af sikkerhedsrisici findes meget betænkeligt at anbringe i en åben anstalt uden psykiatrisk behandlingstilbud. I disse tilfælde har man igennem årtier dømt til anbringelse på ubestemt tid i Anstalten ved Herstedvester i Danmark. Fra 2010 benævnes denne anbringelse *forvaring*.

Denne "nedsendelse" af forvaringsdømte grønlændere til Danmark har løbende været udsat for kritik. Det er blevet karakteriseret som umenneskeligt – måske endog menneskerettighedskrænkende – at tvinge mennesker til frihedsberøvelse i en fremmed kultur, et anderledes klima og en anden natur – og tillige flere tusinde kilometer borte fra familien. Man har i Herstedvester gjort en ihærdig indsats for at gøre tilværelsen så tålelig som muligt for grønlænderne, bl.a. ved at ansætte grønlandsksproget personale, skaffe grønlandsk mad, arrangere årlige individuelle besøgsrejser til Grønland og omvendt at betale for familiemedlemmers rejser fra Grønland til besøg i Herstedvester. Men det har ikke været nok til at imødegå kritikken, og med vedtagelsen af den nye kriminallov, som trådte i kraft i 2010, besluttede Folketinget, at der skal bygges en ny anstalt i Nuuk med et lukket afsnit som et centralt element.

Anstalten vil få en samlet kapacitet på 76 pladser, hvoraf det lukkede afsnit udgør 40 pladser. Det åbne afsnit vil blive opdelt i en udslusningsafdeling med 12 pladser og en åben afdeling med 24 pladser, hvor halvdelen af de indsatte skal kunne beskæftiges i arbejdstid og fritid inden for afdelingens område (såkaldt "halvlukket regi"), medens udgangspunktet i de åbne grønlandske anstalter ellers er, at beskæftigelsen så vidt muligt skal foregå ude i samfundet.

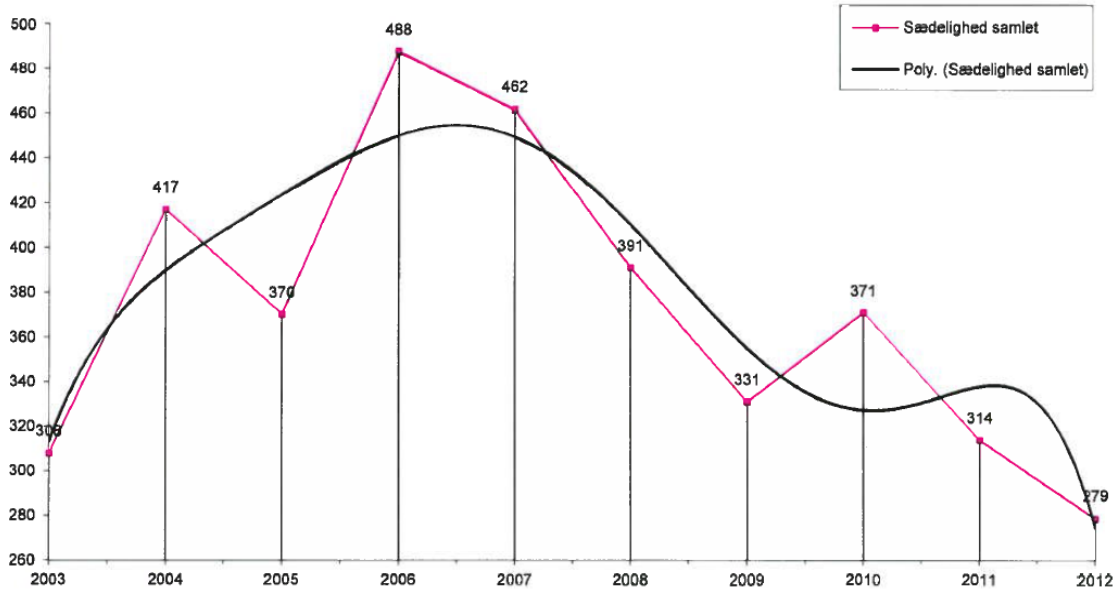
Efter planen skal anstalten så klar til at blive taget i brug i slutningen af 2017.

Skitse af den kommende anstalt i Nuuk, tegnet af den rådgivende ingeniørvirksomhed Rambøll Danmark, som i samarbejde med Friis & Moltke, schmidt hammer lassen architects, Rambøll Grønland og Møller & Grønborg skal stå for opførelsen af anstalten.

Seksualkriminalitet i Grønland

Seksualkriminalitet forekommer i alle samfund, men i meget varierende omfang og af meget vekslende karakter. Dette illustreres på markant vis ved en sammenligning mellem seksualforbrydelser i Danmark og i Grønland.

I 2012 blev der i Grønland anmeldt 279 tilfælde af seksualkriminalitet, heraf 134 voldtægter. Tilsvarende blev der i Danmark anmeldt 2.406 tilfælde af seksualkriminalitet, heraf 264 voldtægter. Sammenholder man med befolkningstallene, når man frem til, at der pr. 10.000 indbyggere i Grønland blev anmeldt 49 tilfælde af seksualkriminalitet, medens der tilsvarende blev anmeldt 4 tilfælde i Danmark. Udskiller man voldtægterne i statistikken, når man frem til, at der i Grønland blev begået 24 voldtægter pr. 10.000 indbyggere, medens der i Danmark kun blev begået 0,65 voldtægter. Det betyder med andre ord, at *hver gang der blev anmeldt én voldtægt i Danmark, blev der anmeldt 37 voldtægter* i Grønland, set i forhold til befolkningstallet.



Udviklingen i anmeldt seksualkriminalitet i Grønland. Kilde: Grønlands Politis årsstatistik 2012, diagram 1.5.1.

Den grafiske fremstilling af udviklingen i anmeldt seksualkriminalitet viser et markant fald begyndende så småt i 2007 og stærkt tiltagende i de følgende år. Det ligger snublende nær at forklare faldet med, at der i sommeren 2008 blev indført totalt forbud mod salg af stærk spiritus i det nordligste Grønland og i Østgrønland. Det samme mener Naalakkersuisut (Grønlands Landsstyre):

> "Ifølge årsstatistikken for Politiet i Grønland er forbrydelser mod kønssædeligheden faldet fra 134 i 2007 til 34 i 2012, ligesom antallet af anmeldte af blufærdighedskrænkelser er faldet fra 103 til 62 i samme periode. I forhold til anmeldte voldsforbrydelser er der sket et fald på 98 i 2007 til 59 i 2012. Forbuddet mod stærk spiritus i Tasiilaq ser således ud til at have haft en positiv effekt på en række afgørende områder."[1]

Det må i den forbindelse nævnes, at et yderligere karakteristikum ved seksualkriminaliteten i Grønland består i, at langt de fleste tilfælde af voldtægt har karakter af kontaktvoldtægt og helt specielt såkaldt "tilsnigelse", som betyder, at gerningsmanden udnytter, at ofret er ude af stand til at gøre modstand, typisk på grund af beruselse. Meget ofte begås voldtægter sent ud på natten i forlængelse af festlige (halv)private sammenkomster, hvorunder både offer og gerningsmand har drukket sig svært beruset. De mest relevante behandlingstilbud til gerningsmænd består derfor typisk i alkoholbehandling snarere end i sexologisk behandling.

[1] Svar af 11. september 2013 fra Naalakkersuisoq for Sundhed og Infrastruktur Steen Lynge til medlem af Inatsisartut (Grønlands Landsting) Jens B. Frederiksen på dennes § 37-spørgsmål vedrørende børne- og familieområdet samt alkoholpolitik i Tasiilaq.

Foranstaltninger og straffe for seksualkriminalitet

Sanktionsniveauet er meget forskelligt i Grønland og Danmark. Den grønlandske kriminallov nøjes med at fastslå, hvad der er kriminelt, men indeholder ingen "strafferammer", som vi kender det i de øvrige nordiske lande. Loven siger alene, at der ved valget og udmålingen af foranstaltning skal tages hensyn til

- *lovovertrædelsens grovhed*, herunder samfundets interesse i at modvirke handlinger af den pågældende art, og
- *gerningsmandens personlige forhold*, herunder hvad der skønnes nødvendigt for at afholde den pågældende fra yderligere lovovertrædelser.

