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Virtual punishment in the making: When citizen journalism enables processes of shaming and online victimization

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Scandinavian Research Council for Criminology
Nordisk Samarbejdsråd for Kriminologi

NSfK's 58. Research Seminar

1. - 4. May 2016 in Bifröst, Iceland



New challenges in criminology; can old theories be used to explain or understand new crimes?



Scandinavian Research Council for Criminology
Nordisk Samarbejdsråd for Kriminologi

NSfK's 58. Research Seminar

Bifröst, Island 2016

Report including all the papers that were presented during the NSfK Research Seminar 2016 (Hotel Bifröst, Iceland, 1.-4.5.2016)

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Foreword

The Scandinavian Research Council for Criminology (NSfK) convened its 58th research seminar in beautiful surroundings of Borgarnes Iceland from 1st to 4th of May 2016. Borgarnes and its conference hotel Bifröst is located about 70 km north from Reykjavik. Altogether 74 researchers from all the Nordic countries, United Kingdom and United States took part in the seminar.

The main theme of the 2016 Research Seminar was "*New challenges in criminology; can old theories be used to explain or understand new crimes?*" The concept behind the title was that modern society is facing new challenges, and concerns have been voiced whether conventional theories and criminal justice systems are adequately equipped to tackle new forms of crime and victimization.

The seminar started with two excellent plenary presentations late at the night of arrival. Jón Gunnar Bernburg (IS) gave a presentation with very topical issue of mass protest and the global crisis in Iceland. Bernburg was followed by Björn Þorvaldsson (IS) with a theme of challenges in prosecuting cases regarding the financial crisis in Iceland. These presentations gave a very good overview of the magnitude of the financial crises in Iceland and of the problems the criminal justice system is facing currently. Worrying is that the authorities seem to have a tendency to repeat the same mistakes all over again. The next day Steve Tombs (UK) supplemented these presentations with his sophisticated analysis of the changes of the business regulation after the crises in UK. The picture became even more complete after Janne Flyghed (SE) and Isabel Schoultz (SE) presented what kind of techniques of neutralizations the spokesmen of the corporates in Sweden use when explaining misconducts of their company. Furthermore, our understanding of new types of crimes was broadened with Inger Marie Sundes (NO) analysis of crime in the digitalized society and Karin Creutz (FI) presentation about violent extremism.

The seminar interacted between plenary sessions related to the conference's main theme as well as parallel sessions with all together 50 presentations with top quality. It is noteworthy that the discussions within the workshop were vivid and with high intellectual content.

A feedback was requested from the participants. The response was extremely positive. The participants appreciated the top quality of keynote speakers and the possibilities for networking. They valued to hear what other Nordic criminologists are working on and the opportunity to present ones project to an international audience. The participants were very satisfied with the organizational matters of the seminar. As a downside it was mentioned that the tight schedule of the seminar left a lot of promising discussions (and indeed entire presentations) cut short.

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

Finally, I would like to express my greatest gratitude to NSfK's executive secretary Laura Mynttinen and Icelandic board members Kolbrun Benediktsdottir and Rannveig Þórisdóttir and contact secretary Snorri Arnason for remarkable well done organizations of the seminar. Several respondents to the feedback formula praised the supportive atmosphere of the seminar. Indeed, this is something all the participants should be thanked for!

Aarne Kinnunen
Helsinki, July 2016
Chairman

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Program for NSfK's 58. Research Seminar

Hotel Bifröst, Iceland

Sunday May 1st

- 18.00 – 19.30 Arrival at Hótel Bifröst. Check-in and dinner.
- 19.30 – 19.45 Welcome by NSfK Chairman Aarne Kinnunen (FI)
- 19.45 – 21.00 **Plenum – Hrifla auditorium**
- Mass protest and the global crisis: the case of Iceland*
Jón Gunnar Bernburg (IS)
- Too big to jail? – Challenges in prosecuting cases regarding the financial crisis in Iceland*
Björn Þorvaldsson (IS)
- Chair:** Hedda Giertsen (NO)

Monday May 2nd

- 07.00 – 09.00 **Breakfast**
- 09.00 – 10.00 **Plenum– Hrifla auditorium**
- Regulating Business 'After' the Crisis: some observations from the UK.* Steve Tombs (UK).
- Chair:** Natalia Ollus (FI)
- 10.00 – 10.15 Coffee break
- 10.15 – 12.15 **Parallel sessions**
- Workshop A** **Prison and Probation studies – Glanni seminar room**
1. *Fra trommesang til samfundstjeneste – sanktionssystemets udvikling i grønlandsk kriminalret.* Hans Jørgen Engbo (GL).
 2. *Den grønlandske fangebefolkning.* Annemette Nyborg Lauritsen (GL).

3. *'We don't want you to think criminal thoughts' – a sociological exploration of prison-based cognitive-behavioural programs in Denmark.* Julie Laursen (DK).
4. *Når lokalsamfundet rykker ind – et socialt forsøg i et åbent fængsel.* Marie Herping Abrahamsen (DK).
5. *Tværfagligt samarbejde om prøveløsladte i lyset af Luhmans systemteori.* Anette Storgaard (DK) **Chair.**

Workshop B

Gender related studies – Vikrafell seminar room

1. *The female offender as a social problem.* Erika Hedlund (SE).
2. *Desistance – From What? A Theoretical Contribution to the Understanding of Women's Desistance.* Robin Gålnander (SE).
3. *Validity of the gender gap theory on a substance-abusing population with previous prison sentences.* Teemu Kaskela (FI).
4. *Straffa, utvisa och utbilda: Lösningförslag i den svenska debatten om människohandel för sexuella ändamål.* Anita Heber (SE).
5. *Exploring the links between human trafficking and sham marriages.* Minna Viuhko (FI) **Chair.**

12.30 – 13.30

Lunch

13.30 – 15.15

Parallel sessions

Workshop C

Police studies – Glanni seminar room

1. *"Together against domestic violence": New approach to an old problem.* Marta Kristín Hreiðarsdóttir and Rannveig Þórisdóttir (IS).
2. *Nationale strategiske analyse / dansk politi.* Mia Lund Ørting (DK).
3. *Doing the Right Masculinities Right: The Police Force as Gendered Practices.* Ingrid Lander (SE).
4. *Én ud af hundrede ved noget om det – En kvantitativ dokumentanalyse af Østjyllands Politis datakvalitet med udgangspunkt i indbrudsjournaler.* Cecilie Vivienne Attermann and Pernille Søgaard Tolstrup (DK).

5. *Hot spot-politiarbejde i en dansk kontekst.* Maria Bislev (DK) **Chair** and Cecilie Vivienne Attermann.

Workshop D

Legal reform and social control – Vikrafell seminar room

1. *Begrebet voldtægt i nordisk perspektiv.* Ragnheiður Bragadóttir (IS) **Chair**.
2. *Does age and gender have an impact on public attitudes towards drug use and buying of sexual services?* Helgi Gunnlaugsson (IS).
3. *Social control and the debate over crime. Social problems and social change in the public debate over the total reform of the Finnish Criminal Code from the 1960s to the millennium.* Aura Kostainen (FI).
4. *From a parenting measure to a crime? – Criminalisation of parental corporal violence in Finland.* Riikka Kotanen (FI).
5. *Jane Addams (1860-1935) arbete i början på 1900-talet i Chicago samt 100 år senare på 2000-talet i Finland och i övriga nordiska länder.* Regina Järg-Tärno (FI).

15.15 – 15:45

Coffee break

15.45 – 16.45

Plenum – Hrifla auditorium

Using techniques of neutralisations to understand corporate crime.

Janne Flyghed and Isabel Schoultz (SE)

Chair: Anne Julie Boesen Pedersen (DK)

16.45 – 18.00

Parallel sessions

Workshop E

Economic and environmental crime – Glanni seminar room

1. *Corporate and organised crime: a study of criminal liability of executives and leaders.* Þorbjörg Sveinsdóttir (IS).
2. *Green Activist Criminology and the Epistemologies of the South.* David Rodríguez Goyes (NO).
3. *Security for the profitable: The case of insurance fraud.* Anders Stenström (SE) **Chair**.

Workshop F

Sexual offences – Hrifla auditorium

1. *Sexual harassment in public spaces in India.* Mahesh Nalla (US).
2. *Rape victims in small town: Case studies in Iceland.* Guðrún Katrín Jóhannesdóttir and Jón Gunnar Bernburg (IS).
3. *Cause-effect-responsibility? The parties of sexual crime as responsible actors discussed in the opinion column of a Finnish newspaper.* Johanna Kronstedt-Rousi (FI)
Chair.

Workshop G

New challenges related to extremism and counter terrorism – Vikrafell seminar room

1. *Authority responses and public reactions to radicalisation.* Karin Creutz (FI).
2. *Political Effects upon Criminal Law.* Tasnime Akunjee (UK).
3. *Preventing Radicalization in Prisons.* Aarne Kinnunen (FI) **Chair.**

19.30

Dinner

Tuesday May 3rd

07.00 – 09.00

Breakfast

09.00 – 10.00

Plenum – Hrifla auditorium

A new thing under the sun? Crime in the digitized society
Inger Marie Sunde (NO).

Chair: Felipe Estrada (SE)

10.00 – 10.15

Coffee break

10.15 – 12.15

Parallel sessions

Workshop H

Youth studies – Glanni seminar room

1. *Young people's conceptions of trust in public and private policing.* Elsa Saarikkomäki (FI).
2. *Etnisk bias i genoprettende processer? - En undersøgelse af adgang og udbytte for unge gerningsmænd med etnisk minoritetsbaggrund.* Katrine Barnekow Rasmussen (DK) **Chair.**
3. *Cannabis sales and immigrant youth gangs – an exploratory study of the intersection between market structure and youth gang evolution.* Kim Møller (DK).
4. *Kriminalitet og uddannelse blandt unge.* Mette Foss Andersen (DK).
5. *Det vanskelige arbeidet: Å omforme Cowboymaskulinitet til en passende maskulinitet.* Nina Irene Jon (NO).

Workshop I

Criminal justice challenges and trends – Vikrafell seminar room

1. *The unequal crime drop.* Anders Nilsson (SE).
2. *Symbolic Politics in Swedish Crime Policy Debate.* Klara Hermansson (SE) **Chair.**
3. *Dramatic Subtlety: Exploring Emotions and Emotion Management in the Courtroom.* Lisa Flower (SE).
4. *Scaling Penalty: In Pursuit of a Global Sociology of Punishment.* Kjersti Lohne (NO).
5. *Access to legal assistance in civil cases under the ECHR.* Olaf Halvorsen Rønning (NO).

Workshop J

Emerging crime risks – Hrifla auditorium

1. *Virtual punishment in the making: When citizen journalism enables processes of shaming and online victimization.* Agneta Mallén (SE).
2. *Social media as a platform for crime.* Hanne Stevens (DK) **Chair.**
3. *How Widespread is Cybercrime? Types and Volume of Public Victimization in Iceland.* Helgi Gunnlaugsson and Jónas Orri Jónasson (IS).
4. *Homicide as a culmination of social marginalization.* Karoliina Suonpää (FI).
5. *Governing security in spaces of flows.* Martin Nøkleberg (NO).

12.30 – 13.30	Lunch
13.30 – 14.30	Parallel sessions
Workshop K	Theoretical perspectives – Glanni seminar room
	<ol style="list-style-type: none"> 1. <i>Theoretical challenges in contemporary hate crime studies.</i> Mika Andersson (SE). 2. <i>Connecting structure and emotions, connecting Bourdieu's field theory with cultural criminology.</i> Annick Prieur (DK) Chair. 3. <i>New challenges in criminology; can old theories be used to explain or understand environmental harms and crimes? The case of illegal wildlife trade.</i> Ragnhild Solund (NO).
Workshop L	Collective efficacy and Sub-culture studies – Vikrafell seminar room
	<ol style="list-style-type: none"> 1. <i>Collective efficacy and arson.</i> Manne Gerell (SE). 2. <i>Collective efficacy and crime in Finnish suburbs.</i> Petri Danielsson (FI). 3. <i>"For some other reasons?" – Ethnographic study of an international outlaw motorcycle club.</i> Jussi Perälä (FI) Chair.
14.30 – 14.45	Coffee break
14.45 – 15.45	Plenum – Hrifla auditorium
	<p><i>Violent extremism, moral panics and social problems - When counter measures become counterproductive.</i> Karin Creutz (FI).</p> <p>Chair: Aarne Kinnunen (FI).</p>
18.00 – 20.00	Sightseeing
20.00	Festmiddag at Hotel Hamar

Wednesday May 4th

07.00 – 09.00

Departure by bus to Keflavik Airport

Breakfast will be arranged before departure

PRESENTATIONS IN PLENARY

Regulating Business 'After' the Crisis: some observations from the UK

Steve Tombs

The Open University, United Kingdom

Introduction: Regulation as Social Protection

Regulation is widely derided, a dirty word now equated with red tape, rules, burdens and bureaucracy. Yet we would do well to recall that regulation of business emerged ostensibly to provide some levels of 'social protection' for citizens, consumers and communities from the worst excesses of the industrial revolution. Thus, from the 1830s onwards, a rapidly industrialising Britain became the site of the earliest forms of social protection, won through inter- and intra-class conflict and compromise. The regulatory agencies formed in Victorian Britain formed the basis of regulatory regimes through to the present day. In outline, we can trace key dates in the emergence of the social protection state in Britain relatively clearly:

- In 1802, the Health and Morals of Apprentices Act was designed specifically to regulate the working conditions of 'Poor Law' apprentices in the textile industry. Then, from 1831 onwards, a series of Factories Acts were passed – regulating the hours and conditions of young workers and women, extending across industries and workplaces of different sizes, until the consolidation of existing legislation in the Factory Act of 1878.
- In 1842, Chadwick's Government-commissioned report into sanitation – *The Sanitary Conditions of the Labouring Population* - was published. It directly linked living and working conditions with illness and disease. Chadwick's report was implemented via the Public Health Act of 1848, and was to prove "a powerful catalyst for the development of local government". (Fee and Brown, 2005: 887)
- 1863 saw the first thoroughgoing attempts to install and enforce environmental protection regulation, through the Alkali Act of 1863 (and, subsequently, of 1874, 1881, and 1892).

- In 1875, the passage of the Sale of Food and Drugs Act, to be enforced through the Local Government Board, was the culmination of the struggles of social movements for pure food, drugs and drink.

In sum, this was a key period in the emergence of key pillars of social protection, at least in the context of public health. (Tombs, 2016a) The nature and level of business regulation has since been a site of contest; the Victorian regime was chronically under-staffed, while social protection through regulation probably reached its high point in the 1970s/80s. Then, the emergence of neo-liberalism provided the context for a concerted attack on regulation in the name of freeing business from the burdens of red tape. It is this context which is the backdrop for the concerns of this paper.

I begin, in the following section, by outlining the emergence of a political initiative in the UK, under the rubric of 'Better Regulation', from 2004 onwards, three years after which the UK, as with much of the capitalist world, was the site of a seismic financial crisis, followed by recession. I discuss some of the ways in which this crisis was narrated, and what these framings implied for regulatory reform. Then, in a following section, I chart the progress and effects of Better Regulation, before concluding with some general observations.

The Emergence of Better Regulation

In 1997, after 18 years in opposition, an incoming Labour Government set itself on a concerted effort to *prove itself* as the party of business in a way the Conservative Party, as capital's natural representatives, have never had to do. Integral to this effort was New Labour's approach to the regulation of business under the over-arching rubric of 'Better Regulation', a concept which can be traced back to the 1990s, but which in the UK and in the EU received particular impetus from the first Blair Government.

Blair emphasised the bases for 'Better Regulation' in 1998 in the context of Britain's Presidency of the EU, committing that Presidency to ensuring that better regulation became "a priority for Europe." (Blair, 1998) In fact, it was to be Blair's second Presidency of the EU in 2004 which was to prove one of the pivotal moments in advancing Better Regulation through the EU. (Wiener, 2006) So much so that, by 2007, one commentator was able to note that, "Better regulation has become '*one of the most fashionable terms circulating in the corridors in Brussels*'" (Allio, 2007: 82, cited in Smith et al, 2014, emphasis in the original).

In the UK, the watershed moment for regulatory strategy came in 2004 when the Labour Government launched the Hampton Review, which sought no less than to reconstruct the "regulatory landscape". (Hampton, 2005: 76). The Review was charged with considering 'the scope for reducing administrative burdens on business by promoting more efficient approaches to regulatory inspection and enforcement without reducing regulatory out-

comes". (Hampton, 2005) Its remit encompassed 63 major regulatory bodies - including the Environment Agency, the Food Standards Agency, the Health and Safety Executive, and not to forget the Financial Services Authority (Hampton 2005: 13) – as well as 468 local authorities (Hampton, 2005: 3); in other words, every agency which played a role in the mitigation of and response to corporate crime and harm.

Hampton's subsequent report – *Reducing Administrative Burdens: Effective Inspection and Enforcement*, published in 2005– called for more focused inspections, greater emphasis on advice and education and, in general, for removing the 'burden' of inspection from most premises. Specifically, Hampton called for the reduction of inspections by up to a third - across all regulatory agencies, this would equate to one million fewer inspections - and recommended that regulators make much more 'use of advice' to business. The report drew upon risk-based claims as the basis for withdrawing regulatory scrutiny from those that, in the terms used in the Hampton report, had 'earned' their 'autonomy'. The 'consensus' established in and through this review and report (Vickers, 2008: 215) marked the consolidation of the era of Better Regulation, the triumph of the policy shift from enforcement to advice and education, a concentration of formal enforcement resources away from the majority of businesses onto so-called high risk areas, and the consistent efforts to do more with less, bolstered by (somewhat Orwellian) claims that 'less is more' (Vickers, 2008).

Responses to the UK Financial Crisis

In September 2008, one issue presented itself as "an unconditional imperative which must be met with immediate action": the "banks", for which read finance capital in particular and the global neo-liberal order in general, had to be saved (Žižek 2009b: 80). In the UK, 'golden parachutes' (Žižek, 2009a: 12) were handed out to the UK banking system: a National Audit Office (2009) "overview of the government's response to the crisis" which showed that "the purchases of shares by the public sector together with offers of guarantees, insurance and loans made to banks reached £850 billion [€1100 billion], an unprecedented level of support". The financial commitments made by Governments since September 2008 have included purchasing shares in banks to enable re-capitalization, indemnifying the Bank of England against losses incurred in providing liquidity support, underwriting borrowing by banks to strengthen liquidity, and providing insurance cover for assets. The Government "cash outlay" is said to have peaked "at £133 billion, equivalent to more than £2,000 for every person in the UK". (House of Lords and House of Commons, 2013: 14). Subsequent financial commitments by the UK Government to the sector included: purchasing shares in banks to enable re-capitalisation; indemnifying the Bank of England against losses incurred in providing liquidity support; under-writing borrowing by banks to strengthen liquidity; providing insurance cover for assets; creating £375bn [€500 billion] of new money via Quantitative Easing programmes between 2009 and 2012. This

financial outlay marked the beginning of a new “age of austerity” characterized by sovereign debt, where the already most vulnerable within, and across, societies are targeted as the price worth paying for capitalist recovery.

Amongst the mass of literature which has sought to explain the aetiology of the crisis in the UK, and elsewhere, one of the most common elements has been to cite a failure in the nature and level of regulation of the financial services sector prior to 2007. However, despite this there has emerged in the UK a dominant set of *consensual* political responses which have obscured or ignored the question of regulation. Indeed, these responses may provide the basis for the further march of neo-liberal ways of organising and seeing the world. It is to some of the ways in which this remarkable outcome could be achieved that this paper now turns.

Here I consider some of the ways in which the crisis has been politically and popularly *framed*. The focus is upon various discursive initiatives and narratives which were constructed and utilised as, and since, the crisis unfolded. My rationale is the claim that, “Narratives are important instruments ... because they co-construct and legitimize regimes by framing the way we see the world. Narratives are not author-less discourses, but represent specific, powerful interests” (Hansen, 2014: 636).

Identifying Blameworthy Subjects

In the aftermath of the crisis, several types of blameworthy subjects were identified.

First, there emerged a series of morality plays which had their origins in regarding individual bankers as “villains that brought down the world” (Whittle and Mueller, 2012: 119). Whittle and Mueller’s (2012) analysis of the UK Treasury Select Committee hearings of 2009 into the banking crisis and in particular the questioning of four senior bankers therein demonstrates clearly that these were processes of moral condemnation. The conduct and substance of the Select Committee is typical: within these generalised morality plays, senior individual figures at the head of financial services companies – prime examples being Fred Goodwin, Stephen Hester, Andy Hornby and Tom McKillop¹ - were identified and vilified, often over very long periods of time. Moreover, such processes took place on both sides of the Atlantic (Froud et al, 2012: 44-5). Indeed, these were effectively quasi ‘degradation ceremonies’ (Garfinkel, 1956) - *quasi* because although there were clearly for a were clearly ceremonial, and certainly involved formal denunciation, not least in moral terms of blame and shame, lacking was either any formal calling to account nor, crucially, any

¹ The appearance of bankers before the Select Committee prompted a stream of vitriolic press headlines, most infamously in *The Sun* which ran the front-page headline ‘Scumbag Millionaires’ alongside images of Sir Tom McKillop, former Chairman, and Sir Fred Goodwin, former Chief Executive of RBS Group. (Stanley, 2012)

transformation of the identities of those vilified (see, for example, Harris, 2012). A variation of this ceremonial denunciation of specific, named individuals involved intermittent, less focused, much broader swipes at the guilty men of the City or Wall Street. This in turn drew upon distinct, but not entirely unrelated and hence utilisable, discourses of *rogue* traders (Pludwin, 2011: 470-2), itself a common discursive mechanism for separating out harms and crimes perpetuated in the corporate world from the normal functioning of that world.

In any case, what emerges from this generalised framing of specific - or a 'class' of - individuals is that, if there were 'lessons to be learned', they were about eliminating bad apples, or 'tricksters', (Kelsey, 2014) and not, therefore, about the necessity of the external restructuring of markets, sectors or fundamental practices within them through re-regulation. Thus, for example, reflecting upon the causes of the global credit crisis and the international recession, Lord Myners, the then Financial Services Secretary in Gordon Brown's Labour Government was able to state,

The failures have not been failures of the market economy. They have been failures of men and women who forgot that market discipline meant that they had to be disciplined in order to get results out of the marketplace. Too many people got complacent and lazy – and the market responded as we should have predicted ... (Myners 2010).

That this was a protracted process of blaming is indicated by the fact that 'banker bashing' entered the popular lexicon. Indeed, some sought to call it to a halt: in January 2011, within days of taking over as CEO of Barclays, Bob Diamond told a parliamentary committee that he thought "There was a period of remorse and apology for banks and I think that period needs to be over." (Treanor, 2011) As Werdigier put it, he argued that it was time "to move on from criticizing and to let banks and the private sector create jobs and economic growth" (Werdigier, 2011). For Diamond, the question was "how do we put some of the blame game behind" (cited in Werdigier, 2011). It has become a common refrain by the industry and its apologists. Fraser Nelson, editor of right-wing magazine *The Spectator*, lamented in 2013 that "It has been almost five years since the crash and still the guilty men are being tracked down and subjected to what seems like a never-ending trial for financial war crimes"(cited in Cohen, 2013), while Anthony Browne, chief executive of the British Bankers' Association and his former hatred of rent-seekers has vanished. "We need to put banker bashing behind us" (ibid.)

As intimated, this generalised opprobrium took some dangerous (from the point of view of capital) turns. At a most general level, there was a long term popular and political outrage at 'executive pay' – an issue that has certainly erupted from time to time in the UK, not least under conditions of neo-liberalism in which the UK has experienced widening levels of income and wealth inequalities, trends exacerbated under conditions of post-crisis austerity which the Government was attempting to impose under the rubric 'we're

all in this together'. Government responses to this both sought to acknowledge, even to claim at times to share, the popular discomfort but to represent such levels of remuneration as unavoidable in a globalised market – UK Plc had to attract and retain the best people at the head of their largest companies in order to continue to compete effectively in globalised market-places, and thus to facilitate recovery from recession. This latter claim appears to hold considerable sway – perhaps through repetition and a simplistic understanding of labour markets – despite there being absolutely no evidence for it (Bolchover, 2013). Were this actually to be the case, then it might be noted that, compared to its European counterparts, the City of London must have some exceptionally talented people: a 2013 report by the European Bankers' Association found that there were 2,400 bankers in the City paid over €1m in 2011 – a total which was more than three times as many as in the rest of the EU put together (Treasurer, 2013).

A second moral dichotomy which has circulated widely in the UK has been between retail (good) versus investment (bad) forms of banking, a discourse which gained such power that it sits at the heart of the major reform to the sector which has resulted from the crisis, the so-called ring fence to be erected within banks to protect the former from the risks of the latter (see below, on Vickers). This rather conveniently obscures the fact that the three major waves of consumer victimisation that have occurred in the sector in the past three decades – private pensions, then endowment mortgages, then payment protection insurance 'mis-selling' – all occurred within the retail sector (Tombs, 2013).

A third way in which blame has been apportioned is via the construction and use of a series of further moralistic dichotomies – notably, between 'good' and 'bad' borrowers (the latter being the sub-prime borrowers in particular) and predatory as opposed to responsible lenders (Brasset and Vaughan-Williams, 2012; 35). Such divisions have class-based and, in the US, racialised and gendered dimensions – and, while pernicious, these also have resonance as they bear an (albeit distorted) relationship to reality, since saturated markets for mortgages saw less financially able groups exploited as a new, untapped source of super-profit for business.

While there are elements of the bad apple claims here, this applies to wider populations, so that this resort to endless victim-blaming discourses (Weissman and Donahue, 2009: 9) created the basis for a wider encompassing of "suspect citizens" and their "culture of debt" (Pludwin, 2011: 472). In some ways this used the suspect lending practices of financial services forms and turned responsibility on its head. As Dymksi et al have noted of the post-2007 exposes of sub-prime lending in the US, "The defining aspect of the crisis was not that subprime loans and other forms of predatory lending disproportionately victimized minorities and women, but that borrowers were myopic, overly greedy, or both." (2013: 125). This also created the basis for a further, useful slippage, one that then allowed moral blame to be attached to many of us, itself related to a slightly wider claim that 'we' were all somehow personally responsible for borrowing too much, enjoying easy credit,

living beyond our means, and so on (Brasnet and Vaughan-Williams, 2012). Thus, in general,

The relationship between individuals, their houses/homes and their investment and saving habits was suddenly produced as a category of moral analysis in the public sphere. Fear, guilt, shame and anger were mobilised and sovereign responses, typically couched in the humanitarian vocabularies of salvation and helping victims, as we have seen, were not only justified but seen to be necessitated. (Brasnet and Vaughan-Williams, 2012: 41)

The emphasis upon bad *borrowing* as opposed merely to bad *borrowers* also opened up discursive space for the emergence of the ‘credit card analogy’ (Broome et al, 2012: 5), which was to prove crucial in the institution of the idea that nation-states had overspent. In 2008, whilst in opposition, Cameron used the *News of the World*² to claim that the Labour Government “has maxed out our nation’s credit card – and they want to keep on spending by getting another. We believe we need to get a grip, be responsible and help families now in a way that doesn’t cost us our future.” (Conservative Home, 2008) Thus, although such an analogy is empirically (Reed, 2012) and conceptually (Pettifor, 2012) ludicrous, it had power since it resonated with the relatively successful balanced household budget analogy deployed over thirty-five years ago by both Thatcher and Reagan as they ideologically softened up their respective populations for monetarist experiments. Such a claim proved pivotal in the very quick shift from the construction of the crisis as one of private, capitalist institutions to one of national debt, especially debt incurred through public sector and welfare spending, and thus a more general, public lassitude (Robinson, 2012). More generally, then, this renewed attention to a diet of good monetary and fiscal governance via belt tightening on behalf of a gorged population helped to make austerity not just palatable but necessary, both economically and indeed morally (Blyth, 2013: 1-15).

Such discourses also segue into a further group of morally-condemnatory frames, namely those which we can reduce to the claim that everyone and everything was to blame for the crisis (McLean and Nocera, 2011). Thus, “Who’s not to blame? The mortgage brokers were out of control. Regulators were asleep. Home buyers thought they were entitled to Corian counters and a two story great room ... This was an episode of mass idiocy.” (Pludwin, 2011: 472). If there was idiocy, claiming that this was ubiquitous is important: *if* we were all to blame, then no-one or nothing in particular was to blame; and *if* we were all to blame, then it follows we should all share the pain of ‘recovery’ – hence, again, the UK Government’s easy refrain that we are all in this together, albeit a claim always somewhat vulnerable in the context of clear empirical evidence as to the distribution and effects of austerity measures. The ubiquity of blame coupled with the facile credit card analogy are

² In 2009, the *News of the World* had a *readership* of just under eight million people.

double movements under-pinning the representation of private as public debt and ideologically fuelling the legitimisation of austerity.

Beyond Blame Discourses

A distinct discursive response to the crisis, one which transcends the paradigm of blaming, entailed the generalised use of the language of the *tsunami*, a force of nature which in fact made victims of individual bankers just as much as financial institutions, governments and taxpayers (Brasset and Vaughan-Williams, 2012, Broome at el., 2012, Whittle and Mueller, 2012). This invoking of the tsunami was so strong and generalised that it became metaphorical – the financial crisis *was* a tsunami. Thus, giving evidence to a Congressional Committee in 2008, Alan Greenspan, Chairman of the US Federal Reserve until 2006, while acknowledging a long list of “regulatory mistakes and misjudgements”, referred to the crisis as a “once in a century credit tsunami” (BBC 2008). As Greenspan spoke, fears were expressed that the tsunami which had started in the US and “rolled across the UK” would then move on to “the Continent” (Priest, 2008). Within a year, political leaders of developing countries were telling the G20 that “All the warning signs suggest that the financial crisis has produced a tsunami heading directly towards some of the most vulnerable parts of the world.” (Woods, 2009) Months later, within the Eurozone, the crisis in Greece, formally defined as one of national debt, was generating fears of a “Lehman-style tsunami” as the crisis was seen to threaten Spain and Portugal (Evans-Prichard, 2010). More latterly, within the UK, the Coalition Government has sought consistently to represent the UK as a safe haven from the after-shocks of the tsunami affecting Eurozone states – after-shocks now represented as storms, presumably because of their longevity and creating the idea that *some* protection could be offered by nation-states. At the same time, of course, demonstrating that ideological frames need not be consistently drawn upon, the failures of the UK economy to ‘recover’ were consistently explained, at least partially, by the Coalition Government via references to external, uncontrollable shocks *upon* the UK economy *as a result of* ‘the crisis in the Eurozone’.

This metaphor has several related effects and elements, albeit not necessarily, at least on face value, consistent with each other. First, it renders us all as victims – and this status as victims in the face of uncontrollable external events was one of the moral appeals made by UK bankers to evade responsibility (Whittle and Mueller, 2012: 126-129). Second, it depicts that which has victimised us as somehow both natural but also unnatural – it was a force of nature but also something that could not have been expected nor prevented, and somehow aberrant in the normal workings of the world of finance. Third, it is plausible since it is entirely consistent with the ways in which markets, market forces, economic outcomes and so on are and have long been represented, as if natural, literally a product of nature, which of course at the same time “severs the economy from political life” (Pludwin, 2011: 467) and thus any form of human agency – representations which dominant forms of academic economics have been crucial to upholding. (Jackson, 2013) Fourth, the analogy with

the tsunami also provides the basis for a 'state of exception' since, as is the case following any natural or other, specific 'disasters' (such as 9/11), these justify, in fact necessitate, states instituting emergency measures – albeit ones for which we would all have to pay, both now and in the future, in exchange for some future state-promised if not state-delivered protection (see Broome et al, 2012, Brassett and Vaughan Williams, 2012). Thus, the financial tsunami allows

the government to justify incredibly large interventions to recapitalise the banks on behalf of such anxious citizens; the trick of course being that it was actually the citizens who were to subsidise the protection of the very banks that created the excessive lending in the first place (Brassett and Vaughan Williams, 2012: 27).

In general, across nation-states, bailouts, bail-ins, emergency budgets, state nationalisation of banks, have all taken place as executive acts - which in effect have liquidated democracy and exist in a space beyond the rule of law (Agamben, 2005).

The Emergence of a Political Consensus

Everywhere the crisis of the private financial system has been transformed into a tale of slovenly and overweening government that perpetuates and is perpetuated by a dependent and demanding population. This is an amazing transformation of the terms in which our circumstance is to be understood. For about 10 days the crisis was interpreted as a consequence of the ineptitude of the highly paid, and then it transmogrified into a grudge against the populace at large, whose lassitude was bearing the society down to ruin. (Robinson, 2012)

In 2008, even as the Government was in the midst of bailing out the financial services sector, Prime Minister Gordon Brown was keen to adopt the tone not of regulation nor criminalisation, but of moral re-energisation. In doing so, he was able, crucially, to draw upon the moral capital of private capital which had been developed and strengthened over the previous decades. This latter "common sense" – and all that it implied for the gamut of potentially available regulatory strategies - was remarkably un-dented by the financial collapse and international recession (Crouch, 2011). Thus, despite having overseen an unprecedented bailout of the banking system – a massive state subsidy funded by the taxpayer that effectively socialized the consequences of long-term, systematic private greed and possible (albeit never to be uncovered) illegality – the UK's Labour government *underscored* their commitment to the 'free-market system' and 'light-touch regulation', while again declaring their continued faith in business morality and corporate social responsibility:

Our government is pro-business; I believe in markets [and] entrepreneurship, and there are many areas of the economy that need the spur of more competition. But the

events of the past months bear witness, more than anything in my lifetime, to one simple truth: markets need morals (Brown 2008).

On one level the claim that ‘the markets’ – a purely reified, fictitious entity – need morals (not, note, regulation) is just *non*-sense; on the other hand, the fact that such a statement can be made attests to the power of the hitherto constructed *common*-sense. This formal political response was soon to form the basis of a consensus,³ one accepted by all major political parties in the UK as they ‘fought’ the General Election of 2010 (and, indeed, one common to most Governments across the capitalist world).⁴ Specifically, senior political figures frequently espoused the need for improved regulation’ of the financial services sector – albeit what this meant was never (and never-to-be) specified. In fact, the “main parties competed only to represent themselves as the most competent to foster the health of the city”. (Froud et al., 2012: 53)

More generally, by this time, the financial crisis had been transformed into a national debt crisis – the logical response thereby being to reduce public expenditure significantly whilst re-creating the conditions in which private capital could flourish. Thus, in the UK,

Rather than regard finance as broken, the politicians have chosen to regard government as broken. New Labour set out a blueprint for an assault on the state; the Coalition has merely intensified this assault. The financial sector demanded a fiscal consolidation, and the Government has pledged itself to deliver. The ease with which our politicians have attacked civil servants and the social benefits that have been the birthright of UK citizens since the Second World War contrasts markedly with an almost non-existent approach (so far) to financial sector reform (Simms and Greenham 2010, 53).

It was a fiscal crisis from which *only* private business could ‘rescue’ us, the conclusion generated by the combination of the key elements of the political consensus that emerged: Government needed to reduce expenditures; Government and the public sector had in any case proven themselves inefficient as compared to the private sector; thus private capital was the only route of out recession. This in turn fuelled an ironic end-point – that regulation had to be minimised in order to allow private capital to perform its rescue act for all our sakes. Better regulation had to get better.

Better Regulation, 2003/04 – 2014/15: some quantitative and qualitative indicators

I now shift registers to focus on trends in regulatory enforcement in three key areas of social protection – environmental protection, food safety and worker health and safety – in

³ Just as there had been an all-party consensus on the virtues of ‘light touch regulation’ in the years prior to the crisis (Straw, 2011), albeit that this was of course denied and caused fleeting embarrassment for many senior political figures in the later years of the decade.

⁴ This is not to make any claim about contexts beyond the UK; see White, 2013.

the period 2003/4-2014/15. The beginning of this period is marked by the roll out of Better Regulation, and it is also marked by the 2007 crisis, fallout and political imposition of austerity through central Government from 2010 onwards.

Regulation in these areas here is something of a patchwork of national and local responsibilities, albeit most businesses across these areas are regulated at the Local Authority level. Food Safety enforcement in the UK operates almost entirely at the local level, overseen by the national body, The Food Standards Agency (FSA). Local functions are divided between Environmental Health Officers (EHOs) and Trading Standards Officers. Food EHOs oversee food safety and food hygiene, enforcing law across all forms of retail food business organisations (restaurant, shops, and so on), as well as food processing and food manufacturing outlets. Occupational health and safety regulation is divided between a national regulator, the Health and Safety Executive (HSE), and Health and Safety EHOs at a local level; the division is based on the main activity of any premises. Pollution Control is also divided between a national regulator, the Environment Agency, while at local level, pollution control EHOs enforce regulation of businesses operating 'Part B' premises, as well as significant areas of non-business activity such as littering and fly-tipping.

Food safety and food hygiene regulation and enforcement is undertaken by Local Environmental Health Officers (Food). Between 2003/4-2014/15:

- food hygiene inspections fell by 15%
- food standards inspections fell by 35%
- food prosecutions fell by 35%

Occupational health and safety regulation and enforcement is divided between a national regulator – the Health and Safety Executive (HSE) – and local regulators, Environmental Health Officers (Health and Safety)

Between 2003/4-2014/15, on the part of the national Health and Safety regulator:

- inspections fell by 60% (to 2013/14)
- prosecutions fell by 35%

Between 2003/4-2014/15, on the part of Local Environmental Health Officers enforcing health and safety law, there were:

- total inspections fell by 69%
- preventative inspections fell by 96%
- prosecutions fell by 60%

On the part of the Environment Agency officers engaged in national pollution control, between 2003/4-2014/15 there were:

- inspections fell by 52%
- prosecutions fell by 54%

On the part of Local Environmental Health Officers enforcing local pollution control law, between 2003/4-2013/14⁵ there were:

- inspections fell by 55%
- notices fell by 30%

Now, taken in isolation, perhaps no one individual data set on any specific of enforcement activity data relating to any one regulator over a ten year period is particularly surprising. What *is* remarkable, certainly for a set of social scientific data, is that *each set of data reveals precisely the same trend*: that is, notwithstanding variations across regulators, the form of law being enforced, and indeed within regulators and specific forms of enforcement activity by year, *each set of data unequivocally indicates a long term downwards trend in every form of enforcement activity*.

Of course, this ten year period is also marked by the 2007 financial crisis which was used, by the Coalition Government from 2010 onwards, to justify austerity – so it is likely that within this data there is evidence of both politics and economics at play. And, indeed, ‘austerity effects’ are confirmed if we drill down to local authority level. Thus a case study of five local authorities’ regulatory efforts in these three areas of social protection reveals:

- Considerable reductions in staffing in these regulatory functions
- Declining enforcement activity
- An increasing reluctance to prosecute
- A widespread perception that enforcement capacity has been dangerously undermined.

(Tombs, 2016b)

On the issue of resources, the following quotations, drawn from interviews with local enforcement officers, were typical:

“at present, we can’t meet our statutory duties”

“to be honest we’re now doing statutory stuff only”

⁵ The most recent data available.

“there’s nothing left to cut now”

“there is no padding left, we’re below the statutory minimum ... there are no areas of discretion left”

“there’s nothing else to be cut”

“Where we are now, we’re at the point where worker safety is being jeopardized”

“It’s going to come to the point where it going to affect the residents, the local population, in many ways we are at that point now, public health and protection is being eroded”

“We’re at the point where there is no flesh left, this is starting to get dangerous, a danger to public health” (ibid.)

A further, worrying finding from the qualitative research reveals significant push factors towards contracting out or even wholesale privatisation of regulatory services – something which a handful of Local Authorities have now embraced. Taken together, these changes may mark the beginning of the end of the state’s commitment to, and ability to deliver, social protection.

Discussion: How much ‘Better’ can Better Regulation Get?

Once regulation is successfully cast as a problem, to be reduced, a drain on state resources, private entrepreneurship and economic growth, and once that view is furthered through regulatory, legal and institutional reform, then the momentum against regulation becomes virtually unstoppable – if less state regulation and enforcement is always to be preferred, then how little is little enough?

This issue emerged in interviews with two staff at the Better Regulation Delivery Office, the Government body responsible for overseeing the implementation of Better Regulation at local Government level. For each of these, they were clear that Better Regulation was established to “restore trust” on the part of business with regulators, a relationship which one described as having been “broken”. Of interest was the view, even after over a decade of Better Regulation initiatives, that regulators failed to understand that “regulation and economic development and prosperity go hand in hand”, rather viewing the former “as a matter of enforcement” – and claiming that this was especially problematic at the level of local regulation. Thus, for each, the Better Regulation message had not been effectively received at local level: “Most [EHOs] didn’t know and many still won’t where their local Economic Development programme sits within the authority”. Thus the task was still to get regulators “to see themselves in a different light in relation to business, to reposition themselves in terms of businesses”. This “requires a commercial mindedness that most local authority regulators simply do not have” – albeit there was optimism that newer recruits were more likely to be imbued with this attitude, and thus to embrace Better Regulation. Such view found echoes amongst some of my interviewees.

“We need to be more business friendly and get our customer focus right”

“I am in the business of collaborative regulation ... there must be growth, and that is the context in which we must support business to comply with the law.”

“Increasingly we’re told that our main job is to facilitate business, industry and so on”

The ‘search’ for Better Regulation has continued, and will continue. It is a long-term political initiative, effectively designed to break the link between regulation on the one hand and inspection or external oversight on the other. To paraphrase Fooks’s prescient analysis of financial regulation of the City of London in the 1990s (Fooks, 1999), what we are witnessing is a shift from the regulation *of* business to regulation *for* business. As one analysis of the effects of spending cuts on Local Authorities has concluded, these will lead to a “repositioning” of authorities in relation to “individual well-being and quality of life as well as economic leadership”, (Hastings et al., 2013: 3) with

A renewed emphasis on developing and managing economic growth as a means both to generate income and to develop the economic competitiveness of the local authority and its region in the longer term. (ibid.: 4)

There is good reason to suggest that regulatory functions will likely be increasingly re-cast as part of *growth* initiatives – that is, as part of permissive and facilitative regulatory regime (Bernat and Whyte, 2014).

In 2007, the *Regulators’ Compliance Code* –which governs the work of regulators both nationally and locally – had already been amended under the Labour Government in a way that made clear the new realities of Better Regulation as they were then unfolding, so that “ [r]egulators should recognise that a key element of their activity will be to allow, or even encourage, economic progress and only to intervene when there is a clear case for protection” (Department for Business, Enterprise and Regulatory Reform, 2007, para 3). A new, 2014 version made the so-called growth duty its first principle: that is, ‘*Point 1*’ of the new Code emphasised that, “Regulators should carry out their activities in a way that supports those they regulate to comply and grow.” (Better Regulation Delivery Office, 2014, 3)

What we are witnessing is the transformation of a system of social protection which, for all of its limitations, has existed in the UK since the 1830s. Under conditions of advanced neo-liberalism, recent UK Governments of all political stripes have sought to roll out a politics of Better Regulation – via ceaseless initiatives on a range of mutually reinforcing political, institutional, legal, and discursive fronts – which effectively entails creating regulatory regimes from which enforcement is increasingly absent. Moreover, at national level, all major regulators face a statutory review every three years of their existence and mandate,

and all are likely to face further reductions in Government funding. This may be hands-off government as far as business goes, but it's hardly hands-off as far as regulatory agencies are concerned. They are under constant, critical scrutiny.

Indeed, according to the political logic of Better Regulation, perhaps no better captured by its 'less is more' leitmotif, *there is no logical end point* to this drive towards regulation without enforcement. Once regulation and enforcement are defined as 'too much', and once the argument that regulation can proceed without enforcement is won, it is impossible to perceive when there will be 'little enough' of either or both.

The process of Better Regulation continues apace. Far from being halted by the financial crisis, responses to that crisis have fuelled the Better Regulation agenda. Private business is now less subject to regulation than pre-2007; the UK is witnessing a dismantling of The 'Social Protection' State. This is not a story about rules, regulations, red tape. It is a story about social harm and social inequality - lives lost and shortened, the health of communities, workers, consumers made poorer. And, quite remarkably, it proceeds, daily - met only by academic, political and popular silence.

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Business as usual. How Swedish transnational corporations neutralise allegations of crime

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Abstract

In recent years, two Swedish companies have been a focus of substantial media attention: TeliaSonera and Lundin Petroleum. The defensive strategies employed by the businesses will be analysed on the basis of Stanley Cohen's (2009) theoretical work on processes of denial and neutralisation techniques. This paper will focus on a particular form of denial whereby the businesses try to explain why they have been doing business despite the risks that this has involved. The paper links together the companies' communications with the contexts in which they occur and the structures that might be expected to influence how the companies choose to frame their communications. The presence of the corporations in areas where crimes have been committed is not denied, but implicatory denials are employed to justify the corporations' operations by referring to a higher good. When the corporations frame their businesses as contributing to development, democracy and peace in the countries in which they operate, the corporations use well-known discourses that underline Swedish or Nordic generosity, helpfulness and decency. The analysis draws on post-colonial theory and the image of the Nordic countries as being particularly "good" in relation to the rest of the world.

Introduction

Over recent years, a number of Swedish businesses have been accused of engaging in criminal activities both in the media and via legal proceedings. From a criminological perspective, the strategies employed by these businesses when defending themselves against allegations of crime are interesting, since they provide knowledge about the concrete reasoning of businesses with regard to the boundaries of their responsibility for human rights and the environment. We use the crime concept to refer not only to actions covered by the penal code, but also to non-punishable violations of human rights and the environment. This type of extension of the crime concept is often employed as the point of departure in studies of harms to people, animals and the environment that have been caused by states or businesses, since a stricter definition of crime excludes many forms of behaviour that are damaging

to society (Hillyard et al. 2004; Lynch 1990; Michalowski and Kramer 2006; South and Beirne 2006; Tombs and Smith 1995).

In a period when the concept of Corporate Social Responsibility (CSR) has become well-known, businesses have become increasingly concerned about appearing to be ethical and responsible (Muchlinski 2003; Ruggie 2013). For businesses, legitimacy is not only about having a good reputation but is rather also linked to a company's profitability, and by extension, its survival. Legitimacy functions as an organisational resource that is regarded as being necessary to a company's continued existence (Hearit 1995; Vaara and Tienari 2008). Given the Swedish context, this becomes particularly interesting, since Sweden has enjoyed a reputation for being a leading nation in the field of human rights (Ruggie 2013; Silander 2007).

In recent years, two Swedish companies have been a focus of substantial media attention: TeliaSonera and Lundin Petroleum. In 2012, the so-called Uzbekistan affair was uncovered, involving senior officers at TeliaSonera who are currently under suspicion of having committed bribery offences. Lundin Petroleum was accused by several international NGOs of participating in crimes against humanity in Sudan, which led to the initiation of an ongoing police investigation in Sweden into violations of international law. These businesses have been chosen for study in part because they have ties to Sweden and have been publicly accused of engaging in criminal activities, and partly because they differ from one another with respect to ownership structure, sector, and the types of crime of which they have been accused. The point of departure for the analysis is how these businesses' defences are expressed, primarily in the media but also in press releases and other official information produced by the corporations themselves.

The defensive strategies employed by the businesses will be analysed on the basis of Stanley Cohen's (2009) theoretical work on processes of denial and neutralisation techniques. The businesses' strategies for responding to allegations of crime are not viewed as responses to individual incidents but rather as an ongoing process whose objective is to legitimise their actions (Cohen 2009). This paper will focus on a particular form of denial whereby the businesses try to explain why they have been doing business despite the risks that this has involved. Cohen (2009) distinguishes one particular form of denial that may be highly applicable here, which involves justifying events by referring to a higher good, e.g. the "national interest" or the "war on terror". One higher good that may be relevant in relation to businesses may be the societal benefits associated with new investment and corporate expansion aimed at increasing market share.

Thus the article aims to answer the following questions: In what ways do the two companies accused of crimes appeal to higher loyalties? How might the Swedish social and cultural context affect the ways in which this particular defence mechanism is used?

The paper thus links together the companies' communications with the contexts in which they occur and the structures that might be expected to influence how the companies choose to frame their communications. Defence mechanisms do not arise in a vacuum but may rather be assumed to be accepted within a social and cultural context (Cohen 2009; Scott and Lyman 1968). From an international perspective, Sweden's positive human rights reputation makes the Swedish context particularly interesting. A society's institutional and social structures constitute a central foundation for the defence strategies utilised by businesses. Structures of this kind may in themselves make it easier for businesses to commit crimes and at the same time provide support for the defence strategies that they employ.

The two Swedish transnational corporations

Lundin Petroleum

The Swedish Lundin Oil (later Lundin Petroleum) corporation signed a contract with the Sudanese Government to extract oil from an area that at the time was not under government control. The area had been in the grip of civil war for a number of decades and the land was primarily under the control of a rebel group known as the SPLA (Sudan People's Liberation Army). This rebel group was now standing in the way of Lundin's drilling operations and thus making it impossible both for the company and the Sudanese regime to make money out of the as yet unexplored oil field. In order to make continued prospecting work possible, those living in the area had to be moved. The Sudanese regime stated that the resettlement only related to those parts of the civilian population that could be viewed as having links to the rebels, although in reality the focus was directed at all those living in the area. Militias were armed (which in several cases included child soldiers) and, together with the Sudanese army, these groups expelled people who happened to be in what would subsequently be labelled "Block 5A" as soon as this area was taken over by Lundin Oil. The evacuation of Block 5A became violent, and resulted in both the rape and murder of individuals who found themselves in the area. A number of human rights organisations were present on the ground and documented the mass expulsions and the violence that was exercised against the Sudanese population. Over the following years, several human rights organisations reported on violations of international law in Sudan and on the involvement of the Swedish oil company (Amnesty International 2000; Christian Aid 2001; Human Rights Watch 2003).

It was not until 2010, when the European Coalition on Oil in Sudan (ECOS), an umbrella organisation for around 50 voluntary organisations, presented a report entitled "Unpaid Debt – the Legacy of Lundin in Block 5A, Sudan 1997-2003" (ECOS 2010) that the accusations against the company resulted in a substantial amount of media attention. Since that time, the Swedish International Public Prosecution Office has been investigating whether any Swedish citizen may have committed violations of international law in connection with the genocide and expulsions in Sudan. The reason underlying the initiation of this criminal

investigation is stated as being the ECOS report, but to date no individuals have been notified that they are suspected of having committed offences (Swedish Prosecution Authority 2010).

When Lundin Petroleum was confronted with the allegations, the company first denied any involvement. Two individuals figured in central roles in the context of the media reporting. One of these was one of the sons of the company's founder, Adolf Lundin. This son, Ian Lundin, was at the time, and remains today, the chairman of the company's board of directors. Another of Adolf Lundin's sons, Lukas, who also sits on the board of directors, also participated in the media debate that followed the publication of the allegations to some extent. The other person who was assigned a central role in this debate, however, was the well-known Swedish politician, Carl Bildt, who had been a member of the company's board of directors for a while, but who had resigned his position upon being appointed Sweden's Foreign Minister in 2006.

TeliaSonera

The public monopoly Televerket was transformed into a public sector joint stock company in 1993 and was renamed Telia. In 2002 the company merged with the Finnish company Sonera. At the present time, the Swedish government remains the company's principal shareholder with almost 40 percent of the company's shares. Since 2007, TeliaSonera has been conducting business in Central Asia. A large part of these operations have been located in Uzbekistan, a country that according to Transparency International (2015) has one of the highest levels of corruption in the world. Uzbekistan has been controlled by the authoritarian President Islam Karimov and his family since 1990, and has over the years shown itself to have very little respect for human rights (Human Rights Watch 2015). As a result of the regime's human rights record, TeliaSonera's presence in Uzbekistan has been criticised by both human rights organisations and parts of the Swedish media since as early as 2008.

In 2012, one of Sweden's leading investigative journalism TV-shows presented a number of revelations about TeliaSonera's activities in Central Asia. To begin with, these revelations focused on how the company was participating in the regime's interception of communications among individuals opposed to the regime. They then moved on to look at the 3G-licensing process in Uzbekistan. Information was presented describing extensive monetary transactions to a letter-box entity, Talikant, which was linked to the Karimov family. Talikant was owned by an assistant to Gulnara Karimova, the president's daughter, and is calculated to have earned over 200 million Euros between 2007 and 2010 as a result of the licensing deal (Uppdrag granskning 2012). Hundreds of millions of Euros that are linked to the deal have been frozen in accounts in Switzerland into which money had been paid by TeliaSonera. Over 21 million Euros have also been frozen at the Swedish bank Nordea in Stockholm, as have other assets in the form of luxury properties in France.

TeliaSonera's dealings in Central Asia, and in Uzbekistan in particular, have attracted a substantial amount of media attention and have led to demands for the company to present answers. Suspicions regarding corruption offences and money laundering have become increasingly powerful and in 2012, prosecutors decided to class the activities as bribery. A criminal investigation has been initiated to examine suspected bribery offences among former TeliaSonera staff and the investigation is still ongoing at the time of writing.

Previous research

Following a rediscovery of the criminologist Edwin Sutherland's (1949) pioneering work on *white-collar crime*, the literature on corporate crime developed from the mid-1970s (Braithwaite 1984; Coleman 1985; Conklin 1977; Pearce 1976). At this time, the research was primarily focused on the effects of corporate behaviour on the physical environment. It was not until the beginning of the 1990s that attention came to be directed at the human rights consequences of corporate actions (Chandler 2003). Since then, there has been an increase in the amount of attention focused on the human rights records of businesses, and in particular those of large multi-national corporations. The reason for this increased attention can be traced to both an increasingly globalised economy and media coverage of corporate behaviour around the world (Muchlinski 2003). The areas of Sutherland's research that touched upon crimes committed in the interests of businesses, and upon organisational aspects of crime, subsequently came to be labelled *corporate crime* (Clinard and Yeager 1980; Friedrichs 2007), crimes committed by businesses that have caused enormous harm and costs for both people and the environment (Green and Ward 2004; Michalowski and Kramer 2006; Rothe et al. 2009; Slapper and Tombs 1999).

Despite the improved research situation, research on the strategies employed by businesses in connection with allegations of crime is limited. There are however a number of criminological studies that are of relevance to the current research. A number of scholars have studied how individuals employ different types of neutralisation techniques in order to motivate white-collar crime (Benson 1985; Piquero, Tibbetts and Blankenship 2005; Slapper and Tombs 1999; Stadler and Benson 2012; Vieraitis et al. 2012). These studies differ from the current paper however, in that they focus on processes associated with the individual offender.

Other studies have had a more organisational focus. Proceeding from the research on neutralisation techniques, Benoit (1995) studied how two corporations (Exxon and Union Carbide) defended their reputations in connection with catastrophic accidents they had caused. Mathiesen (2004) has identified different forms of insulation techniques that have been used by oil companies in connection with disasters. The techniques, which are intended to "pulverise" the incident, follow a path of different stages. The first stage involves presenting the incident as unusual, while the second stage involves normalising the incident by noting that it is the result of an inbuilt risk in the industry concerned. In the third stage, the

incident is reduced to a series of complicated technical details, while in the fourth, responsibility for the incident is shifted into the future, while the present focus is directed at saving lives. The fifth stage involves displacing the incident into the past, e.g. by stating that the responsible technology is no longer in use, and a sixth stage relates the incident to human history, in which we have constantly been exposed to risks. White (2013) has described how businesses have dealt with criticism from environmental activists by means of: denial, delay, shifting the problem by e.g. dumping waste in other countries, or by deception in the form of so-called greenwashing, i.e. using active marketing to establish an image of a company that conducts environmentally harmful activities as being environmentally friendly. Machin and Mayr (2013) have studied how the media formed its message about corporate crime in a specific case relating to a rail crash that cost several lives. The news and the crash were initially presented as a catastrophe, by emphasising the elements of tragedy, heroes, hope and grief, which removed the focus from the company's responsibility. Subsequently, the media reporting changed somewhat and directed more focus at the issue of responsibility, although there was hardly any mention of concepts such as crime.

An interesting study by Whyte (2012) that had originally intended to focus on how corporate leaders defended and neutralised their businesses becoming established in occupied Iraq, and how these justifications were communicated to the surrounding world, came in practice to take a different turn. In the context of interviews with the corporate leaders, Whyte discovered that they did not feel there was anything that needed either to be defended or neutralised, that they were "just doing business". What Whyte's study reveals is that, in order for neutralisations to become necessary, the business's representatives must first perceive that there is something that they need to defend themselves against, allegations of some kind – which is the case in connection with the two companies that this paper intends to study.

Theoretical framework

In the classic article *Techniques of Neutralisation*, Sykes and Matza (1957) explain how neutralisations are employed by young offenders in order to deny the immorality of certain actions. Offenders utilise these techniques prior to committing offences in order to neutralise reprehensible actions and to reduce their sense of culpability. Neutralisation techniques can be used to explain how individuals evade the social control that would otherwise restrain them from committing offences. Proceeding from Sykes and Matza's work, Stanley Cohen (2009) describes the use of neutralisation techniques in relation to state violations of human rights, and uses these techniques as a tool to deconstruct official discourses that have been produced in connection with allegations of crime. Cohen's framework, unlike Sykes and Matza's, primarily focuses on the use of neutralisation techniques as an official response subsequent to crimes having been committed and allegations made. Cohen (2009) argues, however, that the use of neutralisation techniques can also be seen to some extent prior to crimes being committed, where they function as a means of making it possible to

commit violations while at the same time reducing culpability. In a similar way, the defence mechanisms identified in this paper will not only be viewed as neutralisations of individual events, but also as an overarching and continuously ongoing process intended to legitimise the continuing work of the business as a whole. The defence mechanisms that are employed are situated in a broader context and are utilised precisely because they are perceived as being publicly accepted (Cohen 2009). Certain types of defence mechanism are thus expected, routinely used and accepted in a specific cultural and social context (Scott & Lyman, 1968). In this sense, the defence mechanisms employed by Swedish corporations constitute part of a public discourse on businesses, the conditions for business activity and corporate responsibility.

Cohen (2009) identifies three overarching strategies that may appear separately or in sequence. In the first, *literal denial*, the event itself is denied, e.g. by the state claiming that “nothing has happened”. For companies, the same strategy might involve similar statements, or claims that “we haven’t used bribes” for example. In situations of this kind, those in power depict journalists and human rights organisations as being selective in their reporting and as working on the basis of a hidden political agenda. The second form of denial, *interpretative denials*, occurs when the media and human rights organisations show that the event really has taken place. In these situations, the state must retreat and admit that the event has happened, but it then defends its actions by attempting to reformulate the description of the problem in various ways and by denying the extent of what has happened. Similar strategies might be identified in relation to businesses. Another strategy found in this phase involves attempting to shift responsibility to something else, such as civil war, a drugs war or ethnic conflicts. The third form of denial *implicatory denial*, which this paper will focus on, involves the state justifying the event by referring to a higher good (Cohen 1996; Cohen 2009). Cohen (2009) points out that in practice the three forms of denial seldom run in sequence, and that they more often appear simultaneously.

The theoretical framework provided by Cohen, will here be elaborated on. On the one hand, the defensive strategies may function differently for businesses than for states, and on the other, the Swedish context may define boundaries for the types of response to allegations that are possible. Allegations and responses should be viewed as a dynamic process, in which what it is that needs to be neutralised and defended is constantly changing (Whyte 2012). Thus, it will be necessary to situate the defence mechanisms used by the Swedish corporations in a social and cultural context. For example, the corporations refer directly and indirectly to the self-image of Sweden, which is usually associated with political democracy, social welfare and economic equality (Lundberg and Tydén 2010). One of the core components of the Swedish self-image (which is shared by Sweden’s institutions and companies) is a strong focus on social justice and human rights. (see Mulinari and Rätzzel 2009).

Method and material

Manifestations of defence strategies will here be approached by means of frame analysis, i.e. an analysis of how the phenomenon in question is framed. Frame analysis was first presented by Goffman (1974), but its current forms bear little resemblance to the original (Koenig 2006). The method has primarily been used in research on social movements (Benford and Snow 2000; Oliver and Johnston 2000) media studies (Entman 1993; Iyengar 1991; Scheufele 1999) and policy analysis (Bacchi 1999; Joachim 2003; Schön and Rein 1994). Frames can be understood as “underlying structures of belief, perception, and appreciation” (Schön and Rein 1994). The struggle over the naming and framing of a situation includes not only the way problems are represented but also the solution (Schön and Rein 1994).

Frame analysis involves a focus on discourses, which may be described as the language, key concepts and categories that are used to frame a given issue (Bacchi 1999). Discourses are viewed here as not only including language use, but also social practice (se Bergström and Boréus 2012) – in the current case not only what the businesses write and say but also how they act within the discourse. By contrast with more customary analyses of discourses, frame analysis focuses on capturing the conscious formulation of statements (Bacchi 2005).

The material in which the businesses’ defences are expressed is mainly comprised of dominant national newspapers, radio and TV-interviews, but also includes press releases and other official information produced by the corporations.

First, an initial sample of material was obtained by means of a systematic search in Mediarkivet, a digital news archive which contains all of the major Swedish daily newspapers, provincial newspapers and magazines, journals and periodicals, and also Swedish media content that has only been published online. Mediarkivet has a manual search database, and our searches were specified using keywords and dates. For both of the corporations, the keywords employed were the name of the corporation, the crimes of which they have been accused and the countries in which the alleged crimes have taken place.¹ The searches were limited to a two-year period from the time at which suspicions of criminal activity were first made public in relation to each company.² Only articles in which the companies themselves make statements of some kind were chosen.

¹ The search terms employed for TeliaSonera were: TeliaSonera AND Uzbekistan AND mut*. Muta is the Swedish word for bribe. The asterisk (*) enables the search engine to find various different endings of the word. The search terms employed for Lundin Petroleum were: Lundin Petroleum AND Sudan AND folkrätt*. Folkrättsbrott is the Swedish term for crimes against international law.

² For TeliaSonera, the systematic search included news articles published between 18/09/2012 and 17/09/2014. The corresponding period for the search conducted in relation to Lundin Petroleum was from 07/06/2010 to 06/06/2012.

Second, during the reading of the media content generated by the systematic search in Mediearkivet, additional relevant material was identified. This included, for example, references to company press releases, letters to shareholders, radio reports, television clips, other forms of interviews with company representatives and also news articles published prior to and after the period covered by the systematic search. We decided to locate and include this material in the analysis for two main reasons. The first of these was that it would make our sample less dependent on the search words used in the systematic search (search words always involve a risk that relevant data will be excluded); the second was that the sample would be broadened to include other forms of text than the news articles that had been identified in Mediearkivet. In total, approximately 200 texts have been included in the analysis. The sample is far from exhaustive with regard to published articles or other forms of texts that include statements made by the companies in defence of their businesses. Nonetheless, the texts that have been analysed constitute a robust documentation of statements made by the two companies following the allegations of criminal activities. The analysis has been conducted in two stages. In the first, the companies' defence strategies and their framing have been analysed on the basis of Cohen's theoretical framework with a focus on the "appeal to higher loyalties". We asked how the companies have defended themselves against allegations of criminal activity. How are language, key concepts and categories used to frame the companies' statements? In the second stage of the analysis, the corporate framings have been located in a social context, with the point of departure being that the way issues are framed is grounded in social structures.

Corporate accounts – framing the higher good

The public image of the Swedish transnational corporations Lundin Petroleum and Teli-aSonera was significantly impaired by the accusations of criminal activities. Following the disclosures, the companies were under considerable pressure from both the media and the public to defend themselves against the accusations. The defensive strategies employed by the businesses have been analysed on the basis of Stanley Cohen's (2009) theoretical work on processes of denial and neutralisation techniques. Several forms of denial identified by Cohen (1996); Cohen (2009) within a context of gross human rights violations have also been identified in this study focused on the responses of the Swedish corporations. The aim of these accounts can be understood as that of presenting legitimisations in order to re-establish social acceptance for the businesses. These accounts were focused on denials of the crime, vindications of the companies' activities in the regions concerned and on the legitimisation of the relevant industries as a whole.

The defence mechanisms identified will not only be viewed as neutralisations of single events, but also as examples of an overarching and continuously ongoing process intended to legitimise the continuing work of the businesses as a whole. The accounts are situated within a context and are drawn from an "acceptable pool of accounts available in the wider

public culture” (Cohen 1996). As has been emphasised by Scott and Lyman (1968), certain types of accounts are expected, routinized and accepted in certain contexts where someone has to explain the gap between actions and expectations. In this sense, the accounts used by the Swedish corporations are situated within a broader social and cultural context and within a public discourse on businesses and their prerequisites. The discourses includes the public understanding of Sweden and its corporations as providing social justice and human rights (see Mulinari and Rätzzel 2009). To be able to understand the accounts used by the corporations and the frames in which they are embedded, the analysis draws on post-colonial theory and the image of the Nordic countries as being particularly “good” in relation to the rest of the world (Mulinari et al. 2009; Palmberg 2009).

Framing a higher good as responsible capitalism

The accounts used by the representatives of the two Swedish transnational corporations may, to use Cohen’s (2009) terminology, be interpreted as forms of *interpretative denial*. The CEO of TeliaSonera respond to the accusations by stating, “I’ve said it before and I’ll say it again: TeliaSonera has not bribed anyone” (TeliaSonera, press conference 2012-10-17) and the chairman of the Board of Lundin Petroleum commented on the accusations by stating that “...there has not been any proof, there is no substance at all” (Radio interview with Ian Lundin 2012-03-21). In some sense, these and similar accounts by the corporations could have been interpreted as constituting examples of literal denial since the accusations of crime are denied. However, the events themselves are not denied, neither the business deal in Uzbekistan nor the oil explorations conducted at the time of the conflict in Sudan. Instead, what is taking place, in Cohen’s terms, is a *denial of responsibility*. In the case of TeliaSonera, the company denies that the transactions could be perceived as a bribe and also denies any connection with the dictator in Uzbekistan. In the case of Lundin Petroleum, the company denies that its presence in the region had any negative effect on the conflict in Sudan (and instead claims that it had a positive effect, as will be discussed below). In addition, Lundin Petroleum use what Cohen (2009) would describe as a *denial of knowledge* in relation to crimes against humanity in Sudan. The company does, to a varying extent, acknowledge that international crimes were taking place in Sudan at the time, although it does not necessarily frame the incidents as crimes. However, the following statement, in which the chairman of the Board of Lundin Petroleum comments on the report by ECOS (2010), could be interpreted as a form of denial of knowledge: “...I have definitely not seen any of the mass expulsions that are being talked about. I wonder whether those who have written the report have really been there and seen how things are.” (DN 2012-03-21).

In the case of Lund Petroleum, the very clear denials of the corporation’s involvement in the alleged crimes are persistent over the time period studied. When it comes to TeliaSonera, a change in the accounts that are used becomes visible following the replacement of the CEO and certain members of the board of directors. Thereafter, the new representatives start to distance the company from its former leaders, framing the responsibility as lying

with a small number of managers who no longer work for the company. The new chairman of the board of TeliaSonera describes these former managers in the following way: “Even if people have been thinking of the company’s best interests, our assessment is that poor judgement has been shown in relation to acquisitions made in a number of markets in Eurasia” (Dagens Industri 2013-11-30). The statement can be interpreted as constituting a form of denial of responsibility by creating a scapegoat, and in this way trying to create the opportunity for a fresh start for TeliaSonera as a company.

The crimes the companies are accused of are closely related to their presence in the regions in question, and this fact is not deniable. Journalists and human rights organisations portray the crimes, particularly those related to corruption in Uzbekistan, but also to some extent Lundin Petroleum’s involvement in crimes against humanity as a result of its oil exploitation in Sudan, as being a more or less inevitable result of doing business in these countries. Thus the representatives of the corporations also have to defend why they are doing business in these regions. In Cohens terms, *interpretative denial* is expressed simultaneously with *implicatory denial*, which can involve the justification of an event by referring to a higher good (Cohen 1996; Cohen 2009). However, when Cohen refers to *appeals to higher loyalties* he is referring to an ideology that rejects universal human rights standards (Cohen 1996). In contrast, as will be shown here, the Swedish corporations justify their actions by using human rights as an appeal to a higher good. Representatives of both companies express that they are proud of their company and of what they have managed to achieve for people in the regions in which they operate. This form of righteousness is expressed in the following statement, in which a representative of Lundin Petroleum describes the company as a responsible actor:

“I am convinced that these countries need investors, such as Lundin Petroleum, that are responsible and that invest in a way that is sustainable over the long term. The only chance for these countries to resolve the problems they face is through economic growth.” (SvD 2014-02-24)

In another statement, Lundin Petroleum describe their operations in Sudan as a “force for good” that “contribute[d] to the improvement of the lives of the people of Sudan” (Lundin Petroleum 2015). While similar accounts, referring to the societal benefits of the operations of the businesses, recur in the statements from the two companies, the emphasis on profit and shareholder value is not as apparent. Instead of highlighting profit maximisation, the Swedish companies highlight their social responsibility as a means of gaining credibility. However, in the texts that are primarily addressed to shareholders, profit-making can be discerned as constituting the core value of the operations in question. For example, Ian H. Lundin states in an *Open Letter to Lundin Petroleum’s Shareholders*, on March 2, 2010: “At all times our objective in Africa has been to find oil and gas in the most sound and efficient manner but always being responsible from a social and environmental perspective.” This self-presentation can be interpreted within a frame of *responsible capitalism*, the idea of pur-

suing both profit and social good in a competitive free market in a globalised economy. In a similar manner, TeliaSonera's aim to maximise profits is framed as part of a primary mission to do good:

"The operations [in Central Asia] have made a powerful contribution to the group's growth and profitability, and foreign investments in infrastructure have played an important part in the modernisation of these countries following the collapse of the Soviet Union." (Press release 2013-02-01).

TeliaSonera's business in Central Asia is highlighted as contributing to the development of democracy and human rights. When questions are asked about whether TeliaSonera should withdraw from these "risky markets" in Central Asia, the human rights aspects are underlined:

"Leaving countries is a difficult issue that can also have consequences for human rights in the country in question. Looking at the situation as it is just now at TeliaSonera, we believe that the best thing we can do appears to be to stay in the countries where we have a presence." (TT 2013-06-04)

Instead of withdrawing, the company will do more good by strengthening its presence in Central Asia. The accounts used here by the corporations, which frame their businesses as responsible corporations, may function as a way of avoiding moral censure. The corporations try to frame themselves as being engaged in "good corporate citizenship" (see Shamir 2011). This is expressed distinctly by the communications manager of Lundin Petroleum in a newspaper interview: "We have tried to strive to be good citizens" (DN 2011-01-07). By their use of this framing, the corporations aim to transform the accusations of crime into an opportunity to describe the companies as being responsible and providing opportunities for development in the countries in which they operate. In this sense, the defence mechanisms employed by Swedish corporations constitute part of a global public discourse on businesses, the conditions for business activity and corporate responsibility. Another aspect of this that will be further discussed below is that of how the appeal to a higher good might be interpreted within a post-colonial discourse.

Post-colonial tendencies – contributing to development, democracy and peace

Post-colonial theory has, among other things, demonstrated how the language of colonialism still shapes western ideas about other parts of the world, as well as providing criticism of the assumption that countries of the global North can "solve development 'problems'" (McEwan 2009). The notion of "exporting civilisations" from the global North to the global South has been an important part of colonialism (McEwan 2009; Mulinari et al. 2009). In the same tradition and self-image, the Swedish corporations try to frame their exploitation of foreign markets as a civilising mission. Consider the statement of the former foreign minister of Sweden, who was a member of the board of Lundin Petroleum for a time:

"I believe that when you have a presence, when they (the regimes) have western eyes on them, whether it's aid workers, companies or something else, then you're helping the people in these areas. Violations don't occur there." (SVT 2007-04-17)

In this quote, the former foreign minister refers to "western eyes" as constituting a protection against abuses and violations of human rights. This form of framing not only denies the brutal experiences of colonialism, but also constructs an image of what is "western" as being something more civilised (than the "non-western") (see McEwan 2009). Other representatives of Lundin Petroleum legitimise the oil industry by stating that there is a need for this industry. In the following example, one of the board of directors of Lundin Petroleum also expresses an understanding of "western" corporations as being better than "non-western" corporations, in this case Chinese companies:

"If the oil industry were only to do business with democracies, you'd be cycling to work. Imagine being without oil from Saudi Arabia, Qatar, Iran or Venezuela. In the case of Sudan, I believe we have helped the country to achieve stability. Our reasoning was that if we aren't there, someone else will be. Is it better that it's the Chinese? I don't believe you can allow these countries to end up in the hands of ruthless people – and the Chinese are ruthless." (Veckans Affärer - News clip 2011-10-27)

Another form of account that is significant is the framing of the companies as "helpers" that enable social progress and improve people's lives in the areas where they operate. In a debate article authored by the Lundin brothers, they defend the business by referring to how they have helped the Sudanese people:

"The wealth that has been created as a result of the Lundin group's oil and mining projects has been of benefit to countless men, women and children and will continue to give them the chance of a better life. ... In areas that are subject to extreme poverty, economic development has to be initiated with the help of foreign investments in infrastructure and the development of natural resources." (Dagens Nyheter 2012-03-18)

The exploration for oil is here described as a mission to provide help. The corporation is framing their operations in Sudan and other "developing countries" in a narrative in which economic development is synonymous with foreign investment: "You have to help these countries develop their natural resources, because natural resources are a catalyst for economic development." (Interview, Ian Lundin, Aktiespararna – Stora analysdagen 2012).

The company goes even further by framing the business as contributing to peace in Sudan. In an open letter to the shareholders, Lundin Petroleum states:

"The Comprehensive Peace Agreement (CPA) signed between the Government of Sudan and the Southern Sudanese representatives in 2005 validated our view that oil could be used to achieve a

sustainable peace." (Open Letter to Lundin Petroleum's Shareholders, June 8th 2010)

The contribution of oil companies to the peace in Sudan is more directly expressed in a radio interview with the chairman of the Board of Lundin Petroleum: "You cannot ignore the fact that peace only came after the production of oil had started. So I think that the production of oil in Sudan had an influence on the peace agreement that was signed in 2005" (Radio interview with Ian Lundin 2012-03-21).

In a similar manner, statements by TeliaSonera frame the business as providing economic development and democracy: "Telecommunications are enormously important to both economic development and democratisation" (Dagens industri 2013-06-05). In an earlier interview for the same newspaper, the newly elected chairman of the board of TeliaSonera refers to the UN millennium goals of decreasing poverty as a means of situating the business in a frame in which telecommunications is portrayed as providing economic development (Dagens Industri 2013-04-04).

While Lundin Petroleum frames its business activities as contributing to the peace agreement in Sudan, TeliaSonera's business in Uzbekistan is framed against the backdrop of the Arab Spring:

"Five years ago we invested in a licence to provide telecom services in Uzbekistan. Why did we do so? First and foremost in order to create growth and value for our shareholders, but that was not the only reason. We at TeliaSonera would argue that telecommunications are a power for good. Everyone who has followed the far-reaching developments witnessed during the Arab Spring will understand what we mean. It is an irrefutable fact that modern telecommunications play an important role when a country starts along this long journey towards democracy." (TeliaSonera, press conference 2012-10-17).

The accounts presented here can be interpreted as attempts to bolster and defend the legitimisation of the corporation and its public image. The corporations frame their exploitation of foreign markets as a civilising mission. These framings constitute part of a larger public discourse on businesses in which foreign investment is assumed to contribute to development, democracy and peace in "developing countries". As will be discussed below, these post-colonial tendencies are also related to assumptions about the nature of the Nordic countries and to conceptions of "Nordic values".

Emphasising "Nordic values"

The Nordic countries have been associated with development aid, international cooperation and peace building rather than colonialism and imperialism (Mulinari et al. 2009). However, post-colonial theorists from the Nordic countries argue for an understanding of the Nordic countries as being part of the "colonial complicity" by defending the value sys-

tem linked to the Enlightenment ideals (Mulinari et al. 2009). In the examples above, in which the corporations frame their businesses as contributing to, or even providing, development, democracy and peace in the countries in which they operate, the corporations use well-known discourses that underline Swedish or Nordic generosity, helpfulness and decency. Framing the company as a friendly corporation (which is understood as being the opposite of exploitative) is very much in line with the image of the Nordic countries as representing “the good helper” (see Palmberg 2009).

While telling the story of how TeliaSonera has made sure “that one-third of the population of Uzbekistan uses TeliaSonera’s network to surf and read and to be able to hear about what is happening in the world”, the CEO of the time expresses how proud he is of the “Nordic company with the values we have” (SR 2012-09-20).

By framing the corporations as having certain Swedish and Nordic values, the Swedish transnational corporations Lundin Petroleum and TeliaSonera try to associate themselves with an understanding of the constructed image of the Nordic countries as exceptional and exemplary in relation to the rest of the world (see Palmberg 2009). The separation between “Swedish culture” and the culture of the countries in which the corporations operate is visible both in the questions that are asked by several journalists and in the answers and statements given by representatives of the corporations. The understanding of the Nordic countries as “good” and “advanced” also contains an embedded understanding of the “other”, either in the form of the Sudanese or Uzbek people being in need of the businesses’ help or in the definition of Chinese corporations as ruthless exploiters.

The emphasis placed on Nordic values is more obvious in the case of TeliaSonera than in that of Lundin Petroleum. This is hardly surprising since TeliaSonera, along with Volvo, has historically been “placed at the core of Swedish nationhood” (see Mulinari and Rätzzel 2009).

In contrast, Lundin Petroleum appears to struggle with its “Nordic identity”. Newspapers have referred to the company’s handling of the accusations of crime as being ‘unswedish’. One journalist used the following description of how the company chairman had attempted to silence one of his critics during the company’s annual general meeting: “the annual general meeting clearly shows that Ian Lundin does not have the ability to behave like a normal listed Swedish company’s chairman”. The perceived unswedishness can also be understood in relation to how Lundin Petroleum dealt with the accusations. While TeliaSonera made extensive use of press releases intended for the public to respond to the allegations, Lundin Petroleum announced its response to the allegations primarily in communications directed to its shareholders. While the CEO of TeliaSonera stressed the importance of an independent investigation, Lundin Petroleum communicated a clear rejection of the appointment an independent investigation. The fact that the Chairman of the Board, Ian Lundin, prefers to conduct interviews in English rather than Swedish further enhances this difference between the two companies. In a seminar organised by the Swedish Sharehold-

ers' Association, the chairman of the board of Lundin Petroleum was asked: "How do you handle the balancing act of being a "Swedish", or at least being listed on the Swedish stock exchange, ethically responsible company, and working in countries that in no way apply the same basic values?" Here, the interviewer used virtual quotation marks formed in the air with his fingers when calling the company "Swedish". To this question, the chairman of Lundin Petroleum chose to give a long exposition on how economic development is related to foreign investment and to ignore the fact that the interviewer had called the Swedishness of the company into question. Perhaps, in the absence of a strong "Nordic identity", Lundin Petroleum frames the company as a family-owned business. The two Lundin brothers tell the story of the company by emphasising family values and frame themselves and their father, the founder of the company, as "good guys".

"Depicting we who work at the Lundin group as opportunistic, dictator-hugging businessmen is to display a complete lack of understanding for Adolf Lundin and the values he stood for – and for the values that we continue to stand for today. The accusations that among others Aftonbladet and certain internationally active voluntary organisations have directed at Adolf Lundin and the members of the family, and at the men and women who work at companies within the Lundin group, are quite simply groundless, unfair and in some cases even absurd." (Dagens Nyheter 2012-03-18)

Here, the corporation uses a family narrative to distance the company from the image of a transnational corporation exploiting natural resources in the global south.

We would suggest that the accounts used by the two Swedish corporations may tell us something about the relevant public discourse on the basis of the understanding of accounts presented by Cohen (2009) and Scott and Lyman (1968). The accounts employed by the corporations may be viewed as being acceptable within the broader public culture. However, to our understanding, Lundin Petroleum had a harder time finding acceptance for their strong denial of responsibility. They did not adapt to the public demands for transparency and independent investigation to the same extent as TeliaSonera.

Conclusions

To understand the accounts employed by the businesses when defending themselves against allegations of crime, Cohen's (1996; 2000) framework on denials and techniques of neutralisations has been applied and extended to the field of business. The presence of the corporations in areas where crimes have been committed is not denied, but implicatory denials are employed to justify the corporations' operations by referring to a higher good.

In the context of this higher good, there is an inherent contradiction that is never addressed in the companies' statements. Our material shows a somewhat ambiguous argumentation on the part of the two companies. On the one hand, their arguments focus on creating good profitability and returns for the company's owners on the basis of the premises of the free

market economy, “business as usual”. On the other hand, they focus on contributing to wealth creation and encouraging democracy in the countries in which they operate, which we could label the philanthropic argument. By closing their eyes to the potential conflict that these arguments contain, they succeed in producing a causal chain whereby the inherent dynamics of the market, with their demands for profitability, in principle automatically result in producing wealth and improving democracy, along with respect for human rights and civil liberties. Our material provides a range of evidence to support this view. Clear examples can be seen in Lundin Petroleum’s arguments that oil production in the Sudan contributed to producing peace in the country (Radio I Lundin 2012-03-21), and in Teli-aSonera’s statement that the establishment of profitable telecommunications is enormously important to the democratisation of Uzbekistan (DI 2013-06-05). This neo-philanthropic form of argumentation claims that profitable entrepreneurial activities constitute the means of achieving the goals of democracy and prosperity. It is important to appear to be “beneficent capitalists”, with profit-maximisation being legitimised, and thereby also in part overshadowed, by the righteous objective of contributing to the development of democracy. The material also shows that this view of “beneficent capitalists” refers to western capitalism in general and to Swedish capitalism in particular, as can be seen by the distinction made in relation to the “ruthless Chinese” (VA 2011-10-27). This self-presentation of the Swedish beneficent capitalist is of major importance to the maintenance of a positive view of the brand. At the same time, the use of this ambiguous argumentation conceals that the primary objective is in fact that which the companies’ statements present as the means: the establishment of profitable operations. Democracy and respect for human rights and civil liberties are not goals that are given a high priority per se, but are rather a possible side effect for the companies’ goodwill. The idea of these companies engaging in operations that contribute to improving levels of respect for human rights without at the same time producing economic returns for the companies’ shareholders does not fit with the logic of “business as usual”.

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A New Thing under the Sun? Crime in the Digitized Society.

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1. Introduction to Crime in the Digitized Society

Computer systems can be used to commit – and be targets of – crime. The article investigates whether so-called “*digital crime*” can be regarded as a new thing under the sun. The question itself is not new. It was originally raised in the 1950ies when computer technology had become sufficiently advanced to be put into use by large financial corporations and insurance companies (McQuade 2006: 11). Concomitantly, the opportunity to commit computer fraud emerged, an opportunity not lost on insiders. As the era of network technology and mobile devices had not yet arrived, outsiders did not have easy access to corporately owned computers, thus they were practically excluded from committing computer crime. Since insider crime in such corporations was regarded as being “white collar”, computer crime was perceived as a form of white collar crime.

After the emergence of the Internet, “cybercrime” came to the fore. The prefix “cyber” suggests that the criminal phenomenon occurs in a space different from where humans act and relate. The crime is perceived as remote and the link to a specific perpetrator seems vague and diffuse. Crime may therefore be deemed to have developed into an unprecedented form. Obviously the criteria according to which we deem a phenomenon to be new, determines the assessment. Two criteria predicate the present conclusion, firstly that what matters is the facts of the crime (digital technology), secondly, that the facts (technology) can be regarded as new. Thus the reasoning is as follows: As the crime could not have materialized in this form in the pre-computer era, the criminal phenomenon is new.

Such reasoning is not only clouded, but also hazardous. Continued application of the logic entails a risk of gradually removing criminal liability away from the perpetrator. The more “intelligent” the computer (never mind that the intelligence is artificial), less is the blame on the individual. Ultimately, the robot is the criminal. The human is reduced to a servant who merely executes the robot’s commands. In the event that we not accept to regard a robot as perpetrator, no crime has been committed at all, because there is no perpetrator.

Fortunately, the fundamentals of criminal law do not change solely by the emergence of new technology. As long as basic legal principles are maintained, crime is committed by individuals, period. A robot cannot incur criminal liability, because the commissioning of a crime requires the perpetrator to fulfill conditions regarding *mental state* at the time when the crime is committed (the condition *mens rea*). The main rule is that criminal liability requires intent (*dolus*). Should a robot have been trained to choose between alternatives, the

choice is still made by a program created by humans. And humans are responsible for their doings. For example, a small monkey trained to climb through windows and take away silver ware, is a tool utilized by its owner. Its owner is the criminal. This is clearly so even if the monkey makes choices, for instance, on a lazy day it might refuse to work. An “intelligent” lawn mower which cuts down a fragile newly planted apple tree cannot be held liable for vandalism, even if it “chose” to ignore the program which told it to move around hindrances. In the age of artificial intelligence one should be careful not to confuse *liability* with *controllability*. Machines that are set to work for criminal purposes are legally to be considered as tools. From a criminal law perspective controllability may raise problems *mens rea*. The critical fact would be whether the perpetrator *realized that the outcome of its actions could be unlawful, yet chose to carry on*. This modality of intent is known as *dolus eventualis*, and fulfills the condition *mens rea*. Undoubtedly, also a robot must be regarded as a tool, no matter how “headstrong” and hard to control it is. The human is still responsible, and may be held criminally liable (provided that the act performed by the robot is a crime by law).

Some may claim that a *cyborg* can incur criminal liability. A cyborg differs from a robot in that it is made of *organic material* (and grafted into a machine), whereas a robot is made of “dead” material. A cyborg is therefore perceived to be more “human like” than a robot. Actually, in combination with strong computing power and artificial intelligence, cyborgs are perceived to be “super-humans”, even *superior* to humans. In relation to criminal liability, however, the material of which the machine is made (live versus dead material) is irrelevant. Robots and cyborgs alike are associated with intelligence, but by virtue of being machines any possibility of assuming criminal liability is excluded. At least this is the case *de lege lata*. One may also ask what kind of punishment would be fit for a robot/cyborg. Probably, here is a case for reintroducing medieval forms of punishment, such as mutilation and decapitation. Even “brain” paralysis could be an option, in the form of deleting the program that runs the “perpetrator”.

Today the phenomenon which somewhat vaguely has become known as “digitization” is present in every dimension, sector and level of society. It is reflected in all forms of social discourse, it be colloquial, professional, academic or political, where expressions such as “big data”, “automation”, “robotics”, “Internet of Things”, “cloud computing” and “artificial intelligence” have become common. One can also tell by our media habits. Constant presence on social media is the norm, not to possess a smartphone an oddity and turning it off not an option. TV-programs about artificial intelligence seem to cause the kind of marvel formerly reserved for Sir Attenborough’s wildlife explorations.

My feel is that the habit of adding “cyber” as prefix to “crime” soon will end. It will end just as we no longer stress that cars are vehicles that are able to move without the assistance of horses, or that light bulbs are powered by electricity. “Cyber-expressions” might become hallmarks of a *transitory stage*, defined by the struggle of coming to grips with digitization’s

impact on society. In a perspective *de lege ferenda* however, issues relating to (criminal) liability for lack of control may become increasingly relevant and important. Such questions can be addressed both with regards to producers and users of automated digital devices.

In the end the relevant question is whether *crime in the digitized society* is a new thing under the sun or not. A question so general lends itself to a nuanced explorative approach. Definite answers are not to be expected from the brief analysis of this article. What follows is a description of themes and priorities in current cybercrime research, and some observations as to where existing theories may fall short of explaining digital crime. If the article inspires more cyber research, its goal has been reached.

The structure of the following parts is as follows: First we need to describe the subject matter of our investigation (section 2). Then we take a look on the human factor of cybercrime, which allegedly has been a blind spot in cybercrime research (section 3). Thereafter follows an analysis divided into three parts. The analysis takes as its point of departure the top research priority of Interpol's Cyber Research Agenda (section 4). Next follows the point that digital technology functions as a cross cutting crime enabler (section 5). The third part of the analysis discusses phenomena that can be regarded as new. It is asserted that criminal law *de lege lata* may be considered as partly inadequate, at least with respect to *random digital crime*. As regards the facts, digital technology produces some effects that create considerable problems for crime prevention, criminal investigation and prosecution. There is also much to indicate that online privacy violations have more hard-hitting effects on its victims than their physical equivalents (section 6). Main findings and conclusions are finally summarized (section 7).

2. Defining the Phenomenon

In the introduction the notion was rejected, that technology itself suffices as sole criterion for defining digital crime. But how then do we define the criminal phenomenon which is the subject matter of our investigation? "*All crime is cybercrime*" Europol claims, and points to the necessity of "*thinking 'digital' first*" (Europol 2014: 84). However, the claim can merely serve as a general starting point, because we still need to make clear if we are concerned with digital crime *as it is performed* or digital crime *as defined in law*. The alternatives represent research topics relevant to criminology (crime as fact) and to law (crime as normative concept). In the former case we need to describe *which facts* that must be present in order for the crime to be a "cybercrime", whereas in the latter, we need to describe *the legal conditions* that define the crime as "digital" (a "cybercrime"). It turns out however, that the alternatives are both necessary, and must be combined. This can be explained as follows:

Crime as fact may take *the form of speech*. Common examples are threats of violence, fraudulent misrepresentation of facts, hate speech and distribution of sexual abuse material of children. Crime in the form of speech can be committed *physically*, i.e., face to face ("F2F"), in a letter and so forth. Obviously such crime can also be committed *electronically*, for in-

stance, a threat by email, skype or sms; a fraudulent website selling fake tickets to Premier League soccer games; a misleading website in a “phishing” scheme; hate speech on extremist fora, and; exchange of illegal images on the Darknet. Judged by *the facts* the “F2F-crimes” do *not* count as cybercrime, whereas their digital equivalents do.

The law however may not make relevant the distinction between speech F2F and its digital equivalent. Perfectly technology neutral criminal provisions may be *equally applicable to F2F crime and cybercrime*. Section 371 (a) of the Norwegian Criminal Code is an example in point. The provision concerns fraud by deception, defined as the fraudulent exploitation of a mistake made by the victim, who is brought in error by materially misleading information provided by the perpetrator, for the purpose of obtaining an unlawful economic gain. Whether the act is performed F2F (for instance in a supermarket) or online (for instance in a webshop), is not relevant to the question of criminal liability, as the provision does not mention “cyber”, “computer data”, “digital” or the like. Yet the provision is very practical in relation to Internet fraud.

Conversely, it is conceivable that a reprehensible act performed online is not criminal, even if its physical equivalent is. The “blog case” from 2012 illustrates this (HR-2012-1554-U). Exhortations to kill two police officers were posted on a publicly available blog. Utterances with such content are punishable provided that they are made “in public”. The Norwegian Supreme Court found that a blog could *not* be a forum for utterances made “in public” within the meaning of the criminal code. Had the exhortations been published in a physical newspaper instead, they would have constituted a crime.

The blog-case uncovered a legal anomaly, which led to amendment of the legal provision also to cover utterances on the Internet. The legal definition is technology neutral, and the condition is that the utterance must “be suitable to be reached by a large number of people”. 20-30 individuals suffice as “a large number”. Because the threshold is so low, most content on the Internet is made “in public” pursuant to Norwegian criminal law (Sunde 2016 chapter 3.2).

Finally, one cannot always be sure if digital and physical phenomena are legal equivalents or not, which may be illustrated by the insecurity with regards to *the legal status of computer data*. According to Norwegian criminal law doctrine, computer data is *not* regarded as an “object”. This is the case despite that computer data can be specified, individualized and quantified (factual aspects), and despite that one would think that the word “object” is technology neutral (legal interpretation). Unlawful deletion and suppression of computer data cannot, for this reason, be punished as traditional vandalism (i.e., vandalism against an object). The legislator has therefore been compelled to supplement the criminal provision with a new paragraph which specifically makes vandalism against computer data a crime too (Sunde 2006 chapter 4; 2011 chapters 6-10; 2016 chapter 2.5 and 6).

The examples show that an adequate definition of digital crime hardly can be attained by the sole application of factual or legal criteria. In order to ensure that the phenomenon we investigate is criminal and involves digital technology, conditions must be set relating *both* to law and to fact, as follows:

- (i) The act must be covered by a criminal provision in force at the time when the crime was committed (the criminal provision may be technology neutral).
- (ii) The act must involve - have a nexus with – digital technology.

By default, criminal acts which are covered by *technology specific* criminal provisions are included. Criminal provisions of this category typically concern computer intrusion, vandalism against computer data, computer forgery and computer fraud. Note that *computer fraud* is a crime different from *fraud by deception*, also when the latter is committed on the Internet. Computer fraud is defined as unlawful manipulation which *causes a computer automatically to perform a process* which entails an economic loss to somebody, and is performed with the intent of obtaining an unlawful economic gain. The distinction between computer fraud and fraud by deception is that, a computer is *manipulated*, whereas an individual is *deceived* (can also happen on the Internet) (Sunde 2016, chapter 7).

A digression in furtherance of the note on robots and cyborgs: Fraudulent manipulation of a robot/cyborg is an instance of computer fraud. Despite their “intelligence”, they cannot be “deceived” within the meaning of criminal law. Legally, deception indicates a mental state exclusively reserved for humans. Speech is a similar example. Legally, speech is a phenomenon between humans. An utterance which orders “sit!” is not speech if directed to a dog, yet it is if directed to a person. Voice transmission of login credentials to a computer is not speech, yet it is if uttered to an individual. The examples show that legal concepts developed to regulate inter-human behavior, may not be applicable to relations of a different kind (human-machine; human-animal). Neglect of the distinction between the *legal* meaning of words, and their practical (colloquial) meaning, may not only cause an analysis *de lege lata* to be flawed, but also undermine concepts important to criminal policy.

On the background described above the criteria can be developed like this:

- (i) The act must be covered by a criminal provision in force at the time when the crime was committed (the criminal provision may be technology neutral), and the act must involve digital technology.
- (ii) If the criminal provision contains technology specific conditions (concerning digital technology), the acts falling under its scope are by default “digital” crime.

On a first glance, *physical crime* is excluded from the list, which means that crimes in the form of “F2F speech”, arson, burglary, physical violence and homicide fall beyond the scope of our investigation. Or, is it really so? How about the Internet of Things (“IoT”)? “Internet of Things” means that physical objects, living creatures and individuals, get connect-

ed to the Internet. Some device integrated into or fixed onto the object / creature /individual, puts it online. The device can be contacted remotely (online), and be caused to do something (actuate). Actuation may have an impact on the object / creature / individual. The lesson learned from Internet connectivity is that, in order to communicate, *one must also expose oneself* (the computer) to input received from over the network. Input is not 100% controllable. Hence communication makes one vulnerable to abuse and attacks. This makes a case for questioning if indeed our efforts to single out a clear cut criminal phenomenon did succeed.

Here are some examples of “IoT-crime”:

(i) The online door lock

Electronic door locks controlled and managed online, have become popular. The resident of the house enters into an agreement with a door lock service provider (DSP). The DSP opens a user account for the resident, who becomes a door lock service subscriber. By managing the account, individual entrance codes can be set for each member of the household. Moreover, temporary entrance codes can be registered both for infrequent occasions (for instance letting in a babysitter) and for routine visits (for instance the biweekly house cleaning service). Each one has a unique code, so, should somebody else use it, the trusted holder of the code is responsible. Each usage of the entrance code is recorded in the logs of the user account with the DSP. However, assuming that the entrance codes are kept secret, the resident’s security depends on the security of the DSP. The system of the DSP can be hacked and the entrance codes disabled or copied. A criminal organization, perhaps assisted by an insider, could disable the entrance codes of an entire neighborhood, or add their own codes, thus being able to empty the area before noon. The door lock example describes a series of crimes, ranging from clear cut digital crime in the form of computer intrusion (hacking a DSP system) and vandalism against computer data (change/deletion of entrance codes), to physical crime (burglary). The burglary is facilitated by the preceding digital crimes. Should it too be considered as digital crime, or is it simply crime in the digitized society?

(ii) The online pacemaker

A corresponding scenario can be envisaged for online pacemakers, i.e., pacemakers monitored and updated over the Internet. The computer system of the pacemaker service provider can be hacked, and the electronic communication which supports the device can be interfered with. Worst case is a hack or interference which amounts to homicide. Perhaps we do not think of this as digital crime, but certainly it is crime in the digitized society.

Marie Moe, a 37 year old computer engineer, became acutely aware of the security issues relating to remote accessibility, when suddenly she needed a pacemaker. In an interview

with *Dagens Næringsliv* (a Norwegian newspaper), she said she was prepared to be a more demanding customer in the future, in the event that her pacemaker must be replaced.¹

In the end, we have to conclude that technological development expands our phenomenon, as also crimes such as burglary and homicide can involve *digital technology as a fact*, and the applicable *criminal provisions are technology neutral*. Europol's claim may therefore prove to be true. A practical effect is that digital evidence feature regularly, and must be secured as a matter of routine, in the course of a criminal investigation. Hence, knowledge and skills to secure and analyze such evidence are needed among criminal investigators no matter the type of crime they are tasked to deal with.