Ud fra disse hensyn forventes retten at udmåle foranstaltning på det lavest forsvarlige trin på foranstaltningsstigen. Retten kan også helt undlade at idømme nogen foranstaltning, hvis særlige omstændigheder taler for det.

Seksualkriminalitet medførte før 2000 ofte kun bøde og/eller betinget dom. I 1990-1999 blev kun hver femte seksualdømt sendt i anstalt, og kun hver tredje voldtægtsdømt fik anstaltsdom.[2] Siden da er udmålingen skærpet betydeligt, først i 2001 og igen i 2006-07, så en typisk voldtægt medfører nu anstaltsanbringelse i størrelsesordenen 1-1½ år mod tidligere 6-9 måneder.[3] Dette er fortsat noget under strafudmålingsniveauet i Danmark, hvor "normalstraffen" for voldtægt ligger mellem 1½ og 2½ års fængsel.[4]

Politisk pres mod "pædofile" i Danmark

I Danmark har interessen for seksualkriminalitet i de senere år navnlig koncentreret sig om "pædofile", som er politikernes og mediernes betegnelse for dem, som begår seksuelle krænkelser mod børn, selv om langt de fleste krænkelser ikke skyldes pædofili i traditionel diagnostisk forstand.

I 2006 blev der således i Folketinget fremsat forslag om at yde bedre beskyttelse af børn og unge mod voksnes seksuelle overgreb ved hjælp af bl.a. højere straffe, tvungen behandling (herunder medicinsk kastration) og forbud mod, at "pædofile" bosætter sig inden for en bestemt afstand af børneinstitutioner, skoler og idrætsfaciliteter mv.[5]

I 2009 diskuterede man i Folketinget, om man skulle tvinge de dømte til sexologisk behandling ved at stille dette som betingelse for prøveløsladelse:

> "Folketinget pålægger regeringen inden udgangen af folketingsåret 2008-09 at fremsætte et lovforslag, som indebærer, at personer, der er idømt fængselsstraf for et seksuelt overgreb imod en mindreårig,

[2] Betænkning nr. 1442/2004, side 829.
[3] Oplyst af Politimesteren i Grønland.
[4] Lovforslag L 141/2012-13, almindelige bemærkninger, afsnit 3.2.3.
[5] B 111 (2006-07): Forslag til folketingsbeslutning om beskyttelse af børn og unge mod seksuelle overgreb.

ikke længere vil have mulighed for at opnå prøveløsladelse, med-mindre den dømte indvilliger i at indgå i et relevant behandlingsforløb."[6]

Justitsministeren svarede bl.a. følgende:

"Når det gælder prøveløsladelse [af sædelighedsdømte], sker der i dag en grundig undersøgelse af sagen, før der træffes afgørelse om prøveløsladelse, og der gives som altovervejende hovedregel afslag på prøveløsladelse, hvis den sædelighedsdømte ikke vil acceptere et vilkår om relevant behandling."[7]

Dette snerper i retning af restriktiv særbehandling af seksualkriminelle, idet andre grupper af indsatte kun sjældent og efter en meget individuel vurdering løslades på prøve med vilkår om behandling. Det forholder sig oven i købet sådan, at recidivundersøgelser viser, at risikoen for, at seksualdømte falder tilbage til ligeartet kriminalitet, er yderst beskeden.[8]

Få år senere blev kravene fra visse politikere strammet yderligere:

"Folketinget pålægger regeringen inden udgangen af indeværende folketingssamling at fremsætte lovforslag, der får den virkning, at personer, der dømmes for seksuelle overgreb mod børn, skal underkastes tvungen behandling og dømte for pædofili skal fremover underkastes tvangsopsyn og fortsat tvangsbehandling efter løsladelse, såfremt risikovurdering viser, at der er fare for tilbagefald. Lovforslaget skal endvidere indeholde bestemmelser om en tillægsstraf for pædofilidømte."[9]

Dette forslag blev dog klart afvist af den daværende justitsminister.[10]

Sex i fængslet?

I den praktiske hverdag i et fængsel opstår der ikke sjældent anledning til at diskutere, i hvilken udstrækning de indsatte skal have muligheder for forskellige former for seksuel eller erotisk udfoldelse eller stimulation. De hyppigste diskussionsemner er:

- Må de indsatte dyrke sex med hinanden, fx i kønsblandede fængsler?
- Skal de indsatte have mulighed for at dyrke sex under besøg?
- Skal det være tilladt at udsmykke cellen eller fællesrum med erotiske billeder?
- Skal de indsatte have lov til at se pornofilm?
- Må en indsat få besøg af en prostitueret?

Disse spørgsmål kan diskuteres ud fra flere vinkler. Hvis man anlægger et rettigheds- eller normalitetsperspektiv, er der næppe tvivl om, at alle fem spørgsmål må besvares bekræftende. Der er tale om forhold, som er fuldt lovlige i det frie (grønlandske/danske) samfund, og det er svært at se, at der skulle være sikkerhedsproblemer ved sådanne

[6] B 112 (2008-09): Forslag til folketingsbeslutning om ændring af reglerne for pædofilidømtes adgang til prøveløsladelse.
[7] Justitsminister Brian Mikkelsen under behandlingen af B 112 (2008-09): Forslag til folketingsbeslutning om ændring af reglerne for pædofilidømtes adgang til prøveløsladelse.
[8] Recidivundersøgelse vedrørende personer dømt for sædelighedskriminalitet, udarbejdet af Susanne Clausen, Straffuldbyrdelseskontoret, Direktoratet for Kriminalforsorgen, november 2009.
[9] B 16 (2011-12): Forslag til folketingsbeslutning om tvangsbehandling af pædofile.
[10] Justitsminister Morten Bødskov under behandlingen af B 16 (2011-12): Forslag til folketingsbeslutning om tvangsbehandling af pædofile.

seksuelle/erotiske indslag i fængselshverdagen. Der kan alene indføres visse restriktioner til beskyttelse af personalets og de medindsattes blufærdighed svarende til de ordensrestriktioner, der gælder om erotiske udfoldelser på offentlige steder i det frie samfund.

Hvis man valgte et øjeblik at se bort fra rettighedshensynet og i stedet anlagde et nyttehensyn, må spørgsmålet være, om sex og erotik som naturlige komponenter i en fængselshverdag kan medvirke til på længere sigt at forebygge seksualkriminalitet, eller om disse elementer i stedet kan bidrage til at vedligeholde, måske endog skærpe, de indsattes seksualdrift og måske dermed øge risikoen for nye seksualforbrydelser.

Noget andet er, at retsfølelsen i skøn blanding med moralistiske holdninger kan spille en vis rolle på dette felt. I Norge blev en fængselschef i 2004 moralsk anfægtet, da en danseoptræden i et åbent fængsel udviklede sig til en strippeoptræden:

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Spill
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Fange hyret stripper til fengselet

Stor jubel i Hof fengsel i går kveld.

Jon R. Hammerfjeld
Torsdag 21.10.2004, 13:10
oppdatert 22:42

Den innleide danseren overrasket både fangene og de ansatte ha hun etter hvert sto kliss naken, melder P4.
Fangen som hadde leid henne til å kle av seg opptrådte selv med stand up-show først.

- Alt var avtalt på forhånd, som også hadde fått godkjenning av oss til å invitere kvinnen, sier fengselsdirektør Kjersti Solberg til P4-nyhetene.

Men de trodde hun skulle danse med klærne på.

Fengselsdirektøren opplyser til radiokanalen at stripperen fikk holde på i fire-fem minutter før fengselsvaktene reagerte.

I dag ser hun alvorlig på episoden. Hof er en åpen anstalt, og Solberg vil ikke fortelle hvilke represalier fangen kan vente seg.

I USA blev en fængselsbetjent disciplinært forfulgt af fængselsledelsen, fordi han havde ladet de indsatte se en film om homoseksuelle cowboys:

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Last Updated: Monday, 10 April 2006, 09:21 GMT 10:21 UK

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US prison bans gay cowboy movie

A US prison officer is to be disciplined for showing the gay cowboy movie Brokeback Mountain to inmates.