3. The Human Factor of Cybercrime – a Blind Spot

Crime is performed by individuals, notwithstanding any presence of digital features. The human factor of current digital crime has however to some extent been overlooked. At least this is the case if we are to believe Europol, which goes so far as to claim that the role of the individual has been “a blind spot” in cybercrime research (Europol 2014: 82). The explanation is that cybercrime primarily has been associated with threats against cyber- and information security, something which has entailed a strong focus on technical measures. From the perspective of the law enforcement, the approach has been too narrow. Europol's message thus is that “*research focusing on people is vital if we have any real hope of coming to grips with the phenomena of computer crime*” (ibid). The police organization of the European Union is an important voice in this respect. It hosts the European Cybercrime Center - the “EC3” –, has sophisticated multidisciplinary competence, and has proved its ability to work quite efficiently against cybercrime.

The need for more research on the human factor of digital crime is not in dispute here. But to base research on the assumption that one has been wholly oblivious of the human factor of cybercrime, would be a mistake. For instance, the significance of *social engineering* to cybercrime has always been emphasized. The problem of “phishing” is illuminating. The criminal set up of “phishing” is the making of a request – on a fake web site or in an email - to update your personal and financial data and access codes. The request appears to come from your bank or telecom provider, but is actually part of a scam. The information provided by the victim in response to the request, is used to empty the bank account, hack the email account, hire a car, take up a loan, receive social benefits and go shopping, just to mention some of the risks. All acts are performed in the name of the victim and/or against the victim's assets. The acts can take place offline and online, anywhere in the world, no matter where the victim lives.

¹ «De medisinske hackerne», *Dagens Næringsliv* 8.1.16.

<http://www.dn.no/magasinet/2016/01/08/2128/Teknologi/de-medisinske-hackerne>

Similarly, fraudulent deception can be based on social engineering. Currently, so-called “CEO-fraud” is a problem. This is a scam, where a subordinate in a corporation gets an email, seemingly from the CEO, who orders prompt effectuation of a big payment on behalf of the corporation. The subordinate dares not object or ask any questions, and carries out the instruction, whereupon the money ends in a bank account controlled by the criminals. According to an alert by the FBI, such scams have resulted in losses totalling more than USD 2 billion over a three year period.²

In terms of substantive criminal law “phishing” involves a series of crimes, comprising identity infringement, theft, computer intrusion, fraud, forgery and acquisition of access codes for the purpose of committing a crime against computer systems or computer data. The scheme as such is often referred to as “Identity theft” (ID-theft), and conceptually divided into the stages of (i) identity information harvesting; (ii) possession and disposal of identity information; and (iii) the use of identity information to commit fraud or other crimes (Cybercrime Convention Committee 2013: # 4; Wall 2014). The purpose is primarily to unlawfully gain profits or information based on usage of the victim’s credentials. Victims are picked at random. Those who are vulnerable may be victimized.

Granted, Europol still has a point. But for issuing warnings and alerts against phishing and other forms of criminal social engineering, the practical response against cybercrime has primarily been technical, in the form of patches & updates, firewalls and so forth. Seemingly the need for research concerns, first of all, how to realize what it is exactly – with respect to behaviour – that we need to understand better, in order to explain why people become involved in digital crime. More precisely, we want to find out whether people get involved in online crime more easily than in “physical” crime, and if so, identify the causes and the effects. One important question is whether digitization brings about more crime than before, or merely moves crime from a physical arena to a digital.

Having succeeded in putting the human factor on the agenda, Europol follows up with sections that deal with *Profiling cybercriminals* and *Behaviour in cyberspace* (Europol 2014). The most relevant “cyber-psychological concepts” are claimed to be:

- Anonymity and self-disclosure
- Cyber immersion / presence
- Self-presentation online
- Pseudoparadoxical privacy
- Escalation online

² “FBI warns of dramatic increase in business e-mail scams” (4.4.16). <https://www.fbi.gov/phoenix/press-releases/2016>. See also the blog Krebs on Security (16.4.16) <http://krebsonsecurity.com/tag/ceo-fraud/>. The estimate concerns scams reported in 79 countries in the period 2013-16.

- Impulsivity and problematic Internet use
- Dark tetrad of personality.

This is not the place for further exploration of cyber-psychological concepts. However, assuming that “dark tetrad” is not an altogether familiar expression, the general reader might be interested to learn that it is an expansion of the more well-known psychological phenomenon “dark triad” of personalities. A dark triad personality is regarded as *malevolent*, because it is both “Machiavellian”, “narcissistic” and “psychopathic”. In Greek “tetrad” means “four”, so the “dark tetrad of personalities” signifies an individual who possesses *yet another dark personality in addition* to the three already mentioned. This is *sadism* (Buckels, Trapnell and Paulhus, 2014). Without any prior knowledge one may assume a “dark tetrad” to be *supermalevolent*, and only the imagination sets limits for what such a person conceivably can be up to.

It turns out however that, the “dark tetrads” are so called “Internet trolls” and that the research is based on interviews with respondents from the United States. Be that as it may. In Norway, we tend to think of Internet trolls as bad-tempered people who provokes argument for the fun of it. “Trolling” can also be associated with “the deep voice” of the people, which mercilessly asserts its right to freedom of speech “*to tell the truth exactly as it is*”. In a Norwegian context, to associate Internet trolls with *sadism* could therefore be deemed as going a bit too far. However, the reader may want to check it out for herself. To conclude: “*Trolls just want to have fun*”, at least, that’s what the researchers say (ibid).

4. Interpol’s Top Research Priority and Its Implications

The question still remains; is crime which involves digital technology a new thing under the sun or not? For the remaining part of the analysis *the top research priority* identified in Interpol’s Cyber Research Agenda, is suitable as starting point. The priority has been agreed *between important stakeholders* who recognize the need for a knowledge based approach to digital crime (Interpol 2015). An intolerable level of digital crime endangers the benefits of digital technology, prosperity and safety of the society as a whole. Knowledge of which problem that is perceived to be the greatest, and most deserving of research in order to counter digital crime, may provide a lead to phenomena relevant to our analysis.

The Interpol Cyber Research Agenda is the outcome of a workshop which convened “*an equal number of participants*” from the law enforcement, academia, private sector and public policy making bodies. Eight research themes were discussed: (1) Digital forensics; (2) Measuring and forecasting cybercrime; (3) Improving attribution; (4) Improving cyber hygiene; (5) Capacity building & training; (7) Improving information exchange and sharing; and (8) Cyber criminology. At the end, their relative importance was ranked by each of the four participating groups (ibid.).

“Improving Attribution” is the clear winner among the eight research themes covered by the agenda. It was top priority by the law enforcement, second and third by the private sector and the policy makers. “Improving Attribution” is short for *improving the law enforcement’s ability and possibility to link a criminal act on the Internet to a specific individual who can be identified and held criminally liable (given that the legal conditions for criminal liability are fulfilled)*.

It means that, but for the academia which put *cyber criminology* on top, there is general agreement that *anonymity* is the major problem to digital crime prevention and prosecution. Despite that the police may be aware of illegal activity online it can be unable, by regular methods, to identify the perpetrators. In order to convict somebody for a crime, evidence that links the perpetrator to the crime, is required. The public prosecutor has the burden of proof, and the link must be proved beyond any reasonable doubt. Under the protective shield of anonymity criminals can carry out illegal activities online with little risk of being caught. The risk is low, not non-existent. But, in order to identify criminals on anonymous services, the police may have to avail themselves of so-called “extraordinary” or “untraditional” methods. Such methods are less controllable than the traditional ones. Undercover operations which infiltrate illegal market places may for instance entail a need to engage in illegal transactions. Observation of illegal activities without taking any intervening steps (in wait of “bigger fish”), raises ethical questions. Provocation may jeopardize prosecution, and should evidence be deemed as unlawfully obtained the risk is that it will be excluded from trial.

The TOR network (“The Onion Router” network) is the most well-known anonymous network. Computers running the TOR-software are nodes that function as layers (“onion layers”). Their purpose is to anonymize communication by “shaving off” information that identifies its source. “Darknet” is frequently used as synonym to TOR (which is not totally fair to TOR, but that is a different story). “Darknet” is the illegal part of the “Deep web”. The Deep web is the part of the Internet which is not indexed by ordinary search engines. *The source* of the communication on the Darknet is usually hidden (anonymous). In addition, *the content* of the communication can be encrypted. Problems of anonymity and encryption are among the driving forces behind increasingly more intrusive investigation methods. Computer surveillance is an example in point. The method became legally authorized and sanctioned by the Norwegian legislator in June 2016 after seven years of deliberation.³

The TOR network itself can of course be technologically infiltrated by nodes controlled by the law enforcement. Should the practice become popular, a risk of running into “blue on

³ An expert committee proposed the method in 2009 in the report “Hidden information – Open control” (my translation from Norwegian) (Metodekontrollutvalget 2009). The result is a new chapter 16d (computer surveillance) in the Norwegian Criminal Procedural Code, adopted by law no 54/2016 of 17 June 2016.

blue” operations – where police organisations go after each other, instead of after the criminals – cannot be ignored.

Moreover, not only communication, but also *payments* can be performed anonymously. The usage of block chain currency, of which Bitcoin is the most well-known, sees to this. According to Europol’s stats, Bitcoin accounts for 40% of all identified criminal-to-criminal payments in the EU. It features as “*a common payment mechanism across all [criminal] payment scenarios*”. Europol concludes that Bitcoin is establishing itself as “*a single common currency for cybercriminals within the EU*” (Europol 2015: 11, 46-47).

Computer engineers and other technical experts often take measure of the probability that algorithms which provide anonymity can be cracked mathematically. Hence, they prefer the word “pseudonymity”. From a practitioner’s point of view, mathematical probability calculation is one thing and practical investigation quite another. Both TOR and Bitcoin are services that provide anonymity for practical purposes. Some claim that Bitcoin is not anonymous because the transactions are recorded and made transparent in the publicly available block chain log (e.g. Meiklejohn, Pomarole, Jordan et. al., 2013). But even if the log may contain sufficient information to deduce the identity of certain big “Bitcoin players”, it *does not plainly disclose specific identity information*. The anonymity of its users might perhaps not survive a dedicated mathematical attack, but the digital currency has so far maintained sufficient “unallocated” blocks to shield the identity of its users from the investigative eye of the law enforcement.

Given the significance of the problem, research concerning “Improving Attribution” must be important. Whether the outcome supports a strategy which aims at cracking the anonymity of criminals (and of everybody else), or just pave the way for other strategies, remain an open question. It is important of course whether policy makers are dedicated to strategies of general deterrent effects, or if other strategies are preferred. In any case, anonymity as problem number one does not give any reason for questioning old theories that can explain crime, or throw them overboard. Rather, the situation is the opposite. Traditional key factors of crime such as economic gain, opportunity and low risk are clearly present in digital crime. Anonymity facilitates and enhances them all.

5. Digital Technology as a Cross Cutting Crime Enabler

The most striking observation from our investigation so far is that new technology is relevant to a wide range of crimes. Europol has captured this nicely by pointing out that digital services function as “*cross cutting crime enablers*” (Europol 2015: 15). Digital technology is generally relevant to and facilitates crime, no matter the type of crime. Digital technology offers functions and services which make life easier, enable public administration to operate more efficiently and commerce to be more competitive. The flip side of the coin is that criminals may exploit its benefits equally well. Besides from “*money mules and money laundering services*” Europol’s list of cross cutting crime enablers thus feature “*bullet proof host-*

ing”, “illegal trading sites on the Darknet”, “criminal schemes around Bitcoin and other virtual currencies” and “criminal expert forums online” (ibid.).

The upshot is that crime has become an online service. One can seek the service of a criminal host, get illegal advice, hacker tools, illegal content, drugs, devices such as explosives and firearms, and even hire a hitman, on demand. The host can hold Bitcoin in escrow, providing a safe mechanism for the exchange of criminal service against payment. According to Europol, “Crime-as-a-Service” (“CaaS”) “acts as a multiplier for many facets of cyber-crime. Services such as bulletproof hosting, spam, illegal currency exchanges, money mules and counter anti-virus [...] may have been crucial to those offences being committed” (Europol 2015: 63, see also p.7).

CaaS mirror ordinary online commerce. However, while law-abiding services adhere to rules for bookkeeping and accounting, know your customer, conditions for a license (for instance to sell fire arms), CaaS operate beyond this. This also explains why online casinos are regarded as important money laundering services (Europol 2015). CaaS operate in a normative environment where it is understood that the activity is illegal, hence the participants take care to operate anonymously.

In addition, one may point to the leveraging effect of network technology. It has caused criminologists to question the methods for defining and quantifying online crime, the adequacy of current theories of digital victimization, and the methods according to which economic losses and damages are calculated (e.g. Wall 2007). The examples in point concern dissemination of computer virus which may infect thousands, even millions, of computers in a short time; the perennial general availability of illegal content on the Internet, and the estimates of economic loss (should it be deemed as redeemable, because it is caused by a crime, or just as an instance of bad luck no different from the risk we take in other aspects of life). The questions are open for research.

6. Things that can be regarded as New under the Sun

In this section we turn to criminal phenomena which can be regarded as new, either because of law or of fact. As regards the law, it can be asserted that it does not adequately grasp the significance of network technology to crime. Important effects of *connectivity* have yet to be suitably taken account of by criminal law. As regards the facts, it can be asserted that the effects of *automation* and *online privacy violations* raise serious questions, which cause problems that can be regarded as new.

6.1 Internet Connectivity vs. the Notion of a Direct Attack

Internet Banking Fraud, cyber-extortion and DDOS-attacks may be performed according to largely similar *modus operandi*. Below, Internet banking fraud is presented as the “case”. Chronologically the events succeed as follows:

Step one, *the developing phase*, is concerned with the development of a program (malware) which can be remotely controlled. Step two, *the distribution phase*, is concerned with the infection of computers. Infection is caused either from popular websites where the malware has been stealthily placed, or in the form of spam-mail with a malware attachment. Victimization is random. Those who own a computer vulnerable to the malware may get infected (nothing “personal” here). Step three, *the notification phase*: This is when the malware transmits an alert over the network to the perpetrator, informing about the identity of the infected computer, whereupon it becomes a target for the perpetrator. Step four, *the exploitation phase*: The perpetrator exploits the vulnerability. In the case of Internet banking fraud, he takes control over the victim’s connection with the bank, and places a payment order to an account controlled by a so-called “money mule”. At this point final success depends on two factors: Firstly, that the victim is tricked to confirm payment; secondly, that the money mule delivers the money (net of a provision), to the main perpetrator (the “main brain”). Accordingly, *the final step* is the *phase when the scheme is completed*: The victim is tricked to unwittingly confirm payment by being asked to log in twice, due to a fake error alert caused by the malware. In this process s/he enters the secret key which confirms the order. Promptly upon notice that its account has been credited, the loyal money mule withdraws the money in cash from an ATM. The proceeds are ultimately delivered to the “main brain”.

One may note a certain discrepancy between the legal conceptualization and the practical implementation of the crime. The facts describe a *criminal continuum* in stark contrast to the *specificity of criminal provisions* as regards the criminal action (*actus reus*). The specification is due partly to the principle of legality, partly to tradition and partly to perception of the kind of interests that are violated and must be protected. The principle of legality protects individuals from arbitrary prosecution and punishment, by requiring that the law first must describe which acts that are criminal (cfr., e.g., ECHR article 7 and the Norwegian Constitution section 96). But the principle of legality does not give precise instruction as to how the description must be framed. This depends a lot on tradition and perception of the protected interest.

Currently, criminal law has split digital crime into a multitude of actions, each one individually described as a crime *per se*. Examples in point are the making and/or distribution of malware, computer intrusion, illegal surveillance, interference with computer data, interference with computer systems, computer fraud and fraud by deception. This mode of thought stems from tradition and is reflected in the Cybercrime Convention (CETS 185). The convention has had considerable international influence. Criminal provisions of corresponding character are therefore generally included in the criminal codes in national legal systems. Finally, the protected interests of the criminal provisions are privacy and the property of the owner of the computer and the bank account. The owner is the offended party (“fornærmede”).

The outcome of the legislative approach is that the owner of the computer is the victim of a multitude of crimes (computer intrusion, computer surveillance, vandalism against computer data and/or the computer system, computer fraud or fraud by deception). This is a bit odd, given that his computer *only is a vehicle to commit a crime, and has been picked at random*. Typical for such crime is that the malware infects many computers, thus effectively creating *botnets* controlled by the criminal. That is why *modus operandi* largely is the same also for cyber-extortion and DDOS-attacks.

Cyber-extortion can be performed by infecting computers with malware which encrypts the content ("ransomware"/"cryptolocker"). Unless the owner pays an amount as ransom, in Bitcoin, within a certain deadline, the decryption key is deleted, hence the data is lost. Also DDOS-attacks (vandalism against computer systems) can be used for the purpose of extorting payment from a victim. The victim pays under the threat of else suffering a DDOS-attack. A DDOS-attack is usually carried out by triggering a botnet to attack the target computer. A simultaneous attack by thousands of computers brings down the target.

The creation and utilization of botnets through malware infection is a main feature of such crime. The botnet is a resource on the Internet, which in essence is about making computer resources available to others (e.g. supplying computing power for a decryption experiment). However, the exploitation as described above is undoubtedly criminal. The point to make here, concerns the significance of *the distinction between targeted and random digital crime*. The *criminal modus operandi* described above, is that *randomly chosen* Internet computers are used as resources for a continuing widespread criminal activity. The crime is not targeted at special victims. The law does not fully seem to capture this. Rather, it seems to be based on the opposite assumption.

The Cybercrime Convention Committee has observed that computers "*may be linked for criminal or good purposes [...] The relevant factors are that the computers in botnets are used without consent and are used for criminal purposes and to cause major impact.*" (Cybercrime Convention Committee # 2 (botnets). Cf. also # 3 (DDOS-attacks) and # 6 (malware).

Essentially, the problem concerns *victimization and the interests that are put at stake* by such crime. Legal policymakers have so far mainly concentrated on *modus operandi*, and paid less attention to the other questions. But they are at least as important to the framing of provisions of criminal law, as the *modus operandi*. One could envisage that the law, instead of featuring the computer owner as *the victim* of a crime, treated the crime as a violation of the public interest in information security. The crime could be described in terms of *a criminal continuum*. The number of infringements on confidentiality, integrity and availability, could be regarded as *aggravating circumstances*, in addition of course to the size of the illegal profits. Criminal provisions of this kind are applied in relation to terrorism and sabotage, but seem relevant also to *ordinary random digital crime*. The computer/account owners may be indemnified by insurance coverage, refund from the bank and damages paid by the criminal or covered by proceeds that have been confiscated.

Bitcoin can be confiscated, as illustrated by the case against the founder of “the online drug bazaar Silk Road” Ross Ulbricht. An amount of 144 000 Bitcoin was confiscated as proceeds from crime. In June 2016 when Australian law enforcement threw a Bitcoin auction, the exchange rate valued the amount to more than USD 13 million (NOK 108 million).⁴

Existing criminal provisions should still be maintained in so far as they are required to punish *crime which is targeted* at certain victims. This would be computer intrusion for the purpose of state or industrial espionage, computer interference for the purpose of bringing down a competitor, surveillance for the purpose of controlling the private life of an ex-girlfriend and so forth.

References to some cases concerning *random digital crime* prosecuted in Norwegian courts: Internet banking fraud: HR-20122-2397-A; DDOS-attack by botnet: TNERO-2013-89352; Random hacking: HR-2004-1807-A. *Targeted* hacking and vandalism against a competitor is displayed in HR-2004-127-A. Information crime at the expense of a competitor is illustrated in TOSLO-2004-84792, and targeted search for intimate images in HR-2012-2056-A.

The approach may also be adequate to deal with IoT-crime (discussed in section 2). Burglary has been regarded as a crime against property and private life. But numerous house owners are put at risk, if the crime is pulled off first by hacking the computer system of the DSP (or of the cloud service that hosts the service of the DSP). The house owners are randomly picked according to the same criteria as the owner of the internet computer, and the crime is carried out by exploitation of network vulnerability.

A corresponding scenario is perhaps not as likely with respect to the pacemaker, because homicide usually is targeted. However, large-scale random killings are conceivable, as a terrorist attack. Killing is terrorist ‘communication’, it does not matter who the victims are. In the wake of the Charlie Hebdo killings, TV5 Monde France was taken down by hackers.⁵ The hack was originally thought to have been performed by the “CyberCaliphate”, i.e. hackers partial to IS., However, the assumption has later been questioned as new leads point to Russian hackers called “Pawn Storm”.⁶

6.2 The impact of automation

Automation may be exploited to commit crime in a “self-executing” manner. This has several advantages to the perpetrator. The perpetrator’s efforts are only needed in the initial phase of planning and software development. The criminal concept could for instance be a

⁴ <https://www.theguardian.com/technology/2016/may/31/australian-police-to-auction-13m-in-confiscated-bitcoins>

⁵ <https://www.theguardian.com/world/2015/apr/09/french-tv-network-tv5monde-hijacked-by-pro-isis-hackers>

⁶ <http://www.independent.co.uk/news/world/europe/tv5monde-hack-jihadist-cyber-attack-on-french-tv-station-could-have-russian-link-10311213.html>.

fake website which sells tickets to Premier League soccer games. The website is connected to publicly available databases with information about time and location of the games. Thus the service is automatically updated with new events. Payment is made by card. The tickets obtained from the service are not valid of course.

When the program (website) is put to work, the perpetrator is free to move around, perhaps go on holiday and enjoy the proceeds which keep coming in as a steady flow to his bank account. Thus, automation provides new flexibility to the perpetrator, because there is no need to be present at a physical crime scene. The flexibility may be utilized to cross international borders, which increases the problems that the law enforcement already has to identify and locate the perpetrator. The scheme may be further enhanced by anonymity, both with regards to the Internet source of the fraudulent website, and the ownership of the bank account (client privilege in safe havens for banking services). Also the anonymity of Bitcoin can be exploited, for instance by cooperating with the host of a “bullet proof” service who holds the proceeds in escrow for a certain time.

There are early warnings that this type of fraud may become a problem. In Sweden, five men were convicted for fraud. They had developed the automated poker playing program “Maggie”, which was put to play on Svenska Spel (“Swedish Games”), a site which was open for participation by real persons only. Maggie’s poker playing skills were superior to the other players’, and she beat more than 5000 players before the scam was uncovered. The court estimated their economic loss to SEK 760 000 (approximately EUR 80 000).⁷

6.3 The Sad Story of Criminal Privacy Infringements

Commercial live streaming of children is on the increase, facilitated by broadband and anonymity. The users pay in Bitcoin, and instruct the criminal in the other end, of the kind of abuse they want to watch. Here, the crime is carried out on demand, which makes it a genuine instance of CaaS. This worrying development of crime against children comes in addition to the burden of *the lifelong violation* against their privacy, caused by the perennial circulation of images of the abuse on the Internet. For more detail about this, see (Sunde 2011, and 2016 chapter 10.1).

There is also stalking, harassment and sextortion. “Sextortion” means that the victim is forced or threatened to give away personal sexual images or video clips. Teenagers and even younger children are particularly vulnerable to this kind of crime. Legally it is not regarded as extortion, because the victim does not suffer a loss in economic terms. Instead, such crime is punished according to provisions regarding unlawfully to compel somebody to do something against its will, and unlawful threats. The unlawful invasion of the private sphere and consequent loss of intimate information is not fully recognized by such more or

⁷ Södertörn tingsrätts dom 2014-12-19, case number B 5929-13.

less “value neutral” provisions, and whether the current legal response is adequate in relation to the problem seems to be an open question.

There is also much evidence to the effect that harassment on the Internet is more hard-hitting than harassment in physical space. The fate of the American teenager Amanda Todd has become a symbol of this. She committed suicide at the age of 15, after having been bullied on social media for years. The triggering event for the harassment is explained to be that she, at the age of 12, was deceived to give away intimate images to some “friends”, who later shamed her by making them available on social media. Despite efforts to ameliorate the situation, change school etc., she was harassed. She finally made a video clip in which she explains how she had suffered and her decision to commit suicide. She posted the video clip on YouTube, then, ended her life.

The Norwegian journalist Per Kristian Bjørkeng has described the reasons why online harassment strikes with greater detrimental effect to the victim, than harassment in physical space. It can be summarized as (i) the (perceived) need for constant online availability, which exposes a vulnerability in terms of being prevented from protecting oneself from receiving unwanted messages; (ii) online anonymity and misuse of the identity of others. It may cause a situation where the victim cannot be sure who is behind the bullying. The possibility that someone in the victim’s close social environment is the one cannot be ruled out. A great sense of insecurity is thus created. If the fears prove to be true, the victim may totally lose confidence in others more generally. It is like the world comes to a crash; (iii) “one degree of separation”. This indicates that sharp messages etc. can be made on impulse, by entering “send”, when formerly one would normally sleep on it, and perhaps wake up in a friendlier mood. Separation also prevents the sender from watching the immediate reaction of the recipient. It could be that the written message came out more aggressively than intended, or was misunderstood, and in any case the sender is prevented from moderating the message, or offer an excuse, unless the victim actively seeks it (Bjørkeng 2011).

For these reasons, and in order to live up to the positive obligation to protect the right to private life, which flows from the EHRC article 8, the Norwegian criminal code has been supplemented with a new provision concerning serious stalking and harassment, i.e. section 266a. The crime can be punished with imprisonment for up to four years.

7. Concluding Remarks

The analysis has shown that to make a clear distinction between digital and physical crime is hard, at least when both law and fact are taken into account. The better approach is to address crime in the digitized society, and be generally prepared for the relevance of digital evidence to all kinds of crime.

As regards the human factor, more research is needed in order to “come to grips with” digital crime. It is essential to find out whether there is a *decrease* of physical crime, while digi-

tal crime is on the increase. A darker alternative is that *crime overall* is on the increase. More knowledge about the causes for engaging in online crime, both as offender and victim is also called for.

Crime-as-a-Service is a natural reflection of ordinary legal use of online services. However, when CaaS is used in conjunction with anonymity, policy makers are confronted with dilemmas concerning which crime prevention policies to pursue.

Finally, as regards phenomena that are new under the sun, those are partially legal, partially factual. It can be questioned if criminal law *de lege lata*, covers *random digital crime* in an adequate manner. There are several indications that there is a need for legal improvement in this respect, both as regards criminal and civil law. In fact, random digital crime seems to challenge our understanding of how specific criminal provisions have to be. In a deeper perspective, more research on the specificity demands of the principle of legality is needed. Finally, effective filtering of sexual abuse material on the Internet should be an everlasting objective, in order to fulfil the positive obligation to make the right to private life become effective.

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PRESENTATIONS IN PARALLEL SESSIONS

WORKSHOP A

PRISON AND PROBATION STUDIES

Fra trommedans til samfundstjeneste Sanktionssystemets udvikling i grønlandsk kriminalret

Hans Jørgen Engbo

Kort om Grønland

Grønland er verdens største ø med et areal på 2.166.000 km² svarende til en femdobling af Sveriges areal. Landet har 56.000 indbyggere svarende til indbyggerantallet i Gotland kommune i Sverige eller Skien kommune i Norge. Der er 2.670 km fra nord til syd, svarende til afstanden fra Trondheim til Barcelona.

Frem til 1953 havde Grønland en kolonilignende status i forhold til Danmark, men ved en ændring af Danmarks Riges Grundlov i 1953 fik Grønland status som en ligeberettiget del af Danmark. I 1979 fik Grønland *hjemmestyre*, som indebar større ansvar og øget kompetence for lokalbefolkningen. I 2009 blev ordningen udvidet med overgangen til *selvstyre*, som indebar, at det grønlandske folk nu officielt af Danmark blev anerkendt som et eget folk i henhold til folkeretten. Den folkeretslige status som eget folk er en betingelse for en eventuel løsrivelse og ny statsdannelse, som kredse i Grønland har som den ultimative vision. Grønland har under hjemme- og selvstyreordningerne 'hjemtaget' en række forvaltningsområder, som landet nu selv administrerer uafhængigt af dansk statsforvaltning. Det gælder eksempelvis uddannelsesvæsenet, socialvæsenet og sundhedsvæsenet. På andre områder er det fortsat rigsmyndighederne, som opererer i Grønland. Således er retsvæsenet – politi, anklagemyndighed, domstole og kriminalforsorg – fortsat områder, som forvaltes af den danske stat. Loven om Grønlands selvstyre hjemler mulighed for, at de grønlandske myndigheder kan hjemtage også disse områder. Ambitionerne herom er til stede, men en hjemtagelse af retsvæsenet vil være en tung økonomisk byrde for det grønlandske samfund og er derfor næppe realistisk på kort sigt.

Kriminalitet i Grønland

Kriminaliteten i Grønland udviser et noget andet mønster end i det øvrige Norden. Alvorlige personkrænkende forbrydelser som drab, vold og seksualkriminalitet

fylder meget i statistikken. Det fremgår således af nedenstående oversigt over anmeldte forbrydelser pr. 1000 indbyggere i 2015 i Grønland og Danmark samt på Færøerne, at der i 2015 i Grønland blev anmeldt fire gange så mange voldsforbrydelser og 10 gange så mange seksualforbrydelser som i Danmark, og i sammenligning med Færøerne blev der i Grønland anmeldt 25 gange flere seksualforbrydelser.

Tabel 1: Anmeldelser om vold pr. 1.000 indbyggere sammenlignet med Danmark og Færøerne.¹

	Grønland	Danmark	Færøerne
Alle forbrydelser	74	66	12
Voldsforbrydelser	12	3	2
Seksuualforbrydelser	5	0,5	0,2

Grønland er imidlertid ikke noget specielt farligt samfund at færdes i, jfr. følgende kommentar fra politimesteren til statistikken:

'[N]år vi taler om vold og drabsforsøg generelt, så kender gerningsmand og offer som oftest hinanden. Det bliver forbrydelsen ikke mindre voldsom af, men det er sjældent, at det er tilfældige personer, der bliver overfaldet på gaden i Grønland. Mange lovovertrædelser foregår "bag hjemmets fire vægge" ...'²

Samfundets reaktioner på kriminalitet i Grønland

Det strafferetlige reaktionssystem i Grønland er præget af en nedarvet retskultur, som på mange måder adskiller sig markant fra den retskultur, der kendes i de øvrige nordiske (og mange andre) lande. I det følgende trækkes historien bag Grønlands nuværende retssystem op i korte træk.

Konfliktløsning før kristendommens indførelse (1721)

Grønland har været – og er i nogen grad fortsat – præget af en række små isolerede samfund. I dag taler vi om bygder; tidligere talte man (danskerne) også om bopladser og udsteder. Der var oprindeligt ingen myndigheder til at løse konflikter. Dem måtte man selv løse, og det gjorde man uden noget fast mønster. Man valgte individuelle løsninger, som man i det enkelte tilfælde fandt bedst egnet. Blandt de oftest benyttede redskaber for konfliktløsning var

- sangkamp og trommedans (vil blive nærmere beskrevet nedenfor),
- blodhævn,

¹ Grønlands Politis årsstatistik 2015, tabel 1.2, 1.11 og 1.14.

² Grønlands Politis årsstatistik 2015, side 3.

- bagtalelse,
- hemmelig brug af magi,
- undvigelse (man undgik hinanden i en tid fremover).

Trommedansen – eller sangkampen – bestod i, at den forurettede part udfordrede krænkeren til en sangdyst med dans og tromme. Denne måde at løse konflikter på omtales ikke sjældent i romantiske toner, men at det ikke altid gik romantisk til, vidner følgende beskrivelse fra Østgrønland om:

’Før en alvorlig sangkamp må man gå i gang med at hærde kinder og pande. Man surrer et sælkranium fast til husstolpen og giver det kindbensstød, og når man er nået så vidt, at man smadrer sælskallen (fjordsæl), udfordrer man sin modstander.

Denne møder op med venner og bekendte som vidner, thi det er publikums reaktioner på sangenes indhold, der tæller i domsafsigelsen.



Danserne stiller sig midt på gulvet med tilhørerskaren i kreds om sig, og udfordrer den først ordet. Det hænder, at den, der bliver sunget på, bindes til stolpen, men dette er sjældent og er da kun at betragte som et led i forhånelsen. Den, der lader sig synge på, må tage imod hån og smerte med et smil, og så alvorlige kindbensstød kan han få, at ansigtet bliver helt smadret, så pande og kinder går ud i én plamage. Hans tid kommer i reglen først, når sårene er lægt, men han har lov til at svare med det samme.

Efter en sådan sangkamp lader man i reglen alt nag være banket ud af hovedet, man bytter koner og giver hinanden forsoningsgaver. I tiden derefter er man "ivingarît",

sangkampsvenner, der ofte mødes til en venskabelig dyst.’
(Rosing 1960: 18)

Den juridiske ekspedition 1948-49

Efter at den norsk-danske præst, Hans Egede, i 1721 havde bragt kristendommen til Vestgrønland, blev flere af de tidligere brugte konfliktløsningsmetoder afskaffet. Det gjaldt blandt andet trommedansen, som dog levede videre i Nord- og Østgrønland, hvor kristendommen først for omkring 100 år siden for alvor fik fodfæste. Men konflikter forbundet med kriminalitet blev blandt grønlændere fortsat løst meget konkret på sædvaneretligt grundlag, medens den danske straffelov blev anvendt over for danskere, som opholdt sig i landet.

I første halvdel af 1900-tallet blev det flere gange foreslået, at dansk strafferet blev indført som gældende ret for alle i Grønland, men de danske myndigheder tøvede hermed og valgte at sende en juridisk ekspedition til Grønland med den opgave at undersøge, om dansk strafferet ville kunne bringes i anvendelse i Grønland.

Den juridiske ekspedition, som bestod af tre unge jurister, rejste i et år rundt i Grønland og talte med relevante personer og studerede retspraksis for derved at danne sig et billede af retskulturen og retssædvanerne.

Ekspeditionen konkluderede i sin betænkning blandt andet:

‘Den nuværende grønlandske befolknings holdning [til kriminelle] adskiller sig på iøjnefaldende måde fra den indstilling, man i Danmark indtager over for de kriminelle ...

[F]olk i de små grønlandske samfund kender hinanden godt og holder sammen i vanskelige tider.’³

‘[D]et grønlandske reaktionssystem [præges] i første række af ... den grønlandske befolknings individualiserende holdning over for dem, der har begået lovovertrædelser.’⁴

‘Det går som en linie igennem de grønlandske retsafgørelser, at den foranstaltning søges valgt overfor den kriminelle, som er bedst egnet til i fremtiden at holde ham fra kriminalitet, og som i mindst muligt omfang isolerer ham fra samfundet.

Grønlandsk retspraksis synes i det hele mere præget af et ”individualiserende personlighedssystem” end af det

³ Den juridiske ekspeditions betænkning, side 1.

⁴ Den juridiske ekspeditions betænkning, side 63.

”takstsystem baseret på den begåede lovovertrædelse”, som dansk ret bygger på.’⁵

Ekspeditionen fremlagde følgende oplysninger om de anvendte foranstaltninger i årene 1938-48:

Tabel 2: Foranstaltninger anvendt i 1938-48.⁶

Foranstaltning	Antal	Procent
Indespærring	14	1
Forvisning	53	3
Tvangsarbejde	153	8
Bøde	817	45
Formaning	246	13
Spiritusforbud (frakendelse af maltret)	78	4
Erstatning	78	4
Andre foranstaltninger	62	3
Frifindelse	40	2
Undladelse af foranstaltning	239	13
Uoplyst	73	4
Tilsammen	1840	100

Ekspeditionens forslag

Den juridiske ekspedition kunne ikke anbefale indførelse af dansk straffelov i Grønland, idet de i grønlandsk ret anvendte foranstaltninger var meget forskellige fra dem, der blev anvendt i dansk retspleje, og idet baggrunden for anvendelse af de enkelte sanktioner i det væsentlige var en anden end i Danmark. Ekspeditionens anbefalinger kan kort refereres således.

’Det henstilles, at der udarbejdes en lov for Grønland, som ... med hensyn til sanktioner bygger på grønlandsk praksis ... som i princippet er i harmoni med moderne kriminalvidenskabs krav’ (Den juridiske ekspeditions betænkning, side 81).

’[Loven skal] i størst muligt omfang hjemle adgang for myndighederne til at give kriminelle en behandling af

⁵ Den juridiske ekspeditions betænkning, side 81.

⁶ Refereret i Udvalget for samfundsforskning 1962:86.

individualpræventiv karakter' (Den juridiske ekspeditions betænkning, side 82).

Man har beskrevet forskellen mellem det grønlandske og det danske sanktionssystem ved at tale om 'gerningsmandsprincippet', som modsætning til 'gerningsprincippet'. Man lagde i Grønland mere vægt på at finde en foranstaltning, som var afstemt efter gerningsmandens behov, end at udmåle en straf i forhold til den begåede gerning.

Kriminalloven 1954

Ekspeditionens forslag blev fulgt, og i 1954 fik Grønland sin egen kriminallov.⁷ Det var helt bevidst, at man undlod at bruge betegnelsen 'straffelov' og i stedet kaldte det en kriminallov. Man brugte ikke – og bruger fremdeles ikke – begrebet 'straf' i grønlandsk ret. I stedet taler man om *foranstaltninger*.

De foranstaltninger, der efter kriminalloven (§ 85) kunne bringes i anvendelse, var

- 1) advarsel,
- 2) bøde,
- 3) beskikkelse af tilsyn,
- 4) anvisning af eller forbud imod ophold på bestemt sted,
- 5) tvangsarbejde,
- 6) tvangsuddannelse,
- 7) lægelig begrundet kur eller anstaltsbehandling,
- 8) forvaring,
- 9) andre indskrænkninger i handlefriheden,
- 10) konfiskation.

Man skal særlig lægge mærke til, at 'fængsel' ikke indgik i kataloget over foranstaltninger, hvilket førte til, at loven blev betegnet som 'verdens mest moderne straffelov'. Men indespærring var ikke et middel, som var almindeligt brugt i den grønlandske sædvaneret.

Det nærmeste, man kunne komme frihedsberøvelse, var foranstaltningen 'forvaring', som var beregnet til lovovertrædere, som måtte betegnes som erhvervs- eller vanemæssige eller særlig farlige forbrydere, når hensynet til samfundets sikkerhed gjorde det påkrævet. Men selv under fuldbyrdelse af forvaring, havde de dømte en ret vid adgang til at færdes ude i samfundet, så en egentlig indespærring var der i praksis sjældent tale om for de få, som blev idømt denne foranstaltning.

Foranstaltningerne tvangsarbejde, tvangsuddannelse og anvisning af eller forbud imod ophold på bestemt sted indebar typisk tvungen anbringelse på et andet sted

⁷ Lov nr. 55 af 5. marts 1954 – kriminallov for Grønland.

end den dømtes bopæl og havde således et element af frihedsberøvelse – eller i det mindste frihedsbegrænsning – over sig. Mere om disse foranstaltninger senere.

Allerede et år efter lovens ikrafttræden blev den kritiseret offentligt i avisen Grønlandsposten (på grønlandsk Atuagagdliutit – eller blot AG):

Atuagagdliutit 24.03.1955:

Små lovovertrædere straffes — de store går fri...

Retsudviklingen i Grønland inde i en alvorlig krise, fordi kriminalloven ikke kan gennemføres efter bestemmelsen. — Vil man fratage grønlænderne medansvaret for den almindelige udvikling ved at erstatte kreddommerne med danske jurister? — Spørgsætningens ophævelse fejres — og politiet kan ikke overkomme arbejdet.

Den 1. december 1954 blev den grønlandske retsplejelov sat i kraft. Som noget helt nyt i Grønland indførte den uafhængige domstole, frelles for alle berøpne. Den 15. juli 1954 kom kriminalloven der har fået betegnelsen verdens mest moderne straffelov. Begge love har altså været i kraft meget kort tid. Allerede sidste sommer talte man om at indføre dybtgående ændringer i retsplejeloven, og fornylig meddeltes det fra statsministeriet, at man har nedsat et udvalg, som skal tilrettelægge undersøgelser i Grønland for at konstatere virkningerne af de reformer, der er indført siden nyordningen. Det blev nævnt, at de første konkrete opgaver ville blive undersøgelsen af kriminallovens og ægteskabslovens virkninger —

Hvorfor foranstaltningerne ikke kan gennemføres

Den alvorligste foranstaltning er forvaring, som betragtes i anvendelse overfor lovovertrædere, der må betragtes som alvorlige eller væsentlige eller særlig farlige forbrydere, når hensynet til samfundets sikkerhed gør det påkrævet. Lovens paragraf 142 siger, at forvaring indføres i bygning eller lejr, hvis det er muligt at holde den forvaringsstandet for uoverstøvet.

der kan blive tale om at beskæftige personer, der er blandt tvangsarbejdere. Tilbage er den 1. grønlandske Hæder og Grønlands tekniske organisation — begge statsinstitutioner, og begge styret i det væsentlige af grønlandere. Der er fortsat tvivl. Vil man erstatte de lokale institutionsledere, men bl. a. den ikke ubetydelige arbejdsloshed i hele vinterperioden indvirket. Man har arbejdet nok, så ikke lokale husholdninger arbejder uden for at husholdningerne arbejder. Nogle andet vilde være, om man kunne anvende beskæftigelsesarbejder af forskellige slags, påkrævede vejarkitekter, og lignende. Men det kan man ikke, for der er ingen bevillinger, endelig mangler man også instruktører, fra Hæder og ministerium om på det til at beskæftige folk, der er blandt tvangsarbejdere.

Situationen er i sig selv, at politiet begynder at lide lidt for forældede domstole af tvangsarbejde, og retterne må ikke være med at indføre det, selv om man er oplyst, fordi politiet ikke kan få institutionerne til at beskæftige tvangsarbejdere. — Også som det er sagt et andet, hvor almindelige domstole har de under et vist øjeblik.

En mand fra Godthåb havde voldt med en gammel kone og begik nogle andre gerninger. Han blev dømt til udsættelse i Frederikshåb. Ivoe en gammel mand tog sig af ham. Han blev dømt til udsættelse i Frederikshåb.

Kritikken gik ud på, at kun de milde foranstaltninger – advarsel, bøde og tilsyn – blev fuldbyrdet effektivt efter deres indhold, medens de mere indgribende foranstaltninger – forvaring, tvangsarbejde og tvangsuddannelse – ofte ikke kunne fuldbyrdes på grund af manglende praktiske muligheder herfor. Det var svært at finde egnede steder at anbringe de dømte, og det blev kritiseret, at de statslige virksomheder sjældent stillede op med tilbud om at medvirke.

Privat fuldbyrdelse

Det var et kernepunkt i den grønlandske retsorden, at fuldbyrdelse af kriminalretlige foranstaltninger ikke kun var et myndighedsanliggende. Også private forudsattes – som før kriminalloven – at bidrage til fuldbyrdelsen. I bemærkningerne til kriminalloven hed det således om tvangsarbejde og tvangsuddannelse:

‘Hvor domfældte ikke har hjem på det sted, hvor tvangsarbejdet skal udføres, må han i overensstemmelse med hidtidig praksis indlogeres hos en egnet og villig person, som modtager en vis godtgørelse for at have ham i pension, og som kan føre tilsyn med ham.’

'Tvangsuddannelse har efter hidtidig grønlandsk ret fortrinsvis været anvendt over for yngre personer, som man har sendt til opdragelse og oplæring hos en dygtig og pålidelig person.'⁸

Det var således 'egnede og villige' samt 'dygtige og pålidelige' samfundsborgere, som forudsattes at medvirke i kriminalretsplejen som såkaldte opholdsværter. Kriminalforsorg var i vid udstrækning en virksomhed, som fandt sted i privat regi – ofte hos færeholdere eller fiskere/fangere.

Evaluering 1962

I 1962 udkom en evalueringsrapport af kriminalloven og dens praktiske gennemførelse. Rapporten, som var udarbejdet af Udvalget for samfundsforskning i Grønland, konkluderede blandt andet, at '*retsmyndighederne* har savnet praktiske muligheder for at fuldbyrde navnlig tvangsarbejde, tvangsuddannelse samt anvisning af ophold på et bestemt sted' og at man 'i mange tilfælde [har] været ude af stand til at finde personer, der var egnede og villige til at modtage domfældte i deres hjem eller føre tilsyn med dem'.⁹

Evalueringsrapporten første til, at man ved en lovrevision i 1963 indførte anbringelse i anstalt som en ny foranstaltning i kriminalloven, jfr. nærmere nedenfor i afsnit 4.4.

I 1962 blev forsorgsleder Niels Therbild, Dansk Forsorgsselskab, sendt til Grønland for at bl.a. at undersøge, hvordan foranstaltningssystemet rent faktisk fungerede. Therbild (1965) kunne afsløre, at det undertiden var højst kritisable forhold, som de private opholdsværter bød de unge kriminelle.

Therbild fandt eksempler på at

- den dømte var blevet sultet og mishandlet i en sådan grad, at hun måtte indlægges,
- den dømte måtte sove på gulvet med bøjede ben,
- opholdsværten nødte [den dømte] til spiritus til trods for, at han havde afholdspålæg,
- opholdsværten [drak] sig fuld en gang om ugen, hvorefter han i sin omtågede tilstand 'morede' sig med at slå og mishandle den fuldstændig sagesløse domfældte,
- den dømte [måtte] hjælpe den færeholder, han var anbragt hos, med at stjele får fra naboen.

Therbild (1965:130) sammenfattede sine observationer ved at erklære, at 'mere eller mindre tilfældige private faktisk [har] "hals- og håndsret" over domfældte'. Og han

⁸ FT 1953-54 Tillæg A (26) Sp. 401.

⁹ Udvalget for samfundsforskning i Grønland 1962:11.

tilføjede, at 'et moderne fængselsvæsen ... under disse omstændigheder [ville] være at foretrække.

Therbilds undersøgelse medførte oprettelse af ungdomspensioner i Grønland, så unge, der blev dømt til tvangsarbejde eller tvangsuddannelse, kunne bo på en pension under ordnede forhold. Den første ungdomspension blev oprettet i Sisimiut (Holsteinsborg) i 1966. Siden blev der oprettet tilsvarende pensioner i 1973 i Nuuk (Godthaab) og i 1979 i Ilulissat (Jakobshavn). De sidstnævnte pensioner blev nedlagt i henholdsvis 1976 og 2002, og siden 2010 har der ikke været efterspørgsel efter pensionspladser i Sisimiut, og pensionen har i praksis fungeret som afdeling under anstalten i samme by.

Åbne anstalter

Ved en ændring af kriminalloven i 1963 blev kataloget over foranstaltninger ændret, så det nu kom til at se således ud:

- 1) advarsel,
- 2) bøde,
- 3) beskikkelse af tilsyn,
- 4) anvisning af eller forbud mod ophold på bestemt sted,
- 5) arbejde,
- 6) uddannelse,
- 7) lægeligt begrundet behandling,
- 8) anbringelse i anstalt,
- 9) andre indskrænkninger i handlefriheden,
- 10) konfiskation.

Det mest bemærkelsesværdige er indførelse af foranstaltningen *anbringelse i anstalt*. Om baggrunden herfor oplyses det i bemærkningerne til lovforslaget, at forandringer i samfundet havde medført, 'at der over for visse tilfælde af kriminalitet ikke i første række er trang til nogen egentlig behandling, men simpelthen at have den pågældende lovovertræder under en mere effektiv kontrol, end det hidtil har været muligt.' Samtidig lagde man 'den allerstørste vægt på, at ønskeligheden af større kontrol kun fører til frihedsindskrænkning, hvor ganske særlige grunde taler herfor.'¹⁰

Senere i lovforslaget hedder det, at man ønskede at skabe hjemmel til at anbringe lovovertrædere i anstalt, 'når hensynet til retssikkerheden og den almindelige lovlydighed gør det påkrævet, og ingen af de andre foranstaltninger skønnes

¹⁰ Folketingstidende 1962-63, tillæg A, sp. 698.

anvendelige. Der er herved givet udtryk for, at anbringelse i anstalt kan finde sted ud fra generalpræventive hensyn.¹¹

Anbringelse i anstalt erstattede blandt andet forvaring, som det havde voldt vanskeligheder at fuldbyrde effektivt. Det blev i den forbindelse understreget, at evalueringen fra 1962 tydede på, at der snarere var behov for anstalter, 'hvor lovovertrædere kan anbringes under forholdsvis frie forhold, men under en vis kontrol ...'¹²

Anbringelse i anstalt skulle således i første række tjene 'retssikkerheden og den almindelige lovlydighed', hvormed bl.a. mentes generalpræventive hensyn. Det var dog tanken, at en eller flere sådanne anstalter ikke skulle have karakter af lukket fængsel, 'men blot skal være steder, hvor de domfældte kan bo og være under et vist effektivt tilsyn ...'.¹³

Sammenfattende kan man således om anstaltens indretning og drift konkludere, at det var hensigten

- at anstalterne ikke skulle være *behandlingsanstalter*,
- at anstalterne skulle være steder, hvor de domfældte kunne bo under forholdsvis frie forhold og være under et vist effektivt tilsyn,
- at anbringelse i anstalt kun skulle føre til 'frihedsindskrænkning, hvor ganske særlige grunde taler herfor'.

Det er kendetegnende for synet på anstaltsanbringelse, at man således talte om *indskrænkning* af friheden og ikke om *berøvelse* af friheden. De grønlandske anstalter betegnes alle som *åbne* anstalter.

Den første anstalt blev taget i brug i Nuuk i 1967. Senere er der oprettet anstalter i Qaqortoq (1977), Aasiaat (1977), Ilulissat (2002), Sisimiut (2006) og Tasiilaq (2011).

Beskæftigelse under anbringelse i anstalt

Et fremtrædende element i driften af de åbne grønlandske anstalter var adgangen til (fortsat) at være beskæftiget med arbejde eller uddannelse i det frie samfund. Det samme gjaldt deltagelse i fritidsaktiviteter uden for anstalten. Anstalten havde mere karakter af et herberg/kollegium end et fængsel. Man var ikke spærret inde i anstalten. Dette karakteristikum ved de grønlandske anstalter er principielt fortsat gældende, men der er i tidens løb indført visse modifikationer, som indebærer, at flere indsatte nu befinder sig i anstalterne uden tilladelse til at forlade anstalten og gå på arbejde eller i skole ude i byen. For det første skal de domfældte indsatte nu

¹¹ Folketingstidende 1962-63, tillæg A, sp. 703.

¹² Folketingstidende 1962-63, tillæg A, sp. 693.

¹³ Folketingstidende 1962-63, tillæg A, sp. 703.

have opholdt sig i fire uger i anstalten og tillige have gennemført en tiendedel af den idømte anstaltstid, før de kan få udgangstilladelse. For det andet er omkring en fjerdedel af de indsatte i anstalterne nu tilbageholdte (varetægtsfængslede), som er undergivet særlige restriktioner, ikke mindst når det gælder udgangstilladelse. De tilbageholdte blev tidligere normalt placeret i politiets detentioner.

Den beskrevne udvikling har gjort det nødvendigt for anstalterne at etablere beskæftigelses- og fritidsmuligheder inden for anstaltens egne fysiske rammer. Dette har ikke været nogen let opgave, eftersom bygningerne fra begyndelsen ikke var indrettet med beskæftigelses- og fritidslokaler. Anstalterne var jo på det nærmeste kun overnatningssteder.

Der er nu etableret (beskedne) faciliteter til beskæftigelse af mere simpel art, end det ses i fængslerne i det øvrige Norden. Der fremstilles kunsthåndværk af rensdyrgevir, fedtsten mm., og der produceres langliner til fiskeri, børneslæder, udemøbler mm.

Visse beskæftigelsesaktiviteter foregår i anstaltsregi uden for anstaltsområdet. Det gælder eksempelvis rensdyrjagt, som indtager en fremtrædende position i den grønlandske kultur. I august og september drager mange grønlændere til fjelds for (gratis) at skaffe kød til dybfryserne. Det er derfor helt normalt, at også indsatte i anstalterne kan drage på rensdyrjagt under ledelse af anstaltspersonale. Det sker normalt ved en flere dages tur i fjeldet for en mindre gruppe indsatte under ledelse af et par anstaltsbetjente. I efteråret 2014 var fire indsatte og to anstaltsbetjente fra anstalten i Sisimiut på fjeldtur i fem dage med 14 nedlagte rensdyr som resultat. Denne beskæftigelsesaktivitet for blandt andet drabs- og voldsdømte indsatte betragtes ofte med måben af udenlandske studiebesøgende og journalister, men i Grønland ser man det som noget helt naturligt, at indsatte får mulighed for at udvikle eller vedligeholde deres jagtfærdigheder under anstaltstiden, så de efter løsladelsen kan ernære sig ved fangst eller i fritiden bidrage til familiens økonomi. Der kendes ikke eksempler på, at indsatte har misbrugt denne adgang til at få skydevåben i hænderne.

En lukket anstalt i Grønland?

Det hænder, at psykisk afvigende (men ikke sindssyge) personer gør sig skyldige i så alvorlige – ofte gentagne – forbrydelser af personkrænkende art (drab, grov vold, grov seksualkriminalitet mm.), at de anses for farlige og derfor idømmes tidsubestemt forvaring. Det betragtes normalt som sikkerhedsmæssigt uforsvarligt at anbringe sådanne forvaringsdømte i åben anstalt, og de kan derfor blive dømt til anbringelse i en anstalt i Danmark med psykiatrisk ekspertise, dvs. i Herstedvester Fængsel. Denne mulighed har været benyttet i adskillige tilfælde siden 1958. I maj 2015 er 27 grønlandske forvaringsdømte anbragt i Herstedvester.

Denne ordning har igennem årtier været kritiseret. Det er anset for umenneskeligt at tvangsanbringe de dømte flere tusinde kilometer hjemmefra under en fremmed kultur, et fremmed klima, et fremmed sprog osv.

Presseklip fra AG 17.03.1976 og Information 10.02.1978

De, der anbringes på danske anstalter straffes unødigt hårdt

Derfor behov for lukket afdeling i Grønland til midlertidig afsoning af de kriminelle, mener ansættelse af loven for disse kriminelle, mener ansættelse på Det grønlandske Rådgivningskontor i København og bistandsværgere for de, der er anbragt på anstalter i Danmark

Kulturel forskel giver grønlandere ekstra straf i danske fængsler

En socialrådgiver og en bistandsværgemænd om grønlandere i danske fængsler

Juf. 10.2.78

AIPHILIP LAURITZEN

Før tiden arbejder Folketinget med en revision af den grønlandske kriminallov, men Poq er utilfreds med, at man ikke ser sig at dømmes op for placeringen af grønlandere i Danmark. Poq mener, at det er urimeligt, og at regeringen bør sikre de nødvendige bevilgninger, så grønlandske kriminelle kan forblive i Grønland.

Information har bedt den daglige leder af Poq, socialrådgiver Inger Bruun, og Elise

til at punge ud med, hvad han tænker og føler. Hvis det overhovedet skal ske med tolk, så bliver der aldrig tale om kontakt mellem f. eks. psykiater og indsat eller mellem den indsatte og det øvrige personale samt de danske indsatte.

Det er et så oplagt problem, at det burde være indlysende for enhver, indskyder Inger Bruun, -og her hos Poq har vi for længe siden afskaffet danske sagsbehandlere, som f. eks. midlertidigt. Man kan sige, at det

Den grønlandske retsvæsenkommission har vurderet, at det ikke kan udelukkes, at afsoning i Danmark i konkrete tilfælde – afhængig af afsonerens nærmere familiemæssige og ægteskabelige forhold – vil kunne udgøre en krænkelse af Den Europæiske menneskerettighedskonventions artikel 8 om retten til respekt for familie- og privatliv.¹⁴

Et embedsmandsudvalg, nedsat af justitsministeren med tilslutning fra Grønlands landsstyre, understregede i sin betænkning fra 1990, at man fortsat anså det for særdeles vigtigt, at der etableres en lukket anstalt i Grønland med henblik på at begrænse overførslerne af de grønlandske foranstaltningdømte til Danmark mest muligt.¹⁵ Blandt andet på baggrund heraf blev Den Grønlandske Retsvæsenkommission i 1994 bedt om at overveje og beskrive, 'hvorledes der kan etableres særlige afsoningsanstalter i Grønland, således at den hidtidige ordning, hvor grønlandske forvaringsdømte afsoner i Anstalten ved Herstedvester, kan bringes til ophør'.¹⁶ I sin betænkning fra 2004 indstillede kommissionen, at der etableres en lukket forvaringsafdeling i Grønland med den fornødne psykiatriske og psykologiske bistand tilknyttet. Denne afdeling vil kunne rumme de tidsbestemte anstaltsanbragte, der i dag nedsendes til Anstalten ved Herstedvester.¹⁷

¹⁴ Betænkning nr. 1442/2004, side 857.

¹⁵ Betænkning vedrørende kriminalpolitiske spørgsmål i Grønland 1990:12.

¹⁶ Betænkning nr. 1442/2004, side 14.

¹⁷ Betænkning nr. 1442/2004, side 864.

Kriminalloven 2010

Politisk beslutning om ny anstalt med lukket forvaringsafsnit

Kommissionens forslag blev udmøntet i vedtagelsen af en ny kriminallov for Grønland, som trådte i kraft i 2010, samt bevilling af midler til opførelse af en ny anstalt i Nuuk med et lukket afsnit, som skal rumme de forvaringsdømte. Anstalten forventes taget i brug i 2018. Herefter vil hjemlen til at dømme til anbringelse i fængsel i Danmark blive ophævet.

Ny anstalt i Nuuk. Arkitektskitser.¹⁸



Den nye anstalt vil få to åbne afsnit med i alt 36 pladser og et lukket afsnit med 40 pladser. Af disse 40 pladser er der kalkuleret med 20 pladser til forvaringsdømte og 20 pladser til tilbageholdte og anstaltdømte, hvis adfærd ikke er forenelig med forholdene i de åbne anstalter.

Samfundstjeneste

Den nye kriminallov medførte tillige, at Grønland nu også har indført samfundstjeneste som en foranstaltning, der får sig eget trin på den såkaldte *foranstaltningsstige* eller *sanktionsstige*, som man har kaldt kataloget over de foranstaltninger, som domstolene kan vælge mellem.¹⁹ Samfundstjeneste er således i Grønland en selvstændig sanktion og ikke – som i Danmark – et vilkår for en betinget dom.

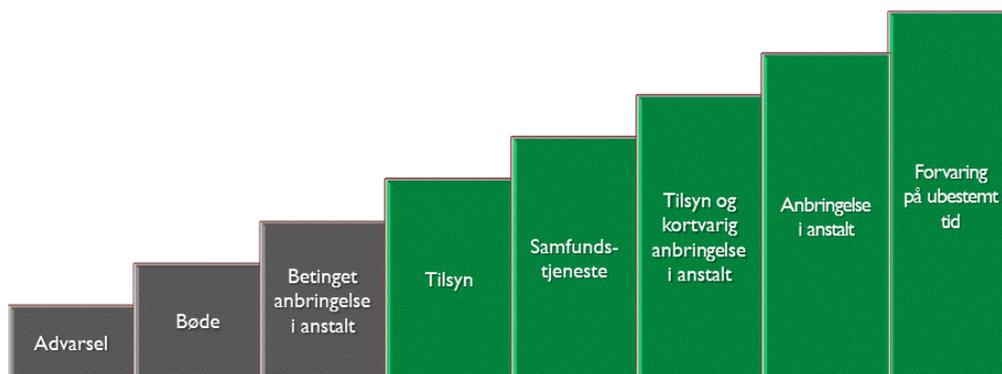
¹⁸ Illustration: Schmidt, Hammer & Lassen Architects.

Se yderligere: <http://shl.dk/dan/#/home/about-architecture/new-correctional-facility-in-nuuk>.

¹⁹ Betænkning nr. 1442/2004, side 818 ff.

En samlet oversigt over de nugældende foranstaltninger i grønlandsk ret illustreres her med en grafisk opstilling af 'foranstaltningsstigen':

'Foranstaltningsstigen'



De grønne trin på stigen markerer de foranstaltninger, som Kriminalforsorgen har ansvaret for at fuldbyrde.

Sanktionsstigemodellen åbner mulighed for, at hele kataloget af foranstaltninger fortsat er til rådighed som reaktion på alle lovovertrædelser. Forskellen fra det danske strafudmålingssystem består først og fremmest i den højere vægtning af resocialiseringshensyn og i, at loven ikke opererer med strafferammer. Dette giver et bredere spillerum for dommerskønnet i den enkelte sag.²⁰

Den grønlandske retsbevidsthed

På initiativ fra Rådet for Grønlands Retsvæsen²¹ har Flemming Balvig i 2014 gennemført en undersøgelse af retsbevidstheden hos den grønlandske befolkning. Undersøgelsen er bygget op på samme måde som tilsvarende undersøgelser i andre nordiske lande.²² Der er dog foretaget visse justeringer, herunder en undersøgelse af holdningen til visse elementer i fuldbyrdelsen af idømte foranstaltninger (Balvig 2015).

Balvig har således undersøgt befolkningens holdning til formålet med at reagere på kriminalitet ved at stille følgende spørgsmål:

Når en person har begået noget kriminelt som f.eks. vold eller tyveri, skal samfundet handle, synes du at måden at handle på først og fremmest skal være for ...

- 1) at skræmme andre fra at begå kriminalitet,

²⁰ Betænkning nr. 1442/2004, side 819.

²¹ Se her om rådet: <http://www.justitsministeriet.dk/ministeriet/råd/rådet-grønlands-retsvæsen>.

²² Læs i Nordisk Tidsskrift for Kriminalvidenskab 2010/3, side 232-250, om den nordiske retsbevidsthedsundersøgelse.

- 2) at straffe gerningsmanden, så han kan mærke, at samfundet taget afstand fra hans kriminalitet, eller
- 3) at hjælpe og støtte gerningsmanden så han ikke gør det igen.

Svarene fremgår af tabel 3. Ansporet af de grønlandske resultater gennemførte Balvig en tilsvarende undersøgelse i Danmark nogle få måneder senere i 2014. Tabellen viser resultaterne fra begge lande.

Tabel 3: Svar på spørgsmål om formålet med samfundets reaktion mod kriminalitet. Svarfordeling i procent.²³

Formål	Svar Grønland	Svar Danmark
Skræmme (almenprævention)	5	12
Straffe (repression)	15	57
Hjælpe og støtte (individualprævention)	77	29
Ved ikke o.lign.	3	2
I ALT	100	100

Det er en meget klar udmelding, der kommer fra den grønlandske befolkning. Formålet med at gribe ind med kriminalretlige foranstaltninger er resocialisering og ikke straf, mener 77 procent af den grønlandske befolkning, medens kun 29 af danskerne har denne opfattelse. Danskerne vil hellere straffe end hjælpe gerningsmanden.

Svarene fra den grønlandske befolkning dokumenterer, at der fortsat er god folkelig opbakning bag grundtanken i den grønlandske kriminallov om resocialisering frem for straf. Det er gerningsmandens behov for hjælp og støtte, der skal være i fokus.

Balvig spurgte også mere specifikt, hvad formålet var med at anbringe en person i anstalt. Spørgsmålet lød således:

Hvis en person efter at have begået kriminalitet dømmes til at opholde sig et stykke tid i en anstalt for domfældte, synes du så, at formålet først og fremmest skal være:

- 1) at straffe ham så han kan mærke at samfundet tager afstand fra hans kriminalitet

ELLER

²³ Balvig 2015:35.

- 2) at han kan modtage hjælp i form af fx behandling (misbrugs-behandling, psykiatrisk behandling el.lign.) for at få bedre muligheder for at leve uden kriminalitet efter løsladelsen.

Svarene fremgår af tabel 4. Svarene ligger på linje med svarene på det mere brede spørgsmål om reaktioner generelt over for lovovertrædere.

Tabel 4: Svar på spørgsmål om formålet med anbringelse i anstalt. Svarfordeling i procent.²⁴

Formål	Svar
Straf	13
Hjælp	86
Ved ikke / vil ikke svare	1
I ALT	100

Det er hjælp og ikke straf, som befolkningen i Grønland forventer af Kriminalforsorgens anstalter. Denne holdning står lidt i modsætning til de argumenter, som i 1963 lå bag indførelse af anbringelse i anstalt som en kriminalretlig foranstaltning, jfr. ovenfor, hvor det er refereret, at anbringelse i anstalt i første række skulle tjene retssikkerheden og den almindelige lovlydighed, hvormed bl.a. mentes generalpræventive hensyn.

²⁴ Balvig 2015:38.

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Den grønlandske fangebefolkning

Annemette Nyborg Lauritsen

En lang række internationale undersøgelser har gennem årene tegnet et billede af indsatte i fængsler rundt om i verden som fattige og marginaliserede (eksempelvis Christie 2001, Nilsson 2002, Wacquant 2008). Størsteparten er mænd, De er unge – yngre end gennemsnitsbefolkningen, de er ugifte eller fraskilte, de er dårligt uddannet og uden fast arbejde, de er hjemløse og oftere syge, og så rekrutteres de primært fra de lavere sociale klasser.

I forhold til den grønlandske fangebefolkning findes der begrænset viden. For at undersøge, om det samme billede tegner sig af den grønlandske fangebefolkning lavede jeg derfor i forbindelse med min ph.d.-afhandling *Anstalten – frihedsberøvelse i Grønland* (Lauritsen 2011) tilbage i 2010 et journalstudie, hvor jeg gennemgik samtlige indsatte journaler på daværende tidspunkt. Jeg vidste ikke, hvad og hvor meget jeg ville finde, da jeg åbnede den første journal. Derfor opstod de forskellige variable undervejs, som arbejdet skred frem. Mit fokus var for det første: De indsatte socioøkonomiske forhold forud for indsættelsen, og for det andet: De resocialiserende tiltag, som de blev stillet overfor under anstaltsopholdet. Da omdrejningspunktet for afhandlingen var de grønlandske anstalter, var det også kun de indsatte, som var anbragt dér, som indgik i journalstudiet. Men for at få det fulde billede af den grønlandske fangebefolkning er det nødvendigt at vende blikket mod Danmark.

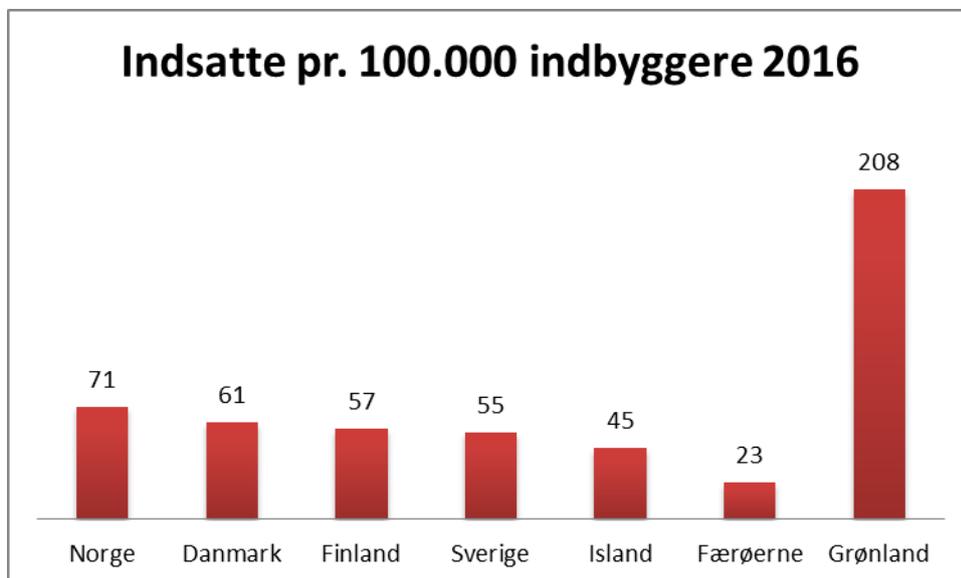
I det danske fængsel, som i dag hedder Herstedvester Fængsel afsoner en gruppe grønlandske mænd. De er dømt ved en grønlandsk ret og sendt 4.000 km. væk for at afsoner en forvaringsdom. Og de må naturligvis også tælles med, hvis vi skal have et retvisende billede af den grønlandske fangebefolkning. Men denne gruppe indgik *ikke* i journalstudiet fra 2010.

Da jeg fortsat er interesseret i at få et tydeligere billede af den grønlandske fangebefolkning, at lave en sammenligning til den øvrige nordiske fangebefolkning og for at søge efter svar på nye spørgsmål, besluttede jeg mig for at gentage journalstudiet.

I oktober 2015 gennemgik jeg igen journaler over alle indsatte, som sad i Grønlands anstalter. Og i marts-april 2016 rejste jeg til Danmark, hvor jeg gennemgik de Herstedvester-dømtes journaler. Så det er langt fra et færdig bearbejdet studie af den grønlandske fangebefolkning der her præsenteres.

Fangetal

Et af de mest anvendte mål til at drage sammenligning af, hvor strengt de forskellige lande straffer, er at sammenligne fangetal. Antal indsatte pr. 100.000 indbyggere. I forhold til de nordiske lande, fordeler fangetallet sig således:



World Prison Brief: www.prisonstudies.org

Med et fangetal på 208 skiller Grønland sig markant ud fra de øvrige nordiske lande. Det grønlandske fangetal er næsten 10 gange så højt som det færøske fangetal. Når det grønlandske fangetal fra "World Prison Brief" anvendes, skal det understreges, at der udelukkende er tale om de indsatte, der afsoner i Grønlands anstalter. Gruppen af de forvaringsdømte grønlændere, der afsoner i Danmark, i Herstedvester Fængsel indgår *ikke* i dette tal. Den grønlandske fangebefolkning er altså større end det fremgår af WPB's tal.

Anstaltskapacitet, belægningsprocent

I Grønland findes ingen fængsler – men bare et svimlende højt fangetal. Først i 2018 får Grønland sit første fængsel – eller lukkede anstalt, som den kaldes. Hvor det blandt andet er hensigten, at de, som i øjeblikket sendes til det danske fængsel, skal afsone.

Hidtil har afsoning foregået i de såkaldte åbne anstalter, hvor den bagvedliggende ideologi byggede på gerningsmandsprincippet og princip om resocialisering. Tanken var at den enkelte domfældte skulle hjælpes til en kriminalitetsfri tilværelse – i stedet for at blive straffet. Dette skulle blandt andet ske ved, at de gik på arbejde eller uddannelse i byen, samtidig med at de afsonede i anstalten. Med årene har disse anstalter dog udviklet sig til særdeles lukkede institutioner, hvor det kun er et fåtal af de indsatte, der mærker noget til den åbne anstalts principper.

Den samlede anstaltskapacitet har svinget lidt i de senere år. Da det første journalstudie blev gennemført i 2010 var den samlede anstaltskapacitet på 182 pladser. På daværende tidspunkt var der 180 indsatte, hvilket vil sige en belægningsprocent på 98,9 pct.

Fem år efter i efteråret 2015 var anstaltskapaciteten faldet til 154 pladser med blot 122 indsatte. Hvilket vil sige en belægningsprocent på 79,2 pct.

En positiv udvikling, som registreres på World Prison Brief's liste med et meget stort fald – nemlig fra knap 300 indsatte pr. 100.000 indbyggere i 2010 til de nuværende 208 – som dog stadig er meget, meget højt.

Kriminallov - sanktionsstige

Det særlige ved Grønlands kriminallov (Kriminallov for Grønland af 5. marts 1954) er, at man ikke straffer, men foranstalter. Den oprindelige kriminallov fra 1954 hvilede på gerningsmandsprincippet, hvor båndet mellem skyld og straf var brudt. Foranstaltninger skulle vælges ud fra, hvad der tjente gerningsmandens genindtræden i samfundet bedst.

I 2010 fik Grønland en ny kriminallov (Kriminallov for Grønland, Lov nr. 306 af 2008), hvor gernings- og gerningsmandsprincippet kombineres, en såkaldt sanktionsstigemodel. Som navnet antyder, opereres der med et antal sanktioner, der spænder fra advarsel, bøde, betinget dom, tilsyn, samfundstjeneste, anstalt og med forvaring som den hårdeste sanktion. Sanktionsstigemodellen giver mere detaljerede retningslinjer for fastsættelse af foranstaltninger, og når gernings- og gerningsmandsprincippet kombineres giver modellen en højere grad af forudsigelighed i foranstaltningssystemet (Retsvæsenkommission 2004, bind 3: 815-824). Frihedsberøvelse finder vi på de øverste trin af sanktionsstigen, som enten "dom til anstalt" eller en forvaringsdom.

Af kriminallovens § 147 fremgår det, at anbringelse i anstalt ikke må overstige 10 år. De tidsbestemte anstaltdomme er da også forholdsvis korte set i forhold til eksempelvis danske forhold. En dom for drab vil typisk udløse en anstaltdom på mellem 5 og 7 år, hvor det i Danmark vil være mere end dobbelt så lang tid.

I 2010 var 28,3 pct. af landets indsatte tilbageholdt (varetægtsfængslede) – dvs. de ventede på at modtage dom. I journalstudiet fra efteråret 2015 udgjorde antallet af tilbageholdte et mindre fald, da det her var 23,8 pct. af de indsatte i Grønlands anstalter. For de øvrige fordeler afsoningstiden sig således:

	2010 (N=180)	2015 (N=122)
0-2 måneder	10,5 %	3,3 %
3-5 måneder	7,2 %	7,4 %

6-8 måneder	6,6 %	10,6 %
9-11 måneder	4,4 %	7,4 %
1-2 år	20 %	18,8 %
3-4 år	10,5 %	11,5 %
5 år	4,4 %	2,5 %
6 år	1,6 %	4,9 %
Over 6 år	2,8 %	3,3 %
Forvaring	2,8 %	6,5 %

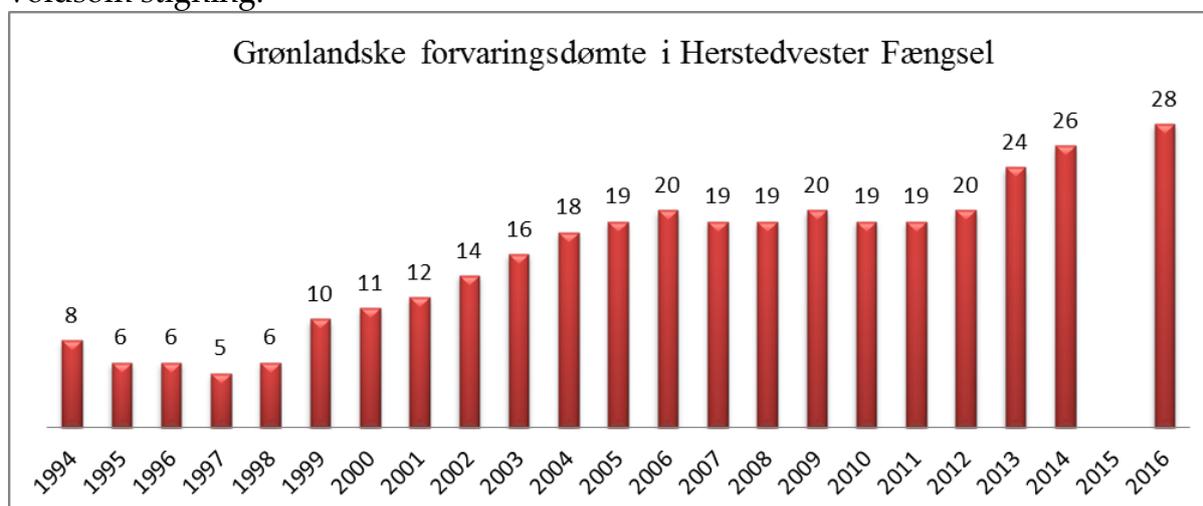
Som det fremgår afsonede den største gruppe indsatte – både i 2010 og i 2015 – domme på mellem 1 og 2 år.

Forvaring

I 2010 afsonede 2,8 pct. af de indsatte, en forvaringsdom i en grønlandsk anstalt, mens det i 2015 var steget til 6,5 pct. af de indsatte i Grønlands anstalter.

Forvaring på ubestemt tid idømmes ud fra kriminallovens § 161 og kan enten foregå i en grønlandsk anstalt eller som det fremgår af stk. 2 i samme § "en psykiatrisk ledet anstalt under kriminalforsorgen i Danmark", hvilket i praksis vil sige det danske Herstedvester Fængsel.

Hvis man udelukkende studerer det grønlandske fangetal, ud fra indsatte i de grønlandske anstalter, er der som nævnt tegn på en positiv udvikling med et dalende fangetal. Men hvis vi inddrager den gruppe, som er sendt til afsoning i Danmark er udviklingen måske alligevel ikke så strålende. I de sidste 20 år er sket en voldsom stigning.



Da jeg i foråret 2016 gennemførte journalstudiet i Herstedvester Fængsel, bestod gruppen af grønlandske forvaringsdømte af 28 indsatte. Det vil altså sige, at den grønlandske fangebefolkning ikke er på 122 indsatte – men på 150, hvoraf 19 pct. er sendt til afsoning i Danmark.

Hvis vi medregner de 8 forvaringsdømte, som afsoner i Grønlandske anstalter er der tale om 24 pct. af den grønlandske fangebefolkning, som afsoner en forvaringsdom. 36 forvaringsdømte – hvoraf – de 28 er sendt til Danmark, lyder måske ikke af meget. Men det skal her tages i betragtning, at den grønlandske befolkning er en lille befolkning på knap 56.000 indbyggere. Hvis vi ganger op i forhold til det danske befolkningstal, ville det svare til, at Danmark skulle have mere end 3.500 forvaringsdømte.

Ifølge kriminallovens § 161, kan forvaring på ubestemt tid anvendes hvis:

§ 161. Forvaring på ubestemt tid kan anvendes, hvis

- 1) gerningsmanden findes skyldig i drab, røveri, frihedsberøvelse, alvorlig voldsforbrydelse, trusler af den i § 98 nævnte art, voldtægt eller anden alvorlig seksualforbrydelse eller brandstiftelse eller i forsøg på en af de nævnte forbrydelser,*
- 2) det efter karakteren af det begåede forhold og oplysningerne om den pågældende, herunder navnlig om tidligere kriminalitet, må antages, at den pågældende frembyder nærliggende fare for andres liv, legeme, helbred eller frihed, og*
- 3) anvendelse af forvaring er nødvendig for at forebygge denne fare.*

Det vil sige, at den dømte for det første er fundet skyldig i en alvorlig personfarlig forbrydelse. For det andet at det vurderes, at vedkommende fortsat frembyder en nærliggende fare for andres liv og legeme. Og i forhold til de, som sendes til Herstedvester, vurderes gerningsmanden pga. psykisk afvigelse uegnet til anbringelse i en Grønlandsk anstalt. At den dømte vurderes farlig og evt. psykisk afvigende, er der naturligvis eksperter, som har vurderet. Det er sket gennem en mentalundersøgelse, som ofte er blevet foretaget på et dansk hospital af danske psykologer og psykiatere. På baggrund af undersøgelsen udarbejdes en mentalerklæring, som er dommernes vigtigste redskab til at vurdere, om en tiltalt skal idømmes forvaring og om forvaringsdommen skal afsones i Danmark. En fjerdedel af den grønlandske fangebefolkning – 24 pct. – udgør altså en sådan farlighed, at de grønlandske dommere har fundet en forvaringsdom passende, mens 19 pct. er psykisk afvigende af en sådan grad, at de ikke kan afsones i Grønland og må sendes til et dansk fængsel.

En tidsubestemt forvaringsdom er den absolut strengeste foranstaltning i den grønlandske kriminallov. Og når der står den er tidsubestemt – så menes der virkelig, at det er på ubestemt tid. Efter at have afsonet i 3 år kan en forvaringsdømt for første gang få prøvet sin sag i retten med henblik på en foranstaltningsændring.

Herefter kommer sagen for retten hvert andet år. Til forskel fra den tidsbestemte anstaltsanbringelse, hvor længstetiden som nævnt er 10 år – så er der ingen længstetid for forvaringsdømte, hvilket betyder, at nogle af de dømte har afsonet i virkelig mange år. For de 28 indsatte i Herstedvester har afsoningen været følgende:

1-5 år	10 indsatte
5-10 år	5 indsatte
10-15 år	7 indsatte
Over 15 år	6 indsatte

13 af de 28 indsatte har afsonet i det danske fængsel i mere end 10 år, og 3 har været i Herstedvester mere end 20 år.

Spørgsmålet er, hvorfor der er så mange grønlandske forvaringsdømte? Er så stor en andel af den grønlandske fangebefolkning virkelig så farlige og psykisk afvigende?

Der skal ikke herske tvivl om, at alle forvaringsdømte er dømt for særdeles alvorlig personfarlig kriminalitet. Men det er de ikke de eneste der er. Den registrerede kriminalitet i Grønland vidner om et brutalt kriminalitetsbillede. Antallet af voldsanmeldelser i Grønland er ca. 4 gange så højt som i Danmark, mens anmeldelser om drab og sædelighedsforbrydelser er mere end 10 gange højere end det danske antal (Grønlands Politi 2016). Kriminalitetsbilledet i Grønland er brutalt – men Grønland er ikke et brutalt samfund. Der er nærmere tale om et udpint samfund.

Levevilkår i Grønland – Opvækst, omsorgssvigtets konsekvenser

I februar i år offentliggjorde Statens Institut for Folkesundhed en rapport med titlen "Befolkningsundersøgelsen i Grønland – levevilkår, livsstil og helbred" (SIFs Grønlandsskrifter 2016). En trist rapport, der netop vidner om en udpint befolkning. Der er tale om en meget omfattende undersøgelse, hvor resultaterne bygger på interview, spørgeskema og kliniske undersøgelser med i alt 2.100 personer over 18 år, der indgik i undersøgelsen. En del af undersøgelsen havde fokus på opvækstvilkår. Her fremgik det, for gruppen født efter midten af 1960'erne, at 70 pct. – eller flere havde været udsat for enten alkoholproblemer i barndomshjemmet, vold eller seksuelle overgreb. For de 18-29-årige viste undersøgelsen, at 33 pct. havde været udsat for seksuelle overgreb inden de fyldte 18 år (SIF 2016: 27). Flere undersøgelser viser det samme. I 2009 viste en rapport fra det danske Socialforsknings Institut, at 27 pct. af børn under 15 år var udsat for omsorgssvigt (Christensen 2009). Mens endnu en levevilkårsundersøgelse nåede frem til, at 28 pct.

af pigerne og 9 pct. af drengene mellem 15 og 18 år i 2004, som indgik i undersøgelsen havde været udsat for seksuelle overgreb (Curtis 2006).

Det er altså rimeligt veldokumenteret, at det for en del mennesker, har været svært at vokse op i Grønland. Og det har jo naturligvis også været tilfældet for en stor del af den grønlandske fangebefolkning.

Som nævnt har de forvaringsdømte grønlændere gennemgået en mentalundersøgelse forud for dommen. De fleste er vurderet farlige og som psykisk afvigende. Men når man dykker ned i deres mentalerklæringer, bliver det tydeligt, at for en del af dem er dette et resultat af netop en vanskelig opvækst. Her dukkede blandt andet følgende sætninger op:

"Emotionelt tidligt skadet"

"Dissocieret personlighed på baggrund af omsorgssvigt og mange års psykisk vold"

"Lang tids krænkelse har ført til en personlighedsforstyrrelse".

Mange af de oplysninger, som findes i de indsattes journaler og mentalerklæringer burde være offentligt kendt – ikke bare i retssalene – men i særdeleshed også hos de grønlandske beslutningstagere, politikere og myndigheder. En holdning, som jeg gætter på en læge, der havde foretaget en personundersøgelse, deler. Vedkommende havde skrevet følgende lille notits i en journal:

"gennem opvækst flere voldsomme episoder, der må have været alment kendt. Myndighederne har flere notater herom. Det kan undre, at myndigheder og lokalsamfund ikke har reageret, og aktuelle sag bør give anledning til revurdering af indsatsen for børn og unge".

Problemet er bare, at der i Grønland er mangel på uddannet behandlingspersonale. En realitet, som de grønlandske dommere, måske skeler til, når de afsiger en forvaringsdom til Herstedvester, eller når de ikke imødekommer en foranstaltningsændringssag. I en kredsretsdom med afslag på foranstaltningsændring begrundede kredsdommeren sin beslutning på denne måde:

"Herstedvester er bedre til at hjælpe ham, end man er i Grønland. Her er der mulighed for at blive behandlet af uddannet fagfolk".

Selv mord

For en stor del af den grønlandske fangebefolkning gælder, at det ikke blot er andre mennesker, de har forvoldt skade. Mange har skadet sig selv, og en del af de dømte har flere selvmordsforsøg bag sig. Desværre er det ikke unormalt i Grønland. Forekomsten af selvmord i Grønland hører til blandt den højeste i verden. Ungdommen er en sårbar periode, og det afspejler sig i raten for selvmord og

selvmordstanker hos unge grønlandere. Et fænomen, som ses i alle arktiske egne (SIF 2016:65-68).

I forhold til selvmord kan man måske tale om at det unormale bliver normalt. De fleste i Grønland har været berørt af selvmord og har mistet familie og venner til selvmord.

Med det netop gennemførte journalstudie var det hensigten at indsamle og kategorisere så mange baggrundsoplysninger om de indsatte som muligt. I forhold til deres opvækst, har jeg ledt efter oplysninger om, hvor de var opvokset, om det var i egen familie, plejefamilie eller døgninstitution. Jeg har set på forholdene i barndomshjemmet, om der var vold og misbrug. Og så har jeg ledt efter oplysninger om hvorvidt de har været udsat for omsorgssvigt eller er blevet seksuelt misbrugt i deres barndom.

Desuden er der søgt efter relationer. Hvilke relationer er der mellem indsatte og forurettede? Er der tale om familiemedlemmer eller er det personer, de ikke har relationer til? Har de selv familie og børn – og hvis de har børn, er der søgt efter oplysninger om, hvor børnene er placeret, mens de afsoner. Og endelig var det ønsket at finde frem til, om de indsatte har forældre eller andre familiemedlemmer, som har afsonet i anstalt.

Som nævnt er det grønlandske kriminalitetsbillede vældig brutalt. Der er tale om særdeles alvorlig personfarlig kriminalitet i et meget stort omfang. Men måske bør den voldsomme kriminalitet vi ser i Grønland ikke kaldes kriminalitet. Måske er der nærmere tale om et fænomen, der hænger tæt sammen med selvmord. Det er sig selv og sine nærmeste, man forvolder skade – og derved er der måske tale om en form for udvidet selvmord?

Mønsterbrydere

Grønland er indehaver af en lang række triste verdensrekorder. Verdensrekorder der indebærer selvmord, misbrug, omsorgssvigtede børn og kriminalitet. Men jeg vil våge den påstand, at Grønland også har verdensrekord i mønsterbrydere. Stærke mennesker, der mod alle odds bryder med deres sociale arv.

Blandt Grønlands mange mønsterbrydere findes en unge kvinde, der i år er indstillet til Nordisk Råds litteraturpris. Sørine Steenholdt hedder hun. I 2015 udgav hun den samfundskritiske bog, novellesamlingen "Zombie Nunaat – Zombie Land". Sørine Steenholdts projekt med denne bog har været, at give stemme til Grønlands omsorgssvigtede børn. På en af bogens sidste sider, dukker dette afsnit frem:

"Min mor drak i rigtig mange år. I løbet af mange år ødelagde hun langsomt sin krop. Hendes lunger, lever, hjerne og andre organer blev beskadiget på grund af ulykker hun kom ud for, når hun drak. Hun forårsagede sine egne skader. I fuldskab forsøgte hun at begå selvmord og rev alle sin fingerled over, så hun ikke længere kunne bruge dem. I fuldskab

væltede hun og slog sit hoved voldsomt, så hun fik en lille hjerneblødning, og halvdelen af hendes krop blev svagere. Og i fuldskab faldt hun og beskadigede sit knæ og var nødt til at blive opereret. Efter operationen tog hun på druk så ofte, at hendes knæ ikke heledede korrekt, og hun kunne ikke længere bruge sit ben ordentligt. Hun lod sig tæske af tilfældige mænd og fik en masse ar på hovedet, i ansigtet og på kroppen. For mig at se begik hun selvmord... langsomt" (Steenholdt 2015: 120).

Spørgsmålet er, om det kriminalitetsbillede der tegner sig i Grønland, er et billede af omsorgssvigtede børn, der er blevet voksne. Og deres forbrydelse er, som Sørine Steenholdt skriver – et langsom og udvidet selvmord?

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World Prison Brief: www.prisonstudies.org

(No) Laughing Allowed – Humorous Boundary-making in Prison

Julie Laursen

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Abstract

This article examines humour in prison-based cognitive-behavioural programs. The empirical data from fieldwork in three different program settings illuminates how the social interactions in the lessons are, surprisingly, saturated with humour. Humorous interactions and jocular stories serve as a lubricant in the lessons, but they also function as disruptions and boundary-making between the participants and the instructors. To that end humour becomes a medium and a tool for prisoners to preserve autonomy and dignity in the infantilising nature of the program curriculum. My findings advance understandings of the meanings of humour in prisons in general and in cognitive-behavioural programs in particular while showing the limits of soft power in therapeutic settings.

Keywords: humour, cognitive-behavioural programs, prisons, boundary-making, dignity

Introduction

One of the two groups works very seriously with the task and produces a commercial for football boots. The second group goes about the task in a humorous fashion and there is constant giggling and laughter from their end of the room. The second group finally presents the commercial: 'Your Organic Smoking Shop' targeted readers of 'Gateway to Hope'¹ and other Danish prisoner magazines. The group has developed a new environmentally conscious way of smuggling marihuana into the prison by way of a delivery cycle. The slogan for the commercial is 'You call, we throw' [hinting at the fact that sometimes marihuana is thrown over the prison fence]. To add credibility to their commercial, the group has added the testimony of a satisfied customer.

¹ 'Gateway of Hope' [Håbets port] is a Danish magazine written by and for prisoners and distributed in all Danish prisons.

The participants in the cognitive-behavioural program Cognitive Skills were taught how commercials are designed to convince us to buy more. I was struggling not to giggle when the participants came up with the creative commercial on organic marijuana transportation, but it did not feel appropriate for me to laugh while the instructor tried to communicate a serious message while it seemed completely natural for the participants to laugh at each other's jokes and horseplay. Humour seemed to be closely related to boundary-making as 'elements of the joking culture serve to smooth group interaction, share affiliation, separate the group from outsiders and secure the compliance of group members through social control' (Fine & De Soucey 2005:1). Humour thus creates coherence between the participants which often serves to create boundaries between them and the instructor. This friction sparked my interest in humour in cognitive-behavioural programs (hereafter CBPs). This article is structured by the following research question: how does humour function in CPBs as boundary-making? I seek to answer this question by analysing three distinct patterns of humour; a) when both the instructors and prisoners laugh, b) when instructors, but not prisoners laugh and c) when prisoners, but not instructors laugh. Following this, I discuss ethnicity as a contested medium for humour where after I raise questions about different interpretations of humour and the limits of power in the concluding discussion.

The context

Since humour itself is a form of metacommunication (Bateson 1952), its meaning and social function can only be understood in relation to the context within which it appears (Rossell 1981:196; Douglas 1991:106). Here, the context is Danish prisons that are renowned for an emphasis on normalization, humane prison regimes and low incarceration rates (Pratt 2008). However, new rehabilitative attempts corresponding to the 'What Works' era of neoliberal rehabilitation were implemented in Danish Prisons in 1994 (Smith 2006) following the Canadian forerunners (Ross & Fabiano 1988). Currently seven different programmes are available across the Danish Prison and Probation service². The programs were implemented because of their promised ability to reduce recidivism and improve the participants' social and interpersonal skills. The Canadian program developers (Ross & Fabiano 1988) claim that 'offenders' are more likely to be impulsive, egocentric, rigid in their views, and poor at problem solving, perspective taking, and critical reasoning. The CBPs focus on individual responsibility and expect participants to set their own standards for appropriate conduct through self-reflective analysis and assessment of the value of their own thoughts and behaviour (Sjöberg and Windfeldt 2008:39). Activities in a session

² In 2013 504 offenders participated in the seven different cognitive-behavioural programs offered by the Danish penal services. As approximately 4000 people were imprisoned and 8000 on probation/under surveillance this year (Annual Report 2013), this may not come across as a high number, but since most prisoners are imprisoned for too short sentences to engage in training programs, the coverage is actually quite high (Prieur et. al. forthcoming).

include role plays, thinking games, dilemma puzzles and exercises in critical thinking (Ross & Fabiano 1988). These activities are meant to challenge the offender's egocentric thinking and increase critical thinking, perspective taking and reasoning skills.

Participation in CBPs in Danish Prisons is in principal voluntary. However, this could be termed as a 'coerced voluntarism' (Peyrot 1985) since prisoners are rewarded an early release, i.e. half time, if they demonstrate a special effort (such as engaging in CBPs or drug treatment) to start afresh without crime (Nielsen 2012:139). This coerced voluntarism adds an extra dimension to the subordination that prisoners undergo. Goffman (1961) gives a sensitive account of the mortification of self the inmate in 'total institutions' has to endure as his privacy is invaded, he is programmed as a number and his old self is insulted. If we relate these characteristics of the total institution to newer rehabilitative efforts, Fox (1999:97) shows how prisoners' 'sensibilities, decisions, feelings, and values are targets for evaluation, confession, and correction in cognitive self-change'. Crewe (2011) coins this cognitive self-change 'normative imperialism' in which prisoners feel that the CBPs are instructing them to be different kinds of persons – robotic prototypes of responsible citizenship that could not survive the realities of life in the environments from which they are drawn. Crewe's research does not focus on humour, but a statement from one of his informants points to the difficulties in walking a tightrope between acceptable jokes and avoiding repercussions in the CBPs: 'I made a joke about sedating my girlfriend to take her on holiday [as part of a course scenario] – in the report they gave no context, said that my idea of getting someone on a plane was sedating them! I got knocked back, based on the psychologists' reports' (Prisoner cited in Crewe 2011:516). This example adds credibility to Foucault's (1977) argument about power being diffuse and decentralized, operating in a manner that is 'light' but anonymous. Power is thus demanding without seeming coercive, everywhere but nowhere (Crewe 2011: 515). For Foucault, the prisoner is not regulated by 'an *exterior* relation of power...but the individual is formed or, rather, formulated through his discursively constituted 'identity' as prisoner' (Butler 1997:84). This soft power in CBPs rests upon a particular construction of abnormality, distorted thinking, and 'antisocial' behaviour and thus constitutes a 'regime of truth' (Foucault 1982). It is tempting to follow earlier research on resistance in prison (e.g. Bosworth & Carrabine 2001; Ugelvik 2011) and coin the prisoners' humour as resistance against this type of power. However, Rubin (2015:27) argues that prison researchers in general overuse the concept of resistance and proposes instead the term *friction*. Rubin suggests that we understand 'friction as individual's actions that render power incomplete' thus highlighting that many acts of fighting back towards power is about ameliorating one's own condition rather than undermining the prison regime. The concept of friction allows me to ana-

lyse humour as one of the ways prisoners struggle to maintain dignity³ and autonomy rather than as hostile attempts to undermine the instructor or the CBPs. Humour in CBPs should then rather be understood as temporary suspensions of the social structure than a threatening of reason and order (Douglas 1991:107). Furthermore, Scandinavian prison practices seem to allow for larger amounts of explicit resistance as long as it remains well-meant, rational and eventually leads to compliance (Shammas 2014; Ugelvik 2011), which has important implications for the appearance, nature, reception, and the permitted humour in CBPs.

Functions of humour

This article departs in analyses of humour as meta-communicational processes (Rosel 1981:196), thus it revolves around the motivation that lies behind the use of humour and its social impact or function. The following review of theory and research on humour is divided into two subcategories relevant for the analysis: characteristics of humour and humour in institutional settings.

Characteristics of humour

In general, theories on humour fall into three broad categories: superiority, relief, and incongruity theory⁴ (Watson 2015:409). Importantly, humour can neutralize uncomfortable, but repeated experiences such as asymmetrical power relations and infantilising situations. Both disciplinary and rebellious humour should be understood in relation to social order. According to Billig, 'whereas disciplinary humour mocks the powerless, rebellious humour can delight in taking the powerful as its target' (Billig 2005:208). Douglas (1991:104) argues that humour connects and disorganises, it attacks sense and hierarchies. This is in line with Bourdieu's arguments about the quality of humour:

'The joke [...] is the art of making fun without raising anger, by means of ritual mockery or insults which are neutralized by their very excess and which, presupposing a great familiarity, both in the knowledge they use and the freedom with which they use it, are in fact tokens of attention or affection, ways of building up while seeming to run down, of accepting while seeming to condemn... (Bourdieu 1984:183).

Following Bourdieu's line of reasoning, humour can function as a safety valve, a sort of sanctuary where one is allowed to say almost anything as long as the statement is

³ I follow Michael Rosen's (2012) definition of dignity as the acknowledgement of a kernel of value that each of us carries within ourselves - the right to be treated with proper respect.

⁴ 1) The superiority theory (we find humour in the misfortunes of others to the ridicule of something or someone), 2) the relief theory as pioneered by Freud (1950) (we laugh to release emotional or psychic tension) and 3) the incongruity theory where Kant (2008[1790]: 161) defines laughter as 'an affection arising from the sudden transformation of a strained expectation being reduced to nothing'.

followed by a disclaimer; 'it was just a joke' (Fine & De Soucey 2005:3). Friedman (2014:367) discusses the relationship between humour and class and shows how the culturally privileged in the UK mobilize comedy as an instrument of distinction. Appreciation of humour thus functions as boundary-making between groups with lower and higher cultural capital. However, appreciation of humour and execution of jokes is not solely a tool for the powerful as 'the comic, the power of laughter, lies in the man who laughs, not in the object of laughter' (Baudelaire 1884:370). Thus, a joke can be seen as an attack upon something formal and organised, by something vital, and energetic; in essence a joke is an attack upon controls (Douglas 1991:95). This is in line with Bakhtin's (1981:15) analysis of the carnival which involved a temporary suspension of all social rules and etiquette. The 'carnavalesque' laughter is thus a comic state of being that functioned as a respite from official order and the everyday repression of the lower classes. Thus the carnival became a site of festivity and liberation wherein boundaries and hierarchies were inverted or overcome, rationalism and fear were revoked and seriousness was repealed, if only briefly. Humour thus has the ability to turn hierarchies upside down and play with boundaries in a non-dangerous manner.

Humour in institutional settings

A widespread use of humour has been observed in prisons (Crawley 2004; Goffman 1961; Kristoffersen 1986; Mathiesen 1965; Tracy et al. 2006), but there are only a few studies with explicitly focus on humour. These studies primarily show that humour is used to cope under difficult conditions in prison, both by staff members (Crawley 2004; Nylander et al 2011), and prisoners (Geer 2002). Sykes argued that the pains of imprisonment 'carry a more profound hurt as a set of threats or attacks which are directed against the very foundations of the prisoner's being' (Sykes 1958:79). Mathiesen (1965:148) argues that humour is embedded in the 'defences of the weak' and may help to alleviate the pains of imprisonment. Thus, humour in prison may serve to release tensions, avoid aggression and to create an easier everyday life. Following Radcliffe-Brown (1952), Nielsen (2011) coins the humorous interactions between prisoners and staff as 'joking relationships' and shows how officers and prisoners 'play' with power relations by way of switching roles and pretending that the prisoner rather than the officer is in charge. Terry (1997:32) argues that humour in prison allows for the rare expression of vulnerability. Prisoners use humour as an attempt to undermine the strength of the many voices of the correctional system that continually attempt to manage and control them. This subtle resistance, or friction, highlights the struggle prisoners undergo to retain a sense of choice and autonomy in a situation where they are relatively powerless (Bosworth & Carrabine 2001:505).

Previous research on humour among men and boys suggests that jocular mockery as well as the ability to take a joke and give back is important components of male identity constructions (Evaldsson 2005; Haugh & Bousfield 2012; Schnurr and Holmes

2009). Willis (1978) shows how 'having a laff' is a multi-faceted implement of extraordinary importance in 'the lads' counter school culture. Willis argues that 'having a laff' defeats boredom and fear, helps overcome hardship and problems and in many ways 'is the privileged instrument of the informal, as the command is of the formal' (Willis 1978:29). Importantly, the school setting produces and shapes the particular ambiance of 'the lads' distinctive humour and specific themes of authority are explored, played with and used in their humour. However, 'the lads' jocular mockery is not solely directed at authorities, but flows wildly as 'piss-taking', rough psychological interaction, and as quick and witty responses in their intra-group dynamics as well (Willis 1978:32). Other critical sociological studies of humour in institutional settings include examinations of humour in a drug treatment facility (Andersen 2015), an unemployment office (Mik-Meyer 2007), and in young offender institutions (Franzén & Aronsson 2013:1). These studies show how the intrinsic ambiguity of humour and teasing allows staff members to engage in temporary breaches of social order, while simultaneously enforcing local rules of conduct. As we shall see below, humour seems to allow the participants in CBPs to create and maintain boundaries between themselves and the instructors while they struggle to maintain a sense of autonomy and dignity.

Data and Methods

The data analysed in this article come from fieldwork, individual and focus group interviews, and informal conversations with many different actors in the Danish Prison and Probation Service. I have conducted around 150 hours of semi-ethnographic (Stevens 2012) fieldwork and 11 open-ended, semi-structured interviews in three Danish prisons settings: two maximum-security and one minimum-security prison. As I mainly draw on observational material, I will not go into details about the interview material (see Author 2015; 2016). Besides the observational data, I draw on a research workshop which I conducted in an annual meeting for the instructors in the Danish Prison Service. I presented my initial findings on humour and asked the 12 participating instructors to discuss the meanings of humour in small groups where after we discussed their findings in plenum. I recorded this discussion and transcribed it verbatim. Field notes and transcriptions have been translated from Danish into English. The prisons as well as all names of the participants and instructors have been anonymised to protect the identities of the individuals. The fieldwork consisted of 'moderate participation' (Spradley 1980) in one *Cognitive Skills* programme and three different *Anger Management* programmes. The programmes consist of 38 lessons and eight lessons respectively in which the participants go through lectures, group work, role plays and exercises in critical thinking (Sjöberg and Windfeldt 2008). The observed programs were group-based and consisted of 4-6 participants. Out of 24 participants in total, 13 had non-Danish backgrounds. The participants were all male and between 18 and 50 years old with a skew towards younger participants (41 % were between 18-25 years of age). The in-

structors are all prison officers who have gone through a three week training course plus one year of supervision before they are certified as CBP instructors.

It is difficult to say whether the participants' use of humour was exaggerated by my presence (as found in other studies; see Kehily & Nayak 1997:78), but, in alignment with my impression, all of the instructors said that the participants seemed unaffected by my presence. Nevertheless, my presence as a relatively young, female researcher may have contributed to the jocular stories in the programs. As laid out in the introduction to this article, I often found myself struggling not to laugh when the participants cracked jokes or turned role plays into comedy shows. Liebling (2001), following Becker (1967), argues that prison researchers must navigate the balance of 'whose side to be on', i.e. the officers or the prisoners. Ethnography entails deep enmeshment in the social realities of those studied, and a fine-tuned body and mind towards the social clues of the field (Hastrup 2004). Taking social clues means knowing or feeling when to laugh or not. I especially struggled to balance my loyalties towards the instructors and the participants whenever it felt inappropriate to laugh out of loyalty towards either party.

Analysis

My goal is to provide insight into how humour saturates CBPs and how laughter, or non-laughter, influences the sociality of the groups. I use extracts from observation to show how the participants use humour as boundary work and as a tool for restoring autonomy and dignity. The analysis is divided into three parts which in turn examines situations when a) both participants and instructors laugh, b) when instructors, but not prisoners laugh, and finally c) when prisoners, but not instructors laugh. Lastly, I discuss humorous boundary-making in relation to ethnicity.

When both participants and instructors laugh

We use humour as a tool and an instrument because the tensions between inmates and officers can be high. I believe there is a lot of humour in the Danish Prison Service because humour is a way for us and the inmates to survive (CPB instructor).

Indeed, humour has been found to be beneficial in deescalating trouble, and, a way for prison officers to avert the disciplinary gaze (see Emerson & Messinger 1977). Jocular interactions and well-functioning humour seems to enforce cohesion and build, if not trusting, then pleasant bonds between the instructors and participants. I witnessed the playful interactions between prison officers and participants on numerous occasions; as for instance on the first day of fieldwork in a maximum security prison. The instructor and I were walking down the wing with four participants when an officer called out: 'are you guys going to an art workshop?' in a slightly

amused and condescending tone. The participants almost squealed with laughter and replied 'no man, Anger Management'! When we arrived at the classroom, the instructor, Mohammad, experienced technical difficulties during the very first lesson. He was supposed to show the participants a video-recording of their own role play, but the equipment failed. The participant, Kasper, then said mockingly 'it's fucked up that we can't see the video' and Mohammad replied 'yeah, I also think it's fucked up'. All of the participants teased Mohammad and said: 'we have come well prepared, so you should be as well'. This insult in disguise did not lead to any repercussions, but on the contrary seemed to have a positive effect on the group as a whole. Mohammad was not afraid to admit his own shortcomings and the relaxed atmosphere seemed to set the tone in the group. The ability of humour to break down hierarchies and boundaries were also on display when the instructor, Sussie, was demonstrating 'aggressive body language' in Anger Management. She threw things, shouted and was threatening in her body language, which made all the participants laugh hard. The instructor, Michael, did a similar jocular demonstration of aggressive body language in Anger Management where he severely overstepped personal boundaries by placing himself way too close to the participants, waving his arms, and changing his tone and voice in an aggressive manner, which made everyone laugh.

Another successful jocular interaction between instructors and participants is seen when the participants negotiate whether they will get 'half time' if they fulfil the obligations set by the instructor and thus pass the program. Despite the obvious power asymmetry at play here, the instructors and participants are oftentimes able to joke about the conditions. This was displayed when the instructor suggested that the participants should set up an acting class after Cognitive Skills finished due to their talents as actors in the role plays. The participants replied 'yeah, for sure – if we get half time for doing it'! The joke brings into relation disparate elements thus resulting in that 'one accepted pattern is challenged by the appearance of another which in some way was hidden by the first' (Douglas 1991:96). This jocular episode resonates with Nielsen's (2011) findings in her study of 'joking relationships' among prisoners and officers. She describes a situation where an officer pretends to give a prisoner his keys thus playing with the obvious power asymmetries between them. However, this example also highlights the limits of humour; no real or efficient change in the power balance is made and normal order is restored immediately after the interactions. Another example of humour between instructors and participants is seen when the instructor, Mohammad, asked the participant, Viktor, to place himself upon signs on the floor with respectively 'passive' 'aggressive' and 'assertive' written on them according to his behaviour in relations to the police, his mother-in-law, and family and prison officers. He mostly chose passive or assertive, but also aggressive in relations to his mother-in-law. Then it was Ahmad's turn and he placed himself firmly on the 'passive' sign in relations to his parents and mother-in-law which made everyone laugh, while they exclaimed that this behaviour was due to his eth-

nic minority background. This is an example of 'ethnic humour' gone well, but I will return to more problematic types in the discussion.

Previous studies have shown how many jokes deal with tendentious topics such as sex, aggression, and ethnic insult (Fry 1963; Davies 1990). Adding to this, another vernacular for shared humour between the instructors and participants in the CPBs is jocular stories embedded in the prison folklore (as seen in hospitals, see Coser 1959:176), such as stories or enactments of 'funny violence'. They can be a principal source of laughter, excitement and pleasure in which violence is legitimized as 'just for fun'. The participants were often asked to 'consider all alternatives' when confronted with a possible tense or violent situation. This request to self-reflect and critically assess the value of one's own thoughts would sometimes result in jokes. These jocular stories are perhaps also an attempt to restore a (masculine) sense of autonomy and dignity, as seen when Michael said: 'well, I wouldn't want to kill him, just stomp on him a little bit'. This remark made everyone laugh, including the instructor. Instead of correcting Michael, the instructor said: 'that's alright; if you've been completely wild and then learn to just slap someone - that's great!' The participants continued to joke and said that 'a sweaty hand and a slap go well together - then it says splash!' which also resulted in laughter from everyone present. In another example of an exercise in 'considering all alternatives' when faced with a potential conflict, the instructor Mohammad, asked the participants to list suggestions on how to calm down if they become angry. After a few suggestions such as 'smoking cigarettes, being alone and working out' the participant Ahmad exclaimed: 'I put on a facial mask and listen to Tupac'. Everyone laughed at this point and the discussion was heated - according to the participants no man would put on a facial mask in order to calm down! In an attempt to redirect the discussion, the instructor then said that he 'reads a novel and listens to Frank Sinatra' when he is upset. This made the whole group laugh hard and protest once again; no one is able to read when they are upset! Reading and listening to Frank Sinatra did not seem a viable solution. Drawing on Friedman (2014), this disagreement can also highlight differences in the cultural capital and habitus of the instructors and participants as it seemed completely unrealistic to listen to Frank Sinatra (the participants would often suggest listening to Tupac instead) while reading. Another instructor, Jeppe, also suggested that the participants should read when they get upset, but this suggestion was rejected. Nadim exclaimed: 'I don't really know how to read' which made the group giggle, but eventually they chimed in with their own experiences of illiteracy. One of the other participants then suggested that 'you should drink a beer when you are upset' when another participant answered 'yeah, but then you end up getting arrested because you smashed someone in town' in a jocular tone which made everyone laugh. The following humorous interruption led to a discussion between the participants and the instructor about the value of negotiation skills and thus was not disruptive to the instructor's point with the lesson. The participants in Cognitive Skills acted out a role play wherein Irfaan played an angry customer in an auto shop. Irfaan ne-

gotiated with the mechanic and said that he would pay him extra money if he could have Irfaan's car repaired by the morning which made Jonas exclaim: 'that's bribery' while he laughed out loud. Irfaan said: 'no, that's not bribery, it is a social skill'. There seems to be a high level of common ground between the instructors and participants when the jocular stories are characterized by tragi-comical elements. Humour can thus function as a safety valve, a sanctuary and boundary-making which drew the group closer together in the above examples. However, the instructors' attempts to joke and create humorous bonds between them and the participants are sometimes rejected and fall flat as seen below.

When instructors, but not prisoners laugh

The instructors in the aforementioned research workshop on humour in the programs saw the participants' use of humour as a result of their cognitive distortions: 'I think that you can observe the participants' lack of social skills and their missing ability to judge a situation imbedded in their use of humour'. Thomas further explained: 'You've been asked to consider something that is painful or difficult and then you try to avoid it by using humour, being angry or trying to pinpoint a mistake in the program curriculum'. The instructors seem to view most of the participants' behaviour through a 'cognitive deficit' lens – much in accordance with their training. Nevertheless, the success of the instructors is very much dependent on the collaboration with the participants and tension arises whenever the instructor fails to accurately engage in humorous exchanges. The participants seem to reinforce boundaries between them and the instructors when the instructors' humorous remarks are rejected. Such a rejection was on display when the instructor, Sussie, was joking around and used different names such as 'sweetie' for the participant, Omar. This was seemingly an attempt to humorously build rapport and trust between the two, but Omar did not seem to appreciate this and replied angrily: 'what's my name'? Omar and the instructor had a troubled relationship from the outset of the program and Sussie's humorous attempt to restore their relationship could not overcome the boundaries between them.

The instructors are preoccupied with the complexities in balancing between using too much and too little humour. They all agree that humour is an important tool for building trust and coherence in the groups as well as making the lessons pleasurable. The instructors seem to view humour as a lubricant that creates flow in the social order in the groups and helps tackle difficult or unpleasant situations. However, it is not an easy task as exemplified by Kirsten: 'I think that sometimes you use yourself as an instrument and take a bullet if the participants make fun of you as an instructor or the other participants. It depends on the relationships between the participants and the dynamics of the group. It is very complex'. I discussed the difficult task of establishing bonds between instructors and participants via humour with a program consultant who is in charge of supervising the instructors:

Elsebeth: I have supervised a couple of instructors where I had to correct them for using too much humour. I asked them to think about where the limit is – when do you use too much humour? Does everyone share the same kind of humour?

Author: How did the instructors use humour?

Elsebeth: Like a putdown joke of a single person - 'you're like this and you always do that'. They accidentally put an individual on the spot in front of the others, but they don't mean it in a bad way. But, for that individual – who knows what he is thinking? I have also experienced an instructor using humorous examples on the differences between men and women where humour is an attempt to find a common ground – now we agree that women are like these stereotypes. But the instructors have to be pro-social, a role model and they really have to be careful not to label people'

It can be difficult for the instructors to navigate between well-put jocular remarks and 'labelling' as described by the program consultant. Attempts to overcome boundaries and establish trust can be difficult when prisoners oftentimes have deep seeded mistrust of authority figures and prisons in general are low-trust environments (Liebling 2004). Boundaries between staff and prisoners cannot easily be overcome and it is most often prisoners' rather than instructors' laughter which dominates the classroom as seen in the following.

When prisoners, but not instructors laugh

Humour seems to allow the participants in CBPs to create friction (Rubin 2015) against the psychological power imbedded in this type of 'treatment', while avoiding serious repercussions. Humour thus allows them to challenge the instructors' authority by making fun of the exercises and role plays, but they do not fundamentally change the premises for the programs. Oftentimes humour is on display as subtle disruptions or twisting of the instructors' original point with an exercise, but goes relatively unabated in the lesson; the instructor does not have to stop or correct the participants in a harsh or strict manner. These disruptions could be understood as rebellious humour (Billig 2005) where jokes target the powerful; in this case the CBP instructors. The quixotic and oftentimes infantilising role plays in the programs are ripe for producing jokes, silliness and stilted examples. However, as also found in Fox's study (1999:445) the participants' disruptions actually most often revolve around the arbitrary format requirements of the program such as the role plays or thinking exercises – not the content as such. It became clear in an exercise in critical thinking and how to handle defeats that the participant, Jonas, was interpreting the lesson in his own humorous fashion. Jonas was supposed to think through all possibilities if he were to find it difficult to secure a livelihood upon his release. Jonas

used a metaphor of his previous effort to open a safety box to get hold of the money inside: 'I'll just keep trying and use different tools. If it doesn't work with a cutting blowpipe, then I'll use a grinding machine - it will open at some point!' Bishar chimed in and said 'I sometimes feel defeated when I think about the crimes I am imprisoned for, but then again - there is a difference between the amount of crimes I've committed and the ones I am convicted for'. Both examples resulted in a roar of laughter from the other participants. The point of the exercise was obviously not to become a 'better criminal', but to find alternatives such as employment or applying for social security when the participants find themselves lacking money. However, Jonas seemed to find the exercise infantilising and self-explanatory so he made fun of it albeit in a very subtle manner. Another exercise in 'critical thinking' can further prove the point of understanding jokes as rebellious humour against seemingly 'silly' exercises. The participants were asked to discuss an example of two parents arguing about their discovery of their daughter's habit of smoking cigarettes from respectively the daughter's and the parents' point of view. According to the instructor, the point of this exercise is to develop and practice 'critical thinking' and 'efficient decision-making'. Jonas said: 'don't worry, she just needs a little tobacco to mix with the marihuana' which made all the participants laugh. However, the instructor did not laugh and struggled to re-rail the discussion, but the participants succeeded in their sabotage of the lesson when the discussion soon died out. Following Douglas (1991:107), the joker Jonas, 'lightens for everyone the oppressiveness of social reality, demonstrates its arbitrariness by making light of formality in general, and expresses the creative possibilities of the situation'. These examples highlight the boundaries of the group and the seemingly small, but yet significant symbolic victories that the participants obtain by disrupting the lessons.

The failure of a shared sense of humour highlights a blur in the meta-communicational framing process that delineates the boundary between seriousness and play (Bateson 1952; Rossel 1981). This is seen in CPBs when otherwise jocular stories are understood as underlying signs of 'criminal thinking' as in the following examples where two thinking exercises are subtly ridiculed by the participants. The participants were asked to write a short story based on a photograph of a man standing alone in a dark alley. The point of this exercise was to clarify how every participant has his own point of view and thus create different stories. The participant, Jonas, wrote a story about the man in an ally, who had just committed robbery in a convenience store and was now counting the profit; money and cigarettes. Michael also wrote a story in the 'true crime' genre which encompassed an outlaw biker who was planning his next robbery. These stories amused the other participants, while the instructors suggested that Jonas and Michael had misunderstood the task at hand, but she did not prompt them to rewrite their stories. Jokes have what Goffman (1981: 46) describes as a 'referential afterlife', which in this case means that the jocular short-stories became an ongoing theme in the rest of the program which served to reinforce the groups internal boundaries while continuously excluding the instruc-

tor, who did not find the stories funny. The lesson continued with a discussion about how fast one is allowed to drive and who should decide that. Jonas argued that it is alright to drive as fast as your own norms and duties dictate. The instructor challenged this and asked:

Instructor: What if there is a policeman on duty assigning speed tickets? Wouldn't you be obliged to slow down at that point?

Jonas: Well, then you have to slow down right before the police officer and then speed up again once you've passed him.

Instructor: You have obligations towards society don't you?

Jonas: Well, yeah some people think so...

Ibrahim: This is why he is in prison! [All participants laugh while the instructor does not]

All three examples resulted in laughter from the surrounding participants, but left the instructor baffled. Fox (1999:438) shows how 'reports of rule-breaking behaviours by inmates were decontextualized from situations and rearticulated as the product of thinking errors characteristic of criminals' in CPBs. This re-narrating of a joke was also visible in the previously mentioned example of the prisoner joking about sedating his girlfriend in order to get her on a plane (Crewe 2011). These stories or reports of rule-breaking behaviour do not necessarily reflect that the participants always make 'criminal choices' (as argued by the program manuals, see Sjöberg & Windfeldt 2008; Scheel & Sjöberg 2005), but perhaps rather that the participants are familiar with the point of the exercise and have no difficulties in understanding that everyone has their own opinions. Hence, they creatively object to the exercises in a humorous fashion, which affirms the boundaries between them and the instructor and allows them to preserve autonomy and dignity.

Another outlet for humour among the participants is sexualized joking. Humour within school settings has been analysed as a technique utilised for the regulation of masculinity and negotiation of gender-sexual hierarchies (Kehily & Nayak 1997:70). During an exercise in critical thinking skills and self-containment in Anger Management, the participants are supposed to relate to an example of a football player who is about to do a penalty shot which will determine the outcome of the game. The football player is thinking 'negative thoughts' and he is sure that he will fail. The participants' fidgeting, yawns, sideways glances and stretches serve as signs of their difficulty in engaging in this particular exercise. Nevertheless, they begin to answer the instructor's questions about what topics the football player should replace his negative train of thoughts with:

Amin: Women.

Khazar: It depends on what kind of match it is.

Omar: I cannot really see how I am supposed to stand and think about this in a heated situation. I have to try it before I believe it.

Amin: Just say PEACE! [Everyone, besides the instructor, laughs. The discussion is derailed and the instructor changes the topic].

Instructor: Can anyone summarize today's lesson?

Imad: It is normal to be angry and we are not crazy.

Omar: Don't we have to do any homework?

Amin: You have to listen to that CD, you have to be completely naked while you do it and touch yourself all over your body [All participants laugh while the instructor seems frustrated]

This exercise was effectively disrupted by the participants' humorous horseplay and the instructor was forced to move on to another subject after she had unsuccessfully prompted them to take the exercise seriously. The young participants pride themselves with having an assertive heterosexuality and a 'feel for the game' with young women. The participants joke about their capacity for 'gangster-love' and how they aim to win female prisoners over with their charm and wit. Jokes, innuendos and comments about women or girls were frequently on display, but seemed to function as a group consolidating mechanism rather than actual sexist or misogynist behaviour (for a different account, see Kehily & Nayak 1997). Tales of female conquests also highlights the numerous ways that the participants might seek redemption for their experiences of being emasculated and infantilised qua their imprisonment (Ugelvik 2011). Adding to this, I argue that expressing an active heterosexual identity and success in winning women over are important elements of such jocular identity work as seen below. Stereotypical or dominant images can be redeployed differently or disruptively (Munoz 1999) for instance through bodily resistance; tattoos, sexual experiences and physical prowess (Raby 2005:154). In this vein, humour can potentially transform a problematic being into an asset. The remark by Imad ('it is normal to be angry and we are not crazy') also serves to illustrate a re-narration of a potentially negative self-image (being crazy) while pushing forward more positive self-images of being capable and skilled. The participants and the instructor in Anger Management went on to discuss how the participants experienced the assignment of listening to a relaxation CD every night before they went to sleep. As evident in the below example, the participants were more preoccupied with girls than with relaxation:

Khazar: It was a bit difficult to listen to the CD because my cell-mate was there as well. It was more relaxing when I chose the female voice-over...

Imad: He can't relax because he doesn't have a mermaid! [Girlfriend]

Omar: Yes! He has tons of mermaids; he is an Iraqi player, an Iraqi Johan Travolta! [Everyone, besides the instructor, laugh]

Besides showing a preoccupation with women, this example also shows how disruptive humour can be; the participants managed to derail the conversation completely and thus forced the instructor to change the subject. There is a certain esoteric nature in the participants' shared humour which creates boundaries between the participants and the instructor as seen in relations to women and sexuality, but also in relations to the sociality and inner workings of the prison. The shared knowledge of the subcultural values and norms of the prison sociality is visible in the following. The participants are often asked to act in role plays where they are assigned different roles and have to pretend to be either 'passive', 'aggressive' or 'assertive'. Sometimes these role-plays fail because it is difficult for the participants to play the roles in a manner that satisfies the instructor. The participant, Imad, role played with the instructor, but the participants kept misinterpreting her behaviour: they deemed her behaviour aggressive instead of passive. The role play dissolved when the participants began to make fun of assertive communication and mockingly said: 'I am very upset right now'. In general, the participants do not seem to find assertive communication a viable solution to a conflict in prison. This was also the case in the next example, where the participant, Patrick, tells the story of a conflict between him and another prisoner. The other prisoner stole something from Patrick's cell and he teased Patrick throughout the day. Patrick was furious in the end and wanted to hit the other prisoner. The instructor asks: 'what could you do to solve this in an assertive manner'? Patrick said 'I guess I could have told the guards', which made all the participants laugh out loud. 'Snitching' in the shape of telling the guard is a well-known sin in prison regardless of the fact that snitching is actually widespread (Copes, Brookman & Brown 2013). The participants draw upon this subcultural knowledge in order to ridicule the exercise and display the absurdity of assertive communication in prison. The following discussion continues to focus on esoteric examples of humour in relations to ethnicity and shows how ethnicity is a contested medium for humour.

Discussion - ethnicity as a contested medium for humour

The following discussion will show how jokes revolving around ethnicity can work well and fall flat in the CBPs. The success or failures of this type of jocular interaction depend on the groups' boundaries which are either reinforced or broken down depending on the sender and recipient of the joke. My field notes bear testament to the instructors' attempts to build bridges between themselves and the participants with another ethnic background than Danish by joking with their ethnicity. However, the following example shows how instructors' attempts to bond with the participants can fall flat. The instructor in Anger Management, Mohammad, asked whether the participants had ever experienced peer pressure. Ahmad replied that he had indeed experienced the peer pressure of robbing a plumbing shop with toilets, sinks, etc. This story made Mohammad laugh out loud and exclaim:

This has to end! I am so tired of hearing foreigners talking about small scale tricks, like robbing old people's homes or scamming a grocery store for petty things and then listening to ethnic Danes talking about their financial crime, large scale tax fraud and other white collar crimes!

The instructor was obviously joking, but the participants did not seem amused by this story. They seemed to understand the joke alright, but they did not participate in the instructor's laughter and sat rather baffled and speechless. The participants reject the invitation to create a 'we-ness' in this example by refusing to laugh at the instructor's joke. As joking is temporally immediate, and calls for audience involvement the absence of a response becomes a judgment on the teller and/or the remark (Fine & De Soucey 2005:3). Even though the instructor and some of the participants shared a non-Danish ethnic background in this particular group, the asymmetrical power relation between the instructor and the participants trumped the shared ethnicity and the bonding that could presumably spring from that. Joking is thus not a cure-all ailment for a group. After the joke was rejected and fell flat, the instructor tried to re-rail the discussion by asking whether the participants would provide more examples of peer pressure and blackmailing. They responded that blackmailing had basically been their livelihood and one dramatic story of blackmailing others for money, goods or power followed the other. As argued by Ortner (1995:180) subaltern responses to domination should be seen as ad hoc and incoherent springing from ideas called into being by the situation of domination itself. These stories of fairly horrific blackmailing could be seen as the participants' attempts to reclaim dignity after the discrediting joke on their behalf.

The final example shows how jokes about ethnicity can work well if they spring from the participants' own sense of humour rather than the instructor's in the previous example. The below example touches upon another important aspect of humour in CBPs, namely that despite the potential stereotypical categorizations of ethnicity, this subject is, in general, played out in a humoristic and seemingly unproblematic manner amongst the participants:

The participants are asked to perform a role play based on a moral dilemma involving a gas station in a situation of gasoline scarcity as part of a 'critical thinking exercise'. The participants are assigned different roles and Imad is the filling station attendant. This role assignment makes Michael exclaim: 'they have a foreign worker [fremmedarbejder] running around and attending to the customers' needs!' This remark makes everyone laugh including Imad who plays the part of a non-Danish speaking 'foreign worker' to perfection by displaying a heavy accent, thus pretending not to understand what the customers need. The atmosphere is very loose, full of laughter and jokes and the participants are truly acting out there parts. In the process of acting, the participants

have psychically taken over the classroom hence the instructor and I are standing up against a wall in the back of the room. The instructor seems worried about the unruly situation and she doesn't seem to find it funny.

The instructor seems to be caught in a dilemma here - is she supposed to laugh when the joke is actually quite offensive and the role play has run loose way beyond her intentions? If she laughs, she could be seen as agreeing with racial stereotypes, but when she does not laugh, she is excluded from the sameness created by the participants. The instructor is outmanoeuvred both physically (backed up against the wall) and metaphorically by her inability to respond in a proper manner. Following Douglas (1991:95) jokes may have a subversive effect on the dominant structure as seen here when the participants actually take control of the situation thus leaving the instructor with very limited options for appropriate action. According to Bakhtin (1981), humour can help to make stereotypes seem grotesque and ridiculous which can result in a disruption of the implicit derogatory portrait. The participants thus challenge negative stereotypes about ethnicity by turning them into gross overstatements. Furthermore, joking is referential which 'presumes that the parties involved share references—their idioculture—by which they make sense of the implicit meanings of this jocular interaction' (Fine and De Soucey 2005:4). The participants know each other, share a history and common identity and are thus able to understand and appropriately respond to esoteric joking references. The participants thus managed to reinforce the boundaries between them and the instructor by creatively and humorously disrupting the exercise.

Concluding discussion

My analysis has shown how different analytical lenses or understandings provide very different interpretations of humour. The instructors interpret humour through a 'deficit' lens much in accordance with their training. This means that the participants' use of humour is understood in psychological terms and as confirmations of their cognitive distortions. As a supplement to this understanding, this article pushes forward a sociological analytical lens and thus a different understanding of humour. This perspective allows for an interpretation that pays attention to the social nature of humour, the context in which it plays out and its use in breaking and making boundaries. Furthermore, this sociological perspective allows for an analysis of the way soft power in shape of prison-based CBPs operates. This enables an analysis of the ways power works and does not work or at least is disrupted. These sentiments stand in contrast to a Foucauldian understanding of power which implies that power always works – including in productive and positive ways. According to Foucault, power is not suppressing in itself, but is exercised through the individual and through the way the individual is subjectified (Foucault 1977). Furthermore, power produces resistance - in fact discipline itself inspires insubordination (Fox

1999:94). However, Skeggs (2004, 2011) is sceptic about the reach of governmental power. She has studied the attribution of value to different performances of the self and argues that people resist the negative categorizations, and attribute value to their life forms in spite of the negative discourses. Similarly, my findings call for a more nuanced interpretation of power because the participants actively disrupt and twist the power hierarchies in the CBPs. Furthermore, they do not readily accept the characteristics pushed forward by the program manuals such as the alleged tendencies to be impulsive, egocentric, rigid in their views, and poor at problem-solving, perspective-taking, and critical reasoning (Ross & Fabiano 1988). On the contrary, they pride themselves with their 'street smarts', sexual capacities, psychical prowess and understandings of how to manoeuvre in a tense prison setting. This does not necessarily imply that they do not internalize the programmatic characteristics at some point and thus strive to conduct themselves differently, but we should not readily accept the notion that power always works. Perhaps the participants pay lip service to the programmatic goals and go on to live their lives as they see fit once they pass the programs. Humour is an excellent tool against power, as seen in satirical cartoons meant to challenge oppressive regimes, jocular remarks directed at the powerful or in working class 'lads' humour, which works as a defence and counter-attack against the school culture. These jocular disruptions of power may result in subversion eventually (as seen when the 'lads' end up reproducing working class selves, Willis 1978), but humour should be taken seriously as attempts to delegitimize stereotypes, categorizations and subordinating experiences.

I have shown how the participants' use of humour serves as disruptions of role plays and exercises that take place during prison-based CPBs. Use of humour thus enables the participants to object in subtle ways that do not call for reprimands. I have also analysed the participants' use of humour to transform a supposedly problematic being into an asset. Thus, they manage to object towards the embedded 'cognitive deficit' lens that their behaviour is understood through by humorously negotiating with the premises for identity construction. Jocular gripes and jocular stories of masculinity, violence and crime also serve as rebellious humour which can remedy the otherwise 'forced production of selves' (Fox 1999:111) in CPBs. The jokes and comments made by the participants in CBPs, however silly, puerile, or chaotic they may appear, could be understood as attempts to restore autonomy and dignity in an otherwise infantilising and emasculating institution and programmatic setting. My analysis of humour and soft power in prison-based CPBs has shed light on new ways of understanding the subordination that takes place in these programs while, importantly, giving way to the numerous ways that the participants humorously create friction (Rubin 2015) by resisting and transforming the programmatic goals. This allows for an understanding of humour as boundary work and as a tool in a struggle for autonomy and dignity.

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Når omverdenen lukkes indenfor

- Et socialt forsøg med inddragelse af lokalområdet i et åbent fængsel

Marie Herping Abrahamsen

Work in progress - please do not cite or circulate.

Indledning

Med afsæt i John Hunters motto "Don't (just) think, try", der udgør grundprincippet i den eksperimenterende kriminologi (Sherman 2006), har jeg som en del af mit ph.d.-projekt gennemført et socialt forsøg i et åbent fængsel. Forsøget tager udgangspunkt i Kriminalforsorgens normaliseringsprincip, der siden 1970'erne har været et grundprincip i den danske kriminalforsorg¹. Normaliseringsprincippet knytter an til en forståelse af, at de negative sider ved fængselsopholdet skal begrænses mest muligt og at afsoningsvilkårene så vidt muligt skal afspejle forholdene uden for fængslet (Engbo 2005). Fængslet skal altså ikke være mere fængsel end nødvendigt (Dahl 2006, 77).

Forsøget tager afsæt i, at disse kriminalpolitiske hensigtserklæringer har mulighed for at realisere sig mere, end det i dag er tilfældet. Fængsler er ikke uskyldige steder, de er steder, der sætter deres aftryk og de har betydning for de mennesker, der tager ophold heri i kortere eller længere perioder (Clemmer 1958, Sykes 1958, Goffman 1967, Mathiesen 1965, Crewe 2009).

I Danmark benyttes det åbne fængsel som primære afsoningsform. Der har i nyere tid været opmærksomhed på, at lade indsatte tage del i livet uden for fængslet, hvilket sikrer, at fængselsmiljøet ikke er det eneste miljø, den indsatte er en del af (Betænkning nr. 1181/1989, 143). Hvor der har været et fokus på passagen udadtil, har det omvendte i begrænset omfang været tilfældet. Altså at omverdenen får mulighed for at tage del i livet i fængslet. Det er på trods af, at de få danske erfaringer peger i retning af, at det kan have et individualpræventivt udbytte.

Idéen om at lukke omverdenen ind i fængslerne er ikke ny, og kan spores tilbage til tidligere direktør for fængselsvæsenet, Lars Nordskov Nielsen, der i slutningen af 1960'erne fremførte muligheden for at nedbryde fængslets mure og åbne for passagen indad til.

"Endnu mere interessant er måske spørgsmålet – som også gælder de lukkede institutioner – om at åbne for passagen indad; vil det ikke være muligt i endnu højere grad, end det hidtil er

¹ Normaliseringsprincippet er også et grundprincip i kriminalforsorgen i de andre nordiske lande (Engbo 2015).

sket, at få eksempelvis grupper af unge, eventuelt fra undervisningsinstitutioner eller fra forretningslivet, til at besøge anstalterne, og vel at mærke besøge dem som ikke beskuere, men som engagerede deltagere i diskussioner, studiekredsmøder eller andre aktiviteter med de indsatte? Står vi mon ikke her over for det perspektiv, der rummer de bedste muligheder for, at de indsatte kan blive integreret i mere normale former for socialt liv?” (Nordskov Nielsen 1969, 491).

Forsøget har fundet sted i Statsfængslet på Søbysøgaard² i perioden august 2015 til og med januar 2016, og bestod af tre faste fritidsaktiviteter: Debatter, rytmisk kor og yoga³, som deltagere udefra og de indsatte kunne deltage i. Valget af aktiviteter er blevet bestemt i samarbejde med de indsattes talsmandsgruppe, og er foregået i de indsattes fritid.

I artiklen beskrives de indsattes perspektiv på forsøget. Fritidsaktiviteterne har været et tilbud til alle fængslets indsatte, men det er kun en mindre del af de indsatte, der har deltaget. I artiklen ses nærmere på, hvad der kan forklare dette. Desuden undersøges de indsattes oplevelser af mødet med omverdenen.

Forskningsdesign, metode og valg af fængsel

Undersøgelsen er designet som et casestudie, og baserer sig på et kvalitativt datagrundlag. Da det er en ny indsats, anlægges en åben og eksplorativ tilgang. Designvalget bunder ikke i et ønske om at bekræfte en hypotese eller en teori, men i stedet er formålet at skabe viden om, hvordan mødet med omverdenen har indflydelse på de indsatte og deres oplevelse af afsoningen (Eysenck 1976, 9). Designvalget er inspireret af Bent Flyvbjergs forståelse af casestudiet. Ifølge Flyvbjerg (1991) eksisterer der ikke kontekstuaafhængig viden om mennesker og samfund, hvorfor vores viden herom altid må inddrage konteksten. Flyvbjergs epistemologiske ståsted betyder, at det gode eksemplers magt, som casestudiet kan frembringe, er et nødvendigt redskab i den videnskabelige udvikling.

Det metodiske grundlag baserer sig på etnografisk feltarbejde og kvalitative interviews. Hvor der i feltarbejdet er fokus på samhandling (Wadel 1991), har det kvalitative interview fokus på subjektets oplevelser af verden (Kvale & Brinkmann 2015). Kombinationen af metoderne bidrager til en mere komplet og valid viden. De kvalitative interviews er foretaget i slutningen af feltarbejdet, hvorved feltobservationerne kunne bringes i spil i interviewsituationen (Pedersen 2012, 124). Denne fremgangsmåde skaber mulighed for, at informanterne kan protestere, da "it allows the object to object" (Latour 2000).

Feltarbejdet har været delt op i flere stadier. Inden projektperioden opholdte jeg mig i fængslet i kortere perioder for at blive bekendt med hverdagsrutinerne, og for at få

² Når jeg i det følgende skriver Søbysøgaard henviser jeg udelukkende til den åbne afdeling.

³ Ulla V. Bondeson fonden og Café Exit har finansieret korundervisere og yogainstruktøren.

skabt relationer i fængslet. I projektperioden befandt jeg mig i fængslet i fritidstimerne, og var der i udgangspunktet 3-4 dage om ugen. Jeg har samlet opholdt mig i fængslet i 470 timer. Jeg deltog altid i fritidsaktiviteterne, og brugte den resterende fritid sammen med de indsatte.

I projektperiodens afsluttende fase interviewede jeg 15 indsatte (Brinkmann 2014, 84). Mit primære fokus er på deltagernes oplevelser, men jeg har også ønsket, at få belyst årsager til, at de indsatte ikke deltager. Af de 15 indsatte har de 11 deltaget mere end 3 gange i én eller flere af aktiviteterne, mens de resterende 4 indsatte ikke har deltaget. Der er indsatte, som har deltaget i aktiviteterne, der undervejs i projektperioden er blevet løsladt eller overflyttet til en anden institution, hvorfor der ikke er lavet interviews med alle de indsatte, der har deltaget i forsøget.

Forsøget blev gennemført i den åbne afdeling af Statsfængslet på Søbysøgaard, der huser mandlige indsatte fra Syd- og Østdanmark⁴. Søbysøgaard havde i projektperioden 134 pladser, der fordeler sig over 5 forskellige afdelinger. Der var ved projektstart en modtagelsesafdeling, to fællesskabsafdelinger, en uddannelsesafdeling⁵, og Figaro, der fungerede som en selvstændig udslusningsafdeling. Undervejs i projektperioden blev én af fællesskabsafdelingerne omdannet til en udviklingsafdeling, og Figaro blev nedlagt på grund af et lavt belægningstal.

Søbysøgaard er valgt som case for at skabe de mest fordelagtige betingelser for gennemførelsen af forsøget. Der var efter en indledende rundspørge til seks af de åbne fængsler⁶, tre fængsler der havde lyst til at danne ramme om forsøget. Af disse tre blev Søbysøgaard udvalgt, da fængslet ligger godt placeret med flere mindre byer i nær afstand, og med relativ kort afstand til en større by. Desuden har Søbysøgaard, der tidligere var en gammel herregård, gode faciliteter i form af en riddersal og en nyere idrætshal, der fremstår indbydende for omverdenen.

Erfaringer med at lukke omverdenen ind

Idéen med at åbne fængslet op for det omkringliggende samfund er ikke ny, men på trods af dette, er der i en dansk kontekst relativt få erfaringer og viden herom.

Siden 1970'erne har Pension Skejby sikret deres afsonere en tæt kontakt til omverdenen, ved at lade et antal af pensionens pladser være forbeholdt ikke kriminelt belastede. De indsatte har herved mulighed for under deres afsoning at interagere med folk, der ikke er en del af det kriminelle miljø. Linda Kjær Minke

⁴ Placeringen af indsatte på Søbysøgaard sker ud fra Nærhedsprincippet.

⁵ Uddannelsesafdelingen på Søbysøgaard blev etableret som et pilotprojekt i forbindelse med flerårsaftalen for Kriminalforsorgens økonomi 2013-2016. På afdelingen er der særligt uddannet personale, der skal motivere de indsatte til at tage en uddannelse. (Aftale om Kriminalforsorgens økonomi i 2013-2016)

⁶ Der alle havde en form for nærmiljø

(2006) har lavet en større evaluering af ordningen, hvor det empiriske grundlag består af 6 observationsdøgn, 47 kvalitative interviews og forskellige statistiske analyser, der baserer sig på 3371 forløb fordelt ud over en forsøgs- og en kontrolgruppe. Evalueringen viser helt entydigt, at konstellationen skaber et bedre afsoningsmiljø med mindre fokus på kriminalitet og et mindre recidiv.

Af mindre omfattende karakter blev forholdet mellem fængslet og dets nærområde tænkt ind i forbindelse med oprettelsen af Jyderup Fængsel i slutningen af 1980'erne. Dette skete ikke med henblik på en normalisering af afsoningsmiljøet, men handlede i stedet om at sikre et godt forhold til nærområdet. I sin specialeafhandling undersøgte Kirsten Lærkeholm nærområdets oplevelser af fængslets åbenhedspolitik, men der er ikke lavet undersøgelser af de indsatte oplevelser (Engbo 2008).

Af nyere dato er der i forbindelse med Kriminalforsorgens kokkeskoleprojekt⁷, erfaringer med at lukke omverdenen ind i fængslet. Kontakten med omverdenen har ikke stået centralt i projektet, men de indsatte har som afslutning på deres uddannelsesforløb afholdt restaurantaftener, hvor folk udefra har haft mulighed for at spise et gourmetmåltid i fængslet. Der er foretaget en evaluering af de foreløbige erfaringer med kokkeskoleprojektet, der baserer sig på observationsstudier, kvalitative interviews og en spørgeskemaundersøgelse. Om restaurantaftenerne, der udgør en meget lille del af evalueringen, nævnes det, at de indsatte her har haft mulighed for at tale med personer, der ikke er en del af fængselsystemet. Det har de indsatte sat stor pris på, da de godt kan lide at interagere med det de kalder 'almindelige' folk (Minke & Balvig 2015, 24-26).

Hvor kontakten til omverdenen i kokkeskoleprojektet afgrænser sig til enkelte restaurantaftener, har de i England og Italien oprettet egentlige restauranter i fængselsregi. I efteråret 2015 åbnede InGalera⁸ i Bollate fængslet, der er det eneste åbne fængsel i Italien (Mastrobuoni & Terlizese 2014). Restauranten er stadig så ny, at den ikke har været genstand for videnskabelige undersøgelser. I England åbnede den første restaurant i fængselsregi i 2009. The Clink Restaurants⁹ består i dag af fire restauranter, og er en del af et større resocialiseringsprogram, hvor indsatte under afsoningen får en køkkenuddannelse. The Clink's egne opgørelser viser, at indsatte, der har været gennem et uddannelsesforløb på The Clink Restaurants, recidiverer i mindre grad end gennemsnittet (Moore 2015). Hertil skal det tilføjes, at det er svært at blive optaget på uddannelsen, og at de indsatte efter løsladelsen bliver tilknyttet en mentor, der hjælper dem med at få job (ibid.).

⁷ Kokkeskoleprojektet er et 2-årigt forsøgsprojekt med kokkeskole og restaurationsvirksomhed i tre danske fængsler, hvor fokus er på kost og uddannelse.

⁸ Som betyder "in jail"

⁹ Der er en del af The Clink Charity

Der er i en europæisk kontekst begrænsede erfaringer med (og tradition for) at lukke omverdenen ind i fængslerne, hvilket adskiller sig fra situationen i USA. Det amerikanske fængselsvæsen er afhængig af frivillige, og i en tid med store nedskæringer, er denne tendens kun blevet forstærket (Kort-Butler & Malone 2015). I 2009 meddelte The Federal Bureau of Prisons (2009), at de ikke havde ressourcerne til at imødekomme de indsatte behov, og at de var afhængige af frivillige, for at kunne levere den nødvendige service.

Ét af de amerikanske programmer, som er værd at fremhæve, er The Inside-Out Prison Exchange Program, der blev afviklet første gang i Philadelphia i 1997, og som nu har spredt sig til hele verden (Pompa 2013)¹⁰. Inside-Out er et uddannelsesprogram, der foregår i fængslet, hvor deltagerne er en blanding af college- eller universitetsstuderende og indsatte. I modsætning til andre fængselsprogrammer i USA, betragter deltagerne udefra ikke sig selv som frivillige, som er i fængslet for at hjælpe de indsatte, eftersom der er lagt op til, at deltagere fra begge sider af muren, skal lære noget (ibid.). Der foreligger ingen studier, der dokumenterer Inside-Outs recidivforebyggende effekt (Latessa et. al. 2014). Dette kan hænge sammen med, at mange af de indsatte, der deltager i Inside-Out, afsoner længerevarende fængselsdomme.

Der er forskellige erfaringer med at lukke omverdenen ind i fængslet, men som det fremgår af ovenstående, er der blevet viet begrænset opmærksomhed til, hvordan de indsatte oplever denne åbenhed. Hensigten med mit arbejde er at føje til den eksisterende viden og forsøge at dække en del af det empiriske videnshul, der synes at præge feltet.

Deltagelse

I projektperioden har der været forskel i tilslutningen til de tre aktiviteter, hvilket fremgår af tabel 1. Debatterne og koret, der kan karakteriseres som fællesskabsorienterede aktiviteter, har haft den største og mest stabile opbakning, mens yoga, hvor der i begrænset omfang er fokus på fællesskabet, har haft større udsving i fremmødet. I opstartsperioden var der i fængslet en stor nyhedsværdi omkring de nye fritidsaktiviteter, og første gang de blev afviklet, var der et fremmøde på 18-20 indsatte.

Tabel 1: Oversigt over indsatte deltagelse i aktiviteterne

	Yoga	Kor	Debataftener
Antal gange i projektperioden	18	20	9

¹⁰ I foråret 2016 blev det første hold Inside-Out afviklet i Danmark i Statsfængslet på Søbysøgaard

I projektperioden var der et gennemsnitlig belæg på Søbysøgaard på 117 indsatte (LIS: Kapacitet og belæg i perioden 1.8.2015-31.1.2016). Set i forhold til det gennemsnitlige deltagertal er det mellem 5 og 15 procent af fængslets indsatte, der har deltaget i aktiviteterne.

Der er flere af deltagerne, som er blevet løsladt eller overflyttet til andre institutioner undervejs i projektperioden. I projektets afsluttende fase var der en fast kerne på 11 indsatte, der havde været faste deltagere i én eller flere aktiviteter. Den faste kerne er karakteriseret ved at:

- 8 er over 30 år
- 5 er førstegangsaftsonere
- 4 afsoner domme på over 6 år
- 4 tager en uddannelse uden for fængslet
- 3 har én eller flere psykiatriske diagnoser
- 9 kommer fra fængslets særlige uddannelsesafdeling

Der er en overrepræsentation af de indsatte fra uddannelsesafdelingen blandt gruppen af deltagere, hvilket gør det relevant at se nærmere på, hvordan afdelingen fungerer sammenlignet med de andre afdelinger i fængslet.

"Afdeling A, B og C det er lort i forhold til det her. Det her det er paradys"

Uddannelsesafdelingen er placeret afsides hovedhuset i en nyere bygning. For at få plads på afdelingen, skal den indsatte gennem en visitationssamtale, hvilket ikke er gældende for de andre afdelinger i fængslet. Som navnet på afdelingen antyder, har uddannelse en central rolle, men det er ikke det eneste forhold afdelingens socialrådgiver tager i betragtning i visitationssamtalerne. Der tages højde for afsoningstiden, der må hverken være for kort eller lang tid igen, og eventuelle planer om overflytning til anden institution. Desuden forholder socialrådgiveren sig også til alderssammensætningen. De vil ikke have for mange unge af gangen, og de tager højde for belastningen på de resterende afdelinger. Afdelingen bliver desuden brugt til at holde svage fanger væk fra de andre afdelinger. Under mit feltarbejde blev det eksemplificeret ved, at en indsat under 18 år fik plads på uddannelsesafdelingen for at skærme ham fra de andre afdelinger i fængslet.

I mit feltarbejde opholdte jeg mig på forskellige afdelinger i fængslet, og overværede flere gange indsatte blive flyttet fra en almindelig fællesskabsafdeling over på uddannelsesafdelingen. Det slog mig hver gang, at dette skift fra en afdeling til en anden i det samme fængsel, betød en ændring af adfærd både fysisk og psykisk. Indsatte som på andre afdelinger havde virket mutte, irritable og indadvendte, blev

nu pludselig imødekommende og sociale. De brede skuldre blev sænket og armene kom ind til kroppen.

De indsatte på uddannelsesafdelingen beskriver en afdeling, der står i klar kontrast til alt andet, de har prøvet under deres afsoning. Her er vold og konflikter ikke en del af hverdagen, og det er accepteret at tale med betjentene. Der er et mindre synligt misbrug, og det kriminelle liv fylder lidt.

Størstedelen af de indsatte har afsonet kortere eller længere perioder på andre afdelinger i fængslet, og de beskriver afdelingerne som to forskellige verdener. Mike, der er tidligere bandemedlem, blev sendt over på uddannelsesafdelingen af en betjent, der var bekymret for ham, fordi han var blevet irritabel og introvert. Om forskellen mellem afdelingerne siger Mike: *"Det er ligesom, derovre der skal du - jeg ved sgu ikke, hvordan fanden man skal forklare det - men du skal jo have en eller anden facade op, fordi hvis du bare render rundt og ligner en eller anden lille soans, så bliver du sgu jokket på af alle de andre. Og sådan er det bare. Hvorimod her, der kan du sgu være tyk eller tynd eller være den mindste nørd, alle er velkomne."*

Patrick fortæller videre om forskellen mellem fællesskabsafdelingerne og uddannelsesafdelingen: *"og flere gange kunne du komme op og diskutere med nogle, fordi de ikke kunne finde ud af, at gøre rent eller finde ud af at holde tingene pænt, ellers så kom de og bankede dørene ind, som om de var hjemme. Altså det var pisse irriterende. Total respektløst. I forhold til nu, dejligt, fredligt, roligt, du sover om aftenen, sådan rigtig godt. Du sidder ikke og tænker over, at ham der skal jeg have en konflikt med i morgen eller noget, fordi der er ikke sådan nogle typer herovre."*

Både Mike og Patrick beskriver, hvordan der på de andre afdelinger foregår en daglig kamp, hvor der kæmpes om indflydelse og om de øverste pladser i hierarkiet. Det er som Mike beskriver, ikke muligt at melde sig ud af kampen og forholde sig neutralt, da den manglende stillingstagen placerer dig nederst i hierarkiet.

For Patrick førte skiftet fra fællesskabsafdelingen til uddannelsesafdelingen til en ændring af adfærd: *"Da jeg var ovre på C, der synes jeg, at jeg var en helt anden person, end jeg er nu. Der var jeg sådan mere irriteret, sur, stresset og havde lyst til at tæve folk, fordi de var så latterlige."*

Nicolai, der skiftede afdeling i projektperioden understøtter dette, og beskriver hvordan han ikke var sig selv på sin tidligere afdeling: *"Jeg var meget mere lukket derovre... men her åbner jeg mig mere op end jeg gjorde derovre. Der var ikke nogen, der vidste noget om mig derovre, jeg fortalte ingenting om mit privatliv. Det ragede ikke dem."*

I forlængelse af Leonard Baers (2005) beskrivelse af, at en celle ikke bare er en celle, og et rum aldrig bare er et rum, kan det tilføjes, at et fængsel aldrig bare er et fængsel. Roy King & Kenneth Elliot (1977) og Linda Kjær Minke (2012) har tidligere peget på, at der er forskel på de strukturelle forhold og det sociale klima på tværs af

fængsler og på tværs af afdelinger. De indsattes beskrivelser af uddannelsesafdelingen bidrager til denne forståelse af, at fængslet ikke blot kan forstås som et særligt sted, men i stedet må forstås som steder, der kan rumme forskelle på tværs af regimer og afdelinger. Hermed peges på en mere kompleks og kontekstuel forståelse af fængslet. Et aspekt i analysen peger også på, at de indsattes oplevelser af fængslet som sted ændrer sig, når fængslet åbner sig mod omverdenen.

Konglomerat – et hav af grunde til ikke at deltage

Der er flere forskellige grunde til, at langt størstedelen af de indsatte ikke har deltaget i aktiviteterne.

I forhold til den manglende deltagelse, er der den helt åbenlyse grund, at de indsatte ikke deltager, fordi de ikke finder aktiviteterne spændende. Hertil skal det tilføjes, at når jeg i min færd rundt i fængslet snakkede med folk, der ikke deltog og spurgte dem til, hvad de kunne tænke sig af aktiviteter, efterlyste de muligheden for at komme på tur uden for fængslet, men de havde ikke forslag til aktiviteter i fængselsregi. Ifølge Donald Clemmer er et af kendetegnende ved indsatte, at de under fængselsopholdet lider af "*a pausivity of interest*". Det betyder at "*No matter how interesting, or how exciting a leisure pastime might be, there always exist that deadening sense of confinement which prohibits the complete release of the personality to the activity at hand*" (Clemmer 1958, 248).

Hassan sidder på en fællesskabsafdeling, og har ikke deltaget i aktiviteterne, hvilket han begrundes i en apati, som han giver det længerevarende fængselsophold skylden for. Hassan siger:

"Yoga, det kunne jeg godt finde på, og jeg kunne faktisk også godt finde på det med debatmandag, og jeg har også overvejet det nogle gange, men jeg har bare ikke fået taget mig sammen til det, fordi jeg har afsonet så længe, og så skal der komme noget nyt ind i min hverdag, det er lidt underligt".

I fængslet er tiden lagt i et fast skema med faste rutiner, der for nogle indsatte giver begrænset mulighed for variation i fængselshverdagen (Zamble & Porporino 1988; Goffman 1967). Der er faste arbejdstider, faste tider for at blive låst inde og ude, faste indkøbsdage m.v., hvilket strukturerer den indsattes dagligdag. Hvor Clemmer taler om manglende interesse under fængselsopholdet, så peger Hassan på, at tilpasningen til den ensartede og strukturerede fængselshverdag indskrænker nye handlinger. Herved bliver det fængselsopholdets særlige rutineprægede karakter, der bliver afgørende for den manglende deltagelse. Hertil skal det tilføjes, at Hassan ligesom mange andre i fængslet har et hashmisbrug, der har indvirkning på hans deltagelse i fængselslivet.

En yderligere grund til den manglende deltagelse, knytter sig til det åbne fængsel, som et sted med stor gennemstrømning. Lars, der fungerede som en af mine

gatekeepers og på grund af sine mange arbejdspladser i fængslet, havde en central plads i det interne hierarki, fortæller om sine forventninger til koret:

"Jeg havde slet ikke forestillet mig, at vi kunne holde det der kor kørende, det troede jeg sgu ikke. Blandt andet fordi der er sådan hurtig udskiftning her, så det troede jeg ikke vi kunne."

For Lars er det ikke indespærringen, men den korte afsoningstid, der er udfordringen. Lars' overvejelser henfører til, at det åbne fængsel er et sted, der er præget af en høj gennemstrømning. I projektperioden var der på Søbysøgaard 200 indsættelser, 168 løsladelser og den gennemsnitlige afsoningstid var på tre måneder. I modsætning til det lukkede fængsel, hvor den gennemsnitlige afsoningstid beskrives i år, og ikke måneder, er det karakteristisk for det åbne fængsel, at en stor del af de indsatte afsoner relative korte domme, hvilket bidrager til en manglende kontinuitet i fængselsmiljøet.

Selvom aktiviteterne foregik på faste tider, gik jeg ofte en runde en time inden aktiviteterne. Dels fordi der løbende kom nye indsatte til fængslet, og dels fordi mange indsatte havde svært ved at huske, hvornår hvad foregik. Et udsnit fra mine feltnoter i starten af projektperioden viser, hvorledes fængselshverdagen med mange rutiner og uforudsete hændelser har betydningen for den manglende deltagelse.

Jeg går en runde på uddannelsesafdelingen og fortæller, at der er yoga. En førstegangsinnsat, der er i midt fyrrerne, og som afsoner en dom på 3 måneder, er i gang med at lave mad. Han siger, at han ikke kan deltage på det tidspunkt, for det er der, han taler med sine børn. Han har et fast skema, hvor han arbejder, laver mad, spiser, taler med sine børn og derefter gør klar til at gå i seng, hvilket ikke levner meget tid til andre aktiviteter. Jeg går videre og møder en anden innsat, der fortæller, at han stresser lidt lige nu, fordi han har haft problemer med vagterne den anden dag, og nu er han bange for, at det vil få konsekvenser for hans afsoningsforløb. Vi snakker lidt om det, og han siger, at det er svært at have fokus på så meget andet, når den slags ting opstår. Efterfølgende møder jeg en innsat, jeg har spist med en del gange, og som tidligere har givet udtryk for, at han meget gerne vil være med til yoga. Han fortæller, at han næsten ikke har sovet i nat fordi ham og kæresten endegyldigt er gået fra hinanden. Hans fod banker op og ned, mens vi snakker, og hans hænder piller konstant ved noget. Han har et sørgmodigt udtryk i øjnene, og udtrykker stor frustration over, hvad han nu skal gøre. Han kan ikke se nogen mening med at skulle stoppe med kriminaliteten, da det er det han kender til, og nu hvor kæresten er væk, har han ikke nogen grund til at lægge det liv på hylden.

Eksemplet illustrerer forskellige forhold, der gør sig gældende i en fængselskontekst. Udover den rutineprægede hverdag, så viser det også, at de indsatte befinder sig i en stresset situation, hvor de er en del af forskellige konflikter i og uden for fængslet, som har betydning for deres handlerum.

I forlængelse heraf er der også den dimension, at der blandt de indsatte er en overrepræsentation af psykiatriske diagnoser (Clausen 2013) og misbrug af narkotika (Møller et al. 2007). Et eksempel herpå er Jesper, der er blevet diagnosticeret med ADHD og PTST, som afviste at deltage i aktiviteter i fængslet for som han fortæller: *"Det er det der med for mange mennesker."*

Småøer af frihed

I Erving Goffmans beskrivelse af fængslet som total institution, peger han på, at der eksisterer småøer af levende aktiviteter, den indsatte kan søge tilflugt i med henblik på at modstå den psykiske belastning, der følger med fængselsopholdet (Goffman 1967, 57). I den totale institution er beboerne total afsondret fra omverdenen, hvilket ikke er tilfældet for de indsatte i det åbne fængsel. Alligevel oplever de indsatte, at de ugentlige aktiviteter, fungerer som små frirum i deres hverdag i fængslet.

De indsatte beskriver, hvordan de under aktiviteterne kan glemme, at de er i gang med at afsone en dom. Claus, der har sin dagligdag uden for fængslet, fortæller om, hvordan han under aktiviteterne kan glemme alt om fængslets rammer:

"Man glemmer helt man er i fængsel i den der halvanden time det (kor) foregår. Det samme med debataftenen, der glemmer man sgu også, at man er i fængsel, selvom det er de samme indsatte, man sidder sammen med og sådan noget. Fokus er noget andet."

For Michael, der også oplever aktiviteterne som et frirum, er det tilstedeværelsen af deltagerne udefra, der er med til at skabe frihedsfølelsen.

"Man får også nogle andre input, man føler ikke man sidder i fængsel, når man er sammen med dem. Det er ligesom jeg føler, at når jeg er deroppe, så er det ligesom jeg er ude i friheden, fordi man er sammen med nogen udefolk på den anden side."

Hvor Michael taler om frihed og oplevelsen af at være uden for fængslet, taler Hans om normalisering. En normalisering, der baserer sig på tilstedeværelsen af kvinder. Hans:

"Det er som om, der er lidt en normalisering i det. For gik man til yoga udenfor eller til debataften udenfor, så ville det ikke kun være fyre, så ville der også komme nogle damer. Og det er også derfor, at det føles som om, man var udenfor i den normale verden, det er fordi det er blandet ... så glemmer man, at man er her".

Udsagnene peger i retning af, at åbenheden mod omverdenen gør noget ved de indsattes opfattelse af fængslet som sted. Aktiviteterne og de nye sociale fællesskaber er uvante i en fængselskontekst, og de bidrager til, at stedet for en stund træder i baggrunden. Hertil kan det tilføjes, at de indsatte ikke har noget ønske om, at aktiviteterne skal foregå uden for fængslet, da der er en masse

praktiske forhold, der vil besværliggøre deres deltagelse. Som Patrick udtaler: *"For min skyld så måtte det være nede i en lukkede grotte, bare vi kunne gøre det."* De indsattes oplevelser udfordre opfattelsen af fængslet som et sted, der er udenfor det almindelige samfund, og bidrager til en mere kompleks forståelse af forholdet mellem indenfor og udenfor.

Nye relationer

Fængslet kan forstås som et ufrivilligt socialt fællesskab, hvor fællesnævneren er kriminalitet. Ifølge Edwin Sutherlands teori om Differential Association bliver kriminalitet ligesom alt anden adfærd indlært i relationen med andre. De sociale relationer har ifølge Sutherland en afgørende betydning for den kriminelles adfærd, hvorfor det er vigtigt at bryde med disse relationer (Sutherland & Cressey 1966). Med forsøget har de indsatte fået muligheden for under afsoningen at omgås folk, der ikke er en del af fængselsystemet, hvilket flere af de indsatte ser som vigtigt for deres liv efter afsoningen. Patrick, der til daglig går i skole uden for fængslet, fortæller om relationen til deltagerne udefra:

"Det der med at være social med nogle andre mennesker, som du slet ikke kender, så begynder du også ligesom at resocialisere dig, for du finder ud af, at hvis du kan snakke med dem, så kan du også snakke med folk udenfor. Men altså hvis du snakker med de samme tosser hver dag, og det samme slang, og de samme bandeord, så er det dét, du går ud med."

Det er gennemgående for Patricks fortælling, at han er bevidst omkring, at de sociale relationer har betydning for hans egen adfærd. I de nye fællesskaber skal han gøre sig umage og tilpasse sin adfærd til, hvad der her forventes af ham. Mads har svært ved at sætte ord på, hvad interaktionen med deltagerne udefra betyder for hans fængselsophold og på spørgsmålet, hvordan han har oplevet, at der kommer folk ind udefra, svarer han:

"Det skaber nogle sociale relationer, som ikke er normalt for det at være i fængsel, altså jeg tror ikke der er så mange lande, hvor man gør det. Jeg tænker det gør noget for det med, at skulle ud i samfundet igen, det er jeg ret sikker på."

Både Mads og Patrick betoner vigtigheden af de nye fællesskaber. I fællesskaberne kan de spejle sig i andre, der ikke er en del af det kriminelle miljø, hvilket giver mulighed for at vise andre sider af sig selv. Selvom de begge beskriver, hvordan de nye relationer betyder noget for deres liv efter fængslet, er der i deres fortællinger ikke en sikkerhed omkring, at de endegyldigt har gjort op med deres kriminelle livstil. De nye relationer alene vil ikke kunne forhindre ny kriminalitet, men ikke desto mindre fungerer de som et socialt fællesskab, hvor de indsatte under afsoningen kan blive bekræftet i, at de kan fungere socialt i samfundet igen.

Hvor Mads og Patrick bruger de nye fællesskaber til at klargøre sig til livet efter afsoningen, fortæller Jonas om, hvordan han brugte debataftenerne til at lære at være sammen med mange mennesker igen. Jonas havde inden sit ophold på Søbysøgaard siddet 4 måneder i varetægt, hvor han havde været låst inde det meste af døgnet, og haft begrænset social kontakt. Han blev hevet med til aktiviteterne af et par af sine medindsatte, og fortæller om debataftenerne:

"Første gang, var det ikke skide sjovt. Der havde jeg stadig ikke været vant til for mange mennesker af gangen, så det var meget overvældende lige i starten. Så har jeg brugt det en del til at kunne være sammen med flere mennesker af gangen."

Udfylde den tomme tid

Fritidsaktiviteterne blev iværksat med henblik på, at give de indsatte mulighed for at indgå i mere normale former for liv. Det blev tydeligt undervejs, at aktiviteterne fik en selvstændig karakter, hvor det ikke kun var den sociale dimension, der var i fokus. De faste ugentlige aktiviteter fik således betydning for de indsattes brug af tiden i fængslet.

De indsatte fortæller samstemmigt om, hvordan aktiviteterne har skabt et afbræk og indhold i en fængselshverdag, der ellers er præget af kedsommelige hverdagsrutiner. Både under mit feltarbejde og i interviewrunden fik jeg fortællinger om deres *"røvsyge fængselsliv"*, der er kendetegnet ved et fravær af meningsfyldt indhold.

Ifølge Torsten Kolind, der har lavet et antropologisk feltarbejde i Statsfængslet i Ringe, er tiden i fængslet karakteriseret ved to ting: Tiden er nærmest uendelig og der er tale om tom tid. Den tomme tid fylder ikke noget i hukommelsen, når den er gået. Ifølge Kolind (2004) er det moderne menneskes udnyttelse af tiden afgørende, da det er her identitetsprojektet finder sted. Tiden skal fyldes ud, og den må ikke sløses væk, for måden vi bruger tiden på, er i sidste ende med til at skabe vores identitet.

Mads, der har haft orlovsspærring i 5 måneder, fortæller om aktiviteterernes betydning for hans hverdag i fængslet:

"Jamen, jeg synes at det der med, at jeg har haft de der afbræk, som jeg snakker så meget om, og det her med, at det har givet mig noget at tænke over... jeg ville ikke blive stimuleret på den her måde, hvis jeg bare var i et fængsel uden de her aktiviteter, og det synes jeg er rigtig dejligt, fordi jeg er total understimuleret i forvejen herinde, og man kan have tendens til at falde totalt sammen og få depressionstilstande, og det kan jeg mærke, at det har det hjulpet på."

Set i forhold til Kolinds forståelse af tiden i fængslet, så bidrager aktiviteterne til at fylde den tomme tid ud. Hvilket for Mads er afgørende i forhold til at opretholde sig selv under afsoningen. Hertil er det vigtigt at understrege, at aktiviteterne kun

udfylder et meget lille tidsrum. Der er derfor stadig meget tom tid tilbage, der skal indholdsudfyldes.

Udover at indholdsudfylde den tomme tid, bidrager aktiviteterne også til at strukturere hverdagen i fængslet. Hans, der har en del fængselsdomme bag sig, fortæller om, hvordan han bruger aktiviteterne til at strukturere sin tid.

"Det er noget, man kan måle tiden på. 'Nu er der allerede yoga, og nu er der allerede debat - så er der gået 14 dage'. Det er ligesom en milepæl eller lyspunkt eller hvad man kan kalde det."

Hvor Hans taler om milepæl eller lyspunkt, så taler andre af de indsatte om delmål. Det er fælles for deres udsagn, at aktiviteterne bliver brugt til at skabe struktur og til at tælle ned til deres løsladelse. Her er det vigtigt, at sondre mellem afsonere med korte versus lange straffe. Gruppen af langtidsafsonere forholder sig ikke på samme måde til deres løsladelse, da den ligger langt ud i fremtiden. Langtidsafsonerne fremhæver derfor i højere grad det indhold aktiviteterne tilfører deres hverdag, og i mindre grad den strukturerende dimension.

Samfundets afvisning

Med en ubetinget dom følger mere end blot frihedsberøvelsen. Der følger også en samfundsmæssig afvisning, som den indsatte selv har ansvaret for at forvalte (McCorkle & Korn 1954). Sykes beskriver hvordan *"The wall which seals off the criminal, the contaminated man, is a constant threat to the prisoner's self-conception and the threat is continually repeated in the many daily reminders that he must be kept apart from 'decent' men"* (Sykes 1958, 67).

Søbysøgaard er ikke omringet af en mur eller et hegn, og sikkerhedsspørgsmålet har en anden karakter, end i de fængselsregimer som McCorkle & Korn og Sykes beskriver. Ikke desto mindre, er den samfundsmæssige afvisning, som følger med en fængselsstraf, et gennemgående tema i de indsattes oplevelser af mødet med omverdenen.

Der er blandt flere af de indsatte en italesættelse af, at de tilhører en gruppe, der er udstødt af samfundet. Denne afvisning har betydning for deres selvopfattelse. Hos de indsatte er der eksempler på, at de er overraskede over, der er nogen udefra, der har lyst til at komme ind til dem i fængslet. Omkring denne dimension siger Lars:

Lars: Altså for nogen herinde, og det har jeg, også for de andre afdelinger, hvor jeg har snakket. Jeg tror faktisk, der var nogen i starten, der var ham der den lille, han var her ikke ret mange gange, så blev han løsladt.

Interviewer: Ham der kunne rappe?

Lars: Ja. Han sagde bare, hvor er det vildt, at de kommer i deres fritid. Og det tror jeg ubevidst og bevidst for nogen, der tror jeg, der er flere der tænker 'hold kæft, gider de virkelig bruge tid på os?'. Og det er så også igen, hvor er vi henne? Fordi der er nogen, der ikke rigtig har nogen. Der er nogen, der hverken får besøg eller noget og så er der så nogen, der faktisk gider bruge deres fritid på at komme ind, og så synge sammen med en flok idioter, der bare står der. Ja, det betyder sgu noget. Det kan godt være, de ikke vil sige det, men det vil jeg vædde med, at det gør. Fordi det jo er frivilligt, og det er i deres fritid, og det er hele lortet og de kommer herind.

Lars beskriver, hvordan flere af de indsatte med fængselsdommen ikke 'kun' er blevet afvist af samfundet, men også er blevet afvist af deres egen familie og venner. Den omfattende afvisning resulterer i, at flere af de indsatte har svært ved at begribe, at der er andre, der *frivilligt* og i *deres fritid* har lyst til deres selskab. De indsatte bliver italesat som *en flok idioter*, der er ude af stand til at handle, hvilket forstærker billedet af, at de tilhører en gruppe, som andre ikke har nogen interesse i at omgås.

Hvor Lars taler på et generelt plan, er der flere af deltagerne, der tilkendegiver at omverdenens deltagelse i fængselslivet, betyder noget for deres egen selvforståelse. På spørgsmål om, hvordan han har oplevet, at der har været folk med udefra, siger Mike:

Mike: Det har været fedt, at vi ligesom har fået noget tillid til, at der kan komme nogen ind udefra.

Interviewer: Hvad tænker du?

Mike: Jamen bare, at det ved jeg sgu ikke, bare at man gerne vil lukke civile mennesker ind på en eller anden måde i stedet for, at det bare er på en stor landbrugsdag eller økodag eller hvad fanden det ellers hedder i landbruget. At man ligesom tager dem ind i noget andet.

Ligesom hos Lars, foretager Mike også en tydelig opdeling af de indsatte og folkene udefra. Deltagerne udefra bliver beskrevet som *civile mennesker* – en kategori han ikke anser sig selv som en del af. Hvor omverdenen tidligere er kommet ind til enkeltstående begivenheder, kan det betragtes som en tillidserklæring til de indsatte, at åbenheden mod omverdenen får en mere omfattende og vedvarende karakter.

I forhold til at forstå fængselsdommen som en afvisning, hvor de indsatte skal holdes væk fra det omkringliggende samfund, bidrager forsøget til, at der skabes en relation mellem verden i og uden for fængslet. Det øgede sociale samspil med omverdenen resulterer i, at fængslerne mister sin symbolske status som et farligt sted, hvilket betyder noget for de indsattes selvforståelse.

Både Patrick og Nicolai sætter ord på, hvordan åbenheden mod omverdenen har betydet noget for deres selvopfattelse. Patrick siger: "*Man bliver glad, for så ved man,*

at der også er andre, der tænker på én", og videre siger Nicolai: "Man føler at man er lidt mere normal. Og at man ikke bare er den der dumme kriminelle, ingen gider."

Hvor Patrick taler om at inddragelsen af omverdenen giver en oplevelse af, at der er andre, der tænker på ham og hans situation, så beskriver Nicolai, hvordan det for ham fører til en større grad af normalitet. Den udstødelse, der følger med fængselsdommen, bliver i mødet med folk uden for fængslet reduceret, hvilket får betydning for deres selvværd.

I forlængelse af den afvisning, som går på tværs i flere af de indsattes fortællinger, er det værd at bemærke, at de indsatte ikke har følt sig udstillet i forsøget. Rune fortæller om sin oplevelse med at møde deltagerne udefra:

"Folk er ikke kommet ind og har dømt andre, og sagt 'det er en kriminel'. Det har heller ikke været interessant at spørge. Der er kun nogle få, der lige har spurgt 'hvad sidder du egentlig i fængsel for?', men det har ikke været interessant, det har ikke været sådan en zoologisk have."

Et opgør med 'den kriminelle'

En central dimension i mødet med omverdenen viser sig, at være de indsattes mulighed for at italesætte sig selv som gruppe.

De indsatte er som gruppe kendetegnet ved, at de har begået noget kriminelt, hvorfor de har fået betegnelsen kriminel. Betegnelsen siger ikke noget om, hvor mange gange loven er blevet overtrådt, eller hvor alvorlig en forseelse, der er blevet begået. Ifølge Howard Becker knytter der sig mange konnotationer til 'den kriminelle', og der følger således særlige karakteristiske træk ved enhver, der bliver givet denne betegnelse. At være kriminel, kan således ifølge Becker forstås som en *master status*, der bliver definerende for hele identiteten (Becker 1973, 33).

Både i forberedelserne til forsøget på Søbysøgaard og undervejs i forsøgsperioden, oplevede jeg gentagende gange den endimensionelle forståelse, der knytter sig til de kriminelle som gruppe. Folk bad mig om at passe på, og spurgte tit til, om ikke jeg var bange, når jeg gik rundt i fængslet. Det blev tydeligt, at opfattelsen af de indsatte kunne være fastlåst og unuanceret, og efterlade lidt rum for at andre mere positive menneskelige egenskaber kunne få lov at træde frem.

Det går igen i mange af interviewene, at de indsatte i mødet med deltagerne udefra, fik mulighed for at nuancere forståelsen af 'den kriminelle', og gøre op med nogle af de konnotationer, der knytter sig hertil. På spørgsmål om, hvad det har betydet, at der har været deltagere med udefra, nævner Claus som det første, muligheden for at nuancere billedet af den kriminelle:

"Jamen det oplever jeg som fedt. Men det er egentlig mest med tanke på dem udefra, for jeg

tror det giver dem et andet blik på det at være kriminell. Mange har en eller anden forudindtaget holdning om, at når man er kriminell og sidder i fængsel, så er man sådan her, og mange af dem opdager jo, at vi er helt almindelige og søde og rare mennesker."

Det er gennemgående for de indsattes fortællinger, at de i interaktionen med omverdenen får mulighed for at vise mere menneskelige sider frem. Jonas siger: "Og så de kan se, at vi også er mennesker. Og ikke bare er dem, der har lavet noget lort og er blevet smidt i fængsel." Og videre siger Mike: "... også bare det der med, at selvom vi er kriminelle, så kan vi godt være normale mennesker ikke?"

Citaterne illustrerer, at de indsatte er bevidste omkring, hvilke egenskaber, der knytter an til forståelsen af 'den kriminelle', og at de med forsøget har fået muligheden for at påvirke disse og skabe en mere nuancerede og menneskelig forståelse af sig selv som gruppe. Mødet med omverdenen giver de indsatte mulighed for at tale tilbage til det samfund, der med fængselsdommen har afvist dem. Set i forhold til projektets grundidé peger denne dimension i retning af, at en større åbenhed mod omverdenen giver de indsatte mulighed for at nuancere deres eget og offentlighedens billede af dem selv som gruppe.

Konklusion

Forsøget med inddragelse af omverdenen i den åbne afdeling af Statsfængslet på Søby Søgaard blev igangsat med henblik på at udfordre og udvikle den eksisterende fængselspraksis. De igangsatte fritidsaktiviteter har været et tilbud til alle fængslets indsatte, men det er kun en mindre gruppe, der har deltaget. Deltagerne kommer overvejende fra den særlige uddannelsesafdeling, og der er i denne gruppe en overvægt af ældre langtidssafsonere.

Mødet med omverdenen og de igangsatte fritidsaktiviteter påvirker forståelsen af fængslet som sted, og har både en hverdagslig og en symbolsk betydning for de indsatte. På det hverdagslige plan, er aktiviteterne med til at strukturere og meningsudfylde de indsattes fritid og de fungerer som et frirum. Aktiviteterne foregår i fængslet, men selvom stedet er det samme, så betyder tilstedeværelsen af deltagerne udefra, at de indsattes oplevelser af stedet ændrer sig.

På det symbolske plan, betyder åbenheden mod omverdenen noget for den samfundsmæssige afvisning, der følger med en fængselsdom. Når fængslet ikke længere kun er et sted, der skal holde de indsatte inde og omverdenen ude, så nedtones fængslets symbolske status som et farligt sted. Denne symbolske ændring, kan medføre en ændring i de indsattes opfattelse af dem selv som afviste borgere.

Mødet med omverdenen bringer desuden de indsattes identitet som kriminelle i spil. I mødet får de indsatte muligheden for at vise mere menneskelige sider frem,

hvorved de på et lokalt plan, kan bidrage til en mere sammensat og nuancerede forståelse af kategorien 'den kriminelle'.

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Erfaringer med tværfagligt samarbejde om fælles klienter.

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Publikationen har bidrag af de forskere, der gennemførte projektet, nemlig Inger Marie Fridhov (Norge), Anders Persson og Kerstin Svensson (Sverige) samt Hanne Ramsbøll og Anette Storgaard (Danmark).

Store dele af publikationens indhold berøres ikke i det følgende. Derimod uddybes et enkelt aspekt, som kun blev sporadisk behandlet i publikationen. Det drejer sig om de praktiske udfordringer i at etablere en konstruktiv dialog imellem professionelle i de forskellige myndigheder, som er involveret i løsladelsesprocessen.

Myndighederne og Luhmanns systemteori

Vi har alle – som borger eller som repræsentant for en (anden) myndighed erfaret, at det kan være vanskeligt at opnå den dialog, der er behov, for med en repræsentant for en offentlig myndighed. De fleste af os, overkommer dog denne udfordring, i hvert fald så længe der er tale om én myndighed og et problem, der skal løses. Men de færreste har nok tænkt analytisk over, hvorfor det er vanskeligt. Vi har blot indset det faktum, at offentlige myndigheder er "store og stærke". Det gælder i relation til borgerne, som ofte skal indrette sin adfærd, formulere sine behov, beskrive sig selv så de passer ind i de mønstre, kasser og systemer, som den relevante myndighed arbejder med, for at blive taget alvorligt. Men de offentlige myndigheder er også "store og stærke" i relation til hinanden. Hver enkelt myndighed anser egne værdier og tilgange for gyldige og sande. Derfor forventes "de andre" at indrette sig. *De må give os de informationer, vi har brug for. De må respektere vores tidsfrister osv.*

I *sociale systemer*¹ beskriver Luhmann hvordan han ser det moderne samfund som kendetegnet ved at bestå af forskellige sub-systemer, som f.eks. justitsvæsenet, det sociale system eller sundhedsvæsenet. disse sub-systemer har hver sin tilgang til målgrupperne (som i øvrigt ofte er enkeltpersoner i unikke situationer). Systemerne har hver sin opgave, hver sin identitet, hvert sit mål og succeskriterium. De bygger på hver sin logik. Sub-systemerne er forskelligt organiseret. Der har forskellig intern

¹ Niklas Luhmann, Hans Reitzels forlag, 2000

kompetencefordeling, f.eks. med hensyn til økonomi og beslutningskompetence. Men samfundets sub-systemer er også forbundet med hinanden. F.eks. definerer de ofte sig selv igennem afgrænsning til de andre sub-systemer (*os og dem*), samtidig med at de lægger vægt på egen autonomi.

Men systemerne har ikke monopol på borgerne. Tværtimod er samme borger ofte involveret med mere end ét sub-system. Det er også sådan at desto mere udsat borgerens position er, desto flere sub-systemer er borgeren involveret med og desto flere systemer, man er involveret med, desto vanskeligere bliver det selvsagt at navigere.

Her er fokus på de af kriminalforsorgens klienter, som er på vej ud af fængsel eller er kommet ud af fængsel for nylig. For den gruppe er der rigtig mange sub-systemer at forholde sig til, det kan f.eks. gælde: jobformidling, boligformidling, afhængighedsbehandling, psykiatri og social understøttelse. Dertil kommer kriminalforsorgens egne sub-systemer: fængslet, pensionen, kriminalforsorgen i frihed. I større eller mindre grad kan her til føjes hel- og halvprivate aktører, som f.eks. tilbyder mentor, gældsrådgivning eller andet.

Forskning understøtter teorien

Den ovenfor præsenterede forskergruppe satte sig for at undersøge, hvilke udfordringer de professionelle, der sidder tæt på løsladelsen, oplever i det daglige. Og med henblik på at opnå et indtryk heraf i tre nordiske lande blev der afholdt et mindre seminar for de relevante aktører i henholdsvis Danmark, Norge og Sverige. Med til seminarerne var inviteret socialfagligt personale fra fængsler, pensioner, kriminalforsorg i frihed og kommunale socialforvaltninger. I løbet af den dag, seminaret varede, gennemførte de parallelle programmer på alle tre seminarer.

Først blev deltagerne sat sammen i blandede grupper og bedt om at beskrive en case skriftligt. Casen skulle være så udførlig, at koncipisterne selv mente at casen kunne viderebehandles af andre professionelle. Casen skulle i alle tilfælde angå en person, der stod lige foran sin løsladelse.

Dernæst skulle de samme grupper behandle en case, som var udarbejdet af én af de andre grupper. I denne fase blev det klart, at den case, som de oprindelige koncipister havde anset for fuldt belyst, blev oplevet som mangelfuldt belyst af den nye gruppe. Dette var en interessant erfaring for alle, både deltagere og forskere.

Herefter blev grupperne omdannet således at alle fængselsfolk kom sammen, alle kommunale folk kom sammen osv. Her blev deltagerne bedt om at overveje hvilke forhold, der havde overrasket dem mest i arbejdet frem til nu samt at diskutere to centrale spørgsmål: *Hvad er den gode plan (for løsladelse, AS)? Og hvad er det gode samarbejde?*

Sammenfattende om de to centrale spørgsmål og øvrige iagttagelser fra den afsluttende plenumdebat er bl.a.

- Deltagerne er i udpræget grad enige om, at såfremt der er en narkotika-problematik tilknyttet, stjæler den hurtigt al opmærksomhed med det til følge, at andre opgaver og problemer anses for mindre betydningsfulde.
- I Danmark og Norge er det jævnlige et problem, at den endelige løsladelsesdato fastsættes kort tid før. Dette er ikke i samme grad et tema i Sverige idet løsladelse akkurat på 2/3-dagen her er den altdominerende hovedregel.
- På spørgsmålet om, had den gode plan er, er der generelt enighed om, at den gode plan er den plan, der hidrører fra klienten selv.
- Alligevel mener de professionelle generelt, at de ved alt for lidt om deres klienters egne behov og ønsker. Forskerne konkluderer på baggrund af de professionelles udsagn, at planerne *aldrig* er skrevet af klienterne, de er af og til skrevet *for* klienterne, men oftest er de skrevet *om* klienterne.
- Det gode samarbejde beror på viden om *de andres* muligheder og begrænsninger, som var meget begrænset hos deltagerne (ifølge dem selv) til trods for, at de i alt væsentligt havde samme uddannelsesmæssige baggrund, var fra samme land og havde arbejdet med fælles klienter i flere år.

Til allersidst på seminardagen blev deltagerne spurgt, hvad de anså der var størst behov for, hvis de skulle komme nærmere de idealer, de selv så for deres arbejde. Her pegede de på, at der var stort behov for mere viden om, hvordan *de andre* arbejder, herunder hvilke muligheder og kompetencer, der findes for de andre og ikke mindst, hvilke forhindringer, de slås med. Dernæst ønskede man faste kontaktpersoner hos hinanden, så man kunne opbygge kontinuerligt og tillidsfuldt samarbejde. Dette er i nogen grad løst rundt omkring. Men fortsat lider man mange steder på dette felt under stor personalegennemstrømning, hyppig og langvarig sygdom, stress og overbelastning.

Det blev også påpeget, at reel opbakning fra ledelsen er afgørende. Den offentlige sektor er i nyere tid blevet underlagt såkaldte resultatkontrakter som styringsværktøj. Dette kan medføre, at medarbejderne har vanskeligt ved at følge ledelsens skiftende fokus-områder og derfor kan de være usikre på, om de udfører de "rigtige" opgaver og om de udfører dem tilfredsstillende.

Endelig sagde deltagerne på samtlige seminarer, at de ville opfordre til at der blev flere seminarer af denne type.

Det var interessant, at de seminardeltagere, vi som forskere havde inviteret for at de skulle lære os noget, endte med at konkludere, at de selv havde haft stort udbytte af dagen.

Selvom man må konkludere efter seminarerne, at det ikke alene er de løsladte, der har en stor udfordring, men også de professionelle, der skal understøtte løsladelsesprocessen, må man også konkludere at disse uprætentiøse dag-seminarer blev en ægte "win-win" oplevelse, som de offentlige sub-systemer med fordele kunne inddrage, når de får øje på behovet for at udvikle metoden i det sociale arbejde.

WORKSHOP B

GENDER RELATED STUDIES

Kvinnor och brott som socialt problem i svensk forskning under 1900-talet

Erika Hedlund

Syftet med detta paper är att ge en övergripande presentation av en pågående delstudie inom ramen för projektet "Kvinnor och brott som socialt problem" genom att redogöra för bakgrund till studien, frågeställningar och materialinsamling. Delstudien syftar till att studera hur bilden av den brottsliga kvinnan och kvinnors brottslighet som samhällsproblem växt fram i den svenska forskningen under 1900-talet.

Bakgrund

Att män är överrepresenterade vad gäller brottslighet är ett av kriminologins mest stabila fynd. Kön kan ses som "the strongest predictor of criminal involvement" (Messerschmidt 1993:1). Det har bidragit till att det i första hand är mäns brottslighet som studerats samtidigt som kvinnor och flickor historiskt har utelämnats från forskningen (Heidensohn, 1968; Klein, 1973; Smart, 1977). En lång rad feministiska forskare har kritiserat kriminologin för vad som beskrivs som en könsblindhet. Man menar att brottslighet har studerats utifrån en manlig norm utan att utveckla en kritisk syn på sambandet mellan brott och kön (se t.ex. Belknap 1996; Heidensohn & Silvestri 2012; Naffine, 2016; Tomsen, 2008). Att män undersöks har varit så självklart att titeln på studier om enbart män sällan reflekterar deltagarnas kön medan titeln oftast reflekterar deltagarnas kön om kvinnor inkluderas eller är studiens fokus. När forskare som enbart studerar män använder titlar som ger intryck av att vara generaliserbara verkar det akademiska området mindre manscentrerad. Det verkar som att det finns stor kunskap om brottslighet och avvikelse när det egentligen finns stor kunskap om *manlig* brottslighet och *manlig* avvikelse (Belknap, 1996; Hannon & Dufour, 1998). Vid 1970-talets mitt skrev Wilson & Rigsby (1975:131-132) att "the woman offender has so consistently been ignored in the study of crime that what little we do know seems to consist almost solely of what we know about the male offender. The possible contribution of one-half of the population to the crime picture remains largely unexplored". Messerschmidt (1993) menar att kriminologin traditionellt är skriven av män om män och länge har varit anmärkningsvärt ointresserade av att förklara kvinnors brottslighet. Det råder inte brist på kända kriminologiska forskare som kritiserats för hur de har behandlat, eller helt bortsett från, kvinnor i sin forskning. Dels finns det, på sin tid, stora teoretiker som uppmärksammar kvinnors brottslighet, eller icke-brottslighet, utifrån en maskulin syn på kvinnor. Lombroso förklarar kvinnors underrepresentation i brott med

hjälp av biologi och hävdar att kvinnor som begår brott begår andra typer av brott än män på grund av deras biologiska egenskaper som är underlägsna mäns. Senare på 1950-talet hävdar Pollak till skillnad från Lombroso att kvinnor begår lika mycket brott som män men att kvinnors biologi i kombination med vissa sociala omständigheter döljer deras brottslighet. En av Pollaks biologiska förklaringar är att kvinnor är mer svekfulla och därför tenderar att dölja sina brott vilket kopplas till att kvinnor kan dölja sin menstruation samt att deras orgasm inte är nödvändig för sexualakten till skillnad från män¹ (Messerschmidt, 1993). Dels finns det inflytelserika teoretiker² som helt bortser från kvinnor och vars teorier enligt Messerschmidt inte kan förklara skillnaderna i brottsmönster mellan kvinnor och män. Hannon & Dufour (1998) skriver att det inte behöver vara något fel med att begränsa sin undersökningspopulation så länge forskaren uppmärksammar begränsningarna. Genom att enbart undersöka män men hävda generaliserbarhet förstärks marginaliseringen av genus i kriminologiska teorier.

Steffensmeier & Clark (1980) presenterar kritik från en rad feministiska kriminologer som menar att tendenser från klassiska verk om kvinnliga brottslingar påverkar den senare kriminologiska forskningen. De hävdar att det finns anledning att ställa sig skeptisk till denna tolkning av den kriminologiska litteraturen. Tolkningen av till exempel Lombroso och Freud som sexistisk är, enligt Steffensmeier & Clark, överdriven eftersom de utöver kvinnors brottslighet även förklarar mäns brottslighet med biologi. Det säger snarare något om kriminologin som ämne än frågan om kvinnors brottslighet. Dessutom hävdar de att kritiken av den traditionella kriminologin bortser från att den stora majoriteten kriminologer förkastar den syn på kvinnors brottslighet som kritiseras och att det är svårt att hitta texter där denna syn accepteras (Steffensmeier & Clark, 1980). Zedner (1991) menar dock att den biologiska positivism som till exempel Lombroso företrädde, och som starkt influerade senare psykologiska förklaringsmodeller, har använts för att förklara kvinnors brottslighet långt efter att de ansågs förlegade för att förklara mäns brottslighet. Som exempel menar Zedner att dessa teorier har stort inflytande över utformning av dagens fängvård och psykiatrisk vård för kvinnor³. Dessutom är teorierna nära knuten till dåtidens moral och kvinnliga ideal samt inbyggda antaganden om kvinnors biologiska underlägsenhet (Zedner, 1991).

Under 1990- och 2000-talet har genus blivit ett centralt och etablerat ämne inom kriminologi i Sverige (Karlsson & Pettersson, 2006) och internationellt (Flavin, 2001; Heidensohn & Silvestri 2012; Zedner, 1991). Zedner (1991) menar att utvecklingen av en feministisk kri-

¹ Messerschmidt påpekar att dessa teoretiker måste förstås utifrån den sociala och historiska kontext de verkat inom.

² Bland dessa kan nämnas t.ex.: Metrons anomiteori, enligt vilken kvinnor borde begå mer brott eftersom kvinnor har sämre ekonomiska förutsättningar att uppnå kulturellt definierade mål. Hirschis kontrollteori som förklarar varför människor inte begår brott men tar bort den undersökningsgrupp som i störst utsträckning inte begår brott ur materialet; flickorna. Listan av teoretiker som på liknande sätt är genusblinda kan enligt Messerschmidt göras lång (Messerschmidt, 1993).

³ I en brittisk kontext.

minologi starkt har bidragit till vår förståelse av brott och dess kontroll dels genom att fokusera specifikt på kvinnors brottslighet men också särskilt på genus.

Tidigare forskning

Studier av amerikanska kriminologiska läroböcker⁴ visar att en mycket liten andel av innehållet ägnas åt kvinnor och brott (Steffensmeier & Clark, 1980; Wilson & Rigsby, 1975; Wright, 1992). Det verkar inte som att andelen ökar nämnvärt mellan 1950-talet och 1980-talet (Wright 1992). Under perioden 1956-1965 upptog ämnet 2,3 % av innehållet vilket ökade något till 4 % för perioden 1981-1990. Den största delen av den lilla ökningen utgörs av ett ökat fokus på våldtäkt (Wright, 1992). Wilson & Rigsbys (1975) studie av läroböcker från perioden 1956-1974 visar att enbart 18 % av böckerna⁵ ägnar mer än 3 % av innehållet åt kvinnor och brott⁶. En jämförelse av andelen publicerad forskning om kvinnor och brott under perioderna 1956-1960 och 1976-1980 visar en ökning från 7 % till 22 % i sociologiska tidskrifter (Wright, 1987). Under senare period har andelen ökat än mer dramatiskt i kriminologiska tidskrifter⁷. Andelen artiklar som inkluderar både kvinnor och män har ökat dramatiskt från 34 % på 1970-talet till 68 % under 1990-talet. Dock noterar Hannon & Dufour (1998) att könsskillnader uppmärksammas i mindre utsträckning under 1990-talet och att andelen artiklar där kön enbart används för statistisk kontroll har ökat. Samtidigt har andelen artiklar som enbart inkluderar män minskat från 60 % till 26 % och andelen som enbart inkluderar kvinnor legat stabilt på 6 %. Eftersom andelen som enbart inkluderar ett kön har minskat har andelen av dessa som enbart inkluderar kvinnor ökat från 8 % till 18 %. (Hannon & Dufour, 1998). Den stora ökningen av andelen forskning på området verkar inte ha fått något större genomslag i läroböcker (Wright, 1987).

Även om kvinnor inkluderas i studier oftare under 1990-talet så är män fortfarande normen inom kriminologisk forskning⁸ (Hannon & Dufour, 1998). Bland de artiklar som enbart undersöker det ena könet fortsätter män att vara normen genom att titlarna fortfarande tenderar att ge sken av generaliserbarhet. 90 % av artiklar med enbart män reflekterar inte detta i sin titel medan andelen är minimal för de artiklar som undersöker enbart kvinnor⁹.

⁴ Anledningen att undersöka just läroböcker är att läroböcker antas representera kunskap som har accepterats inom fältet och att de för vidare teoretiska och empiriska fynd till framtida kriminologer och praktiker (Steffensmeier & Clark, 1980; Wilson & Rigsby, 1975).

⁵ Totalt antal undersökta böcker är 17.

⁶ Dessa tre böcker ägnade 4 %, 5 % respektive 10 % av utrymmet åt ämnet.

⁷ Tidsskrifterna är följande: *Criminology*, *The British journal of criminology*, *The journal of research in crime and delinquency* och *The journal of criminal law and criminology* (kriminologi-sektionen)

⁸ Att enbart använda kön som variabel genom att jämföra kvinnor/flickor och män/pojkar är inte detsamma som att ha ett genusperspektiv. Dock kan självklart undersökningar med genusperspektiv även göra sådana jämförelser men det är inte tillräckligt utan det krävs även en genusteoretisk analys (Pettersson, 2013).

⁹ 1 av 11 under 1970-talet och 0 av 10 under 1990-talet.

Även visuellt är kvinnor osynliga i läroböcker (Baro & Eigenberg, 1993; Love & Park, 2013). I en studie av fotografier i 22 läroböcker i kriminologi¹⁰ från 1988-1991 skriver Baro & Eigenberg (1993:24) att "the invisibility and marginalization of women in these photos is astounding". Tjugo år senare konstaterar Love & Park (2013:336-337) i en replikation av studien att "the androcentricity of criminal justice and criminology continues to dominate and marginalize women as invisible". Andelen avbildade kvinnor har ökat något, från 19 % till 22 %. När kvinnor avbildas är det oftast i rollen som offer eller som perifer person. Av personer som är avbildade som brottslingar är 11 % kvinnor perioden 1988-1991¹¹ vilket ökade till 22 % tjugo år senare (Baro & Eigenberg, 1993; Love & Park, 2013). De enda delar av läroböckerna där större andel av personerna på bilderna är kvinnor, är då texten uttryckligen handlar om "kvinnor och brott" (Baro & Eigenberg, 1993). Under den senare perioden är det när texten handlar om kvinnomisshandel, media och brott och genus och brott (Love & Park, 2013).