Correctional authorities in Massachusetts said the film was unsuitable for a prison setting because of its "sexually explicit scenes".

The graphic nature of the film's sex scenes was deemed unsuitable

A spokesman said the officer failed to follow guidelines requiring films to be vetted for violence, nudity or sex.

Omvendt har man i et kvindefængsel i São Paulo i Brasilien ingen moralistiske skrupler ved en gang om året under stor festivitas og offentlig omtale at kåre en af de indsatte som Miss Penitenciária:

Forskningstemaer?

Meningen med et kontaktseminar er bl.a., at vi praktikere skal give inspiration til den kriminologiske forskning. Derfor skal jeg til sidst rejse nogle spørgsmål, som efter min mening kalder på forskning:

1. *Hvad er årsagerne til seksualforbrydelser?*

I offentligheden og blandt politikere er det en udbredt opfattelse, at seksualforbrydelser skyldes en ekstrem seksualdrift eller en særlig seksuel tiltrækning mod fx børn. Men i den praktiske fængselsverden oplever vi, at der ofte ligger andre motiver bag seksualforbrydelser. En voldtægt kan være en ren magtmanifestation eller være en særlig rå og brutal form for vold mere end en ren seksuel akt. Seksuelle overgreb mod børn kan være udslag af et grænse- og normløst adfærdsmønster kombineret med beruselse mere end egentlig pædofili. Kan kriminologien bidrage til belysning af dette emne, bl.a. med henblik på at målrette den forebyggende indsats?

2. *Hvorfor har Grønland så mange seksualforbrydelser?*

Som nævnt ovenfor er antallet af seksualforbrydelser eksorbitant højere i Grønland end i Danmark (og mange andre steder). I Kriminalforsorgen ser vi forskellige årsager hertil, ikke mindst et meget højt alkoholforbrug. Men har kriminologien interesseret sig for dette fænomen, som fører så mange tragedier med sig?

3. *Hvad betyder adgangen til erotik og sex i fængslerne?*

I England-Wales, hvor sex i fængslerne er forbudt, har Howard Leage for Penal Reform taget initiativ til en nærmere analyse af forskellige aspekter ved emnet Sex in Prisons.[11] Har den nordiske kriminologi interesseret sig for dette emne?

4. *Er retten til sex en menneskeret, og er indsatte i givet fald beskyttet af denne ret?*

Sex hører til privatlivet og må som sådan være omfattet af retten til respekt for privatlivet, som er beskyttet af bl.a. artikel 8 i Den Europæiske Menneskerettighedskonvention. Men hvilke seksuelle udfoldelser gælder dette for, jfr. de fem spørgsmål, som jeg tidligere har rejst om sex i fængsler? Hvilke omstændigheder kan berettige indgreb i retten til sex og erotik, jfr. artikel 6, stk. 2?

Dette spørgsmål retter sig vel især til jurister eller andre, som særlig forsker i menneskerettigheder.

[11] http://www.howardleague.org/commission-on-sex-in-prison/

Understanding and Treatment of Sexual Offenders at IKST, Institute for clinical sexology and therapy

Thore Langfeldt, spesialist in clinical psychology and clinical sexology, Oslo Norway
www.thorelangfeldt.net

Introduction

The treatment program at IKST for sex offenders started official in 1989 supported by the government, but Langfeldt had since 1983 offered group- and individual therapy for individuals who had committed sexual offences. Normally people think that sexual offender only look for sexual satisfaction, but our experience is that sexual offences is more related to relational aspects than sexual satisfaction.

Sex is used for three important reasons. Reproduction, sexual satisfaction and making relations. It is well known that relational aspects as well as sexual satisfaction are involved in sexual offences. However, the relational aspect is what to be dealing with in treatment. It is therefore important to apply psychotherapy that involves relational processes. Simply put one could say that rape is often seen related to relational and sexual interpersonal powerlessness resulting in sexual control and punishment. While sexual offences against children are more related to serious problems to relate to adults for different reasons.

There are two paradigms in present in treatment programs for sex offenders. The most common treatment approach is Relapse prevention programs commonly used in many prisons in USA and England. These programs seem to focus on sexual satisfaction rather than the relational problems. Relapse prevention programs bases on developing cognitive skills to be able to control sexual offensive impulses. The other direction in the field of treatment is based on the relational problems in the individual offender. Our relational approach is based on a psychodynamic technic. The therapy is more intense and long lasting than the classical relapse prevention programs. From 3 to 6 years.

Pure cognitive skills programs had shown to have minimal effects, on relapse. This we have known for decades (Marques, Wiederanders, Day, Nelson, & Ommeren, 2005). Marques et al. demonstrates in their article that classical cognitive skill programs after 10 years had little or no effect on relapse. Some of the advocators for cognitive skill programs have changed their approach and added focus on affective processes and that the therapists have to use empathy as a relational aspect in the therapy. This imply skills and relational qualities in the therapist.

Almost all reports from therapy with sex offenders are from men in prison. Many assumptions seems to indicate that only 6-7 % of all sex offences are brought to court. This means that data from inmates are not representative for sex offenders in its universal.

Our culture is colored by a discourse of moral panic when we address the issue of sexual offences. This negative attitude is a hinder to an objective understanding of sexual offences as such. Further, the discourse of moral panic is a hinder to develop an empathic relationship to the person behind the offence, which is necessary in relational therapy, and finally it leads to insufficient research in the field. We need to see the offender as a product of a complicated development in childhood and a social stigma.

The therapy

Therapy at IKST are outside the prison and independent of the prison. This is important in order to develop an optimal relation to the offender. Empathy from the therapist is important. It is a long-term therapy based on relational problems back to early childhood. The group therapy has up to six patients with two psychologists trained in psychotherapy and clinical sexology. The group is a mixed with different types of offences and is continuous. An important issue in our program it that the patient can continue after released from prison and most clients do. This we think is necessary for sufficient treatment.

Working as a therapist with people who have committed sexual offences is a complicated challenge one should not underestimate. We have to realize secondary traumatization to the therapist, is not unusual. It is therefore important to offer supervision and support and may be not work more than 50 % with offenders.

Attachment and development of sexual identity

Several scientific report have demonstrated the relationship between attachment and sexual offences (Lyn & Burton, 2004) (Marshall, 2000). The attachment style establish in the first years of life seem to be one important aspect in the development of sexual offences later in life. This means that some aspects of developing sexual offending behavior starts in early childhood. A negative or complex relationship to sexuality adds to the development and can result in a pathological sexual identity. This indicate that a safe attachment and a positive attitude to sexuality are important aspects in a health sexual development (Langfeldt T. , 2013).

Results from an investigation (Langfeldt T. , 2010) seems to indicate that sexual offences against children should not be based on the assumption that pedophilia is a sexual orientation. Langfeldt findings indicate that we should operate with two sexual orientations, heterosexual and homosexual, and a mixture of both. Heterosexuality and homosexuality are two independent monopolar dimensions where all people have both dimensions but with different loadings. In relation to the sexual orientations we have to develop a sexual

identity corresponding to our sexual orientation. If we do not succeed, children can appear as a substitute or the only way to establish a relationship. Langfeldt (2010, 2013) suggest that pedophilia is a developmental problem and not an orientation.

It is interesting to observe that men who offend boys outside the family are overrepresented compared with men offending girls outside the family in relation to homosexuals being only 5 % of the population. This seems to be due to the fact that it more difficult for an ordinary boy not being feminine with a homosexual orientation to develop a normal homosexual identity than a boy with a feminine appearance (Langfeldt 2010).

Closing remarks

Sexual offences should be dealt with an opened and none predigested humanistic mind. Nobody wants to become a sexual offender. Thirty years of experience with treatment programs for sexual offenders at the Institute for clinical sexology and therapy, IKST, in Oslo has revealed interesting findings both related to understanding of mechanisms behind sexual offenses as well as active processes in therapy. Factors like therapy based on an empathic therapeutic approach as well as focus on sexology and relational therapy are important to address. Moral panic has prevented therapists and scientists from looking behind the offensive behavior with an empathic attitude to reveal background mechanisms and developmental aspects.

When we understand the mechanisms behind developing sexual offensive behavior, we are more able to help young boys and girls not to develop sexual offensive behavior. This is the only way to prevent future children and adults being exposed for sexual offences.

Referances

Langfeldt, T. (2010) Is "Pedophilia" a Useful or Confusing Concept? An empirical study on sexual abuse of children, sexual orientation and typology: Implications for therapy. *Sexual Offender Treatment, 5.1.*.

Langfeldt, T. (2013). *Seksuallivets gleder og sorger*. Bergen: Fagbokforlaget.

Lyn, T., & Burton, D. (2004). Adult Attachment and Sexual Offender Status. *American journal of orthopsychiatry 74 (2)*, 150-159.

Marques, J.; Wiederanders, M.; Day, D.; Nelson, C.; & Ommeren, A. (2005). Effects of a Relaps Prevention Program on Sexual Recidivism: Final Results from California's Sex Offender Treatment and Evaluation Project (SOTEP). *Sexual Abuse: A Journal of Research and Treatment, 17 (1)*, ss. 79-107.

Marshall, W. L. (2000). Childhood attachments, sexual abuse, and their relationship to adult coping in child molesters. *Sexual Abuse: A Journal of Research and Treatment*, 12, 17-26.

Treatment intervention for children with inappropriate/harmful sexual behaviour

Anna Kristín Newton, MSc Forensic Psychology

Sexual offences against children have been the focus of much research in recent decades. This has led to the awareness that quite a considerable proportion of sexual offences against children are committed by other children. Research estimates that about 30% of reported sexual abuse cases against children are committed by young people under the age of eighteen (Finkelhor, Ormrod og Chaffin, 2009). As a result of this research specialised treatment and assessment programmes have been designed for this particular group with the goal of reducing the risk of further sexually inappropriate or harmful behaviour.

The prevalence of harmful sexual behaviour of children in Iceland

Since 1998, Iceland has operated The Children´s House, a centre for child sexual abuse where suspected abuse cases are processed. Information gathered from the centre during the years 2006-2009 showed that in 141 cases the reported abuser was under the age of 18 at the time of the offence (Barnahús, 2010). During the same time period (2006-9) official police records show 104 cases where the suspected offender in child sexual abuse cases was thought to be under the age of eighteen (Bragason, 2011). Not all cases referred to the Children's House are reported to the police as the age of criminal responsibility in Iceland is 15 years of age and this can in part explain the difference in recorded numbers as seen at The Children´s House as opposed to official police records (Bragason, 2011; Howitt, 2011). However, these numbers highlighted the need for specialised intervention for children who show inappropriate and or harmful sexual behaviour.

Assessment and treatment of children with sexually harmful behaviour

Before 2009 there was no formal procedure or process to help children who displayed sexual inappropriate or harmful behaviour. That year the Government Agency for Child Protection, Barnaverndarstofa, introduced an assessment and treatment programme for youths with sexual behaviour problems. All children aged twelve or over that showed sexually harmful behaviour were eligible for treatment. The goal of the intervention was to reduce harmful sexual behaviour. The model used to guide the treatment intervention was based on best practice standards in the treatment of juvenile sexual behaviour problems but had limitations mainly pertaining to resources (Whittle, Bailey and Kurtz, 2006). The programme was set up by three independent psychologists with specialised knowledge in the field of sexual offending and run in an out-patient setting.

From the outset the emphasis of the programme was to match treatment to clients' needs by evaluating their sexual risk taking behaviour. This was done using recognised assess-

ment tools, psychological tests, information gathering and interviews with relevant parties, as well as guided clinical judgement. The scope of the treatment was based on the outcome of the assessment. In most cases the outcome guided the treatment implementation in relation to duration, intensity and which factors were addressed in treatment.

Children who are assessed as being low in risk usually need less treatment than those who are assessed at being at higher risk. Therefore the programme was designed to take this into account. The treatment of low risk children was comprised of fewer modules than higher risk cases but all children completed modules regarding sexual education, sexual boundaries and the consequences of inappropriate sexual behaviour both for the child in treatment as well as for the child that was abused. As most of the children were living at home it was seen as important to involve parents/caregivers in the treatment process and they received support and advice from the treatment providers on how to combat further inappropriate behaviour. Children with higher risk assessments (medium/high) received a more intense intervention both in regards to sexual factors and other risk factors that came up during the assessment phase such as lack of empathy, emotional problems, lack of peer contact and cognitive distortions. Although treatment and monitoring of risk factors was the primary goal of the programme there was a focus on promoting the children's strengths and protective factors, which have, been shown to reduce risky behaviour (Hoge and Andrews, 2002). In the higher risk cases a multisystem approach was taken to treatment and teachers, family and other significant parties were asked to participate to keep the child safe. Initially the length of treatment was dependant on the level of risk assessed and was estimated to take between 6-15 sessions. The programme has now been running for over four years and a review of the children and their needs has revealed some insightful information.

Children in treatment

From the 1st of September 2009 until the 1st of August 2013 fifty-seven applications were sent to Barnaverndarstofa regarding the treatment and assessment of children with sexually harmful behaviour. Two of the cases were not approved as they were not deemed to be serious enough to warrant formal treatment and in two cases the child protection workers responsible for the case management received consultation in lieu of full assessment and treatment of the children themselves. Thus overall 53 children entered the programme. All but one of the children were boys. This did not come as a surprise as research shows that sexual harmful behaviour is overwhelmingly seen in boys however there is a growing body of information regarding girls with sexual behaviour problems (Newton and Hjaltason, 2011; Youth Justice Board, 2005). The age distribution of the children when starting treatment ranged from 9-18 years of age as can be seen in figure 1, with the average age being 14.2 years and the medium age being 15 years.

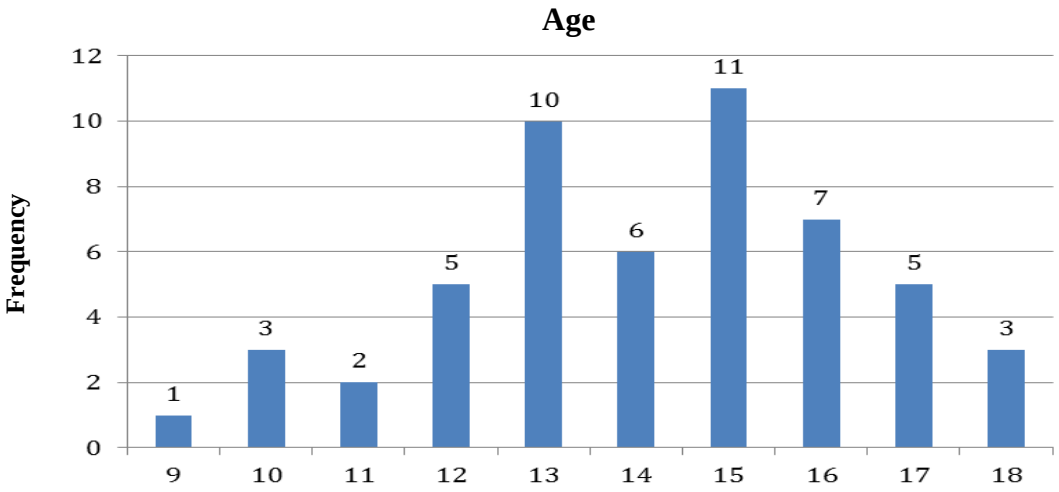

Figure 1. Distribution of age of children in treatment.

At the beginning of the project the treatment offered was targeted at the age range 12-18 years but certain exceptions were made as the treatment providers became more knowledgeable regarding the treatment and assessment of younger children with sexual behaviour problems. One of the main surprises regarding the children who came for treatment was how many of them had a diagnosed psychiatric or psychological disorders. Over two thirds of the children had one or more diagnosis as can be seen in figure 2.