När kvinnor och brott uppmärksammas i läroböckernas texter är de vanligaste ämnena prostitution, kvinnor i fängelse, könsskillnader i omfattning, våldtäkt¹², abort och pornografi. I de äldre läroböckerna ägnades mer av texten om kvinnor och brott åt prostitution och kvinnor i fängelse medan de nyare läroböckerna ägnar betydligt större utrymme åt våldtäkt. Brott som egendomsbrott och våldsbrott utförda av kvinnor är i princip helt frånvarande (Wright, 1992). Wilson & Rigsby (1975) finner att de vanligast nämnda brotten är prostitution, snatteri, fylleri och förargelseväckande beteende.

Wright menar att många författare av läroböcker framställer och förklarar kvinnors beteende enligt fyra sexistiska teman; 1. Stöd till myter om våldtäkt som lägger skuld på offret och friar förövaren 2. Framställningen av kvinnliga brottslingar som mer svekfulla och sluga än manliga brottslingar 3. Stereotypen att kvinnor är intellektuellt och fysiologiskt underlägsna och mindre rationella än män 4. Ett underförstått fördömande av moderna kvinnors ökade promiskuitet. Under 1950- och 1960-talet återfinns dessa teman i 60 % av de undersökta böckerna. Genomgående framställs kvinnliga förövare i de tidiga läroböckerna som "vamps" medan offer för våldtäkt och sexuellt frigjorda kvinnor beskrivs som "tramps". Wright påpekar att författarna inte tar dessa sexistiska teman ur luften utan att de stöder sina påståenden med hänvisning till framstående forskare som t.ex. Sutherland, Lombroso, Pollak och Freud. Under 1980-talet har andelen böcker med ovanstående sex-

¹⁰ De refererade studierna avser analyser av "criminology and criminal justice textbooks". Författarna påpekar att de till viss del kan ses som olika ämnen men att de dock tillhör samma forskningsfält. I en svensk kontext finns ingen motsvarighet till ämnet "criminal justice" vilket gör det svårt att översätta. Min bedömning är att åtminstone en del av den forskning som särskiljer "criminal justice" från "criminology" i den amerikanska kontexten faller under disciplinen kriminologi i Sverige.

¹¹ Vilket är en underrepresentation då kvinnor utgör mellan 5-18 % av brottslingar beroende på nivå i rättsystemet (fängelse, häktade, övervakade, villkorligt frigivna eller samtliga gripna)

¹² Detta behandlar inte kvinnor som förövare utan kvinnor som offer för våldtäkt.

istiska teman minskat till 31 %, det enda tema som helt försvunnit är dock att kvinnor är intellektuellt och fysiologiskt underlägsna och mindre rationella än män. De sexistiska framställningarna av kvinnor har under 1980-talet blivit mindre påfallande och grova. Bilden av kvinnor som "vamps" och "tramps" har bytts ut mot "coquettes", "teases" och "flirts" (Wright, 1992).

I Wilson & Rigsbys studie är de vanligaste förklaringarna till könsskillnader i brott kulturella. 24 % av böckerna berör bilden av kvinnor som mer moraliska men enbart en (6 %) trycker på denna förklaring. 29 % av författarna diskuterar fysiska eller biologiska orsaker men ingen har det som huvudsaklig förklaring. Wilson & Rigsby (1975) påpekar att ingen författare presenterar en fullständig förklaring men att följande tre förklaringar återkommer: 1. "Power behind the throne syndrome" – kvinnor är ofta medhjälpare eller uppviglare av brott, 2. "The mother goose hypothesis" – goda kvinnor är mycket goda medan dåliga kvinnor är förskräckliga, 3. "The poor pitiful pearl etiology" – den kvinnliga brottslingen framställs som ett offer.

Steffensmeier & Clarks (1980) menar att de finner lite bevis för en biologisk eller sexistisk förklaring av könsskillnader vad gäller brott i amerikanska läroböcker under perioden 1918-1965. De menar att förklaringar tenderar att betona strukturella och kulturella orsaker och att de undviker eller förkastar biologiska förklaringar. Exempel på förklaringar är begränsade möjligheter för kvinnor jämfört med män, att kvinnor lever ett mer skyddat liv, skilda förväntningar på könsroller samt skillnader i socialisering och inläring av attityder och beteenden. Ingen av de undersökta läroböckerna för fram enbart en fysisk, biologisk eller psykologisk förklaring medan samtliga läroböcker som erbjuder en förklaring åtminstone inkluderar en sociokulturell förklaring¹³. I 26 % av läroböckerna¹⁴ hävdas att fysiska skillnader (framför allt styrka) är en bidragande faktor till könsskillnaden. Ståndpunkten att biologiska eller fysiologiska skillnader per definition leder till könsskillnader i brott förs enbart fram i 15 % av böckerna. De understryker dock att de enbart undersökt vad de definierar som kriminologiska läroböcker vilket innebär att flera stora verk om kvinnlig brottslighet inte undersökts eftersom de faller utanför deras definition av kriminologi. Eftersom läroböcker antas spegla de teorier som anses accepterade inom fältet menar de att det speglar kriminologers syn på könsskillnader i brottslighet (Steffensmeier & Clark, 1980).

Studiens planerade upplägg

Projektets övergripande syfte är att ur ett svenskt perspektiv a) studera bilden av den brottsliga kvinnan och framväxten av kvinnors brottslighet som samhällsproblem och b) analysera utvecklingen av kvinnors brottslighet. Projektet anlägger ett historiskt perspek-

¹³ Samma lärobok kan innehålla flera förklaringsmodeller.

¹⁴ Totala antalet undersökta böcker är 34

tiv och undersöker utvecklingen under 1900-talet. En utgångspunkt är den feministiska kritiken av kriminologins normalisering av mäns brottslighet. För att förstå kvinnors brott som samhällsproblem behöver vi ta reda på hur problemet har växt fram och hur det har definierats. Utöver genusperspektivet anknyter studien till ett intersektionellt perspektiv (de los Reyes & Mulinari 2005) eftersom andra dimensioner som klass, etnicitet och ålder antas ha betydelse för hur kvinnors brott uppmärksammas, förklaras, problematiseras och vilka åtgärder som föreslås.

Genom att utreda vilka aktörer som har varit engagerade i frågan, hur problemet har beskrivits och de åtgärder som förespråkats förväntas studien ge en nödvändig bakgrund för förståelsen av kvinnors brott som samhällsproblem. Den forskning som finns på detta område är i huvudsak anglosaxisk.¹⁵ En analys av utvecklingen ur ett svenskt perspektiv saknas vilket denna studie kan bidra till.

Den aktuella delstudien är den första inom den del av projektet som fokuserar på den förändrade förståelsen av kvinnors brottslighet och de åtgärder som samhällets föreslås vidta. Hur kvinnors brott konstrueras har betydelse för vilka åtgärder som samhället sätter in och hur myndigheter behandlar och kontrollerar kvinnor med sociala problem.

Studiens frågeställningar är:

- I vilka sammanhang synliggörs kvinnors brottslighet?
- Vilken typ av brottslighet är det som lyfts fram?
- Hur förklaras kvinnors brottslighet?
- Hur beskrivs kvinnors brottslighet?
- Vilka åtgärder föreslås, alternativt kritiseras?

Ett genomgående fokus är hur ovanstående frågor förändras över tid under den studerade perioden.

Studiens empiriska material består av svensk forskning publicerad i centrala svenska och nordiska tidsskrifter under 1900-talet. Brottslighet har behandlats av forskare inom en rad discipliner, med olika stor tyngdpunkt på olika discipliner över tid, vilket innebär att en fullständig bild kräver att flera områden täcks in. I så stor utsträckning som möjligt är det att föredra tidsskrifter som täcker en större del av perioden. Den pågående materialinsamlingen omfattar följande tidsskrifter:

- Svensk juristtidning (1916-1999)
- Nordisk tidsskrift for Kriminalvidenskab (1949-1999)
- Barnavård och ungdomsskydd (1948-1964)

¹⁵ Se genomgång av tidigare forskning ovan.

- Socialmedicinsk tidsskrift (1924-1999)

Då vissa discipliner saknas eller är representerade i liten utsträckning kommer det empiriska materialet troligen utökas. Framför allt behöver samhällsvetenskapen täckas in i större utsträckning, särskilt sociologi och psykologi. Eftersom både sociologi och psykologi blir ett etablerat ämne i Sverige under 1900-talets andra hälft¹⁶ kommer dessa inte att täcka in hela undersökningsperioden, det är dock inte ett problem då det speglar forskningens utveckling i Sverige.

¹⁶ Sociologi blir egen universitetsdisciplin i Sverige först 1947. Den första professuren i psykologi inrättades 1948.

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Twisting and turning desistance from crime: A Qualitative Approach to the Understanding of Women's Transitions out of Crime.

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This paper describes my dissertation project; its main objective, background, previous research, theoretical framework and methodological considerations.

Main objective and scientific questions

This research project is focused on women's desistance from crime. The meaning of the term 'desistance' is widely debated, and will within this project be conceptualized as a complex process involving a major change in lifestyle, from "deviance" to "normality". Previous research has shown that this process of desistance is diverse and can take many different forms. Some individuals simply 'fall' into desistance, while others consciously make hard efforts to desist – with different outcomes (Halsey & Deegan 2015). Focusing on the desistance process itself, with its twists and turns, the aim is to investigate women's transitions out of crime and contribute to the theoretical understanding of women's desistance.

Three different scientific questions to guide this research project are: What are the women desisting from (and into)?, Under what circumstances does certain mechanisms work as facilitating desistance? and How can the desistance process be understood from an intersectional point of view?. These questions are elaborated on throughout this research plan.

The previously mentioned concept of criminal *lifestyle* is defined as a collective pattern of criminal-related behavior based on choices made from life chances and options available (see Bourdieu 1984; see also Cockerham, Rütten & Abel 1997 for a similar definition). Thus within this project, desistance from crime refers to the procedural move away from a lifestyle largely circulating around criminal behavior.

In order to create an understanding of the processes of desistance, I will interview women in different phases of leaving the criminal life. Using a longitudinal, prospective approach, I will be able to follow the women's desistance processes as they unfold by interviewing them repeatedly for a period of time.

Background

Two different approaches to desistance dominates the literature; desistance can be conceptualized as either a process leading to change in offending or as a more clear-cut event of termination of criminal activity (Halsey & Deegan 2015; Rodermond, Kruttschnitt, Slotboom & Bijleveld 2016). The interpretation of desistance as an event has been criticized for oversimplifying a more complex phenomena, and a major problem attached to this view of desistance is to determine when an individual actually has terminated her criminal activity. Temporary breaks in offending, understood as intermittent desistance, is very common, and problematizes the view of desistance as a clear-cut event (Carlsson 2013a; Halsey & Deegan 2015). Therefore, desistance is increasingly seen as a process, where the complexity of the phenomena can be developed and understood. Advocates of such a dynamic view of desistance often emphasize the social implications of the desistance process, arguing that the transition out of a criminal lifestyle involves both a changed approach to interaction with society (with changed routine activities and enhanced social bonds) and an individual identity shift (see e.g. Giordano, Cernkovich & Rudolph 2002; Laub & Sampson 2003; Maruna 2001). I will primarily rely on this dynamic understanding of desistance as processes.

Another important question to the study of desistance is *why* it occurs. The lives of people in our western society is guided or regulated by age-graded transition norms constructing our conception of what is appropriate behavior. These norms can be understood as framing a life-schedule, leading our lives to follow a certain order (Carlsson 2014; Elder, Kirkpatrick Johnson & Crosnoe 2004; Hughes 1984; Lander 2015; Uggen & Massoglia 2004). Following the normative life-schedule means leading a *normal* life. Awareness of the strong influence of such age-graded norms lets us understand the life course as a Durkheimian social fact, i.e. as a force external to us as individuals which controls our ways of life by restricting available choices for action (Carlsson 2014; Durkheim 1895/1982). Within this frame, desistance can be understood as a normative conception, i.e. as something everyone is expected to strive for and in the end accomplish (Lander 2015; see also Laub & Sampson 2001). As crime is conceptualized as *deviance*, we are supposed to want to desist in accordance with a striving towards normality. Awareness of the importance of normality, as well as the norms separating normality from deviance, can prove helpful to understand the processes of desistance.

The interest for women's desistance specifically is best understood against the backdrop of past and present research on desistance from crime. Such research traditionally focus on the group of individuals that commit many and serious crimes and have come far in the criminal career (Farrington, 2003). Due to the fact that far more men than women commit crime, and that the women who do commit crime tend to be less criminally active than men, the research on such criminal careers has typically been conducted on male respondents exclusively (see e.g. Carlsson, 2013b) and without gender perspective (Andersson,

Levander & Torstensson Levander 2013; Jennings & Piquero 2009; Oliver & Hodgins 2013). This way of treating crime as a male issue reflects one of (life-course) criminology's most well-known flaws (Halsey & Deegan 2015). By focusing on women and their life-courses we could gain a better understanding of the complexity of desistance from crime, and thus (as seen in the literature review below) nuance and problematize current "truths" based on studies on male desistance.

Intensive drug use is very common among criminally active women in Sweden (Estrada & Nilsson 2012). European research has shown that individuals struggling to desist from drug use as well as crime tend to focus strongly on the former (Colman & Vander Laenen, 2012). Furthermore, research has proven drug use to be important both as a risk-factor for recidivism and as a factor reducing the chance for desistance (Laub & Sampson 2003; Nilsson 2002; Nilsson et al 2014). Despite these findings, drug use seldom is highlighted in desistance research (Schroeder, Giordano & Cernkovich 2007). In a similar way but within drug research, the process of desistance is understudied in relation to onset and relapse (Hser, Longshore & Douglas Anglin 2007; Nilsson et al 2014).

Previous research on women's desistance

This literature review is focused on "mechanisms" that previous research has identified as helpful in facilitating individuals' desistance from criminal lifestyles. Most such research is quantitative, but interview-based and ethnographic qualitative research is discussed as well.

Mechanisms facilitating desistance

A lot of previous research has been outlined to answer the question of *what works* in desistance, i.e. what mechanisms has proven helpful in individuals struggle to change their lives from deviancy to normality. Rodermond, Kruttschnitt, Slotboom and Bijleveld (2016) recently presented a review of the literature on female desistance. The review covers both quantitative and interview-based qualitative research. Most of the qualitative studies included in the review were singlehandedly focused on women, whereas the quantitative studies that included women also featured men in their samples.

Focusing on classic turning points identified in research on men, the meta-study shows that relationship to a romantic partner (married or not) can work as a turning point for women too. However, it is paramount to study the specific circumstances of the relationship in order to understand *when* a romantic relationship works for women's desistance. For example, a woman involved with a drug using partner might decrease her involvement in non-drug crimes, but increase her drug-dealing activities (Rodermond et al 2016). In a similar way, getting a job has proved a prominent turning point for men, but here too

the surrounding circumstances moderate employment effects on women. Leaning on Cobbina (2009), Rodermond et al (2016) argues that this moderate employment effect for women might be due to the fact that for desisting women with a history of illicit drug use and other crime, employment is only available in low-level positions on the labor market. Male desisters are unattractive on the labor market, and due to structural gender-based discrimination, female desisters might be even more so (see also Lander 2003; Maher 1997).

The quantitative studies also indicate that education, mental health, family formation and economic independency has an effect on desistance (see e.g. Benda 2005; Huebner, DeJong & Cobbina 2010; Uggen & Kruttschnitt 1998). The qualitative interview studies largely support these conclusions, providing more detailed insights into the 'how and why' such mechanisms work for women's desistance (see e.g. Cobbina 2010; McIvor, Trotter & Sheehan 2009). This methodological synergy-effect can be exemplified with the case of motherhood as a turning point. Within the research on women's desistance, there is an overweight of research on the effect of children and motherhood on desistance. The quantitative research indicate that motherhood has some effect on desistance for women. This claim is nuanced and even problematized in the qualitative studies, as they point out that while it is true that motherhood can serve as a motivation to keep crime free and thus maintain desistance (or avoid intermittency in offending), the interviews also highlight that stress and expectations related to the motherhood sometimes caused a cancelation of desistance (thus leading to intermittency rather than desistance, see Carlsson 2013a). This stress was itself often caused by financial issues (Rodermond et al 2016).

This insight on the importance of paying attention to surrounding circumstances when assessing mechanisms important for desistance will be further developed within this project. The previous research identifies a number of mechanisms that *can* play a crucial role in women's desistance processes. Drawing on this literature review, a question of *when* these mechanisms work and *why* emerges (see also Agnew & Messner 2015 for a similar call for future research). As suggested, a qualitative approach has the potential to be especially useful here, as a deeper understanding of the social surroundings of desistance processes might be necessary in order to make sense of the complex phenomena that is desistance.

The life course from within: ethnographical studies

Among the most influential studies on criminally active women and their lives are ethnographical studies, wholly focused on women. Rosenbaum (1981), Taylor (1993), Maher (1997) and Lander (2003) have all greatly improved our knowledge on the living-situations for criminally active and drug (ab)using women struggling with constructs of normality and deviance. Although none of these works explicitly focus on desistance processes, they do contribute to our knowledge in this area as well. These ethnographic studies all focus

on the ubiquitous influence of illicit drug use on the women's lives. In that respect they differ from the mechanism-oriented studies discussed above with their focus on non-drug crime. Even though the contexts that have formed the women's lives differ in time and space between the different ethnographic studies, drug use presents the main theme shared in the women's life-histories. Striving to live up to normative ideals of femininity with its focus on respectability, purity and selflessness, drug use present the biggest problem in the women's self-perceptions. 'Good' or 'normal' women doesn't use drugs, and in a world of narrowing opportunities, the available ways to present oneself in a better light are getting more and more restricted as the deviant lifestyle proceeds (Lander 2003; Maher 1997; Rosenbaum 1981; Taylor 1993).

One important theme in these studies concern narratives on a changed understanding of drugs. As the drug intensive life unfolds, the perception of the relation to drugs can change from being a craved necessity to becoming a crime with a victim, i.e. a fetus, a child or other friends and relatives that is adversely affected by the women's drug use (Rosenbaum 1981; Taylor 1993). The changed assessment of the drugs can launch a strong will for the women to change their lives and quit the drugs in order to be perceived (by themselves as well as others) as 'better' women. Such findings are in line with Giordano et al's (2002) theory on cognitive transformation, a widely used theory within desistance research that will be discussed in the theory section below. The results are also in line with Swedish alcohol- and drug research focused on gender differences in desistance from drugs (Blomqvist 1999, 2002).

Another theme is marriage as a normative dream. Living with men can present a seductive way for women to present themselves as feminine, 'normal' and 'good' within the dominating heteronormative and monogamous gender-frame (Rosenbaum 1981). Much in line with the mechanism-oriented studies above, the ethnographic studies problematizes the understanding of marriage as facilitating desistance (as suggested by research conducted on men, see e.g. Laub & Sampson 2003). The ethnographic studies show quite to the contrary how women living with men face repeated battering and exploitation from their partners. Instead of presenting a pathway into a better life, such situations rather work opportunity limiting, locking the women further to the drug spiral as the women often react to such misery by escalating their drug use in order to distance or numb themselves from despair (Lander 2003; Maher 1997; Rosenbaum 1981; Taylor 1993).

Motherhood can also work as a strong motivational force due to its implications for the women's perception of what a 'good' woman is (Lander 2003; Rosenbaum 1981; Taylor 1993). Becoming a mother can thus, quite like marriage, be understood as a normative dream and present one of few available ways for the drug using woman to pass as feminine and 'normal'. On the other hand, motherhood comes with a risk for drug using women. Failing in motherhood and the risk of being perceived as a 'bad mother' can in many ways be worse for a woman than to fail in other aspects of life (Byrne & Trew 2008). The

women in both Maher's (1997) and Taylor's (1993) studies additionally had to relate to the at-the-time much debated discourse on 'crack babies', i.e. the view of women drug users as selfish, unable to care for others and therefore *unfit* mothers (see also Lander 2003). Thus, motherhood, much like heterosexual monogamy as discussed above, can present both opportunities and risks for women striving for normality. The normative dreams of marriage and family formation can pull the women towards a will to change their lives and thus work as facilitating mechanisms in desistance. But on the other hand, just as shown by the qualitative studies concerning motherhood above, these normative dreams can also limit the women's abilities to pass as normal as the high demands of the new situation can be perceived as simply too hard for the women to live up to. The discrepancy between will and ability to desist is further developed in the theoretical section below.

Altogether, this review of previous research emphasizes the impact of gender norms on our lives and life-choices. The ethnographic studies also underscores the importance of an intersectional approach in order to better understand women's lives as they unfold. An intersectional approach can be defined as an analytical ambition to explore gender, age, sexuality, class, functionality and race as complex and intertwined categories of oppression and social structures, in order to understand crime and its links to social position (de los Reyes & Mulinari, 2005; Elder et al 2004; Mattsson 2014). The life-course is complex and our opportunities for action (e.g. desistance) are limited by these different intersecting power relations (Elder et al 2004; Halsey & Deegan 2015; Lander 2015; Maher 1997; Rodermond et al 2016; Rosenbaum 1981; Taylor 1993). This research project will build upon these findings, as I do believe that an intersectional approach to the construction of normality and deviance can benefit desistance criminology in general, and this research project particularly.

Theoretical framework

A prominent approach to understanding desistance as processes is Laub & Sampson's (2003) *age-graded theory of informal social control*. According to this theory, variation in crime over the life course is due to different mechanisms (conceptualized as *turning points*) offering changes in social control and routine activities. Laub & Sampson (2003) argues that a turning point (e.g. a marriage) can enhance the amount of social control in the lives of the men they studied, and also change their routine activities in a conformist direction. Mechanisms such as marriage thus might raise the cost of criminal behavior and at the same time decrease contact with delinquent peers in criminogenic areas (see Cohen & Felson 1979; Hirschi 1969). This theoretical understanding of desistance processes is developed further and from a psychological view in Giordano et al's (2002) *theory of cognitive transformation*. According to this theory, the mechanisms (here conceptualized as *hooks for change*) can present one important step in the individual's gradual change of self-perception that brings about desistance from crime. A total of four steps are required in

order to desist: openness to change, exposure to hooks for change, ability to envision a *replacement self* and a changed view of the deviant lifestyle. In accordance with the influential works of Maruna (2001), Giordano et al (2002) thus argues that a shift in identity might be important or even needed in order to sustain desistance and avoid intermittency. The notion of an identity shift implies a quite static view of desistance as a final state, a view which clashes somewhat with the previously presented understanding of desistance as continuous and ongoing processes. Within this research project, I will relate to both these different views of desistance. A definitely dynamic element though is the all-important individual will to change conceptualized as *agency* that constitutes a major aspect in both of these theories.

Discrepancy between will and ability to desist

As stated in the introduction, desistance is normative and expected. A will to change is tightly connected to a will to perform normality and be perceived by oneself and others as normal (Carlsson 2014). In many aspects, though, a criminal lifestyle is understood as the opposite of normal. It is marked as deviant, and theories propose that a major cognitive shift is required in order to leave such a deviant lifestyle (see e.g. Giordano et al 2002). As the literature review shows, a will to change, no matter how strong, is very seldom enough to accomplish such a transition. This fact was noted by Matza as early as 1969 as he wrote “being willing is not quite the same as being able” (Matza 1969:112). Life-course research has since then elaborated the discrepancy between will and ability to desist by highlighting the importance of turning points or hooks for change as external motivational forces that makes desistance possible for the willing agent (Giordano et al 2002; Laub & Sampson 2003).

Thus, according to these theories, the individual may need some kind of mechanism to facilitate her desistance, but without a will to desist, she won't be able to make use of the chance given by this mechanism. *Agency* is a key concept in desistance research, but the definition of the term is still somewhat vague (Carlsson 2014; King 2014). Agency can be understood as “attempts to exert influence to shape one's life trajectory” (Hitlin & Elder 2007:183). Within this research project, agency will be used as a term for conscious actions taken in order to influence the life course. In desistance, such actions are taken in order to change one's life from deviance to normality.

However, the actual ability to change is also dependent upon the economic, social and material resources available to the individual (Nilsson, Bäckman & Estrada 2013). Individual resources are largely dependent on social position, which in turn is regulated by an intersecting web of norms.

Gender norms and desistance

In life-course criminology in general, gender is (when present) all too often treated as an

individual-level variable (i.e. sex) (Miller 2010). This project will apply a more dynamic gender perspective focused on gender norms and their implications for our choices of action. A central concept in gender sensitive desistance research is "doing gender": People perform certain actions coded as masculine or feminine in order to be perceived as such by themselves and others. Gender performance is interactional and dynamic as the underlying gender norms are dependent upon historical and cultural context (Carlsson 2013b; Lander 2003; Maher 1997; McCarthy & Gartner 2014; Miller 2014; West & Zimmermann 1987).

Carlsson (2013b) took a first step towards gender awareness in life-course criminology as he added a dynamic gender perspective into Laub and Sampson's (2003) influential age-graded theory of informal social control. In doing this, Carlsson (2013b) showed how the will to change was dependent upon age-graded gender norms, as deviance could be linked to a youthful gender project while normality was linked to maturity. This conceptualization helps to understand the classic age/crime-curve that has eluded life-course criminology for so long (see e.g. Laub & Sampson 2001). However, Carlsson (2013b) chose to theorize on men and masculinities only. It is possible that the process of maturation has other connotations for women – both socially as women might be expected to mature in other ways or in different stages in life (in relation to the life-schedule), and neuroscientific research indicates that the biological process of maturation might be different for women than for men (De Bellis, Keshavan, Beers, Hall, Frustaci, Masalehdan, Noll & Borning 2001). Additionally, Carlsson's (2013b) view (although it is arguably way more dynamic than the individual-level approach to gender as a dichotomous sex) still is limited to two relatively static categories: the young and the mature. I will build on this first important step, by further developing a dynamic understanding of how gender as well as other intersecting social structures makeup a social position that impact our opportunities for action.

Social position, freedom to act and ability to change.

In order to advance the understanding of the dynamics of women's identity constructions, an intersectional approach to identity will be adopted. I use intersectionality as an analytical approach to explore how different power-relations (such as gender, age, sexuality, class, functionality and race) affect the identity construction throughout the life course. Thus, as the women strive to desist from crime and to be accepted by society as 'normal' women, they construct or reshape their identities by relating to, and position themselves within patriarchy as well as class-, age- and ethnicity-based systems of oppression (de los Reyes & Mulinari 2005; Mattsson 2014). Such power relations impact what choices are available to us, i.e. what kind of identities we are able to do.

Bourdieu (1984) says that the body is the primary materialization of class, and that bodies therefore are continually evaluated and interpreted in relation to social class. Women

striving to belong and perform *normative femininity* (Lander 2003) invest in their bodies as symbolic capital. But looks are not all, it is also important to show signs of 'inner femininity', making the caring self an important part of women's habitus (Lander 2003). Bourdieu's (1987; 1999) understanding of symbolic capital will be crucial to understand the women's social positions in this respect. With social position follows freedom to act and ability to change one's life.

The importance of the social position for the freedom to act and ability to change can be further extended with a resource perspective, shedding light on factors restricting the women's struggle to desist (Nilsson & Estrada 2009). Different factors are bound to restrict the freedom of action in different situations. Understanding how and when different factors gain importance could greatly benefit the understanding of women's desistance processes.

A resource perspective and cumulative disadvantage

Generally, women punished for crimes in Sweden come from far more disadvantaged upbringings than the general population (Estrada & Nilsson 2012; Nilsson 2002). When punished for crimes, the women might get exposed to the social process of *cumulative disadvantage* (Sampson & Laub 1997), causing the marginalized situation to escalate into an alienation that severely restricts freedom of action. Gender norms limit our discretion by defining some actions as unfitting our gender projects. Drug (ab)use certainly works limiting for the freedom to act, as it often comes with a clear cut dependency towards the drug. Thus, the already difficult choice of desistance becomes even harder to make (Blomqvist 2004).

Method

The study of processes of within-individual change over time require data with a longitudinal scope (Menard 2002). Such data can be gathered both qualitatively and quantitatively. Since this research project will apply a dynamic and intersectional approach to social position in order to understand how will and ability to change impact women's desistance, a qualitative approach is required. More specifically, a prospective interview design is outlined here.

Prospective interview approach

To conduct prospective interviews is to follow the life courses of individuals by repeatedly interviewing them at different times of their lives. The major strength of this method is its ability to collect data of an event relatively soon after it has happened (Benson 2013). The idea of actually taking part in the women's desistance processes as they unfold is intri-

going, and such an approach could lead to much sought-for knowledge about women's life-courses and pathways that are unprecedented in desistance research today.

However, the method also contains issues that needs consideration. One of the more obvious challenges' is it's time consumption as interviews need to be conducted on several occasions in order to actually capture the eventual period of within-individual change that is of interest. There is no way of knowing whether *if* an individual is about to desist in the near future, nor the *duration* of her desistance process as it really is quite individual (Benson 2013; Halsey & Deegan 2015; Menard 2002). However, this research project will be concerned with the desistance processes per se – their twists and turns and how desistance unfolds. When desistance fails thus becomes just as interesting as when it is successful. Depending on what will come out of the prospective interviews, the concept of intermittency (now only touched upon in the background, literature review and theoretical considerations of this outline) might turn out to be a key concept within the research project. Many of the common issues with a prospective approach thus become less problematic when researching the processes of desistance, as the uncertainties of the outcome of the interviews is part of the bigger issue that is studied. Thus, a prospective approach is well suited for this research project.

One last issue with prospective interviewing worth mentioning is attrition. Attrition is the accelerating loss of cases which can be caused by for example respondent movement or death (Menard 2012). In this study, attrition could be an issue since some of the interviewees probably will struggle with drug (ab)use. Drug (ab)using people are more likely to have unstable living conditions, making them more difficult to contact as they might be missing a home address or phone subscription (see also Benson 2013; Nilsson & Flyghed 2004).

Sample, interview themes and timeframe

With a prospective, longitudinal interview design, this study will target about 10-15 women that are today struggling with desistance. These women will then be interviewed once every six months for a two-year-period. The project thus contains four sweeps of interviews, and all of the women will be followed during the entire period.

The interviews will be of a thematically open character, meaning that they will have a conversational framing and circulate around a number of preset themes. These themes all originate from the theoretical framework and previous research discussed in this outline (see e.g. Carlsson 2012:6; Colman & Vander Laenen 2012:6-7; Giordano 2014:50; Holstein & Gubrium 1995:32-33; Kristensson 2014:17-18; Lander 2003:128-129; Lander 2015:272; Laub & Sampson 2003:139; Rodermond et al 2016). As interview sweeps 2-4 are supposed to work as follow-ups, interesting themes will for these interviews be drawn from each respondent's previous interview respectively. A timeframe of 2-3 hours per interview has in

previous research proven to be reasonable for the purposes of this research project (see e.g. Carlsson 2012; Lander 2003).

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Validity of the gender gap theory in a substance-abusing population with previous prison sentences

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Abstract

AIMS: In general, men commit most crimes, and this phenomenon is called the gender gap in criminology. Is the gender gap theory valid for substance abusers who have been imprisoned? In this paper, the theoretical background of the gender gap and other factors connected to criminality and preliminary results of a registry study are presented.

METHODS: The data consisted of 2034 female and 4537 male substance abusers. Gender differences in the groups of substance abusers with and without prior convictions were compared. Additionally, the effect of gender and prior convictions on the amount and type of crimes committed between 2006 and 2010 were studied.

RESULTS: In the group of substance abusers with prior convictions, gender differences were quite narrow compared to substance abusers without prior convictions. Generally, convicted substance abusers committed more crimes than other substance abusers, and men committed more crimes than women. However, there was no gender difference in the proportion of substance abusers with prior convictions who committed property crimes in the observation period.

CONCLUSIONS: A gender gap in the criminality of substance abusers was found regardless of earlier prison background. However, preliminary results suggest that substance abusing women with prior convictions might have a risk of committing property crimes similar to men. Further analyses and control of confounding factors are needed before conclusions can be made. A more advanced analysis considering the confounding factors and deaths will be performed using Cox regression analyses in the near future.

Introduction

Imprisonment, gender and crime

Gender gap. In the general population, men commit most crimes, and substance abuse is more common among men. This phenomenon is called the 'gender gap' (e.g., Steffenmeier & Allan, 1996; Steingrímsson, Carlsen., Sigfusson, & Magnusson, 2012). Women use substances less frequently than men do, though the un-prescribed use of sedatives is more common among women (alcohol: Pitkänen, 2010; drugs: The European Monitoring Centre

for Drugs and Drug Addiction [EMCDDA], 2005). Both socio-cultural and genetic factors have been used to explain this phenomenon (Fattore, Melis, Fadda, & Fratta, 2014). The early onset of substance use predicts problematic use in the future for alcohol (Pitkänen, Lyyra, & Pulkkinen, 2005) and for prescription drugs (Hermos, Winter, Heeren, & Hingson, 2008). The use of illegal drugs usually decreases with age (Kandel & Raveis, 1989), but in Finland, the use of alcohol stabilizes at the same level from early adulthood to the age of 50 (Pitkänen, 2010). In criminology, the gender gap seems to be wider for the most serious crimes.

Some evidence for the narrowing of the gender gap was found in the 1970s (Simon, 1975). There have been several explanations for this phenomenon. The 'liberation hypothesis' (Heimer, 2000) connects this phenomenon to women's liberation. However, this theory has been criticized because the narrowing of the gap seems to precede the liberation of women (Heimer, 2000). A less criticized theory is the 'economic marginalization hypothesis', which bases the narrowing of the gap in the relational worsening of the economic situation of women. Heimer (2000) suggests that changes in family structure, a gender gap in wages and the collapse of the safety net have had a combined effect on the relational economic marginalization of women. A third theory, the 'decay of chivalry hypothesis', argues that police and other authorities used to overlook women's crimes more in the past more than they do today (Heimer, 2000). This theory has been criticized for its lack of explanation for relatively rapid changes, but it may explain some parts of the phenomenon (Heimer, 2000). Steffenmeier (1993) explains the increase in women's criminality concentrated on minor property crimes in relation to increased opportunities for women to commit this type of crime, increased drug abuse by women, and the increased economic marginalization of women.

In Finland, less than ten percent of prisoners are women. Women prisoners have lower social status, worse self-rated health and more problems with mental health than male prisoners do (Joukoma et al., 2010). According to Estrada and Nilsson (2012), 'it takes more to become a female offender', and it also 'costs more'; by the age of 48, convicted women were more socially excluded compared to men. However, when social problems in childhood and drug abuse history were controlled, there were no significant differences between genders.

Women have been found to be less likely than men to recidivate (Deschenes, Owen, & Crow, 2007, Tyni, 2011). Although the frequency of criminality differs between genders, most factors that affect criminal behavior, such as poverty and unemployment, seem to have parallel effects on crime rates regardless of gender (Kruttschnitt 2013). However, some factors connected to crime seem to be gendered. For example, drug use increases women's risk of recidivism more than men's risk (Li & MacKenzie, 2003). Some variables, such as education and employment have a stronger protective effect, and illegal drug use stronger injurious effect against recidivism for women than for men (Uggen & Kruttschnitt

1998 and Simons et al., 2002). There is also evidence that women have a later offending onset than men do (Block, Blokland, van der Werff, van Os, & Nieuwbeerta, 2010). Uggen and Kruttschnitt (1998) theorize their findings based on Black's (1976) theory of law on the differences between genders: 1) women's reputations are more easily damaged as an effect of prior crime and drug use, but their reputations are also protected by education and work; and 2) gender differences in official crime statistics seem to be at least partially affected by the behavior of officials.

Identity and categorization. Black (1976) suggests in his theory of law that the role of law increases when other forms of social control, such as family, therapeutic relations and friendships, decrease. In his theory, differences between genders are dependent on their correspondence to social location and thus to the other identities or roles they possess. Women often have social locations as wives, carers and mothers, and they have traditionally been economically dependent. These locations together form mechanisms that protect women from formal legal controls (Uggen & Kruttschnitt 1998). According to Black (1976), the more marginal people are, the more likely they are to be blamed and their behavior to be defined as deviant. Being a known offender can stigmatize a person for life, making the person more likely to be watched and harassed.

When Black (1976) examined 'labeling', he stressed the perspective of others, such as officials. Jenkins (2008) stated that identity must be considered from two perspectives: in the process of self-identification, we also categorize others. Therefore, as others, such as officials, categorize us, we begin to act according that identity and the labels attached to it and vice versa. According to Link and Phelan (2001), 'Stigma exists when elements of labeling, stereotyping, separation, status loss and discrimination occur together in a power situation that allows them'. Therefore, stigmatization and discrimination are social psychological processes that affect persons who have been stigmatized.

Criminality is often connected to masculinity (e.g., Messerschmidt 1993), but this may be a simplification (Hood-Williams, 2001). Steffenmeier and Allan (1996) offer a more complicated theory in which the masculinity of criminality is related to the way gender is organized. Norms of society, moral values, social control, sexuality as a source of exploitation, and physical strength (in some crimes) lead to a difference between genders in criminal behavior. These gender roles tend to restrict women's occupations and positions (illegal or legal) connected to criminal opportunities and the motivation to take risks. Although the underlying macro-level causes of criminality (poverty, age, unemployment, low education) may be the same, the context (the motives and the details of the offence) may differ depending on gender, even if the crime is registered in the same way (Steffenmeier & Allan, 1996).

Factors connected to criminality

Substance use. Substance abuse and criminality are related to one another by definition with regard to illegal drugs. Indirectly, the connection of crime and substance abuse is more complicated. Although alcohol abuse increases the likelihood of both violent and property crimes, this phenomenon may also be caused by confounding factors (Fergusson & Horwood, 2000). However, most crimes are committed while an individual is intoxicated or by persons with substance abuse problems. Elonheimo et al. (2007) found that although only 1.8 percent of the young men born in 1981 had a diagnosed substance use disorder, this group was responsible for 24 percent of the crimes committed by this cohort between 1998 and 2001. In Finland, more than four-fifths of prisoners have been diagnosed with lifetime substance dependence (Joukamaa et al., 2010).

Different crimes are also committed for different reasons. For example, property and drug crimes may be 'survival crimes' that are committed for emotional and economic reasons (Deschenes et al., 2007). Substances may also be a cause of property crimes (e.g., stealing money to buy drugs), but there is often a more complex relationship between substance abuse, criminality and one or more other factors (Albery, McSweeney, & Hough, 2004), and many motives for the crimes committed by substance abusers are not connected to substances (Kekki, 2012). Drug use is also connected to a higher risk of committing property crimes among released prisoners (Kirwan et al., 2015).

Age. The connection between crime and age is another well-known criminological phenomenon. The crime-age curve (e.g., McVie, 2005) peaks in adolescence or early adulthood, and criminal activity and the likelihood of an individual committing a crime decreases with age. However, the shape of the curve varies depending on the types of crimes and social and cultural factors, such as generation, country, social background, and gender (Ulmer & Steffenmeier, 2014). For those who commit crimes, the spectrum of criminal behavior seems to widen with age (Stattin, Magnussen, & Reichel, 1989). Property crimes seem to peak earlier than violent, drug- or alcohol-related crimes (Sampson & Laub, 2003). People with unstable situations, such as those with previous incarcerations, unsteady jobs, homelessness and substance abuse, seem to persist in criminality into older age (Laub & Sampson, 2003, for ex-prisoners see Monnery, 2015).

Work and education. The desistance from criminality as people age is not simply due to aging. During their life-course, people find things that prevent criminality, such as finding a job, obtaining an education or getting married. Laub and Sampson (2003) call these events 'turning points'. In particular, employment reduces the probability of committing a crime, but in some studies education has also been found to have a connection with desistance. Most of the women who commit crimes have a limited education and poor employment status (Heimer, 2000).

Current employment reduces the risk of arrest for both genders (Uggen and Kruttschnitt 1998), but employment seems to act as a turning point only after early adulthood (Uggen 2000). However, Giardano, Cernkovich and Rudolph (2002) did not find adulthood job stability to be a significant predictor of adult desistance from crime for either gender. Incarceration also influences the likelihood of not having a steady job, which, in turn, is connected to the continuation of criminality in the future (Sampson and Laub 1993). Imprisoned women more often have problems with employment (Peters, Strozier, Murrin, & Kearns, 1997). In his study of convicted ex-prisoners, Monnery (2015) found a slightly higher risk of recidivism for persons with employment but no difference based on education.

Lochner and Moretti (2004) found a causal link between higher education and reduced criminality. They also presented theories for the crime-reducing effect of education: the relational economic cost and stigma related to being caught was higher for educated people; education had an effect on patience, risk aversion, and the psychic costs of criminal activity; and schools had the effect of keeping children off the street. Huebner et al. (2009) found that convicted women with high school diplomas were less likely to fail in parole. Education level also protects middle-aged women from the impact of labeling (Culbertson and Fortune 1986). Witte and Tauchen (1994) found no connection between previous high school education and future crime.

Mental health and substance abuse. Compared to the link between substance abuse and crime, other mental disorders and criminality, especially combined with substance abuse, are less frequently studied. Most studies concerning mental disorders and criminality concentrate on violent behavior rather than other types of criminality (e.g., Räsänen et al., 1998, Brennan et al., 2000). However, conduct disorders as well as anxiety and depression linked with substance use disorders in early adolescence have been found to increase the risk of criminal behavior in late adolescence (Copeland, Miller-Johnson, Keeler, Angold, & Costello, 2007).

Hernandez-Avila et al. (2000) did not find that schizophrenic or personality disorders predicted criminality in a one-year follow-up after substance abuse treatment, with the exception of borderline personality disorder and violent crimes. Persons with schizophrenic disorders and co-occurring substance disorders, particularly drug abuse, have a higher risk of committing a crime than do other persons with schizophrenic disorders and normal populations for most types of crime, including property crimes (Tiihonen et al., 1997, McCabe et al. 2012). Substance-abusing men with schizophrenic or mood disorders commit more crimes than other men with these mental disorders do (Modestin & Wuermle, 2005), and women prisoners seem to have mental problems more often than men do (Joukamaa et al. 2010, Peters et al. 1997).

Research question

Two different issues were analysed in this paper. First, the existence of gender differences between convicted substance abusers and other substance abusers was studied. Secondly, the likelihood of substance abusing men and women to commit different types of crimes categorized in two populations, substance abusers with and without prior convictions, was examined.

Data and Method

Data

The data were part of our large register study, the Registry-based follow-up study on criminality, health and taxation of inpatients and outpatients (RIPE; N = 12 047) who entered substance abuse treatment between 1990 and 2009. The data consisted of treatment records from two out-patient clinics in Helsinki and one in-patient treatment center, Järvenpää Addiction Hospital. For inclusion in this study, substance abusers had to be alive at the beginning of 2006 and had to have an entry in treatment records due to their own alcohol, illegal drug, medicine or multiple substance problem. Of the 6571 substance abusers, 327 women and 1707 men had been convicted, and 1936 women and 2601 men had not. Sixty percent of the substance abusers were living in the Greater Capital Area around Helsinki.

Selected variables from the following national registers were combined for the treatment data: 1) the causes of death from Statistics Finland; 2) the prisoner data system of the Criminal Sanctions Agency (VATTI); 3) the Finnish Care Register for Health Care (HILMO); 4) the information system of taxation; 5) Statistics Finland's Register of Completed Education and Degrees; and 6) three different registers provided by the legal register center (the record of judicial decisions, the record of fines and criminal records). The ethical committee of the A-Clinic Foundation approved the study's protocol. Permission was granted for the use of data from the keepers of each register, and the National Institute for Health and Welfare approved the dataset. The data were anonymized.

Variables

In the analysis, we separated substance abusers convicted to imprisonment or to community service (n=2034) and other substance abusers (n=4537). A binary variable concerning prior criminal sanctions between 1.1.1992 and 12.31.2005 was created for this purpose. Only criminal sanctions served in prison or community service were taken into account. For demographic comparison, we used variables related to age, education, work situation, substance abused, mental health and earlier criminal sanctions.

Demographic variables. Age and gender were obtained based on social security numbers before anonymization of the data. A binary variable for secondary or higher education before 2006 was created. Information concerning working or not working in 2004 or 2005 was evaluated using income reported for state income taxation. This binary variable was created by using The Social Insurance Institution of Finland's minimum income limits to measure full-time work when granting unemployment money. This variable excludes some incomes of entrepreneurs and does not count undeclared work. Substance abuse and its treatment. Information about substance use problems was combined from treatment records and all diagnoses received in inpatient care during 1990 - 2009. A binary variable was created by differentiating people for whom alcohol was the only substance causing problems from people who had problems with other substances (drugs, prescribed medicines or multiple substances). A binary variable concerning whether the timing of the first known substance abuse treatment had begun before or after 2006 was also created. Our data are not comprehensive on the matter of substance treatment centers; therefore, this variable is only directional. Mental health diagnoses for inpatient periods between 1996 and 2005 included all inpatient periods in any officially approved Finnish hospitals. The International Classification of Diseases and Related Health Problems version 10 (ICD-10) has been used nationally for diagnoses since 1996. Diagnoses of schizophrenia, schizotypal and delusional disorders (F20-F29), mood [affective] disorders (F30-F39), neurotic, stress-related and somatoform disorders (F40-F48), and disorders of adult personality and behavior (F60-F69) were used as binary variables. Other blocks of the chapter Mental and behavioral disorders (F00-F99) as well as diagnoses of Human immunodeficiency virus (HIV) disease (B20-B24) and Chronic viral hepatitis C (B18.2) were used for descriptive purposes. For the group of convicted substance abusers, the following three variables were used as covariates: a criminal sanctions client only in community service; a default prisoner at some point; and the number of imprisonments that began or ended between 1992 and 2005 (excluding community service).

Analyses

We examined the frequencies of the different crimes committed during the entire follow-up period. Fisher's exact test and an independent variables t-test were used to analyze gender differences. IBM SPSS Statistics for Windows, Version 21.0 was used to perform the analyses.

Results

There were 4308 substance-abusing men and 2263 substance-abusing women in the sample. Between 1992 and 2005, 39.6 percent of the men and 14.4 percent of the women had been convicted to prison or community service. The mean age was 41.1 years, and the median age was 40.4 years on 1/1/2006. The convicted abusers were generally four years

younger than the other substance abusers ($p < 0.001$). Women were slightly younger than men. Only 32.2 percent of the sample had graduated from secondary education, and 11.5 percent had tertiary education. In both groups, men had secondary or higher education slightly more often than women. Convicted abusers had secondary education less often ($p < 0.001$) and had been employed in 2004 or 2005 ($p < 0.001$) less often than the other abusers. Two-fifths of the other abusers but only 13.9 percent of the convicted abusers had been employed in 2004 or 2005. Men had been working more often than women in both groups.

Drug or multiple substance abuse was more common among convicted abusers than other abusers (77.6% and 53.8%, $p < 0.001$), and there were no gender differences. The majority (82.3%) of the sample had been in substance abuse treatment before 1.1.2005. Convicted abusers more often had their first treatment after the follow-up period (19.7% and 13.1%, $p < 0.001$). Convicted men had their first treatment after 1.1.2005 more often than convicted women did (14.0% and 8.3%, $p < 0.001$).

Almost half (48.6%) of the substance abusers had had a diagnosed mental health problem other than substance-use-related problems (F00-F09, F20-F99) during an inpatient period. Non-convicted women (55.5%) had been diagnosed more often than non-convicted men (45.1%, $p < 0.001$). The four most common diagnostic blocks among substance abusers were mood (affective) disorders (30.1%), disorders of adult personality (20.9%), neurotic, stress-related and somatoform disorders (15.8%) and schizophrenia, schizotypal and delusional disorders (12.1%). Other blocks within mental diagnoses were uncommon ($< 2.5\%$). One percent of the sample had HIV, and 12.8 percent had Hepatitis C diagnosed in inpatient treatment.

More than 7 percent of the persons had died during the follow-up period without committing a crime. Convicted men had died without committing a crime more often than convicted women. Convicted men had died more often (10.8%) than other men (5.2%, $p < 0.001$) without committing a crime.

Criminality by gender and previous prison sentences

More than half (53.4%) of the substance abusers committed a crime between 1/1/2006 and 9/30/2010. A larger proportion of men (60.2%) than women (40.5%, $p < 0.001$) committed a crime. Of the persons sentenced to imprisonment or community service between 1.1.1992 and 31.12.2005, 75.5 percent committed at least one crime during the follow-up.

Overall, 66820 different offences were found in the official registries between 1.1.2006 and 30.9.2010. When examining the absolute number of crimes, the most common offense was some type of crime against property. These crimes constituted 47.0 percent of all offenses, of which 47.9 percent were petty thefts.

Offenses were divided into the following seven categories according to the nature of the crime: 1) offenses against property (35.8% of substance abusers), 2) traffic offenses other than driving under the influence (22.7%), 3) crimes against public authority and public peace (21.4%), 4) narcotic offenses (20.6%), 5) driving under the influence (23.2%), 6) crimes against life and health (12.3%), and 7) firearm offenses (4.4%). The three most common property crimes were petty theft (30.2%), theft (10.4%) and assault (9.6%). The most typical narcotic offences were narcotic abuse offence (17.7%) and narcotic offence (9.2%); only 0.9% of the persons had committed an aggregated narcotic offence. Convicted abusers had committed crimes more often than other substance abusers in all of the categories. Men had committed offenses more than women in all seven categories ($p < 0.01$), except property crimes in the group of convicted abusers (men 41.4% and women 42.5%, $p = 0.379$). Other gender differences remained significant ($p < 0.01$) when convicted and other abusers were analysed separately.

Discussion

Two-fifths of the studied substance abusing men had been imprisoned between 1992 and 2005 compared to only 14 percent of the women. Convicted men were more often employed, had a better education and were less often diagnosed with neurotic, stress-related or somatoform disorder than convicted women, and the number of imprisonments was also higher for men than for women. However, the differences between men and women in the group of convicted substance abusers were smaller than in the group of substance abusers without convictions.

Half of the studied substance abusers committed a crime during the 5-year observation period. Two-thirds of the convicted abusers committed at least one crime during the follow-up. Property crimes, especially petty thefts, were the most common type of crime regardless of the gender or history of prior convictions. Convicted abusers committed crimes more often than other abusers in all of the categories. Overall, men committed crimes more often than women, but there were no differences in the amount of property crimes in the group of convicted substance abusers.

Some explanations for these preliminary findings can be found in the literature. Convicted substance abusing women constitute a very small sub-group. Although most crimes are committed by men, it is a simplification to connect it to masculinity (e.g., Hood-Williams, 2001). The relationship between criminality and gender is more complicated (Steffen-Meier and Allan, 1996). Gender roles tend to restrict women's occupations and positions (illegal or legal) connected to criminal opportunities and the motivation to take risks. However, some women achieve these positions. This might explain why differences between genders were narrower amongst convicted substance abusers than other abusers.

Women are more protected from committing crimes than men (Steffen-Meier and Allan, 1996). However, convicted women have difficulties resisting stigmatizing labels that have been imposed on them (Geiger & Fischer 2005), and as substance abusers with criminal backgrounds, women also fall under the surveillance of officials (Uggen & Skruttschnitt, 1998). Self-identification as a criminal is also connected to drug use and convictions (Alarid & Vega, 2010). There is evidence that labelling can trigger processes that increase involvement in deviant behaviour (Bernburg, Marvin, & Craig, 2006).

In the general population, the gender gap is also narrower in regards to property crimes. As a type of crime, property crimes have been found typical for women with previous convictions (Deschenes et al. 2007). Steffenmeier (1993) explains the concentration of women's offenses in minor property crimes as a result of the following: increased opportunities for women to commit this type of crime, increased drug abuse by women, and increased economic marginalization of women.

These results are descriptive and cannot be generalized to other convicted substance abusers. As presented in the introduction, there are other confounding factors connected to criminality that should be taken into account before drawing conclusions. In the near future, this study will be expanded with the use of a Cox regression to analyse the proportional risk of committing a crime between 2006 and 2010. A Cox regression will be utilized because deaths and confounding factors can be taken into account. Cox regression models will be created to separately analyse both overall criminality and property crimes specifically.

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Problemdefinitioner och lösningsförslag i den svenska debatten om människohandel för sexuella ändamål

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Inledning

Under 2000-talet har människohandel för sexuella ändamål etablerats som ett av de största (brotts-) problemen i Västvärlden och står högt upp på internationella och nationella agendor (Doezema, 2010). Människohandel framställs av myndigheter, medier, organisationer, aktivister och ofta även av många forskare som ett enormt problem som bara ökar (Weitzer, 2015). Weitzer (2007) har mycket kritiskt sammanfattat diskursen om människohandel som ett moraliskt korståg underbyggt av tveksam statistik och med skräckhistorier om en växande epidemi av samhällelig ondska. Denna studie fokuserar på hur människohandel för sexuella ändamål har formulerats som problem i framför allt den mediala och politiska diskursen i Sverige, och tittar på vilka åtgärder som har lyfts fram.

Tidigare forskning

I Sverige är antalet fall av människohandel för sexuella ändamål som myndigheter får vetenskap om få; och antalet grova fall är några enstaka per år. De polisanmälda fallen av människohandel varierar kring ett tjugotal per år, och siffrorna är beroende av polisens resurser. De få empiriska studier som har gjorts i Sverige visar att det är ovanligt att människohandel för sexuella ändamål bedrivs inom ramen för organiserad brottslighet eller inom större nätverk. Det är också ovanligt med kopplingar till annan typ av brottslighet. Istället verkar det vanliga förhållandet vara att det är ett par där mannen förmedlar kontakter och kvinnan prostituerar sig. (Brå 2008:21; Brå 2011:19).

Metod

Ingången till denna studie har varit att analysera människohandel för sexuella ändamål under den tidsperioden då det etablerades som ett socialt problem i Sverige och fördes upp på den mediala och politiska dagordningen. Människohandel för sexuella ändamål uppmärksammades inte alls på 1990-talet men fick stor uppmärksamhet under första halvan av 2000-talet i både dagspress och av politiker, med en topp under 2005 och 2006. Den här studien inkluderar ett omfattande politiskt och medialt material, liksom rapporter av den nationella polisen mellan 2000-2010. Det politiska materialet är en statlig utredning, tre propositioner och sju protokoll från riksdagsdebatter om människohandel för sexuella ändamål. Jag har också analyserat 157 tidningsartiklar publicerade i fyra tidningar, samt rapporter om människohandel för sexuella ändamål skrivna av Rikskriminalpolisen.

Analytiskt utgår denna studie från en diskursanalys inspirerad av Faircloughs (1989; 1992) bredare inriktning av den kritiska diskursanalysen. För att ringa in diskurserna inom människohandel för sexuella ändamål har jag använt mig av vissa begrepp inspirerade av Laclau och Mouffes (1985) diskursteori.

Resultat

I dagspressen och i de politiska texterna konstruerar aktörer människohandel för sexuella ändamål som problem inom ramen för åtminstone fyra diskurser; vår tids slaveri av passiva kvinnor och barn, den ideala sexslaven Lilja, det främmande hotet från öst, och den svårupptäckta men väletablerade organiserade brottsligheten.

Diskursen om vår tids slaveri av passiva kvinnor och barn har begreppet slaveri i fokus och cirkulerar kring subjekten "kvinnor och barn". Dessa två subjekt är både tätt sammanlänkade, men också separerade då kvinnor kopplas till prostitution medan barn associeras med barnporr och vidare med barnsexhandel. Kvinnornas och barnens främsta karakteristika är att de är passiva, alltså helt i avsaknad av agens, vilket gör att andra aktörer uttalar sig i deras ställen.

Diskursen om den ideala sexslaven Lilja är kopplad till filmen Lilja 4-ever och till huvudpersonen Lilja, som också används som ett begrepp i diskursen för att beskriva ett idealt/stereotyp sex trafficking-offer som är ung, fattig, lurad/tvingad, oskyldig och passiv. Liljas egenskaper medför att hon länkas tätt till sexslaveri och kategoriseras som brottsoffer.

Diskursen om det främmande hotet från öst är centrerad kring "utlänningen" som subjekt, fast på två skilda sätt, men båda med negativa konnotationer. Kvinnor som i de två föregående diskurserna har kategoriserats som brottsoffer beskrivs i denna diskurs som "utlänningar". Dessa utlänningar länkas till människosmuggling och vidare till "illegal invandring". Parallellt med detta finns ytterligare en ekvivalenskedja i denna diskurs där kvinnor kategoriseras som "öststatsflickor". Dessa öststatsflickor kopplas till sex trafficking och vidare till prostitution och de länkas till sexuellt överförbara sjukdomar, som HIV.

Slutligen är diskursen om den svårupptäckta men väletablerade organiserade brottsligheten centrerad kring begreppet organiserad brottslighet och organiserade brottslingar är i fokus. Människohandel för sexuella ändamål kopplas tätt ihop med organiserad brottslighet och det sistnämnda beskrivs motsägelsefullt som både väletablerad i Sverige, men också svårupptäckt. Den organiserade brottsligheten kopplas vidare till Östeuropa, och framstår därmed som ännu mer hotfull då den rasifieras.

När det gäller de lösningar som förs fram är de kopplade till problemformuleringarna som görs genom diskurserna. De tre huvudsakliga åtgärderna är att straffa människohandlare

och/eller kopplare, att utbilda poliser samt att skicka hem kvinnorna/offren för människohandeln.

Argumentet för hårdare straff av människohandlare är att brottsoffret på det sättet får upprättelse. Under den studerade tidsperioden introduceras en lag mot människohandel med maximistraffet två år, som senare höjs till tio år. När det gäller utbildning av poliser ska det bland annat göras genom att de får se filmen *Lilja-4ever*, vilket också genomförs. Filmen visas även i riksdagen, i svenska skolor, i EU-parlamentet, i den ryska duman samt åker på "turné" över världen med Utrikesdepartementets hjälp. Slutligen är det sista, och kanske mest problematiska lösningsförslaget för människohandel för sexuella ändamål att utvisa kvinnorna/offren. Om kvinnorna uppfyller ett "ideal" brottsofferskap kan de användas som vittnen i svenska domstolar vid åtal för människohandel för sexuella ändamål. Då kan kvinnorna få tillfälligt uppehållstillstånd. Därefter ska kvinnorna alltid skickas "hem", oavsett om de vill det eller inte.

Diskussion

I den svenska debatten gör problemdefinitionerna och lösningsförslagen för människohandel för sexuella ändamål att tydliga hotbilder etableras. Hotet är främst transnationellt från det forna Östeuropa och från externa, rasifierade aktörer. Det skapar en tydlig uppdelning mellan "vi" och "dem". Debatten bidrar också till att etablera stereotypa beskrivningar av ideala brottsoffer baserade på könsstereotypa beskrivningar av "horan och madonnan". Lösningsförslagen med hårdare straff, hemskickandet av kvinnor/offer och utbildning av poliser och politiker med hjälp av *Lilja-4-ever* filmen förstärker ytterligare den problematiska problembeskrivningen och uppdelningen mellan vi och dem, mellan svenskar och "utlänningar", mellan oäkta och äkta brottsoffer och migranter.

Conceptual and methodological challenges in exploring the links between human trafficking and sham marriages

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Introduction

The topic of the 2016 NSfK Research seminar is “New challenges in criminology”. Human trafficking, and particularly its so-called new forms, such as trafficking for forced or sham marriages or trafficking for forced criminality or begging, can well be defined as a new challenge in crime. Also, the question in the title of the seminar, “Can old theories be used to explain or understand new crimes?”, is relevant when studying these “new forms” of human trafficking.

In this paper, I will concentrate especially on the terminological, conceptual and methodological challenges of studying a “new” and “not-so-much-studied” topic. The topic of the paper is human trafficking and sham marriages, and the paper asks what kind of problems researchers encounter when studying such phenomena.

The paper is based on a research component of the project called “HESTIA¹ – Preventing human trafficking and sham marriages”.² The aims of the research are to explore the links between sham marriages and trafficking criminality and to provide new information on the vulnerabilities, factors and methods that facilitate sham marriages resulting in trafficking in persons. In the project, we are interested in sham marriages in the context of human trafficking, not sham marriages as such, and thus the exploitation element is essential. The focus of the project is on marriages concluded between EU-nationals and third country nationals. In the majority of the cases studied the wife is a EU-national and the husband is a third country national. (Due to the focus, marriages between two EU citizens and marriages between two non-EU nationals fall outside the scope of this study.)

¹ Grant Agreement No. HOME/2013/ISEC/AG/THB/4000005845

² The project started in 2015 and is led by the Latvian Ministry of the Interior. HEUNI is coordinating the research activities in the project, has developed the research methodology and has trained the researchers who conducted the research in five countries. HEUNI shall also publish the joint research report, and HEUNI’s researchers are responsible for the introductory and summary chapter of the joint report, including the conclusions and recommendations at the EU level. In addition, HEUNI shall participate in the development of training material.

The study asks 1) what are the links between (the organisation of) sham marriages and trafficking criminality, 2) how do persons concluding sham marriages end up in situations of exploitation and/or trafficking in persons, 3) what forms of exploitation do the victims encounter, 4) what are the weaknesses in the system / legislation / administrative procedures that enable trafficking in the context of sham marriages, 5) what can be done to enhance the identification of cases / victims (of trafficking and serious exploitation) and what can be done to improve assistance provided to victims, and 6) what can be done to prevent exploitation. The research has been carried out in five countries: Estonia, Ireland, Latvia, Lithuania and the Slovak Republic. The researchers in the five countries have collected empirical data, such as qualitative interviews, statistics and examples of cases, on the topic.³

Challenges related to terms and definitions

When the project started, we needed to think about what, exactly, we are looking at and what terms should be used. In the context of the topic in question, it was not clear how we should talk about the phenomenon. Many different terms, such as marriage of convenience, fictitious marriage, fake marriage, false marriage and bogus marriage, are used, and there are many synonyms for “sham marriages”. A term that is often used, particularly in official documents, is “marriage of convenience” and that is probably the closest parallel term for “sham marriage”. In this context, a “marriage of convenience is commonly understood as a marriage contracted for the sole purpose of conferring a right of residence under EU law on a non-EU national who would otherwise not be able to benefit from such a right.”⁴ Therefore, the purpose of the marriage is to legalise the stay of a third country national in the European Union.

It has to be noted that although some of the terms appear to be similar, they may have somewhat different meanings or at least dissimilar connotations. For example, the terms fictitious, fake and false marriage may imply that the marriage would not be “real”. However, the marriages studied in the project are formally valid marriages. It is only the motive for concluding the marriage that is “false”. Thus, it can be said that the marriages are not “fictitious” or fake in the sense that there would be no “real” marriage. However, the marriages are not “genuine” in the sense that the purpose of the marriage is something other than love, or establishing a family and living together as husband and wife. Therefore, the marriages studied are formally valid, but not “genuine”.

³ The project is on-going at the time of the writing of this paper. The paper does not present the empirical findings or the final results of the study, but discusses terminological and methodological issues. The project will be concluded in the end of 2016.

⁴ Handbook on addressing the issue of alleged marriages of convenience between EU citizens and non-EU nationals in the context of EU law on free movement of EU citizens (European Commission 2014).

In addition to the above-mentioned terms, which are more or less similar to one another, there are marriage-related concepts, such as forced marriage and arranged marriage, that have clearly different meaning.

A further challenge arises due to the fact that the project involves partners from six countries and therefore six languages are used in the project. Each partner (with the exception of Ireland) had to find appropriate terms in their national language that could be used alongside the English terms. In addition, the terms used at the national level may be different from the terms used at the EU level. For example, “fictitious marriage” is used as a synonym for sham marriage in Latvia, but at the EU level, fictitious marriage can be defined as a marriage that has been concluded by using fake documents. Also, the term “sham” itself may refer to something that is either not real or not genuine, but in the context of the HESTIA project “real” and “genuine” have different meanings.

Furthermore, as the project is particularly interested in sham marriages related to trafficking (i.e. sham marriages in the context of human trafficking / trafficking in human beings for the purpose of sham marriage), we needed a concept that encompasses the exploitative element. We developed the term “*exploitative sham marriage*” in the project.⁵ The term refers to *sham marriages that include elements of exploitation*. We are studying cases that include elements of exploitation but are not actual trafficking and also cases that can be defined as trafficking (i.e. “trafficking for (the purpose of) sham marriages”). In practice, it is not easy to draw a line between different forms of exploitation.

An important and essential aspect in defining these different phenomena is the difference between sham marriage and trafficking in persons as regards the subject of the offence. A sham marriage is a crime or an act against the state,⁶ whereas trafficking is a crime against the person. In the project we are focusing on exploitation of persons. Furthermore, the difference between forced and exploitative sham marriage is relevant. We are not focusing on whether the potential victims are forced to marry a third country national in the first place but rather the exploitative elements and conditions during the process (both during the recruitment and actions in the destination country, before and after concluding the marriage). Sometimes the cases studied involve force already at the beginning of the activities, but sometimes they do not. A person may be willing to conclude a sham marriage, but later on s/he will be exploited. In fact, the role of a EU-spouse (who are primarily women)

⁵ The term was used to some extent during the data collection and will be used in reporting the findings of the study.

⁶ In many EU Member States, sham marriages as such have not been criminalised. However, concluding/organising a sham marriage can be a crime or sham marriage can be used as a reason to annul or refuse to confer a residence permit.

may change from a perpetrator (of a (minor) offence or fraud against the state⁷) to a victim (of exploitation, or in severe cases, of trafficking in persons).

Challenges related to the methodology

The challenges are partly the same as methodological challenges related to studying human trafficking (or other sensitive topics and hidden crime) in general. The cases are not easy to find, disclose and investigate. (Potential) victims do not come forward and they are not willing to tell about exploitation they have encountered. Also, statistics on these kinds of crime are not very reliable and/or informative.

Furthermore, doing research on exploitative sham marriages entails a number of other issues beyond those that are relevant to trafficking research in general. The conceptual issues that were presented in the previous chapter have resulted in several methodological difficulties. First, not only the definition but also the “status” of sham marriage (as an offence, an administrative issue or something else) varies in different countries and may not be very clear. Secondly, the role of different parties involved is ambiguous: who is the victim, and who is the perpetrator? A person who concludes a sham marriage may be seen as a perpetrator of a violation of migration laws / immigration fraud, but s/he also may be a victim of exploitation. Also, one may ask whether the questions and answers related to the authenticity of a marriage are so clear and obvious. Are love and/or “an intention to create a durable family unit and lead an authentic marital life”⁸ the only “real” or “proper” reasons for concluding a marriage?

When it comes to the methodological issues and challenges, one of the most central question is “what to study and how to study it”. As there is a lack of clear understanding of the phenomenon and concepts related to sham marriages, this question had to be thoroughly reflected on. In the course of the project, we have had to decide what kind of cases to include and what to exclude. What kind of data should be collected? Who, for example, is an expert on “exploitative sham marriages”? The methodology had to be developed for the project, and in the development work, we utilized pilot methodologies used in previous trafficking studies carried out by HEUNI.

Furthermore, the lack of identified cases resulted in problems in finding concrete examples of the phenomenon. The topic hasn’t been studied much, and particularly among the EU Member States there is a huge lack of research on the linkages between sham marriages

⁷ In some countries, concluding a sham marriage is a crime.

⁸ See Handbook on addressing the issue of alleged marriages of convenience between EU citizens and non-EU nationals in the context of EU law on free movement of EU citizens (European Commission 2014).

and human trafficking. Therefore, it is difficult to reflect the research findings to earlier studies.

In addition to the conceptual and methodological questions, there are also important ethical issues that need to be considered. One needs to be careful of how one talks about this phenomenon. Researchers may, partly unintentionally, label people or groups of people, and research may also have counterproductive consequences. In this kind of study, there is the potential for further stigmatising certain groups of people, such as, on the one hand, “third country nationals” (especially men) and on the other hand, women from certain countries or certain areas, and with certain background (issues such as poverty, addictions, mental disabilities, lack of education etc.).

Furthermore, the results of the study can be used for purposes that may be harmful e.g. for third country nationals. Closed borders or stricter border control have partly resulted from the fear of potential negative consequences for the EU Member States caused by the increased number of asylum seekers or other third country nationals. A fear of the abuse of immigration laws may be so strong among authorities of the EU Member States that an abuse of the system gets far more attention than abuse of persons.

These are ethical and methodological issues that researchers need to think about thoroughly when studying these kind of topics and when reporting the results.

WORKSHOP C

POLICE STUDIES

“Together Against Domestic Violence” A New Approach to an Old Problem

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Attitudes play a big role in the response to domestic violence. Societal attitudes can for example shape the formal responses of institutions and how cases are dealt with (Flood and Pease, 2009). In Iceland domestic violence was for a long time dealt with as a “non-crime”, unless other acts of the criminal code were also involved. This led to a lenient reaction by the police when called to homes, as they lacked the necessary support to intervene and properly address the situation (Sonja Einarisdóttir, 2009) even though research indicated that police officers believed that domestic violence should be taken seriously (Rannveig Sigurvinsdóttir, 2011).

Due to this situation and as a response to it, the chief of police in Sudurnes district started a pilot project in 2012 called „Keeping the Window Open“. The project was based on a co-operation between the police and social workers. It used the opportunity created by emergency calls to the police for a full intervention by all parties in order to give the victims full support to leave or solve their situation and increased safety. The project was very successful, raising the number of cases reported to the police and charges in domestic violence cases. As a result there was a huge interest in implementing the same project in the Reykjavik capital area. The former chief of Sudurnes district, now the chief of the Metropolitan police started a similar pilot project in the capital area called “Together against Violence” in 2015 following the revision of domestic violence working procedures for the police.

The project “Together against Violence” started in mid-January 2015 with a formal contract between the Metropolitan police and Reykjavík municipality. Other municipalities in the Metropolitan area later followed during 2015 and the Metropolitan police serves all of those municipalities. The aim of the project was mainly to prevent repeated violations and secure the safety of those involved by targeting the first response of the police and therefore improving the initial investigation. It brings capable parties to the table (social services and child welfare) in order to provide assistance to victims and perpetrators, increase the use of restraining orders and expulsion from the home by presenting this option to the victim and also ensure the use of this resource by the police and prosecutor. As a part of

this approach it is emphasized that prosecutors take more cases to court than before due to their severity.

Here we discuss the effects of the new approach and what we can learn from this first year.

Domestic violence in Iceland

One of the first research projects on domestic violence in Iceland was conducted in 1982 (see Hildigunnur Ólafsdóttir, Sigrún Júlíusdóttir and Þorgerður Benediksdóttir, 1982). The research was based on medical records and in a way confirmed the existence of domestic violence in Iceland. Another research from the same year supported this, showing that a third of both males and females said they knew of incidents of domestic violence (Kristinn Karlsson, 1982). In 1996 the first victimization survey on domestic violence in Iceland was conducted. The results showed that 1.3% of females and 0.8% of males had experienced violence from their spouse or prior spouse in the last 12 months and 14% of females and 4% of males reported a life-time experience of domestic violence (Dóms- og kirkjumálaráðuneyti, 1997). More recent studies show similar results regarding the frequency of domestic violence in Iceland (see Anni G. Haugen, 2009; Elísabet Karlsdóttir and Ásdís A Arnalds, 2010; Erla Kolbrún Svavarsdóttir (ritstj.), 2010; Guðrún Helga Sederholm, 2010; Guðrún Helga Sederholm, 2009; Jóhanna Rósa Arnardóttir, 2009; Ingólfur V. Gíslason, 2008; Ingólfur V. Gíslason, 2010).

Many of these researches also show that only a minority of domestic violence incidents are reported to the police, although there are some differences between surveys. In a survey conducted in 1996 (Dóms- og kirkjumálaráðuneyti, 1997) 29% of those who had experienced domestic violence said they had reported the incident to the police. More recent surveys show on the other hand only a 13% report rate (Elísabet Karlsdóttir and Ásdís A Arnalds, 2010; Jóhanna Rósa Arnardóttir, 2009).

Attitudes towards domestic violence

This extensive under-reporting of domestic violence is of concern to the police since it might indicate perceptions that the police are unwilling or unable to act on the victims' behalf (Tjaden and Thonnes, 2000). Although there are many and complex personal reasons why victims of domestic violence do not report to the police (Felson, Ackerman and Gallagher, 2005) it is also important to view the impact of police attitudes toward domestic violence. Especially since public and official attitudes and responses regarding domestic violence reflect norms and play an important role in shaping the social climate in which the violence occurs (Gracia and Lila, 2015).

Research has for example shown that officer's attitudes and evaluation of circumstances affects their behaviour and how others perceive them (Coulter, Kuehnle, Byers and Alfon-

so, 1999; Stephens and Sinden, 2000). Negative attitudes among officers can thus act as a barrier for victims and reduce the likelihood for them reporting. Victims have even reported more harm from negative attitudes amongst officers than from the domestic violence as such (Smeenck and Malsch, 2005).

A number of factors can affect officers' attitudes towards domestic violence. The police is for example more likely to make an arrest in domestic violence incidents if the offender is under the influence (Bayley, 1986; Ferraro, 1989; Rigakos, 1997). Gender plays a role as well since officers are more likely to arrest male offenders than females (Jones & Belknap, 1999) although not all research findings supports this (Feder, 1998).

Attitudes within the system and amongst victims are thus very important. Here we look into the situation in Iceland during system and procedural changes, discuss what can be learned and the challenges ahead.

Data

From the beginning of the project the partners agreed upon the importance of evaluating the project as it was being implemented in order to be able to learn from the process and improve the procedures/responses. Independent researchers followed the implementation and made a formative evaluation. They produced a preliminary evaluation report six months into the project and a final report after the first year (Rannveig Sigurvinsdóttir, Erla Hlín Hjálmarsdóttir and Kristín I. Pálsdóttir, 2015; Rannveig Sigurvinsdóttir, Erla Hlín Hjálmarsdóttir and Kristín I. Pálsdóttir, 2016).

In the evaluation, domestic violence is defined according to the working procedures of the National Commissioner of the Icelandic Police. Cases are defined as domestic violence if the following apply: The perpetrator and victim are closely associated persons, i.e. related or connected (current/former spouses, married or cohabiting), children, siblings, guardians, a third party if the intention is to reach the related person) **and** if a violation of the penal code or child welfare act has taken place (such as assaults, sex offences, threats, property damages, extortions, prostitution, human trafficking, or other acts). The scene is not limited to the home but can be anywhere where there is a violation between related or connected persons.

Statistical data on the number of reports made to the police are based on the report system of the Icelandic police (LÖKE) which is a database where all police tasks are registered.

The evaluation is based on data gathered from the police and the social services with different methods. From August 2015 to February 2016 interviews were made with 14 key employees within the police, Reykjavik municipality and support systems for victims and offenders. Six focus groups with police officers, prosecutors, social workers and child wel-

fare personnel were conducted from August 2015 to December 2015. In-depth interviews with 15 victims were also conducted from July 2015 to January 2016.

Results on general attitudes amongst police officers are based on survey data gathered in January and February 2016. A survey was sent to all police officers in Iceland, but here only the findings from those working in the capital area are represented.

What changed with the implementation of the new approach?

For many years the number of domestic violence cases in the capital area had been around 200 each year. From 2010 there was a slight increase in numbers up to approx. 20 cases per month in 2014 (with the total number rising to about 240 cases). The number of cases started to increase when the new approach was introduced rising up to 50 cases each month on average in 2015 – and the first months of 2016.

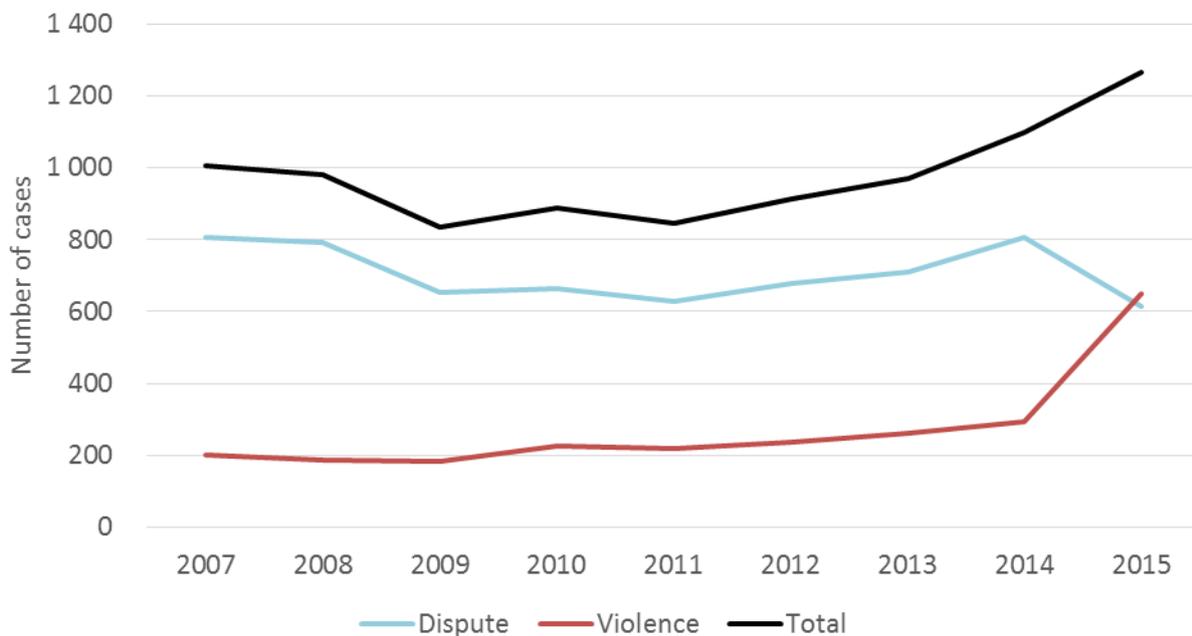


Figure 1. Domestic violence cases in the capital area 2007-2015

As Figure 1 shows, the total number of domestic violence cases was around 1,000 in 2007 and 2008 but then declined for the following few years and recently has increased again, to X number of cases in 2015, the year of the project. This total number is made up of cases classified as dispute or as violence, and this relationship has changed over the years. For example, in 20 – 27 % of total domestic affairs cases were defined as violence. The ratio rose to 51 percent in 2015 and cases of dispute saw a decline. The increase in cases of violence is therefore partly due to a reclassification of cases from dispute into violence cases, but also because of an increased number of reported cases, which could be due to a growing awareness of domestic violence and increased willingness of the public to report violence to the police. In addition to the growing number of cases, time spent on each case

also grew as the new procedures required more time and manpower, both at the scene and afterwards. The number of expulsions from home had also risen dramatically, more than tripling in the first six months of 2015 compared to the same period in 2014.

Attitudes within the police

The survey amongst police officers shows that police officers in the capital area are generally happy with this new approach, especially in the enforcement of the procedure. But there are indicators that some do not believe that the approach will help victims in the long run.

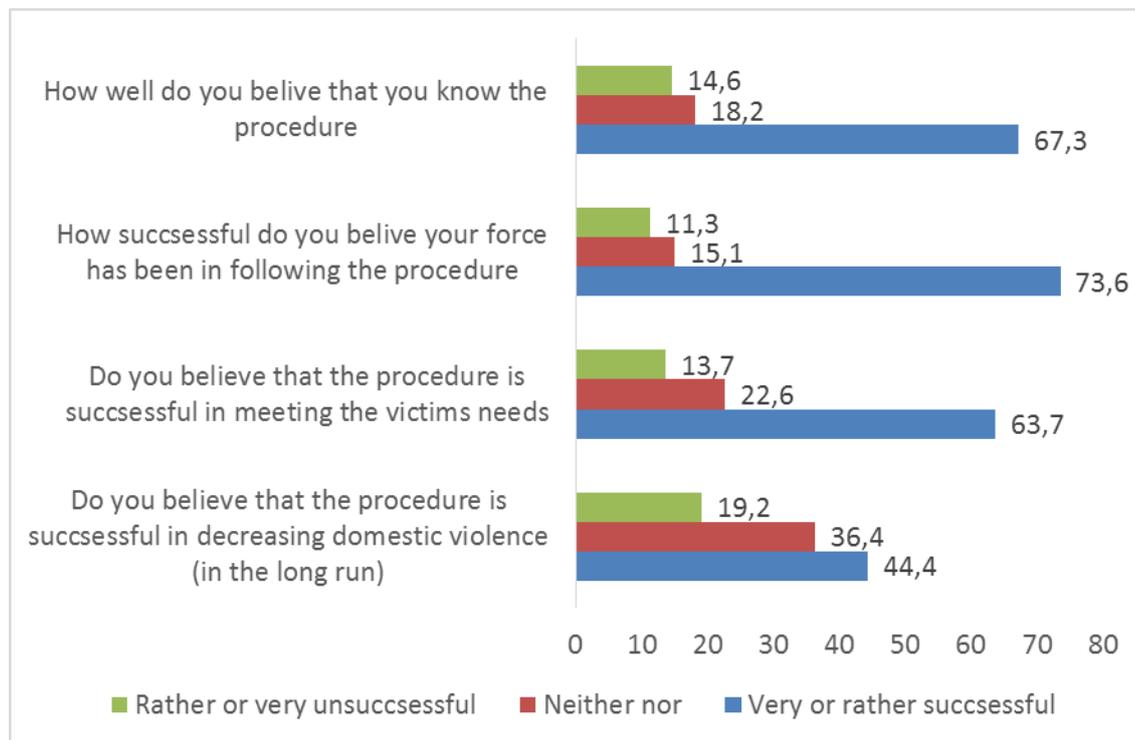


Figure 2. Attitudes of the Metropolitan police officers regarding the new domestic violence procedures

From the focus groups it was evident that policemen were overall positive towards the new approach in spite of increased workload - the change in procedures was regarded as positive, necessary and long overdue. Officers reported feeling a change in attitude towards domestic violence within the police. They felt that the police was sending a message to the society that domestic violence would not be tolerated. In the focus groups some also mentioned that they believed that the new procedures were likely to prevent repeated violence. They were generally pleased with the role of social services/child welfare at the scene and felt that they could now focus on the investigation. They believed people were now getting the help they needed except maybe male victims and people with severe drug/alcohol addiction due to lack of resources for those groups. Finally, they thought restraining-orders were more often implemented than before.

On the other hand police officers complained of work overload and more stress due to an increase in the number of cases and time spent on each case without a corresponding increase in manpower. Interviews also showed that the police officers felt they did not have enough practical training at the beginning of the project. They also criticized the way the cases were reviewed by the project managers. The criticism made some upset while others found it helpful and thought it was important to coordinate the response of the police. Some police officers remarked that they felt that the new work procedures were too uncompromising and there was a lack of prioritization. Every case was handled the same, in spite of how serious it was. In addition some mentioned that the follow-up visits were difficult to carry out due to problems finding time when all the parties involved were available and the victim was at home. The police officers also reported discontent with risk assessment check-lists and some police officers found prosecutors/judges too conservative in implementing restraining-orders.

Attitudes amongst prosecutors

The attitudes reported by the prosecutors of the Metropolitan police were much less positive than those reported by the police officers. The prosecutors reported they were content with how domestic violence cases were handled before and did not see the need for changing the practice. They were very critical of the new procedures and the lack of collaboration with the prosecution when they were written.

Like the police officers the prosecutors were concerned about the workload for the police officers due to the growing number of cases. Some also pointed out that investigators should be able to decide if they thought the procedures should apply – not to view all cases as equally severe.

In the focus group some of the prosecutors said that they didn't think there was a reason to increase the number of restraining-orders (some believed victims sometimes themselves "violate" restraining-orders). Some of the prosecutors even considered that their role was to protect the rights of the offender too, and felt that restraining-orders were often too much intervention in the perpetrators lives.

The only merit the prosecutors gave the new approach was that the initial scene investigation had improved, they especially mentioned that taking photos of the scene and injuries was helpful for their job.

The evaluation revealed a gap between the attitudes of policemen and prosecutors regarding the new approach. In a way prosecutors have resisted working according to the procedures and as a result the ratio of conviction in domestic violence cases has not risen as could be expected.

Victim's point of view

In-depth interviews with victims indicated that the implementation of the project was successful at police level but there were some concerns regarding risen expectations that were not later met, only few of them had for example received a follow-up visit. Victims reported satisfaction with firm intervention though it was sometimes mentioned to be a bit overwhelming but still showed recognition of the seriousness of the situation.

They were pleased with the increased awareness and recognition of the problem and its severity. As one remarked: „I slept with a hammer under my pillow... it is very uncomfortable position when you have been deprived of safety in your own home“.

They reported seeing difference due to more agents involved – especially the involvement of the social services. Some mentioned that they found it positive not to have to press charges themselves and there was a general demand for follow-up visits (the ones who had not gotten follow-up visits, reported that it was still not too late). Some of them also reported less repetition – the violence had stopped after the firm intervention. In words of one of the victims:

„It was just kind of firmly addressed...I then felt like something would be done about it. And I also felt like everything would now be...everything would be alright“.

Lessons learned so far

Awareness of domestic violence seems to have increased in the society, i.e. because of media coverage and the education of professionals. More cases are being labelled and handled by the police as domestic violence. This might indicate a growth in general trust towards the police and belief that they are capable to handle such cases (Tjaden and Thonnes, 2000).

Investigation has and is still improving and the police is gathering better evidence. Cooperation and trust between police, social services, child welfare and other organizations has increased and more people are getting help (verified by statistics from Woman's shelter, Men against violence, social services, child welfare). The number of restraining-orders has risen and the legal framework has changed – (new article on domestic violence that took effect in April 2016). There is evidence of less repetition but it still needs to be seen if more cases are actually going to court.

Challenges ahead

Although progress is evident in police work with domestic violence there are some challenges ahead. There is a need to consolidate unified understanding of the procedure within the police and its value as a toolbox to tackle domestic violence. It is also vital to guaran-

tee that prosecutors work according to procedures and to ensure judges' awareness of the severity of domestic violence. Furthermore it is important to increase the belief of police officers and prosecutors in the positive impact of the project.

Risk assessment remains to be developed further and check-lists to be able to prioritize cases according to manpower and resources. There is a need for guidance to help police officers to make emergency plans/contingency plans for victims at risk. But most importantly strengthening co-operation among institutions and organizations and bringing more people to the table is the key to the success in tackling domestic violence in the future. It is all about the culture and how we can change it.

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Strategisk Analyse i dansk politi

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1. INLEDNING

1.1 Om formål, fokus og analysedesign i de nationale strategiske analyser

Dansk politis nationale Strategiske Analyse 2015 blev som den første af sin art udgivet i september 2015. I sommeren 2016 udkommer Strategisk Analyse 2016, der er en ajourføring med de nyeste data og har funktion af et bilag til Strategisk Analyse 2015. Strategisk Analyse 2015 og 2016 har som formål tilsammen at angive grundlaget for de operative strategiske pejlemærker for politiet i 2017 og frem. Dermed skal de kvalificere de strategiske prioriteringer af politiets indsatser i forhold til kriminalitet, trafiksikkerhed og beredskab.

1.1.1 Formål

De nationale strategiske analyser er analyseprodukter, der har til formål at kvalificere beslutninger om, hvilke områder der skal prioriteres af dansk politi. De skal altså anvendes til strategisk prioritering – først og fremmest i organisationen Dansk Politi.

1.1.2 Analysedesign og -fokus

De strategiske analyser er problemorienterede, handlingsorienterede og – frem for alt – fremtidsorienterede.

De læner sig op ad omverdensanalyser (selvstændige dele af de strategiske analyser) af de store, langsigtede og mangefacetterede forandringer, som gør sig gældende i politiets omverden, og som forventes at fortsætte med at gøre sig gældende frem til 2020. Omverdensanalyserne ser på politirelevante forandringer – trends og megatrends – inden for klima og miljø, demografi, international økonomi og globale magtforskydninger samt digitalisering.

De strategiske analysers analysedesign består af tre hoveddele: En skadesanalyse, der fokuserer på, hvor omkostningsfulde og alvorlige sikkerheds- og kriminalitetsproblemerne inden for de enkelte områder er for individer og det danske samfund, en trussels- og sårbarhedsanalyse og en vurdering af den sandsynlige fremtidige udvikling.

Skadesanalyserne anlægger tre forskellige perspektiver:

1) omfanget af problemerne, dvs. hvor mange indbrud, trafikdrab og så videre, der er i Danmark.

2) kriminalitets- eller uheldstypens skadevirkninger. Vurderingen omfatter, dels hvor alvorlig forbrydelsen eller uheldet er for offeret, dels hvor store omkostningerne er for resten af samfundet. Der peges i denne del af analysen på en række forskelle på, hvor farlige, krænkende og langtidsskadende konsekvenser forskellige forbrydelser har for offeret, ligesom også de samfundsmæssige skadevirkninger beskrives, hvor det er muligt. Mere specifikt kan de samfundsmæssige skadevirkninger inddeles i fire hovedtyper, nemlig de sociale omkostninger (hvilke konsekvenser har kriminalitets- eller sikkerhedsproblemet for den sociale orden, borgernes tryghed og nærmiljøet?), de økonomiske (hvad koster problemet i kroner og ører?), de politisk-institutionelle omkostninger (hvordan påvirker problemet andre samfundsinstitutioner?) samt følgekriminalitet (hvor megen anden kriminalitet fører problemet med sig?).¹

3) Endelig er det nødvendigt at vurdere fordelingen og udviklingen inden for området. Eksempelvis ved at se på den geografiske fordeling af en bestemt problemtype. Tilsvarende giver den hidtidige udvikling en indikation af, om der er tale om et voksende, konstant eller aftagende problem, hvilket igen kan sige noget om, hvor stort problemet bliver i fremtiden.

De nationale strategiske analyser er altså problemorienterede, men som nævnt er de også handlingsorienterede. Det er de, idet de søger efter indikationer på, hvad der driver eller bestemmer omfanget af et bestemt kriminalitets- eller sikkerhedsproblem. For hvis vi opnår viden om årsagerne til et problem, giver det politiet mulighed for at sætte relevant ind over for det. Analysen af disse årsager omfatter en trussels- og sårbarhedsanalyse: Sociale hændelser har imidlertid utallige årsager og kan forklares på mange forskellige niveauer, fra det meget overordnede sociologiske eller økonomiske til det mere specifikke og aktørfokuserede. Vores tilgang er pragmatisk i den forstand, at kriminalitets- og sikkerhedsproblemerne analyseres på det niveau, der er relevant for netop politiets arbejde. Det betyder, at analyserne for det første er relateret til den type opgaver, som det er politiets ansvar at løse, og for det andet fokuserer særligt på de forhold, der er en realistisk mulighed for at påvirke med de midler, politiet har til rådighed. Dvs. at vores hovedfokus er på det, der kan betegnes som de nære årsager til problemerne

Når vi herefter kombinerer fundene i vores skadesanalyser og trussels- og sårbarhedsanalyser med viden om de brede udviklingstendenser fra omverdensanalyserne, får vi mulighed for at give nogle bud på den mere konkrete

¹ Denne del af analysedesignet er inspireret af bl.a. Paoli og Greenfield's A framework to assess the harms of crime (Paoli og Greenfield 2013).

fremtidige udvikling på de enkelte kriminalitetsområder. Og derved bliver analyserne – foruden at være problemorienterede og handlingsorienterede – også fremtidsorienterede.

1.1.3 Offentligt tilgængelige analyser

Dansk politi samarbejdede med bl.a. forskningsverdenen om udarbejdelse af Strategisk Analyse 2015, og da den blev offentliggjort i september 2015, var det, som nævnt ovenfor, første gang, at denne form for analyse blev delt med offentligheden. Som nævnt ovenfor fastholdes offentlighedsprincippet også i den Strategiske Analyse 2016, der bliver færdiggjort i løbet af sommeren 2016. Dette indebærer, at omverdenen, i højere grad end tidligere, oplever et videnskabeligt og videndelende dansk politi med en vilje og evne til åbent at fremlægge grundlaget for sine prioriteringer.

Dansk politi vil også fremover samarbejde med bl.a. forskningsverdenen for til stadighed at kunne opnå et velunderbygget billede af fremtidens kriminalitets-, trafikikkerheds og beredskabsmæssige udfordringer. Dermed vil politiet kunne prioritere ressourcerne ud fra en analytisk funderet forventning til samfundets – herunder kriminalitetens – udvikling.

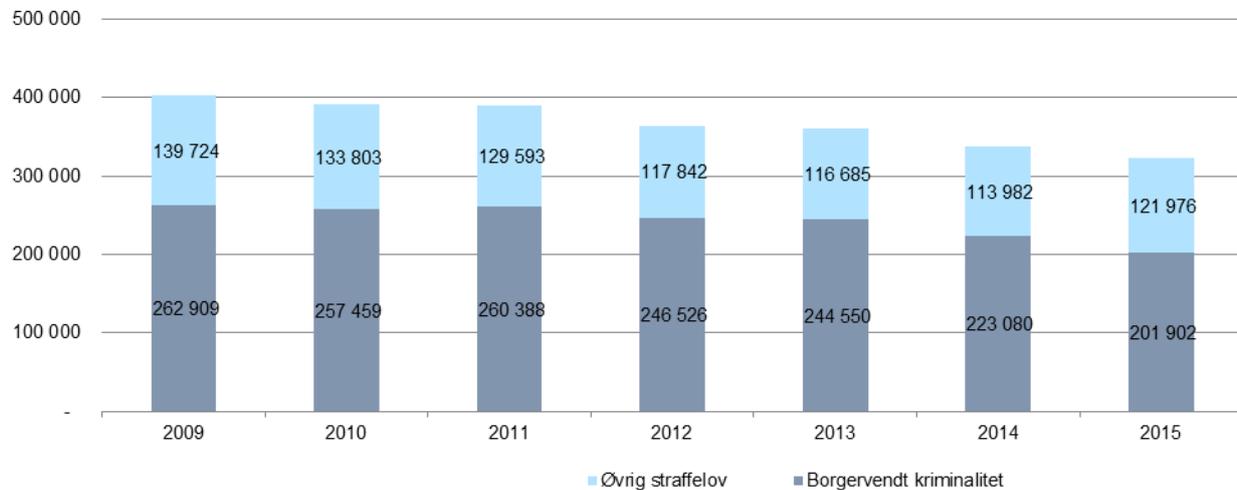
2. KRIMINALITETSUDVIKLINGEN

2.1 Generelt billede

Omfanget af anmeldte straffelovsovertrædelser i Danmark har været faldende siden 2009. Tendensen til faldende kriminalitet slår særligt klart igennem, når det gælder ungdomskriminalitet, og den generelle oplevede utryghed i Danmark er lav. Men der er alligevel en række markante undtagelser fra den positive overordnede udvikling, som vi skal være opmærksomme på.

2.1.1 Udviklingen inden for anmeldelser af straffelovsovertrædelser

FIGUR 1 Antal anmeldelser af straffelovsovertrædelser i perioden 2009–2015.



Kilde: POLIS (2016).

Det samlede omfang af anmeldte straffelovsovertrædelser i Danmark falder fortsat og tendensen til faldende ungdomskriminalitet ser ud til at fortsætte. Justitsministeriets Forskningskontor udgav i april 2016 den seneste rapport om udviklingen i børne- og ungdomskriminalitet, der dækker årene 2006-2015. Rapportens overordnede konklusion er, at den registrerede børne- og ungdomskriminalitet er mindsket for niende år i træk, og at faldet er størst blandt de yngste aldersgrupper i undersøgelsen (Justitsministeriets Forskningskontor 2016b: 129).

2.1.2 Tryghed og tillid til politiet

Befolkningens tryghed er et vigtigt bidrag til forståelsen af kriminalitetsbilledet, fordi utryghed er en del af den sociale skade, som (bestemte former for) kriminalitet forvolder. Mere præcist kan utryghed defineres som "følelsen af angst, af at være i alarmberedskab, forårsaget af en bevidsthed eller forventning om fare" (Rigspolitiet 2013:1). Utryghed omfatter dels en mere ukonkret følelsesmæssig oplevelse af ængstelse eller angst (som derfor kan kaldes "den generelle utryghed"), dels en mere konkret form for frygt for kriminalitet (som kan kaldes "den specifikke utryghed") (Kongstad & Kruize 2011; Scherg 2013).

På baggrund af de nyeste tryghedsmålinger fra Rigspolitiet² og TrygFonden³ kan det forsigtigt konkluderes, at der er sket et mindre fald i den generelle utryghed fra 2014 til 2015 (TrygFonden 2015: 12-13, Rigspolitiet 2015b: 6).

Som nævnt på side 33 i Strategisk Analyse 2015 har det betydning for trygheden, at borgerne har en oplevelse af, at politiet er tilgængeligt, når man har behov for det. Tilliden til dansk politi er høj, og størstedelen af danskerne vurderer, at politiet vil hjælpe dem, hvis de får brug for det (Rigspolitiet 2015b). Det viser også internationale sammenligninger, hvor Danmark er blandt de lande, hvor tilliden til politiet er højest (Justitsministeriets Forskningskontor 2016a: 6-7).

2.1.3 De gode nyheder og de dårlige nyheder

Der tegner sig altså helt generelt et ganske positivt billede af kriminalitetsudviklingen i Danmark, hvis man alene ser på de helt overordnede tendenser. Men der er nogle bevægelser inden for det generelle billede, som vi skal være opmærksomme på: Antallet af anmeldelser inden for kategorien *borgervendt kriminalitet*⁴ falder, men anmeldelser for *øvrige straffelovsovertrædelser* er svagt stigende i 2015.

Eksempelvis er antallet af anmeldelser for økonomisk kriminalitet steget med 45 % fra 2014 til 2015.