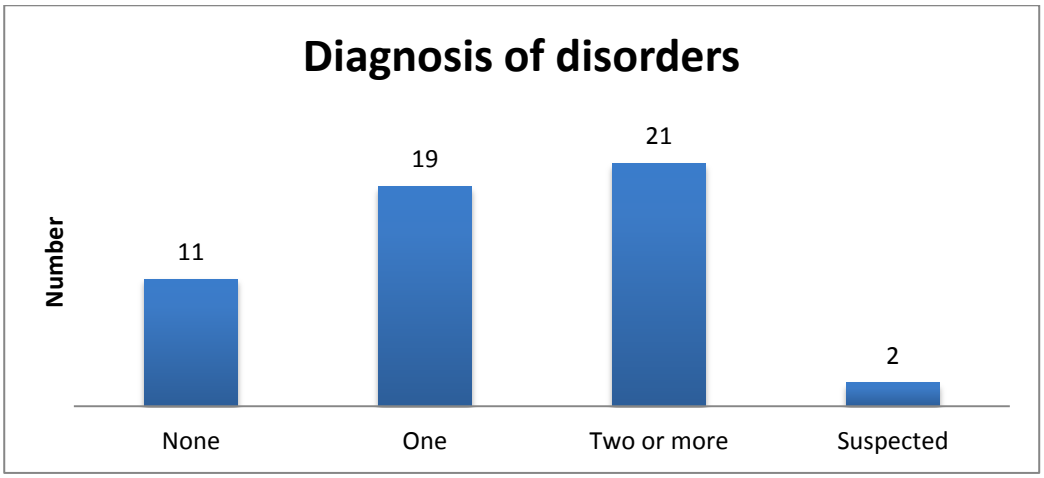

Figure 2. Number of children with diagnosis of a disorder.

Although literature reviews shows that a substantial proportion of children showing harmful sexual behaviour are delayed developmentally and/or have a diagnosis of mental illness the high numbers in this sample were surprising (Association for the Treatment of Sexual Abusers, 2006). Nearly 40% of the sample was diagnosed with Attention Deficit and Hyperactivity Disorder (ADHD). Developmental problems were present in 38% of the sample and 19% had Oppositional Defiance Disorder. Diagnosis such as Asperger syn-

drome, Autism, Obsessive Compulsive Disorder, Anxiety, Depression and Conduct Disorder were also to be found quite frequently in the sample.

In accordance with other research the children displaying harmful sexual behaviour more often than not offended against a relative or a close family member, see figure 3.

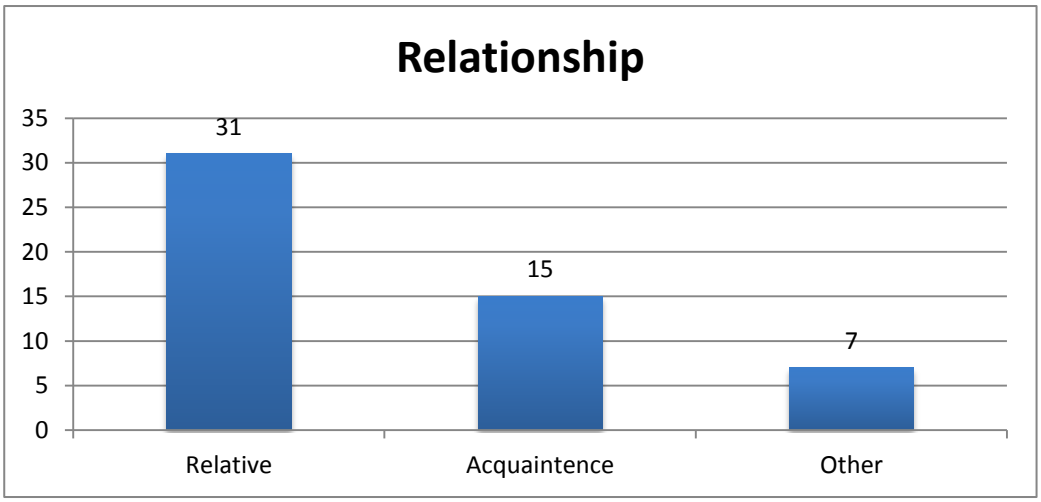

Figure 3. Relationship between children showing sexually harmful behaviour and those whom they abused.

When the relationship between the children who showed harmful sexual behaviour and the children whom they abused is analysed it becomes apparent that in 52% of the cases they were either a sibling or a close relative. The age range of the children abused was from 3-17 years of age with an average age of 9.6 years. More often than not the children who abused were known to have shown harmful sexual behaviour towards one child (58%) but 10% of the sample had offended against more than two children. Girls were more likely to be abused than boys or in 62% of cases.

The assessment of risk and needs at the beginning of treatment showed that the children were most likely to receive a medium risk/needs assessment and least likely to be rated as having high risk needs as can be seen in figure 4.

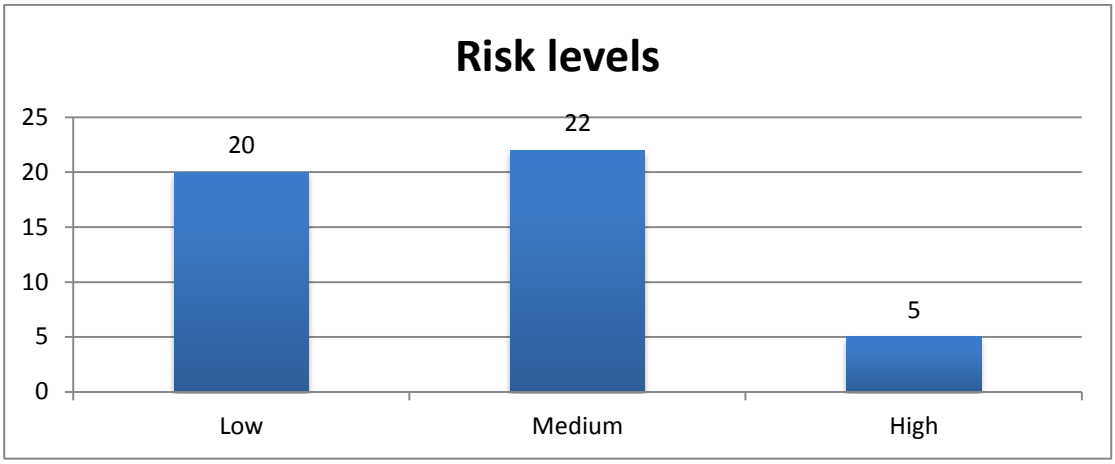

Figure 4. Estimates of risk levels in children showing sexually harmful behaviour.

The number of treatment sessions required based on risk levels according to the programme set up was found to have been underestimated. This was in most part due to the developmental delays that the children had. It was found that in such cases that treatment modules took longer to complete and often needed a more visual and interactive approach. As an example children in the medium risk group had been allocated 10-12 sessions but in practice they needed on average 15 sessions.

Of the 53 children who were referred to the programme two were only assessed for their level of risk/needs pertaining to their inappropriate sexual behaviour as they were in treatment elsewhere. Thus, during the first four years 51 children have been through the assessment and treatment programme. Of those all but two completed which is less than a 5% dropout rate. Four of the children who completed treatment have recidivated and have been referred again to the programme which is in keeping with what is reported in the literature or about 7% (Caldwell, 2010).

What have we learnt?

When reflected upon, the initial scope of the assessment and treatment for children with sexual harmful behaviour has been a success and much has been learned. However, the number of children referred to the treatment programme was less than anticipated. The estimation had been that on average 30 children would be referred per year into the programme but only half that number came for treatment. The reasons for the lack of referrals are not clear but could possibly, in part, be explained by the lack of awareness of the child protection agencies of the treatment programme on offer or that the children's caregivers were unwilling to partake in treatment. In line with the literature there had been an assumption that boys rather than girls would be referred but there was an underestimation of the scope of problems that the children had other than sexual behavioural problems. As a result of this the programme providers had to educate themselves in areas in which they were not specialised and thereby gain new treatment skills. It also became apparent that

children younger than twelve years of age needed treatment and this led to the programme developing to meet their needs. As many of the children in treatment showed inappropriate and harmful sexual behaviour towards their siblings or close family members there was often the need for family mediation and over time the programme started working with the families and other treatment providers, such as the Children's House, in meeting such goals. Although it had been anticipated that the involvement of caregivers was a significant factor in treatment it was underestimated how important it was to involve them at all stages of treatment. Parents are for the most part an integral part of a child's life and play a large role in promoting healthy sexuality (Bourgon and Bourgon, 2013). However, parents are often unsure of how to talk about and monitor their child's sexual behaviour. This is a treatment module that needs to be expanded upon within the programme.

Overall it was found, through experience, that the needs of the children were more than the programme had accounted for and that the length and scope of treatment proposed in the beginning was too narrow. In 2013 when the contract with Barnaverndarstofa regarding the treatment of children with sexual behavioural problems was renegotiated these aforementioned factors were taken into account and the treatment and assessment phases have been lengthened.

For the future, those of us working with children with sexual behavioural problems need to continue educating and training ourselves to become as competent as possible and as before we shall be looking both inside and outside of Iceland for support and supervision. We hope that with gained experience and positive results from the past four years that we will be able to continue to provide services to children with sexual behaviour problems with the focus on reducing harm.

References

Association for the Treatment of Sexual Abusers (ATSA)(2006). Report of the Task Force on Children with Sexual Behaviour Problems. Retrieved from http://www.google.is/url?sa=t&rct=j&q=&esrc=s&source=web&cd=4&ved=0CEgQFjAD&url=http%3A%2F%2Fwww.atsa.com%2Fsites%2Fdefault%2Ffiles%2FReportTFCSBP.pdf&ei=0GhOU9jCE4GRO_2RgcAD&usg=AFQjCNGPD9OW1fLty50zu12N2JMtHx2XPQ&sig2=w9pO6qh9tJcLNb6iEYOXig&bvm=bv.64764171,d.ZWU.

Barnahús. (2010). Answer to questions regarding young sexual abusers between the age of 10-18 during the time period 2006-2009. Date 20. September 2010.

Bourgon, K.E.M. and Bourgon, G. (2013). Family Involvement in the Treatment of Sexually Abusive Youth. Just Research no. 12. Retrieved from http://www.justice.gc.ca/eng/rp-pr/jr/jr12/p5b.html.

Bragason, Ó.Ö. (2011). Sálfræðilegt mat og meðferð ungra gerenda kynferðisbrota. In S. Í. Ólafsdóttir (Ed.), *Hinn launhelgi glæpur: Kynferðisbrot gegn börnum*. Reykjavík: Háskólaútgáfan.

Caldwell, M.F.(2010). Study Characteristics and Recidivism Base Rates in Juvenile Sex Offender Recidivism. *International Journal of Offender Therapy and Comparative Criminology, 54(2)*, 197-212.

Finkelhor, D., Ormrod and Chaffin, . (2009). Juveniles Who Commit Sex Offenses Against Minors. *Juvenile Justice Bulletin*, December 2009 Issue. Retrieved from http://www.ojp.usdoj.gov.

Hoge, R. D. and D. A. Andrews. 2002. *Youth Level of Service/Case Management Inventory: User's Manual.* Toronto, Canada: Multi Health Services.

Howitt, D. (2011). *Introduction to Forensic and Criminal Psychology 4th edition*. Harlow: Pearson Education Limited

Newton, A.K. and Hjaltason, Þ.V. (2011). Umfang kynferðisbrota gegn börnum: Mat á gerendum og meðferð. In S. Í. Ólafsdóttir (Ed.), *Hinn launhelgi glæpur: Kynferðisbrot gegn börnum*. Reykjavík: Háskólaútgáfan.

Whittle, N., Bailey, S. og Kurtz, Z. (2006). *The needs and effective treatment of young people who sexually abuse: current evidence*. Home Office: UK.

Youth Justice Board (2005). *Youth Justice Annual Statistics 2003/04*. Youth Justice Board. Retrieved from http://yjbpublications.justice.gov.uk/en-gb/Scripts/prodView.asp?idproduct=23&eP=.

Treatment of child sexual offenders, and potential offenders, within and outside the criminal justice system in Finland

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The most efficient treatment methods for reducing recidivism among sexual offenders in general, and child sexual offenders in particular, are methods based on the relapse prevention model, risk-needs-responsivity paradigm (RNR), in combination with the s.k. Good Lives Model (GLM), using cognitive behavioral therapy methods, sexological knowledge, possibly combined with medical treatment (review in McGrath et al., 2010).

The RNR paradigm and the GLM model are well documented approaches, the prior stating that those offenders with the highest risk to reoffend should be prioritized in treatment (risk), using methods that target their special needs (needs), with treatment provided in a manner suitable for that particular person (responsivity) (Andrews & Bonta, 2007)). The Good Lives Model is a positivistic approach, claiming that by increasing quality of life in other areas, offense- related behavior and thoughts should decline (Ward & Gannon, 2006).

In Finland, treatment for sexual offenders is limited to within the criminal justice system. In Riihimäki prison in southern Finland, treatment in the STOP program is provided to high risk inmates, who are serving sentences long enough so that participation in the eight month long treatment program is possible. The STOP program is a modification of the British SOTP program, which is well established.

The results of the STOP program are relatively good. Out of 218 participants who had undergone treatment, 7 persons (3%) had reoffended sexually (Takkinen, 2013).

In 2014, a new, shorter program for sex offenders as well as potential offenders, will be launched in Finland. Nina Nurminen, has planned, and accredited the program in Finnish and Estonian prisons. The program consists of 16 sessions, divided into three sections.

Despite the recent steps towards providing evidence based treatment for sexual offenders, there is a huge gap concerning treatment options for adults who are sexually interested in children, in Finland. Let us consider this gap from the viewpoints of the single individual, the therapist or health care professional, and the politician.

First, how many individuals are we talking about who would be aided by treatment? And secondly, who are these individuals, and would there be interest among them for treatment?

In Finland, unique population based data has been collected concerning sexual interest in children and youth below age 16. Out of 1400 Finnish men aged 33-43, 0.2 % and 3.3 % reported sexual interest in children below age 12, and 16, respectively (Santtila et al., 2011). In the same sample, 0.3 % of male participants reported sexual behavior with a person below age 16 (Alanko et al., 2013). Prior estimates of the prevalence of pedophilia have esti-

mated that it would be present in at maximum 5 % of adult men (Seto, 2008). In light of the current research, both the Finnish studies and a German study by Ahlers et.al (2011) on the prevalence of sexual paraphilias, the most enlightened estimates suggest that the prevalence of pedophilia could be 1 %. Of sexual offenses against children, 10-20 % are committed by women (Langfelt, 2013).

This means, that in a country like Finland, with somewhat more than 5 million inhabitants, there could be 25 000 adult men who would fulfill the diagnostic criteria for pedophilia. Let us also bear in mind, that not all pedophiles have committed a sexual crime against a child, and on the other hand, not all sexual offenses against children, are committed by pedophiles. In fact, less than 50 % of sexual offenses against children are committed by pedophiles (Beier, 2012; Seto, 2008). The proportion of adults who are predominantly sexually interested in children, or who have sexually offended against a child, that are distressed by their sexual inclination, the stigma related to it, or comorbid psychopathology, and would need or wish for treatment concerning these issues remains unclear.

In order to study the need for, interest in, and willingness to participate, in treatment, a survey study addressing these issues among potential, and actual offenders, will be planned and conducted. By asking health care professionals experiences of working with clients who are sexually interested in children, we can get knowledge about how many professionals have actually at least initially met a pedophilic client, and how many have formed a working relationship with these clients.

This issue was addressed in a survey directed at health care professionals in Finland, in 2013. An internet survey was distributed through professional societies' mailing lists, through a link at a newsletter from the THL to all professionals working with sexuality related issues, and through the Finnish sexological society. Out of 352 participants who completed the survey (and of those 167 who started but did not complete it), 20 % had worked with a client who was sexually interested in children. 6 % currently had such a client. It seems that there are some experienced therapists/psychologists who have several pedophilic clients simultaneously, and who have gained considerable experience working with this client group during their professional lives.