Som dette indikerer, så er der nogle vigtige nuancer i det overordnet ganske positive generelle fald i den registrerede kriminalitet. Vores analyser viser, at der er en række markante undtagelser fra den positive overordnede udvikling. Det er rimeligt at formode, at det kan skyldes, at kriminaliteten forskyder sig til nye mere komplekse former. Heraf nogle, der er mindre synlige og måske i mindre grad bliver anmeldt end den traditionelle borgervendte kriminalitet.

I det følgende afsnit præsenterer vi alene de konklusioner om generelle tendenser inden for kriminalitet, trafikikkerhed og beredskab, som vi samlet kan drage på baggrund af Strategisk Analyse 2015 og 2016. Begge analyser og de tilhørende metoderapporter kan downloades i fulde versioner på dansk på www.politi.dk/strategiskanalyse.

² Andelen [af de utrygge borgere] er baseret på, hvor mange der har svaret 5, 6 eller 7 på spørgsmålet: "På en skala fra 1-7, hvor 1 er "jeg føler mig grundlæggende tryk i mit nabolag", og 7 er "jeg føler mig grundlæggende utryk i mit nabolag", hvor tryk eller utryk føler du dig så?".

³ TrygFondens tryghedsmåling er en måling, der undersøger befolkningens utryghed i forhold til en bred vifte af faktorer, herunder den økonomiske og den helbredsmæssige tryghed. Vi fokuserer her, svarende til fokus i Strategisk Analyse 2015 s. 31, på den del af TrygFondens undersøgelse, som omhandler utryghed i relation til kriminalitet.

⁴ Inddelingen i "borgervendt" og "øvrige straffelovskriminalitet" er en grov inddeling, og der vil være sager i kategorien "øvrige straffelovsovertrædelser", som har borgere som ofre, herunder sager om bedrageri.

2.2 Konklusioner om de generelle tendenser

Dette afsnit omfatter de konklusioner, som vi samlet kan drage på baggrund af Strategisk Analyse 2015 og 2016.

Strategisk Analyse 2015 og 2016 viser, at kriminalitetsudviklingen i Danmark i analyseperioden overordnet set har været særdeles positiv. Ser vi på anmeldelsestallene, er den samlede kriminalitet i Danmark således i undersøgelsesperioden faldet med knapt 20 % til det laveste niveau i mange år. Samtidig er borgernes frygt for at blive udsat for kriminalitet faldet, og sammenlignet med andre lande er trygheden i Danmark meget høj.

Men selvom kriminaliteten over en bred kam er faldende, så er der områder, hvor der er grund til opmærksomhed, og hvor udviklingen går i den forkerte retning. Det drejer sig både om nyere kriminalitetsformer, fx avanceret it-kriminalitet, og om mere velkendte former for kriminalitet. Selvom antallet af indbrud falder, er der således stadig for mange indbrud i privat beboelse, omrejsende kriminelle udgør stadig et alvorligt problem, og der er stadig for mange, der bliver dræbt eller kommer til skade i trafikken. Hertil kommer udfordringerne for beredskabet. Af Strategisk Analyse 2015 fremgår, at det høje trussels- og konfliktniveau i Danmark og i verden udenfor skaber et øget behov for planlagte beredskabsindsatser og et stigende og mere uforudsigeligt behov for politiets beredskabsparathed og -indsats i forbindelse med kriser og større uvarslede hændelser. Det bekræftes i Strategisk Analyse 2016, at særligt terrorangrebene i Danmark, Frankrig og Belgien samt flygtninge- og migrantsituationen påvirker behovet for politiet.

Den udvikling i samfundet, som er beskrevet i Strategisk Analyse 2015, og som også fremgår af Strategisk Analyse 2016, særligt den teknologiske udvikling, udfordrer i stigende omfang den klassiske forståelse af politiets arbejde gennem nye kriminalitetsformer, der afviger markant fra de traditionelle, fx ved at gerningsmanden ikke behøver at være fysisk til stede på gerningsstedet, ved at kriminaliteten rækker ud over politikreds- og landegrænser, eller ved at den begås af organiserede kriminelle netværk med tiltagende komplekse organisationsstrukturer.

På baggrund af Strategiske Analyse 2015 og 2016 tegner der sig således en række udfordringer, som politiet vil stå overfor i de kommende år, og som vil gøre det nødvendigt at justere de måder, dansk politi løser sine opgaver på. I det følgende sammenfattes udfordringerne i nogle generelle tendenser, som vil præge politiets arbejde frem mod 2020.

2.2.1 Ny kriminalitet

Strategisk Analyse 2015 og Strategisk Analyse 2016 viser som nævnt, at der på en lang række kriminalitetsområder ses en positiv udvikling, herunder i forhold til den borgervendte kriminalitet. Men der er også områder, hvor udviklingen går i den forkerte retning. Det drejer sig både om nyere kriminalitetsformer og om mere velkendte former

for kriminalitet, såsom stalking, bedrageri, særlig økonomisk kriminalitet, hvor den teknologiske og øvrige samfundsmæssige udvikling har ført til såvel stærkt øget omfang som øget kompleksitet. I det følgende betegnes disse områder under et som "ny kriminalitet", fordi de, selv i de tilfælde, hvor kriminalitetsformen er velkendt, i kraft af den øgede kompleksitet udgør en ny udfordring for politiet.

Kendetegnende for den nye kriminalitet er for det første, at politiet generelt mangler viden om den og kun har relativt begrænset erfaring med at efterforske og retsforfølge den. Således har det været et gennemgående træk i analysearbejdet, at visse områder har været svære at analysere, enten fordi der mangler viden og data af tilstrækkelig kvalitet, eller fordi data ikke entydigt kan isoleres til kriminalitetsområderne.

De nye kriminalitetsformer er derudover ofte udfordrende i kraft af organiserings- og specialiseringsgraden hos de kriminelle. Derved afviger de fra den hidtil kendte organiserede kriminalitet, fx rocker- og bandekriminalitet. De nye kriminalitetsformer udføres i videre omfang end de traditionelle i det skjulte og inkluderer nye både nationale og internationale aktører, blandt andet faguddannede specialister med relevante tekniske, juridiske eller økonomiske kompetencer. Det gælder for eksempel vekselbureauer, der bistår i forbindelse med hvidvaskning af penge eller rådgivere, der bistår med etablering af selskaber i forbindelse med økonomisk kriminalitet, fx momskarruselsvig. På samme måde findes der eksempler på hjemmesider på internettet, hvor det er muligt at købe bistand til forskellige former for kriminalitet, fx såkaldte DDoS-angreb, hvor internetservere søges blokeret.

Der anvendes også nye former for social organisering, fx virksomhedslignende strukturer eller projektorganisering, hvor grupper af individuelle aktører finder sammen i et kortere tidsrum for at udføre en bestemt kriminel handling. I forbindelse med efterforskning af sager om menneskesmugling er der fx konstateret eksempler på, at mindre grupper har specialiseret sig i en særlig type bistand til kriminaliteten. En gruppe tager sig fx af forfalskning af identitetspapirer og rejsedokumenter, en anden af transport frem til landegrænsen og en tredje af transporten over grænsen, fx Middelhavet. En del af denne bistand har karakter af "Kriminalitet-som-en-service".

Dertil kommer, at ny kriminalitet ofte er grænseoverskridende og begås af fx internationale kriminelle organisationer eller omrejsende kriminelle.

Ny kriminalitet adskiller sig også fra den traditionelle ved at involvere nye typer af gerningsmænd og ofre. Det kan fx være it-studerende eller softwareudviklere med vellønnede jobs, som næppe tidligere ville være blevet kriminelle, men som i dag har mulighed for at sælge deres specialviden til kriminelle handelsplatforme på internettet eller for at udnytte personlige oplysninger, som de er kommet i besiddelse af ved at inficere tilfældige borgers computere med virus, til afpresning mv.

Kriminalitetsudviklingen indebærer en særlig udfordring for danske myndigheder og den danske forvaltningskultur. Det er et grundlæggende krav til offentlige myndigheder i Danmark, at de er serviceorienterede, blandt andet således at borgere og virksomheder har nem adgang til myndighederne og kan blive betjent effektivt. Men åbenhed og service skaber også en sårbarhed, der kan udnyttes af kriminelle, fx fordi det er forholdsvis nemt at oprette virksomheder og foretage andre registreringer digitalt. Hvepsebo-sagen og sagen om de udenlandske selskaber, som har krævet refusion af udbytteskat på baggrund af forfalsket dokumentation er gode eksempler på det. Tilsvarende opererer de nye kriminalitetsformer ofte i grænsfeltet mellem forskellige myndigheder, herunder politiet, forsvaret og forskellige statslige forvaltnings- og tilsynsmyndigheder.

2.2.2 It som kriminalitetsaspekt

Strategisk Analyse 2015 og Strategisk Analyse 2016 peger på, at en større del af kriminaliteten fremover vil have et mere eller mindre markant it-aspekt. Det betyder blandt andet, at man må forvente, at en række særtræk ved det, vi i dag betragter som it-kriminalitet, fremover vil sprede sig til andre former for kriminalitet.

It-kriminalitet er typisk kendetegnet ved, at gerningsmanden – i modsætning til de fleste klassiske kriminalitetsformer – ikke er fysisk til stede der, hvor kriminaliteten har sin skadevirkning, og kriminelle aktører kan derfor fra en pc på en hvilken som helst geografisk placering begå kriminalitet over hele verden.

Udover de udfordringer dette i sig selv medfører for politiet, betyder det også, at gerningsmanden ikke behøver at blive konfronteret direkte med ofrene for sin kriminalitet, hvilket alt andet lige må forventes at mindske de psykologiske barrierer, som gerningsmanden ellers ville skulle overvinde for at gennemføre kriminaliteten. Det betyder, at der er risiko for, at flere og andre personer end tidligere kan blive kriminelle, fordi det fx kan opfattes som mere acceptabelt at sidde bag en skærm og købe tyvekoster end at møde op hos hæleren selv for at få dem udleveret, ligesom det formentlig er lettere at bedrage eller forfølge og chikanere medborgere eller at krænke et barn seksuelt, når det foregår på afstand af offeret.

Et andet relevant aspekt er, at vi som borgere er mere sårbare på internettet, fordi vi ikke i samme omfang som ved traditionel kriminalitet er opmærksomme på farer, når vi færdes online. I takt med at flere borgere tvinges på nettet, blandt andet for at kunne kontakte offentlige og private virksomheder, øges sårbarheden.

Anvendelsen af it som værktøj til at udføre kriminalitet indebærer også en udfordring af politiets klassiske efterforskningsmetoder. Brugen af kryptering og skiftet fra traditionel telefoni til internetbaseret kommunikation vanskeliggør politiets efterforskning og gør det nødvendigt at udvikle nye efterforskningsmetoder for at holde trit med de kriminelle.

2.2.3 Risikohåndtering

Traditionelt politiarbejde har ofte karakter af sagsbehandling. Sagen starter typisk med, at et forhold kommer til politiets kendskab, hvorefter politiet foretager de fornødne dispositioner, og sagen måske med tiden bliver til en egentlig straffesag, der forelægges for domstolene. I fremtiden må det forventes, at politiarbejdet gradvis vil ændre karakter, sådan at der – udover den traditionelle sagsbehandling – også vil blive stillet stigende krav til politiets evne til at håndtere og minimere risici. Politiet skal ikke alene reagere på forbrydelser, der allerede har fundet sted:

Politiet skal fortsætte arbejdet med løbende at styrke indsatsen for at minimere risikoen for kriminalitet ved at eliminere trusler og mindske mulighederne for at begå kriminalitet.

En tilsvarende udvikling finder sted inden for det beredskabsmæssige område, hvor der er en stadig mere udtalt forventning om, at politiet formår at forhindre kriminalitet og uro, ligesom det forventes, at politiet gennem en høj grad af operativ parathed meget hurtigt kan stoppe uvarslede hændelser og minimere deres skadesvirkninger, hvis de alligevel skulle finde sted.

Dette gør sig gældende i forhold til den flygtninge- og migrantsituation, vi oplever i øjeblikket, og det gør sig i særlig grad gældende i forhold til terrortruslen – senest illustreret ved hændelserne i København i februar 2015 – men forventningerne og kravene til politiets evner til risikostyring sætter sig igennem over en bred front, fra fx natur- og menneskeskabte kriser til skoleskyderier.

De overordnede tendenser, som på baggrund af kriminalitetsanalysen er beskrevet ovenfor, betyder, at dansk politi i de kommende år står over for store udfordringer. Det gælder på kriminalitetsområder med en bekymrende udvikling eller et uacceptabelt højt kriminalitetsniveau, hvor der er behov for et styrket strategisk, operativt fokus i de kommende år, og det gælder på tværgående fokusområder, hvor en styrket indsats generelt skal forbedre dansk politis evne til at forebygge og bekæmpe kriminalitet.

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Doing the Right Masculinities Right: The Police Force as Gendered Practices¹

Ingrid Lander

Introduction

This chapter focuses on how gender configurations are produced and maintained by means of normation processes. One important and central theoretical discussion focuses on regulatory notions of gender performativity in relation to the context in which gender is performed (Butler 1990), that is to say, the issue of the gender norms and the gender expectations that an individual experiences in a certain situation, and how these are linked to the actor's body. An additional dimension concerns how these expectations and norms are formulated in a specific gender-coded practice. This chapter discusses these gender theoretical issues on the basis of a study of norms and normation within the police training programme, a programme, and an occupation associated with strong connotations of masculinity. The discussion proceeds from an assumption that bodies do not always, by definition, perform gender, and nor are they by definition always expected to perform gender, in line with the performer's ascribed and/or perceived gender identity (Butler 1990, 2004, Halberstam 1998). In this chapter I argue that gender performativity can be linked to the arena and the context in which the actions are performed, i.e. to doing the right masculinity or femininity in the right way in the specific context. I further argue that what is considered normatively 'right' is linked to the specific arena in question, in this case the gender connotation of police practice.

The police profession is associated with a large number of conceptions and opinions; images of the profession are disseminated via popular culture, the media and not least by the police themselves. There are a great many myths associated with the police profession, as well as a large number of powerful symbols signalling strength, action and violence, all of which may be regarded as markers of masculinity (Connell 2005, Lander 2013). The police profession is also associated with conceptions about crime and how it can and should be combated using policing methods (Loftus 2010). The Swedish debate about the character of the profession often includes statements characterizing the profession as involving non-intellectual work, as being a practical profession. These conceptions colour the process of normation into the profession. The norm regarding how a police officer ought to be is viewed here as a manifestation of ordering practices, as a form of continuous, ongoing normation process that emphasizes practical, physically demanding and violent working

¹ First published in Lander, Ravn & Jon eds. (2014) *Masculinities in the Criminological Field. Control, Vulnerability and Risk-Taking*. London: Ashgate. I want to thank David Shannon for help with the translation from Swedish to English.

conditions focused on combating crime. This produces powerful conceptions of the type of body that is suitable for the profession, a normative (male) body. This moulds a culture that emphasizes a special kind of (strong, muscular) masculinity with working-class connotations (Andersson 2003, Finstad 2003, Loftus 2010, Lander 2013).

At the same time, the police profession has been the subject of both debate and processes of change, which have included a demand for increased diversity (Lander 2008, 2013). The police profession must therefore be viewed in relation to the national (Swedish) political reforms and public debates that have challenged traditional norms of masculinity and thus created space for a 'modern, middle-class man' (Hearn et al. 2012), one who is involved in parenthood, one who is not afraid to show emotions, who stresses core values in life, and who puts effort into his appearance (Johansson 2006). The police as both organization and practice do not exist in a vacuum, but are rather influenced by societal discourses on diversity and equality in the same way as other organizations and practices. The Nordic diversity and equality project has influenced gender norms by amongst other things challenging traditional conceptions of masculinity (Nordberg 2005). This can be seen as a shift in a region-specific construction of hegemonic masculinity (Connell and Messerschmidt 2005); more specifically, in the idea of the Nordic, assimilated modern man (Johansson and Klinth 2008).

The chapter begins with a section focused on the theoretical framework for the arguments presented, in which I also present a discussion of relevant existing research. Then follows a section focused on the study on which the arguments and discussion are based. Following these two sections, the analytical discussion begins by describing those who perform in the wrong way and the wrong performance. This because what is right/normal is always produced in relation to what is wrong/abnormal (Järvinen 1998, Lander 2003). Against the background of this presentation of the wrong performance, I discuss what it is, then, that constitutes the right way of performing gender within today's (Swedish) police force. The chapter concludes by linking this discussion to the way the Swedish police training programme and its associated gender connotations have been influenced by the discourses on diversity and equality.

Theoretical Framework and Previous Research

The theoretical point of departure for the discussion is drawn from the post structural and discursive approach on doing and undoing gender outlined by Butler (1990, 2004) and Halberstam (1998). According to Butler (1990), the sex-gender dichotomy comprises discursive effects of discursive action; gender is a performance, an effect of actions that require continuous repetition. 'There is no gender identity behind the expressions of gender; that identity is performatively constructed by the very "expressions" that are said to be its result' (Butler 1990: 25). The theoretical discussion in this chapter proceeds from the per-

spective that views gender as a form of discursive action that is both transformable in relation to, and can be influenced by, other discursive processes, in this case the diversity discourse (see the section on the chapter's empirical framework below) and the Nordic discourse on equality. In the context of a Butlerian theoretical approach, the body as materiality is discursively shaped, since bodies as both actions and practices are constructed as masculine and feminine in discursive processes. This means that the body is shaped through linguistic discourses. Viewed in the context of this framework, gender configurations are negotiated and renegotiated in social processes.

The theoretical framework described above is employed as an analytical tool that is used to open up the data and examine how categories such as gender, class and ethnicity (age and sexuality) function in the context of conceptions of the police profession and of becoming a police officer, i.e. how discourses relating to these categories assign people different positions and act together in conceptions of the police profession (Lander 2013). Viewed from this perspective, gender is *one* of many fluid subject positions that open the way for a more dynamic analysis based on the different positions assumed by subjects, the positions they view as being possible to assume and the positions that are assigned to *the other* by the norms relating to how a police officer is required to be (Kelan 2010). Focusing on masculinities as fluid positions opens up for an analysis of how norms are created and symbolized and the ways in which the normation processes manifests themselves. It is in this context that Halberstam's (1998) discussion of female masculinity becomes interesting, because it disturbs the binary division as male/female, masculine/feminine. Women in connotatively masculine occupations, such as the police, may undo gender and thus disturb the norm, but they may at the same time reproduce the gender dichotomy through the creation of specific female spaces within the framework of their occupational practice: 'In this case "doing gender" and "undoing gender" intersect, as "doing gender" can be used to undo gender' (Kelan 2010: 182).

Actions, as well as bodily and occupational representations, are gender-coded and based on the binary logic (Laqueur 1994). The police profession, like many other occupations and arenas, reinforces essentialist conceptions of bodies and reproduces them accordingly (Lander 2013, Nordberg 2005, Sörensdotter 2008). The dichotomies female – male, weak – strong, emotional – rational, caring – disciplining, is reproduced by means of ordering principles and practices (Andersson 2003, Lander 2013). The police training programme is here viewed as an arena in which normation and socialization processes occur during the process of becoming a police officer. These normation and socialization processes relate not only to knowing what you should do in certain situations but also to *how you are required to be*. Andersson (2003), in a study of ordering practices in two local police organizations, describes this *how you are required to be* as involving an ongoing inter-male homosocialization. The concept of *ordering practices* is here used to refer to interpersonal activities that create the patterns for how an organization is ordered. 'When the life of the organisation is ordered by the organisation's members in ordering practices, gender [class, ethnici-

ty etc.] constitute integrated parts of this ordering' (Andersson 2003: 42 [current author's addition]). The homosocialization begins during the time spent on the training programme and is regarded as a culture which presses the new police officers into the same mould and impregnates them with the prevailing police-cultural perceptions of how they are required to be, i.e. how they are required to think, what they are permitted to say and how they are required to look (Finstad 2003, Granér 2004, Lander 2008). It is a normation process that takes place between students during the police training programme and in which gendered bodily expressions play an important role (Andersson 2003, Finstad 2003: 219, Lander 2008).

Police performativity occurs in relation to conceptions of the other, the criminal body as risk-taking (see Balkmar and Joelsson, chapter 10; Simonsen, chapter 11 and Ugelvik, chapter 2), potentially aggressive (see Pettersson, chapter 3), and gendered as MALE (see Jon, chapter 1). The body is of central significance for how the police profession is portrayed, for the conduct of police recruitment practice and not least for how norms about how one is required to be as a police officer are constructed and reproduced. Conceptions about which body is most suitable for a profession such as the police lead to the body becoming a form of symbolic capital that individuals can invest in (Bourdieu 2001; Lander 2003, 2008). The normative body is described and constructed in relation to the other body, the *abnormal* body and it is through perceptions of *the other* that normality is formulated and expressed (Lander 2003). In the Swedish police context, the other, the abnormal body is the supposedly weak (female) body (Lander 2008, 2013), and the non-white, non-Swedish (male) body (Peterson and Uhnöo 2012). The theoretical discussion in this chapter proceeds from the conceptions of these other bodies and from how they are related to a masculinity performance that is appropriate for the police.

The argument that I present is that the diversity and equality discourses have produced a form of Butlerian 'gender trouble' that questions and disturbs masculinity norms within the police. This has manifested itself in the adoption of the standpoint that not all bodies within the crime control system must or should be males. This creates space and arenas for the other body in the police force, the female body to act within. This leads into the next section on the idea of diversity within the police, which provides the empirical framework for the chapter.

Empirical Framework: A Study of Diversity

The focus of my research project has been directed at the idea of diversity that the police have claimed to be trying to achieve, with a range of projects initiated within the Swedish police force (Ds 1996: 11; Gunnmo 2004; RPS 2010). Since 1998, the recruitment of students to the police training programme has sought to promote increased diversity in relation to sex and ethnicity, which is today reflected in an increased number of students who are

women and an increase in the number from a non-Swedish national background. The issue of diversity in relation to sexual identity has also been described, but first and foremost in the sense that the climate at the workplace must promote the possibility of being open about one's (LGBT)² identity (RPS 2010). In the government's directives to the National Police Board, the demand for increased diversity within the force has been motivated by reference to a discussion of the importance of democracy and of the view that the police force must reflect the composition of Swedish society (Gunnmo 2004), which I see as an effect of a Swedish equality discourse (Hearn et al. 2012, Johansson and Klinth 2008). It is, however, unclear what this increased diversity is intended to accomplish. I have elsewhere interpreted it as being focused on different bodies, with the (minority) bodies being expected to contribute something that the police as an organization is (supposedly) lacking (cf. Lander 2008 and 2013). Thus, the diversity discourse within the police force proceeds on the basis of essentialism by viewing bodies as the bearers of different properties that are suited to different roles within the organization. Women are expected to contribute soft values and thus become care-providing bodies. Non-Swedes are expected to contribute knowledge on cultural differences and language skills and thus become culture-bearing bodies. The focus for this diversity discourse is thus directed at creating distinctions rather than at creating changes in the *ordering practices* within the police force (Andersson 2003, Loftus 2010, Lander 2013).

The discussion presented in this chapter proceeds from an interview study conducted in connection with the police training programme in Sweden. The study had an ethnographic approach, which means that the material includes interviews, field notes and logbook notes made during the research period and during my time as an employee on the police training programme in Stockholm. During the period January 2003 – December 2005, I was employed as assistant director of the police training programme at the Swedish National Police Academy. I subsequently continued working at the academy as a lecturer in criminology until the spring of 2009. The research project was born out of reflections and experiences that I had during my period of employment, and it emerged in the context of a dialogue between myself and the others involved in the management of the police training programme.

The interviews conducted comprise repeated, thematically structured interviews with six police students who met one or more of the diversity criteria. The study's objective was to focus attention on the perspective of the other, with the other in the Swedish police force being all those who are not Swedish, white, heterosexual and/or male – i.e., all those individuals, groups, categories that in one way or another are expected to bring diversity within the police. Four of the six are females, two are males and three define themselves as homosexuals. All were born and grew up in Sweden to parents born either in Sweden or

²Lesbian, gay, bisexual and/or transgender identity.

in one of the other Nordic countries. A total of 14 interviews were conducted between January 2006 and February 2007, with these 6 police students, 3 of whom were on the training programme in Växjö and 3 in Stockholm. The length of the interviews varied between one hour and 90 minutes.

The interview method involved creating meaning-making dialogues focused on the overarching theme of *diversity within the police force* and on more subtle normative conceptions about *what a police officer is required to be*. It is an active form of interviewing that stimulates processes and reflections among the interview participants (Holstein and Gubrium 1995; Lander 2008). By asking questions focused on what has been described by one interview participant to the next interview participant, I worked on and developed the information. The interview participants were also used as informants, by giving them questions to observe and discuss with their course colleagues between interviews. All of the interviews were transcribed and then analysed qualitatively. During the interview study I also kept fieldnotes which constitute a research material in themselves focused on the research process, involving a documentation of the contact with the participants and the knowledge production process during the interview study.

In addition, the material also includes personal logbooks from my time as an employee on the police training programme, notes from meetings of the management committee and a number of other contexts in which I participated within the framework of my employment. On one level it may be viewed as problematic integrating observations from a period when I was director of the training programme, but it is impossible to ignore this knowledge and experience and from a scientific point of view it would be more problematic to attempt to exclude them (Fontana 2003, Platt, 2012).

The Wrong Gender Performance

As in many other contexts, the norm and what is normal emerges via the identification of what is abnormal, the other (Järvinen 1998, Lander 2003). Conformity, and thus what is normal, is produced via a collective process in which deviance is identified by defining certain signs as deviant. What is appropriate emerges only once there is a definition of what is inappropriate and vice versa. Language plays a crucial role in definitional processes that produce the division into us – them, appropriate – inappropriate, or the right police identity and performance contra the wrong performance (Foucault 1972).

Conversations and discussion of bodies' (in)appropriateness for the police profession were constantly present in the day-to-day life of the police training programme; in the students' conversations with one another, in discussions between teachers and students, between teachers, within the course management group and not least between the recruitment unit of the National Police Board and the management of the police training programme

(Lander 2008, 2013). The focus of these discussions was often directed at unsuitability, assessments of and judgements about individuals' shortcomings in relation to being able to do the job, at why an individual did not fit in with the team and was therefore not viewed as being a good colleague. In order to be able to discuss the right gender performance within the police, then, I therefore begin by focusing on how those who perform wrongly are articulated, and on what this wrong performance consists in. I have chosen in the current context to direct my attention at the two major categorizations that are made in relation to the wrong gender performance; the physically weaker (female-)body and what Jon (Chapter 1) conceptualizes as a cowboy masculinity performance.

The Physically Weaker (female) Body

I think somehow that once you've got into the college, everyone has this unconscious or conscious conception of how a police officer should be. I think some of the guys, although they're not allowed to actually say it, think how could SHE get in! And I can also feel it somehow that there should be certain physical criteria, but then there's a place for everyone. But since they require that everyone is out in patrol cars for x number of years, I think it's insane that a girl of 50–55 kilos should drive out in a uniform and go into the middle of domestic fights and things like that. Because I mean she's going to get such a pasting ... Then it's not just about physique but you can't get away from the fact that it's a very physical job, you're supposed to go in and wrestle people to the ground every now and then, and then you have to have a little bit of something to push back with ... There's x number who shouldn't be here. So you do have a preconception somewhere, there's a silent culture about it. (Lena)

Physical requirements are of decisive significance in relation to the question of who is (in)appropriate as a police officer. These conceptions about the physical requirements of the profession become highly gendered, as can be seen from the quotation from Lena. This gendering is not per definition essentialist, tied to the female body, but rather becomes so. The six interview participants' discussions were greatly coloured by this issue of bodily strength. The cultural conceptions among the students about the suitable body for the police force also involve a manifest creation of *the other body*, where this *other body* takes the form of women whose required threshold levels of physical strength are below those of men both at the time of recruitment and in the tests conducted later on during the training programme.³ According to Lena, it is about being able to go into a situation and wrestling

³ Since the autumn of 2011, the required threshold values for physical strength for males have been reduced to the levels that previously only applied to females. These altered physical entry requirements have not, however, led to changes in the physical tests/demands that are made within the framework of the training in the subject's self-defence and health, which are repeatedly examined over the course of the training pro-

people to the ground. She also talks about how these conceptions about bodily preconditions for the profession become a criterion by which the students judge one another, i.e. for how they observe, assess and question one another's suitability:

Although more girls are needed, because men, they're most often a lot harder. I think that girls have more of a capacity to be empathetic. Are a bit softer. And I think that, if you go to some girl who's been raped or assaulted by her husband, for example, then I think that she'll have more confidence if it's a woman who comes than if it's a man. (Tina)

The quote from Tina shows how women legitimize their place within the profession in relation to the conception of women *as* physically weaker than men, but instead more empathetic. This leads to the legitimate place for a women in the profession being found in relation to interrogations, and then specifically in relation to interrogations with women as crime victims. Thus a space is created in this way in which the assumed weaker female body can work:

I mean, I think that there's a difference between boys and girls, girls don't think it's so important. It is important that you're in reasonably good shape, but it's not so important that you're big and strong. Instead it's more important that you can deal with people, can talk with them. On this all-day exercise, I was paired with this guy the whole day [a person whom Tina says questions women's presence on the training programme] and I asked him: 'What should we do now then X?' [Tina answers as X to her question]: 'I usually do it so that I give them [the individuals suspected of offences] a chance, and then I go in and wrestle them down.' [Tina answers as herself]: 'Yes, but you can't do that. You have to try and talk to them first.' [Tina answers as X]: 'No, they get one chance, and then I go in and grab hold of them.' I think that guys probably have that view, whereas girls think that you can resolve the situation by talking to them instead. (Tina [author's addition])

It emerged in all of the interviews that the subject position as women and of being accepted into the collective is a problematic and conflicted one, and this also constitutes one of the bearing themes within the interview material both in relation to norms and the normation processes. A premium is placed on physical ability both among the students and by the training programme, which has a strong focus on the subject self-defence and health. This subject is highly valued among the students and they also have a very close

programme. In these examinations, the physical requirements for women remain at a lower level than those for men.

relationship with the teacher of this subject, who follows them throughout their two years on the training programme. The issue of training and competition in physical strength and abilities thereby becomes one of the major evaluation points for suitability and thus the possibility of passing as a good colleague.

The second quote from Tina illustrates the other form of wrong performance, those (for the most part males) who invest too much in being big and strong, and who do not want to compromise on their principles, those who perform a form of non-middle-class discursively anachronistic masculinity, a 'do not mess with me' attitude.

The Cowboy Masculinity Performance

The assumedly weaker female body; SHE who performs connotatively feminine emotions and expresses these emotions, may be viewed as one dimension of the wrong performance. Another is found in HE,⁴ who invests too much in performing and accentuating connotatively masculine actions and bodily expressions that have traditionally symbolized the police profession. Between these two poles a discursive (verbal) battlefield is formed, a struggle about which body is most appropriate for the profession (Lander 2013, Loftus 2010). In an earlier article I discussed how professional motivations and homosociality within the police training programme become obstacles to both a changed police norm and diversity within the police force (Lander 2013). The professional motivation and the norm regarding how a police officer is required to be emphasize practical, physically demanding and violent working conditions focused on combating crime. These conceptions of the profession relate to a 'combating-crime' discourse that colours the everyday experience of the police training programme in interpersonal conversations and processes at all levels (see the above quote from Tina). The normative image of the profession as involving high-speed acts of heroism and requiring high levels of courage and physical strength assumes an important role and constitutes a central part of this discursive battlefield. It is a battle between parallel, existing contradictory discourses, one that emphasizes equality and diversity and one that emphasizes combating an assumed increasingly violent and organized crime problem (Loftus 2010, Lander 2013). This battle exists in the day-to-day life of the police training programme, despite the reformulation of the recruitment documents on the police website and the years spent working to improve diversity within the police and work focused on the organization's value base (Lander 2013):

They probably think they have more reason to be here. There have been heated discussions that the boys in the class think that the girls shouldn't become police because they don't have the physical

⁴I would like to point out that there are also women who perform cowboy masculinity, but in the discussion about the unsuitable police officer, this form of masculinity is symbolized almost exclusively by reference to a man.

strength to be able to work as police officers. So those boys keep a bit to themselves. And it's those boys who have a massive interest in police equipment, you know. Those who spend their whole day in uniform and buy soft air guns so they can sit at home and practice shooting and so on. They keep to themselves. (Tina)

What can be seen is that those who are most questioning of women's presence on the training programme and within the police force are the men who, according to Tina, like the uniform, police equipment, flashing lights, action and who are looking for excitement and for a sense of belonging within the force. The gender performance of these men is located within the framework of a binary discursive conception of gender; women *are* women and since the police profession requires strong MEN, they have no legitimate place within this profession. Within the police training programme, it is these (for the most part) males, who take up much of the teachers' time in discussions of (in)appropriateness, who constitute the problem in relation to changing the connotations associated with the police profession in line with a shift towards diversity (Lander 2013, Loftus 2010). On the basis of the interviews and previous research, it appears that the cowboy masculinity performance in the police context occurs in relation to conceptions about the profession (Andersson 2003, Finstad 2003, Granér 2004, Loftus 2010, Lander 2013), and in relation to a homosocial arena in which gendering processes are taking place among males (Andersson 2003, Finstad 2003, Kimmel 1994):

There are these guys who are quite masculine, of course, and who have this traditional, how should I put it, police [attitude], tough attitude, tough approach, very masculine, masculinity that radiates through everything. They constitute a group ... We don't have so much in common. The conversations are kind of; 'how much did you drink this weekend', like that. (Enok [author's addition])

When it comes to gendered practices, the police profession is surrounded by a range of contradictory discourses which the students continuously relate to (Loftus 2010, Lander 2013, Johansson 2006). They also meet these contradictory discursive messages on a daily basis in the context of the different modules and subjects of the training programme, where the expectations placed on their actions shift between empathic listening to acting in a fixed, authoritarian and goal-focused manner and over to intervening with violence if necessary. These shifting expectations create an uncertainty about how to perform in order to do the right gender in the right way, as is illustrated in the following quote from Lena:

I think, first and foremost when you're so new to this, you've been accepted. Then you feel such a sense of confirmation in that, yes then I'm this norm of what a police officer should be. So you come here and then I think some kind of small dissonance arises in more or less everyone, when you like got to see your classmates. And then this,

how the hell has that one been able to get in, and that one, because that's the way people talk a little bit. (Lena)

In the context of this dissonance, the students gravitate towards individuals who think the same as them, and powerful homosocial groups are formed, as is illustrated very clearly by the earlier quotes from both Enok and Tina. For the males whose gender identity is in line with the performance of cowboy masculinity, professional police conduct is the same as being a real man. Police performativity then assumes very concrete expressions in the hierarchical positioning that takes place through competition, even if competition is not in fact on the agenda (Andersson 2003). One example of this is found in one of the modules in the weapons training programme:

We had a weapons exercise a while ago. You had to lie down and shoot and up on your knees and then run a course in a certain time, and then you were supposed to shout a lot too. I thought it was good, but the guys thought it was great fun! *Fuck, that was fun! That gave me goose bumps.* (Erika)

To summarize, the gender performances that are considered inappropriate within the profession are, on the one hand, to perform femininity in the form of physical weakness or by showing feelings of uncertainty. The other form of inappropriate gender performance involves performing too much masculinity, showing too much of an interest in weapons and action. The moulding process into the police profession is thus largely focused on the conscious side of gender performance, on what Judith Butler (1990) defines as performativity. It is about the correct police identity performance in the situations, and this is constantly being evaluated and assessed by one's colleagues throughout one's entire professional career (see Finstad 2003, Loftus 210, Morash and Haarr 2011). The police identity is in a constant state of becoming, and this becoming takes place in relation to a foundation of discursive conceptions about what the police profession means and how modern police officers are required to think, what they are permitted to say and how they are required to look (Andersson 2003, Butler 1990).

The Right Gender Performance

The focus on the body is central to the way students judge one another and can thereby be viewed as a part of the ordering, homosocial practices in which the teachers, not least those from the self-defence subject, also participate (cf. Karp and Stenmark 2008). This is also found in the rest of the police organization. Andersson (2003: 156) writes that 'The body is like an arena in which the men meet, challenge and distinguish themselves from one another and at the same time an arena where the ideal, imagined body is constructed.' Thus the normation and the judging not only takes place in relation to women's (assumedly) weaker and less well-trained bodies, the police students' entire everyday lives on the

training programme are permeated by constantly relating to the normative body. These ordering practices also give the body agenthood, by initiating a transformation through the training, building up and challenging of the body's capabilities. This occurs not least among the women during their time on the training programme, and the interview participants spoke of an extreme body culture among both the women and the men during the programme. The police identity can thus be performed by both a policeMAN and a policeWOMAN.

However, the right police performance is not only about the body as materiality, but just as much about mentality, which may be seen first and foremost in relation to the negative connotations that have become associated with the concepts of *professional culture* and *esprit de corps* (Granér 2004, Loftus 2010, Peterson and Uhnöo 2012). One effect that the Swedish equality and diversity discourses have had on the police organization is found in the work focused on the organization's value base (Westin and Nilsson 2009), which has the goal of changing this connotatively negative professional culture, whose mentality, according to Peterson and Uhnöo (2012: 357) is that 'lie-low or cover-your-ass and a strict adherence to the crime fighter image'. During the police training programme, this negative side of the professional culture and *esprit de corps* is raised and discussed by focusing on specific groupings and incidents in which the individual giving the wrong performance is almost exclusively portrayed as a policeMAN performing cowboy masculinity:

I: Would you say that there is anything in the training programme that states clearly that you should *not* be like this?

E: Yes, I think so. There are constant, repetitive gibes about the old police tribe. Those who, for example, perjured themselves in order to protect a colleague [Enok is referring to a group of police officers in Stockholm who were accused of systematic and brutal use of force]. 'That's what people used to do, that was the old days, and we *don't* want police officers like that now!' Police officers who are narrow-minded, police officers who don't like immigrant police officers, who don't like homosexuals, we don't want people like that. (Enok [current author's addition])

I would argue that the undesirable police identity that Enok is referring to lies close to the cowboy masculinity that was described in the previous section. This undesirable masculinity is also close to a connoted criminal masculinity and to the conceptions of the non-white and non-assimilated masculinity that is posited in the debate as the antithesis to the desirable Nordic assimilated modern man (Hearn et al. 2012, Johansson and Klinth 2008, Nordberg 2005). Within today's police organization there is a desire to distance the organ-

ization from this form of expression of masculinity, which is reflected in the organization's recruitment and normation processes (Westin and Nilsson 2009):

I: Would you say that there are any unstated or indeed actually explicit demands on or expectations about how you should and are supposed to be?

E: Yes, there is of course this overarching expectation that you should help each other and support each other, you should be open to all kinds of religions, sexes, sexualities, ethnicity and all that ... They are trying to mould people in line with that. I think it fails a bit because the focus isn't always on those subjects where it perhaps needs to be. In some way, it is emphasised more in certain subjects because it's natural, such as behavioural science, mental training and in police science, where the teachers focus a lot on those questions ...

I: But how are you supposed to be then?

E: Well on the one hand we're supposed to be like the message in the more theoretical subjects, like open humanists, open to everything, broad-minded and all that bit. But in the more practical subjects, like self-defence for example, we're supposed to be big and strong police officers who can wrestle people to the ground and things like that. There's a link to certain subjects. But at the same time, I could think that there has to be more discussion in the class. How do they want this police officer? There's no discussion in the class, there's no discussion on the training programme. (Enok)

What emerges in the quote from Enok (and that from Nadja below) is in part an ambiguity about how you are supposed to act, think and perform, and in part the fact that this creates an uncertainty which in turn serves to strengthen the normation processes between the students. They are left to interpret and evaluate the different messages themselves. At one level, this may be seen as positive, since 'sensemaking is important for the preservation of self-esteem and the organization's public presentation' (Chan 2007). At the same time, however, it serves to intensify the struggle between the different discursive conceptions around which police identity is the right one, and thus also which gender performances are expected of the subjects.

It was like when we sat with the class and listed all the characteristics a police officer must have. I mean it becomes a kind of super-human that, like, doesn't exist anywhere ... you have to be very service minded, humorous, empathic and kind, provide help and be patient, physically well-trained. I mean, there were so many things that it's completely impossible to fulfil all of these things. So the teacher made

a bit of a joke. He just: 'Yes, it's good that you think like that, but can you achieve all that?' and so everybody just started laughing. (Nadja)

Performing the right police identity involves a constant balancing act between the gender extremes of the see-saw, irrespective of whether you consider yourself as male or female. Not showing physical weakness or uncertainty, but at the same time not being too eager to use violence or to show arrogance and complete certainty that one is right. From the study, it can be seen that the diversity and equality discourses have presented a challenge to the gender norms that prevail in the process of becoming a police officer. They have contributed to the forming of a new police body that has masculinized the female body and demasculinized the male body away from a working-class cowboy ideal (Loftus 2010, Johansson and Klinth 2008, Jon in Chapter 1). A new, more androgynous, middle-class connoted police body is in the process of becoming, as can be illustrated by Erika's definition of the typical police student:

The thing that strikes you is how similar everyone is here. Saw an advert on the notice board [in the police college canteen] where Peak Performance, the brand, were looking for models. You had to be a man, of certain height, breadth and looks. I turned around in the canteen and thought that *everyone* meets the requirements. The typical police student is a *Peak Performance*⁵ man! (Erika [current author's addition])

To summarize, what emerges as being the right police gender performance within the framework of today's Swedish diversity and equality project is to position oneself as a modern, emancipated, athletic, middle-classed (police-)body. In this sense, Erika's metaphor relating the police identity to a Peak Performance man is both powerful and very clear, since Peak Performance markets itself as a brand for the sports-interested, adventurous person who demands quality. The company's motto is: 'To be Genuine, Long-term, Trust, Belief in the Future, Regeneration and belief in Team Peak Performance.'⁶ Their advertising pictures are often taken in extreme sports environments, such as off-piste skiing/snowboarding and mountaineering, where those wearing the clothes are: 'healthy people, well-trained, stylish and have nice things and lit of money and they have good

⁵ Peak Performance was founded by a number of Swedish downhill skiers in Åre in 1986. It started with a passion for sport and for experiencing those areas of nature that are as yet unexplored. The name Peak Performance came to symbolize the quality and the function of the company's clothing (<http://www.sportamore.se/brand/peak-performance/> visited 19 November 2013).

⁶<http://www.sportamore.se/brand/peak-performance/http://www.sportamore.se/brand/peak-performance/> visited 19 November 2013, which can be compared with the personality criteria described in a recruitment brochure from the National Police Board: 'You should be broad-minded, tolerant, able to cope with stress, honest, congenial and have a service focus' (RPS_broschyr_08_webb[1].pdf).

teeth and everything,' which is how Erika describes the appearance norm on the police training programme, and she continues:

Everyone looks the same. Everyone has the same sort of clothes. If you're sitting on the bus, and someone is wearing a cap with Peak on it, you can guarantee they'll get off at Sörentorp [the name of the bus stop for the National Police Academy]. Peak Performance, that *is* uniform at the training college. (Erika [current author's addition])

Peak Performance conceptualizes a discursive representation of the idea of the Nordic assimilated modern man, which in turn formulates the right gender performance in the police force.

Discussion: The Discursive Right Gender Performance at the Right Time and Place

The argument made in this chapter has been that the Nordic equality and diversity discourses have challenged traditional norms and configurations of masculinity, in this case the gendered police norms (Connell and Messerschmidt 2005). Through demands for increased diversity, and work to combat sexual and sexist harassment, the right police identity and the right police performativity are today portrayed as being more than just strength, body and action (Westin and Nilsson 2009). These discursive changes of the police as gendered practices on one level provide more space for different performances of police identities. The acceptance of the policewoman broadens the gender notions of what it means to be a police officer, since it is undoing gendered police configurations by creating more meanings associated with the police as gendered practices (Kelan 2009: 187–188).

As I have shown, there is a norm-body, a normative value system and a normative pattern of action associated with what it means to be a police officer, which can be illustrated with the idea of the Nordic assimilated modern man. Doing the right police identity right might in principle mean that bodies as gendered are reset to zero and that the police profession is undoing gender through the way in which the diversity and equality discourses create changes in the ordering practices within the police force. At the same time, however, there are parallel discursive conceptions of the police profession that define and symbolize the practice of the profession in terms of being practical, physically testing and demanding, risky and with expectations about being able to act physically with strength and decisiveness, which means that the masculinity connotations remain in relation to the police identity. Discourses that genders the body and are crucial to the question of who does what – which body drives the car, which body is suited for going into situations that are expected to be violent, which body interviews witnesses and injured parties, and runs investigations into violence against children and women. Thus in the normation process that surrounds becoming a police officer, the final judgement is directed toward the body, and the binary gender system is reproduced, but at the same time challenged (Kelan 2009, Lander

2008). When policewomen perform the right police identity right, they perform (female) masculinity and this performance disturbs and displaces the gender binary as it shows that female bodies can perform other gender positions than that assigned by the binary gender system (Halberstam 1998, Butler 2004).

The idea of diversity within the police is based, however, on the idea of bodies as essentially different from one another, as bearers of different properties that are suited to different roles within the police organization (Lander 2008, 2013). Men are hard and women soft, women are more empathic and men have other physical capabilities. This means that policeWOMEN are legitimized via their being needed to do that which policeMEN are assumed unable to do, and this serves to reinforce the way in which a large part of police practices continue to be gendered as man's work. In practice this means that several parallel police identities are produced in which gender configurations shift in relation to time and place. In one context the right gender performance involves doing more traditional masculinity, and in another more traditional femininity, even though this, from a Swedish equality-discursive perspective becomes a gender performance that is out of time and place (Nordberg 2005, Hearn et al. 2012).

In the interview participants' narratives about normation processes, what emerges is a picture of becoming a police officer that involves multiple subject positions in different places and at different times. This is because the police identity of today lies in the intersection of contradictory discourses – on the police profession, on the assimilated (white) Swedish society, on diversity, on professional ethics and on how to combat an assumedly increasingly violent and internationally organized crime problem (Loftus 2010, Chan 2007, Lander 2013).

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Datakvaliteten af politiets indbrudsjournaler

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I 2013 blev Danmark udråbt til det land i Europa med det næsthøjeste antal indbrudsanmeldelser i forhold til indbyggertal (Lerche 2013). Jævnfør Danmarks Statistik er sigtelsesprocenten for indbrud i gennemsnit kun 7,6 procent for årene 2000-2014, og ifølge Trygfonden er danskerne i stigende grad utrygge for at blive udsat for indbrud (Andersen et al. 2013). Det danske politi står derfor overfor en central problemstilling med at forebygge indbrud, samt at øge opklaringsprocenten og befolkningens tryghed.

Indeværende artikel er en præsentation af de foreløbige resultater af en undersøgelse af politiets datakvalitet. Artiklen har til formål at afsøge muligheder for at forstå indbrud ud fra den statistik, der kreeres på baggrund af politiets indbrudsjournaler. Dette ved at undersøge og karakterisere kvaliteten af politiets datamateriale omhandlende indbrud, samt ved at undersøge hvad datakvaliteten har af betydning for de analyser, der kan udarbejdes på baggrund af datamaterialet.

Politijournaler

Valget af at fokusere på politijournaler skyldes et ønske om at opnå viden om blandt andet, hvordan gerningspersonen har skaffet sig adgang til boligen, eventuelt det benyttede værktøj, der er brugt for at tilegne sig adgang, og om gerningspersonen har efterladt eventuelle spor. Sådanne informationer er sværere at afdække i selvrapporteringsstudier og offerundersøgelser, da disse i højere grad er plaget af undersøgelsespersonernes svarvillighed, hukommelse, kendskab til de juridiske definitioner af kriminalitet samt hvilke spor, der eksempelvis tilkendegiver gerningspersonens arbejdsmetode (Balvig et al. 2013; Greve 1972). Imidlertid er brugen af politijournaler heller ikke optimal, da det ikke er alle indbrud som politianmeldelses foruden registreres i politiets systemer (Balvig et al. 2013). Politijournaler er således ikke dækkende opgørelser over den totale mængde af begåede indbrud, eftersom journalerne ikke indeholder informationer om den ikke-registrerede kriminalitet. Imidlertid vurderes indbrud at have en relativ høj kriminalitetstilbøjelighed (Balvig et al. 2013:4). I en sammenligning mellem selvrapporterings- og offerundersøgelserne og anmeldelsesstatistikken kan der imidlertid argumenteres for en nødvendighed af, at definitionerne vedrørende indbrud som kriminalitetsform, arbejdsmetoderne brugt til at tilegne sig adgang til boligen også videre er konsistente, således omfanget og forskellighederne kan opgøres og sammenlignes på tværs. Politiets indbrudsjournaler er derfor umiddelbart at foretrække, da disse i højere grad vurderes at være udformet konsistent på baggrund af en fælles organisatorisk praksis.

Politijournaler består af tre elementer. For det første består en politijournal af en såkaldt 'vagthavende funktion', hvor grunddata angives (se figur 1). Dette værende information om dato og tid for anmeldelsen samt for gerningen, der ønskes politijournaliseret, samt adressen for hvor gerningen blev begået. Ydermere tilføjes der et journalnummer, hvilken angiver politikreds, gerningskode (dvs. hvilken form for hændelse, der er blevet anmeldt, eksempelvis om der er tale om et indbrud, røveri eller tyveri), et løbenummer (hvilken identificerer den enkelte sag) og slutteligt et årstal.

Figur 1: Vagthavende funktion

Som illustreret i figur 1 indeholder vagthavende funktionen også et resuméfelt. I dette felt anføres et enkelt, overskueligt og retvisende billede af hændelsen, der journalføres. I Rigspolitiets vejledning til at journalføre politianmeldte hændelser fordres det, at resuméet består af en besvarelse af seks spørgsmål, såfremt de er relevante for den

pågældende sag. Dette værende en besvarelse af (1) hvad er der sket?, (2) hvor er det sket?, (3) hvordan er det sket?, (4) hvem er involveret?, (5) hvornår er det sket? og (6) en politimæssig vurdering af hvorfor er det sket. Årsagen til at de seks spørgsmål kun skal besvares såfremt det vurderes relevant for den pågældende sag skyldes, at det eksempelvis ikke altid vides, hvordan indbruddet er sket, hvormed dette spørgsmål ikke skal besvares i resuméfeltet.

Foruden vagthavende funktionen består politijournalerne af en anmeldelsesrapport, hvilken indeholder alle grunddata fra vagthavende funktionen, der er hentet over i et særskilt dokument, foruden en detaljeret beskrivelse af gerningen, der er årsag til journalføringen, samt af gerningsstedet og en gerningsstedsundersøgelse. Endvidere angives informationer om hvem, der er involveret i sagen.¹ Hvor resuméfeltet i vagthavende funktionen opsummerer hændelsen, beskrives hændelsen detaljeret i anmeldelsesrapporten. Ved indbrudsjournaler indeholder gerningsstedsbeskrivelsen informationer om boligens art, beliggenhed, indretning og adgangsforhold, mens gerningsstedsundersøgelsen består af en detaljeret beskrivelse af, hvor og hvordan gerningspersonen har tilegnet sig adgang til boligen, gerningspersonens konstaterede eller formodede færden, hvor og hvordan gerningspersonen har forladt boligen og eventuelle spor efter gerningspersonen. Der må, ifølge Rigspolitiets vejledning til journalisering af anmeldelser, ikke angives centrale informationer vedrørende indbrudshændelsen i andre dele af politijournalen, hvis ikke det står skrevet i anmeldelsesrapporten.

Det tredje element som politijournaler består af, er den såkaldte 'søgenøglefunktion'. Søgenøglerne er et redskab, der har til formål at ensarte og strukturer søgekriterierne i en sag, eftersom de består af en række fastdefinerede, søgbare, informationsbærende ord eller sætninger. Dette står i modsætning til resuméfeltet, der skrives i fritekst. For hver gerningskode findes der et antal forudbestemte søgenøgler, hvilket vil sige, at ikke alle søgenøgler kan anvendes i alle sager. Der er således forskel på hvilke søgenøgler, der kan angives til eksempelvis en indbrudssag og en voldssag. Kun de søgenøgler, der er relevante for den enkelte sag skal tilføjes journalen, ifølge Rigspolitiets vejledning.

Søgenøglerne kan angives i op til tre trin, som tilsammen betegnes en søgenøglestreng. I udgangspunktet består trin 1 af en hovedgruppe, hvorefter valgene indsnævres, således at informationerne i trin 2 præciserer informationerne givet i trin 1, og trin 3 yderligere præciserer informationerne i trin 1 og 2 (Se tekstboks 1). Det er desværre ikke muligt at give et fuldt overblik over, hvilke søgenøgler, der kan angives til en indbrudssag. Dette skyldes, at disse oplysninger er til tjenesteb brug og dermed ikke må komme til offentlighedens kendskab. Nedenstående tekstboks illustrerer de søgenøgleområder, vi

¹ Dette værende personen, der anmeldte indbruddet, eventuelle vidner og gerningspersonen eller – personerne, hvis disse kendes.

beskæftiger os med i indeværende undersøgelse, og er eksempler på hvordan forskellige søgenøglestrengene kan angives.

Tekstboks 1: Eksempler på søgenøglestrengene

1. **Modusspor:** Modusspor (trin 1), modus atypisk (trin 2)
2. **Anvendt redskab:** Anvendt redskab (trin 1), koblen (trin 2)
3. **Modus:** Opbrydning (trin 1), dør (trin 2), hoveddør (trin 3)
4. **Identitetsspor:** Identitetsspor (trin 1), falsk anmeldelse (trin 2)
5. **Koster:** Kostervalg (trin 1), design (trin 2), Arne Jacobsen (trin 3)

Der skal altid angives søgenøgler til en sag, såfremt der er tilgængelige informationer i sagen, der kan angives som en søgenøgle. Hvis dette ikke er tilfældet, angives der en søgenøgle, som betegnes '*ingen relevante søgenøgler*'.

Afslutningsvist er det væsentligt at nævne, at det kun er muligt at danne statistisk ud fra søgenøglerne og resuméfeltet. Derimod er anmeldelsesrapporten ikke søgbar i statistiske sammenhænge.

Datakvalitet

I artiklen defineres datakvalitet som et multidimensionalt fænomen, hvilket nødvendiggør, at flere dimensioner tages i betragtning i forhold til en undersøgelse af datakvalitet. Det betyder, at én dimension ikke i sig selv er tilstrækkelig til at vurdere indbrudsjournalernes datakvalitet. Dimensionerne, vi har udvalgt og fundet anvendelige til at afdække datakvaliteten af indbrudsjournaler, er; nøjagtighed, fuldstændighed, ensartethed, anvendelighed og relevans. De fem dimensioner præsenteres kort herunder. I artiklen fokuseres der imidlertid kun på to af dimensionerne; nøjagtighed og fuldstændighed, da der er tale om foreløbige resultater af undersøgelsen. Hvordan vi mere specifikt har undersøgt de to dimensioner i forhold til indbrudsjournalerne uddybes i afsnittet; Analysestrategi.

For at give et fuldt billede af datakvalitet som et multidimensionalt fænomen er det valgt at præsentere alle de fem dimensioner.

Nøjagtighed

Nøjagtighedsdimensionen relaterer sig til, hvorvidt de registrerede informationer i datamaterialet stemmer overens med virkeligheden og dermed om informationen er fejlfrit og nøjagtigt (Batini & Scannapieco 2006). Det vil sige, hvorvidt oplysningerne givet i de forskellige dele af indbrudsjournalerne stemmer overens med hinanden.

Fuldstændighed

Fuldstændighedsdimensionen omhandler, hvorvidt dataet forstås som værende fuldstændigt og dermed om nogle aspekter ikke er blevet angivet (Batini & Scannapieco 2006). Dette indebærer, hvorvidt der mangler oplysninger i de kvantificerbare dele af en journal, og om alle relevante informationer er angivet.

Ensartethed

Ensartethedsdimensionen relaterer sig til, hvor ensartet dataet er på tværs af forskellige individer. Dette værende hvorvidt dataet varierer på tværs af de politibetjente, der udarbejder journalerne, samt om forurettede har en indvirkning på dataets ensartethed.

Anvendelighed

Anvendelighedsdimensionen omhandler, hvorvidt dataet er af sådan en karakter, at det er let anvendeligt for de parter, der arbejder med dataet, og for det formål dataet har. Det vil sige, at dimensionen anvendes til at vurdere, om de metoder, der benyttes til at kreere statistisk data, er anvendelige til dette formål. Det gælder eksempelvis anvendeligheden af at resumefeltet angives i fritekst, mens søgenøglerne angives i allerede definerede ord eller sætninger.

Relevans

Relevansdimensionen relaterer sig til, om dataet er relevant i forhold til den problemstilling, det har til formål at undersøge. Det vil sige en vurdering af, om de dele af politijournalen, der kan trækkes statistik fra, indeholder central information set ud fra et rutineaktivitets- og situationel kriminalitetsforebyggelsesperspektiv (Cohen & Felson 2011; Clarke 1980). Dette ud fra politiets ønske om at arbejde vidensstyret og analysebaseret (Hestehave 2013).

Kvantitativ dokumentanalyse

Undersøgelsen af politiets datakvalitet består af en kvantitativ dokumentanalyse af 495 indbrudsjournaler produceret i Østjyllands Politi i perioden fra d. 1. maj 2014 til d. 30. april 2015.

De 495 indbrudsjournaler er proportioneret stratificeret og tilfældigt udvalgt blandt de i alt 4.077 indbrudsjournaler, der er produceret i Østjyllands Politi i den nævnte periode. Den tilfældige udvælgelse af politijournaler er foretaget ud fra et ønske om at skabe de bedste forudsætninger for at kunne generalisere undersøgelsens resultater ud til populationen. Dette i forsøget på at sikre, at stikprøven har tilsvarende karakteristika som populationen (Bryman 2008; de Vaus 2001). Valget af at foretage en proportioneret stratificering skyldes en forskel i antallet af indbrud anmeldt over de tolv måneder,

hvormed det forsøges at tage højde for risikoen for unøjagtigheder på grund af en skævvridning af månedsfordelingen (Milhøj 1994).²

Ud fra ønsket om at undersøge datakvaliteten af politijournaler omhandlende indbrud er det valgt at foretage en dokumentanalyse. Dette ved at læse de udvalgte 495 indbrudsjournaler og undersøge, om beskrivelsen af indbruddet, der er givet i journalens forskellige dele, stemmer overens. Ud fra et ønske om at opnå målbare estimater foruden at skabe et systematisk overblik over journalernes datakvalitet er der i undersøgelsen foretaget en kvantitativ dokumentanalyse. Dette fordrer imidlertid en kvantificering af indbrudsjournalerne. Det vil sige en nødvendighed for at inddele indbrudsjournalernes informationer i forhåndsdefinerede kategorier, der efterfølgende gøres til genstand for optælling og sammenligning (Eskjær & Helles 2015:12). I forbindelse med en sådan kategorisering har der været et stort fokus på at inddele indbrudsjournalerne ens for at sikre en høj reliabilitet af dokumentanalysen. Dette er opnået ved at udarbejde en kodemanual, hvilken har til formål at skabe en entydig forståelse af, hvordan der kategoriseres. Endvidere har de, der har kategoriseret politijournalerne, kodet de første 20 journaler sammen og sparret med hinanden løbende, såfremt der har været tvivl.

Analysestrategi

Forinden resultaterne af den kvantitative dokumentanalyse præsenteres, findes det relevant og nødvendigt at introducere, hvorledes fremgangsmåden til opnåelsen af resultaterne er foretaget. Dette skal ses i relation til de førnævnte datakvalitetsdimensioner og hvordan disse mere specifik undersøges i forhold til indbrudsjournalerne. Da resultaterne, der præsenteres i denne undersøgelse, er foreløbige, bliver der i resultatafsnittet som nævnt kun fokuseret på to ud af de fem udvalgte dimensioner – nøjagtighed og fuldstændighed.

Nøjagtighedsdimensionen undersøges ved at sammenligne resuméfeltets angivelser og søgenøglerne med de informationer, der er givet i anmeldelsesrapporten. Hvis der er forskel på disse informationer, betragtes angivelsen som unøjagtig. Nøjagtighedsdimensionen undersøges derved ud fra to kategorier. Dette værende om resuméfeltets angivelser er *nøjagtig* eller *unøjagtigt angivet*. En tilsvarende vurdering foretages af søgenøglerne. Disse undersøges dog også i forhold til fuldstændighedsdimensionen. Årsagen til at det kun er søgenøglerne, der undersøges i forhold til fuldstændighedsdimensionen, er, at søgenøglerne er fastdefinerede ord eller sætninger, hvorved vi finder det muligt at vurdere, i hvilken grad de er fuldstændigt angivet. Resuméfeltet er i modsætning til søgenøglerne skrevet i fritext, hvilket vanskeliggør muligheden for at udarbejde en valid undersøgelse af omfanget af forskellige

² Den oprindelige stikprøve var på 507 indbrudsjournaler, men eftersom 12 af disse journaler ikke kunne åbnes i politiets it-system grundet systemfejl, måtte disse udgå af den undersøgte stikprøve. Den undersøgte stikprøve består således af 495 politijournaler.

karakteristika ved anmeldte indbrud. Dette som følge af, at de ord, der trækkes statistik på ud fra resuméfeltet, kan være forkortet, stavet forkert eller være udsat for en tastefejl og at der i nogle tilfælde kan være brugt andre ord, der synonymt betyder det, der trækkes statistik på.

Fuldstændighedsdimensionen undersøges ud fra tre kategorier. Dette værende om søgenøglerne er fuldstændig angivet, ufuldstændig angivet eller ikke angivet. I præsentationen af resultaterne for søgenøglerne kombineres nøjagtigheds- og fuldstændighedsdimensionen. Søgenøglerenes angivelser undersøges på den måde ud fra fire kategorier. Den ene kategori er *fuldstændig angivet*, hvilket svarer til nøjagtig angivet. Det vil sige, at alle relevante søgenøgler, der er mulige at identificere i anmeldelsesrapporten, er angivet, og der er således overensstemmelse mellem de tilknyttede søgenøgler og informationen angivet i anmeldelsesrapporten. Den anden kategori er *ufuldstændig angivet*, hvilket refererer til, at nogle relevante søgenøgler er angivet, men ikke alle. Den tredje kategori er *ikke angivet*, hvilken angives, hvis det ud fra anmeldelsesrapporten findes relevant at angive søgenøglen, men hvor søgenøglen ikke er blevet angivet. Den fjerde og sidste kategori er *unøjagtig angivet*, hvilket svarer til, at søgenøglen, der er angivet, ikke vurderes relevant at angive, idet informationen, som søgenøglen tilkendegiver, ikke står beskrevet i anmeldelsesrapporten.

Det er ikke alle journaler, hvortil der er udarbejdet en anmeldelsesrapport, hvilket er tilfældet for 11 procent af de 495 undersøgte journaler. Det er derved ikke muligt at sammenligne resuméfeltet og søgenøglerne med anmeldelsesrapporten i disse tilfælde. I det følgende resultatafsnit indgår der, derfor kun 442 journaler.

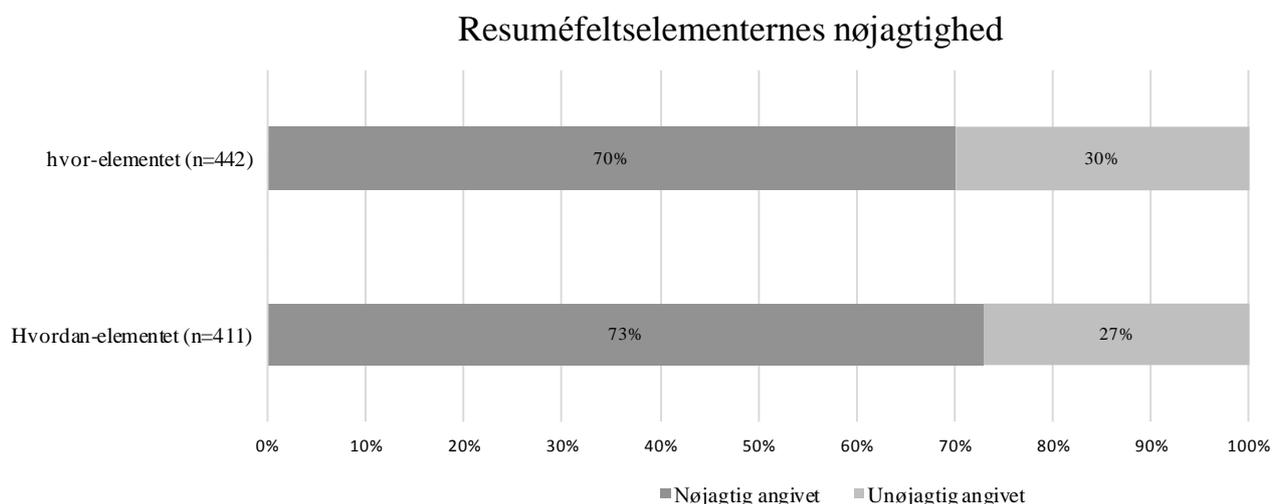
Det bør påpeges, at det som ikke nødvendigvis er relevant at besvare alle elementerne i resuméfeltet og angive alle søgenøgler til enhver indbrudsjournal. Nøjagtigheden og fuldstændigheden undersøges derfor ud fra de tilfælde, hvor det er vurderet relevant at angive det specifikke resuméfeltselement eller den specifikke søgenøgle. Denne relevansvurdering er foretaget ud fra en sammenligning af anmeldelsesrapporten og henholdsvis resuméfeltet og søgenøglerne. Hvis et element hverken fremgår i resuméfeltet eller anmeldelsesrapporten og det tilsvarende for søgenøglerne, betyder det, at vi ikke kan vurdere om, det har været relevant at angive informationen. Vi vurderer således relevansen af et resuméfeltselement eller en søgenøgle ud fra oplysningerne givet i anmeldelsesrapporten.

Som følge af relevansvurderingen præsenteres kun resultater for *hvor-* og *hvordan-* elementet i resuméfeltet samt *modus-* og *redskabs-*søgenøglen. Dette skyldes, at der er tale om forholdsvis få angivelser ved de resterende resuméfeltselementer og søgenøgler, hvorved vi ikke kan vide os sikre på potentielle outliers betydning for resultaterne.

Resultater

Ud fra figur 2 ses det, at både hvor- og hvordan-elementet i resuméfeltet er angivet nøjagtigt i omtrent to tredjedele af de tilfælde, hvor elementet er vurderet relevant at angive. Det betyder imidlertid også, at der i en tredjedel af tilfældene er unøjagtige angivelser, hvorved der kan argumenteres for, at resuméfeltsangivelserne ikke lever op til Rigspolitiets vejledning om journalføring. Dette skal ses i relation til, at der i vejledningen påpeges, at der ikke må optræde vigtige oplysninger i resuméfeltet, som ikke optræder i anmeldelsesrapporten. En unøjagtig angivelse er netop et udtryk for, at oplysningerne i resuméfeltet og anmeldelsesrapporten ikke stemmer overens, hvorfor en tredjedel unøjagtige angivelser for både hvor- og hvordan-elementet kan betragtes som en forholdsvis stor problematik for anvendelsen af angivelserne i statistiske analyser, såfremt det ønskes at sige noget generelt herom i forhold til anmeldte indbrud.

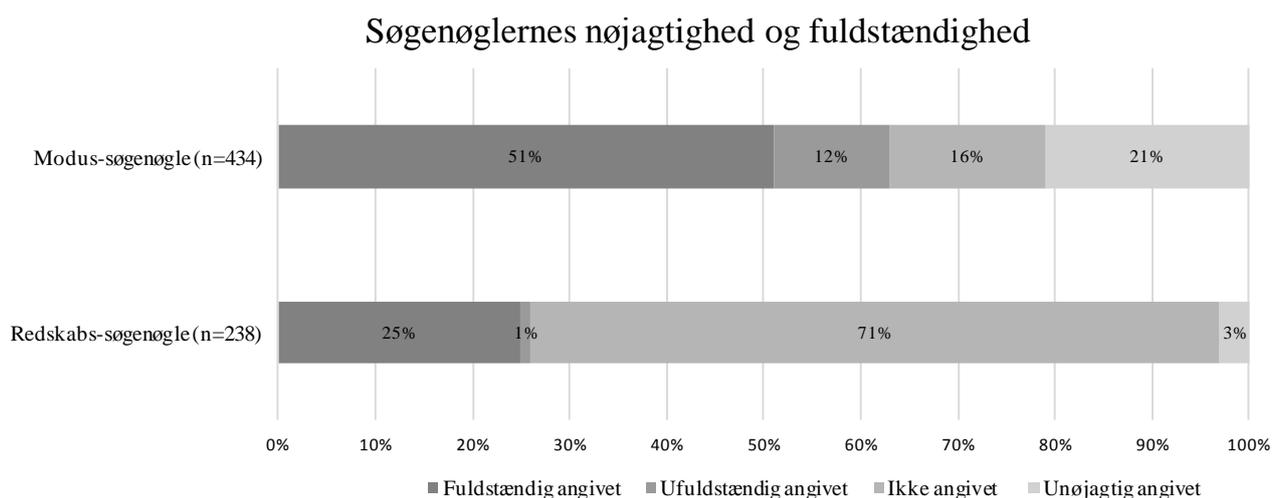
Figur 2: Resuméfeltelementernes nøjagtighed



Ud fra figur 2 ses det, at både hvor- og hvordan-elementet i resuméfeltet er angivet nøjagtigt i omtrent to tredjedele af de tilfælde, hvor elementet er vurderet relevant at angive. Det betyder imidlertid også, at der i en tredjedel af tilfældene er unøjagtige angivelser, hvorved der kan argumenteres for, at resuméfeltsangivelserne ikke lever op til Rigspolitiets vejledning om journalføring. Dette skal ses i relation til, at der i vejledningen påpeges, at der ikke må optræde vigtige oplysninger i resuméfeltet, som ikke optræder i anmeldelsesrapporten. En unøjagtig angivelse er netop et udtryk for, at oplysningerne i resuméfeltet og anmeldelsesrapporten ikke stemmer overens, hvorfor en tredjedel unøjagtige angivelser for både hvor- og hvordan-elementet kan betragtes som en forholdsvis stor problematik for anvendelsen af angivelserne i statistiske analyser, såfremt det ønskes at sige noget generelt herom i forhold til anmeldte indbrud.

Af figur 3 ses det, at modus-søgenøglen er angivet fuldstændigt i omtrent halvdelen af de tilfælde, hvor det er vurderet relevant at angive søgenøglen. Dermed er den restende halvdel ikke angivet fuldstændigt. 12 procent er ufuldstændig angivet, hvilket betyder, at der for disse sager ikke er angivet alle de relevante søgenøgler. Det kan eksempelvis være tilfældet, hvis adgangen til boligen er forsøgt to steder, men at der kun er angivet som ét af sted ud fra de tilknyttede søgenøgler. Det kan eksempelvis være i tilfælde, hvor det er forsøgt at lirke hoveddøren op og ved at der er kastet en sten igennem et stuevindue. 16 procent af modussøgenøglerne er ikke angivet, hvilket er ensbetydende med, at det har været muligt at lokalisere en modussøgenøgle i anmeldelsesrapporten, men at denne ikke er påført journalen. De restende 21 procent er unøjagtigt angivet, hvormed den beskrivelse, der er af gerningspersonens modus i anmeldelsesrapporten, ikke stemmer overens med den søgenøgle, der er angivet til journalen. Der er med andre ord angivet en forkert modussøgenøgle.

Figur 3: Søgenøglefunktionens nøjagtighed og fuldstændighed



Af figur 3 fremgår det endvidere, at kun en fjerdedel af redskabssøgenøglerne er fuldstændig angivet i de relevante tilfælde. Det ses, at en mindre del af søgenøglerne er enten ufuldstændig eller unøjagtigt angivet, hvilket drejer sig om henholdsvis én og tre procent. Derimod er størstedelen af redskabs-søgenøglerne ikke angivet, eftersom der i 71 procent tilfælde ikke er blevet angivet en redskabssøgenøgle på trods af, at det i anmeldelsesrapporten stod, at gerningspersonen formodes at have brugt et specifikt redskab. Dette vanskeliggør politiets mulighed for at kreere en valid statistisk analyse over eksempelvis, hvilket redskab der oftest anvendes i forbindelse med indbrud. ’

Afrunding

På baggrund af ovenstående resultat afsnit kan der næppe rejses tvivl om, at der er store problematikker forbundet med kvaliteten af det data, som Østjyllands Politi har mulighed

for at anvende. Det fremgår ved, at både resuméfeltselementerne og søgenøglerne lider under unøjagtig eller ufuldstændig angivelser, hvilket skaber validitetsproblematikker i forhold til anvendelsen af disse, såfremt det ønskes at skulle sige noget generelt om de anmeldte indbrud i Østjyllands Politi.

På baggrund af unøjagtigheden vedrørende angivelsen af resuméfeltselementerne; hvor og hvordan, foruden unøjagtigheden og ufuldstændigheden tilknyttet angivelserne af modus- og redskabs-søgenøglen, findes det ud fra politiets kvantitative datamateriale vanskeligt statistisk at opgøre, hvordan gerningspersonen har opnået adgang til boligen. Dette besværliggør endvidere muligheden for på baggrund heraf at udforme en forebyggelsesstrategi, der eksempelvis kan sættes ind for den oftest anvendte modusform. Det betyder potentielt, at en forebyggelsesindsats risikerer at være fejlbaseret. Dette uanset om statistikkerne er trukket på baggrund af resuméfelterne eller søgenøglerne, hvilke er de eneste dele af journalerne, der kan trækkes statistik på.

På baggrund af de foreløbige resultater kan det konkluderes, at datakvaliteten af Østjyllands Politis datamateriale omkring indbrud er udsat for alvorlige problematikker vedrørende nøjagtighed og fuldstændighed. Dette medfører en uanvendelighed af datamaterialet i forhold til at udarbejde valide statistiske analyser, såfremt det ønskes at sige noget generelt om gerningspersonernes arbejdsmetode i forhold til at opnå adgang til boligen, der har været udsat for indbrud. Yderligere medfører det vanskeligheder i forhold til muligheden for at forebygge indbrud på baggrund af disse analyser.

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Hot spot-politiarbejde i en nordisk kontekst

Maria Bislev, Cecilie Vivienne Attermann & Rune Holst Scherg

Over de seneste årtier har flere internationale undersøgelser påvist, at kriminalitet ikke er tilfældigt fordelt, men i stedet koncentreret på specifikke steder (Sherman, Gartin & Buerger 1989; Weisburd, et al. 2004; Weisburd, Groff & Yang 2012). Det har ledt nogle kriminologer til at tale om en 'law of crime concentration' (Weisburd 2015). Steder eller områder hvor der er en høj koncentration af kriminalitet betegnes ofte som hot spots, mens indsatser, der iværksættes i områderne, betegnes som hot spot-indsatser.

For politiet kan viden om, at kriminalitet har en tendens til at være koncentreret på et fåtal af steder, være yderst nyttig, idet det giver mulighed for at fokusere politiindsatsen der, hvor der er flest problemer. Dette kan bidrage til udnytte begrænsede ressourcer mere effektivt.

Et fokus på hot spots er ikke nyt for det danske politi (Heltberg 2012; Jørgensen 2010; Høgh 2015). Dog har en fælles forståelse af, hvad der karakteriserer et hot spot og en effektiv hot spot-indsats, været fraværende. Rigspolitiets Nationalt Forebyggelsescenter og Nationalt Beredskabscenter har derfor udviklet et koncept, der har til formål at omsætte den foreliggende viden til en effektiv arbejdspraksis i de danske politikredse.

Før konceptet eventuelt udrulles til alle danske politikredse, ønsker Rigspolitiet en afprøvning og evaluering af konceptet, således at der opnås en sikker viden om konceptets anvendelighed og indsatsernes effekt. Rigspolitiet har derfor iværksat en pilotafprøvning af konceptet i tre politikredse.

Rigspolitiets Nationale Forebyggelsescenter er ansvarlig for den praktiske gennemførelse af pilotafprøvningen, mens evalueringen heraf foretages af Justitsministeriets Forskningskontor. Evalueringen forventes offentliggjort ultimo 2016.

Indeværende artikel præsenterer baggrunden for forsøget med hot spot-politiarbejde, hot spot-evalueringens design, udpegningen af hot spot-områderne samt Rigspolitiets hot spot-koncept.

Tidligere forskning i hot spot-politiarbejde

Hot spot-politiarbejde er en samlebetegnelse for politiindsatser rettet mod geografisk afgrænsede steder, hvor der er en høj koncentration af kriminalitet (Weisburd & Telep 2014). Internationalt er effekten af hot spot-politiarbejde velafprøvet og testet ekstensivt, og den samlede viden fra de store reviews og metaanalyser peger alle på, at hot spot-politiarbejde er en effektiv strategi til at mindske kriminalitet (Braga 2001; Braga, Papachristos & Hureau 2012, 2014; Telep & Weisburd 2012; Weisburd & Telep 2010, 2014).

Forskningen konkluderer desuden, at der ikke nødvendigvis finder kriminalitetsforskydning sted, som resultat af den fokuserede politiindsats, men at der faktisk oftere sker en spredning af nytten ved indsatsen (Bowers et al. 2011; Braga et al. 2014).¹ Andre mulige eksternaliteter såsom øget utryghed, fald i tillid til politiet og reduceret politilegitimitet har været nævnt som mulige bivirkninger af en fokuseret politiindsats. På grundlag af den forhåndenværende vidensbase ser det dog ikke ud til, at hot spot-politiarbejde har nogle negative effekter på disse forhold (Braga, Papachristos & Hureau 2014; Weisburd & Telep 2014; Weisburd et al. 2011; Kochel, Burruss & Weisburd 2016). Dokumentationen af de skandinaviske erfaringer med hot spot-politiarbejde er få, men bekræfter overvejende de internationale resultater på området (Andersson & Malmgren 2012; Frogner et al. 2013; Jørgensen 2010; Marklund & Merenius 2014).

Selvom den internationale (og skandinaviske) forskning samlet set peger på nytten af hot spot-politiarbejde som strategi, er der stadig spørgsmål, som er uafklarede i forhold til nytten heraf. Især spørgsmålet om, hvorledes forskellige kontekstuelle forhold kan påvirke effekten af hot spot-politiarbejde, er endnu ikke helt afklaret. For det første er det ikke helt tydeligt, om hot spot-politiarbejde er en effektiv strategi uden for store eller mellemstore byer (Weisburd & Telep 2014). De allerfleste af de metodisk stærkeste studier har testet hot spot-politiarbejde i store eller mellemstore byer (kun 2 af 19 studier af hot spot-politiarbejde inkluderet i Braga og kollegaers (2014) metaanalyse var gennemført i byer med mindre end 200.000 indbyggere). Relateret hertil er spørgsmålet om hot spot-politiarbejde også er virksom i såkaldt 'lunkne' hot spots, hvor der ikke er en meget høj koncentration af kriminalitet (Weisburd & Telep 2014).

Hvis dansk politi skal arbejde ud fra et nationalt hot spot-koncept, skal det tydeligere dokumenteres, at hot spot-politiarbejde formår at reducere forekomsten af kriminalitet uden for de større byer og i lunkne hot spots, da Danmark tilsvarende de andre nordiske lande er kendetegnet ved få storbyer og få 'glohede' hot spots hvad angår kriminalitetskoncentrationen.

Langt størstedelen af evalueringerne af hot spot-politiarbejde er indtil videre gennemført uden for Europa – primært i USA – men en række endnu upublicerede og metodisk meget stærke europæiske studier tyder på, at hot spot-politiarbejde også er fundet virkningsfulde i en europæisk kontekst (Ariel et al. 2013). På trods af lovende fund savnes der dog stadig mere sikker viden om hot spot-politiarbejde er en hensigtsmæssig politistrategi i en nordisk kontekst.

¹ Med forskydningseffekter (eng: *displacement*) tænkes oftest på en geografisk forskydning, hvor kriminaliteten flytter (forskydes) et andet sted hen. 'Spredning af nytte' (eng: *diffusion of benefits*) betegner det modsatte fænomen, hvor effekten (nyttens) af en kriminalpræventiv indsats spredes og derved kommer fx naboer til gavn i form af mindskning i kriminalitet (Scherg 2013).

Hot spot-evalueringens design og brug af metoder

Evalueringen af hot spot-pilotafprøvningen vil dels bestå af en effektmåling, der undersøger, om hot spot-indsatser er en effektivt strategi til at reducere forekomsten af kriminalitet, og dels en procesevaluering, der vil afdække politikredsenes arbejde med hot spot-indsatser, anvendeligheden af Rigspolitiets koncept og bistå med uddybende forklaringer på effektevalueringens resultater.

For at have den bedst tænkelige mulighed for at undersøge, om hot spot-indsatserne har en kriminalpræventiv effekt, er pilotafprøvningen designet som et randomiseret, kontrolleret forsøg. Dette er sikret ved at udpege og identificere hot spottene for derefter at inddele dem tilfældigt i forsøgs- og kontrolområder. Det er udelukkende i forsøgsområderne, at hot spot-indsatserne iværksættes, mens der i kontrolområderne ikke gennemføres særlige indsatser. Politiet skal derfor alene foretage det arbejde, de plejer at gøre, i kontrolområderne. Ved at gennemføre denne tilfældighedsprocedure er det forsøgt at sikre, at der ikke forekommer systematiske forskelle mellem forsøgs- og kontrolområder, hvilket muliggør en beregning af kausale effekter.

For ydermere at mindske risikoen for systematiske forskelle mellem forsøgs- og kontrolområderne er hot spottene før den tilfældige fordeling mellem forsøgs- og kontrolområder blevet inddelt i par i forhold til kriminalitetens art og omfang samt områdernes karakteristika. Områdernes karakteristika refererer til, om de udpegede områder er placeret i en midtby, ved et center eller en banegård. Det er ligeledes søgt at danne par inden for samme politikreds, således en politikreds ikke ender med udelukkende at have forsøgsområder, mens en anden ender med alene kontrolområder. Efter opdelingen i par er den tilfældige fordeling foretaget via terningekast.

For at skabe de bedste forudsætninger for en robust effektevaluering er det centralt, at evalueringen foretages på et tilstrækkeligt stort datagrundlag. Kriminalitetens omfang i Danmark er dog relativt begrænset, hvilket bevirker, at der er relativt få hot spots med et højt kriminalitetstryk, og færre af disse end i eksempelvis USA. De udpegede hot spots i pilotafprøvningen er derfor relativt beskedne i forhold til koncentrationen af kriminalitet sammenlignet med andre forsøg. På den anden side giver dette anledning til at undersøge, om hot spot-politiarbejde har en kriminalpræventiv effekt i de såkaldte lunkne hot spots.

For at øge anvendeligheden af undersøgelsen suppleres effektmålingen som nævnt med en mere procesorienteret evaluering, der vil bestå af observationsstudier af politikredsenes arbejde med hot spots og interviews med de af politiets medarbejdere, der har arbejdet hermed. Procesevalueringen sætter fokus på den praktiske gennemførelse af hot spot-indsatserne, anvendeligheden af Rigspolitiets koncept, hvordan konceptet passer ind i politiorganisationens dagligdag og ressourcer, fx muligheden for at arbejde problemorienteret frem for reaktivt. Ydermere vil procesevalueringen afdække, om der undervejs i forløbet forekommer noget, der kan påvirke resultatet for indsatsernes

eventuelle effekt. Dermed er procesevalueringen også af væsentlig betydning for tolkningen af resultaterne af effektevalueringen: Hvis der fx viser sig ikke at være en kriminalpræventiv effekt af hot spot-indsatsen, giver procesevalueringen et godt belæg for at afgøre, om den manglende effekt skyldes, at indsatsen reelt ikke virker, eller om indsatsen ikke er gennemført, som ønsket.

Identificering og udpegning af hot spottene

Udpegningen af hot spottene er sket på baggrund af registrerede anmeldelser af gadekriminalitet, hvilket i pilotafprøvningen er en samlet betegnelse for anmeldelser af vold, røveri, trusler, hærværk, visse former for tyveri samt tyveri af og fra motorkøretøj (se tabel 1). For at sikre den geografiske afgrænsning af hot spottene er det udelukkende anmeldelser, der som minimum er registreret med et vejnavn, som hot spottene er identificeret på baggrund af.²

Tabel 1: Definition på gadekriminalitet

Vold	Simpel vold
	Alvorligere vold
	Vold med skade på legeme eller helbred
	Kvalificeret vold
Røveri	Røveri mod andre
	Særligt farligt røveri mod andre
	Røveri mod forretning
	Særligt farligt røveri mod forretning
	Røveri mod tankstation
	Særligt farligt røveri mod tankstation
Trusler	Trussel på livet
Hærværk	Hærværk
	Groft hærværk
	Groft hærværk, uagtsomt

² Forinden denne udpegning er der foretaget en mere eksplorativ afgrænsning, hvor der udelukkende er anvendt anmeldelser, som er registreret med en komplet adresse. Dvs. med både vejnavn og husnummer.

	Hærværk, graffiti
	Groft hærværk, graffiti
Tyveri	Tricktyveri
	Tyveri fra taske mv.
	Tyveri af taske mv.
	Tyveri fra Restauration
Tyveri af og fra motorkøretøj	Tyveri fra motorkøretøj
	Brugstyveri af motorkøretøj
	Tyveri af motorkøretøj

De data, der er brugt til at identificere hot spottene, angår en treårig periode fra d. 1. maj 2012 til og med d. 30. april 2015 for de tre forsøgskredse.

Identificeringen af hot spottene er sket ved brug af to standard hot spot-analyseteknikker (Scherg et al. 2016). For det første er der anvendt en punktklynge-analyseteknik kaldet KDE (Kernel Density Estimation), hvorved det var muligt at afprøve forskellige parameterverdier for at afbalancere identificeringskriterier omkring arealstørrelse, antallet af hot spots og omfanget af kriminaliteten i hot spottene hensigtsmæssigt overfor hinanden. For det andet er der anvendt en STAC-analyse (Spatial and Temporal Analysis of Crime), hvis formål var at supplere KDE-analysen for at bekræfte, at ingen hot spots var overset. Denne identifikationsprocedure er meget lig den, der er anvendt i andre hot spot-forsøg (Braga & Bond, 2008; Marklund 2011; Rosenfeld, Deckard, & Blackburn, 2014).

De anvendte hot spot-kriterier er:

- Kriminalitetshyppighed: min. 100 hændelser over 36 måneder.
- Geografisk udbredelse: maks. 270 meter i radius.
- Afstand til nærmeste hot spot: min. 200 meter.

Hot spot-identificeringskriterierne er ikke ulig dem, der er anvendt i lignende hot spot-forsøg (fx Ariel et al. 2013). I pilotafprøvningen indgår 31 hot spots, som er forholdsvis

ligeligt fordelt over de tre politikredse.³ 15 af disse hot spots er tilfældigt udvalgt som forsøgsområder, mens de resterende 16 er udvalgt som kontrolområder.

Rigspolitiets hot spot-koncept

Hot spot-politiarbejde er ofte forbundet med indsatser som fokuseret patruljering, men spektret af mulige indsatser er meget større. Ifølge Weisburd & Telep (2014) omfatter hot spot-politiarbejde "...a range of police responses that all share in common a focus of resources on the locations where crime is highly concentrated". En hot spot-politiindsats kan således i princippet bestå af mange forskellige typer indsatser: Fra en simpel øgning af patruljeringsfrekvensen over kvalitative ændringer i politiets tilstedeværelse i området over gerningsmandsfokuserede indsatser til mere omfattende indsatser, der involverer andre aktører end politiet og har bredere fokus på at påvirke de underliggende kriminogene faktorer (Braga, Papachristos & Hureau 2014; Weisburd & Telep 2014; Groff et al., 2015). En hot spot-politiindsats defineredes dermed i pilotprojektet, som: *en politimæssig indsats, der fokuserer på små, geografisk afgrænsede områder, hvor der finder markant mere kriminalitet sted end i de omkringliggende områder.*

På baggrund af en eksplorativ foranalyse af hot spottene, viste det sig at hot spottene havde forskellige karakteristika:

- De er lokaliseret i forskelligartede byområder: Hhv. i midtbysområder, omkring banegårde, butikcentre og i særligt udsatte boligområder.
- De er domineret af forskellige typer kriminalitet: Hhv. personfarlig kriminalitet og ejendomsforbrydelser.
- De har forskellige temporale profiler: Nogle hot spots er præget af kriminalitet begået primært om aftenen/natten i weekenderne, mens andre hot spots har et tidligt mere jævnt fordelt kriminalitetsmønster.

Forskelligheden i hot spottene indikerer, at de underliggende dynamikker, der driver kriminaliteten, også er forskellige, hvilket peger på, at det ikke nødvendigvis er den samme type hot spot-politiindsats, der bør anvendes i alle områderne. En kortlægning af politiets tidligere erfaringer med hot spot-arbejde indikerede ligeledes, at kredsene opfatter hot spots og hot spot-politiarbejde på forskellige måder og har forskellige ledelsesmæssige og organisatoriske rammer om deres hot spot-indsatser. Samlet set vurderes denne forskelligartethed bedst at kunne håndteres inden for rammerne af en

³ Der blev i alt identificeret 36 hot spots, hvilket er væsentligt lavere end hvad der normalt findes i udenlandske forsøg. Fem af disse hot spots var dog lokaliseret i såkaldte særligt udsatte boligområder, dvs. boligområder med særlige kriminalitetsproblemer knyttet til en meget høj koncentration af sociale og økonomiske problemer. Da dansk politi allerede har et særligt fokus på disse områder, ekskluderes disse områder fra forsøget.

problemorienteret tilgang. Det vil sige ud fra en dybere forståelse af de problemer, man ønsker at påvirke, som vil sætte en bedre i stand til at vælge den rette indsats og metode. På baggrund af dette og som følge af at tidligere forskning overvejende påviser, at problemorienteret tilgang til hot spot-politiarbejde er den mest optimale tilgang i forhold til at reducere kriminalitet i hot spots sammenlignet med andre mere traditionelle politiindsatser såsom fx patruljering (Braga, Papachristos & Hureau 2014; Weisburd & Telep 2014), valgte Rigspolitiet at udvikle en guide til at arbejde problemorienteret med analyse og valg af indsats i de identificerede hot spots. At der er tale om en guide betyder, at der ikke er tale om en opskrift på en færdigskåret indsats, som fx fokuseret patruljering. I stedet er det en vejledning i en analysemetode, der tager udgangspunkt i stedligt koncentreret kriminalitet, og hvor der på baggrund af analysen udarbejdes en hot spot-indsats. Guiden vil i det følgende betegnes som det operative koncept.

Grundstenen til problemorienteret politiarbejde (POP) blev lagt med Herman Goldsteins artikel fra 1979: *Improving Policing: A Problem-Oriented Approach*. Her skitserer Goldstein, hvordan et fokus på de kriminalitetsudfordringer man ønsker at løse frem for på administrative og bureaukratiske procedurer, kan forbedre politiarbejdet. Siden er POP videreudviklet og gjort implementerbar med SARA-modellen, som John E. Eck og William Spelman udviklede i 1987 med Goldstein som konsulent. SARA (*scanning, analysis, respons, assesment*) er et akronym, der repræsenterer de fire skridt, som politiet bør følge når de implementerer POP (Weisburd & Telep 2010). De fire faser i SARA indeholder følgende: i scanningsfasen identificerer og prioriterer politiet kriminalitets- og utryghedsproblemer, i analysefasen arbejder man frem mod en dybdegående forståelse af problemet, vha. forskellige datakilder, i responsfasen fastlægger man den type af indsats, som problemet kræver og endelig er 'assesment'-fasen, der hvor indsatsens effekt vurderes og evalueres (Braga 2008).

Arbejdet med problem- og analysebaseret politiarbejde betyder dermed et fokus på målet frem for midlet, hvilket vil sige på kriminalitetsreduktion, efterforskning og forebyggelse, frem for på procedurer og proces. Udover et fokus på selve kriminalitetsproblematikken, snarere end på hvilke ressourcer man har til rådighed, og hvordan organisationen i øvrigt fungerer, så giver POP-tilgangen mulighed for at skræddersy en politimæssig indsats, der passer til kriminalitetsudfordringen. Kriminalitetens karakter og omfang varierer i hot spottene fra hyppige problemer med vold o. lign. i nattelivsområder, over lejlighedsvis hærværk i et beboelsesområde tæt på en skole, til problemer med lomme- og tricktyveri i tilknytning til banegårde eller butikcentre. Ofte er kriminaliteten ikke så hyppigt forekommende, at en tilgang med øget og fokuseret patruljering ville give mening. Den nedre grænse for kriminalitetens omfang var, som det fremgår ovenfor, sat til 100 hændelser på 36 mdr., og dette tilsammen med antagelsen om, at med så forskelligartet kriminalitetsmønster er de underliggende drivere af kriminaliteten forskellige, gjorde at øget eller fokuseret patruljering ikke kunne stå alene som en hensigtsmæssig politimæssig indsats.

Endelig har det operative koncept også som teoretisk ramme, den såkaldte 'kriminalitetstrekant', som med et situationelt udgangspunkt, skitserer tre faktorer, der skal være tilstede for at kriminalitet kan opstå, nemlig fravær af kapable vogtere, et egnet mål og en motiveret gerningsperson (Cohen & Felson 1979). Det operative koncept leder dermed politiet gennem skridtene A og R fra SARA-modellen, ud fra et situationelt udgangspunkt med fokus på kriminalitetsproblematikken og på at vælge en indsats eller respons på baggrund af analysens resultater, som foreskrevet i POP.

Problemorienteret politiarbejde og hot spot-politiindsats er to af de indsats, der systematisk har vist lovende effekter i forhold til at reducere kriminalitet (Weisburd & Eck 2004). Ved at kombinere disse to indsats typer i konceptet bliver hot spot-tankegangen tilpasset en dansk virkelighed, idet danske hot spots ikke er brandvarme gadehjørner med narkosalg og skudepisoder, men snarere afgrænsede byområder med et vist mål af øget gadekriminalitet.

Afrunding

At kriminalitet har tendens til at være koncentreret på et fåtal af steder, giver politiet mulighed for at fokusere politiindsatser der, hvor der er flest problemer og dermed at udnytte de begrænsede politimæssige ressourcer mest effektivt. Derfor, og ud fra ønsket om at skabe en fælles arbejdspraksis for hot spot-politiarbejde i de danske politikredse, har Rigspolitiet udarbejdet et koncept til brug ved hot spot-politiarbejde.

Hot spot-konceptet anlægger en problemorienteret arbejdsmetode, som lægger vægt på at skræddersy en indsats på baggrund af en analyse af kriminalitetsudfordringen i det enkelte hot spot. En sådan tilgang vurderes at skabe de bedste forudsætninger for at reducere kriminalitet i hot spottene af to grunde. Dels har tidligere forskning fundet arbejdsmetoden ligeså eller mere lovende end andre politimæssige metoder, og dels kan der dermed tages højde for forskellige former for kriminalitetsudfordringer, som fx lommetyveri overfor nattelivsvold eller hærværk.

For at opnå viden om konceptets anvendelighed og hot spot-indsatsers effekt i en dansk kontekst har Rigspolitiet iværksat en pilotafprøvning i tre politikredse. Pilotprojektet blev igangsat ved et kick off-møde d. 23. oktober 2015, hvorefter politikredsene fik frist til d. 15. januar til at udarbejde og igangsætte en hot spot-indsats på baggrund af den problemorienterede arbejdsmetode. Indsatserne skal som minimum løbe ind til d. 15. september 2016, hvorefter Justitsministeriets Forskningskontor vil udarbejde en effektevaluering af, hvorvidt der forekommer den kriminalitetsreducerende effekt i hot spottene. Effektevalueringen forventes offentliggjort ultimo 2016 sammen med en procesevaluering, som blandt andet omhandler anvendeligheden af det hot spot-konceptet.

Projektets resultater, uanset om en signifikant effekt findes eller ej, er et bidrag til den internationale forskning og udvikling indenfor hot spot og politiindsatser, og særligt i Norden. Der er en række særlige karakteristika ved kriminalitetsomfang og karakter, som gør, at en tilpasning af et angelsaksisk hot spot-koncept til den nordiske kontekst vil være relevant og ønskelig. Det er projektets håb at levere et væsentligt bidrag i den retning.

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WORKSHOP D

LEGAL REFORM AND SOCIAL CONTROL

Begrebet voldtægt i et nordisk perspektiv

Ragnheiður Bragadóttir

I. Indledning

I mange år har man diskuteret seksualforbrydelser i alle de nordiske lande, både lovgivning og praksis. Lovgivningen er blevet kritiseret for ikke at give ofrene for forbrydelserne beskyttelse nok. Der er mange anmeldelser om seksualforbrydelser, men få straffedomme. Som eksempel kan nævnes en undersøgelse i Island, som viser at der var 88 anmeldelser om voldtægt til politiet i 2008,¹ men samme år var der kun 6 domme i Højesteret, hvor der var dømt skyldig for voldtægt.² Mange mener, at straffene er for milde. I den forbindelse kan man henvise til projektet Holdninger til straf som NSfK stod for, for nogle år siden og resultaterne findes på NSfKs hjemmeside.³

Disse faktorer har ført til revidering af landenes straffelovsbestemmelser om seksualforbrydelser, bl. a. med det formål at øge børns og kvinders beskyttelse mod seksualforbrydelser. Bestemmelser om voldtægt i landenes straffelove er blevet ændret.