However, 83 % of participants would, if a client revealed a sexual interest in children, refer this client to a specialist. This indicated, that out of those who actually had experience working with these clients, some would decline from doing it again. Obviously, referring clients to specialists is the professional thing to do, if own skills and attitudes do not meet the needs of the client. Concerning is, however, that we do not have knowledge about who these specialists are, if and where they work, how they can be reached, and whether they are interested in actually taking on these clients. There are no networks, no contact information to be found, just good luck if a client succeeds in actually finding a health care professional with knowledge and methods to treat this kind of problem. Of course, it needs to be said, that not only is the sexual interest in children a distressing issues for many pedophiles, but related psychopathology, and poor health possibly caused by stigma related to pedophilia, and these are also concerns that need to be addressed in treatment.

From the point of view of the individual seeking treatment, the options do not appear too bright. Also, from the view of the treatment provider, it seems that there is considerably to be improved in order to provide this group of clients with the best possible treatment, with the best possible methods available. 75% of participants in the online-survey indicated that they wanted more information about different phenomena related to child sexual abuse, such as etiological factors, treatment methods, consequences for the child, legal matters etc. 77% replied that their level of knowledge about treatment and other issues concerning sexual interest in children, is not sufficient, although personal attitudes to a larger extent were sufficient or good (44 %). There is obviously a need for methodological training, attitude promotion, knowledge increase and networking around the theme.

Lastly, a few comments on the issue from the viewpoint of the politician. Preventive treatment is more cost-efficient than after care, which holds true also in the matter of preventing new children becoming victims of sexual offenses. In terms of costs, it can be calculated that the sums that can be spared are enormous. In terms of individual suffering, and reduction of life quality, the costs cannot even be measured. Therefore, as also EU directives subject participating countries to provide (2011/92/EU) treatment for actual and potential sexual offenders against children, is essential, ethical and necessary.

References

Ahlers CJ, Schaefer GA, Mundt IA, Roll S, Englert H,Willich SN, Beier KM. How unusual are the contents of paraphilias? Paraphilia-associated sexual arousal patterns in a community based sample of men. J Sex Med 2011;8:1362–70.

Alanko, K., Salo, B., Mokros, A., & Santtila, P. (2013). Evidence for heritability of adult men's sexual interest in youth from a population-based extended twin design. *Journal of Sexual Medicine, 10(4),* 1090-9. DOI: 10.1111

Andrews & Bonta (2007). *Risk-Need-Responsivity Model for Offender Assessment and Rehabilitation.* Public Safety Canda. Beier, K. M (1998) Follow-up study of previously expert-appraised child molesters Int J Legal Med, 111: 131–141.

Beier (2012). The German Dunkelfeld Project: Proactive Strategies to Prevent Child Sexual Abuse and the Use of Child Abusive Images. ATSA conference keynote presentation, Denver

Hanson, R. K., Gordon, A., Harris, A. J., Marques, J. K., Murphy, W. D., Quinsey, V. L., & Se-to, M. C. 2002. First report of the collaborative outcome data project on the effectiveness of psychological treatment for sex offenders. Sexual Abuse: A Journal of Research and Treat-ment. ICD-10.

Langfelt, T. (2013, october). "Understanding the treatment of sexual offenders". Presentation at the Scandinavian Research Council for Criminology, Reykjavik, Iceland.

Santtila P, Antfolk J, Hartwig M, Sariola H, Sandnabba K, Mokros A. Men's sexual interest in children: One-year incidence and correlates in a population-based sample of Finnish male twins. 2012 (2012 Manuscript submitted for publication).

Seto MC. Pedophilia and sexual offending against children:Theory, assessment, and intervention. Washington, DC: American Psychological Association; 2008.

Takkinen, H. (2013). Personal communication. On the STOP program-

Ward, T., & Gannon, A. T. (2006). Rehabilitation, etiology, and self-regulation: the comprehensive good lives model of treatment for sexual offenders. *Aggression and Violence, 11* (1), 77-94.

Afslutning på fuldbyrdelsen og tiden umiddelbart efter:

The role of the Norwegian police in the post-release follow up of convicted child sex-offenders

Thea Myrvang, MSc

Backdrop

In Anglo-American cultures there has been a tendency towards crime policy development that to a large extent focus on the management of risk and danger associated with crime. This is also the case when looking at policy developments concerning convicted child sex offenders when released back into the community.

Child sex-offenders are conceivably the category of offenders that create most difficulty and controversy with regards to the questions of appropriate post-release treatment. They are often deemed too dangerous to be left unsupervised in the community and for that reason in need of being controlled and monitored after release. This fear of released and dangerous child sex-offenders in the community is often intensified by sensational media headlines and political populism. Often the focus is aimed at a few, but horrific cases of sexual violence against children.

Consequently, the public demands actions to be taken and the boundaries for what are deemed acceptable means in the fight against future sexual offences, are constantly pushed. Laws demanding continuous monitoring after release, mandatory obligations to report to the police about any changes in address or living situation, publications of personal information, including pictures, records of previous convictions and addresses, are but a few examples of the type of preventative measures put into action to stop new offences from being committed by previously convicted offenders. This tendency is particularly relevant in countries such as the United States, England and Australia and I use the term "fear-oriented culture" when describing the tendency seen there.

With these developments as a backdrop, I explored in my master's thesis whether similar crime policy tendencies could be traced in Norway. I particularly wanted to look at the issue of monitoring and control after release and a special emphasis was placed on the role of the police in the post-release follow up of this group of offenders. For clarity, when talking about follow-ups I refer to the police knowing the whereabouts of previously convicted child sex-offenders after they are released from prison or while on leave from prison, and subsequently using that knowledge in preventative measures if considered necessary.

The central question asked in my thesis was whether follow-ups in fact was considered a responsibility for the police and whether knowledge concerning previously convicted child sex-offenders could be useful when trying to prevent future offences from being committed by the same perpetrator? Furthermore, how can we understand the procedures of the Norwegian police when compared to what one can trace in more "fear-oriented cultures"?
The topic was explored through interviews with representatives from four different police jurisdictions in Norway, Kripos (the special agency of the Norwegian police working with organised and serious crime), the Justice department and the Norwegian correctional service.

Findings
While looking at the issue of proactive measures from the police concerning released child sex offenders, it was also important for me to map the reactive strategies that the police employ in cases involving child sex offences. I discovered that this field within the police has undergone some drastic changes over the last few years. In the aftermath of a well-known child sex-offence case in Norway, referred to as "Lommemannen-saken", a report came out which criticised the police for their bad handling of cases concerning sexual offences against children. Some of the critical issues pointed out in the report, was the unsatisfactory flow of information and cooperation between the police jurisdictions, the fact that investigators often worked on the cases alone and that the cases often were given to officers that had little experience. In addition, it was noted in the report that working on these cases within the police had a low status, and consequently, few officers were interested in taking them on.
As a consequence of this report and in an effort to combat these negative tendencies, some police jurisdictions in Norway have now started to organise into teams. These are teams where the investigators involved work solely on child sexual offences and sexual offences, and where the prosecution is integrated into the case from the start. The general aim is to raise the status of this type of work and to ensure better quality in the material that is brought before the court. Team organisation is becoming more commonplace, although it is not mandatory to implement. Out of the four jurisdictions I interviewed, three had organized into teams and the fourth was in the process of doing so.
As regards the central research question of post-release follow-ups of convicted child sex offenders, a main finding of my research was that this to a limited extent were defined as a responsibility of the Norwegian police. It also became evident that systems allowing for such follow-ups were limited. Information regarding released offenders was not automatically shared across police jurisdictions and there were no routine for cooperation between the police and the correctional services.
One of the main explanations for this was that there are no established systems within the police organisation that define this as a task for the police. When asking my informants from the four different police jurisdictions if they had any knowledge about when

previously convicted child sex-offenders would be released in their jurisdiction, where they would settle down and what sort of work and activities they would engage in after release, all of them said no. If they would come across such information it would in almost all incidences be completely by chance.
This finding was particularly interesting if set up against present police guidelines in Norway. During my research, I came across a circular letter issued by the Norwegian Justice Department called "Varslingsrutiner for å hindre seksuelle overgrep mot barn" (Rundskriv nr. G-116/2000)[15]. This gives the police a warrant to notify third-parties about "paedophiles and other dangerous people living in the community", and it can be understood as a preventative tool for the police. For example, if a convicted child sex-offender moves into a neighbourhood and the police consider the individual to be a risk for the family next door, they can notify that family about this person and their possible danger.
There are many ethically difficult issues associated with following the guidelines set forth in this circular letter. But it also has some shortcomings with regards to its applicability: the police have no way of knowing where previously convicted offenders move after their release or during parole. Hence, the intention of the circular cannot be implemented. If so, it has to be based solely on the police coming across such information by chance. Thus, it appears to be a discrepancy between the expectations expressed in the circular towards and what the police actually can do.

What should the police do?
For most of my informants, the defined role of the police was to investigate and get people convicted. When offenders went in to serve their time, the responsibility of the police was over. After release other agencies, such as the Norwegian correctional services, were by all my police informants pointed out as the primary agency in charge. Any involvement by the police after release would almost solely be in relation to a new crime being committed. In other words, the police was for the most part devoid of any knowledge concerning the released child sex-offenders as long as they did not break any laws.
Most of my police informants found this difficult to correlate with their responsibility to protect their citizens from future harm and risk. Many described it as "waiting for something to happen": they would see individuals they had prosecuted and previously convicted on the street, several of them whom my informants would characterise as being high-risk, but without any certain guidelines as to how one should deal with the situation. Could this be a dangerous individual?
When asked whether they thought follow-ups should be defined as a responsibility of the police, almost all my police informants, both in the individual police jurisdictions and at Kripos, said yes. They thought such follow-ups could have beneficial effects on the prevention of future sexual offences, but it could also be beneficial for investigations of

[15] Notification routines for the prevention of child sexual abuse

new offences that had been committed. For instance, if an offence was committed in an area where the police was aware that a previously convicted child sex-offender lived, they would likely check out that individual first. Also, by making the released offenders aware of the fact that the police knew of their release and whereabouts, the police could create a feeling of an "attentive community" where the risk of being caught would be perceived as heightened. In addition, some commented on the fact that the police had a different authority than the correctional services with regards to intervening in situations where future risks of sexual offences were present. The correctional services for instance, do not have the authority to enter someone's house forcibly.

So why is this not an area where the police are more involved? And why is it not necessarily understood as a responsibility for the police to be involved in controlling possible dangerous child sex-offenders after release? There could be many reasons for this. One obvious one is that this sort of involvement by the police conflicts with the fundamental principle that everyone should be entitled to a second chance after serving a sentence. Many of my informants talked about this and questioned how follow-ups could be performed when it involved people that principally should be given a second chance? For the police, it was problematic to intervene in an area where the boundary between prevention and protection on one side, came dangerously close to the possible obstruction of someone's chance of a new life on the other. The fear was that increased focus on risky individuals and the subsequent regulation of those deemed too dangerous, could in fact challenge the very goal of their release: reintegration into mainstream society. In other words, follow-ups could promote more risks by labelling and potentially isolating released sex offenders.

However, when talking with my informants about the issue of safeguarding the rights of the released offenders, many of them also wanted to bring attention to the issue of protecting the rights of possible future victims. Whose rights should one put first? One thing is protecting the rights of the previously convicted offender by giving them a fair chance to reintegrate into society. But what about the rights of the public to be protected from future harm. Especially harm against a vulnerable group such as children.

I recently read an article about this place in Florida called "Miracle Village", where more than half the residents are convicted sex offenders.[16] The congregation of such a large amount of previously convicted sex offenders in one place is a result of Florida's very strict sex-offender laws. For example, all convicted sex-offenders must for the remainder of their lives live at least 300 meters away from all places where children gather, for instance schools or kindergartens. It is also against the law for previous offenders to stay in any place for more than 48 hours without registering with the police, and pictures and personal information about previously convicted sex-offenders is readily available for the public.

[16] Dagbladet «Magasinet» Lørdag 14. september 2013

Such policies has made it impossible for released sex-offenders to live in mainstream society and has forced many of them to gather in designated "sex-offender zones" where they to some extent can live without being constantly harassed. The right of the offender has been put completely on the sideline and they are in many ways excluded from society for the rest of their lives. From a Nordic crime policy perspective this would, without a doubt, be perceived as extreme.

But in the same newspaper article they had also interviewed someone working for children's rights for protection under the law. They pointed out that yes; it is extreme what they are doing in Florida. But what we are doing here in Norway should also be understood as extreme, just in the opposite direction. We have to such an extent wanted to protect the rights of the offenders, that we, in turn, might be putting children at risk. Could this be true of the Norwegian system? For some of my police informants, such a fact was manifested by the current lack of control over released child sex-offenders. There were no firm guidelines that imposed post release follow-ups as a responsibility for the police organization, and the degree of cooperation and sharing of information across police jurisdictions and between the police and other agencies were minimal. In addition, the police had no way of separating those offenders categorised as high-risk from low-risk. This issue of separating high-risk from low-risk offenders was particularly relevant for my police informants when considering the circular letter previously mentioned (Rundskriv nr. G-116/2000). Let us say the police knew of a released child sex-offender that had moved into a neighbourhood. How would they know whether this was an individual that they should notify neighbours about (in other words a high-risk offender) or a low-risk offender for whom the likelihood of new offences was minimal?

Risk assessments

Risk assessments are undertaken on child sex-offenders. Many individuals convicted of sexual offences are sentenced to special detention, where the question of release is dependent on continuous assessment on whether or not the person still poses a risk towards society. My informant working for the Norwegian correctional services said that the ultimate goal of special detention was to build up an individual's "protection factors" so they to a greater extent could resist committing new offences after release. A part of the process of charting out these protection factors, also involved assessing the person's risk. Before a possible release, new risk assessments were performed which in turn provided the foundation for the work the correctional services carry out with the offender after release.

However, the information on risk gathered by the correctional services during imprisonment and immediately before release is not automatically shared with the police. Hence the police have no foundation to judge who might need follow-ups amongst the released child sex-offenders. In fact, many of my police informants claimed they had little or no contact with the correctional service at all, something that was a bit frustrating for them.

Better communication between the police and the Norwegian correctional service concerning risk assessment and possible danger represented by child sex-offenders, could therefore be beneficial. It is acknowledged that one needs to take into consideration issues concerning the right to privacy of released offenders. But one also needs to consider society's right to protection against possible future harm. By sharing information, one could include the police in the task of separating low-risk offenders from the high-risk ones. This could in turn give the police a better foundation to judge whether notifications, as set forth by the guidelines of rundskriv G-116/2000, should be used. Revealing sensitive information about released offenders to the public should be kept at a minimum. By allowing the police to make judgements on risk, one can limit unnecessary sharing of information to third parties.

Conclusion

In conclusion, the tendency of post-release control over child sex-offenders which can be seen in fear-oriented cultures can hardly be traced in Norway. To the contrary, the degree of control there is almost non-existent. The circular letter "Varslingsrutiner for å hindre seksuelle overgrep mot barn" (G-116/2000) is probably what comes closest to resembling the kind of policies as seen in the fear-oriented cultures and there are several ethical issues connected with its use.

The intention of my thesis was not to take a stance on what one should or should not do in Norway with regards to following up this group of offenders. However, by clearing out the status one can generate a basis for discussion on how we as a society want to deal with this particular group and the risk that they pose. Is the present-day system satisfactory? Is there an expectation in the public that the police should have more control then they have today?

As a concluding remark, and something that I pointed out in my thesis, it would be very interesting to learn more about what procedures exist in the other Nordic countries concerning post-release follow-ups as a preventative measure against future offences. One thing is the type of treatment that this group of offenders receive in terms of dampening their risk factors. But for those individuals, that should be categorized as high-risk and are released into the community, what kind of management are they subjected to by the police? Are they more or less left on their own, in the same was as in Norway, or does the police in let us say Denmark or Sweden have a role in keeping this groups of offenders under supervision?