I det følgende vil jeg koncentrere mig om hvordan forbrydelsen voldtægt er konstrueret i landenes straffelove. Og spørgsmålene er: For det første, er der behov for at ændre definitionen af begrebet voldtægt endnu en gang for at få flere domme? For det andet, er straffene blevet høje nok? Kort sagt: Er de lovændringer som allerede er blevet vedtaget tilfredsstillende eller er der stadig brug for mere lovændringer?

For at besvare det vil jeg først se tilbage på hvordan bestemmelserne om voldtægt, og dermed voldtægtsbegrebet, har ændret sig i tidens løb og der tager jeg den islandske voldtægtsbestemmelse som et eksempel. Derefter vil jeg se på bestemmelserne om voldtægt i de enkelte nordiske lande som de nu ser ud og give en kort redegørelse for den idømte straf. Til sidst prøver jeg at besvare spørgsmålet om der er brug for en ny definition af voldtægtsbegrebet, en konstruktion som bygger på at voldtægt er sex uden samtykke.

¹ Hildur Fjóra Antonsdóttir og Þorbjörg Sigríður Gunnlaugsdóttir: Tilkyntar nauðganir til lögreglu á árunum 2008 og 2009: Um afbrotið nauðgun, sakborning, brotapolá og málsmeðferð (2013), s. 11.

² Ragnheiður Bragadóttir: Kynferðisbók – Dómabók (2009), s. 398-399.

³ <http://www.nsfk.org/Page/ctl/ArticleView/mid/383/articleId/127/Public-attitudes-to-punishment>

II. Udviklingen i indholdet i voldtægtsbestemmelsen

For at give et eksempel på udviklingen i lovbestemmelserne tager jeg udgangspunkt i den islandske bestemmelse om voldtægt.

Straffeloven 1869

Islændinge fik sin første moderne straffelov i 1869, og forbilledet var den danske straffelov fra 1866. I denne lov indføres den klassificering af seksualforbrydelserne som vi stadig bygger på. Voldtægt og andre forbrydelser mod voksne menneskers kønsfrihed har det til fælles, at samleje eller anden kønslig omgængelse finder sted mod ofrets vilje og det som adskiller disse forskellige forbrydelser er, at der anvendes forskellige midler til at opnå samleje. Voldtægt er den alvorligste forbrydelse og ifølge straffeloven fra 1869, § 169, var det voldtægt, hvis gerningsmanden tvang en ærlig kvinde til samleje med vold eller trusler om at udøve livsfarlig vold med det samme. Hvis kvinden var uærlig var straffen mildere. Hvis der anvendtes andre midler end de førnævnte til at opnå samleje var forbrydelsen ikke defineret som voldtægt og straffedes mildere og man talte om egentlig og uegentlig voldtægt. De andre nordiske lande fik ny straffelov i den samme periode, f.eks. Norge (Lov angående forbrydelser = kriminalloven, 1842), Sverige i 1864 (Strafflagen) og Finland i 1889, hvor voldtægt var defineret som at tvinge en kvinde uden for ægteskab til samleje med vold eller trusler.⁴

Straffeloven 1940

I 1940 fik Island en ny straffelov og som før var forbilledet den danske straffelov, nu fra året 1930. Der var tre bestemmelser i kapitlet om seksualforbrydelser, som handlede om opnåelse af samleje ved forskellige retsstridige midler. De var vold, trusler og anden ulovlig tvang, og udnyttelse.⁵ Nu var voldtægt defineret som tiltvingelse af samleje med vold eller frihedsberøvelse, eller med at fremkalde hos kvinden frygt for hendes eller hendes pårørendes liv, helbred eller velfærd, jfr. § 194. Hvis der brugtes andre retsstridige metoder, f.eks. andre trusler, anden ulovlig tvang eller udnyttelse, var forbrydelsen ikke voldtægt og straffedes meget mildere.

Ændringer i straffeloven 1992

Bestemmelserne om seksualforbrydelser i straffeloven var uændrede fra 1940, helt indtil 1992, da de blev mærkbart ændret ved lov nr. 40/1992. Med loven var de tre bestemmelser,

⁴ Kerstin Berglund: *Straffrätt och kön* (2007), s. 235 og Terttu Utriainen: *Brottsrekvisiten, straffen och rättspraxis* (2012), s. 18.

⁵ Der fandtes også andre bestemmelser om forbrydelser mod kønsfriheden, f. eks. udnyttelse af specielle fortrolighedsforhold og at tilsnige sig samleje, men de er ikke af betydning her og anvendtes meget sjældent af domstolene.

om voldtægt, anden ulovlig kønslig tvang og kønslig udnyttelse, ændret således, at sondringen mellem de tre forbrydelser blev klarere. Desuden blev bestemmelserne ændret, så at nu blev de kønsneutrale. En anden vigtig ændring i 1992 er, at anden kønslig omgængelse sidestilles med samleje. Ifølge loven fra 1992 var bestemmelsen om voldtægt sålydende (straffelovens § 194, jf. lov nr. 40/1992, § 2): Voldtægt §194: „Den, som ved vold eller trussel om vold tiltvinger sig samleje eller anden kønslig omgængelse med en anden person, straffes med fængsel fra 1 og indtil 16 år. Til vold henregnes frihedsberøvelse ved indespærring, indgivelse af medikamenter samt andre sidestillede handlinger.“

Som før var det sådan, at hvis der blev brugt andre tvangsmidler eller andre metoder ved at opnå samleje eller anden kønslig omgængelse var overtrædelsen ikke voldtægt, men en anden ulovlig kønslig tvang eller udnyttelse af ofrets svækkede tilstand og straffen for de forbrydelser var meget mildere end for voldtægt.

Ændringer i straffeloven 2007

Ved lov nr. 61/2007 blev størstedelen af straffelovens kapitel om seksualforbrydelser revideret.⁶ Begrebet voldtægt er blevet udvidet meget og bruges nu i bredere forstand end før. Begrebet voldtægt er nu defineret i selve lovbestemmelsen, jfr. straffelovens § 194. Det er ikke længere en forudsætning, at der bruges vold eller trussel om vold, for at en forbrydelse bliver anset for at være voldtægt. Samleje ved anden ulovlig tvang og udnyttelse af en persons svækkede sindstilstand eller af, at en person der befinder sig i en tilstand, i hvilken den pågældende er ude af stand til at modsætte sig handlingen eller forstå den, omfattes også af voldtægtsbegrebet og defineres nu som voldtægt. Den nugældende bestemmelse om voldtægt er sålydende:

§ 194, stk. 1. Den, som med vold, trusler eller anden ulovlig tvang har samleje eller anden kønslig omgængelse med en anden person er skyldig i voldtægt og straffes med fængsel fra 1 og indtil 16 år. Til vold henregnes frihedsberøvelse ved indespærring, indgivelse af medikamenter samt andre sidestillede handlinger.

§ 194, stk. 2. Det er også voldtægt og straffes på samme måde som i stk. 1, at udnytte en persons sindssygdom eller mentale retardering til at skaffe sig samleje eller anden kønslig omgængelse, eller at udnytte en person, der befinder sig i en tilstand, i hvilken den pågældende er ude af stand til at modsætte sig handlingen eller forstå dens betydning.

⁶ Ændringerne behandles i: Ragnheiður Bragadóttir: Seksualforbrydelser – Forslag til ændring af den islandske straffelov. Nordisk Tidsskrift for Kriminalvidenskab, nr. 2 august 2006. På det islandske indenrigsministeriums webside kan man se straffeloven i dansk oversættelse: <http://www.innanrikisraduneyti.is/log-og-reglugerdir/thydingar/nr/837>

Idéen er, at den nye bestemmelse om voldtægt omfatter de tilfælde hvor samleje eller anden kønslig omgængelse sker uden ofrets samtykke, fordi det er en underliggende forudsætning, at der mangler samtykke til samlejet. Det er meningen at således opfylder bestemmelsen de krav, som stilles til straffebestemmelers klarhed.

III. De nordiske voldtægtsbestemmelser

I de nordiske straffelove er der grundige bestemmelser om seksualforbrydelser, bl.a. voldtægt, og de er alle sammen forholdsvis nye. I det følgende vil jeg fokusere på gerningsbeskrivelsen af voldtægt i lovbestemmelserne.

Norge og Sverige var de første af de nordiske lande til at ændre sine voldtægtsbestemmelser.

Norge:

Nu er voldtægtsbestemmelsen i den nye norske straffelov fra 2005, som trådte i kraft i fjor (1. oktober 2015), og er blevet ændret nogle gange, se kapitel 26. Seksuallovbrudd, tilføjet ved lov 19 juni 2009 nr. 74, ændret 2008 og 2011.

§ 291. *Voldtekt*

Med fengsel inntil 10 år straffes den som

- a) skaffer seg seksuell omgang ved vold eller truende atferd,
- b) har seksuell omgang med noen som er bevisstløs eller av andre grunner ute av stand til å motsette seg handlingen, eller
- c) ved vold eller truende adferd får noen til å ha seksuell omgang med en annen, eller til å utføre handlinger som svarer til seksuell omgang med seg selv.

§ 295 handler om misbrug af overmagtsforhold og lignende og ifølge den straffes seksuel omgang for „å utnytte noens psykiske lidelse eller psykiske utviklingshemming dersom forholdet ikke rammes av § 291.“

Hvis man sammenligner den islandske og den norske bestemmelse om voldtægt er det klart, at den islandske bestemmelse er mere vidtgående i dette henseende end den norske, fordi alle tilfælde hvor der er tale om udnyttelse af en persons sindssygdом eller mentale retardering er defineret som voldtægt, ifølge § 194 i den islandske straffelov.

Sverige:

Bestemmelsen om voldtægt er i den svenske Brottsbalk (1962:700) 6 kap. Om sexualbrott, lov fra 2005 med senere ændringer og er sålydende:

1 § Den som genom misshandel eller annars med våld eller genom hot om brottslig gärning tvingar en person till samlag eller till att företa eller tåla en annan sexuell handling

som med hänsyn till kränkningens allvar är jämförlig med samlag, döms för våldtäkt till fängelse i lägst två och högst sex år.

2. stk. Detsamma gäller den som med en person genomför ett samlag eller en sexuell handling som enligt första stycket är jämförlig med samlag genom att otillbörligt utnyttja att personen på grund av medvetlöshet, sömn, allvarlig rädsla, berusning eller annan drogpåverkan, sjukdom, kroppsskada eller psykisk störning eller annars med hänsyn till omständigheterna befinner sig i en särskilt utsatt situation.

[...]

Her er det en forudsætning, at truslerne angår en strafbar handling og derfor er voldtægtsbegrebet i svensk ret mindre vidtgående end i islandsk og norsk ret i forhold til trusler.

Danmark:

Kapitlet om seksualforbrydelser i den danske straffelov blev revideret og ændret med lov nr. 633/2013. Ændringerne bygger på straffelovsrådets betænkning nr. 1534/2012.⁷ Paragraffen om voldtægt, § 216, jf. lov nr. 633, 12. 6. 2013, er nu sålydende:

§ 216. For voldtægt straffes med fængsel indtil 8 år den, der

- 1) tiltvinger sig samleje ved vold eller trussel om vold eller
- 2) skaffer sig samleje ved anden ulovlig tvang, jf. § 260, eller med en person, der befinder sig i en tilstand eller situation, i hvilken den pågældende er ude af stand til at modsætte sig handlingen.

Stk. 2. For voldtægt straffes med fængsel indtil 12 år den, der har samleje med et barn under 12 år.

[...]

Udnyttelse af en persons sindssygdom eller mentale retardering til at skaffe sig samleje defineres ikke som voldtægt og straffes mildere end voldtægt, jf. § 218, d.v.s. med fængsel indtil 4 år. I det henseende er det danske voldtægtsbegreb mere snævert end de islandske, svenske og delvis det norske begreb, som omfatter udnyttelse af sindssygdom og mental retardering.

⁷ Se Straffelovrådets betænkning nr. 1534/2012 om seksualforbrydelser.

Finland:

I Finland er bestemmelserne om seksualforbrydelser i Straflag, Om sexualbrott 20 KAP (24.7.1998/563). 1 § om voldtægt, (ændret 27.6.2014/509) er sålydende:

1 § Den som genom våld på person eller med hot om sådant våld tvingar någon till samlag ska för *våldtäkt* dömas till fängelse i minst ett och högst sex år.

För våldtäkt ska också den dömas som genom att utnyttja att någon till följd av medvetlöshet, sjukdom, funktionsnedsättning, rädsla eller något annat hjälplöst tillstånd inte kan försvara sig eller förmår utforma eller uttrycka sin vilja, har samlag med honom eller henne.

Om våldtäkten med hänsyn till att hotet har varit ringa eller andra omständigheter vid brottet bedömd som en helhet är mindre allvarlig än de gärningar som avses i 1 och 2 mom., ska gärningsmannen dömas till fängelse i minst fyra månader och högst fyra år. På samma sätt döms den som med annat hot än sådant som avses i 1 mom. tvingar någon annan till samlag. Detta moment tillämpas inte, om våld brukats vid våldtäkten.⁸

Sammenfatning om begrebet voldtægt:

Fra det 19. århundrede har man i nordisk ret konstrueret voldtægtsbegrebet således, at det er voldtægt hvis gerningsmanden bruger vold og andre tvangsmilder til at opnå samleje eller anden kønslig omgængelse. Efter de seneste års lovændringer bruges denne konstruktion stadig i alle landene, men de nylige voldtægtsbegreb har det til fælles, at de er blevet betydeligt udvidet ved at metoderne er blevet flere, bl.a. alle slags trusler, misbrug og udnyttelse. Dermed omfatter begrebet voldtægt nu handlinger, som før i tiden ikke var defineret som voldtægt og straffedes meget mildere end voldtægtsforbrydelsen.

IV. Strafferammer for voldtægt i Norden og idømt straf

Strafferammer i de nordiske lande vises på denne tabel:

Voldtægt

	paragraf	Strafferamme	Strafnedsættelse	Strafforhøjelse
Danmark	§ 216	Fængsel indtil 8 år		Fængsel indtil 12 år

⁸Finlex.fi:<http://www.finlex.fi/sv/laki/ajantasa/1889/18890039001?search%5Btype%5D=pika&search%5Bpika%5D=Strafflag#L20>

Finland	§ 1 og 2, 20. kap.	fängelse 1-6 år	4 mån.-4 års fä.	Grov våldtäkt: fängelse 2-10 år
Norge	§ 291	fengsel inntil 10 år		samleie: fengsel 3-15 år Grov voldtekt: Fengsel inntil 21 år
Sverige	§1, 6. kap.	fängelse 2-6 år	fängelse högst 4 år	fängelse 4-10 år
Island	§ 194	fængsel 1-16 år		

Her kan man se forskel på strafferammer for voldtægt, på den ene side ifølge dansk, norsk og islandsk ret og på den anden side i svensk og finsk ret. I Vest-Norden er der brede strafferammer, dvs. indtil 8, 10 eller 16 års fængsel. Den islandske straffelov skiller sig ud med langt den hårdeste almene maksimumstraf, 16 års fængsel. Til gengæld er strafforhøjelse mulig i den danske og norske lov, med 12 års og 21 års maksimum. I den danske lov er der intet strafminimum, men 3 års fængsel i den norske straffelov, hvis det drejer sig om samleje. I Øst-Norden, Sverige og Finland, er strafferammerne snævrere, der er minimumsstraf og strafmaksimum er lavere. Desuden er der tre slags strafferammer afhængigt af forbrydelsens grovhed, som også er tilfældet i den norske straffelov. Her er derfor en klar forskel mellem de vestlige og østlige dele af Norden.⁹

Dømt straf for voldtægt i Norden. I Danmark var straffen 6 måneders – 3 års fængsel, men er blevet hårdere i de seneste år. I Norge er idømt straf blevet hårdere fra 2000, d.v.s. 4 års fængsel, men 6-7 år i alvorlige sager. I Sverige var straffen fængsel i 2 år og 9 måneder i 1995-98, men 27-28 måneders fængsel i 2007-11. Her har straffen været stabil i de seneste 20 år. I Finland er idømt straf i 2011 20 måneders fængsel, men for grov voldtægt er straffen fængsel i 2 år og 3 måneder. I Island er straffen blevet hårdere i de seneste år og er nu 3-4 års fængsel. Se herom den nordiske forskningsrapport: Nordisk Samarbejdsråd for

⁹ Ragnheiður Bragadóttir: Nauðgun (2015), bls. 146-147.

Kriminologi: Straf for voldtægt (2012):

http://www.nsfk.org/Portals/0/Archive/STRAF_FOR_VOLDTÆGT.pdf¹⁰

Sammenfatning

I alle de nordiske lande, undtagen Sverige, er domstolenes strafudmåling for voldtægt blevet kritiseret for at være for mild. Straffeloven i alle landene er blevet ændret og voldtægtsbegrebet udvidet. Antal domme er steget og den udmålte straf i alle landene, undtagen Sverige, er blevet hårdere. Det viser sig klart i Norge, hvor Højesteret spiller en afgørende rolle i strafudmålingens udvikling, og i Danmark, hvor hensigten om hårdere straffe fremgår af selve lovgivningsarbejdet. I Danmark og Norge er det anerkendt, at domstole kan ændre sin sædvanlige strafudmåling hvis der kommer ny viden om forbrydelsernes fare, almenhedens retsbevisethed ændrer sig eller hensyn til almen prævention kræver det. I de seneste 20-30 år har udviklingen i Sverige været i den retning, at man lægger mere vægt på retssikkerhed og at straffene er forudsigelige, på domstolenes frie vurderings bekostning.¹¹ I Island er den bredeste strafferamme og det er accepteret, at domstolene har godt spillerum ved strafudmålingen.

V. Er der brug for en ny definition af begrebet voldtægt?

I Island er antallet af straffedomme for voldtægt steget meget i de seneste år og straffene er blevet hårdere. Men antallet af klager, som går videre indenfor retssystemet, er stadig meget begrænset. Det faktum kan have mange forklaringer, men en af konsekvenserne er, at der overvejes, om der er anledning til at definere voldtægt i straffeloven på en anden måde end den traditionelt nordiske, d.v.s. som sex uden samtykke, se her forslag i et forskningsprojekt fra 2014.¹² Denne diskussion har man også haft i de andre nordiske lande, ikke mindst i Sverige. Forbilledet er bl.a. den engelske voldtægtsbestemmelse. I Sverige findes der megen litteratur herom, bl.a. bogen *Sex og samtykke* af Petter Asp, og bøgerne *Samtyckesutredningen – Lagskydd för den sexuella integriteten* og *Svensk sexualbrottslag – En framåtsyftande tillbakablick* af Madeleine Leijonhufvud, samt forskellige rapporter. I denne litteratur kan man finde mange overbevisende argumenter, både for og imod samtykkes-konstruktion af voldtægtsbegrebet.¹³

¹⁰ I 2012 fik jeg et stipendium fra Nordisk Samarbejdsråd for Kriminologi for at stifte en arbejdsgruppe nordiske forskere for at undersøge hvordan der straffes for voldtægt i de nordiske lande, om nylige lovændringer har haft indflydelse på udmåling af straffen og hvad vejer tungest når straffen udmåles. Resultatet blev publiceret i rapporten *Straf for voldtægt* (2012) og her bygger jeg først og fremmest på denne rapport.

¹¹ Thomas Elholm og Asbjørn Strandbakken: *Hvem skal nu bestemme – dommerne eller politikerne?* (2010), s. 85-86.

¹² Hildur Fjóra Antonsdóttir: *Viðhorf fagaðila til meðferðar nauðgunarmála innan réttarvörslukerfisins og tillögur að úrbótum* (2014), s. 88.

¹³ I islandsk litteratur findes der omtale om dette i: Ragnheiður Bragadóttir: *Kynferðisbrot* (2006), s. 76-77.

Jeg mener, at et voldtægtsbegreb som kun konstrueres på den måde, at samleje foregår uden ofrets samtykke, er meget mere vidtgående og mere uklart, end den konstruktion som vi nu har i nordisk ret. En samtykkes-konstruktion kræver en grundig definition af begrebet samtykke. Der er også risiko for, at når der skal bevises hvad der skete, vil fokus være på ofret, hvad ofret gjorde eller ikke gjorde, for at gøre det klart, at samlejet var imod dennes vilje. Desuden kan man godt argumentere for, at mangel på samtykke er indbygget i voldtægtsbegrebet som det nu er i nordisk ret, fordi det er netop den mangel på samtykke som gør, at handlingen er voldtægt og dermed strafbar. Det er også meningen, at straffebestemmelserne skal omfatte alle mulige tilfælde hvor samleje sker mod ofrets vilje, dvs. uden samtykke.

I sidste kapitel i sin bog, *Svensk sexualbrottslag* siger Madeleine Leijonhufvud at „ En samtyckeslag är inte till för att fler ska dömas till fängelse. Den är till för att det ska begås färre övergrepp.“¹⁴ Jeg mener at vi kan være helt enige i, at uanset hvilken konstruktion man bruger, den traditionelt nordiske eller samtykkes-konstruktionen, så er dette altid formålet.

¹⁴ Madeleine Leijonhufvud: *Svensk sexualbrottslag* (2015), s. 111.

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Vil Island straffe for prostitution og narkotikabrug?

Helgi Gunnlaugsson

Public attitudes in Iceland towards drug use and buying of sexual services

Many pioneers in criminology believe it necessary that the criminal law reflects the values, beliefs and opinions of mainstream society. Measurement of public attitudes on the criminal law is therefore important for various reasons. The question to be addressed in this paper concerns whether there is general agreement among Icelandic citizens to criminalize possession and personal use of drugs and the buying of sexual services – the current legal practice in Iceland today. A survey taken in 2014 had shown that the majority of respondents supported the two legislations in question. Since then the debate on the two laws in question has been lively in Iceland and the public stand has possibly changed.

The findings are based on a sample of 1,200 individuals taken from a stratified random sample of Icelandic citizens, 18 years and older. The survey was conducted by the Social Sciences Research Institute, affiliated with the University of Iceland. The survey was conducted online in April of 2015. The response rate was approximately 60 percent and by weighting the data a satisfactory congruence between the sample and the adult population by sex, age and residence was achieved. A question on whether the selling of sexual services should also be criminalized was added to the questionnaire this time – an act not punishable today. Moreover, a specific focus will be on whether gender and age have an impact on views on the two legislations.

The main findings show that the majority of respondents supports criminalization of both personal possession of drugs and buying and selling of sexual services. Women tend to support these two legislations to a greater degree than men, with younger respondents, in particular males, more in favour of decriminalization of drug use, than older respondents.

Indledning

Mange progressive kriminologer anser det for vigtigt at straffelovgivning og domme genspejler borgernes retsfølelse (se f.eks. Sutherland, 1934). Domme der er i modstrid med borgernes moral og retfærdighedsfølelse kan gradvist undergrave tilliden til retssamfundet. Der er i løbet af de seneste år blevet begået alvorlige forbrydelser i Island, hvor mange har sat spørgsmålstegn ved retssystemets behandling af sagerne. Seksuelle overgreb mod børn tog således overordentlig meget plads i den offentlige debat i begyndelsen af 2013, og mange efterlyste da lovreformer for såvel seksualforbrydere som deres ofre (se f.eks. Forsætisráðuneyti, 2013).

Ligeledes er der gennem de seneste årtier blevet fremsat øgede krav i andre nordiske lande om offentlighedens og borgernes ret til at have indflydelse på retshåndhævelsessystemet, og da ikke mindst på hvordan systemet reagerer over for overtrædelser af straffelovgivningen og på hvad der skal eller ikke skal være strafbart og hvordan straffen skal udformes (Kvsvgaard, 2012). Det almindelige syn på kriminalitet som emneområde har længe været at det er en del af et fagområde for retsspecialister, som offentligheden ikke har tilstrækkelig forståelse eller viden om til at kunne træffe forsvarlige afgørelser i. I løbet af de seneste år er der imidlertid fremkommet mere og mere højlydte krav fra offentligheden og græsrodsbevægelser om ændringer af straffepolitikken med sigt på mere hensyntagen til borgerne og deres retsfølelse.

Meningsmålinger angående lovbrud er derfor yderst vigtige for at kaste lys på, hvordan borgerne opfatter og oplever lovovertrædelser og de problemer, de forårsager i samfundet. Ikke mindst er undersøgelserne vigtige for at klarlægge, om borgernes holdning er i overensstemmelse med den rådende lovgivning.

I det følgende vil denne artikel belyse den islandske befolknings holdning til to kategorier af kriminalitet og hvordan befolkningen ønsker at se myndighederne reagere over for disse lovbrud. De valgte kategorier omfatter lovbrud, der specielt har været i fokus i den offentlige debat, nemlig lovbrud i forbindelse med prostitution og narkotikabrug. Undersøgelsen er også vigtig for at iagttage eventuelle holdningsændringer fra tidligere undersøgelser. Artiklen vil bl.a. forsøge at besvare følgende spørgsmål: Bør opbevaring og brug af narkotika eller salg og køb af seksuelle ydelser være strafbart? Bør opbevaring af narkotika til eget forbrug registreres på en persons straffeattest?

Det grundlæggende spørgsmål i undersøgelsen er, hvorvidt der hersker relativ enighed blandt befolkningen omkring denne type spørgsmål. Det er derudover interessant at se, hvilken sammenhæng der er mellem holdning og de forskellige befolkningskategorier, opdelt efter f.eks. køn, alder, bopæl eller uddannelse. Består der en kløft mellem forskellige samfundsgrupper, eller er borgernes holdninger jævnt fordelt i de forskellige kategorier? Er der enighed blandt den islandske befolkning hvad angår bestemte lovbrud og emneområder, som står i forbindelse med straffelovgivningen?

Prostitution i Island

Køb af seksuelle ydelser blev gjort strafbart i Island i 2009, og antallet af kriminelle sager der henhører under denne kategori er blevet mangedoblet gennem de seneste år (Ríkislögreglustjórnin, 2014). I kriminologien kategoriseres prostitution og brug af narkotika som regel som lovbrud uden offer (se f.eks. Siegel, 2016), selv om en vis skepsis har hersket om, hvorvidt denne definition er korrekt. Narkotikabrugere og sælgere af seksuelle ydelser lider skade på mange forskellige måder p.g.a. deres handling, og det er derfor tvivlsomt at tale om lovbrud uden ofre. Det hører imidlertid til sjældenheder at

politiet modtager anmeldelser om salg af seksuelle ydelser eller om narkotikabrug. Ofret findes ikke på samme måde som ofre for vold eller berigelsesforbrydelser, hvor der er meget større sandsynlighed for politianmeldelse. Antallet af sager om salg af seksuelle ydelser og narkotika afhænger derfor først og fremmest af politiets eget initiativ og efterforskningsarbejde. Politimyndighederne ændrer af og til sine fokusområder, og der vil derfor hvert år optræde svingninger i antallet af sager angående prostitution (Lögreglan á höfuðborgarsvæðinu, 2014). Antallet af registrerede overtrædelser af § 206 i den almindelige straffelov, som forbyder køb af seksuelle ydelser, var i perioden 2010-2013 i alt 175. Antallet af personer som solgte disse ydelser og derfor i sagsakterne defineres som ofre, var i alt 30, 23 kvinder og syv mænd (Þingskjal 1295, 2013-2014). En opinionsundersøgelse i 2014 viste, at 58% af deltagerne er stærke eller ret stærke tilhængere af straf for køb af seksuelle ydelser i Island, imens godt en femtedel var hverken tilhængere eller modstandere af en sådan straf. Flertallet af deltagerne, især kvinder, støttede ifølge eget udsagn den nugældende straffelovgivning, og kun ca. en fjerdedel var imod den (Gunnlaugsson og Jónasson, 2014).

Salg af seksuelle ydelser er ikke strafbart, selv om køb af samme ikke kan finde sted uden sælger. Som tidligere nævnt betragtes en sælger af seksuelle ydelser som offer, og det anses ikke for retfærdigt eller naturligt at straffe ofret for sin handling. En sådan ordning findes udelukkende her i de nordiske lande, eller i tre andre lande udover Island, nemlig Sverige, Norge og til dels Finland (Skilbrei og Holmström, 2013). I denne undersøgelse blev det alligevel besluttet også at spørge om holdning til salg af seksuelle ydelser. Bør både salg og køb af seksuelle ydelser straffes? Eller er borgerne enige med lovgivningen i at sælger bør undtages fra strafansvar?

Opbevaring og håndtering af narkotika i Island

Opbevaring og håndtering af narkotika har længe været strafbart i Island (jf. lov nr. 65/1974 om vanebindende og euforiserende stoffer). Antallet af sager i denne kategori tælles i tusinder hvert år, og politiet har set en kraftig stigning i antallet gennem de seneste år (Lögreglan á höfuðborgarsvæðinu, 2015). Flertallet af politiets narkotikasager angår opbevaring og brug af narkotika (Ríkislögreglustjórnin, 2015). Det er her et interessant spørgsmål hvorvidt der hersker generel enighed omkring lovgivningen, eller om der er udbredt modstand mod loven, idet en ganske høj procentdel ifølge eget udsagn har prøvet narkotika (Gunnlaugsson, 2015).

Islands sundhedsminister vakte opsigt i begyndelsen af 2014 da han udtalte, at det kunne blive aktuelt at afkriminalisere opbevaring af narkotika til eget brug. I fortsættelse af denne udtalelse blev der senere i 2014 foretaget en opinionsundersøgelse, hvor deltagerne blev spurgt om opbevaring og håndtering af narkotika til eget forbrug burde være ustrafbart (Gunnlaugsson og Jónasson, 2014). Cirka to tredjedele af deltagerne erklærede

sig stærkt eller ret uenige med en sådan lovændring, mens godt en tredjedel gik ind for den. Størstedelen af de sidstnævnte var yngre mænd. Et flertal var således imod ændringer af lovgivningen, men alligevel kan det ikke siges, at hele befolkningen står bag denne lovgivning.

Deltagerne får i nærværende undersøgelse stillet samme spørgsmål og bliver derudover spurgt, om opbevaring af narkotika bør indføres på vedkommendes straffeattest. Den nugældende lov indebærer at alle overtrædelser af narkotikaloven, herunder opbevaring, skal registreres på vedkommendes straffeattest. Det kan af indlysende grunde have alvorlige følger at have en straffeattest, f.eks. i forbindelse med ansøgning om stillinger eller uddannelse, hvor det kan udgøre en direkte hindring. Som argument for denne lovgivning kan fremføres at myndighederne på denne måde vil vise, hvor alvorligt lovbruddet er, og samtidigt give loven en stærkt præventiv virkning. Spørgsmålet er her, om offentligheden er af samme opfattelse som lovgiveren.

Metoder og dataindsamling

Undersøgelsens resultater er baseret på en netundersøgelse, som Institut for samfundsvidenskab ved Islands Universitet udførte i april 2015. Spørgsmålene indgik som en del af en generel national opinionsundersøgelse, som Institut for samfundsvidenskab ved Islands Universitet regelmæssigt udfører. Deltagerne blev fundet blandt 1176 vilkårligt udvalgte personer fra forskellige samfundsgrupper i instituttets netpanel. For at opnå en realistisk genspejling af den islandske befolknings sammensætning var deltagerne udvalgt proportionelt ifølge kategorier som køn, alder og bopæl. I alt svarede 711 af de 1176 mulige deltagere, og svarforholdet var således ca. 60%. Da svarene derfor ikke genspejlede populationen fuldt ud, blev undersøgelsesresultaterne vægtet efter køn, alder, bopæl og uddannelse.

Resultater

Diagram 1 viser at flertallet af deltagerne går ind for at køb af seksuelle tjenester skal være strafbart. Knap 60% erklærer at de går ind for straffen, mens knap 20% er hverken for eller imod. Knap en fjerdedel erklærer sig derimod stærke eller temmelig stærke modstandere af loven, der gør det strafbart at købe seksuelle ydelser. Der ses en både signifikant og betydelig forskel mellem svar fra kvinder og mænd. En langt overvejende del af kvinder, eller ca. 77%, går ind for straffen, mens mindre end 40% af mænd mener, at denne handling bør være strafbar. Godt en tredjedel af mænd mener at køb af seksuelle ydelser slet ikke bør straffes, men kun knap 12% af kvinder er af samme opfattelse. Ud over køn synes også alder at spille en vigtig rolle angående holdning til spørgsmålet, selv om forskellen mellem aldersgrupper ikke er statistisk signifikant. Den yngre aldersgruppe har en stærkere tendens til at støtte den nugældende lovgivning, og tendensen synes at være

stærkere, jo yngre deltagerne er. Det er ligeledes interessant, at deltagere på hovedstadsområdet i højere grad går ind for straf for køb af seksuelle ydelser end deltagere i landkommunerne, og forskellen mellem grupperne er signifikant.

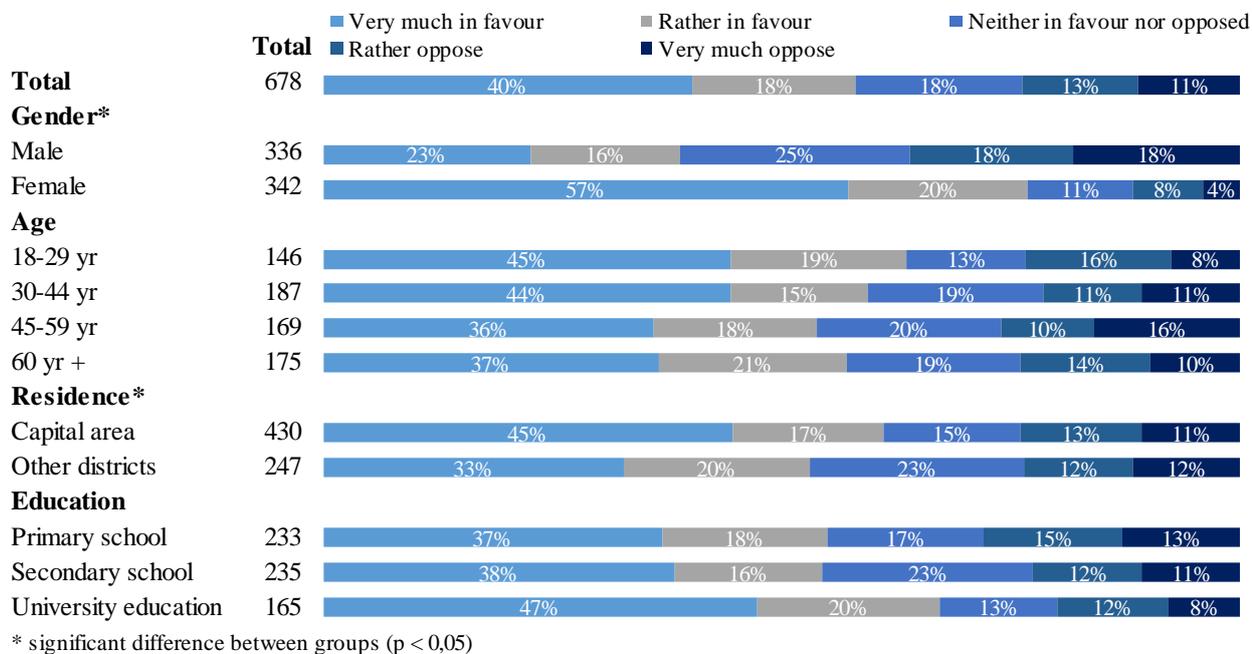


Diagram 1: Percentage of those who favour to punish for buying sexual services?

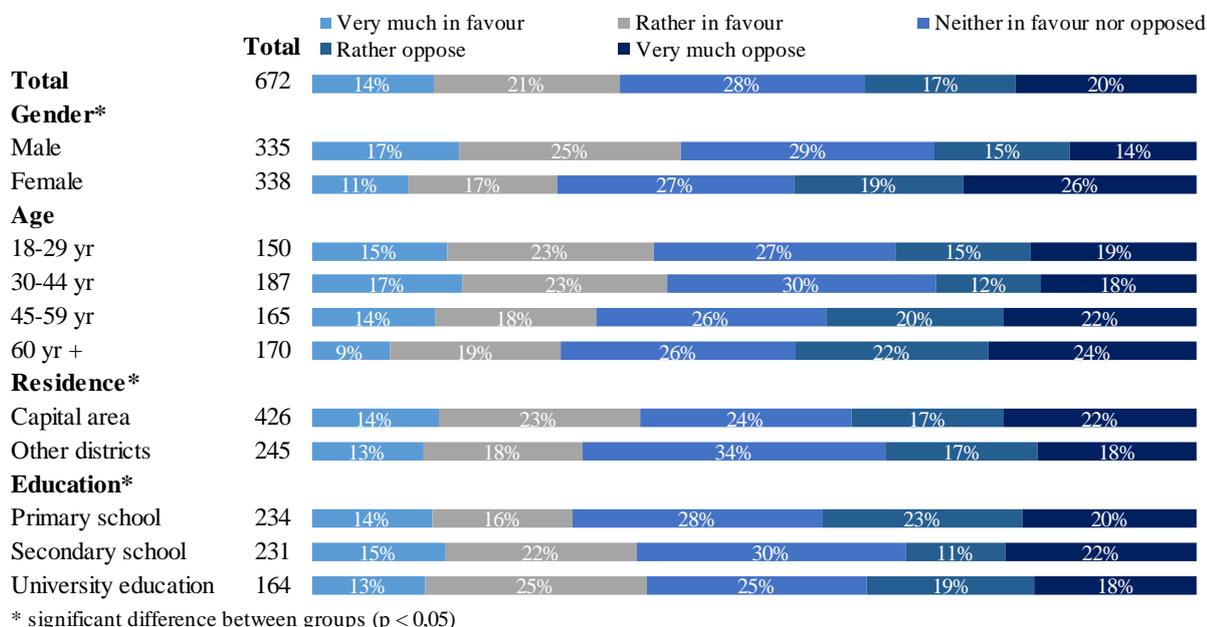
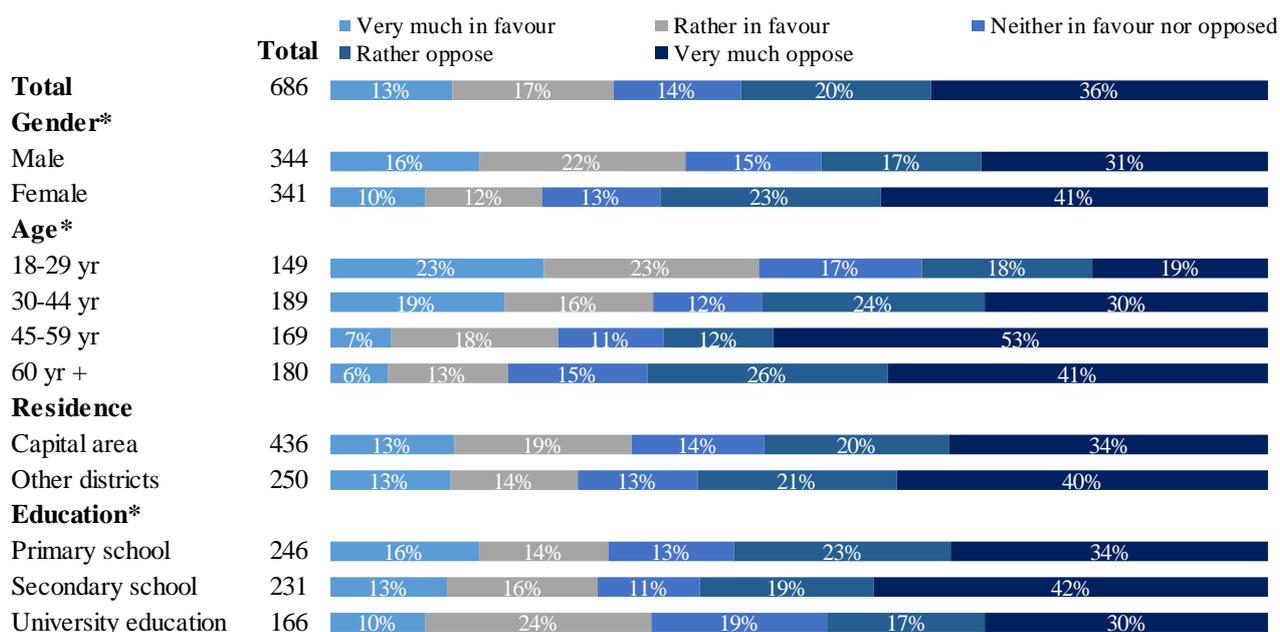


Diagram 2. Percentage of those who are in favor of not punishing for the sale of sexual services?

Diagram 2 viser, at af deltagergrupperne som indtager en stærk holdning til salg af seksuelle ydelser, går lidt flere, eller 38%, ind for straffen, mens 35% er ubetinget imod. Der er således lille forskel på antallet af deltagere, der er uforbeholdent for eller imod straf for salg af seksuelle ydelser, og man kan sige, at befolkningen her splittes i to næsten lige store grupper. Dog vil meget færre straffe for salg end for køb af seksuelle ydelser. Vi ser igen en betydelig forskel på svar beroende på køn, selv om forskellen her er mindre end ved spørgsmålet om køb af seksuelle ydelser. Knap 42% mænd er tilhængere af at myndighederne ikke straffer for salg af seksuelle ydelser, mens 35% kvinder deler denne holdning. I takt med dette vil flere kvinder end mænd ses salg af seksuelle ydelser straffet, eller 38% mod ca. 30% af mændene. De yngre aldersgrupper har som nævnt en tendens til at gå mere ind for den nugældende lovgivning om salg af seksuelle ydelser end ældre deltagergrupper, men forskellen er ikke statistisk signifikant. Cirka lige store grupper af deltagere på hovedstadsområdet er henholdsvis for eller imod straf for salg af seksuelle ydelser, eller ca. 37% og 39%. Ser vi på landkommunerne, er antallet af deltagere som er imod straf for salg af seksuelle ydelser en smule højere end hos deltagerne, der går ind for straf, eller 35% mod 31%. Forskellen er statistisk signifikant.



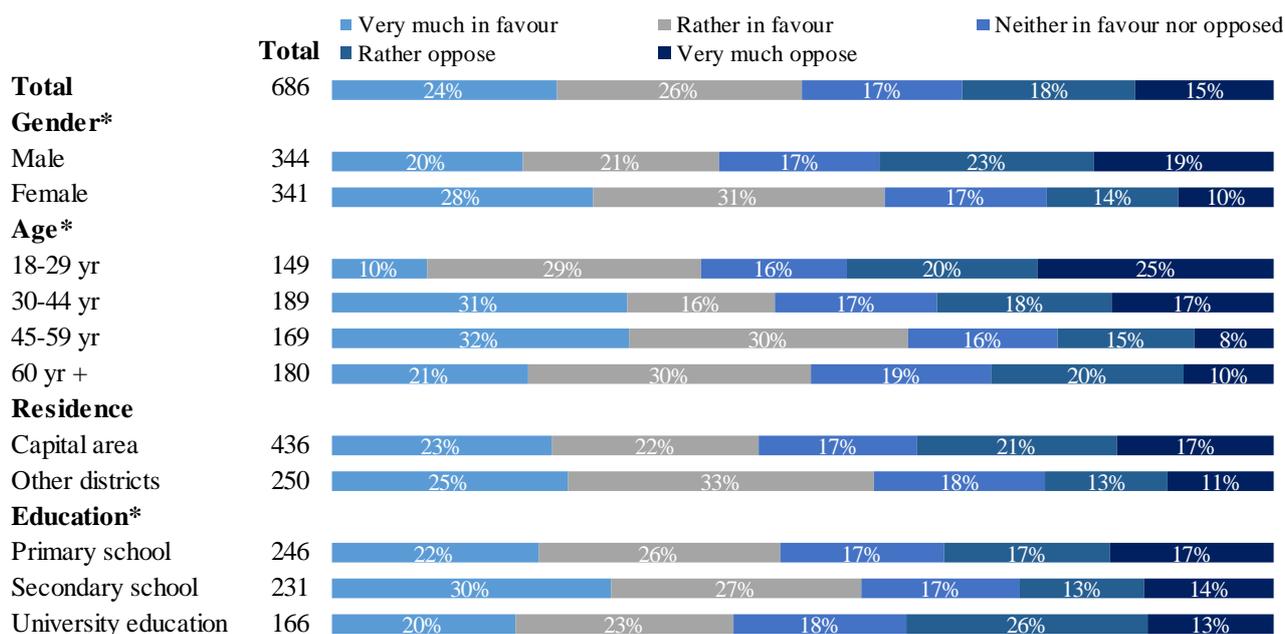
* significant difference between groups (p < 0,05)

Diagram 3. Percentage of those who are in favor of not punishing for possession of drugs for personal use?

Det fremgår af diagram 3 at godt halvdelen af deltagerne (56%) er modstandere af, at opbevaring af narkotika til eget forbrug bliver gjort ustrafbart, mens knap en tredjedel (30%) er tilhængere heraf. Knap 15% er hverken for eller imod. Forskellen mellem grupperne er således betydelig, og af deltagerne som indtager en stærk holdning går langt

den største del ind for at straffe opbevaring af narkotika til eget brug, således som den nugældende lov foreskriver. Langt flere kvinder end mænd er modstandere af at gøre opbevaring af narkotika ustrafbart, eller ca. 65%, mod knap 48% af mændene, og forskellen er signifikant. Flere ældre deltagere end yngre er ligeledes imod en ændring af den nugældende lovgivning om opbevaring af narkotika til eget brug. Som det fremgår af diagrammet vil knap halvdelen af deltagerne i aldersgruppen 18-29 år, eller 46%, se opbevaring gå ustraffet, mens mindre end 20% i aldersgruppen over 60 år er af samme mening, og igen er forskellen signifikant. Uddannelse har også indflydelse på deltageres holdning. En øget uddannelse synes at mindske tendensen til at gå ind for straf for opbevaring af narkotika til eget forbrug. Også her er forskellen signifikant. Men hvad med deltageres holdning til registrering af denne type lovbrud på straffeattesten?

Diagram 4 viser, at resultaterne ligner svarene på spørgsmålet om, hvorvidt opbevaring af narkotika til eget forbrug burde gå ustraffet. Lidt færre mener dog her, at denne type lovbrud hører hjemme på straffeattesten. Cirka halvdelen af deltagerne (50%) mener, at opbevaring af narkotika til eget forbrug bør registreres på vedkommendes straffeattest, en tredjedel (33%) er modstandere, og ca. 17% er hverken for eller imod. Af den del af de svarende, som tog en klar holdning til spørgsmålet, er godt halvdelen således tilhængere af den nugældende lovbestemmelse, som fastslår at alle narkotikalovbrud registreres på straffeattesten. En langt større andel af kvinder end mænd, eller ca. 60% kvinder mod 40% mænd, går ind for denne ordning, hvilket udgør en signifikant forskel. Den yngste aldersgruppe viser størst modstand mod registrering på straffeattesten, eller 45%, og den næststørste modstand ser vi i aldersgruppen 30-49 år, eller 36%. Mange flere deltagere på hovedstadsområdet end i landkommunerne er modstandere af registrering, eller 38% mod 24%. Forskellen er signifikant. Også uddannelse har en signifikant indflydelse. Således finder knap 40% af deltagerne, som har afsluttet en universitetsuddannelse, at opbevaring af narkotika til eget forbrug ikke bør indføres på straffeattesten, hvorimod kun godt en fjerdedel af deltagerne, der har afsluttet en ungdomsuddannelse, er af samme mening.



* significant difference between groups (p < 0,05)

Digram 4. Percentage of those who are in favor of that personal use of drugs is registered on your criminal record?

Sammendrag

Der er i det ovenstående blevet redegjort for resultaterne i en undersøgelse af islændinges holdning til to kategorier af lovbrud, prostitution og opbevaring af narkotika til eget forbrug. Undersøgelsen blev foretaget af Institutet for samfundsvidenskab ved Islands Universitet om foråret 2015.

Et flertal af deltagerne gik ind for den nugældende lovgivning, ifølge hvilken køb af seksuelle ydelser er strafbart. Knap 60% erklærede sig enige mens knap en fjerdedel var modstandere af loven. Denne holdningsfordeling har ikke ændret sig siden den forudgående opinionsundersøgelse i 2014 og må derfor siges at holdes overordentlig stabil. Svarforskellen mellem kvinder og mænd er bemærkelsesværdig, idet næsten 80% kvinder støttede lovgivningen imod kun knap 40% mænd. Godt en tredjedel af mænd var modstander af lovgivningen mod kun 11% af de kvindelige deltagere. Alder havde ikke nogen nævneværdig indflydelse på deltagerens svar, og både unge og ældre havde nogenlunde den samme holdning til spørgsmålet. Deltagerens stilling på arbejdsmarkedet har derimod indflydelse på deres svar. Cirka 60% af deltagere under uddannelse gik ind for at straffe køb af seksuelle ydelser imod kun godt en tredjedel af deltagere, som var selvstændigt erhvervsdrivende. Forskellen er signifikant. Ifølge undersøgelsens resultater er flertallet af den islandske befolkning således enig med den nugældende lovgivning om at køb af seksuelle ydelser skal være strafbart. Kvinders holdning er her meget stærk.

Ifølge Islands nugældende lovgivning er det tilladt at sælge seksuelle ydelser men derimod forbudt at købe. På globalt plan forekommer en ordning af denne type kun i tre lande i Skandinavien udover Island (Skilbrei og Holmström, 2013). Betydeligt færre gik ind for at straffe salg end køb af seksuelle ydelser, eller kun godt en tredjedel af deltagerne. Størstedelen af de deltagere, der indtager en holdning til spørgsmålet, finder dog at salg, såvel som køb, af seksuelle ydelser burde være strafbart. Hele 28% af deltagerne er dog hverken for eller imod at gøre salg af seksuelle ydelser strafbart. Igen var der tydelig forskel mellem kvinder og mænds svar. Knap halvdelen af kvinder var modstandere af at salg af seksuelle ydelser ikke er strafbart, mod mindre end 30% af mændene. Lovgivningen omkring prostitution som indebærer straf synes således at spille en større rolle for kvinder end for mænd, og da både hvad angår køb og salg. Undersøgelser viser, at flertallet af personer, der sælger seksuelle ydelser, er kvinder, mens flertallet af købere er mænd. Sandsynligvis har kønnenes forskellige tilgang til prostitution en vis indflydelse på deltagernes holdning. Kvinder og mænd betragter prostitution forskelligt, og mænd stiller sig mere tøvende over for afstrafning af denne type handlinger end kvinder. Generelt synes dog den nugældende lovgivning, hvor køb af seksuelle ydelser er strafbart, at nyde solid støtte blandt befolkningen, mens loven som gør salg af seksuelle ydelser ustrafbart er mere omdiskuteret. Ifølge resultaterne af denne undersøgelse finder en ophævelse af straffebestemmelserne omkring prostitution derfor ikke megen genklang hos den islandske befolkning.

Holdningen til at gøre opbevaring af narkotika til eget forbrug ustrafbart har ikke ændret sig meget siden 2014. Af deltagergrupperne som indtager en stærk holdning, går langt den største gruppe, eller knap en tredjedel af alle deltagere, ind for de nugældende straffebestemmelser. Det vækker opmærksomhed at yngre og mandlige deltagere skiller sig ud fra mængden med sin modstand mod den nugældende lovgivning. Undersøgelser har vist, at narkotikabrug er meget mere udbredt blandt den yngre befolkning og blandt mænd, hvilket uden tvivl har haft indflydelse på deltagernes svar. Erfaring med stoffet synes at gøre deltagerne mere imødekommende i forhold til hvordan de mener, samfundet bør reagere. Spørgsmålet er, hvorvidt generationen, der nu indtager en blødere holdning, vil beholde denne anskuelse op gennem livet, hvilket efterhånden ville kunne svække grundlaget for den gældende lovgivning, eller om denne holdning udelukkende er bundet til en bestemt aldersperiode, og de nuværende unge senere muligvis vil tage afstand fra dette standpunkt efter som alderen stiger.

Holdningen til, hvorvidt opbevaring af narkotika til eget forbrug bør registreres på vedkommendes straffeattest, er omtrent den samme som holdningen til en eventuel ophævelse af straffebestemmelserne om opbevaring af narkotika til eget forbrug. En smule flere var dog modstandere af at registrere lovbruddet på straffeattesten, men forskellen er ikke stor. Halvdelen af deltagerne var enige i at lovbruddet burde registreres på straffeattesten, mens ca. en tredjedel ikke delte denne holdning. Det samme mønster viser

sig i holdningen hos forskellige samfundsgrupper. Yngre deltagere og mænd var stærkere modstandere af at registrere lovbruddet på straffeattesten end ældre deltagere og kvinder.

Det vækker opmærksomhed at unge ikke skiller sig ud fra mængden angående holdning til køb og salg af seksuelle ydelser, således som de gør angående holdning til narkotika. Modstanden mod henholdsvis ophævelse af strafbestemmelser for køb af seksuelle ydelser og indføring af straf for salg af samme ligger på nogenlunde samme niveau hos alle aldersgrupper, mens den er yderst forskellig mellem aldersgrupperne hvad angår narkotika. Yngre deltageres frisindethed i forhold til narkotika synes således ikke at have nogen indflydelse på deres holdning til prostitution. Mænd skiller sig dog stadig ud fra mængden i begge emneområder. Mænd går generelt mindre ind for strafbestemmelser for prostitution, lige som yngre mænd i mindre grad går ind for straf for opbevaring af narkotika til eget forbrug og at lovbruddet registreres på vedkommendes straffeattest.

Som helhed giver undersøgelsen det billede, at den nugældende straffelovgivning omkring prostitution og narkotika støttes af et flertal i den islandske befolkning. Dette gælder for såvel køb som salg af prostitution og opbevaring af narkotika til eget forbrug og hvorvidt lovbruddet burde registreres på vedkommendes straffeattest. Støtten er dog ikke lige stærk i alle samfundsgrupper, og yngre mænd skiller sig her noget ud fra mængden, idet de har tendens til i mindre grad end andre at gå ind for straf for såvel narkotika som prostitution.

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From a parenting measure to a crime? – Prohibiting parental corporal violence in Finland¹

Riikka Kotanen

Introduction

On a global scale, corporal punishment of a child still has wide legitimacy; it is legal for example in most Asian countries, the United States and Great Britain. In Finland, the provision justifying parental discipline in the form of physical violence was removed from the Criminal Code in 1969 and all forms of parental corporal violence towards a child was banned rather early in 1983. In the long term, this ban has had a significant effect on attitudes and practises. The decrease in all forms of corporal punishment and other types of violence towards children has been radical during the last 20 years (e.g. Ellonen et al. 2008; Lehti et al. 2011), and violence towards children is regarded increasingly negatively among Finns (e.g. Peltoniemi 1983; Sariola 2014).

However, historically corporal violence towards a child has been regarded as an acceptable method of control and parenting in Finland, even as a parental obligation (e.g. Pyykkänen 2009). Thus the prohibition of corporal punishment of a child represents a long-term cultural and generational change (James & James 2003). This paper focuses on the establishment of legal regulation and control relating to parental violence in Finland during late 1960's to 1983. By applying qualitative text analysis, this study looks into the justifications and motives behind these legislative alterations. In addition to legislative documents and expert interviews of child welfare and legislative professionals, the data includes reports by governmental organs and text materials relating to these legislative alterations during the same timeframe.

This study is a part of a wider project which belongs to the field of sociology of law, yet it is multidisciplinary: it is located at the intersection of sociology, criminal law, criminology and social work. It includes two sub-studies, hence it examines parental corporal violence towards a child from the perspectives of legal regulation and the control measures of the state generated by legal regulation. The focus is on 1) the process of banning parental corporal violence toward a child in Finland, and later revisions of the law, 2) the practical consequences of implementing these particular laws in the state provided child protection services.

¹ This paper is work in progress, please do not cite or quote.

Research questions and data

This paper covers two first legislative alterations: the removal of the subsection justifying parental corporal discipline from the Criminal Code in 1969 and the prohibition of all forms of corporal punishment of a child in 1983. It aims to present some preliminary results to the following research objectives: how and why corporal punishment of a child did become an object of legal control? And which kind of actors, perceptions and justifications were focal in the process?

The data is presented at the table 1. It is a collection of legal documents, i.e. the legislative history of two legislative alterations, other types of policy documents, and reports produced by governmental organs and institutions. In addition to this, I have also analysed jurisprudential texts concerning the contemporary legal professionals' interpretation of the legal alterations in question at the time. Expert interviews with professionals were conducted in order to gather additional information concerning the processes to fill the gaps in the document data and get the insights of the contemporary public discussion regarding physical punishment of a child.

Table 1: The research data

Removal of the section justifying parental physical discipline from Criminal Code	
Legal Documents	<ul style="list-style-type: none"> • Governmental Proposal 68/1966 • Report of the Legal Committee 154/1965 • Statements of the experts to the Legal Committee • Parliamentary Hearings
Additional Data	<ul style="list-style-type: none"> • Book "Finnish Criminal Justice II", Brynolf Honkasalo*, 1970
Act on Child Custody and Right of Access: Prohibiting physical punishment	
Legal Documents	<ul style="list-style-type: none"> • Committee Report of the Finnish Committee of International Year of the Child 23:1980 • Governmental Proposal 224/1982 • Statements of the experts to the Legal Committee • Report of the Legal Committee 11/1982 • Parliamentary Hearings 3.2.1983, 8.3.1983
Additional Data	<ul style="list-style-type: none"> • Report "<i>Child Battering in Finland and Sweden</i>", the National Institute of Legal Policy, 1981 • Guidebook "<i>Child abuse and neglect of care</i>", the Social and Health Administration, 1982 • Book "Child Custody and Right of Access", Matti Savolainen**, 1984 • Expert Interviews with professionals, n=6

*Honkasalo was professor of Criminal Law.

**Savolainen was one of the drafter of the Child Custody and Right of Access Act.

The empirical study: preliminary findings

Removing the parental right to use disciplinary violence from the Criminal Code in 1969

According to the governmental proposal (GP 68/1966), the removal of the subsection was done because it was suspected that the special provision could encourage “heavy-handed” parents to use “health-harming correction measures” in an unacceptable way. Although, the removal can be seen technically as a criminalization of corporal violence, it is quite clear that the aim was not to remove the parental right to use physical violence. Nor was the aim to acknowledge the individual autonomy of a child.

“If a parent does not exceed his legal right to discipline a child, and his interfering in the physical autonomy of a child is fair, punishing the parent for this conduct as an assault cannot come into question.”² (GP 68/1966)

Although, it is not explicitly expressed in the legislative documents, the following writings of the legal scholars concerning the interpretation of the renewed criminal law reveals that the object of the removal of the subsection was only to protect children from an excessive use of violence. Moreover, in connection with this, the aim was also to instruct the legal praxis that it is not acceptable to convict serious acts of violence as a minor offence in cases of child victims.

“In the discussion concerning the removal of this particular subsection, a misinterpretation that even moderate corporal discipline would not be allowed has been made.” (Brynolf Honkasalo 1970, Professor of Criminal Law)

The prohibition of corporal punishment in 1983

The development which led to prohibiting all forms of parental violence to children is connected with a very essential social change going on in Finland during 1960's and 1970's. Wide criticism was directed towards state practices and policies which were regarded as restrictive, authoritarian, and inhumane (e.g. Erikson 1967). These humane values resonated with several governmental and non-governmental organisations, and hence had a considerable impact in many policy sectors. In effect, fundamental changes were made for example within criminal policy and different sectors of social policy (e.g. Pulma & Turpeinen 1987; Lappi-Seppälä 2012).

Globally, the importance of the United Nation's International Year of the Child in 1979 is highlighted by the fact that it was the starting point of the Convention on the Rights of the Child, which came into force in 1990. In Finland, the Year of the Child also constituted an important landmark in the process of prohibiting physical punishments of children. The aspiring aim of the Committee Report of the Finnish Committee of the Year of the Child was to employ child and family politics as an observance perspective to the entire social

² All data quotes translated by the author.

policy. The Finnish Committee suggested in its report (KM 23:1980) adding measures of support to “*positive home upbringing*”. Banning all forms of physical violence as a form of discipline was one of proposed measure.

Other international pressure for altering the legislation in this matter originated from Scandinavia. The Importance of the prohibition enacted in Sweden in 1979 is highlighted through the different parts of the research data. The Swedish legislation is utilized as an example during the legislative process. Also the recommendation of the Nordic Council for banning all forms of corporal discipline in 1982 served as a justification for the new enactment.

The problematizing of physical punishment of a child generated a need for produce knowledge and pass on information. The differences between Finland and Sweden in the law enforcement and child protection services were looked in the report published by the National Institute of Legal Policy in 1981. At the same time, the first attitude survey concerning the Finnish attitudes towards physical punishing of children was conducted. According to the survey 53 % of Finns (15–79 years) did not accept corporal punishment as a parenting measure even in exceptional circumstances (Peltoniemi 1983). For the professionals promoting, and drafting the legislation, the result of the survey was “relief”, but also a sign that the timing of the legislative alteration was well chosen.

“It was a very slim majority, but still it gave a justification for enacting this law.” (Interviewee A)

Intervening in parental violence to a child has a minor role in the document data. However, the issue was not totally neglected. The social and health administration draw up a guidebook “*Child abuse and neglect of care*” for the social and health care professionals in 1982. The guidebook offered psychological explanations to the harmfulness of physical violence to a child, but the main function of it was advising professionals the correct approach if one notices any signs of physical or sexual abuse of a child. The guidebook illustrates well how the issue was distinctively seen as a problem of the social sector. The main guideline through the book is to contact the social board of the municipal. Police is mentioned only in connection with fatal violence.

“A fatal assault of a child, or a doubt of a fatal assault, always has to be reported to the police, and requires determining the cause of death by forensic examination.”
(Child abuse and neglect of care 1982, p. 36)

The prohibition was written in the first section of the Act on Child Custody and Right of Access (361/1983) which came into effect in 1984 at the same time with new Child Protection Act (683/1983). The ideological background of the prohibition was a changed conception of childhood as a special and highly venerable stage of life. Moreover, the comprehension of a child as an individual with autonomy and needs separate from the parents.

"[in the effective legislation] above all, a child has been seen as an object of parental authority, not an autonomous personality who has his own needs and wishes [...]." (GP 224/1982)

"A child must be brought up with understanding, security and affection. A child must not be subdued, corporally punished or treated offensively in any other way. The growth of a child towards independence, responsibility and adulthood must be supported and encouraged." (Act on Child Custody and Right of Access 361/1983)

The Act on Child Custody and Right of Access was very modern, idealistic and ideological legislation. The notion about the importance of parental affection rose positive attention in parliamentary hearings, but according to several interviewees, it caused confusion among some legal officials in the Ministry of Justice. In several occasions, interviewees told about diverse attitudes towards the new legislation, not just among professionals but media and citizens too. Interviewees who had educated other professionals due to the new legislation were all perceived that the attitudes among Finns were rather polarized; in southern parts of Finland, violence towards children was regarded more negatively, and the prohibition was considered more important, than in northern Finland. Media reactions to the prohibition were often described by the interviewees hostile and amused.

"About this prohibition, [...] the further we went from Helsinki [...] to periphery, the sharper were the demands that the section [*prohibiting all forms of physical violence*] should be repealed and parental right to physically punish a child should be restored [...]" (Interviewee F)

In the legal documents, there is no mention of the control or punishing a parent using physical discipline. Nor is the acts of physical discipline identified or named as violence or a criminal act. The only connection between the prohibition and a criminal act is drawn in the governmental proposal (GP 224/1982), where the legislator states that the section regarding minor offences in the Criminal Act can be applied when the offender is a parent or guardian of the child in question, and even if the offence was done in order to discipline the child. The interviewees confirmed that punishing parents or any measures of control were not discussed during the process. The main purpose of enacting the prohibition was to strengthen the nascent negative attitudes and spur the attitudinal change among those using corporal punishment as a parenting measure. The attempt was for guide people towards 'child-sensitive' parenting.

"[...] the law becoming in effect in 1984 [the Act on Child Custody and Right of Access], there was no intention to associate any punishment with it in the first place. [...] The aim was to influence attitudinally throughout the society where, in every section of the society, everybody should take care, and sort of keep eye on, that no one is battering children." (Interviewee C)

In conclusion

The physical punishment of a child is defined as a problem of the social sector, but the discussion about intervention measures and who is responsible for interventions is only starting at the beginning of 1980's. Most importantly, the process of prohibiting all forms of parental violence can be considered establishing a new norm which hopefully will guide Finns, in the course of time, towards gentler upbringing measures. Although the violent behaviour of a parent was seen problematic, it was not considered a matter of the criminal justice system.

In 1980's, there was very little information and knowledge about the prevalence of the parental violence. Hence, The Central Union for Child Welfare, non-governmental organisation, conducted the first child victim survey concerning sexual and physical violence in Finland in 1988. One of the main results was that 72 % of 15-year old had experienced at least lenient forms of violence committed by the parents or a parent (Sariola 1990). Despite of the fact, that parental violence was seemingly not a minor problem in Finland at the end of 1980's, most of the expert interviewees told in detail, how a problem of much smaller scale, sexual abuse of a child, displaced the physical violence as an agenda during 1980's. Due to this, physical violence become largely ignored in terms of policy making or public discussion. Even to the extent, that for example the next victim survey concerning parental corporal violence is conducted 20 years later (Ellonen et. al. 2008).

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Jane Addams igår, idag, imorgon i socialpreventivt arbete i Norden. //Jane Addams yesterday, today and tomorrow in social prevention in Nordic Countries.

Regina Järg-Tärno

Jane Addams (1860-1935) arbete i början på 1900-talet i Chicago samt 100 år senare på 2000-talet i Finland och i övriga nordiska länder.

Inledning

Jane Addams arbete och betydelse inom kriminologin kom fram för ett par år sedan i samband med en arbetsgrupp på justitieministeriet i Finland. Inom ramen för det nationella programmet för den inre säkerheten skulle man utarbeta ett system med grannsamverkan i Finland. Generalsekreteraren för Settlementförbundet i Finland blev ordförande för arbetsgruppen. Arbetsgruppen initierade dialoger med olika aktörer i samhället samt samlade in rekommendationer från aktörer på gräsrotsnivå dvs. från de människor som berördes.¹

Man ville undvika att koncentrera sig allt för mycket eller enbart på social- eller situationell brottsprevention och brottsförebyggande åtgärder. Istället för att bygga murar och övervakade zoner dvs. utestlutning ville man koncentrera sig på metoder som syftar till att öka närdemokrati och medborgardialoger, förstärka medborgarsamhället och delaktighet, förtroende samt hjälp för de underprivilegerade i samhället. Man hade en stark tro på att genom att öka det goda i samhället, förstärka tillhörighet och gemenskap, medmänsklig hjälp och tillit kommer man att öka känslan av trygghet samt minska risker för det oönskade, dvs social oro och brottslighet. Det handlade om ett långsiktigt arbete som skulle leda till brottspreventiva effekter.

Av naturliga skäl var det som styrde arbetet en värdegrund för settlementrörelsen som har sina historiska rötter i Jane Addams arbete i Chicagos slum i slutet av 1890-talet. Med tanke på tid och plats ledde detta till en hypotes att Jane Addams arbete då och settlementarbetet som är idag, mer känt under namnet community work, på något sätt måste vara direkt kopplat eller ha några länkar till Chicagoskolan som växte fram strax efter det, dvs i början på 1900-talet. Överraskningen var stor när det visade sig att det inte bara fanns en länk mellan Jane Addams idéer och arbete med socialt utsatta grupper i socialt

¹ Grannhjälpssarbetsgruppens rekommendationer mm.:

<http://www.rikosentorjunta.fi/fi/index/julkaisut/tutkimuksiaajaselvityksia/naapuriaputyoryhmanvaliraportti.html>

utsatta områdena och Chicagoskolan utan att det till och med fanns en direkt stark koppling mellan henne och Chicagoskolans kriminologer och deras teorier. Det var något nytt! Men hur var det möjligt att man inte kände till det och inte hade hört om det något alls tidigare, speciellt i kriminologiska kretsar? Hur kan man ha missat en sådan sak om socialpreventivt arbete? Och hur viktigt det helt plötsligt blev att känna till det i dagens situation med stora, oroande förändringar i världen och i det nordiska välfärdssamhället. Samtidigt med den upptäckten och arbetsgruppens arbete gjordes det i Sverige av svenska kriminologer från Stockholms universitet en studie om oroligheterna i Husby med lärdomar om problembild och orsaker. Bland de fem viktigaste förklaringarna till den sociala oron och händelseförloppet i Husby var upptäckten av ett demokratiskt underskott i lokalsamhället. Andra viktiga frågor som togs upp var bristen på känsla av tillhörighet och gemenskap.² Med tanke på framtiden och risker för social oro blev det ännu mer viktigt att känna till och lära sig av Jane Addams arbete och metoder.

Jane Addams (1860-1935)

Jane Addams (1860-1935) är en alltför okänd kvinnlig kriminolog. Hennes arbete på slutet av 1800-talet och början på 1900-talet i Chicago har varit mycket betydelsefullt både inom sociologin och kriminologin. Men hon har inte fått den uppmärksamhet inom kriminologin som hon förtjänat jämfört med de manliga kriminologer som blev kända via Chicagoskolan. Några av dem samarbetade med henne direkt och påstås ha även fått handledning av henne.

Although Jane Addams received national and international recognition for her work, most mainstream sociologist and criminologists today have ignored and sometimes even denied her contributions.³

Jane Addams is well known for her leadership in urban reform, social settlements, pacifism, social work, and women's suffrage. The men of the Chicago School are well known for their leadership in founding sociology and the study of urban life. What has remained hidden however, is that Jane Addams played a pivotal role in the development of sociology and worked closely with the male faculty at the Department of Sociology at the University of Chicago.⁴

Hull House

Jane Addams var mycket engagerad i flera olika aktuella frågor i samhället, men Hull House verksamhet i Chicago är det som Jane Addams är idag mest känd för bland aktörer som förknippar sig med settlementrörelsen och s.k. *community work*. På slutet av 1800-talet och i början på 1900-talet var det kris, klassmotsättningar, social oro och spänningar. Sett-

² Bilen brinner... men problemen är kvar – Berättelser om Husbyhändelserna i maj 2013. (2014) http://stockholmia.stockholm.se/forlag/bocker/alla_bocker/abc/bilen-brinner...-men-problemen-ar-kvar--berattelser-om-husbyhandelserna-i-maj-2013/

³ Imogenen L. Moyer MA, Phd (2008), Jane Addams. Pioneer in Criminology.

⁴ Deegan (1990), Jane Addams and the Men of the Chicago School.

lementhusen i England, som på slutet av 1800-talet etablerades i de fattigaste kvarteren av Östra London, inspirerade Jane Addams och settlementrörelsen i USA och fungerade som en förebild för hennes arbete med Hull House i Chicago. Jane Addams startade Hull House 1889, ett allaktivitetshus som var öppet för alla som bodde i området oavsett socioekonomisk status, kön, etnicitet, religion, kultur etc.

Hull House var inte bara ett hus och en mötesplats utan även en vagga för demokratiarbete och social verksamhet. Det fanns olika typer av fritidsaktiviteter att mötas kring men även utbildningar och kurser för vuxna. För att stödja kvinnors möjlighet att delta i kurserna och utbilda sig eller arbeta organiserades det även barnpassning och aktiviteter och även lektioner för barn dvs. dagisverksamhet. Dessutom öppnade man 1894 även en lekplats eller lekpark som var öppen för alla barn och unga för att stödja deras uppväxt och skydda dem mot risker för kriminalitet i framtiden.⁵ 1906 startade Jane Addams även en nationell organisation The Playground Association of America (PAA) som ordnade en stor konferens *Play Congress* (1911) med tal och föreläsningar bl.a. om kriminalitet (*Relation of Play to Juvenile Delinquency*) samt aktiviteter och lek för alla åldrar.

Hon kämpade för barnens rättigheter och mot barnarbete. Att erbjuda utbildning och underhållning var centrala syften men även prevention av kriminalitet och avvikande beteenden.

Hennes arbete som pionjär inom kriminologin kan sammanfattas till tre centrala områden:⁶

- (1) socialekologiska kartor (*ecological maps*)
- (2) social rättvisa (*social justice*)
- (3) fredsarbete (*peacemaking*)

1. Socialekologiska kartor

Jane Addams började samla in information om alla som bodde i närheten av Hull House och strukturerade upp det på kartor som senare (1895) publicerades under namnet *Hull House Maps and Papers*. Där fanns det data om varje persons etnicitet och uppgifter om varje hushålls inkomster per vecka. Det påstås att det var hon som inledde den typen av kvalitativa metoder och hennes tidiga arbete utnyttjades både som bas för att utveckla socialekologiska teorier (t.ex. *concentric zone theories*, Burgess and Parks) och även senare av

⁵ *children robbed of childhood were likely to become dull, sullen men and women working mindless jobs, or criminals for whom the adventure of crime became the only way to break out of the bleakness of their lives.* Polikoff, Barbara Garland. *With One Bold Act : The Story of Jane Addams*, p. 74, New York: Boswell Books, 1999.

https://en.wikipedia.org/wiki/Hull_House

⁶ Imogen L. Moyer MA, Phd (2008), *Jane Addams. Pioneer in Criminology.*

studenter som studerade sambanden med avvikande beteende och kriminalitet i Chicago. Men trots det fick hon aldrig beröm för sitt arbete.

Den ekologiska inriktningen inom kriminologin och i polisarbetet har fortfarande en stor betydelse. Metoden används t.ex. för att analysera all möjlig data om brottslighetens geografi och sociala bakgrundsfaktorer för att på ett mer effektivt sätt använda resurser för sociala och/eller situationella brottsförebyggande åtgärder t.ex. i utsatta områden i storstäder bl.a. i Norden.

2. Social rättvisa

Jane Addams var tillsammans med andra kvinnor på Hull House, "the Chicago Woman's Club" (grundad 1876), engagerad i frågor som rörde social rättvisa. De kämpade för barnens rättigheter och var emot barnarbete genom att uppmärksamma dess skador för individen, familjen och hela samhället. De hade en stark tro på att barnarbete och utbildning på olika sätt var sammanflätade med kriminalitet. De ville förbjuda i lag att barn under 14 år skulle arbeta. Istället skulle alla barn ha rätt till obligatorisk utbildning.

De uppmärksammade kvinnor och ungdomar som hade fått fängelsestraff. Det var deras förtjänst att det startades verksamhet med ungdomsdomstolar (*Juvenile Court*) och skyddstillsyn för ungdomar (*Juvenile Probation*).

3. Fredsarbete

Jane Addams var pacifist och emot första världskriget. Hon förde en kamp för demokratin, bl.a. för att kvinnor skulle få rösträtt. Hon var mycket orolig över vilka skador kriget kan ha när det gäller demokratin. Hon menade att krigseffekter är särskilt skadliga för samarbetsviljan och mänskliga relationer i invandrartäta områden. Jane Addams och en liten grupp kvinnor både i USA och utomlands organiserade de sig i "Women's International League for Peace and Freedom" (Women's Peace Party) och opponerade sig mot president Wilson's utrikespolitik i samband med kriget i Europa. För sitt demokrati- och fredsarbete fick hon Nobels fredspris 1931 som första vita kvinna.

Community Work och settlementarbetet i Norden

Jane Addams idéer, metoder och arbete med Hull House som utvecklades i socialt utsatta områdena i Chicago lever kvar än i dag och grundidén för settlementarbetet och '*community work*' var och är tron på gemenskapens stärkande effekt.

Det finns en internationell paraplyorganisation, International Federation of Settlements and Neighborhood Centers (IFS), för organisationer som förknippar sig med den historiska bakgrunden och/eller grundtanken till settlementarbetet. IFS är också en av få NGO's i världen som har en plats i FN.

Denna typ av verksamhet finns alltså även i Norden. Settlementarbetet eller Hemgårdsrörelsen spred sig till nordiska länder i början på 1900-talet och finns kvar även i dag. Flera organisationer i de nordiska länderna har rötter i Jane Addams idéer, värdegrund och metoder. Flera av dem är bland de äldsta frivilliga organisationerna i respektive länder och firar snart sina 100 årsdagar: t.ex. Settlementförbundet i Finland, Fritidsforum i Sverige samt Settlementet i Danmark.

Utöver de nationella föreningar och organisationer i de nordiska länderna grundades på hösten 2015 även IFS Norden som en nordisk paraplyorganisation (av fem nationella organisationer från Finland, Åland, Sverige och Island) för att stödja och förstärka settlementsarbetet och kunskapsutbytet i och mellan de nordiska länderna. Det nordiska samarbetet är egentligen inget nytt. Redan 1930 fanns det en nordisk samarbetsorganisation för settlementsarbete med följande slogan: "*Världen väntar på människan*". Tyvärr avbröts samarbetet på grund av andra världskriget.

Orsaken till att det just idag uppstod ett konkret behov för ett nordiskt samarbete var bl.a. förändringar i välfärdssamhället, social oro och förändringar i samhällsklimatet. Ideella föreningar och frivilligorganisationer möter idag, och kommer även i fortsättningen att möta, nya utmaningar och till och med tryck från den offentliga sidan samtidigt som det är brist på ekonomiska resurser. Samarbetet mellan det offentliga och civilsamhället behövs mer än tidigare. Vid sidan om goda beprövade behövs det även utvecklas nya metoder för att lyckas med det. Grannhjälparsarbetsgruppen i Finland (2014) som nämndes tidigare, rekommenderade i sina rapporter metoder som används och utvecklas för att öka närdemokrati eller lokaldemokrati, t.ex. medborgarråd (på finska *kansalaisraati*), World Café, trygghetsvandringar eller andra typer av medborgardialoger och metoder som förstärker delaktighet på flera olika sätt. Och t.ex. polisen i Sverige har efter flera utredningar och oroväckande resultat om situationen och risker för social oro i utsatta områden i Sverige lanserat nu på våren (2016) en ny nationell modell för att arbeta kunskapsbaserat med medborgarlöften för att via lokala samarbetsavtal med kommuner komma närmare medborgarna och förstärka samarbetet med civilsamhället i ett preventivt syfte.⁷

Settlementarbetet, startad av Jane Addams i Chicago på slutet av 1800-talet, har varit och är utifrån ett kriminologiskt perspektiv socialpreventivt arbete som syftar till att förebygga kriminalitet och avvikande beteende, utslagning och utsatthet genom att förstärka stödfaktorer - tillit, tillhörighet, gemenskap, jämlikhet, jämställdhet, mänskliga rättigheter och närdemokrati. Man strävar efter att minska samhällsklyschor, orättvisor, social oro etc. Det har varit och är även idag bland de viktigaste uppgifterna att stödja de underprivilegerade i samhället och göra deras röst hörd. I Jane Addams anda och fotspår, anpassad till dagens situation och förhållanden, vill man motarbeta att utsatthet och brottslighet kon-

⁷ Polisen lanserar nationell modell för medborgarlöften (Brå, 2016) <http://www.bra.se/bra/nytt-fran-bra/arkiv/nyheter/2016-05-27-polisen-lanserar-nationell-modell-for-medborgarloften.html>

centreras till vissa befolkningsgrupper eller till vissa platser, orter och stadsdelar. Det handlar om både konkret arbete på gräsrotsnivå och opinionsbildning på den nationella nivån om viktiga samhällsfrågor. För att göra det s.k. *'evidence based'* eller kunskapsbaserat kommer all relevant (i det här fallet bl.a. kriminologisk) forskning vara till nytta vilket gör samarbetet mellan praktiker och forskare nödvändigt och viktigare än någonsin. Dels för att göra sin röst hörd bland beslutsfattare men framförallt för att effektivt utvärdera, fin-slipa och vidareutveckla sin verksamhet och metoder på gräsrotsnivån.

Det finns redan en hel del relevant forskning, bl.a. nordisk kriminologisk forskning som kan utnyttjas, vilket inte tidigare har gjorts regelbundet och systematiskt. Men det behövs också nya studier samt konkret samarbete mellan praktiker och forskare för att hitta och utvärdera nya socialpreventiva metoder och dess långsiktiga effekter. Därför vill jag gärna uppmuntra till ett tätare samarbete mellan kriminologisk forskning och civilsamhälle i Nordiska länder t.ex. genom att starta ett samarbete mellan NSfK och IFS Norden.

Dessutom finns det goda skäl att forska närmare kring Jane Addams arbete och settlementarbetet, *community work* och närdemokratiarbete i Nordiska länder och dess betydelse utifrån ett kriminologiskt perspektiv.

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WORKSHOP E

ECONOMIC AND ENVIRONMENTAL CRIME

Corporate and organised crime: a study of criminal liability of executives and leaders.

Thorbjorg Sveinsdottir

There have generally been a number of individuals involved in the execution of criminal acts in cases connected to the financial crisis in Iceland. In these cases the situation has often been that the involvement of the banks' low-level employees has been quite clear and therefore quite easy to prove. They have been the ones buying and selling the banks' stock in cases of market manipulation and paying out the bank's money in cases of fraud. There has been a paper trail (or a trail of emails and taped phone conversations) connecting these individuals to the criminal acts.

In most cases connected to the financial crisis in Iceland the low-level employees of the banks have claimed that they were following the orders of their superiors when committing the crimes. The high-level employees have on the other hand mostly denied giving their subordinates orders to commit the crimes or claim that they were not aware of all the facts.

Going up the hierarchy there is generally less and less evidence connecting high-level employees of the Icelandic banks to crimes committed in connection to the financial crisis in Iceland. The high-level employees of the banks are not the ones selling or buying stock or paying out loans and they generally do not following things through with emails and phone calls themselves. As a result, issues have arisen in determining the exact involvement of the high-level employees of the Icelandic banks' in such cases. In some cases the prosecution has managed to prove their involvement but in others they have been acquitted.

Another issue that has arisen in these cases connected to the crash is the question under what circumstances a person can be criminally liable for a crime that is carried out by another person. This question is especially relevant in cases where low-level employees of the banks have executed the crimes and claimed that the banks' high-level employees had not given them direct orders to commit the crimes but that the crimes were however committed with their knowledge.

I will focus on two judgements where this has been the case, that is where the executives of Iceland's two largest banks, Kaupthing and Landsbanki, and the Chairman of the Board of Kaupthing, who acted as an executive, were convicted of crimes committed by their subordinates although they did not give their subordinates direct instructions to commit the crimes. These judgements were delivered in 2015 and 2016.

With the former judgement (**H 145/2014**), delivered in 2015 and commonly referred to as the Al-Thani case, the Supreme Court found that the CEO and the Chairman of the Board of Iceland's largest bank, Kaupthing, the CEO of Kaupthing Luxembourg and one of Kaupthing's largest shareholders were guilty of committing fraud and market manipulation shortly before the bank's collapse.

The case involved the selling of Kaupthing's shares in a very large trade shortly before the bank collapsed. The stock was sold to a shell company owned by Sheik Mohamed Al-Thani. After the trade Kaupthing issued a press release containing a statement by Al-Thani where he expressed his great belief in the bank and its top management and that he believed the bank had performed well in the turbulent financial climate of that time. It turned out that this statement was not written by the Sheik but by employees of Kaupthing, including the defendants themselves. It also turned out that the bank never received any payment for the shares. The trade was fully funded by the bank itself, by loaning two shell companies, one owned by Al-Thani and the other by a large shareholder of the bank. The latter loan was without any security and was not approved by a loan committee.

The CEO and the Chairman of the Board of Kaupthing were both convicted of fraud and market manipulation for granting this particular loan. The CEO instructed his subordinates to pay out the loan. The Chairman of the Board who was also Chairman of the Loan Committee that should have approved the loan was aware of the loan and said he had approved of it. He was also convicted although he did not give his subordinates instructions to commit the crime.

In the latter case (**H 842/2014**), the CEO of Landsbanki, Iceland's second-largest bank, was convicted along with his subordinates, for manipulating the bank's own stock price for a year before its collapse by systematically purchasing a significant part of the bank's shares on the market. When the stock price went down the accused bought more shares and in this way made sure that the stock price didn't become too low. The employees of the bank then disposed of the shares in various ways, partly by selling them to selected customers without these customers paying anything for the shares.

In this case the CEO played a big part in the disposing of the shares. There was however no evidence that suggested that he had given his subordinates orders to purchase the shares in the market to begin with. He was however regularly informed of the bank's acquisition of its own shares in the market both by receiving daily reports and in weekly meetings and was on that basis also convicted of the buying of the shares.

These judgements have been hailed as landmark cases by some and have been criticized for the grounds on which these executives were convicted. The judgements have raised questions about under what circumstances executives can incur criminal liability for criminal acts committed by their subordinates.

But are these judgments in fact landmark cases when it comes to criminal liability in connection to a position a person holds? In examining this I believe that another question must be addressed: whether the executives in these cases were convicted of omissions – that is – a failure to act. This is relevant when examining on what basis they were convicted and if the judgements deviate from previous Icelandic case law.

In these cases the executives were as mentioned earlier convicted of fraud and market manipulation; crimes that are generally committed by acts.

Most criminal provisions describe an act being committed but they can as a general rule also be committed by an omission.¹ Omissions can however only be equated with crimes that are described as acts in the criminal code on the basis of a so-called assumption of responsibility.²

One example of an assumption of responsibility is a parents' responsibility to care for their child. By not feeding their child for example they can become criminally liable for murder. Another example of an assumption of responsibility is the responsibility of the senior management of companies to supervise the acts of their subordinates. Executives can incur criminal liability for criminal acts committed by their subordinates by failing to do so.³

This kind of assumption of responsibility is nothing new. There are in fact Icelandic judgements dating back to the middle of the last century where executives and board members of companies have been found criminally liable for crimes that have been committed within their companies (**H 1947: 81** and **H 1963: 674**⁴). In these cases there was no proof of the executives and board members actually knowing about the criminal acts. The judgements however refer to the executives' obligation to acquire an oversight of the companies' operations and that they should have been aware of the companies' non-compliance with laws that had been going on for a long period of time. Executives and board members of companies have on the other hand not been found criminally liable be-

¹ This is stated in the bill following the Icelandic criminal code. *Alpt.* 1939, A-deild, p. 354.

² Omissions are divided into direct omissions and indirect omissions. A direct omission is the failure to act when the law imposes an explicit duty to act. Indirect omissions are however not deducted from an explicit legal duty to act but are omissions that can be equated with crimes that are described as acts in the criminal code, on the basis of assumption of responsibility. *Jónatan Þórmundsson, Afbrot og refsíabyrgð I*, p. 83-88.

³ This kind of responsibility is based on the fact that the senior management and board of a company has an obligation to acquire an oversight of the companies operations and whether they are generally in compliance with laws and regulations. *Jónatan Þórmundsson, Afbrot og refsíabyrgð I*, p. 92-93.

⁴ In both of these cases the companies had violated the foreign exchange act for a considerable period of time and in the latter case the company had also imported products illegally for some time.

cause of individual illegal acts committed within their companies in the same way, whereas it had not been proven that the executive had knowledge of the criminal act (**H 1947: 106**⁵).⁶

Looking at these cases the result seems to ultimately depend on whether it has been proven that the executives and board members had knowledge of the criminal offense committed by their subordinates. In the cases where the acts have been committed regularly over a long time the courts have found that they must have, on the basis of their position and oversight, had knowledge of these crimes which were a regular occurrence and part of the companies' operations. When the crime is not committed regularly over a long period of time more is needed to prove the executives knowledge of the crime.

The Supreme Court has not deviated from this in the cases connected to the crash.

With another judgement that was delivered by the Supreme Court in 2015 and commonly referred to as the Imon case (**H 456/2014**) the CEO of Landsbanki was acquitted for a single trade. This case involved the selling of Landsbankinn's shares in a large trade shortly before its collapse, without the buyer paying anything for the shares. This trade was one of the ways the employees of Landsbanki used to dispose of the bank's own shares after buying them on the market and the CEO was convicted of two similar trades with the same judgement. The Supreme Court however found that there was not sufficient evidence of the CEO's approval of the trade and he was acquitted. His subordinate, who executed the trade, was however convicted of the crime.

The same criteria is also met in the cases connected to the crash previously mentioned (**H 145/2014** and **842/2014**). In these cases, it was proven that the executives had been aware of the criminal acts committed by their subordinates.

My conclusion is that these cases connected to the crash do not go further than previous Icelandic judgments in terms of criminal liability of senior management of companies because of their failure to act.

However, the question remains unanswered whether the executives in the cases connected to the crash were actually convicted of omissions – that is – a failure to act.

Firstly it should be noted that the line between acts and omissions is often unclear.⁷ However, when comparing these cases connected to the crash to earlier cases where executives

⁵ In this case the court found that there was not proof that two executives of a company had been aware of goods that had been imported illegally by the company. This had only happened once and was therefore an isolated illegal act.

⁶ *Jónatan Þórmundsson, Afbrot og refsíabyrgð I*, p. 94-95.

and board members of companies were convicted on the basis of omissions certain disparities can be distinguished.

In the cases from the middle of last century the courts findings were solely based on the fact that the criminal acts had been committed regularly over a long time by the subordinates of the executives and that the executives must therefore have, on the basis of their position and oversight, had knowledge of these crimes.

In the cases connected to the crash on the other hand there was proof of the criminal acts being presented before those executives that were convicted and furthermore, that they had given their approval in one way or another even though they did not give their subordinates direct instructions to commit the crime. In the Al-Thani case (**H 145/2014**) the Chairman of the Board did this by saying to the CEO of Kaupthing (who gave his subordinates directions to pay out the loan) that he approved of the granting of the loan. In the case of the manipulation of the stock price of Landsbanki for a year before its collapse (**H 842/2014**), the CEO did this by not commenting when his subordinates reported to him that they were buying the banks own shares and thus approving the practice. It could therefore be said that they both gave a “go-ahead” on the execution of the crimes.

Additionally they both facilitated the execution of the crimes. In the Al-Thani case the Chairman of the Board of Kaupthing who was also the Chairman of the Loan Committee did this by neglecting to get the Loan Committee’s approval of the loan and in the process concealing from the Committee that the fraudulent loan had been granted (**H 145/2014**). In the latter case the executive of Landsbanki did this by disposing of the shares that his subordinates had bought on the market in order to manipulate the bank’s stock price and therefore making it possible for them to continue to buy more of the bank’s shares (**H 842/2014**).

My conclusion is therefore, that the cases connected to the crash were not actual omissions. In spite of this the fact remains that these cases connected to the crash are cases where executives have been convicted of offenses that are normally performed through acts on the basis of fairly passive conduct. In light of this the question might be asked whether these judgements have any relevance for other kinds of criminal offenses, especially crimes committed within criminal organisations. In this context it is interesting to look the findings of the Supreme Court in the only Icelandic case of organised crime.

In this case (**H 521/2012**) a group of people attacked a woman in her home. The defendants were accused of assault and rape, amongst other crimes. They were also accused of committing these crimes as part of the activities of a criminal organisation. The accused were all members of organisations associated with Hells Angels that have been identified as criminal organisations.

⁷ *Jónatan Þórmundsson, Afbrot og refsíabyrgð I, p. 83.*

The prosecution argued that the accused persons who committed the crimes required permission from the president of Hells Angels in Iceland, who was among the accused but did not participate in the execution of the crimes. There was some evidence to support this – the perpetrators went to the president’s home before the attack and while being interrogated by police the victim of the attack claimed that the president had contacted her and told her that members of Hells Angels would attack her – however she was not prepared to testify the same way before the court. One of the attackers had also sent a facebook message to a third party claiming that a so-called “hunting permit” had been issued for the victim.

The Supreme Court, however, found that there was not sufficient evidence to suggest that the president had participated in the crimes whereas it had not been proven that he knew that the attackers intended to commit the crimes beforehand.⁸

In this case the requirement discussed earlier that a person must be aware of a criminal act in order to be found guilty was not met.

However, one wonders what the situation would have been if it had been proven that the leader of the criminal organisation had been aware of the crimes beforehand.

Comparing this judgement to the previous judgements discussed the question arises whether leaders of criminal organisations can be equated with corporate executives in terms of criminal liability. Are leaders of criminal organisations and corporate executives liable in the same way for crimes committed by their subordinates?

First it should be noted that the law differentiates between these two groups. Company laws lay certain responsibilities on corporate executives where it comes to their companies’ operations. The assumption of responsibility of senior management of companies to supervise the acts of their subordinates is closely linked to these legal obligations. There are of course no similar laws in place about heads of criminal organisations and their responsibility when it comes to the operations of their organisation.

However I do not believe that this should be a decisive factor in determining whether the two groups can be equated with each other. Operating within an organisation that is illegal and therefore not regulated should not benefit the person committing a crime, if the position is in fact comparable to that of an executive. However the fact that the organisation is not regulated will mean that there are more elements that the prosecution will have to prove in cases of organised crime to show that the leader’s position can be equated to the position of an executive within a corporation and that the same principals should therefore apply.

⁸ The Supreme Court also found that it had not been proven that the crimes committed had been the activities of a criminal organisation.

To begin with the prosecution will have to prove that a criminal organisation is in fact organised and that a certain individual is in a management position within the organisation in the sense that the individuals carrying out the crime are in fact his subordinates.

The question also arises whether the criminal act will also have to be proven to have been part of the organisation's activities. This was an issue in the Hells Angels case discussed earlier. In that case the crimes were ignited by an argument of a personal nature between the victim and one of the perpetrators. However in that case the prosecution argued that the perpetrators had needed the permission of the head of the organisation to use violence although the argument was a personal one. It seems that countries have a different approach to the criminal liability of superior members of a criminal organisation because of actions by individual group members that are not (expressly) encompassed by the common crime plan. This is something that could be interesting to look further into.

Another element to be proven is the leader's awareness of a criminal act before it is committed. It is probably generally easier to prove that the head of a legal organisation must have been aware of certain acts, whereas the actions and inner workings of legal companies are more out in the open and better documented. It might be harder to prove that the actions of the subordinates of a criminal organisation are carried out with the knowledge of the head of the organisation, as was the case in the Hell's Angel's case.

But what is the real relevance of the case law connected to the crash for cases of organised crime, assuming that the leader of a criminal organisation could be equated to an executive of a legal organisation? Comparing the Hells Angels case to cases connected to the crash I noticed that the charges against the head of Hells Angels and the CEO of Landsbanki in the case discussed earlier were actually described in the same way in the indictments in these cases – they were charged with crimes committed by others at their behest, that is with their knowledge and their will. Comparing these two cases you can see that they were essentially charged for quite similar behavior – for giving a go-ahead on the execution of the crimes without giving direct instructions to commit them. In light of this I believe that the case law connected to the Icelandic bank crisis and the criminal liability of executives in these cases could be relevant for cases of organised crime.

Green Activist Criminology¹

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In this article, I promote the possibility of making 'activist science', and more specifically, activist criminology. My argument is that criminology and activism are, indeed, compatible and that, given the dynamics of current environmental conflicts, activist criminology in environmental issues is of critical importance to the discipline. As such, this article replies to the claims that activism and the production of knowledge must be clearly separated.

Introduction

In the discipline of criminology, Loader and Sparks (2011) consider important debates around whether criminology should be (at least partly) purposely directed to the public, and if so, how to best interact with the public arena. They have proposed four ideal types of criminologists. They describe the 'social movement theorist/activist type', as one who critiques official agendas, raises problems for the government, and places her/his activity 'at the service of those marginalized on the basis of their class, gender, ethnicity, sexuality or age' (Loader & Sparks, 2011, p. 33). In contrast, the 'scientific expert type' is said to be concerned with the production of 'valid, reliable and useful knowledge about such matters as the distribution, causes and costs of crime' but rejects the role played by some criminologists with 'partisan political agendas and too little respect for research evidence' (p. 30). More generally, they warn about the risk that an activist criminology runs of 'suppressing what one knows, or what one says, for the sake of the cause' (p. 141), and remind us that scientific experts 'routinely breach their own firewalls and can be found lobbying politicians in pursuit of their own preferred vision for reducing crime or doing justice' (p. 135).

Green criminology has sometimes made explicit calls for the implementation of an activist criminology. Here, green criminology is understood as the framework that draws on criminological theories, concepts, and perspectives (Potter, 2010) in the study of transgressions against ecosystems, humans and non-human animals (White, 2012), produced in the interaction of human beings with their natural surroundings (Mol, Forthcoming). Green criminology has attempted to highlight instances of environmental degradation and destruction, as well as to examine and analyse the causes thereof and contemplate the responses

¹ This piece is based on the article 'Green Activist Criminology and the Epistemologies of the South' published in *Critical Criminology*, issue 24, volume 4, 2016. The full version is found there.

thereto. The fact that green criminology's roots are in the critical criminology tradition (South, 2014) makes it prone to accusations of 'one-sided research' and an easy target for charges of bias. As Potter has stated, it is 'inferred that green criminologists are on the "side" of nature. This leaves green criminology open to criticism for being overly ideological and overtly political[ly] biased (2013, p. 125).

All the above point to a set of important questions such as: 'what is green criminological activism?' 'Are green criminologists always activists?' 'Is it possible to develop an intellectual activism within green criminology without being biased?' 'Green criminological activism' is defined here as the stance where, through engagement with environmental, ecological or species justice, criminological knowledge and activity is placed at the service of those victimized on the basis of class, species, gender, sex, race, ethnicity or age; it involves a purposeful attempt to try to prevent such victimisation by making an impact in the social, political or cultural realms via research, teaching or service.

The epistemologies of the South and the 'scientific expert vs. activist' debate

Dualities and tensions such as autonomy versus political interference; neutrality versus bias; objectivity versus the imposition of partisan political agendas; reliable methods and valid data versus little respect for evidence and one sided inquiry, mark an abstract line dividing two worlds: on one side, knowledge exists; on the other, it is invisible or worse, non-existent. Such dramatic consequences prompt questions about whether a scholar loses his/her ability to produce valid knowledge if committed to social, environmental, ecological or species justice, and if his/her knowledge is put at the service of those marginalized. But are there other ways of producing high quality knowledge?

Epistemologies of the South, and Southern Theory

The epistemologies of the North or the South do not make reference to geographical locations, but to political orientations. Epistemologies of the North²—for example, anthropocentrism, capitalism, colonialism, patriarchy—make invisible and impose silence. Thinkers raised by and in the North do not necessarily end up adhering to the North project and can be allies of the South, and thus help to create an globally interconnected 'ecology of knowledges' where different kinds of knowledge, including those of the North, are valued and respected. The 'non-occidental west', described by Santos (Santos, 2014, pp. 99-135), is proof of this. The South, then, is a metaphor for the periphery (Carrington, Hogg, & Sozzo, 2015) and can be located anywhere in the world, and resists by sharing a redistrib-

² Hereafter, I use the terms 'North' and 'South' when using the ideas of the epistemologies of the North and the South, and thus when referring to cultural and political orientations. Conversely, I use 'global North' or 'global South' when making reference to Southern Theories, and consequently talking about geographical locations.

utive ethos, struggling for the recognition that different ways of knowing, not only that validated by the North, exist. This metaphorical 'South' encompasses a diversity of beings (human and non-human), a diversity of origins (including some raised in the North), various destinations, and diverging approaches. The knowledge of the Southern is necessary and urgent: it is eclectic and pragmatic, it is not separated from life, and it intends to secure rights and lives.

Autonomy vs. political interferences

Bourdieu (2003) describes academic activity in terms of immersion in a structured field, wherein actors frame the field and, at the same time, the field determines the possibilities of the actors and imposes a *habitus*, whose importance will be explained below. Bourdieu acknowledges the existence of political relations within a field of power struggles for the acquisition of 'scientific credit', but he differentiates these political relations from what happens in the wider political realm. The recognition that the existence of power relations does not immediately eliminate autonomy, however, helps us to erase the line that excludes activist science from valid science. Power relations can exist without deterministically compromising autonomy. This is more so taking into account that the South is not a *unity* but a *diversity*—the origins of the people of the South are as varied as are their destinations, beliefs and hopes. The shared oppression they all suffer from the North is the only reason why it is possible to refer to them as *the South*—as a group (Santos, 2014). Consequently, even within the South there are many diverse interests and needs.

Neutrality vs. bias

The concept of neutrality refers to an idealised approach to a phenomenon that one researches, and it tacitly suggests that one should not have any preconceptions about the object of inquiry. The research process, however, does not escape from the everyday life practice in which we interpret reality and behave within it according to the set of meanings embedded in our minds by culture and the material contexts in which we live (Wallner, 1994). As Katja Franko Aas pointed out 'no social group, nation state, social movement (and we might add discipline) "can subsist without a working knowledge of the definition and qualities of its territory, of its environment, of its "situated identity"' (Aas, 2012, p. 6). In spite of this, the knowledge produced by the North represents itself as 'universal, timeless and placeless'. The ideal of a neutral scientific expert is an epistemological naivety that could furthermore have repercussions in producing de-contextualized knowledge, influencing what is 'valid' knowledge and how can it be gained, or taking arbitrary decisions over what represents a social problem.. Being allied with the marginalized, impoverished and oppressed produces as much bias as being allied with metropolitan knowledge biases. Consequently, the debate should recognize the impossibility of neutrality and avoid presuming the invalidity of knowledge based on where loyalty lies. With

this reasoning, 'neutrality' should disappear as a line that divides valid and invalid knowledge.

Reliable methods and the derived valid data vs. little respect for evidence and one sided inquiry

Using personal experience over 'compelling evidence' has been termed 'anecdotal logical fallacy' (Kahneman, Slovic, & Tversky, 1982). Indeed, Gadd and colleagues (2012: 2) warn that 'unless we clearly articulate what constitutes good methodological practice we could well witness the compromising of the critical distance researchers need to pose big questions, to establish research designs, and to contemplate competing interpretations of research data'. For the production of knowledge to be validated by Western science demands proof that the researcher knows and is capable of applying *recognized and validated* methods. Nevertheless, what is considered to be a reliable method and what counts as evidence entails elements of interpretation, subjectivity and politics. There are many examples of knowledge acquired through non-Western methods, however. One of these is the *chagra*—'a space of socio-ecological production where human and non-human communities intervene, cohabiting and collaborating *and* thus mutually intervening in its material and immaterial becoming' (Vargas Roncancio, 2011, p. 1). The *chagra* has now been recognized as the habitat for medicinal plants, the source of food for 50 million people in America, and a place where biodiversity flourishes (Vargas Roncancio, 2011). This example shows that for knowledge to be valid—as in convincing, legitimate and usable—it does not require 'validated methods'—those endorsed by a subset of researchers within a specific geopolitical (or geo-academic) part of the world. If science is about understanding and interpreting the world, and not about imposing views, a variety of methods³—not only those authorized by Western science—should count as means for generating evidence.

The 'nature' of truth and knowledge

Truth is a concept that in Western epistemology equals valid knowledge and is represented in metropolitan discourses produced mainly in the north as the product of an autonomous and objective analysis of evidence collected through valid methods from a neutral point of view. Interestingly, epistemologies, including Western science, are also social constructions derived from social and material contexts that indicate 'the conditions of what counts as valid knowledge' (Santos, 2009a, p. 9). Within the plural social and material conditions of the world, infinite epistemologies with their own conditions for valid knowledge appear and disappear as a consequence of the apparent univocal ontological

³ The reference to 'a variety of methods' may seem too broad in formulation. Spatial restrictions render it impossible to offer more than an example. The idea of a variety of methods applies not only to the collection of material/experience, but also to the ways of analyzing it and transmitting it. In the case of knowledge transmission, an excellent example is the use of myths and tales to pass along knowledge through verbal means—something that has been seen often as mere superstitions and folklore.

nature of truth. It is impossible to refer to a single truth or a unique set of conditions for valid knowledge, hence, the questions of the teleology of truth and knowledge appear: Why do we seek knowledge? For what purpose(s) do we want (the) knowledge?

The importance of an ‘activist criminology’ attuned to harms and injustices

The epistemologies of the South and Southern theories give further reasons as to why knowledge produced by activists is as valid and reliable as knowledge produced by self-described methods of ‘scientific researchers’. Such knowledge is not only valid but also important in the development of a green criminology that contemplates responses to environmental degradation and destruction. At least three lines of reasoning can be advanced.

a. Deeper and contextualized knowledge of the issues

Putting our knowledge to the service of the marginalized means recognizing that the perceptions marginalized groups have and the demands they make are considered valuable and legitimate. Acknowledging the legitimacy of the knowledge of marginalized groups’ implies recognizing that non-Western-validated methods are sometimes able to produce deeper knowledge than Western methods. This recognition prevents us from losing valuable knowledge that might be discarded for being ‘un-scientific’. As Hall states ‘With scholarly commentary and more activist-inspired critique often overlapping in the green domain, we will see ... how green criminology is ... likely to challenge established notions of *who* collects our data as well as *how* those data are collected’ (Hall, Forthcoming). The practice of advancing academic knowledge by the interaction with the knowledges of the marginalized and impoverished should be permeated by a teleological activist practice in which the end is not science or knowledge in itself but the prevention of harm. ‘In the past as well as in the present there is, therefore, an innate “arrogance” in most criminology, a discipline which needs “informants” not peers, a type of social enquiry that needs to teach others in what contexts they are situated, which the others presumably ignore’ .

b. Coherence with the *raison d’être* of criminology

Disciplines in Western science gained legitimacy for what they could contribute to “real” life (Santos, 2014). The case of criminology is not different: it emerged as a discipline that had the aim of producing knowledge about events that affect the lives of citizens and prevention of undesirable acts (Garland, 2002). Later, it was found that relying solely on what is officially defined as a ‘crime’ neglects many of the most serious situations that deprive people of their potential and thus a perspective based on harm rather than on state-defined “crime” was developed (Hillyard et al., 2004; Hillyard & Tombs, 2013). Green criminology has not only adopted this perspective but has also expanded the category of victimhood to include the ecosystem and non-human animals (Hall, 2011, 2012, 2014; Sollund, 2013). To adopt a harm perspective is to accept that it is impossible to enumerate

exhaustively all the situations that impair the health of humans, non-humans and the ecosystem (Lynch, Long, Barret, & Stretesky, 2013). From this line of reasoning, two important considerations can be deduced: first, an activist stance in which perceptions of victimized individuals are taken as valid knowledge is the only way to coherently implement a harm perspective, where what is considered a problem is not imposed by researchers but dialectically built with the prominent participation of the victims. Second, if criminology is to fulfill the agenda through which it has gained social legitimacy then ideas with a clear end, instead of ideas that can be used as means for any end, are required.

c. Reassert the validity of plural ways of knowing

Global justice is about eliminating abysses where those on the surface have many privileges and those in the abyss are neglected. Abysses are created in many ways, one of which is the hierarchy of knowledge, which places scientific knowledge on the top and the knowledge of others at the bottom. Eliminating the chasm between epistemologies is a step towards justice, and as such global justice depends on global cognitive justice (Santos, 2009b, 2014). Closeness to, and recognition of, the marginalized is a pre-condition of theorizing and achieving justice. Much green harm has followed the imposition of a particular way of knowing and the silencing of other ways. Controlling what is valid knowledge means controlling what is real, what problems deserve attention, what terms to use to debate them, and what ways can be used to solve them (Foucault, 1991, 2001). Brisman (2012, 2013) has put forward the argument that the cultures of silence created through restrictions on access to information reduces the likelihood of a will and possibility of contesting environmental harm.

Conclusions

Using examples from Latin America, this article has argued that the knowledge produced by green activist criminology is not only *valid* but also enormously *valuable*. This debate needs to be taken further; instead of just engaging in debates regarding validity, we must consider how to overcome the difficulties of being an activist criminologist inside universities, which tend to reflect traditional arrangements and understandings regarding what is and is not 'acceptable' knowledge (Christie, Forthcoming ; Santos, 2014).

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Säkerhet för lönsamma kunder: ordning, styrning och bestraffning av försäkringsbedrägerier

Anders Stenström

Inledning

Risk har under de senaste trettio åren växt fram som ett central begrepp och styrningsprincip inom brottsbekämpning och bestraffning av brott (se exempelvis Ericson & Haggerty, 1997; Johnston & Shearing, 2003; Crawford, 2005). Målet är inte längre att lösa brott och bestraffa förövare utan i stället att – i allt större utsträckning – identifiera och förhindra att risker omvandlas till brott (se exempelvis Feeley & Simon, 1992; Simon, 1997). Parallellt med denna utveckling har ansvaret för säkerhet förskjutits från staten till privata aktörer (South, 1988; Jones & Newburn, 1998) och i dessa neoliberala styrningslogiker använder stater i allt större utsträckning civilrättsliga och administrativa åtgärder snarare än straffrätten (Zedner, 2016).

Trots att forskning inom detta fält har ökat förståelsen för neoliberaler former av polisarbete och bestraffning är relationen mellan risk, polisarbete och bestraffning inom privata säkerhetsorganisationer ett område som kräver mer uppmärksamhet. Mer specifikt saknas det studier som utforskar och analyserar hur risk och ansvar sprids inom organisationer samt hur de roller som görs ansvariga för att identifiera och hantera risker också själva hanteras som risker. I detta paper beskrivs hur mål och teknologier associerad med "the new penology" (Feeley & Simon, 1992) inte endast går att applicera på hanteringen av gärningspersoner utan även för att förstå reglering och styrning inom säkerhetsorganisationer (försäkringsbolag). För att öka förståelsen för hur sådana tekniker genomsyrar olika former av riskhantering och därmed den betydelsen som begreppet säkerhet, polisarbete och bestraffning ges genom praktik är det därför av central betydelse att utforska hur privata polisiära roller styrs, disciplineras, kontrolleras, belönas och bestraffas.

Försäkringsbranschen har vid sidan av staten en helt central roll i samhällets skapande av säkerhet. Många människor har ett antal såväl frivilliga (hemförsäkring, bilförsäkring, olycksfallsförsäkring) som obligatoriska försäkringar (socialförsäkringen) och påverkas därmed av försäkringsbolagens agerande. Försäkringsbolag har betydande resurser som bland annat används för att övervaka, styra och bestraffa försäkringstagare (Ericson et al, 2003; Ericson & Doyle, 2003). Hur det går till i praktiken är dock ett utforskat fält. Och trots att forskningen om privata säkerhetsaktörer är ett växande internationellt forskningsområde saknas det studier som behandlar hur privata företag hanterar sina egna säkerhetsavdelningar (Button & Brooks, 2014).

Baserat på 38 kvalitativa intervjuer med representanter från de sju största försäkringsbolagen i Sverige sammanfattar och diskuterar detta paper dessa frågor. En viktig utgångspunkt är att uppmärksamma hur organiseringen av makt (Hörnqvist, 2010) formar hur försäkringsbolag hanterar bedrägerier och därmed den sociala konstruktionen av denna brottstyp. Mer specifik fokuseras den roll som bestraffning spelar i den säkerhet som försäkringsbolag skapar för försäkringstagare. Papret påvisar förekomsten av ett system som genererar ett ömsesidigt ansvarstagande bland försäkringstagare, skadereglerare och försäkringsinspektörer att inte agera på ett sätt som hotar försäkringsbolagens vinst. Olönsamma försäkringstagare klassificeras som "dåliga" eller klandervärda utifrån ett antal uttalade riskkriterier och bestraffas i första hand genom civilrättsliga åtgärder. Försäkringsbolag använder även tekniker för att identifiera "dåliga" och ansvariga anställda. En konsekvens blir att normalitet kopplas samman med vinst samtidigt som avvikelser bland försäkringstagare och anställda synliggörs och hanteras genom mer eller mindre subtila former av bestraffning.

Risk, polisarbete och försäkring

Med utgångspunkten att vi lever i ett risksamhälle har forskare konstaterat hur brottsprevention, försäkringstekniska metoder (aktuariell rättvisa), övervakning och förebyggande arbete har växt fram som centrala strategier för att hantera brott (Ericson & Haggerty, 1997; Johnston & Shearing, 2003; Garland, 2001). Inom detta ramverk har bestraffning framställts som en strategi bland flera andra för att skapa säkerhet (Shearing, 2001). Forskare har även framhållit vikten av att röra sig bort från att likställa bestraffning med fängelse för att i stället utforska andra former av straff (Zedner, 2009, 2016). Straffet fortsätter att vara en viktig symbol för statens makt och som sådan ett uttryck för kollektiva etiska principer (Garland, 1996), men det är inte endast stater som tillfogar människor pinor (Genders, 2002; Johnston & Kilty, 2016). Ansvar och straff har ofta diskuterats i relation till rättvisa som mål för rättsväsendet (Ward & Kupchik, 2009), men frågan hur privata säkerhetsaktörer sprider ansvar för risker och infogar pinor är ett område som kräver mer forskning. Trots att forskare har konstaterat att det idag mer eller mindre en truism att hävda att staten inte är den enda auktoriteten som producerar säkerhet har kopplingen mellan privata säkerhetsaktörers reglering av brott och vinst fått mindre uppmärksamhet (se Rigakos, 2002).

Försäkringsbolagens centrala position i samhället har inte speglats av ett forskningsmässigt intresse (Baker & Simon, 2002). Det är en brist då försäkringsbolag styr och skapar kunskap om stora segment av populationen (Ericson et al, 2003), fungerar som en grindvakt för andra institutioner (Heimer, 2002), sprider risker (Baker, 2002) och har delegerad makt från staten (Baker & Simon, 2002). Försäkringar genomsyrar med andra ord den privata sfären på ett påtagligt sätt (O'Malley, 1991). Med utgångspunkt i en Foucauldiansk förståelse av begreppet disciplin kan försäkringar även ses som ett system för att ingjuta nor-

mer, påverka beteenden och övervaka efterlevnaden av regler (Simon, 1988). Men det är viktigt att notera att denna disciplinära funktion inte endast gäller i förhållande till försäkringstagare utan även för olika roller inom försäkringsorganisationer (Baker, 2002; Ericson & Doyle, 2003).

Teoretiskt sett ska försäkringsbolag – precis som alla andra slags organisationer – ses som ett försök att skapa ordning i en kaotisk omvärld (jfr. Weber, 1978). Denna ordning upprätthålls genom skapandet och övervakningen av organisatoriska gränser, och försäkringsbolag använder en rad olika tekniker för att överblicka och kontrollera det flöde av människor, resurser och information som korsar dess gränser. En helt central cirkulationspunkt för försäkringsbolagen är skaderegleringen, dvs. den process där bolagen tar emot och fattar beslut om att ersätta en skada eller inte. Som framgår nedan är det en punkt som kontrolleras genom såväl direkt som indirekt övervakning (Foucault, 1977; Perrow, 1986). Till exempel integreras kontrollen (jfr. Rose, 2000) i aktiviteter, i datorprogram och i arbetssytans utformning.

Metod

Detta paper bygger på 38 intervjuer med representanter från svenska försäkringsbolag. Intervjuerna genomfördes under perioden 2014–2015 och varade i fyrtiofem minuter till två timmar. Alla intervjuer utom fem spelades in och transkriberades. Intervjudeltagare (skadereglerare, försäkringsinspektörer, representanter från marknadsavdelningar, chefer) rekryterades genom ett snöbollsurval där en deltagare rekommenderade en annan. Intervjuerna kretsade kring ett antal teman, men deltagarna uppmuntrades även att lyfta fram ämnen som de själva ansåg vara av betydelse för att öka förståelsen för deras arbete med att identifiera och hantera bedrägerier. Följande teman diskuterades: arbetsmetoder, kommunikation, kunskapsarbete och uppföljning. Analysen skedde i tre steg. Först lästes alla transkriberingar igenom och kodades rad för rad. I nästa steg sorterades koderna in under bredare teman, vilka sedan användes i den tredje analysfasen då artikeln som detta paper bygger på skrevs.

Resultat och slutsatser

Analysen visar hur kontroll och bestraffning ingjuter ett gemensamt ansvarstagande för vinst hos både försäkringstagare och anställda. Studien visar även hur straff används för att hantera avvikelser från denna norm. Det framstår som särskilt tydligt att försäkringsinspektörer (försäkringsbolagens egen polisiära utredningsresurs) kontrolleras genom att vara beroende av information från skadereglerare, vars arbete i sin tur övervakas och kontrolleras omsorgsfullt av ledningen. Studien visar även hur säkerhet skapas genom att försäkringstagare bedöms utifrån kriterier som inte är en del av försäkringsvillkoren (exempelvis deras skadehistorik, antal skador och skadornas värde). Sådana informella kriterier

används i kombination med övervakning och civilrätten för att skapa kunskap om försäkringspopulationen.

Dessa slutsatser kastar nytt ljus över hur populationer och privatägda polisiära resurser styrs för att skapa säkerhet, och resultaten har även implikationer för vår förståelse av hur straff används. I en riskbaserad kontext används punitiva tekniker för att kontrollera beteenden inom båda dessa kategorier (försäkringstagare/anställda). Det inkluderar inte endast panoptisk övervakning (Rigakos, 2002) utan även användningen av indirekt kontroll (Perrow, 1986) där kontrollen designas in i arbetsprocesser (Rose, 2000). Att kompensera skador innebär inte bara en kontroll av de summor som betalas ut utan även en kontroll av skadereglerares arbete vilket i sig skapar kunskap om och synliggör oönskade beteenden som kan bestraffas. Med andra ord är det viktigt att inte enbart likställa straff med straffrätt och fängelse utan även fokusera hur civilrätt och hanteringen av avvikande anställda även medför pinor (jfr. Zedner, 2009) och bidrar till att skapa kunskap om bedrägerier.

För försäkringstagare innebär de praktiker som uppmärksammas i denna text att bilden av den säkerhet som företag säljer skiljer sig från hur den produceras i praktiken. Försäkringstagare köper säkerhet från ekonomisk förlust samtidigt som bolagen hanterar kunder som risker (och då inte främst i bemärkelsen att de byter bolag utan i stället med fokus på deras beteenden). Säkerhet ges med andra ord olika betydelser. Givetvis handlar det om att kompensera ekonomiska förluster, men säkerhet blir även en frihet från övervakning och kontroll bland de "bra" segmenten av populationen (dvs. för lönsamma kunder) vilka "skyddas" genom att "dåliga" kunder kontrolleras och bestraffas. Fokus på skadehistorik medför även att kunder i behov av "för mycket" säkerhet exkluderas och bestraffas av försäkringsbolagen.

Genom att säkerhet likställs med vinst visar studien att försäkringsbedrägerier inte fullt ut kan förklaras utan att ta hänsyn till relationer inom försäkringsbolagen. Detta handlar inte enbart om att bolag placerar försäkringstagare i riskpooler (King, 2013; Ericson, 2003); det handlar även om att fokusera på hur makt organiseras för att förklara selektionen och klassificeringen av "bedrägeri" och "bedragare" vilket är omständigheter som inte synliggörs i kvantifieringar av försäkringsbedrägeriers omfattning. Studien bidrar även till en pågående debatt om relationen mellan privata och offentliga säkerhetsaktörer (se Johnston & Shearing, 2003; Loader & Walker, 2007) då försäkringsbolagen främst använder civilrättsliga metoder och undviker att polisanmäla misstänkta brott eftersom det är ett mer ekonomiskt sätt att utöva makt och bestraffa försäkringstagare. Det medför dock att de skydd som den misstänkte omgärdas av i den straffrättsliga processen undanröjs (exempelvis bevisbörda och beviskrav).

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WORKSHOP F

SEXUAL OFFENCES

Cause-Effect-Responsibility? The parties of sexual crime as responsible actors discussed in the opinion column of a Finnish newspaper.

Johanna Kronstedt-Rousi

The presentation and this paper are based on the following article:

Kronstedt-Rousi, J. & Kotanen, R. (2015). Syy-seuraus-vastuu? Seksuaalisrikosten osapuollet vastuullisina toimijoina Helsingin Sanomien mielipidekirjoituksissa. *Psykologia* 50(6), 418-432.

Introduction

Understandings concerning the limits of sexual self-regulation and sexual crime are formed both by the cultural and historical context and tightly bound to their own time in history, societal atmosphere and values (Niemi-Kiesiläinen, 2000). The historical past of the definitions are easily detectable in the legislation of sexual crimes as well as in peoples' attitudes. Although today, the object of protection is the victim and his or her sexual self-regulation, the relation between the offender and the victim still affects the reaction to sexual violence. If the offender and the victim know each other from earlier, it does have an impact on if the sexual assault is identified as a crime and the severity of the punishment of it (e.g. Niemi-Kiesiläinen, 2000). The ideal type of a victim is a young, sexually inexperienced, drug free girl, who lives a socially honourable life (e.g. Ehrlich, 2001), and her credibility is enhanced if she does not know the offender and has visible physical injuries that are a result of the struggle when defending herself during the sexual assault (Jokila, 2008).

The understandings concerning the credible victim and the so called 'rape myths' are still keeping alive the historically problematical habit of concentrating on the victim's characteristics and behaviour instead of focusing on the offender. Rape myths are widely spread beliefs that serve to keep women responsible for men's sexual behaviour, leading to the notion that women should control men's sexual behaviour by controlling their own behaviour. Rape myths are perceived to justify men's sexual aggression towards women as well as reduce blame (Sleath & Woodhams, 2014). For instance, the impression that women can not be raped against their will is still influencing the way a victim's credibility is measured by searching for physical injuries that would be a result of struggle during the rape, or

inversely, how much violence the offender has used during the rape (Jokila, 2008; Ward, 1995).

Questions concerning the relation between responsibility, blame and sexual crime has been studied by using for example attribution theory (e.g. Ward, 1995; Workman & Freeburg, 1999). Mostly attribution theory has been used to analyse the relation between the victim's behaviour and her responsibility (Anderson, Beattle & Spencer, 2001; van der Bruggen & Grubb, 2014). For example, the victim's interpreted 'provocative' behaviour, earlier sexual relations, intoxication level and emotional state after the sexual assault has been found to influence people's perception of the offenders guilt and the victim's participation in the crime. In the notably fewer cases where the focus has been on the offender, the research questions have mostly examined the amount of force the offender used during the assault as well as how premeditated the act was (Ward, 1995).

In the study presented at the seminar, we examine the construction of responsibility in opinion writings published during the 21st century in the Finnish newspaper with largest circulation. Our aim is to pay attention to who is held responsible and what causes and explanations are connected to the responsibility discussed in the opinion writings. The research material, which consists of 73 (N) writings, have been published in the newspaper Helsingin Sanomat during the 21st century. Attribution theory is used both as a theoretical frame and partly as a methodological tool. We are expanding the analytical perspective to not only include micro-level actors (offender and victim) but to also include macro-level actors such as the society and institutions and their role in our material.

Theoretical background

Attribution theory concentrates on analysing people's common sense explanations to different acts and behaviour (Hewstone, 1983). According to Heider (1958), people have an internal need to understand the reasons behind their own and others' behaviour as well as everyday acts. In everyday thinking, explanations to acts and behaviour are found either in the actor and his/her characteristics and personality, or in the situation, which is influenced by the surrounding environment (Heider, 1958). The former explanation strategy is called dispositional (personal) attribution, and the latter situational attribution (Hewstone, 1983). Attributions are especially used when acts and behaviours deviate from the normal. When something exceptional - such as a crime - occurs, the act is first defined and thereafter, in accordance to social norms, an explanation for the act is negotiated. This negotiated explanation then works as the base upon which necessary consequences, such as punishments and other sanctions, are built (Lloyd-Bollock, 1983).

According to Shaver (1985), the understandings linked to causality include an implicit supposition that the cause or reason is time wise situated prior to the act being explained.

To hold an actor responsible for an act, a cause-effect relation between the actor and act is required, furthermore the effect needs to be at least partly due to the behaviour of the actor, and finally the actor must have done the deed voluntarily (Shaver, 1985). According to Weiner (1995), the amount of responsibility one can be held to depends on if the act was intended or a result of neglect (omission). For one to be able to hold an actor fully responsible for an act, there cannot be any mitigating circumstances or factors. Mitigating circumstances are in a particularly important position during trials, where the assessed amount of responsibility is in direct connection to the severity of the punishment (Weiner, 1995).

Research concerning society's responsibility in relation to sexual crime has been largely neglected, but not unheard of. For example Howard (1984) has to some extent moved beyond the individual level and taken society's role into consideration by reflecting over how stereotypes, presumptions and beliefs - such as rape myths and understandings concerning gender roles - affect how people act and how actions are being evaluated. Many studies do however include prevailing assumptions of the indirect effect the society has on the actors in question. Beyond examining the responsibility distributed to the offender and the victim, this study includes the areas of responsibilities distributed to the society in the opinion writings. The research questions this study aims to answer are: 1) how understandings concerning responsibility is constructed in the writings where causes and explanations to sexual crime are produced, 2) who is held responsible and 3) how the understandings concerning responsibility are changing in relation to who is held responsible for the sexual crime.

Material and method

The research material consists of 73 (N) opinion writings that have been published in the largest Finnish newspaper, Helsingin Sanomat. The data has been collected from the newspaper's digital archive using keywords such as *rape, *sexual crime, and *victim. Writings concerning prostitution, pimping and trafficking as well as writings concerning rape and sexual crime in other countries than Finland were excluded. The material has been collected from three different time periods: 2002-2003 (27 pieces), 2007-2008 (31 pieces) and 2012-2013 (15 pieces). Most of the writings (46 pieces) were written by a woman. Experts in the field, such as therapists, psychiatrists, psychologists, legal scholars and researchers, were actively participating in the discussion. The greatest limitation of the research material is its selectivity. The material has been selected both when collecting the data and by the newspaper editors according to their criteria, and therefore the material can not be seen to represent any specific social group. The material can however be interpreted as an example that, in spite of its limitations, offers insight on how Finnish people explain sexual crime as a phenomenon, what causes it and what are the consequences.

The research material consists of qualitative texts, and the research method can be described as a theory-driven qualitative content analysis. (e.g. Patton, 2002). While doing the analysis, we concentrated systematically on finding interpretations of responsibility and the distribution of responsibility as well as concentrating on how the interpretation and distribution affect the explanations presented. After selecting which writings would form the research material, the material was coded using ATLAS.ti. Oriented by the perspectives provided by attribution theory, our attention was driven to different ways and practices that the writers produced meaning and views on who should be responsible for both the sexual crime itself and the consequences they bring. We focused among other things on examining the production of cause-effect relations and the contradictions involved when discussing the question of who was and could be held responsible. Furthermore, we examined the usage of dispositional and situational attributions as either complete or partial explanations for the sexual crime and how these different forms of explanations affected the formation of responsibility.

Results

In the analysis, we examined the attribution of responsibility and the explanation strategies related to the negotiation. The opinion writings that unequivocally spoke for the victim's innocence and the offender's guilt were put in a marginal position in the examination. It is also worth noting that the discussion in the material is dominated by the supposition that the offender is a stranger to the victim, although writings concerning sexual assault in relationships were not excluded from the material.

The offender's responsibility

The discussion concerning the offender's responsibilities in sexual crime is fairly one dimensional and scarce, especially in the opinion pieces where the victim is an adult woman. The discussion concerning what the offender is held responsible for mainly relates to the time when the crime occurs. The majority of the opinion writers holds the offender responsible for performing the crime. However, only two writings associates the responsibility of the offender with the preceding decision to commit the crime, and next extract is from one of these writings:

"The rapers have chosen to rape knowing, that [the crime] has consequences. The consequences does however seem to be of fleeing nature, at least in Eastern Finland. By forcing someone to a sexual act, the rapist deprives the victim from self-autonomy in the cruelest way. [...] My little sister's rapist was never caught. Her rapist can still enjoy life, a joy he stole from my sister. The victims whose rapists have been caught should be entitled to justice [...] the verdict should be at least reasonable taken into account the amount of the vic-

tim's suffering. Still, the rapists will never feel the pain and life-shattering that the victim experiences and feels for the rest of her life. (name missing, HS 11.11.2003)

A third of the opinion writings in the material deals with sexual abuse of minors and incest. Understandings concerning the responsibility of the offender guilty of sexual crime changes considerably when the victim is a child or a young person. Because of the innocence and vulnerability of the child, the consequences are interpreted as clearly more damaging than when the victim is an adult. Through a child's inability to defend her- or himself, a clear difference between to the adult victims vulnerability is constructed. The results are well in line with the Norwegian criminologist's, Nils Christie's (1986), much used concept of the 'ideal victim'. Ideal victims are victims who's legitimisation to be granted the status of a victim by the society or the justice system is rarely questioned, such as the elderly and children.

In many opinion writings, the offender of sexual crime against children is defined as a sick person, whose illness appears in the form of deviant sexuality. Although the illness appears to be the reason for the crime, especially in the case of sexual assault against children, it is not perceived as a mitigating circumstance for responsibility. When the victim is a child, the offender's responsibility stays intact, even though the offender's acts are perceived to be, at least to some extent, beyond the offender's possibility to control (due to the illness) and therefore not completely voluntary (cf. Weiner, 1995). Especially in health care experts' writings, the rehabilitation of sexual offenders and importance of treatment is highlighted. The responsibility for treating the illness is in the data addressed to society, leading to a shift of part of the responsibility from the offender to society.

The victim's responsibility

The discussion concerning the responsibility of an adult, female victim of sexual crime is abundant. Where children fall nicely into the category of ideal victims and the lack of agency is attributed to the level of development as well as need for support and help stemming from the child's vulnerability, the adult female victim of sexual crime is in the opinion column discussion expected to show very active and strong agency. The writing that the next extract is from had the explicit objective to offer potential victims instructions on how to avoid getting raped. The writing defined women to be potential victims of sexual crime, especially because of the female sex and the characteristics attached to female gender.

"The victim's actions are of paramount importance for preventing crime (...) Nobody yelps when the police instructs people to take their wallets out of the back pocket of their pants in case of thieves, or recommend you to lock your bicycles. But heaven preserve if you tell a woman that it is not safe to pass out in a park or advice against going home with a group of

strange men you just met drunk in the street, then you are told that you are guilt-tripping women. We need to stop being so hysterically sensitive about blaming. It is perfectly healthy to feel guilty if you have not taken care of yourself and your safety. Where I come from, that is also called taking responsibility. Of course, you are only responsible of what state you put yourself in. If someone rapes or takes sexual advantage of a drunken woman, that person is of course responsible for the crime he has committed. When talking about preventing measures against sexual crime, you can not forget the victim's intoxication level, as it is the most prominent common denominator. Sexual crime is one of the reasons why a woman can not drink [alcohol] as a man. (W, Detective senior sergeant, HS, 26.5.2002)

A central point of the writing is the potential victim's preparation in case of the occurrence of a sexual crime. The responsibility for becoming a victim is attached to a larger goal of the Finnish crime policy, which takes form as a kind of civil obligation. Failure to perform this obligation is, according to the writer, a valid reason to feel guilty. The detective senior sergeant's writings and other statements in the material that use the same logic are analog with the routine activity theory developed in the end of the 1970's (Cohen & Felson, 1979). The theory is based on the idea of crime as an everyday, normal activity that occurs in different, daily situations. Criminality is not so much perceived as bad or abnormal, but rather as opportunities produced by everyday actions. According to Cohen and Felson (1979), for a crime to occur, an offender who is motivated to perform a crime, as well as a potential victim that has not done the required measures to protect him/herself from the crime, are required. Routine activity theory provides the offender with both dispositional and situational attributions for committing a crime, but solutions to prevent crime only to the latter. Therefore in theory, the modes of prevention are reduced to actions occurring on a microlevel, where the potential victims of crime are in a key role.

Victims of sexual crimes are indeed in the material held responsible for actions related to being prepared for the crime. Potential victims (women) are being offered very concrete advice in the form of the alteration of behaviour to prevent being raped. These advice include avoiding certain (unsafe) areas in certain (male) company at a certain time of the day (night), as well as conservative and unsexy dressing. Women are also advised to take self-defence lessons and in advance practise how to act in case of ending up in a potential crime situation. The victim is in many comments held responsible for her level of intoxication, and therefore implicitly also for falling victim for sexual crime. As the connection between the level of intoxication and becoming a victim is often highlighted in the writings, it is specifically the combination of drunkenness and sex/gender that presents special risk for becoming a victim. The previous extract from the detective senior sergeant's writing is a good example of this tendency.

The areas of responsibility addressed to adult victims of sexual crime are not restricted in the writings to involving things done or left undone prior to the crime. Many writers pro-

vide detailed advice on how the victim of rape should react and act during the attempt of rape. For example, in the writings the victims are encouraged to resist the offender and resort to different means of self-defence, such as running away, screaming and fighting off the offender. After the crime, the victim is in the writings also expected to actively get help for her recovery and report the crime. Urging the victims to report the crime is understandable as the action of the victim - informing the police, providing information and witnessing - construct a very central part of the justice system's functions (Carrabine, Lee, South, Cox & Plummer, 2008, p. 157-158). The victim's feelings of guilt and shame, a close relationship with the offender as well as fear for inappropriate treatment during the crime process are reasons that make it harder for the victim to report the crime (Kainulainen, 2006).

The society's responsibility

The discussion concerning societal responsibility is in the material wide and characterised by a lack of precision. For example the society's responsibility to protect is expressed in a passive form, failing to target any specific actor. In these cases, responsibility is addressed by writing that 'women need to be protected' or 'the city needs to be kept safe'. The discussion concerning the preventative responsibility addressed to society includes the same logic as found in the earlier presented routine activity theory: a crime will not occur, unless an opportunity for it is presented, for example a suitable place or space. For adult victims, the responsibility for protection is mainly addressed to the victim herself, but in addition protection is also partly seen to be society's responsibility. The protection of children is primarily seen to be the child's parents' responsibility, but also other adults and educators (e.g. teachers and neighbours) are accountable for the child's wellbeing. The broader societal responsibility for children is attributed to the school. If a child should become a victim of sexual violence, parents and other adults are obligated to get help for the child and report the crime.

The societal responsibility to offer victims of sexual crime help is expressed in the same manner as preventive protection; indefinitely and using passive form. In most cases society or its different institutions are not explicitly mentioned in the writings, but the obligation is addressed for example by statements as 'the victim should be offered help' or 'the victim needs to be helped'. In any case, help in the form of discussing what has happened with a professional is in the writings interpreted as a responsibility society can not escape. If society has failed to prevent the crime and protect the victim, helping the victim cope after the crime is the least society can do.

Based on the amount of comments concerning punishments and punishing the offender, it can be concluded that the conviction of just punishments is one of the most significant responsibilities of the society in relation to sexual crime. In many of the writings, the relation

between the justice system and the commonly shared 'senses of justice' of lay people forms a problematical issue. In our analysis, a just punishment is in the material important for three reasons: 1) the action of the judicial system is presumed to mirror the citizens' morals and sense of justice, 2) too lenient punishments are considered to send the message that the crime is not taken seriously, and 3) mild punishments are considered to give the interpretation that the victim is held partly to blame for the crime, which leads to shifting part of the responsibility to the victim. The problem that takes shape in the writings concerns the issue that although there is considered to be - at least implicitly - a direct relation between the judicial system and the citizens' general of justice, the writers experience the relation to be distorted or inadequate concerning the courts' distributed punishments. The next extract illustrates the ambivalent relation described above:

"The courts' duty is to through their rulings show what the society - in other words we all or at least the majority - interpret to be wrong and act according to that. It is a meager consolation that the punishments are in line between themselves. Evidently the general line concerning sexual crimes is wrong. Especially when we know that these offenders are very probable to renew their crimes. Punishments that are considered too lenient are eroding our society's morality and will in worst case lead to people taking justice into their own hands. The judicial system can not differentiate itself too much from the ordinary citizen's sense of justice, or else it will lose its credibility entirely." (W, HS, 1.2.2008)

In the writings, the writers express their fear that lenient punishments will increase rapes. This indirectly places the actions of the judicial system to be a partial explanation for why rape happens. This societal failure to carry its responsibilities is illustrated in the material by expressions such as 'permissive culture' and 'the failure of democracy'. According to the writers, a just punishment would need to be proportioned to the severity of the act. Other disadvantages of lenient and short sentences are that they make it more difficult for the offender to take part of voluntary rehabilitation, that is usually offered in connection with serving time in prison. This is important, as rehabilitation was one of the responsibilities that in the writings was addressed to society. Therapy and rehabilitation was in addition to being interpreted as a part of the punishment also seen as a preventive measure for sexual crime as well as a form of protection of potential victims.

The writings brought up cultural background factors that were presumed to be related to sexual crime. For example, the maintenance of traditional (stereotypical) gender roles and lack of gender equality, as well as societal permissiveness and the tendency to be overtly cautious to place blame for inappropriate behaviour were mentioned in a number of opinion pieces as societal structures and collective understandings allowing sexual crime. Cultural background factors were interpreted to affect different institutions' and actors' attitudes, that surface through the relevant procedures for the victims and offenders of sexual crime. The attitudes of societal institutions and actors working under them - especially

courts and the police - are seen to have an impact on factors that increase sexual crimes (e.g. lenient punishments) and how victims are treated (e.g. blaming the victim for the crime). Cultural factors are in other words through institutions' actions interpreted to mitigate the responsibility society addresses to the offender and at the same time, at least to some extent, increase the responsibility of the victim and society for the crime.

Causal explanations and the chronology of responsibility

Through our analysis, we found three chronological stages of sexual crime taking shape; prior to, during and after the crime. Each stage includes an own logic for the distribution of responsibility. At each chronological stage, the target or targets attributed responsibility differ, as well as the intensity and force with which the responsibility is demanded from the different actors. Explanations for the act are built based on combinations of the different stages. Accountability and responsibility are in the writings related to 1) what the actor (or party interpreted as the actor) has done, 2) what the actor should leave undone or 3) What the actor should do. We have combined the previously mentioned elements in Figure 1. The parts written in italics in Figure 1 present the responsibilities that were most intensely stressed in the material.

TIME PERIOD / ACTOR	Prior to crime	During the crime	After the crime
Offender	Decision to commit the crime	<i>Committing the crime</i>	-
Victim	<i>Taking care of oneself:</i> - Avoiding getting drunk - avoiding unsafe areas and unsafe company - learning self-defence	<i>Resisting the offender</i> Fleeing the scene Calling for help	<i>Reporting the crime</i> Getting help
Society	Crime prevention: - keeping citizens safe - Rehabilitating sex offenders	-	<i>Punishing the offender</i> Rehabilitating sex offenders Helping the victim

Figure 1: The responsibilities attributed to the offender, the victim and society in a chronological order.

Explanations and reasons for the crime were mostly sought for from the time preceding the act. At this chronological stage reasons for the crime are mostly sought in the victim's behaviour, that is demonstrated to be in some manner wrongful. Secondarily, explanations are sought from the society's failure of its responsibility to prevent criminality. Explanations for the crime is not sought in the action of the offender or the possible motives

for committing the crime, unless the explanation is seen to stem from illness such as pedophilia. The time when the crime actually occurs is often quickly (and shortly) bypassed in the writings. If explanations are sought from this stage, the focus lies on the victim's actions or lack of active action. Due to the opinion writings causal style to explain and present sexual crime, the victim's actions appear in the analysis to be the behaviour that sets the event in action, especially since the offender's motivation for the act as well as action and decision before the rape is not discussed. It is significant to stress that almost all writings discussing the victim's responsibility set out to defend the victim. However, only few writings succeeded in not placing any responsibility on the (potential) victim (woman). This may be due to the restrictions of the discourse used when discussing sexual crime.

The offender's passive role is problematical from the perspective of attributing responsibility. As the examination of the offender's action is left in a marginal role, and the explanation for the act at large starts from the examination of the victim's behaviour prior to the crime, this approach inevitably moves the responsibility from the offender to the victim. This also occurs in the cases where the writer actively tries to avoid placing blame on the victim and even explicitly denies doing that. The assumption concerning who is presumed to have the opportunity for active behaviour becomes essential in the light of the attribution of responsibility. It also seems to be attached to the generation of explanation models and the status of a certain ideal victim (Christie, 1986). This becomes evident for example in cases of child sexual crime concerning children, as the material did not contain any causal explanations stemming from the (child) victim. In these cases, the explanation originated from the offender's pathology or illness, leaving the cause-effect relation between child and victimhood unformed.

CONCLUSIONS

The main results of the research are that because of the reasons brought forth for sexual crime, the predominant part of responsibility for the crime is attributed to the victim. The construction of responsibility is in the material based on 1) active agency as produced in the writings, 2) the chronological manner in which sexual crime is divided and 3) the causality attached to the chronological manner, which has its emphasis on the victim's behaviour prior to the crime. The passive role of the offender highlights the demands of the victim's activity. By including society's responsibilities for sexual crime to the study, the discussion is presented with a new element that also enriches the picture of the victim's and the offender's responsibilities. This occurs for example in the material when the society is attributed with responsibilities such as protecting the victim and preventing sexual crime.

While examining sexual crime through attribution theory, the (partial) explanations that emerge as dispositional and situational attributions both work as mitigating and aggravating factors. In the material, the offender's actions are, through the victim's and the socie-

ty's actions or failures explained with situational attributions, while solely dispositional attributions are attached to the victim and the victim's actions. This becomes apparent for example in writings where sexual crime is explained with reference to permanent characteristics of the victim (such as the victim's sex), which are presumed to have influenced her behaviour or decisions. At the same time, the reasons explaining why a person becomes the victim of sexual crime are used to explain why the offender committed the crime (situational attribution), leading to responsibility being addressed to the victim and society instead of to the offender. Children form the exception in this case as well. The dispositional attributions attached to children - such as innocence and vulnerability - become aggravating circumstances for the offender's blame. The dispositional attributions that are used to explain the victim's behaviour, can be held as examples for cultural background factors impacting the perceptions of sex, gender roles, and gender status/position (cf. Howards, 1984).

Prior to the crime, responsibilities concerning crime prevention are considerably more strongly addressed to the victim, while society's preventative measures are more saliently connected with punishments for the crime and the consequences these sanctions have. The failure of adequate punishment was seen to increase sexual crime. In the data, the society's most important responsibility concerned punishing the offender justly. The society was perceived to have failed most drastically in this task. The perceptions of society's responsibilities and related measures do not seem to relate to the more conventional understandings, such as rape myths. The perceptions rather seem to quite strongly represent ideas concerning how the individual's rights are achieved and especially the weaker party's protection, which gained foothold in Finland as late as in the 1990's (Kotanen, 2013). In this discussion, the Finnish service and legal system have among others been criticised for relying implicitly on expecting active agency from the victim. Especially from the perspective of victims of violence, the services are organised in a manner that require the victims to show strong agency (Kotanen, 2013; Ronkainen, 2008).

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WORKSHOP G

NEW CHALLENGES RELATED TO EXTREMISM AND COUNTER TERRORISM

Preventing radicalization in prisons

Aarne Kinnunen

Violent extremism and its prevention has been a topic of vivid discussion past couple of years in Finland and in other western countries. However, despite of the public outburst, violent extremism has not been a major problem in Finland. In fact, there hasn't been a terrorist attack in Finland since the WW II. According to the estimations of the Finnish authorities (Väkivaltaisen... 2015) a risk of an attack in Finland is low. Most likely the ones who could use terrorist violence leading to death are individual actors. Although the concept of radicalization includes both religious and political (both left and right) aspects, the biggest threat is composed by the violent jihadists. The increase in the amount of asylum seekers composes a new type of threat. Furthermore, hate speech in the social media increases confrontations between different groups in the population and feelings of insecurity in the society. In this presentation I will discuss the problem of radicalization in prisons and elaborate what kind of preventive measures has been taken to tackle this phenomenon in Finland.

As said, despite of good situation in safety and security in Finland prevention of terrorism has been seen to be pivotal. Financing allocated for prevention of terrorism has increased and terrorism related issues have been in the center of political discussion and on top of national research agenda. All the European countries and several international organizations pay attention to the phenomena. United Nations, European Union, Council of Europe, and Nordic States, among others, have all agreed upon co-operation in this matter.

New legislation has come into force (1.1.2015) in Finland against preparation and financing of terrorism. However, general understanding is that in the phenomena like violent extremism the general prevention effect of the criminal law doesn't have a major impact. In fact, in extreme cases of suicide bombings even a death of the perpetrator doesn't prevent him/her to commit the act. Furthermore, a prison sentence might accelerate the radicalization process. Therefore, other measures must be taken in use. Lately a special emphasis has been on measures, which have focus more in prevention rather than in repression. The first Action Plan against Violent Extremism (Tavoitteena...2012) was approved by the Government in 2012. Thereafter a Group of Ministers for Inner Safety accepted an Action Plan for Preventing Violent Radicalization and Extremism in 29.4.2016 (Kansal-

linen...2016). In the latter program all together 36 actions were proposed, including proposals concerning prevention of radicalization and extremism in prisons.

Also many international organizations have paid special attention how to prevent violent extremism in prison settings. For example, Council of Europe issued Guidelines for prison and probation services regarding radicalization and violent extremism in 2015. Furthermore, European Union has set up a Radicalization Awareness Network (RAN) and within that framework a Prison and Probation Working Group (RAN P&P). RAN P&P has published programs and guidelines for preventing extremism in prisons. However, there seems to be lack of scientific research to support actions that has been proposed in the documents. In general, there seem to be absence of outcome studies to identify which interventions – such as disengagement or deradicalisation interventions - are most effective at preventing extremist offending. There is also a lack of evidence regarding which types of intervention may be most effective and appropriate with whom, when and under what circumstances.

General understanding is that prisons have an important role in the process of radicalization. Concern has been expressed over the fact that prisons may be used as a breeding ground for radicalized violent extremists. Prisons can function both as catalyzators in the radicalization process and in other hand prisons offer a good platform for offering prevention measures. In a study of Weggemans and de Graaf (2015) it was shown that some former detainees became more involved in radical networks during and after their stay in prison in the Netherlands. Furthermore, their arrest and detention increased feelings of societal distrust and resentment. After their release the status of some former detainees increased among comrades. In addition, they often received only limited guidance during their reintegration.

A prison sentence can be a turning point in one's life, both in good and bad. Prisoners have often feelings of bitterness and they can strongly perceive society as unequal and even hostile. The lack of trust towards political institutions and society in general is evident. Prison is perceived as a harsh environment where the individual has a pressing need to form part of a group which offers him affective support and physical protection. Prisoners are often in vulnerable position and therefore prone to propaganda and recruiting processes. The affinity towards persons of the same nationality and culture, and the consequent formation of closed ethnic-religious groups can be used, as it has been, as an advantageous factor for recruitment. (Trujillo et al. 2009.)

Even today, most criminal justice systems recognize that individuals charged with or convicted of terrorism related offences are different from "ordinary criminals". This – governments argue – reflects the particularly serious nature of their crimes, which are directed against the state and society as a whole. In the prison context, most difficulties in dealing with terrorists are caused precisely by the fact that these offenders do not see themselves as criminals. Many regard their time in prison as an opportunity to continue the "strug-

gle”, and involve themselves in activities ranging from passive resistance to turning prison into a “battleground” from which to support the wider campaign. (Prisons...2010.)

One important aspect in that must be taken into account is religious equality. If religious discrimination exists in prisons the radicalization process can escalate. Faith, radicalisation and extremism are different things. Many prisoners enter prison with a faith and others find one while in prison. Few of these prisoners will be “radicalized” or become involved in extremism or terrorist activity, although (obviously) those that do present huge challenges to the authorities.

There is a need for coherent policy for preventing radicalization in prisons. Most important is detecting the radicalizations processes that take place. Not only prisoners who have been convicted of terrorist crimes should be in the focus of preventive actions, but also inmates with a background of e.g. violent, property or narcotic offences.

It is important to identify both the one who is radicalizing and the one who is being radicalized. It is essential to be aware of the social networks that take place in prisons and of the role of different persons within that network. The radicalization process is most often “micro-social” and thus unnoticeable. In fact, being able to notice these kinds of processes requires training and instructions for prison guards.

As Farhad Khosrokhavar (2013) states in his article a change in the pattern of radicalization has taken place in French prisons over the last decade. Contrary to *the extrovert model* of radicalization in place up to the beginning years of the twenty-first century where a dozen people could be involved, the new one is *introverted*, based on very few individuals (mostly two or three people). In contrast to the previous network in which people with psychological troubles were marginalized, psychopaths or psychically disturbed people can now play a major role. Whereas the extrovert model was easy to detect according to a profiling based on features like long beards, overt proselytizing, aggressive attitudes towards authorities and fundamentalist behavior models, the new attitude avoids all those features and people exposed to radicalization have internalized the non-visible conduct pattern in order not to attract the attention of the authorities.

For learning skills how to detect radicalization processes the Finnish Criminal Sanctions Agency now cooperates with the Finnish Security Intelligence Service SUPO and uses their staff as trainers. The Finnish Criminal Sanctions Agency issued new orders to report about observations of radicalization in prison administration in April 2016. The orders give requirements for reporting to the Security Intelligence Service, to the Central Criminal Intelligence Police and to the Central Prison Administration of suspected cases of radicalization processes.

In Finland people sentenced to unconditional prison sentence are put through risk and need assessment which serves as a base for the placement of prisoners in the institutions of

the district. The risk and need assessment can be seen as an important tool for detecting signs of radicalization or vulnerabilities for being a target for radicalization. Risk and need assessments are intended to provide an estimate of the risk presented by an individual, its nature and degree of seriousness. This information assists decisions as to how to best intervene with the individual to minimize risks and maximize the potential for positive change while responding to the individual needs of the inmate or the person on probation.

Prison staff is needed to have a better awareness of cultural and religious issues. The staff must ensure prisoners are treated equitably and fairly and without prejudice. Prisoners should be offered tools for learning and developing skills for critical thinking. Prisons should develop programs for enhancing possibilities for exit from extremist subcultures.

An important issue is disengagement from radical subcultures. Co-operation with families, police, social- and health authorities and workers of prisons and probation is a key factor in this work. Disengagement processes should continue also after release from prison.

In Finland there are no special programs for rehabilitation after extremist engagement. However, there is a possibility for modification of programs originally designed to sexual or violent offenders. Furthermore, there are specific possibilities to offer therapeutic treatment for prisoners coming from war zones. Good prison and probation management should apply to all offenders including violent extremist offenders and support rehabilitation efforts for everyone, also after release from prison. The more former prisoners are engaged with support structures and programs after their release from prison, the easier it becomes to monitor them.

Utmost important in prevention of violent extremism in prisons is good prison management. Whenever possible, overcrowding should be avoided due the negative effects on offenders. Overcrowding makes preventive measures and rehabilitation of offenders more difficult. In ideal situations, prisons are intended to confine offenders in secure and humane conditions. The purpose of prisons includes retribution, rehabilitation and protection of society. Rehabilitation and intervention programs both in prisons and for offenders under probation have the objective of supporting the eventual law abiding re integration of offenders back into society.

As the policy report published by the International Centre for the Study of Radicalisation and Political Violence (ICSR) states the "security first" approach - which most countries are applying - results in missed opportunities to promote reform. Many prison services seem to believe that the imperatives of security and reform are incompatible. In many cases, however, demands for security and reform are more likely to complement than contradict each other.

Also prison architecture has an effect. Placement of prisoners should be carefully planned and planning should be based on sound information of the prisoners' risks and needs. The prison work should be organized in that way that detecting possible processes of radicalization could be detected as early as possible. Enough resources should be allocated for close and personal work with prisoners. Prison work is not just surveillance. Under-resourcing of the prison staff should be avoided.

In order to facilitate rehabilitation and reintegration of offenders into society, prisons should protect the human rights of inmates and maintain a safe and humane environment that supports prisoner engagement in everyday prison life in a constructive manner. Equality between prisoners and fair treatment of all inmates and respect towards humanity are extremely important principles when preventing radicalization processes in prisons. Experiences of injustice or feelings of frustration can speed up the processes of radicalization. Young offenders may be particularly vulnerable for anti-social reactions. It must be kept in mind that in rational criminal policy a prison sentence is a last resort.

Finally, conversion to Islam or any other religion should not be equated with radicalization and or extremism. Religious conversion is not the same as radicalization. Good counter-radicalization policies – whether in or outside prison – never fail to distinguish between legitimate expression of faith and extremist ideologies. Freedom of religion should be respected. Giving possibilities to practice any chosen religion in prisons seems to be the way forward as it offers a real opportunity for disengagement from terrorism and can help prisoners to release their anxiety. Controversial police tactics and hard line counter-terrorism policing raids can be counterproductive.

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WORKSHOP H YOUTH STUDIES

Young people's conceptions of trust in public and private policing

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Abstract:

This study focuses on young people's experiences and perceptions of police and private security guards. A key context is a notable change in policing and crime control – the rapid rise of private security – taking place in many Western countries, also in Nordic countries. This fragmentation of state monopoly in crime control has stirred discussions about commercialization of crime control. Private security guards operate in public spaces and shopping malls where young people typically spend their free time. Research suggests that policing of youths has intensified in Finland and encounters with private security guards and police are a common experience for young people. Despite these changes, young people's perceptions of trust in public and private policing agents has remained an understudied subject.

Procedural justice theory stresses the importance of fair treatment for building trust and legitimacy towards the crime control system (e.g. Tyler 2000, Bradford et al. 2008). Perceptions of unfair treatment can increase conflicts, decrease people's willingness to obey the law, and it can lead to lack of respect in society. Prior research has not focused enough on the rise of private security, or young people's experiences, and there is a lack of qualitative research. This study adds to prior procedural justice research in using a qualitative approach to explore how young people perceive fair treatment, trust and confidence in public and private policing.

The study is based on nine focus group interviews with 31 underage young people in Helsinki. The primary aim is to analyze how young people formulate perceptions of trust in policing. What kind of interaction situations increase or decrease trust? How young people define fair treatment? What differences are there in trust and confidence in public vs. private policing agents?

Recent changes in policing and their effects on young people

In this paper, I first discuss some recent changes in policing that affect young people. This forms a context and background for my PhD study. After this, I present my theoretical approach, data and results regarding an article, which is one substudy of my PhD study. This study examines 'adversarial' encounters with underage young people, police and private security guards. It focuses on 'policing agent initiated contacts' to youth delinquency, alcohol use, and to their free time use of city space. I use the term 'policing' to refer to both public and private policing agents.

Relations between young people and policing agents are often described problematic. Furthermore, scholars suggest that the social control of young people has become tighter in Finland (Pekkarinen 2010; Harrikari 2013; Korander 2014). It is suggested that while the Nordic welfare ideas form the basic structure of the system in juvenile justice and child welfare in Finland, there are indications of intensified social control of young people in other contexts (Harrikari 2013). A notable trend is that police control has intensified while youth delinquency or alcohol use have not increased (Salmi 2012). These changes in how young people are policed are one starting point for this research: Which phenomena are taking place in the landscape of policing and how do they appear from young people's perspectives?

Policing is typically viewed as something that the police as a state agent has the monopoly over. Scholars tend to emphasize that there was an era, when the state had monopoly on policing. What is new in a situation in Western countries, and why changes in policing are getting more and more attention, is that there has been a notable transformation in governance of security as the private security field has grown rapidly (e.g. von Hirsch and Shearing 2000; Garland 2001; Jones and Newburn 2002; White and Gill 2013). Finland is no exception in this regard. Accordingly, there has been raising concerns about the privatization of policing and 'formalization of social control' (e.g. Garland 2001; Jones and Newburn 2002; White and Gill 2013). This new blurred public-private policing field is linked to the increasing number of spaces that are policed as private spaces but used as public spaces, such as shopping malls (e.g. von Hirsch and Shearing 2000). Private security guards now govern malls and public spaces, where young people typically spend their free time. Despite these changes in policing, much of the criminological and policing literature has focused on the police and on the criminal justice system, neglecting the recent transformations of policing and crime control that have taken place due to the rapid rise of private security.

The police are typically defined as policing agents employed by the state, who participate in crime control, road traffic control and order maintenance (Reiner 2010, 1). I define private security officers as policing agents employed by the private or public sectors, guard-

ing private, quasi-public and public places, with a public mandate of order maintenance or private mandate of securing private property. Private security officers patrol private spaces, quasi-public spaces, such as shopping malls, and public spaces, such as public transportation and stations. Due to a stricter social control exercised in shopping malls, researchers have suggested that young people and marginalized people can have difficulties in using such spaces, as their access is often restricted (von Hirsch and Shearing 2000).

These above reflected changes in policing raise a need to study how subjects of policing are affected. *The study draws its attention on young people's encounters with policing agents and their perceptions of these different policing agents.* The PhD study uses quantitative self-report delinquency survey (substudies I and II) and qualitative focus group interview data (substudies III and IV). In this seminar paper, I focus on qualitative part of the study. *The study examines how trust is formulated between young people and public and private policing agents.* Furthermore, it analyses how young people perceive differences in trust between the police and security guards. There are reasons to suspect that young people's experiences and perceptions differ between police and private security guards because the police are public actors and they have longer professional training and more legitimacy. In this paper, the focus is in presenting the qualitative part of the study and some findings of the third substudy of my PhD study (see Saarikkomäki 2015). The primary aim is to study how young people define fair and unfair treatment by policing agents.

Procedural justice and trust in policing

A common view is that trust and confidence in the police is mainly related to police ability to control crime efficiently. The procedural justice approach has challenged this view and it stresses the importance of fair treatment in the citizen encounters with the crime control system. The procedural justice approach is often contrasted with the instrumental approach; instrumental approach stresses the sanctions and effectiveness of police in controlling crime as important factors in creating confidence in the justice system (Bradford et al. 2008, 2). Main argument of the procedural justice theory is that people's perceptions that the police and other crime control agents treat them fairly and in a procedurally just manner is the primary influence for constituting trust in and legitimacy of the system (e.g. Tyler 1990; 2000; Murphy 2015; Bradford & Jackson 2015). People care about policing agents' motives of exercising power, how they are treated, and whether their rights are respected (ibid). People might accept police decisions that are against their own interest (e.g. getting a fine or other sanctions), if they perceive control agents legitimate and fair (Tyler 1990; 2000; Bradford et al. 2008).

Prior research has outlined the effects if people do not view the policing agents as trustworthy and legitimate. Research has mainly focused on the effects on cooperation and compliance. Research suggest that feelings of procedural unfairness, for instance disre-

spectful treatment and unfair decision making, leads to noncooperation and conflicting situations (e.g. Tyler 1990; Jackson et al. 2012; Murphy 2015). Tyler (1990) argues that citizens' perceptions of procedural justice, trust and legitimacy of the crime control system are important for their willingness to obey the law (compliance). Finally, how citizens perceive that the police treat them can have effects on relationships between people and authorities, on citizens' identity, and on perceptions of how respected members of society they are (Jackson et al. 2012). In particular, these aspects are important when considering young people. Jackson et al. (2012, 1053) state that "by treating citizens unfairly, the police's message to them is stark: you are not valued by society".

Although the procedural justice literature is vast, there are gaps in research that this study aims to fulfil. Prior research has largely focused on police and justice system. I discussed earlier how the policing field has transformed and private security agents are important policing agents. However, there exists not many studies focusing on citizens' perceptions of private security. Furthermore, this study adds to a small number of studies focusing on young people (e.g. Murphy 2015). These survey-based findings indicate that views of procedural justice affect youths' compliance with law and cooperation with police. Finally, this study provides new perspectives to survey-dominating research field by using a qualitative approach (also Pettersson 2014). By using pre-defined survey questions, prior research has failed to examine how people themselves define fair treatment as well as broader social factors, which generate trust. While prior research essentially addresses the importance of fair treatment, the focus is on how it could increase the legitimacy of the authorities or the system, or how it affects compliance and cooperation. Accordingly, viewpoints of subjects of policing and the many effects that particularly negative experiences can arise are not fully studied.

Focus group interviews and narrative approach

The study bases on nine in-depth focus group interviews with 31 young people aged 14 to 18. I recruited the participants from a large youth club in Helsinki in 2012–2013. I spent around 70 hours in the youth club to recruit participants and to observe. At the youth club, I played cards with young people, I discussed with them and with people working there. This helped to find participants for the interviews, to validate the findings and to better understand young people's experiences. The data excludes those young people who do not spend their free time in city space and in youth clubs. All the interview participants had at least some experiences of police and/or security guards. Some young people had a few experiences, or they were in a group when they encountered policing agents, whereas some others said they had nearly daily encounters with security guards. All the participants studied in compulsory school, vocational school or high school. The participants were from a variety of different backgrounds (e.g. different class status, ethnicity, living in

the different parts of the capital region). Most of the participants knew each other beforehand, which facilitated lively discussions.

The focus group interviews had two parts. I started the interviews by asking the young people to continue a fictional story of intervention situation towards a fair and unfair encounter. Next, I present the summary of the results based on a data generated through this story completion method and narrative analysis (see Saarikkomäki 2015). The main point of interest of the last (forthcoming) substudy of this project is to analyze how young people perceive differences between police and security guards, and how these differing perceptions relate to fair treatment, trust and confidence. In the focus group interviews, I also used semi-structured thematic questions. The semi-structured questions covered the young people's free-time activities, their encounters with police and private security guards, differences between these policing agents and questions about young people's trust in these policing agents. Sometimes the concept of trust was difficult to understand; then I asked if the participants feel they can ask for help or how they feel control agents treat them.

The substudy used a narrative criminological approach; it views that stories inform us about people's perceptions, experiences and expectations (e.g. Sandberg et al. 2015; Presser and Sandberg 2015). The study brings new findings to narrative criminology by focusing on stories of policing and crime control. Prior research has mainly focused on stories of crime (ibid.). I analyzed the content of the stories by comparing how the young people define the actions and abilities of policing agents differently in fair and unfair narratives (description of the analysis see Saarikkomäki 2015).

Results: The importance of fair treatment

The study examines how young people conceptualize typical narratives of fair and unfair encounters with police and private security guards. I present next some of the results, the full narrative analysis and the findings are published before (Saarikkomäki 2015). The article studies youths' definitions of positive and negative encounters with the police and private security guards by using fictional and personal stories. I used the story completion method to gather data. I asked the young people who participated in the focus group interviews to narrate stories leading to a) fair and b) unfair situation in which security guards and police intervene in underage drinking in city space. The young people narrated two kinds of stories: fictional and personal. Together these stories produced information of young people's perceptions and understandings of fair treatment and trust.

The study found that the key difference between fair and unfair narratives was related to how the police and security guards interact with and treat young people. The young people did not define situations as fair or successful based on whether policing agents would

intervene or not. Young people understood that it is a part of policing agents work to intervene in underage alcohol drinking. Typical narratives of fair encounters presented control agents who were able to treat young people with respect, in a friendly, nice and polite manner. In addition, interacting calmly and predictably was important for positive situations and for creating trust between young people and policing agents. Furthermore, fair policing agents listened to young people, they explained calmly what they do, and gave reasons why they intervened.

“B: But just that they (the police) let the young people explain themselves, what they do and what happened. For instance ask who’s been drinking and who hasn’t and these sorts of things. Also, talking in a friendly and respectable way and not starting to blame or be nasty.” (I2)

In unfair narratives policing agents did not had the abilities to treat young people fairly and respectfully. Typical unfair narratives presented unfriendly interactions, such as labeling name-calling, shouting or threatening young people, and unpredictable actions. The participants described this kind of situations as intimidating and sometimes scary. In unfair narratives, policing agents were unprofessional, aggressive, and not listening to young people. The young people often discussed critically that security guards were only moving young people on from the shopping malls. Many of the young people discussed personal experiences of aggressive encounters where private security guards’ were perceived to use unnecessary force. These situations were experienced as unfair and they challenged trust and legitimacy of the policing agents.

“P: ... The security guards take away all the beers and pour them out, which is a sort of right thing to do, but that’s not the worst thing they do, because then they would take them to the detention room, and keep them there for a few hours and call their parents and make snide comments. I was caught shoplifting when I was 13, and I’ve never even thought of doing it again. The security guards held me in the detention room for two hours. Horrible bitching, constantly.... ” (I9)

“T: With security guards, from what I’ve experienced myself or know about, security guards are usually really halfhearted or E: indifferent T: And if they see a young person they don’t seem like they’re trying to take care of it by taking the young person’s side. They just throw them out. H: They really are pretty aggressive. E: Unempathetic. T: Mostly I believe that what’s wrong with these security guards is that they don’t know how to deal with young people, they only see their own side. E: Against young people T: Like, just to get them out of their sight.” (I5)

“F: Demeaning behaviour. K: Right. Because sometimes the police diss young people about some things, at least this has happened in my group of friends ...” (I2)

The findings indicate that it is useful to include both public and private control agents within the research because it brought up some previously neglected issues: First, young people's perceptions of fairness, and trust differed based on who is the policing agent. Private policing agents were typically perceived more negatively than the police officers. Second, the analysis indicated the importance of emotions. Police officers were more often described as professionally doing their job, whereas security guards were typically narrated as aggressively intervening to youth activities, lacking empathy, and not capable of managing their emotions. Too emotional authorities were narrated as aggressive and not able to control their emotions. Having some emotional side was, however, important for good interaction situations. The young people perceived it important that the policing agents have some empathy towards objects of policing. An appropriate balance of emotions and an ability of policing agents to control negative emotions increased views of trust and good relations.

The young people understood that it is not an easy job if young people are for instance making trouble or not complying with the demands of policing agents. They had understanding for a challenging work of policing agents. They did not have one-sided opinions of the fairness or trustworthiness of control agents, instead, the young people negotiated both fair and unfair aspects of policing. The study proposes that young people can use stories to express and circulate experiences, perceptions and aspirations of policing agents and to discuss abstract ideas of trust and legitimacy. Stories shared between friends can affect also perceptions of trust of those young people who do not have similar personal experiences. Positive stories of fairly experienced encounters can generate trust whereas negative stories circulating in youth cultures can undermine trust in policing agents.

To conclude, a key factor generating trust between young people and policing agents is how policing agents treat young people. The study argues that there is support for the procedural justice theory: fair treatment is indeed a crucial element in creating trust in the crime control system (e.g. Tyler 1990; 2000; Murphy 2015). Similarly, prior survey-based procedural justice studies suggest that perceptions of unfair treatment decrease trust in and the legitimacy of policing and can increase conflicts between citizens' and the police (ibid.). This study brought new findings on the field by highlighting the importance of emotions and empathy. Furthermore, it highlighted some differences between the police and security guards in how they were perceived to treat young people; this is further studied in the last substudy of this project. The study concludes that it is possible to create trust between young people and policing agents even in adversarial intervention situations by focusing on the aspects of fair treatment and procedural justice.

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Ethnic Bias in Restorative Processes?

A study of access and outcome for young male offenders with ethnic minority background

Katrine Barnekow Rasmussen

(This paper is an adapted version of the description of my PhD-project, including some preliminary results).

Project Background and Purpose

The project is an examination of whether ethnicity influences access to and outcome of the participation in restorative processes for young male offenders. It is a PhD-project based at the Faculty of Law, University of Copenhagen, commenced in September 2015 and ending in August 2019.

Restorative processes receive recognition for being effective in preventing and handling escalating conflict situations, and are increasingly utilised in Denmark and internationally, especially when working with youth and children. Furthermore, several countries, including Norway and Northern Ireland, have successfully used restorative processes as an alternative to the traditional juridical system, when young people have broken the law. Research shows, that these methods lead to significantly lower reoffending rates and significantly higher victim satisfaction rates than the processes of the traditional juridical system, and this at a lower cost.¹

In Denmark male ethnic minority youth is overrepresented in crime statistics.² There can be multiple explanations to this, including a higher risk of getting caught due to higher levels of police attention.³ Regardless of the causes, during my former employment working with vulnerable youth and crime prevention in a municipality (in the SSP-system), I have experienced how this group is subject to a very high level of attention from professionals, politicians and citizens when it comes to crime prevention. However, I have also experienced, how the methods suggested and applied, often seem to have little, no or opposite effect. At the same time, I have experienced scepticism towards a restorative approach to conflict and crime, if including (especially male) ethnic minority youth.

¹ Strang & Sherman 2007, Sehlin 2009, Bradsteen & Roseborough 2005, Lyness & Tate 2011, Strang et al. 2013, Berger et.al 2015, Kyvsgaard 2016.

² Andersen & Tranæs 2011. DST 2015.

³ Holmberg & Kyvsgaard 2003, Petterson 2005, Sollund 2007 in Görtz 2015.

In my view it poses a dilemma, if a target group, which might have an increased need for crime- and conflict preventive measures is limited in access to methods, which have proven effective. This research field has received little to no interest in Danish as well as international research.

My goal with this project is to contribute to the knowledge on *if* and if so *how* this limited access is manifested, as well as if there is a difference – positive or negative – in what male ethnic minority youth obtains from and contributes with to restorative processes, compared to male ethnic majority youth.

The purpose of this is to help ensure, that we employ as efficient methods as possible to avoid young people repeatedly ending up in conflicts and committing (repetitive) crime; a result which would benefit these young people, those who avoid becoming victims of a crime, and not least the economy of society as a whole.

The target group of the project is male ethnic minority offenders between 15 and 25 years. By offenders I mean individuals who have been labelled responsible for a harm caused in a conflictual and/or criminal context. Due to the more advanced usage of restorative processes in Norway, I will include Norwegian interviewees and data for comparative as well as explorative purposes.

Project Focus

The research question for this project is:

- *Does ethnicity influence access to and outcome of restorative processes for young male offenders?*

The project will consist of three articles, with an expected focus as outlined below:

1. An analysis of possible ethnic bias in access to the Danish VOM-programme (Konfliktråd) for young male offenders.

This article will include an analysis of data from all concluded VOM-meetings in Denmark for the years 2010-2015, as well as an analysis of VOM cases in 2015 from four selected police districts; both cases that have been considered for VOM, but discarded for various reasons. Data for this article also includes interviews with professionals involved in the Danish VOM-programme.

2. An analysis of a casework project running from 2010-2012 in a Danish municipality, focusing primarily on young male offenders with ethnic minority backgrounds hav-

ing committed serious, repetitive offences. A main purpose of the project was to achieve more coherent municipal casework for this target group. Further to this, the young people, who were selected for the project, were offered/submitted to various approaches to avoid reoffending, one of these approaches being a restorative VOM-process with a mentor, others being anger management training and community service.

The analysis will focus on: Reoffending rates for the project target group, comparing reoffending for those, who were offered a restorative approach to those who were offered other approaches. Experiences of the young people participating in the process, primarily those, who were offered a restorative approach

3. An analysis of access to and perceived outcome of restorative processes in five selected Danish municipalities. The article will focus on processes targeting youth related conflicts, which are not considered police cases.

For this article I will analyse interviews with young people, having had ascribed the main responsibility for a conflict to them, who have participated in a restorative process at municipality level. I will also include interviews with professionals working with restorative processes at the municipal level, as well as available data on and evaluations of restorative processes in the municipalities in my analysis.

Methodology

The data for the project is expected to consist of:

Interviews (primarily in Denmark, secondarily in Norway):

- Qualitative semi-structured Interviews with professionals working with restorative processes (so far 14 interviews)
- Qualitative interviews (live line-method) with young male offenders (/parties having had ascribed main responsibility for a conflict to them) belonging to an ethnic minority (no interviews conducted yet)
- Qualitative interviews (live line-method) with young male offenders (/parties having had ascribed main responsibility for a conflict to them) belonging to the ethnic majority (no interviews conducted yet)
- A minor survey of perceptions of the participation in and outcome of a restorative process. The survey will include young people, having had ascribed the main responsibility for a conflict to them, who have participated in a restorative process at municipality level in five selected municipalities. The survey will include categories of age/gender/ethnicity.

Points of attention, for interviews include the following reflections: Will one admit to discriminating? Does one know, one is discriminating? Can one experience discrimination without actually being discriminated against? How to interview on this subject without getting people's guards up/force-finding something that might not be there?

Statistic material

- Police data on completed sessions in the VOM-programme (access request is being processed)
- Case files on completed and considered VOM-cases in 2015 from four selected police districts
- Evaluations of the Danish VOM-programme
- Available statistical material and evaluations from selected municipalities' restorative processes targeting youth
- Data from *Konfliktråd*, *Ungdomsstraf*, and *Ungdomsoppfølging* in Norway

The registration in the VOM-programme is somewhat inconsistent. Also, especially at the municipality level, there is a severe lack of statistics and evaluation on restorative practices. These factors prevent the statistic angle from being dominant in the study.

A recent study from the Danish Justice Department shows, that the Danish VOM-programme in its current form does not prevent reoffending, which could be seen as an argument for not including the VOM-programme in this project. Despite its inefficiency with regards to reoffending I have chosen to include the VOM-programme because it probably is the most visible and well-known restorative process in Denmark, and probably also the most well documented (which unfortunately does not say much). In including the Danish VOM-programme, the project will also address how this programme might differ from other restorative processes successful in preventing reoffending, including the effect of the victim as point of departure, and the lack of pre- and post meeting focus.

Theoretical Framework

For my analysis of interviews and case files I will be using the works of a number of classical theorists of sociology such as Foucault, Goffman, Bourdieu and Ahrendt.⁴ For the analysis of the life-line interviews with young participants I will also be using youth transition theory.⁵

⁴ Goffman 1959, 1963, Ahrendt 1970, Foucault 1972, 1975, 2010, and Bourdieu 1979, 1986, 1994.

⁵ Wyn & Dwyer 2000, Skelton 2002, and Walther et al 2006.

Also I will be including theory-based discussions to define two key concepts in the project; 'ethnicity' (a.o. Baumann and Bourdieu) ⁶ and 'restorative processes/justice/practices etc.' (a.o. Braithwaite, Zehr). ⁷

Delimitations

Vivid discussions take place within research on and practice of restorative processes; 'When is something truly a restorative process?', 'do practitioners actually do, what they say/think they do, when performing restorative practices?' etc. While I recognise, that discussions like these are of fundamental importance to the research field of restorative justice, they shall not be the focus of this project. I will not be observing the performance of the restorative processes included in this project, in order to evaluate their contents. Other project have done so, and hopefully will continue to do so. ⁸ I will be solely focusing on the access to an (perceived) outcome of the selected processes.

Preliminary Results

The first part of my study concerns access to restorative processes. The field of study is Danish Victim-Offender-Mediation Programmed (Konfliktråd) and restorative activities in Danish municipal and social housing contexts, supplemented by studies of the same field in Norway.

Interviews with professionals indicate, that the access to restorative processes for ethnic minorities might be limited, since practitioners tend to fall into one of the two categories below:

- The ones, who think ethnic minority youth are generally less suitable to participate in restorative practices
- The ones who don't personally think there is a difference relating to ethnicity when using restorative practices, but who experience the reluctance of others to include ethnic minorities in restorative practices (different levels)

Preliminary results also show, that young male offenders with ethnic minority background *do* indeed not have representative access to the Danish VOM-Programme. They are generally not estimated to be 'suitable' to play the role, which is expected from offenders. This should be seen from the perspective, that the Danish VOM-programme by law

⁶ Baumann 1999, Bentley 1987.

⁷ Braithwaite 1989, 1999, Zehr 2002, 2004.

⁸ See for instance Asmussen 2013.

should take point of departure in the needs of the victim. In this way offenders can be said to *casted* according to whether or not they are expected to be able to fulfil the role, the victim needs in order to be content with the VOM-session.⁹ It is the Danish police, who handles the *casting* and therefor can be seen as the *gatekeepers* of the VOM-programme.

The presentation given on the 2016 NSfK Seminar in Iceland included my preliminary findings on access to the VOM-programme and restorative processes in municipalities, as well as discussions of possible implications of the role of the police as *casters* and *gatekeepers* in the Danish VOM-programme.

⁹ See for instance Asmussen 2013

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Cannabis sales and immigrant youth gangs – an exploratory study of market structure and youth gang evolution

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Introduction

Cannabis sales account for a substantial proportion of the revenue generated by criminal groups (Reuter and Trautman 2009). In Denmark and arguably in Scandinavia as a whole, the sale of cannabis has historically been concentrated in Copenhagen, in an area of Christiania referred to as Pusher Street. This marketplace of thirty years' standing was disrupted by a major police crackdown in 2004 (Moeller 2009). The crackdown appears to have worked as a catalyst for a series of "immigrant gangs" to challenge the dominance of outlaw biker gangs in criminal markets (National Police 2008; Moeller and Hesse 2013). Increased competition from these new criminal groups is a common current development in the Nordic countries (Korsell and Larsson 2011; Van Gemert, Peterson and Lien 2008; Cornils and Greve 2005), and it warrants further research (Paoli and Reuter 2008).

There is no established tradition of researching gangs in Denmark (Pedersen 2014), and so far it has proven difficult to recruit these hidden populations (Jacobsen 2012). The existing research has primarily been conducted by the research department of the Ministry of Justice, using surveys of self-reported delinquency and register data. Pedersen and Lindstad (2011) examined the correlates of youth joining "criminal groups" on the basis of a self-report survey study of 1.886 students in the 7th to 10th grades of schools in socially deprived neighborhoods in the greater Copenhagen area. According to the minimum definition derived from the Eurogang framework (Klein, Weerman and Thornberry 2006), these "criminal groups" are more informal and less organized than "gangs". Astonishingly, Pedersen and Lindstad found that 13 percent of their respondents fulfilled the criteria for membership of a criminal group. In a follow-up study, Pedersen (2014; see also Klement and Pedersen 2013) noted that for these youths, "illegal activity has become part of their group identity without it ever becoming an overriding goal". She added the caveat that these groups may evolve into more organized criminal gangs if left to their own devices. This evolution affects both the individual and the group. Klement, Kyvsgaard and Pedersen (2010) found that there was an increase in crime of 40 percent for immigrant youths after they joined a gang, and of 45 percent in penal code violations (similar to the international

research, see Wood and Allyene 2010). These findings are surprising in that we would usually expect crime frequency to decline with age. The social context that surrounds the gang affects this trajectory.

Densley (2012) detailed the “natural progression” of London gangs from “recreational neighborhood groups” to “delinquent collectives”, then to full-scale criminal enterprises and eventually to systems of extralegal governance. Both Densley (2012) and Venkatesh (1997) understand the organizational development of street gang activity as shaped through interaction with broader systemic societal transformations. In Britain and the US, these transformations relate to overall post-industrialisation and the street-level introduction of crack cocaine. The Scandinavian social context is clearly different, but the same mechanisms may apply to the intersection between drug related crimes and ethnic minorities.

In Denmark, immigrants from non-western countries and their descendants are consistently overrepresented in statistics on property crimes and violence (Andersen and Tranæs 2013). A study of Norway and Finland has further disaggregated the criminal statistics and found that this overrepresentation is especially large for immigrants from Middle Eastern countries (Skardhamar, Aaltonen and Lehti 2014). The overrepresentation is commonly explained using the “blocked opportunity” hypothesis (Paoli and Reuter 2008; Sandberg 2010; Venkatesh 1997), where crime in these groups is seen as a correlate of low socioeconomic status, poor integration in mainstream society, and cultural marginalization. Paoli and Reuter (2008) noted that some immigrant groups have a competitive advantage when it comes to drug related crimes because they have connections to the primary cannabis producing country, Morocco.

Very little Scandinavian research has applied ethnographic and interview-based approaches to the study of immigrant youth gangs and drugs. The exceptions are Kalkan’s (2014) study of young men in Copenhagen and Sandberg’s (2008; 2010) research on street-level cannabis dealers in Oslo. Kalkan (2014) observed street socialization among young immigrants and found that the stereotype of the successful criminal archetype, the “gangster” was prevalent among these youths. He also found that burglary, robbery, and the sale of cannabis are integral parts of the street economy (2014, p. 71. Cannabis sale is commonly organized around locales referred to as “smoking clubs”. Sandberg (2008) found that the “street drug market has increasingly become dominated by ethnic minority dealers, and most of the dealers at the river had Islamic backgrounds”. In Germany, Bucerius (2007) found that her subjects perceived their drug dealing criminal lifestyles as compatible with their Islamic beliefs. She noted that they considered Germany an “impure” country that “doesn’t deserve otherwise”. This adds a new perspective of active “defiance” (Sherman 1990) to the blocked opportunity hypothesis. Lien (2008, 228) noted that cultural values associated with “honour, dominance and revenge” are reasons for rivalry with other groups. Paoli and Reuter (2008) described how immigrant groups are

likely to cooperate with the police. This intersection of marginalization and cultural values in combination with new opportunities for cannabis sales may constitute criminogenic factors that contribute to an explanation of new aspects of immigrant youth gang development and proliferation in Denmark.

I use the term “immigrant youth gang” to denote the primarily recreational groups of young men with a Middle Eastern background that engage in “exaggerated versions of typical adolescent behavior” (Densley 2012). These groups are part of a street culture characterized by “violence, low scale drug dealing and protest or oppositional masculinity” (Sandberg 2008a). Drug dealing provides the material base for this lifestyle and also provides a form of “goal orientation” to become more formally organised (Densley 2012; see also Mackenzie, Hunt and Joe-Laidler 2006). It is debatable whether it is appropriate to call these loosely organised youth groups gangs. Ball and Curry (1995) provide a detailed discussion of the problems of defining gangs in criminology. Legal definitions tend to be either too narrow or too broad, and they often neglect the social dimensions that make the phenomenon meaningful. Existing definitions tend to be based on the aspects of the phenomena in question that were most visible and most salient at the time of writing, and the present study is no exception: my interest in the criminal activities of these youth will indirectly downplay the more social aspects of their groups.

Densley (2012) referred to these initial organizational stages as recreational neighborhood groups and delinquent collectives. The “recreational stage” involves the essentially normal adolescent behavior of young members of ethnic minorities with an expatriate identity who band together around a common cultural heritage and share experiences of cultural estrangement. At this stage, delinquency is opportunistic and rarely acquisitive, involving “adventures” or “exercises” rather than concerted criminal activities. However, when youths engage in criminal acts, they gain respect in the street culture and can move on to the next actualization stage in ‘delinquent collectives’ (Densley 2012). For delinquent collectives, drug dealing is more instrumental and organized. Successful groups can acquire a material foundation in this way and further develop the group organizationally and economically. A final point as regards the variability in definition is that they vary across social contexts. Densley (2012) observes that a low level of formal organization is seen as evidence of gangs in the United States, while the same lack of organization is construed as evidence of the absence of gangs in the UK.

In this study, I will examine how the crackdown on the cannabis market in Christiania may have led to a systemic transformation of the social context of immigrant youth gangs. Following the crackdown, these restrictions on the dominant actor may have increased the available opportunities for competing groups to enter the market (Kleiman 1989; Cornish and Clarke 2002). These new opportunities may play a role in the organizational progression of immigrant youth gangs. When a marketplace is targeted by the police, it increases the risk of sanctions, displaces buyers and paves the way for renewed competition be-

tween criminal groups. This mechanism was theorized specifically for cannabis by Kleiman (1989), empirically examined by Rasmussen and Benson (1994) and later applied to the Danish context by Moeller and Hesse (2013). The displacement mechanism is based on the logic of restrictive deterrence (Gibbs 1975), where offenders do not refrain from offending in the face of increased risk of sanction, instead displacing illegal actions temporally, spatially and tactically.

On the basis of these assumptions, I will examine two broad questions that relate to the intersection between the police crackdown on Christiania and the proliferation of immigrant youth gangs in the Copenhagen area. How did the crackdown affect the structure of the cannabis market? Does cannabis have an instrumental role for these groups, or one that is only recreational? Previous studies have not examined this link between immigrant youth gangs and the systemic transformation of a drug market during restructuring, and the purpose of the present study is therefore primarily exploratory.

Data and methods

I conducted a total of thirteen semi-structured interviews with a variety of actors with experience of the cannabis market and the sale of cannabis in Copenhagen. Seven interviewees were second generation immigrant youth aged between 21 and 24. They were all male and born in Denmark. In all cases, at least one of their parents was originally from a Middle-Eastern country. All had sold cannabis in the context of a youth gang at the street level or as low level distributors. Some had also had experience with cocaine, but the interviews focused on cannabis. Three were active offenders, three were in a gang exit program and one was serving a sentence in an open prison. All had been exposed to sanctions. The stories they told about selling cannabis were very similar, despite the differences in current involvement (Nee 2003). These interviewees were recruited through a snowballing chain referral method with various gatekeepers involved in the process (Jacobsen 2014; Densley 2012). Interviewees received no financial compensation for their participation in the study. Another four interviews were with police officers and prosecutors. Two were street level officers working in a deprived area on the outskirts of Copenhagen with known immigrant youth gang problems. The other two interviews were with high ranking prosecutors who worked in the organized crime section of Copenhagen's police, previously known as the illicit drugs section. The opportunity to conduct the interviews arose from a prior research project that had analyzed police data (Moeller 2012a, 2016). Finally, I interviewed two academics who had written about Christiania and worked with youth crime. These interviews provide a basic understanding of the systemic transformations in the cannabis market, as well as a contrasting perspective on the social context in which immigrant youth gangs exist.

All interviews lasted between one and two hours and were conducted in cafés, in various university settings, in an open prison, and at police stations. The interviews were all taped

and transcribed. All interviews were conducted in Danish and relevant extracts were translated into English. Interviews were transcribed and coded using the qualitative data processing program NVivo. The interviews were held in a rather informal manner, giving the interviewees the opportunity to speak as freely as possible. This format reflects the exploratory aim of this study. On the one hand, I was interested in acquiring new perspectives on the effects of the crackdown on Christiania. On the other hand, I was prepared to follow any new themes that might arise during the interviews. Two key themes recurred in interviews, irrespective of the type of interviewee: an increase in cannabis sales in and around Copenhagen following the displacement of buyers from Christiania's marketplace, and the role of neighborhood youth centers in relation to immigrant youth gang activity. These themes emerged from a process of data collection and interpretation based on standard qualitative research methodology (Brinkman and Kvale 2014).

I recognize the limitations of working with cross-sectional data based on retrospective accounts. Statements about overall restructuring of the cannabis market can constitute post-hoc sense-making. Statements about the interviewee's group of friends being involved in cannabis sales may be exaggerated to present a certain image. This is a general limitation of interview data. It might also be argued that this is a conveniently selected group of interviewees and that this may increase their tendency to talk about the criminal aspects of youth gang activity. The interview texts are interpreted as co-productions resulting from the interaction between interviewer and interviewee. Co-production was especially noticeable in the interviews with young immigrants. Their interviews cannot be taken as direct representations of any underlying reality. Interestingly when the interviewees explained their social world to me, they commonly used "us" to refer to youth with parents from Middle-Eastern countries. This involved active interpretation of how the majority of Danes perceive "them". They resist or confirm this perceived stereotype and the elements of which it consists.

Findings

I will first focus on how restructuring of the cannabis market in Copenhagen has influenced the opportunities for immigrant youth gangs to deal cannabis. Two key elements are highlighted. Firstly, the structure of the cannabis retail market changed: it became less like a concentrated industry and more like a cottage industry (Eck and Gersh 2000). This may have increased opportunities for new actors to enter the cannabis markets. Secondly, cannabis sales in immigrant youth gangs are associated with "club houses". This relates to the question of how "turf" affects gang identity and evolution (Densley 2012).

Change in structure of the cannabis market

From a drug distribution perspective, Denmark is Scandinavia's border to continental Europe, and it has a lenient policy towards cannabis sales. Denmark has historically applied an opportunity principle to drug laws, where low-level offenses such as can-

nabis retailing are not aggressively followed up by the police and prosecutors. When this principle was implemented in the 1970s, it was perceived as a pragmatic decision aimed at saving police resources for other drug policy priorities. A series of changes to this policy in the 2000s increased sanction severity and law enforcement intensity when it came to cannabis related crimes, but the punitive level is still low in international comparison (Moeller 2012b). The comparably low levels of sanction severity for cannabis related crimes may help explain why Copenhagen is recognized as a stop on the most widely used trafficking route, extending from Morocco through Spain and Amsterdam to Copenhagen and further north (National Police 2008; Paoli and Reuter 2008).

The youth I interviewed recognized these factors and described the sale of cannabis prior to 2004 as a low risk endeavor:

“Even before the ‘hashclub act’ (of 2001), the police knew about us. (...) I used to say that we had a license to sell cannabis (...). I wouldn’t say that it was an explicit agreement, but it was implied that as long as there were no hard drugs and no under eighteens, the police would only drop by once in a while to say ‘hello’.”
(Youth)

Over time this policy of toleration allowed the cannabis market in Christiania to develop and stabilize. This was a recurring theme in the interviews, both with young interviewees and with the police: *“In Denmark, those who make money from hash specifically are in Christiania. It is a business with a billion crown revenue. It is the biggest tourist attraction in Denmark. It is the base”* (Youth). The Christiania market offered upwards of forty selling positions before 2004 (Moeller 2012). These positions were highly contested and have been traded as commodities: *“There is a lot of self-regulation surrounding who is allowed to sell and where. There is a lot of money involved and of course the positions are traded. Everything is for sale”* (Expert). The interviewees were in agreement that Christiania’s marketplace was controlled by outlaw biker gangs: *“The bikers make billions of money (sic) on Amager every year”* (Youth). This has been a relatively stable situation since the Great Nordic biker war of the late 1990s (Høyer 1999): *“They have made not necessarily a truce as such, but they have agreed to divide the country into different spheres of interest”* (Police). The stability that followed from this agreement and the low enforcement intensity allowed Christiania to evolve into a routine activity marketplace with a dominant share of the total cannabis market (Eck and Gersh 2005; Kleiman 1989; Moeller 2016).

Danish cannabis policy was reformed around the turn of the century, moving away from the tradition of leniency and towards a focus on use reduction (Moeller 2008). In part, this policy change involved an increased focus on organized criminal groups, echoing general police trends in the other Nordic countries (Larsson and Korsell 2011). The crackdown on the Christiania market in 2004 involved the arrests of many dealers,

along with their helpers, runners and look-outs (Moeller 2012), disrupting the established hierarchy between dealers. Instead of shutting down cannabis sales in Christiania, a new set of dealers was willing to continue the trade:

"I know there has been some repositioning in the hierarchy after they made all the arrests... There will always be changes among pushers, that has always happened, but something substantial happened this time." (Expert)

The interviewees showed an understanding of the drug market displacement mechanism, according to which restricted access to one location leads to increase in another location where the restriction is less intensively enforced. They generally described the crackdown as a mistake made by the police: *"That thing with Pusher Street - they made a small mistake and spread it to all the hashclubs in Copenhagen"* (Youth).

The reaction to the crackdown signaled the start of a systemic transformation of the cannabis market structure in which it moved away from its previous form as a concentrated industry (Eck and Gersh 2000; Moeller 2016). This mechanism was fuelled by buyer behavior. In accordance with the theory of restrictive deterrence (Gibbs 1975), cannabis buyers did not give up their illegal acts when risks increased; rather, they displaced them geographically and strategically to new and more covert locations. This had consequences for the various cannabis sales locations around Copenhagen as new opportunities arose:

"When they start harassing people on Christiania as they did during the Nordic biker war, there are other people that spot an opportunity. This time it is these foreign workers and second generation immigrants that are slowly starting up. They can see business improving and they are opening hash clubs in new locations now (...) The way I see it, it had been pretty well controlled until then, but then they destroyed everything and it is spiraling out of control. Then people will gather their troops and try to figure out what is happening." (Youth)

In the literature on street-level drug sales, the various available locations are commonly understood in relation to two axes of differentiation: the level of distribution and the relative "openness" of the specific location. The new locations described here as "hash clubs" are less conspicuous than Christiania's open air market, but they are more accessible than closed social distribution among peers (see Moeller 2008 for a typology). The proliferation of hash clubs indirectly signals a reduction in the market share that is controlled by Christiania: *"After all of these new hash clubs have opened on Amager and Nørrebro, people no longer go to Christiania. They have lost a lot of their customers and that is just the way it is"* (Youth). Until 2004, Christiania had a competitive price advantage due to its wider selection of products and sellers (Moeller 2012b).

Hash clubs are believed to be predominantly run by immigrant gangs (Moeller and Hesse 2013), and their growth has changed the structure of the cannabis market in the

direction of a “cottage industry” with many smaller groups (Eck and Gersh 2000). Violence is a resource in this restructuring (Kleiman 1989; Papachristos 2009). As one young interviewee put it: “Yes, it is my impression that the immigrants are trying to get into the cannabis market, and it is also my impression that they are quite convincing in their methods” (Youth). All of the interviewees took the conflict between outlaw biker gangs and immigrant gangs for granted. The conflict was referred to as a matter of fact, and a clear line of demarcation between the two types of criminal groups permeated all of the interviews. Interestingly, some of this competition also involves cooperation:

“Many people think that ‘perkerne’¹ do not go to Christiania, that it is an ‘Aryan’ place and so on. What they do not know is that it is always a black man that has handed it to a white man. That is not visible; it is behind the scenes.” (Youth)

Klement and Pedersen’s (2013) study of offending networks demonstrated that outlaw bikers and immigrant gangs occasionally co-offend, and the interviewees noted that this can actually be a source of conflict: “The bikers hate the Morroccans because they have been robbed by them so many times in relation to drug deals. The Morroccans have the connections” (Youth), echoing Paoli and Reuter’s (2008) observation.

The literature on drug market violence includes debates about the extent to which conflicts between criminal groups are utilitarian; where business ends and “respect” begins remains an open question (Moeller and Sandberg 2016). My interviewees explained that these divergent motives are often intertwined in practice. Some of the conflict directly involves access to drug selling turf:

“...if Christiania approaches us and says that no one from Nørrebro or (Blågårds) Pladsen can come in there, then it is almost like declaring war, that is how it is (...) All these people that are getting killed, you might as well be straightforward, they are dead because of five people, tops - because these five people do not get along, because they want to make money and because they do not allow each other to enter their territory.” (Youth)

Some of the violence follows from the “pecking order” relationship between criminal networks (Papachristos 2009): “It is often about revenge for revenge (...) It is possible that it started as an incident concerning a criminal market, but they are mainly old scores and it always comes down to one event being avenged after the other, right?” (Police). When a group is the victim of a violent action perpetrated by a competing criminal group, it has the choice between avenging the incident or leaving the market. Revenge shootings are commonly carried out by younger members of the gang: “(T)here are a couple of generals (...) on either side. And everything is about money. Everything is about the money. (...) Some idiot is not just going to go and

¹ Translates to “Persian origin”

start shooting for the hell of it. He has been told to do that. It goes further and further back in time" (Youth). Papachristos (2009; see also Moeller and Hesse 2013) noted that this violence tends to be perpetuated as the less violent actors leave the market: *"It is as if the culture has become more violent - it is not very nice anymore"* (Expert). This perception was shared by youth in this study as well:

It is getting wilder and wilder. The hash clubs and what is behind them are much worse than what was going on in Christiania. Before, it was somewhat controlled...and maybe the bikers were responsible for that. Now it is young people that know someone somewhere, then they get it fronted and then they are in the hash business. (...) That is what is happening. This whole gang culture is getting out of control in Denmark (...) More criminal, more festering." (Youth)

The interviewees narrated stories about Copenhagen's cannabis market that are congruent with the common understanding that a number of organized criminal groups have vested interests in this illegal trade. The outlaw biker gangs used to control Christiania's marketplace but have suffered the consequences of a police crackdown. This has led to a displacement of buyers and spurred an increase in cannabis sales in various locations distributed around the city. Some of these cannabis sales have been absorbed by new hash clubs, but there has also been an increase in informal types of cannabis trading. For immigrant youth gangs, this has constituted a systemic transformation in their social context. A central requisite for cannabis sales is a physical location where sellers can be found and transactions can occur relatively discretely. In the next section, I will explore how cannabis sales intersect with the social aspects of immigrant youth gang activity.

Instrumental or recreational cannabis: Youth clubs as turf

A recurring subject in the interviews was the role of neighborhood youth centers in the cannabis selling activities of interviewees. Commonly referred to as "youth clubs", these centers are not formalized cannabis sales locations like the hash clubs. Officially, they serve as social spaces for youth, particularly in areas with many social housing apartments. Bucerius' (2007) has described neighborhood youth centers as the main meeting point for dealers. Her interviewees explained that the location "was entirely in the hand [sic] of the group, and other people rarely entered the center". From the point of view of the police working in these areas, youth centers solve some problems and cause others. One street-level police officer explained the dilemma regarding a youth center:

"It's run by the users themselves and yes there is trouble surrounding it, yes there is, but we are pragmatic. There will be trouble with them no matter where they are. It is better that they cause trouble somewhere where few ordinary citizens come by." (Police)

Both the police and the youth in my interviews recognized these youth clubs as an important component in the lives of these immigrant youth gangs and noted their high degree of autonomy from public monitoring: *"These are not ordinary youth centers, but they are in municipal buildings and there is a contact person between the youth and the city council, but there are not really any teachers"* (Youth). Another interviewee explained that although this contact person was a requirement for clubs seeking premises, he was only really expected to serve this role temporarily: *"All youth centers have some contact person who has a close relationship with the city council. You have to get rid of him first"* (Youth). This was surprising, and when I discussed this issue with the police, they were already aware of the lack of formal regulation. One police officer even drew the parallel to more organized criminal groups and their clubhouses: *"To be a little cynical, I would say that it is their 'biker clubhouse'"* (Police).

Several interviewees described the club houses in terms reminiscent of the role of "turf" in gang research (Densley 2012), and the police also noted this territorial ownership: *"A big part of the identity of this group is the place. Like, they own the place. This is our place! That's the attitude out there. (...) It's a local group of troublemakers that will defend their territory if they are challenged by another group"* (Police). I was surprised by these stories and pursued the question of how the city council tolerated this lack of communication with the contact person:

(If it is shut, we burn it down, for sure...as revenge (...) that is just the way it is. You have to leave us and ours' alone. (...) As soon as the city council has given the grant to the club, you might say that they are out of the equation. You don't listen to them anymore, you don't have any cooperation with them anymore. You don't follow up on what they say or anything. That's the way it is in all clubs." (Youth)

The police also refer to this: *"They used to have some kind of a club house a few years back – it got burnt down"* (Police).

I started to enquire into the connection between the sale of cannabis and time spent socializing in club houses. Some interviewees described the sale of cannabis and the club as distinct from each other, albeit with a porous delineation: *"Out in (the city) where I am from we do not actually sell it in the club, but we sell hash on the street right in front of the club"* (Ung 4). Others described a similar demarcation but explained that it was not consistently maintained: *"Young people have a tendency to take their work from the street and bring it up to the club and just sit and hang out there instead of in front of the store in sub-zero weather"* (Youth). One youth was particularly vocal on this issue and insisted that he had firsthand experience from different locations:

Youth: *"I have seen at least twenty clubs in Denmark and they were all selling cannabis (...) city run clubs that you struggle with the city council to get...then when we got it the*

hash selling began. Hash sales from there on and onward. It is so obvious everybody knows. The city employees know about it too...

Interviewer: The club sells cannabis?

Youth: *The club sells hash but not cocaine. (...) your ass, your coke. My hash, our hash. That is how we did it. There is a community around hash; your coke business you can run on your own. That is how it is done in almost all immigrant clubs.*" (Youth)

These comments on drug selling in locations provided by the city council reflect an interesting and complex social problem. On the one hand, the city council provides premises to keep youth off the streets. On the other hand, some youth move their delinquent street behavior to these premises or their immediate surroundings. I asked more specific questions about the organization of this street-level dealing and the earnings involved. One interviewee explained the combination of "hanging and banging" (Densley 2012) as follows:

"People who stand on the street get around 300-400 crowns [~Euro 40-50] and a joint a day. They are there maybe six hours. (...) You smoke joints and hang out with your friends. Everybody is happy." (Youth)

Joe-Laidler et al. (2015) have analysed this combination of recreational cannabis use and sale in the context of youth gang activity. According to their findings, cannabis is a normal and integrated part of the life of these young people and is generally not perceived as problematic. The potential for making money while engaging in normal socializing behavior is a clear advantage of cannabis compared to other illicit drugs.

When I inquired into the money making aspects of their cannabis trading, these young sellers mentioned the connection to Moroccan suppliers which has also been identified by Paoli and Reuter (2008). One youth explained: *"I knew someone who had it imported from Morocco...so I bought some good stuff for about 2,500 for 200 grams and then I sold 1.2 grams for a 100 kroner"* (Youth). This has implications for positioning in the dealing hierarchy: *"It's all about the ease of access people have to the hash and what they pay. If I'm paying less than the other guy, I can sell to him, and vice versa"* (Youth). This is more business-minded than the social sharing we would expect between friends in a group of youth that grew up together. It is also a very illustrative description of how, in practice, connections to Morocco can actually entail competitive advantage over other sellers.

Finally I touched on the most controversial issue for immigrant youth gangs: the relationship between youth gangs and religion. The Danish press has published stories that describe how religious and criminal groups overlap, but these accounts are anecdotal. The focus of this study was on the role of cannabis in the crimes of these young people, but all of the young interviewees spoke about immigrants and immigrant gangs in a way that

suggested that they were referring to Middle Eastern immigrants. One of the interviewees had experienced a religious awakening in prison and used it as a way to stay away from crime after his release. He was keen to discuss immigrant youth gangs from the perspective of a common religious identification:

Interviewer: "Do immigrant youth gang members identify themselves as Muslim?"

Youth: *"Yes, that's what you are. You never forget who created the world. (...) We are a lot closer to our religion than any other people are to their religion. (...) We have a lot more will, we dare do more things and we do it without thinking. If you take a look at Danish prisons, you'll see that eighty percent are immigrants. It goes without saying because we take the chances that others won't and it comes from your willpower. That's what this book does to us: it makes us strong willed, it makes us calm. (...) It's important for people like us to practice this. If we don't, then what will we give to our children? All hardcore criminals wind up religious."*

Interviewer: What is it about being a Muslim that a criminal respects?"

Youth: *Everybody respects everybody else. If you put your hand forth, it doesn't matter if it is your enemy - you take the hand."*

Interviewer: What, because he is a Muslim?"

Youth: *Yes, certainly."* (Youth).

These quotes are not necessarily representative, of course, but they harmonize well with suggestions in prior research concerning criminal capital and group cohesion based on cultural marginalization and religious identification (Paoli and Reuter 2008; Lien 2008; Sandberg 2008a; Bucarius 2007). In the context of the evolution of gangs and criminal careers, group identity may serve to increase interaction with deviant peers in the early stages but also serve as way to stop a criminal career later on.

Discussion and conclusion

In this study, I have explored two questions that relate to immigrant youth gangs. Firstly I examined how the crackdown on Christiania's cannabis market affected opportunities for cannabis sales elsewhere in Copenhagen. Secondly I was interested in understanding the role of cannabis in the lower evolutionary stages of gangs. My point of departure was the understanding that cannabis accounts for a large part of the revenue generated by the activities of criminal groups. Until recently, much of this revenue was concentrated in Christiania and controlled by outlaw bikers. The crackdown on Christiania may have constituted a systemic transformation in the social context that surrounds immigrant youth gangs. This type of transformation cannot be readily be understood with the help of official crime

statistics alone. Interviews with youths themselves provide an important data point in understanding the immigrant youth gang phenomenon in Scandinavia (Jacobsen 2014).

The drug market literature has claimed that in the short run, drug buyers tend to continue offending when the police intensify their enforcement. In fact, however, whereas buyers do continue offending, they employ a variety of displacement strategies, moving their transactions to other locations and adopting covert forms of trading. This facilitates market access for new actors who could not previously compete with the most established marketplaces (Kleiman 1989; Eck and Gersh 2000). Christiania was “the base” and had a competitive advantage as a stable location with many different sellers and products (Moeller 2016). The interviewees explained how the crackdown on Christiania’s cannabis market helped initiate an entrepreneurial process among various immigrant youth gangs. This process was fuelled by violence as groups sought to prevent each other from obtaining market shares (Moeller and Hesse 2013; Papachristos 2009). The interviewees in the present study generally confirm the drug market theories. There was increased competition between criminal groups and violence played an important role.

The conflict was described as involving outlaw biker gangs and immigrant gangs. This conflict has attracted the attention of researchers and the media, and has led to new legislation on immigrant youth gangs (Klement, Kyvsgaard and Pedersen 2010; Pedersen and Lindstad 2011). According to my interviews, the violence is perpetrated in the context of a conflict where a few “generals” on either side determine when a transgression needs to be revenged. These transgressions need not necessarily be strictly related to drug market conflicts, and several interviewees note how personal respect plays a role in the conflicts. This is consistent with criminological research on illicit drug dealing: monetary gain is but one factor; status and distinction can be equally important (Sandberg 2008b). An unfortunate byproduct of this conflict was described by my interviewees as an increase in the proliferation of “gang culture”, referencing the successful criminal archetype (Kalkan 2014; Venkatesh 1997) that makes money from drug dealing.

Various motives for selling cannabis are also apparent from the accounts of my young interviewees. According to their accounts, there is no clear delineation between the social and criminal aspects of using and selling cannabis: they blend together at street level. Some aspects of cannabis selling are clearly more organized and profit-driven than others. A particularly interesting finding here is that a good connection to Morocco can allow a trader to offer slightly lower prices than competitors in the market are offering. This small price variation can amount to the difference between being the seller to lower level distributors or being the buyer from higher level distributors. The Moroccan connection was also described as important at the higher distribution levels. The outlaw biker gangs may have controlled Christiania’s marketplace, but they occasionally had to do business with immigrant gangs to access large quantities of cannabis. This cooperation between groups that were otherwise portrayed as “natural enemies” was surprising.

When combined, these aspects of cannabis sales and distribution in Copenhagen form the contours of an explanation for the drug market related violence and increased proliferation of immigrant youth gangs in the city. A new set of actors has increasingly gained access to cannabis market shares. The research on drug gang explains this in a variety of way. Opportunities for illicit drug dealing can mean that criminal groups become more goal-oriented and focused on monetary gain (Venkatesh 1997; Densley 2012). Recreational neighborhood groups become more like delinquent collectives when they earn money. This process may be strengthened by interactions with the police. Increased attention from law enforcers can make members of recreational youth groups become more involved with their co-offenders. This can be understood as an adaptation to restrictive deterrence to avoid sanctioning (Gibbs 1975) as young offenders surround themselves with other offenders instead of non-delinquent peers (Wood and Allyene 2010).

Finally, it was surprising that both the police and youths brought up the role of neighborhood youth clubs in the sale of cannabis. Bucerius (2007) touched on this issue in her study, but the new insight here is that these locations serve as “turf” for immigrant youth gangs in Copenhagen. Kalkan (2014) does not mention these locations, despite his focus on the social realm between the family and the streets. My findings indicate that youth clubs play a pivotal role in this intersection. The proverbial ownership of these locations is contested between the youths and the city council. The council is represented by a contact person whose actual role is questioned by my interviewees. Future research could attempt to examine these locations in greater depth. If, as suggested by my research here, youth clubs play a role as for drug dealing and socializing, it implies that they also form a potential point of contact and control.

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Education and delinquency - A study of delinquency, education and social background among persons in Denmark at the age of 25-29

Mette Foss Andersen and Laust Hvas Mortensen, Statistics Denmark

The association between crime and education is well known, but not many studies of full populations exist. The purpose of this analysis is to study the statistical associations between delinquency and education in Denmark and the influence of social background.

The population is persons born in 1985 to 1989 who attended the Danish primary school, and the analysis is based on register data from Statistics Denmark.

The analysis cover four themes; delinquency and the education record in primary school, education record in youth education, time for initial conviction and initial sentence and the influence from the family background.

The study concludes that there is a strong association between delinquency and education, especially between discontinuous education records and delinquency. Differences in parental education, family income, origin, degree of urbanization and sex explain only a small part of the associations between delinquency and education.

Population and data

The population is persons born in 1985 to 1989 who attended the Danish primary school and the data is based on six different registers from Statistics Denmark:

- *'The Register of Convictions'*: the number of convictions and type of decision
- *'Highest Education Attained'* covers completed educations after primary school, and the highest education of both parents
- *'ELEV3'* covers drop-out on educations and ongoing educations (at the age of 25)
- *'The register of marks in primary school'* covers marks from primary school
- *'The Personal Income register'* covers the disposable income of the family, when the persons were at the age of 15
- *'The CPR-register'*: covers the etnical origin of the persons and the municipality the persons lived in, at the age of 15

Methods

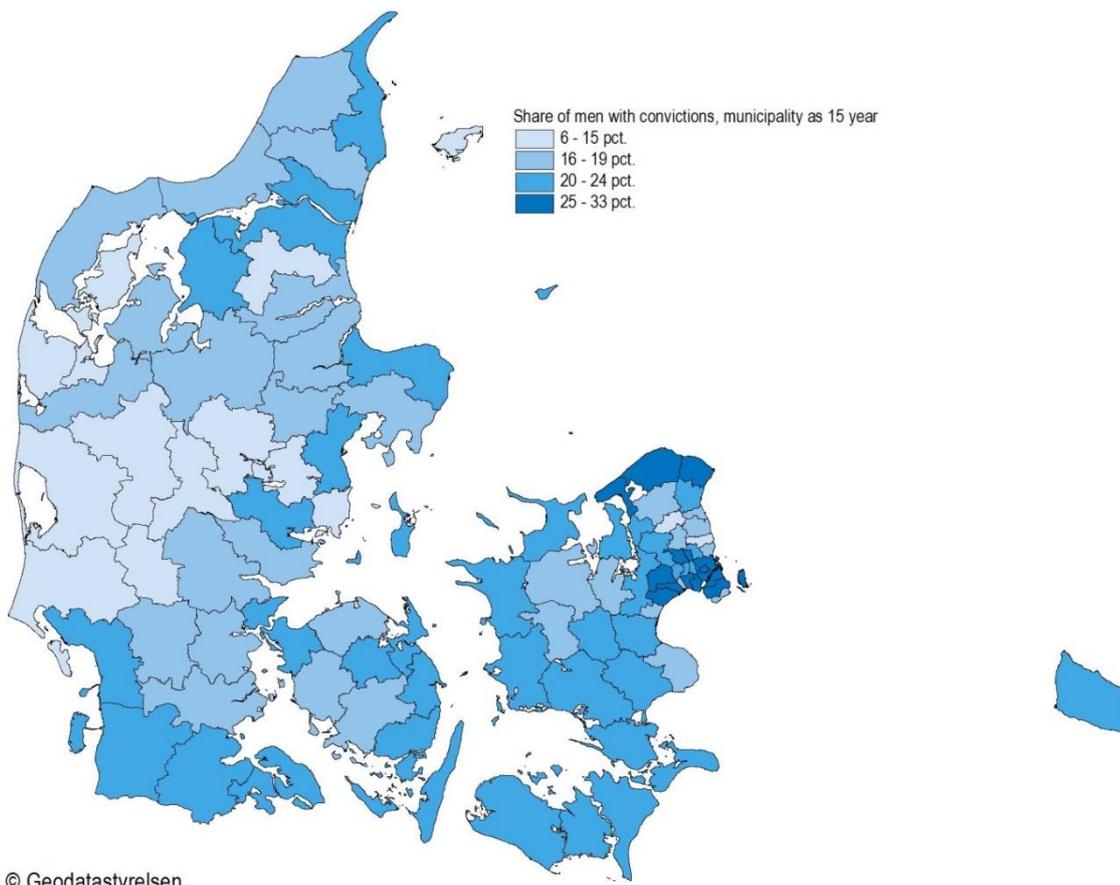
The analysis compares education patterns between convicted and non-convicted persons. The term convicted is used when a person has one or more convictions after the Penal Code, the Euphoriants Act and/or the Firearms Act at the age of 25. Our data shows that

the chance of being convicted depends on the social background. We made an adjusted analysis to estimate how the education patterns of the convicted persons would have been if the convicted persons had had the same social background as the non-convicted. We used an *inverse probability of treatment-weights*, where the weights were estimated using Coarsened Exact Matching. The weights were used to construct a dataset, where family income, the education of the mother and father, the ethnic origin, sex and the urbanity of the municipality the persons have lived in had the same distribution among the convicted as among the non-convicted. In the adjusted analysis 9.563 persons were omitted because their combination of covariates made it impossible to use them in adjusted analysis.

Delinquency and primary school

Among persons born 1985-1989 who attended the Danish primary school 30.736 men (21 pct.), and 8.399 women (6 pct.) have one or more convictions at the age of 25. The share of men with convictions varies between 6 and 31 pct. according to which municipality they lived in at the age of 15 year. Every third man who lived in Copenhagen at the age of 15, has one or more convictions at the age of 25.

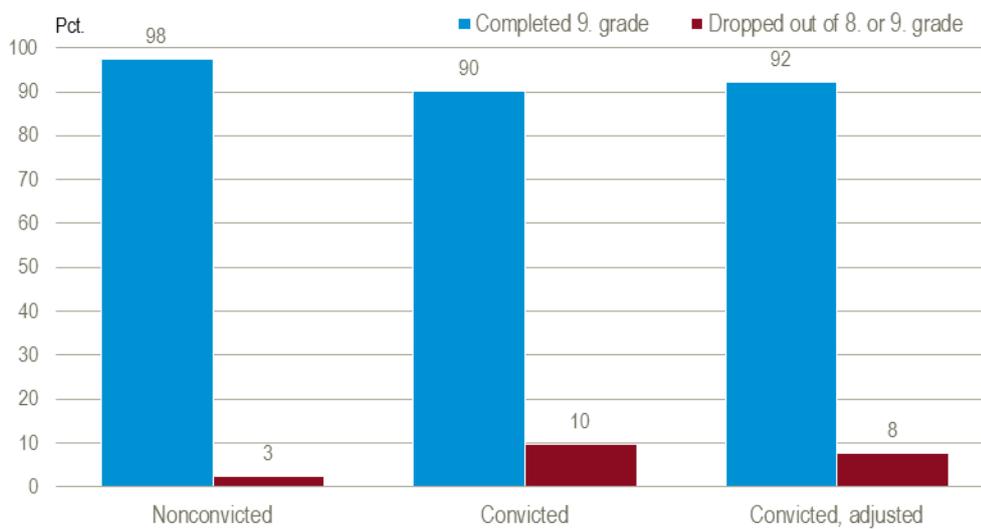
Figure 4. Men with convictions according to the municipality they lived in at the age of 15. N=30.736



Primary school drop-outs and delinquency

Around 10.000 persons dropped out of primary school in 8th or 9th. grade, which is the last grade that is mandatory in the Danish primary school. Among convicted persons 10 pct. dropped out, while among non-convicted only 3 pct. dropped out. If we adjust for social background, we estimate a dropout of 8 pct. for the convicted, corresponding to a difference of 5 percent point.

Figure 5 Persons who completed or dropped out of primary school among convicted and non-convicted persons. N=277.331.



Marks from written exams in primary school and delinquency

Persons with a conviction at the age of 25 year have significant lower marks from the written exams in primary school compared to non-convicted persons. A major difference is the marks in math where the mean of convicted men is 4.2 and the mean of non-convicted men is 6.1.

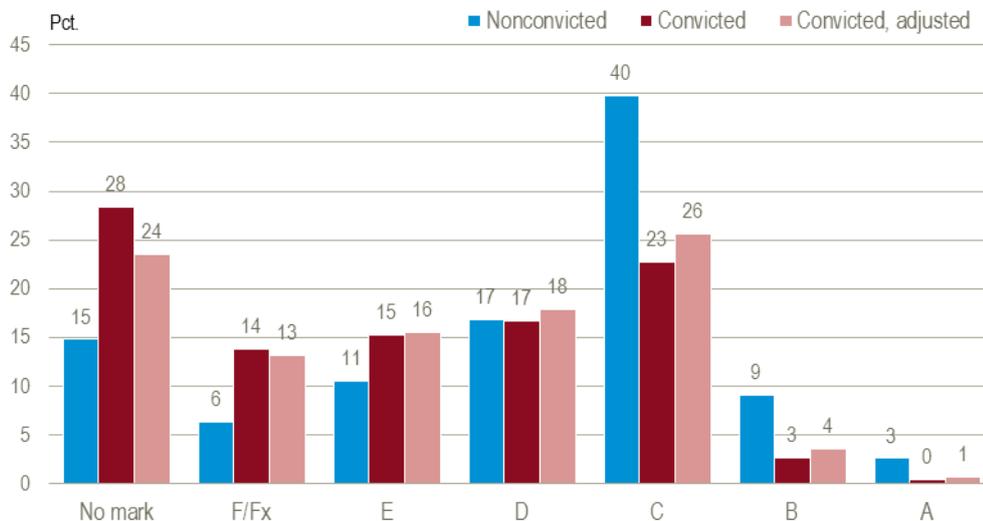
Table 5. Mean values from marks from the written exams in primary school among convicted and non-convicted persons born 1985-1989. N= 286.894.

	Mean	N with grades	N total
Marks from the written exams in math, man			
Non convicted	6.1	98 535	115 790
Convicted	4.2	21 856	30 736
Marks from the written exams in math, woman			
Non convicted	5.4	112 586	131 969
Convicted	3.6	6 178	8 399

Marks from the written exams in Danish, man			
Non convicted	5.4	98 762	115 790
Convicted	4.1	22 063	30 736
Marks from the written exams in Danish, woman			
Non convicted	6.6	114 374	131 969
Convicted	5.5	6 453	8 399

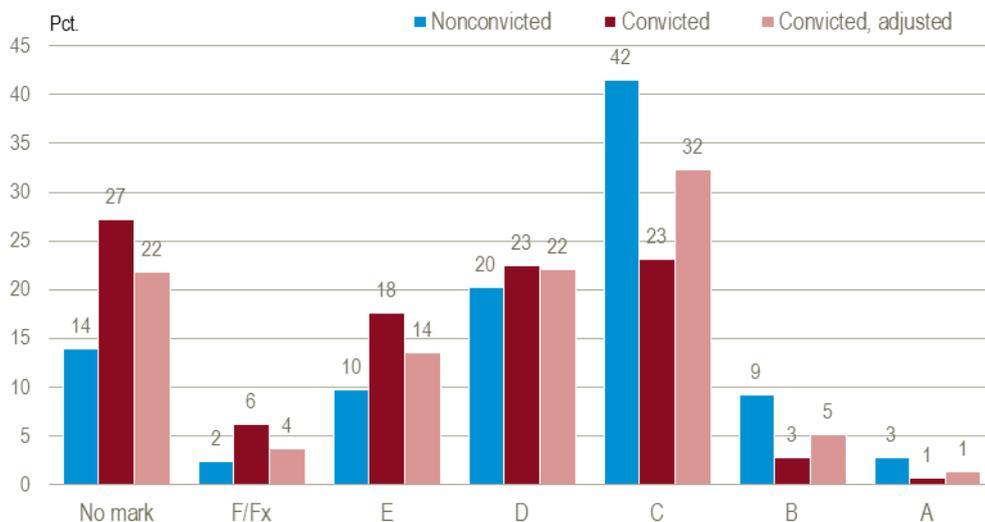
The following bar chart shows the distribution of marks between convicted, non-convicted persons and convicted persons adjusted for social background. When we standardize the backgrounds, the differences in marks between convicted and not convicted persons reduce, but there are still large and statistically significant differences between convicted and non-convicted persons. Almost every four (24 pct.) of the convicted persons have no grade from primary school and 13 pct. have not passed the exam. For the non-convicted persons, 15 pct. have no grade and 6 pct. not passed the exam.

Figure 6 Marks from the written exams in math in primary school among convicted and non-convicted persons born 1985-1989. N= 277.331.



The tendency is the same for written Danish, except for fewer persons did not passed the exam, both for adjusted and not adjusted numbers.

Figur 7 Marks from the written exams in Danish in primary school among convicted and non-convicted persons born 1985-1989. N= 277.331 (adjustet).



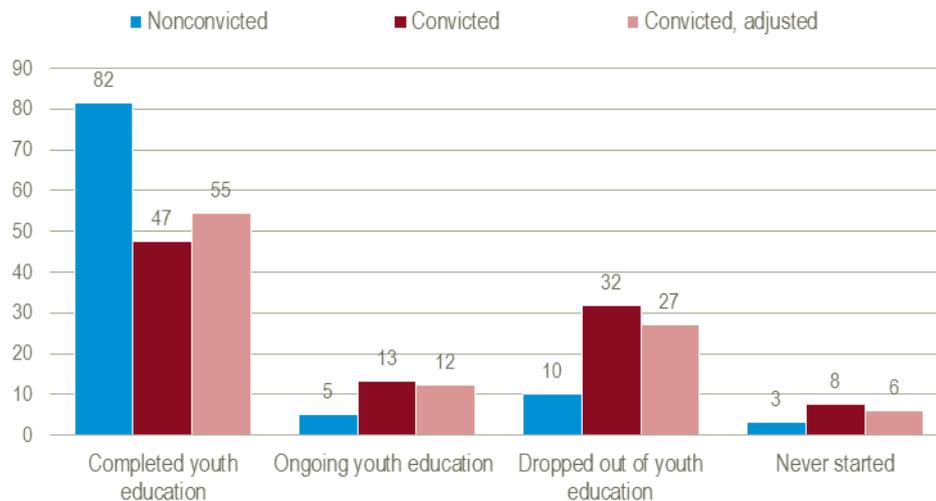
Youth education and delinquency

There is a substantial difference between convicted and not-convicted persons who have completed a youth education at the age of 25.

Under half (47 pct.) of the persons have one or more convictions at the age of 25. In total, 82 pct. of the non-convicted persons have completed a youth education at that age. One third (32 pct.) of the convicted persons have dropped out of one or more educations and are out of the ordinary education system at the age of 25. The equivalent share of the non-convicted persons is 10 pct.

When we adjust, we estimate that 55 pct. would have had completed an education and 27 pct. have dropped out if the social background among the convicted was similar to that of the non-convicted. There is still a substantial difference between the convicted and non-convicted that is not explained by social background.

Figure 8 Youth education status at the age of 25 among convicted and non-convicted persons. N=277.331



The initial conviction before or after the start of a youth education

It is of importance for completion of a youth education whether the persons got their initial conviction before, or after they started on a youth education.

41 pct. of young persons who received a conviction before they started on a youth education have completed their youth education and an equal share (41 pct.) has dropped out. In total 18 pct. of the persons at the age of 25 are still in the process of completing a youth education.

Of persons who had a conviction within three years after they started on their first youth education, 53 pct. has completed an education and 34 pct. have dropped out and are out of the ordinary education system at the age of 25.

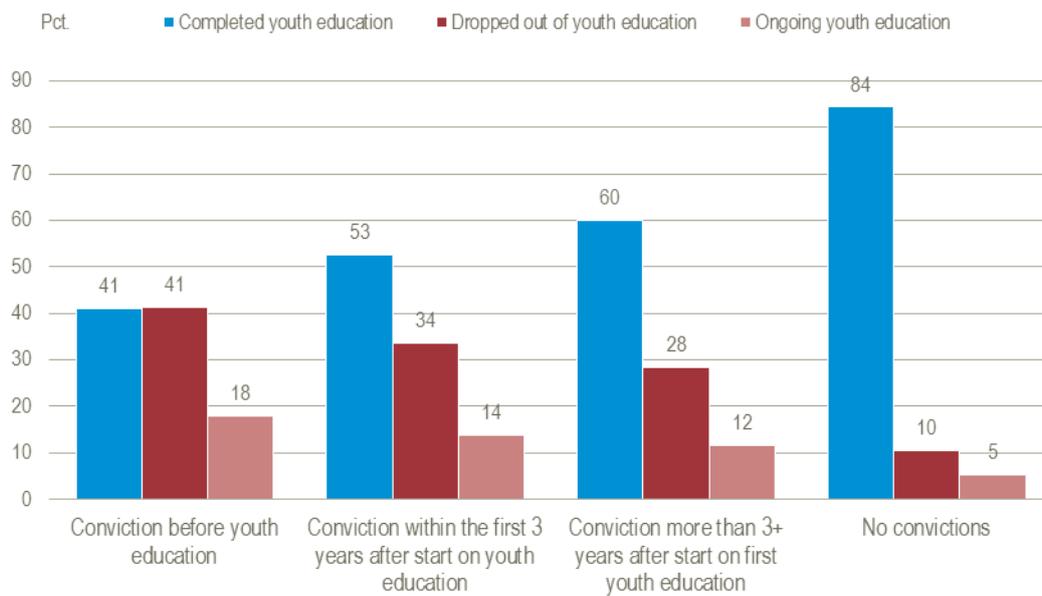


Figure 9. Youth education status at the age of 25 among persons that have started a youth education, according to time for initial conviction. N= 276.328

Initial conviction before or after the written exams

Among persons with data from data in primary school, 4.301 persons had a conviction before the written exams in Danish and math. Persons with a conviction before the exams received lower marks from the written exam in both Danish and math.

Table 6. Mean values from marks from the written exams in primary school among convicted and non-convicted persons born 1985-1989 according to time for initial conviction. N= 286.894.

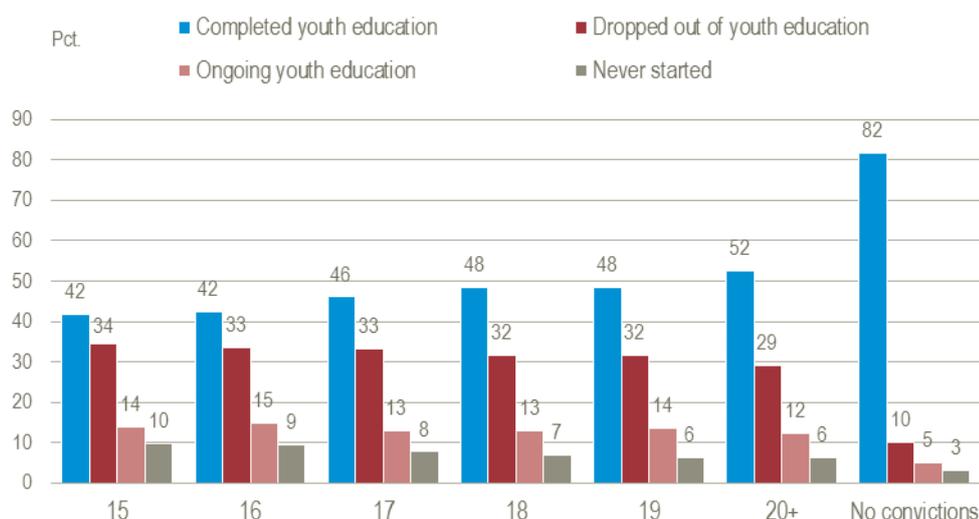
	Mean	N
Marks from the written exams in math		
Initial conviction before exam	3,4	4 025
Initial conviction after exam	4,1	24 009
No convictions	5,8	211 119
Marks from the written exams in Danish		

Initial conviction before exam	4.1	4 183
Initial conviction after exam	4.5	24 340
No convictions	6.0	213 132

Status on youth education at the age of initial conviction

The share of convicted persons who have completed a youth education increases with the age of their first conviction. Among young persons, who received their first convictions at the age of 15, 42 pct. have completed a youth education and 10 pct. have never started on a youth education. Among persons who had their first conviction after the age of 20, while the share who has completed an education is 52 pct. and 6 pct. never started.

Figure 10. Youth education status at the age of 25 according to type of initial conviction. N= 286.894.



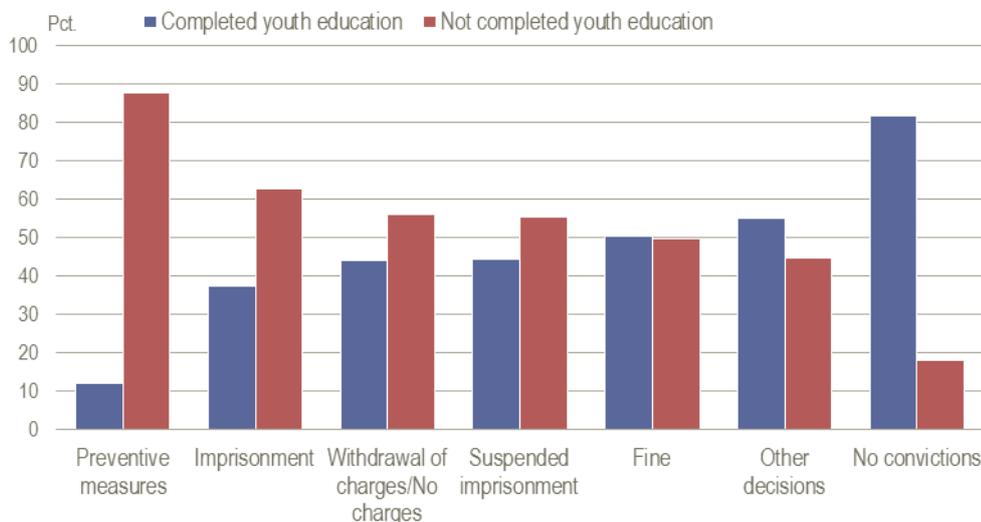
Type of initial conviction and status of youth education

Among young people who are imprisoned in relation to their first conviction, fewer complete a youth education and several is out of the ordinary education system at the age of 25 compared to young people who are receive other sanctions.

37 pct. of the young persons who are imprisoned in relation to their initial conviction have completed a youth education and a higher share have dropped out rather than completed.

It is worth noting that the numbers do not necessarily reflect a causal effect of the type of sanction on education. Persons who receive a severe sanction probably also committed a more serious crime and may differ from those who received other sanctions in other observed and unobserved characteristics.

Figure 11. Youth education status at the age of 25 according to type of initial conviction. N= 286.894.



Differences in social background between convicted or non-convicted persons

There were significant differences in the social background of convicted and non-convicted persons. The following table shows some of the differences.

Table 7. Convicted and non-convicted persons born 1985-1989 according to social background factors. N= 286.894.

	Convicted, pct.	Non-convicted, pct.
The disposal income of the family when the person was at the age of 15		
Poorest 20 pct.	31	17
2. quintile	21	19
3. quintile	16	20
4. quintile	14	20
Richest 20 pct.	12	20
Income unknown	5	3
The highest education of the mother when the person was at the age of 15		
Primary school	31	22
Upper-secondary education	3	4
Vocational education	28	30
Short-cycle or Medium-cycle higher education	14	22
Long-cycle higher education	2	4
Unknown	20	18
The degree of urbanity (EUROSTAT) when the person was at the age of 15		

1 Densely populated area (Copenhagen, Århus, Odense, and suburbs of Copenhagen)	29	22
2 Intermediate density area > 40.000 inhabitants	15	14
2 Intermediate density area (<40.000 and >=15.000 inhabitants)	19	20
2 Intermediate density area (<15.000 inhabitants)	3	3
3 Thinly populated area (=> 15.000 inhabitants)	13	15
3 Thinly populated area (< 15.000 inhabitants)	22	25

There are modest differences in social background between the convicted and non-convicted. The table shows that 31 pct. of the convicted persons come from families who were among the poorest 20 pct. in Denmark compared to 17 pct. of the non-convicted. The distribution is reflected by the highest education of the mother. 31 pct. of the convicted persons come from a home where the highest education of the mother is primary school. For non-convicted persons the percentage is 22 pct.

If we look at the degree of urbanity in the municipality the persons lived in at the age of 15 there are also some differences. 29 pct. of the convicted persons lived in an area that were 'densely populated' (Copenhagen, Aarhus, Odense, and suburbs of Copenhagen') compared to 22 pct. of the non-convicted persons.

Conclusions

- There is an association between delinquency and education, especially between discontinuous education records and delinquency
- Differences in parental education, family income, origin, degree of urbanization and sex, only explains a small part of the association between delinquency and education.

Transforming Cowboy Masculinity into Appropriate Masculinity

Nina Jon

In the presentation I present my chapter in “*Masculinities in the Criminological Field*” edited by Ingrid Lander, Signe Ravn and Nina Jon (2014), funded by NSfK.

Criminological enquiry commonly overlooks the *gendered* aspects of the social control of *men*. By studying a protective school for boys with a gender perspective, I have found that controlling boys to a great extent means controlling masculinity. In my study, I have analysed empirical material from Foldin protective school (1953–1970). Through an analysis of the narratives about the boys employed by the school and other social support and control systems, I aim to uncover the masculinity discourses that shaped the school’s work. Is a well-documented fact in criminology that those who are registered as criminals and subjected to social control in the form of court orders and custody by the child welfare services, predominantly are working class boys (Willis 1977, Christie 1982, Mattsson 2005). My analysis of Foldin’s effort to form a *proper boy* is therefore also an analysis of a class-specific masculinity discourse.

When analysing Foldin’s control of the young boys with a gender perspective, it is evident that just as controlling girls means controlling femininity, controlling boys means controlling the boys’ gender and their deviations from accepted forms of masculinity. In this chapter, I will make the case that a masculinity perspective is useful for understanding both why young boys commit crime and why their custodians react so strongly to even relatively trivial forms of crime. I will present my concept of cowboy masculinity, and show why this is useful term for understanding young boys’ masculinity projects.

Cowboy Masculinity

Instead of viewing criminal activities as a matter of deviancy, I will approach them as part of boys’ identity formation. To conceptualise this, I draw on Messerschmidt’s influential work (1993, 1997, 1999) on the connections between crime and masculinity. Messerschmidt argues that crime can be a strategy for ‘doing masculinity’ (Messerschmidt, 1993, Jon, 2007). For boys and men with low income, limited education and low societal status, it may be difficult to feel and be perceived as ‘a real man’. Boys and men in this situation may instead achieve status, self-respect and notoriety through violence and a willingness to fight. By committing crime, marginalised boys and men uphold their identity as ‘real men’. They are utilising the one instrument available to them: Their bodies. Young criminal boys have at all times presented themselves and been regarded by others as tough guys (Whyte 1981, Cohen 1955, Ericsson et al. 1985).

I term this masculinity project *cowboy masculinity*. In this concept, the cowboy represents a plethora of mythical heroic figures of cultural importance, especially to the working class. This concept does not preclude that resistance can be a key element of such a masculinity project, but shows that it is one of several aspects. In addition to accentuating what young criminal boys are inspired by and not merely what they are opposing, one of the strengths of the term 'cowboy masculinity' is an emphasis on the boys' *style*. This emphasis is in line with the so-called 'Birmingham school' (Resistance through Rituals 1975, Willis 1977, Hebdige 1979).

In my study of Foldin protective school I find, not surprisingly, that the boys who were sent there by the child welfare services primarily came from poor, marginalised families. As previously mentioned, it is a well-documented fact in criminology that the sons of the working class are the ones who get institutionalised because of their involvement in crime (Spitzer 1974, Christie 1982). The boys of Foldin had grown up with limited access to resources. Faced with this situation, it seems like many attempted to 'be a man' through the display of cowboy masculinity, and by adapting the style of a tough guy. They were 'doing masculinity' by employing modes of behaviour broadcasted by the popular culture of the 1950s and 60s.

At Foldin, the limelight was on the boys' masculinity projects. For the most part the staff explained the boys' problems by means of their 'toughness' and their eagerness to 'show off'. Even though the staff were aware of the boys' backgrounds and their poor beginnings, their life stories and preconditions were pushed to the side in their day-to-day lives at Foldin.

The Foldin staff attempted to steer the boys' masculinity projects away from what they regarded as over-compensational, anti-social toughness and crime. Teaching the boys the meaning of proper masculinity seems to have been one of the central aims of the stay at Foldin. The boys were to learn and practice that which the adults thought they have not yet grasped: how to be a real man.

An Appropriate Masculinity

Through explanation and exhortation the adults attempted to make the boys improve by appealing to their common sense. As previously mentioned, the aim of the stay was to make the boys strong and independent. This project was complicated by the fact that there were limits to *how* independent they should become. While on the one hand the boys must build up an inner strength enabling them to resist temptations, on the other hand, being *working class*, they must be subordinate and subservient. And this is further complicated by the fact that there were limits to how subordinate a boy could be while at the same time conforming to the idea of a proper masculinity. Too subservient, and they would be branded with the stigmatising label 'unmanly' (Liliequist 1999, Lorentzen 2004, Ekenstam 2005). The Foldin staff shared the boys' contempt of cowardice

and femininity, and while attempting to prune away what they regarded as unmanly exaggerations of masculinity, there was a thin line between too much masculinity and too little. According to the Foldin staff, a boy was limited by the necessity of being proper. However, there also was, as we have seen, a constant risk that the boy became *too proper* - thereby breaking with the norms of what constituted a real *boy*.

An appropriate masculinity, *a proper boy*, was in the eyes of the Foldin staff a boy of strong character, cleanly but not vain, dutifully obeying his superiors with a smile, but without being under their heels. He was a proper worker, who got up in the morning and earned his daily bread with joy, understanding the value of his labour. Furthermore, he supported his peers, he was decent and nice, and he shared his gifts generously. But he did not buy himself friendships and he did not suck up to people. He did not pick fights, but if challenged he entered the battle willingly. He stood his ground.

The space of action for a 'proper boy' existed somewhere in between an exaggerated masculinity and a weak and puny style bordering the effeminate. Similarly, several studies have showed that women have to balance a proper femininity (Pedersen 1996, Bengs 2000, Ambjörnsson 2004). The aim of Foldin protective school was to teach the boys the right balance.

Conclusion

It is easy to get upset when reading about how the Foldin boys' experiences and histories are being pushed to the sideline. It is also upsetting that the 'treatment' of the boys is about making them get up in the mornings, stay clean and do what they are told. It does not seem as if Foldin addresses the boys' real problems. And the difference between the Foldin that I studied and today's institutions is not all that great. Studies highlight that the goal of contemporary institutions is to achieve 'behaviour correction, socialisation and strengthening responsible behaviour' (Venås 2005, Mattsson 2005, Laanements and Kristiansen 2008). The goal, like at Foldin, is building inner strength, and the means are almost identical: strict routines combined with positive role models.

The Foldin staff did not see that the social arena created by institution did not enable the boys to alter their masculinity projects. Neither did they recognise that the boys, the way I see it, were already skilled at being 'men' - given their circumstances. The majority of the Foldin boys had grown up in troubled environments, lacking resources. They responded to this situation by adopting a tough style and employing cowboy masculinity. The boys were 'doing masculinity' by utilising their contemporary resources, communicated by the popular culture of the 50s and 60s (Bjurström 1982). The staff, however, merely saw immaturity, irresponsibility and a lack of character, to be addressed by longer stays at Foldin.

The idea of Foldin was not merely storing the boys somewhere while waiting for them

to grow up, but to foster a proper masculinity. As argued by Holter and Aarseth in this line of thinking, 'gender identity [is] a package of sorts, a concrete but somewhat indeterminable good' (Holter and Aarseth 1993:77). Gender identity becomes something a boy inherits from his father. In the eyes of the Foldin staff, the boys' fathers had either been missing, or otherwise failed in this task. Hence, they themselves must step into the fathers' shoes as male role models.

To this day, the work of the child welfare system is not marked by a strong gender perspective. It could benefit from recent studies of gender and in particular of masculinities. Increased awareness about gender as practice, relations and processes will reduce the risk that child welfare workers undermine their own project - like the Foldin staff did.

The norms for accepted and hegemonic masculinity have undergone great transformations compared to the time when Foldin protective school was operative (e.g. Holter and Aarseth 1993, Ekenstam et al 2001, Reinicke 2002). In particular, men's increased involvement in child care and the changing role of fathers have been monumental (Holter and Aarseth 1993, Johansson 1998, Brandth & Kvande 2003). Moreover, society's understanding of violence, including its definitions, has changed dramatically since the 50s and 60s. While it is evident from the Foldin archives that avoiding all forms of violence was tantamount to cowardice, avoiding violence is a central norm of our time.

In many ways, traditional masculinity has gone out of fashion, and will in most settings be regarded as archaic. At the same time, some traditional masculinity ideals are very much alive and kicking (Whitehead and Barrett 2001). The ideals of 'the new man' live side by side with the values that guided Foldin's effort to form a proper masculinity.

Even in the wake of great societal changes, my conclusion is that that which defined the space of action for a proper boy in the 50s and 60s, still affect the boys of our time. One must not be too tough - but neither must one fall into the pit of unmanliness. Any associations with cowardice, weakness and lacking self-control are undesirable. For the boys of today, like the boys of the 50s and 60s, stories of dangerous missions, courage, toughness and independence are still amongst the most easily accessible.

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WORKSHOP I

CRIMINAL JUSTICE CHALLENGES AND TRENDS

The unequal crime drop

Anders Nilsson & Felipe Estrada

Since the 1990s, many countries, including Sweden, have seen declining crime levels. However, few studies (for recent reviews see e.g. Baumer & Wolff, 2014; Tonry, 2014) have examined the question of whether this trend differs for different social groups, and if so in what way. The literature appears to be subject to an underlying assumption that the decline in crime is quite general in this respect. In this paper we problematize this assumption. Against the background of increasing inequality in other areas of welfare, as described primarily in sociological research (see e.g. Nolan et al. 2014), our objective is to analyse changes in the distribution of crime. In contrast to the few studies that have to date examined the issue of inequality in the crime drop, we focus on the social background of offenders rather than crime victims. By using register data relating to entire Swedish birth cohorts, in which convictions data have been linked to data on parental incomes, we are able to examine changes over time in the distribution of crime among individuals from different socioeconomic backgrounds.

The paper proceeds by first presenting a short review of crime trends (the crime drop) and of the trend in income inequality since the mid-1980s, with a focus on Sweden. Thereafter we present the mechanisms that we would argue lead to an expectation of increased inequality in the area of crime. This is followed by a presentation of our data and methods. The results sections presents an analysis of convictions (up to age 25) by socioeconomic background (parental income) in three birth cohorts born in 1965, 1975 and 1985. This allows us to describe the trend in convictions and at the same time to study the extent to which the changes that have occurred are general or specific, viewed on the basis of socioeconomic background.

The “Crime Drop”

Figure 1 describes convictions per 100,000 of population for the period 1950-2014. As can be seen, the general decline in convictions is quite dramatic, with the convictions rate being halved over the period since the 1980s, with a clear decline during the 1990s. The trend varies across different types of crime, however. Theft offences, which constitute a dominant category of crime, largely follow the general pattern. The number of convictions for assault, however, continued to rise during the 1990s, and it is only during very recent years that assault convictions have started to decline. A similar trend – with declining

levels of registered theft crime and an increase in violent crime – is common to a number of European countries (Aebi and Linde, 2012). The trend for violent crime is difficult to assess, however, since different data sources point in different directions (Estrada, 2001; 2006; Aebi and Linde, 2014).

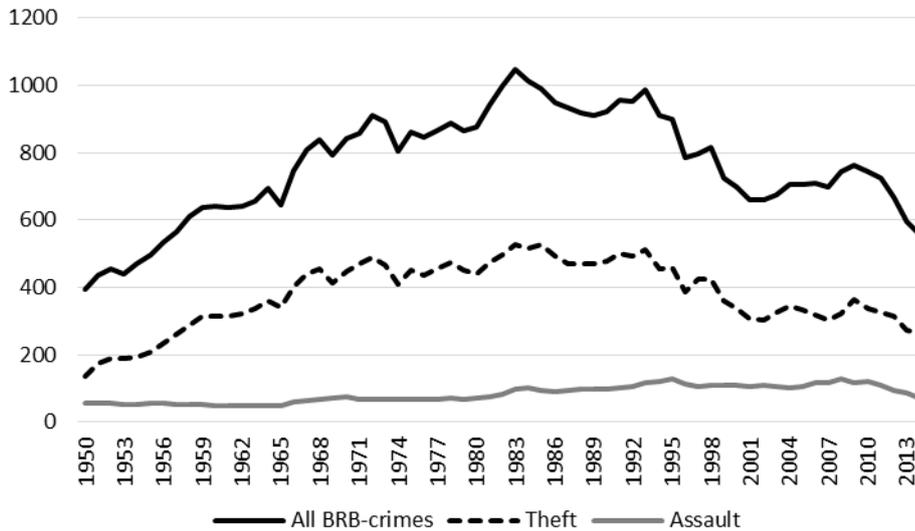


Figure 1. Rate of convictions: all penal code offences (all BRB-crimes), theft (excl. robbery) and assault. 1950-2014, per 100,000 age 15 and over. Sweden.

Another element in the picture of declining crime trends is found in Sweden’s surveys on self-reported crime among 15-year-olds, which show clear declines since the studies were initiated in 1995 (Estrada et al. 2012). By studying convictions in different birth cohorts, it has also been shown that the proportion of the Swedish population that is convicted of crime has declined over time (von Hofer, 2014; Bäckman et al. 2014).

Explaining the crime drop

Although a range of hypotheses have been proposed as possible explanations for the falling crime rates (see e.g. Farrell, 2013; Baumer and Wolff, 2014; Tonry, 2014) the European research has primarily focused on how the more widespread use of more and better security measures has made the commission of crime more difficult, increased the risk for detection and reduced the value of the objects of crime. The so-called security hypothesis, with its roots in routine activities theory (Cohen and Felson, 1979), is also the explanation that has to date found most support in the research (Farrell et al. 2014). One example of an offence type that points to the significance of opportunity and security is car theft, which constituted an important part of the crime increase in the western world during the post-war period (more cars), and which has now instead (thanks to better locking and security systems) contributed significantly to the decline in crime witnessed since the 1990s. While changes in the opportunity structure appear to constitute a reasonable explanation for

trends in property crime, there is some debate as to how the decline in serious violent crime might be understood (Aebi and Linde, 2014). The research, which is often based exclusively on aggregate crime data or victim surveys, has furthermore failed to examine, and thus also to seek explanations for, the socio-demographic structure of the decline.

Mechanisms underlying inequalities in crime trends

We would argue that there may be reason to expect inequalities in crime trends across different social groups as a result of three factors: A) Increased inequalities in other areas of society, B) Biased security, and C) Biased tough on crime policies. We regard the first of these factors as having a general effect, whereas the second would primarily be linked to theft crime and the third to violent offences.

A) The period during which society has experienced a declining crime trend has been characterised by increased inequalities in other areas of welfare (Nolan et al. 2014), both in Sweden and elsewhere. In fact, the OECD income inequality update on Sweden in 2015 concluded that although Sweden still belongs to the group of OECD countries with the highest levels of equality, it is also the OECD country with the largest growth in income inequality since the mid-1980s (OECD, 2015).

The fact that income inequality is increasing at the same time as crime is decreasing is interesting. There has long been an assumption within criminology that relative poverty and social disadvantage are linked to traditional forms of crime. This is a view that Hagan (2012), in a critical analysis of theoretical developments in the field of criminology, argues has in part been abandoned in favour of explanatory models that place greater weight on individual characteristics, but also on the opportunity structure. Part of the explanation for this shift lies in the fact that post-war increases in levels of wealth were matched by parallel increases in crime levels (Cohen and Felson, 1979). It is now widely accepted that the powerful increase in theft offending witnessed during the post-war period can largely be explained by increases in the opportunities for crime. Against this background, it is perhaps not surprising that current research has chosen to ignore how the crime drop might be linked to inequality. On the basis of explanatory models that look to the relationships between economic resources, inequality and crime, such as strain theory and social disorganisation theory, however, we would argue that offending and exposure to crime in different social groups may be assumed to be linked to the way living conditions and life chances develop over time. At the individual level, there is actually nothing to indicate that the importance of these relationships has diminished over time (Bäckman et al. 2014). This means that increasing inequalities in living conditions and a polarisation of life chances may be assumed to lead to crime becoming more highly concentrated to social groups with lower levels of resources.

B) The currently dominant explanation for the crime drop is the so-called security hypothesis (Farrell, 2013). Access to various kinds of security devices has also been noted

to be of significance for differences in *victimisation* (Hope, 2001). This is an area that has witnessed rapid developments during the period covered by our study. And since the installation of electronic locks, alarms and so forth involves costs, it is also reasonable to assume that in this regard too there will be differences between affluent and poor households. Since resources are required to “*buy ourselves out of risk and into security*” (Hope, 2001:193), enhanced security is more accessible to better-off households (Tilley et al. 2011; Farrall et al. 2015). Better-resourced individuals will naturally also have better opportunities to choose to live in more affluent areas, which are also characterised by lower crime levels, which leads to residential segregation with regard to both living conditions and the risk of exposure to crime, a trend that has been intensified by changes in the housing market (Farrall et al. 2015). The question then is how these processes might generate increased inequalities in crime? Besides the fact that crime is unequally distributed in cities, to the disadvantage of poorly resourced areas, we know from crime pattern theory that crime is clustered to a significant extent by where people live and spend their time. The likely location for a crime is near to people’s normal activity and awareness space (Brantingham and Brantingham, 2008). On this basis, increased residential segregation may mean that potential offenders who live in poorly resourced areas have been less restricted by the effects of enhanced security, since the residents in these areas do not have the same levels of resources to protect themselves. It may further be assumed that these areas, as a result of residential mobility patterns, will develop a greater concentration of individuals at high risk of offending. Such a concentration of high-risk individuals may also in itself facilitate the transmission of various learning and neutralisation techniques that promote crime, while at the same time the reverse occurs in more affluent areas. This process would not least affect the risk for offending among youths who grow up in these different social environments (Wikström and Loeber, 2000) and thus lead to increased inequality in terms of the socioeconomic backgrounds of those convicted of crime.

C) Biased ‘tough on crime’ policies are more directly linked to changes in the socioeconomic composition of those convicted of offences. There is much to indicate that society has become increasingly intolerant in its reaction to crime over recent decades (e.g. Garland, 2001). The range of acts that are viewed as requiring a justice system reaction has expanded, which has led to minor forms of crime, *particularly of violence*, being reported to the police increasingly often. The increase that is visible in the crime statistics for certain offence types could therefore be seen as an effect of net-widening (Estrada, 2001). This might have affected the social background of convicted offenders. There are both policy (e.g. Burnley, 2005; Hagan, 2012) and empirical studies (e.g. Stevens et al. 2010; Irwin et al. 2013) indicating that harsher tough-on-crime measures tend to be directed towards less affluent groups of individuals. In Burnley’s words (2005:13-14), “*The development of the legal instruments devised to control bad behaviour and how they are applied/.../leaves no doubt that the marginalised poor have been the main objects of control and the consequences often disproportionate to the actions that triggered the intervention.*” While Sweden lacks policies that clearly parallel

the zero tolerance initiatives of Anglo-Saxon countries, the trend in Swedish crime policy has been in a similar direction, i.e. towards a decreasing tolerance of crime (Shannon et al. 2014). What is unclear, however, is to what extent this Swedish trend towards increased control has been biased in its focus. There are however indications that both the police and other agencies are directing a greater focus at working in the most socioeconomically marginalised residential areas, e.g. in the form of “Social Intervention Teams” (Kassman, Wollter and Oscarsson, 2015).

Previous research on trends in inequalities in crime

Those studies that have examined the relationship between crime, victimisation and inequality have primarily been based on cross-sectional data. There are however a number of studies that suggest there has been an increase in inequalities related to victimisation. Studies by Trickett et al. (1995) and Hope (1996), for example, show that the major increase in crime witnessed in the UK during the 1980s primarily affected disadvantaged residential areas. Levitt’s analyses of data from the USA (1999) show a similar concentration of registered theft offences to areas of poverty and low-income groups. Thacher (2004) shows that the general decline in exposure to violent victimisation reported in American victim surveys has not been evenly distributed within the population. In a recent study of the Crime Survey of England and Wales, Ignatans and Pease (2015:77) examine “whether the crime drop has resulted in a more or less equitable distribution of crime across households”. Their results suggest that the proportion of total victimization suffered by the most victimized has increased. Unfortunately their study does not allow for a determination of whether this finding is linked to the socioeconomic composition of this group of crime victims. Hunter and Tseloni (forthc.), however, examine this question in an analysis of the decline in burglary based on corresponding victim survey data from England and Wales. Although all population subgroups had experienced a decline in exposure during the period 1993-2008/09, the victimisation divide between different social groups had increased. The groups among the most victimised that could also be labelled socioeconomically disadvantaged, lone parents and those in social rented housing, were those who witnessed the smallest decline in levels of victimisation. Instead of using survey data, Aaltonen et al. (2015) have examined hospital data on victimisation in Finland for the period 1988-2007. Their study shows clear differences between income quintiles in the risk of being admitted to hospital as a result of violence, to the disadvantage of those with the lowest incomes. These differences show only a weak tendency in the direction of an increase over time. As regards trends in Sweden, we have ourselves shown, on the basis of survey data, that the economic crisis of the early 1990s was associated with a tendency towards increased victimisation among poorly resourced groups whereas for others victimisation levels remained stable or declined (Nilsson and Estrada, 2003; 2006). In summary, to date there are a number of scattered studies, focused on certain types of crime in a number of different countries, which indicate that the decline in exposure to crime, as measured primarily by

victim surveys, has been unequally distributed to the disadvantage of poorly resourced social groups.

Thus to our knowledge, no research has to date examined the extent to which there has been a polarisation in crime with regard to the risk for conviction across different social groups. When it comes to examining trends relating to offenders, the research is largely restricted to presenting data from official crime statistics on individuals suspected or convicted of offences by age and gender (see e.g. Figure 1 above). Indicators of offenders' socioeconomic background characteristics are rarely included in different countries' official crime statistics, which means that traditional studies have not been able to analyse how the composition of the offender population has changed over time in this respect. An analysis of this kind requires that convictions data are linked to register data from other sources, which is what we have done for the purposes of the current study (see below).

Data and analytical strategy

Using a longitudinal birth-cohort approach makes it possible to show how large a proportion of a given birth cohort has been convicted of crime at least once over the course of more than a single year. By extending the observation period to several years, the risk of being registered for crime becomes cumulative at the individual level as the years pass (von Hofer, 2014). The cohort statistics employed here relate to all individuals born in 1965, 1975 and 1985 who were living in Sweden at age 16. We have looked at convictions for any offence, for theft and for violent crime (including robbery) respectively. However, in this paper we only present convictions for any offense (for a more complete picture; see Nilsson et al forthcoming). We have chosen an observation window which covers the year in which the individuals reach the age of criminal responsibility and the following ten years, i.e. the years in which the individuals were aged 15-25. (This means in practice that the data relate to convictions for the period 1980-2010).

In addition to convictions data we also have information on the individuals' socioeconomic background. In this study we utilise income data in order to produce a measure of the family's net disposable income during the year when the cohort member was aged 16. We have produced a measure of the economic resources of each individual in relation to the remainder of the cohort by ranking all individuals by family income and then dividing the distribution into quintiles. In this way it becomes possible to see how large a proportion of convictions each income group accounts for in each of the cohorts examined. The approach employed in this study is primarily descriptive, with the objective being to identify empirical patterns that may require further explanation in the context of analyses of the crime drop.

Results

In Figure 1 above, we have described the decline in convictions. In the following we will disentangle this general trend to see whether or not this decline is of a general character.

Table 1 to 2 present the distribution of all convictions by income quintiles. As expected, the risk for conviction is not evenly distributed. Instead, those from homes with low incomes account for a larger proportion of convictions and those from more affluent backgrounds for a smaller proportion. The focus of our analysis here, however, is the issue of whether the distribution of convictions has shifted over time. Our analysis shows that the distribution has become increasingly unequal over time, i.e. those from a less well-resourced background have come to account for an increasingly large proportion of registered crime, while the reverse is true for those from a more affluent background. Among the men born in 1965, those with parents in the low income group (the 20% with the lowest incomes) accounted for 25.7 percent of all convictions. The corresponding proportion for those born in 1985 was 34.8 percent. At the same time, the proportion of convictions accounted for by the high income group has declined from 15 to 10 percent. Even though not presented here, it can be noted that the same shift is found in relation to both violent crime and theft offences, i.e. both for the category of crime in which convictions have increased, and the category in which convictions have declined.

Table 1. Distribution (%) of convictions for all offences, violent crime and theft crime at age 15-25 by income quintiles in three birth cohorts (1965, 1975 and 1985), and percentage difference 1965-85. Men.

	1965	1975	1985	Percentage change 1965- 85
Inc. quintiles				
		All convic-		
		tions		
(low inc.) 1	25.7	30.7	34.8	+9.1
2	20.0	20.4	21.5	+1.5
3	20.1	18.6	18.2	-1.9
4	19.0	17.4	15.4	-3.6
(high inc) 5	15.2	12.9	10.0	-5.2
N (convic- tions)	48,466	30,637	27,913	
N (cohort size)	63,412	54,693	54,784	

Table 2. Distribution (%) of convictions for all offences, violent crime and theft crime at age 15-25 by income quintiles in three birth cohorts (1965, 1975 and 1985), and percentage difference 1965-85. Women.

	1965	1975	1985	Percentage change 1965- 85
Inc. quintiles		All convic- tions		
1	25.7	31.1	31.1	+5.4
2	20.7	18.2	21.6	+0.9
3	18.7	18.4	17.1	-1.6
4	18.2	17.5	16.6	-1.6
5	16.7	14.8	13.7	-3.0
N (convic- tions)	6,946	5,081	6,478	
N (cohort size)	60,252	52,292	51,573	

Concluding discussion

In this paper, we have studied whether the general crime trend is concealing different trajectories for different social groups. In contrast to the few studies that have to date examined the issue of inequality in the crime drop, we have focused on the social background of offenders rather than crime victims. We have studied register data for three entire Swedish birth cohorts born in 1965, 1975 and 1985, linking convictions data for the years 1980-2010 to information on parental incomes. We have in this way been able to study changes over time in the distribution of crime among males and females from different socioeconomic backgrounds. Swedish crime trends are largely similar to those of other western countries. The decades following the Second World War witnessed a powerful increase in crime levels. At the beginning of the 1990s, however, this increase ceased, and was replaced by a decline in relation to a number of types of crime. When we examine the proportion convicted at least once at age 15-25, we also see a clear decline across the three birth cohorts included in the study. This trend is not general, however, but rather differs on the basis of crime type and gender (Estrada, Bäckman and Nilsson, 2015). To this already familiar picture, we have been able to add the insight that the trend also differs by socioeconomic background. Among men, we have shown that decreases in crime (theft offences) are stronger among the more affluent, and increases (violent crime) are primarily

located among the lower levels of the income distribution. This produces an increasing inequality in the conviction risk, primarily among men.

How should this inequality in crime trends be understood? Why have individuals who grew up with parents in the lowest income quintile seen their conviction risk decline so much less markedly, or even, in relation to violent crime, to have increased? We have suggested three different mechanisms that could lead to such an increase over time in the socioeconomic skew of the distribution of individuals with registered convictions. The first, and for us the most important, inequality in crime is linked to increased inequalities in other areas of welfare, which we would argue are of general significance for the conviction risk of different groups. During the period examined in this study, for example, there have been increases in the levels of both income inequality and residential segregation. The correlation between inequality and crime has previously been identified in studies focused on victimisation rather than convictions. These studies have found that during periods of increased inequality in living conditions, the risk of exposure to crime has increased among the poor but remained more stable or declined risk among the affluent (Nilsson and Estrada, 2003; 2006). This has led to groups that were already characterized by low levels of resources having to bear a larger part of the burden associated with the crime problem (see also Thacher, 2004; Hunter and Tseloni, 2016). Why should we expect a similar pattern for convictions? It would seem reasonable to assume that increased inequality has meant that the improvements, or deteriorations, that have occurred in relation to life conditions in childhood will not have been evenly distributed across different groups. We would argue that differences in life conditions and life chances can also be assumed to have led to crime becoming more concentrated to more poorly resourced groups in society. In order to determine what the underlying processes look like, and how they have influenced one another over recent decades, however, more detailed analyses are required than those presented in the current study.

This is the first study from a new project entitled “inequalities in crime” and we intend in future studies to continue to examine both the questions we have discussed above and changes in the population’s exposure to and worry about crime (the latter on the basis of victim surveys). Something that we do not have plans to do ourselves, but which we would welcome, given the trend towards increasing inequality in the western world, would be comparative studies. At the present time, the research literature on inequalities in crime is dominated by studies from the USA and the UK. We would argue that the mechanisms we have highlighted are also likely to constitute reasonable explanations for crime trends in other countries.

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Trygghet som kriminalpolitisk symbol – mellan välfärd och straff

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INLEDANDE INRAMNING

Konferensens tema är applicerbart även på den nordiska kriminalpolitiken. Liksom i många västerländska samhällen anses svensk kriminalpolitik ha blivit alltmer inriktad mot hårdare straff och moraliska fördömanden (Bondesson 2005, Demker & Duus-Otterström 2009, von Hofer & Tham 2013). Samtidigt existerar den kontrasterande berättelsen om svensk kriminalpolitik som exceptionellt human och Sveige, liksom de övriga nordiska länderna, används fortfarande ofta som exempel på länder med en återhållsam kriminalpolitik (Lappi-Seppälä 2007, Loader 2010, Pratt & Eriksson 2013). I min avhandling undersöker jag den svenska kriminalpolitiska debattens symboliska dimension. Genom att studera ett land som ofta porträtteras som motsatsen till de punitivt präglade anglosaxiska samhällena, är syftet med min forskning att vidga vår förståelse för vad symbolpolitik kan innebära. Jag menar att svensk kriminalpolitisk debatt består av en dubbelsidig retorik, där moraliska och känsloladdade fördömanden och tal om krafttag mot brottsligheten går hand i hand med en mer lågmäld och reformistisk retorik. Tidigare forskning har givit oss en god förståelse för dessa fördömande utsagor, där de utifrån Garlands (2006) begreppsram har tolkats som en form av symboliskt förnekande och som ett sätt för politiker att visa sig handlingskraftiga (Andersson, 2002a). De mer reformistiskt präglade utsagorna fyller en något annorlunda funktion. Samtidigt som de reformistiska utsagorna förstärker bilden av det exceptionellt humana Sverige, fungerar de även legitimerande av en punitiv kriminalpolitik. Denna dubbla, och till viss del motstridiga, funktion fyller även politikernas tal om trygghet i den kriminalpolitiska debatten. Begreppet signalerar oskuldssfullhet och godhet medan det även, till viss del, legitimerar repressiva åtgärder.

TRYGGHET SOM BEGREPP I DEN KRIMINALPOLITISKA DEBATTEN

Medborgarnas upplevelse av trygghet har, vid sidan av målsättningen att minska brottsligheten, kommit att bli en central och explicit målsättning för den svenska kriminalpolitiken (Andersson 2010a, Heber 2011, Sahlin 2010). Jag menar att för att förstå dagens kriminalpolitik måste vi ta hänsyn till den mening som tillskrivs begreppet trygghet. Internationell forskning har identifierat hur rädsla för brott har kommit att få allt mer uppmärksamhet i den kriminalpolitiska debatten i många västerländska samhällen de senaste decennierna (Garland 2006, Lee 2007). Det tilltagande fokus som har riktats mot trygghet i den svenska kriminalpolitiken kan delvis förstås i linje med denna internationella utveck-

ing. I dagens politiska debatt i Sverige används ofta begreppet trygghet för att beskriva allmänhetens upplevelse av rädsla och oro inför brott. Samtidigt som det till viss del kan sägas innefatta och kanske till och med likställas med "rädsla för brott" har begreppet trygghet en något annorlunda innebörd än enbart "avsaknad av rädsla för brott". Begreppet har exempelvis en historiskt stark koppling till den svenska socialdemokratin och till uppbyggnaden av välfärdsstaten (Andersson 2002b, Ljunggren 2015), och det har en mer personlig och emotionell laddning än de engelska begreppen "security" och "safety" (Eriksen 2006). Begreppet trygghet är slutligen både vidare och mer diffust i sina konturer än begreppet rädsla vilket skapar utrymme för politiker att fylla begreppet med den mening som de önskar, något som gör det till en användbar symbol.

TEORETISKA OCH METODOLOGISKA UTGÅNGSPUNKTER

Andersson (2010) beskriver allmänhetens upplevelse av trygghet som en central legitimeringsgrund för 2010-talets kriminalpolitik och menar att "vårt förmodade behov av trygghet har kommit att bli ett okränkbart politiskt värde som kan ställas emot i stort sett vilka andra värden som helst" (Andersson 2010, s. 141). Samtidigt som trygghet i den kriminalpolitiska debatten beskrivs som något som alla har rätt till, menar Andersson att det är en mycket specifik form av trygghet som åsyftas då trygghet uppmärksammas i dagens politiska debatt. Liksom Bacchi (2009) poängterar, är det utifrån ett diskursanalytiskt perspektiv viktigt att analysera de förhållanden och de värden som framstår som självklara och naturliga. Detta för att även om trygghet av politiker beskrivs som en känsla som alla har rätt att förvänta sig kan de materiella konsekvenserna av en viss form av trygghetsdiskurs innebära att befintliga ojämlika maktrelationer förstärks. I linje med Edelmans (1971) syn på symboler och symbolpolitik, liksom med den marxistiska förståelsen av begreppet ideologi, analyseras i denna artikel konsekvenserna av den politiska diskursen om trygghet för att på så sätt blottlägga de ojämlika maktrelationer som diskursen döljer. Analysen kommer ta sin utgångspunkt i den politiska debatt som föregick 2014 års riksdagsval i Sverige. Partiledartal, partiernas valmanifest och debattartiklar formulerade av företrädare för de politiska partierna kommer att analyseras med hjälp av Bacchis (2009) föreslagna form av diskursanalys.

NÅGRA TIDIGARE REFLEKTIONER KRING RESULTAT

Tidigare forskning har analyserat användandet och förståelsen av begreppet trygghet inom ramen för lokalt brottsförebyggande arbete (Andersson 2010a, Sahlin 2010, Wahlgren 2014). Dessa studier har, i linje med Garlands (2006) analys av det tudelade brottsproblemet, visat hur trygghet konstrueras som ett förhållande som medborgarna själva blir ansvariga att skapa. I en valkampanj är det rimligt att anta att fokus från politikernas håll snarare är politikernas möjligheter att bidra till trygghet hos befolkningen. Utifrån Garlands begreppsanvändning skulle denna studie således kunna ses som ett sätt att analysera hur trygghet hanteras och bemöts genom ett symboliskt förnekande från politikernas sida. Utgångspunkten i min forskning är att trygghet har kommit att bli en effektiv kriminalpoli-

tisk symbol i Sverige, speciellt för partier till höger på den politiska höger-vänsterskalan. Samtidigt har trygghet som begrepp tidigare i flera studier relaterats till Socialdemokratisk välfärdspolitik. Givet denna dubbelhet, hur kan användandet av begreppet trygghet i den kriminalpolitiska debatten förstås? Vilken symbolisk funktion fyller begreppet? Utöver den dubbla funktion som nämndes inledningsvis som begreppet trygghet kan tänkas ha, kommer jag att utforska två tendenser som jag hittills har uppmärksammat i materialet. Jag menar att introducerandet av begreppet trygghet innebär att den förändring som politiker utlovar vidgas. Kriminalpolitiken antas nu inte bara kunna påverka brottsligheten, utan genom att utlova trygghet som ett resultat av den förda politiken lovar politiker att säkerställa ett för många grundläggande existentiellt behov. Medborgarnas, och då särskilt arbetarklassens, behov av trygghet har tidigare ansetts kunna säkerställas genom den socialdemokratiska välfärdsstaten (Ljunggren 2015), och genom att nu beskriva rättsväsendet som lösning på otrygghet blir, liksom Andersson (2010) uppmärksammat, kriminalpolitiken en arena att föra välfärdspolitik på. Samtidigt kommer jag utifrån min teoretiska och metodologiska ingång vara intresserad av just hur den förändring som följer av dagens trygghetsdiskurs begränsas av de problemrepresentationer som är knutna till begreppet trygghet. En annan tendens som är intressant i den debatt som fördes inför riksdagsvalet 2014 är det faktum att Sverige återkommande beskrivs som ett i grunden tryggt land. Hur trygghet kan användas som nationsskapande är en annan frågeställning som jag anser behöver uppmärksammas för att förstå begreppets symboliska potential fullt ut.

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Dramatic Subtlety: Exploring Anger and Strategic Niceness in the Courtroom

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Traditionally, the law has been considered as devoid of emotions, however recent research has begun to analyze the courtroom as an emotional scene. The emotion norms of the courtroom are thus interesting to explore and, as the courtroom work and emotions of defense lawyers have received little sociological attention, this will be the focus of this paper. The aim here is to show the emotions that are present in the courtroom and how they are managed using the case of anger and I will also discuss the use of niceness. The paper will also explore the ways in which anger and niceness should be displayed in order to both conform to the emotional regime of the courtroom *and* in order to show loyalty to the client, loyalty comprising the guiding principle of defense lawyers in Sweden. The paper will also discuss the background to the recent shift from viewing courtrooms as unemotional arenas to a move in sociological and legal research aimed at uncovering the emotions lying beneath. I aim therefore to explore what defense lawyers actually *do* in the courtroom, that is, the interactional and emotional strategies used to represent clients in order to give the impression of being loyal to the client. By studying this in a context where the scope for expressive gestures is limited, namely the Swedish courtroom, it is possible to gain a greater understanding into the prevailing emotional regime of the courtroom and the ways in which legal representation is performed. This paper draws on ethnographic field-notes from courtrooms in Sweden and interviews with defense lawyers. The emotional regime in the courtroom is also discussed, outlining the emotional parameters of the courtroom.

Law and emotion

The law is typically and traditionally associated with neutrality, objectivity and impartiality (Bladini, 2013; Deflem, 2008; Jacobsson, 2008), however the current turn towards the “emotionalization of law” (Karstedt, 2002, p. 299) has seen the re-introduction of emotions (chiefly shame, disgust and anger) in criminal procedures. The focus of this paper will be on the emotions of defence lawyers. The courtroom can be a scene of strong emotions, both sincere and insincere, involuntary and staged (Dahlberg, 2009; T. A. Maroney, 2011; Roach Anleu & Mack, 2005) although they are typically withheld, contained or only displayed subtly. In this paper I will highlight and discuss the emotional undercurrents hiding beneath the calm veneer of the courtroom (see Adelswärd, 1989) and I will attempt to answer the following questions: Which emotions are present in the courtroom? How are emotions displayed and managed? How does a defence lawyer represent a client using emotionally motivated or charged interaction?

This study considers emotional labour as “the effort, planning and control needed to express *organizationally desired emotion during interpersonal transactions.*” (Morris & Feldman, 1996, p. 1996, authors own emphasis). By this rationale, defence lawyers may be expected to perform emotional labour. This means not only managing their own emotions but also the emotions of others, for example, the client’s emotions or the plaintiffs, or witnesses’. Managing the emotions of the client can be useful for ensuring that the impression given by the client is in line with overall impression the defence lawyer is attempting to accomplish. (see Thoits, 1996)

Emotional displays can be analytically divided into three types (Wharton & Erickson, 1993) defined as positive (to build enthusiasm), negative (to emphasis anger or hostility) and neutral (aimed at demonstrating fairness and professionalism) (Morris & Feldman, 1996). For example, a positive emotional display would be “strategic friendliness” (Pierce, 1995, p. 72) which Pierce suggests that trial lawyers employ in order to influence the jury. Professionalism is linked to concepts such as disinterestedness (Parsons, 1954), detachment neutrality and credibility (Shulman, 2000) and the suppression or expression of emotional expression (Lively, 2000) which may lead to or result from the socialization into “affective neutrality” (Smith & Kleinman, 1989). Displays of strong emotions are thus often linked with being out of control (Gibson & Schroeder, 2002) and should therefore be avoided according to the emotional regime.

The role of social interactions and emotions in the courtroom require attention as the trial outcome may be dependent on the interactive work conducted by the communicating parties (Aronsson, Jönsson, & Linell, 1987, p. 114) Despite this, there is limited research looking at such interactions in Swedish courtrooms, and very little conducted on an international level. Until recently the focus in Sweden has instead been on how one presents oneself linguistically or discursively (Adelswärd, 1989; Aronsson et al., 1987; Jacobsson, 2008). However a recent turn towards emotions has focused on the emotions of the courtroom, judges and prosecutors (Bergman Blix & Wettergren, 2015; Törnqvist, 2013; Wettergren & Bergman Blix, 2016) and the general courtroom climate (BRÅ, 2013).

On an international level, there has been greater focus on emotions of legal actors (judges, prosecutors, defence lawyers, and juries) in the courtroom (Harris, 2002; Lange, 2002; Lively, 2000; T. A. Maroney, 2011; Pierce, 1995; Roach Anleu & Mack, 2005; Westaby, 2010) or on factors influencing decision-making (Cowan & Hitchings, 2007; Gathings & Parrotta, 2013; Kaufmann, Drevland, Wessel, Overskeid, & Magnussen, 2003). One study looking at the impact of “offstage observations” on decision-making by juries (Rose, Seidman Diamond, & Baker, 2010) found that jurors were aware when lawyers or defendants were performing by using strong emotions or attempting to generate support. Rafaeli and Sutton (1987) state that “the courtroom is an organizational context that is brimming with emotions.” (Rafaeli & Sutton, 1987) making it an excellent site for study.

But what is an emotion?

As this is an area of research that is beginning to emerge, I will now briefly discuss how emotions have traditionally been viewed along with defining the term.

The exclusion of emotions in rationality is based on the view that emotions are “anarchic, unbounded and associated with a lack of control” (Lange, 2002). However, research on the role and importance of emotions in rational decision-making is growing (Bechara, Damasio, & Damasio, 2000; Damasio, 1999) with growing support for the argument that calm and supportive background emotions sustain the performance of rational action both consciously and subconsciously. (Barbalet, 2001) Rational action and thought is therefore possible because of emotions (Fineman, 2006; Williams, 2001). The law is considered to be rule-oriented and value-neutral (Conley & O’Barr, 1990, p. 60) with defence lawyers expected to be able to set aside personal interests or opinions so that the legal process is perceived as “sustaining a systemic process which does not depend on the frailty of human judgement.” (Rogers & Erez, 1999, p. 267).

All this begs the question, what is an emotion? One starting point is the difference between feelings and emotions which can be seen as the division between private experiences (feelings) and public performance of feelings (emotions) (as discussed by Fineman 1993 in Vince, 2006, p. 346)¹². Emotions are thus the way in which we communicate feelings. Emotions and emotion rule systems or “emotional regimes” (Reddy, 2001) are socially situated and role-related (Barbalet, 2001; Coupland, Brown, Daniels, & Humphreys, 2008) and can therefore be seen as “socially sustainable practices” (Coupland et al., 2008, p. 328). Emotions are thus “both socially *responsive* and socially *efficacious*.” (Williams, 2001, p. 132 original italics), that is, they are produced in interaction and also produce an interaction. Such an interactionist approach (Ashforth & Humphrey, 1993; Harris, 2002) sees the construction of emotion as contextual; it enables a wide array of permitted emotional displays; furthermore it differentiates between the experience and display of emotions (Harris, 2002). In this paper then, I am mainly interested in both the display of emotions: how defence lawyers perform loyalty in the courtroom and also the emotional experience, for example, how emerging feelings of anger or irritation should be managed.

Theoretical framework

I will combine the sociology of emotions, looking at “how emotions are regulated by culture and social structure and how emotional regulation affects individuals, groups

¹ See Vince (2006) for a discussion surrounding the link between feelings and emotions as well as the interplay between the social, political and psychoanalytic.

² Moods differ to emotions as moods are slower-changing, less intense, and not necessarily in response to a situation, unlike emotions (Briner, 1999)

and organizations” (Wharton, 2009, p. 148) with a symbolic interactionist approach focusing on the social processes of interaction through which identities are created, maintained, reproduced and communicated. The branch of sociology known as symbolic interaction is based on the work of Erving Goffman who was interested in “the ways in which the individual in ordinary work situations presents himself and his activity to others, the ways in which he guides and controls the impression they form of him, and the kinds of things he may and may not do whilst sustaining his performance before them.” (Goffman, 1956, p. Preface). This paper will thus look at the performance of defence lawyers which is intended to give the impression of loyalty to the client as defence lawyers in Sweden are supposed to follow the guiding principle of loyalty (see below). Such impression management strategies are used to maintain “face” (Goffman, 1956) that is, to appear in a certain way in line with how we wish to be perceived by others. This can be done, in part by drawing attention towards certain confirmatory facts which reinforce the impression we are attempting to give (Goffman, 1956) but may even entail withdrawing attention in order to reduce the impact or importance given to certain facts (Flower, 2016). Impression management strategies therefore entail the performer acting in order to convince the audience and him/herself of the reality of the impression that is being displayed. In this paper, the performer is the defence lawyer who is attempting to present himself or herself as loyally representing the client’s interests. The defence lawyer must also present the client’s version events as being accurate and plausible account, no matter how unlikely it may appear in the eyes of others.

This performance includes emotion management strategies; techniques used to adjust one’s emotions to fit the current situation. Hochschild’s (Hochschild, 2003) work on emotion work shows that there are emotion rules present in society which guide our emotional performances: which emotions to show and how to show them. Emotion work entails adjusting our outer countenance in order to produce a certain feeling in someone else. For example, even if we are having a terrible day at work, we should still smile and nod and be polite to the customer in order to make the customer feel good. Similarly, emotion work can also entail producing fear in another, as Hochschild writes regarding the emotion work of debt collectors (Hochschild, 1983). When such emotion work is controlled by an employer or organisation, it is classed as emotional labour. The vast majority of research on emotional labour has looked at traditional service industries as emotional labour takes place in face-to-face (or voice-to-voice) interactions. However, more research is starting to look at the emotion work conducted by professionals such as doctors, teachers and even lawyers.

The Swedish district courts

I will now give a brief description of the Swedish courtroom and criminal trial in order to

set the scene for the ethnographic work conducted. In a Swedish courtroom, the judges and clerk sit in a row at the front of the courtroom whilst the defence lawyers sits on the right hand side of the room at a table with the defendant to their left. The prosecution sits opposite, on the left hand side with plaintiffs sitting to their left. The witness sits in the middle of the courtroom when they give evidence and spectators sit at the back of the courtroom. In a criminal trial the main actors are the judge, lay judges, clerk, prosecutor and defence lawyer along with the plaintiff, defendant and witnesses. Proceedings are relatively informal and less adversarial than the Anglo-Saxon system and the judge may be fairly active during proceedings (Aronsson et al., 1987). Trials are open to the general public although spectators are rare. Defence lawyers in Sweden must follow the code for professional conduct as decided by the Board of the Swedish Bar Association³. The main purpose of the above Code of Conduct is to protect the public from unqualified practitioners, the secondary purpose is to act as a professional guide for lawyers (Ebervall, 2002, p. 47).

Method

This paper is based on my ethnographic fieldwork which was conducted at two district courts in southern Sweden on over 40 occasions, each lasting between two and six hours. Fieldnotes were written during proceedings and therefore allowed me to focus on the interaction between defence lawyer and client, including small, subtle gestures. I have also conducted interviews with 16 lawyers (14 criminal lawyers, one business lawyer and one focusing on civil law), ranging in length from 45 minutes to over two hours long. Other material has also been gathered, including informal observations and conversations, reports in the media, and autobiographies written by defence lawyers. Fieldnotes from courtrooms written by criminology students studying at university have also been considered in the analysis.

Emotional regime of the courtroom

The court is like a living theatre and when you come to court you should have a professional attitude towards the court. We should not raise our voices, we should not display too much emotion... we should be confident, self-assured,

³ "The principal responsibility of an Advocate is to show fidelity and loyalty towards the client. As an independent adviser, the Advocate is obliged to represent and act in the client's best interests within the established framework of the law and good professional conduct. The Advocate must not be influenced by possible personal gain or inconvenience or by any other irrelevant circumstances." (Association, 2008, p. 4)

put things in front of the court like a news anchor more or less. This I think, is the facade you should have. Interview with Per M.

The above extract from an interview with a criminal defence lawyer summarises how defence lawyers are to appear in the courtroom. Professionalism is expected and implicit in this is the assumption that emotional displays should be muted. The performance therefore of a defence lawyer must remain within the confines of the courtroom theatre: the emotional regime of the courtroom. I will now discuss how defence lawyers accomplish this by using exemplifying how they describe dealing and using one emotion: anger. I will first show how defence lawyers display loyalty before moving on to the role of anger; and finally exploring how anger may be legitimately used in the courtroom in order to give the impression of loyalty.

Loyal lawyers

I begin by showing the importance of the duty of loyalty for defence lawyers by using Martin's viewpoint, an opinion repeated by all defence lawyers in the interviews:

I have only one criterion: loyalty towards the client...I have a very strong duty of loyalty towards my client and should basically do everything within my power, within the scope of the rules for what a lawyer may do. (...) My working hypothesis is the client's position or version of a certain course of events, I do my job based on that. Interview with Martin

The question follows, how does this loyalty show itself in the courtroom? We begin with an excerpt taken from my fieldnotes on the final day of a murder trial where the prosecution is pushing for a charge of premeditated murder, claiming that the defendant intentionally killed the victim. The defendant denies the charges:

The defence lawyer begins her closing argument. She takes off her glasses and states that "the prosecutor is WRONG in making these claims!" She leans forwards, forearms on desk, hands clasped and asks the judges to experiment themselves in holding the weapon in the way the prosecution claims the defendant was holding the weapon before the incident. Her voice becomes louder and there are large hand gestures. She shakes her head, uses an even louder voice and speaks faster when explaining that it would have been impossible for the incident to have occurred in the way claimed by the prosecutor. She points a finger on the desk and then waves it up in the air, reiterating her point. She then speaks even more loudly, pointing at the prosecutor and stating that there is no evidence for the accusations. Her voice becomes slightly higher in pitch with lots of emphasis on certain words when claiming that the client was in SHOCK after the incident which explains his reactions afterwards. The defence lawyer

goes on to state that “I don’t claim that this IS what happened, rather than it COULD be what happened” whilst pointing a finger at the judges, speaking quickly and loudly. She continues that the claims of the prosecution “are pure speculation” which she says in a tone of voice implying incredulity. Her voice then becomes much softer stating, “my client is not the same person now as she was when she was taken into custody” which makes the defendant’s mother start to cry. She states that the charges will never be accepted and looks to the mother when she says this, before stating in the softest tone of voice yet that her client should be released immediately. Extract from fieldnotes

We see here how the defence lawyer aligns herself as being loyal to her client by supporting the client’s version of events. The client claims that the accusations are untrue, therefore the defence lawyer must react as though the judges may agree with the evidence presented by the prosecution, indicating that the client is guilty. It is a team performance aimed at over-communicating or drawing attention to certain facts such as weaknesses in the prosecution’s case, whilst under-communicating others (Flower, 2016; Goffman, 1956, p. 87), for example, any evidence incriminating the client or destructive information. As seen above, this may be achieved by using rhetorical tools such as tone of voice, pace of delivery and emotional tone, the result highlighting the flaws in the prosecution’s case and underlining the emotional impact of events.

Angry lawyers

The defence lawyer in the above extract gives the impression of anger. Of course it may be the case that the defence lawyer is actually emotionally experiencing anger which is then expressed. This may be the case if it is perceived by the defence lawyer that the prosecutor has broken the courtroom rules by not following their duty of objectivity or in cases where they feel strongly that a client should not be convicted as described by Martin an experienced criminal case lawyer who is talking about the feelings that can arise when representing a client one strongly believes should not be found guilty:

If you feel that, this is wrong! Sometimes you are so convinced that the client can’t be judged on the evidence and the poorer the evidence, the more convinced I am and then I get emotional, you can see it on me.. it more than likely shows on me as I really believe in what I am saying. But you can’t be so damn engaged all the time, it’s impossible I think. Interview with Martin

However, the display of anger may also be an impression management strategy, aimed at drawing attention to the inaccurate accusations of the prosecution because anger is an emotion that should, for the most part, be avoided in the courtroom. As Dan, a criminal defence lawyer notes in an interview, getting angry can lead to a misstep, saying something unintentionally or saying something incorrect. Instead a defence lawyer should pref-

erably discursively display anger for example by saying “I was really surprised with what (the plaintiff or witness) was saying today”, rather than emotionally expressing it by visibly displaying anger. This instrumentality is supported by Erik who states, “you’re out to get a reaction, it’s rational emotional expressions aimed at supporting the client.” Visible anger is thus viewed by defence lawyers as an “unbecoming emotion” (Averill, 1994, p. 265) which should be re-formed into something more becoming, for example, into relevant questions or into a protestation regarding the prosecutor’s lack of objectivity. One of the defence lawyers interviewed, Linda, says the following when we are discussing what happens when one feels oneself starting to get angry:

If you get angry, which happens more often than getting sad (...) you try and think of a suitable counter-question or you try and think about how I approach this in my summing up, point out that I think the prosecutor overstepped the mark.

Interview with Linda

However, displays of anger should be handled with care. Misdirected or too intense anger may risk breaking the emotional regime of the courtroom and endanger, in turn, angering the court as Linda goes on to explain:

I know that if I start to shout and get angry, it can reflect badly on my client. If I stand up and shout, and it happens, there are lawyers who have done it, but it doesn’t benefit my client if I act like that.

Interview with Linda

Research has shown that “incidental emotion” (Litvak, S., Tiedens, & Shonk, 2010) that is, emotion that arises in one situation and which spills over into the next situation can lead to misdirected allocations of blame based on already-present feelings of anger (see Fiegenson, 2016 and; Lerner & Tiedens, 2006 for an overview). It could therefore be argued that angering the judge could lead to him or her allocating too much blame to the client and even lead to harsher punitive attributions and punishment (Lerner, Goldberg, & Tetlock, 1998).

Another aspect to anger being viewed as an unbecoming or inappropriate is based on the roots of anger: it is an emotion that arises when one’s self (or someone near) has been offended or injured (Litvak et al., 2010) therefore the display of anger by a defence lawyer could also risk being viewed by the court as the defence lawyer having crossed the personal/professional divide which is supposed to be upheld between lawyer and client, that is, that the professional role of defence lawyer has fallen, as Per M. states discusses below:

It’s like showing that you don’t have a professional attitude (...) You are there to represent your client as a lawyer. You’re not his or her twin.

Interview with Per M

All of this shows that defence lawyers must rely on emotion management strategies in order to draw forth the appropriate emotional impression of loyalty. Discursive emotion

management strategies are a way of giving the impression of anger whilst maintaining a professional role by using emotion management strategies to conform to the normative order of emotions in the courtroom.

Dramatic subtlety

So we know that defence lawyer get angry. We also know that they are not always able to show this anger as they risk breaking the emotional regime of the courtroom which may in turn lead to harsher judgments regarding their client or indeed reprimands from the judge or being reported to the disciplinary board as Andreas discussed in an interview. So how should anger be shown? We have seen in the fieldnote extract above that anger may be displayed in the closing argument in order to direct attention to weaknesses or inaccuracies in the prosecution's case. However, it is also possible to see anger throughout the trial, anger which is appropriately managed and displayed.

In the following extract we see an example of outrage in the Swedish courtroom. In the interaction the prosecutor is presenting the facts of the case at the start of a trial and is reading aloud a report written by an expert witness regarding the extreme temperatures that can be reached inside a car on a warm day. The findings of this report are of importance for the defence's case and when the exact temperatures are read out:

The defense lawyer look up sharply and says, very quietly but also very forcibly "what!?" He looks sharply at the prosecutor, then the judge and then his client and shakes his head. Later on when it is the defense lawyer's turn to talk, he sits up straighter in his chair, speaks rapidly and in a loud tone of voice states that he became quite outraged when hearing the report which he claims includes incorrect details.

Extract from fieldnotes

Here we see a performance of outrage and loyalty, in the Swedish courtroom. The performance is both verbal and non-verbal aimed at giving the impression of outrage, as stated by the defence lawyer himself. The defence lawyer can thus be seen to be following the corresponding affective line for the team performance, in this case, outrage that information that the defence perceives to be inaccurate is being given by the expert witness. As this information in turn could make the client look bad (i.e. guilty), this can be seen in terms of being a face-threat to the client. A face-threat occurs when the impression or face one is trying to portray is threatened, in this case, that the client is claiming that he is innocent therefore the face-threat is aimed at his claims of innocence. The defence lawyer must therefore act to save the client's face by appearing outraged. However, as the Swedish courtroom is a non-confrontational one where emotions should remain muted, the scope for responding to such face-threats is limited. As the defence lawyer and client are a team, the defence lawyer is acting on behalf of the client who has even greater limits on perfor-

mance. Once again the performance is designed to draw attention (over-communicate) to the flaws in the prosecution's case.

The defence lawyers interviewed state that interrupting a prosecutor's presentation of facts is seldom done, as Dan states "I don't want to lose points." Such interruptions are thus considered as a technique for antagonising the prosecution therefore a verbal interchange at this stage may be frowned upon and may lead to the court being negatively positioned towards the defence lawyer, a position that is not wished for (Blomkvist, 1987; Mellqvist, 1994). The defence lawyer must thus use other non-linguistic methods combined with a muted verbal response ("what?!?"), this is a response seen in numerous observations. As mentioned above, whilst the given culture can open up opportunities for display, it also puts constraints in place for what is or is not permitted as may be seen here. In this way s/he is able to show the appropriate front of outrage whilst still conforming to the emotional regime of the courtroom, which dictates that muted emotions should be shown at the appropriate time. According to Blomkvist, the rule to be followed by defence lawyers in the Swedish courtroom is that of *Foriteter in re, suaviter in modo* – resolutely in fashion, gently in manner (Blomkvist, 1987). This emotional regime also includes civility as Erik points out that "you can achieve a great deal with objectiveness (saklighet) and courtesy" in the courtroom. Maria also states that defence lawyers "can be really difficult (besvärlig) but nevertheless polite." Maria goes on to state that:

It's often a better result if you can stay calm and nevertheless get the other person or whoever is being questioned to say something wrong or stupid. You can get exactly the same effect of getting something to sound completely crazy or unlikely by saying in a calm voice, "when you said this and this and this, but we know it was like this, then I can't quite understand it, do you have any comment on this?" Instead of sounding angry or aggressive when you say it.

Interview with Maria

Therefore, maintaining a calm demeanour or poise whilst using "selective stubbornness" according to Erik, is an approach that ensures that one remains under control. This emotion work (Hochschild, 1983) is thus aimed at adjusting one's emotions in order to achieve the desired result in someone else. In the above examples, the defence lawyers adopt a calm, friendly countenance in order to make the person being questioned feel at ease. However, there is an undercurrent to this amiable façade as although defence lawyers want to keep a pleasant tone in the courtroom to conform to the emotional regime, it is a case of strategic niceness (cf Pierce, 1995) aimed at extracting the relevant information which may even include making the person being questioned appear less credible.

Subtle dramas in the courtroom

In conclusion, we see that emotions are ever-present in the courtroom and that defence

lawyers must use various emotion management strategies in order to ensure that the emotion displayed remain subtle in order to conform to the emotional regime. This regime ensures that emotions remain controlled and displayed in appropriate ways and at appropriate moments in the proceedings. Anger and strategic niceness may serve to exemplify this as defence lawyers may use emotional expressions of anger and niceness instrumentally in order to achieve certain goals, however displays must remain within the confines of what is appropriate for the courtroom. Emotionality is often deemed by defence lawyers to be undesirable as it may lead one to lose ones train of thought or committing an error. Frequently it is the consequence of the emotion that is unwanted, rather than the emotion itself.

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Scaling Penalty: In Pursuit of a Global Sociology of Punishment

Kjersti Lohne

Introduction

A post-national penalty is emerging. At the global level, the International Criminal Court (ICC) promises global justice in the case of what is considered 'failed' national justice. At the international level, a system of international organisations, donor states, and non-governmental organisations (NGOs), offer 'penal aid' and rule of law 'capacity-building' to 'transitional' or so-called 'weak' states. At the regional level, there is a plethora of trans-border police cooperation and internationalised court and judicial fora. The establishment of a joint EU prosecutorial office is underway. International prisons are emerging, not only for those convicted by international criminal courts, but also under universal jurisdiction for crimes such as piracy. After being brought before trial in The Seychelles, Somali pirates are now being transferred to a newly built prison in Somaliland – funded by the UN. At the transnational level, the UK is planning to transfer its Jamaican prison population to a newly built prison on Jamaica, built by UK aid funding. Norway rents prison cells in The Netherlands, transferring prison population and jurisdictions alike into foreign territory. In global society, penalty, it seems, take on different forms.

In tandem with the theme of this year's conference on new challenges in criminology, a question can be asked whether the classical theories of punishment and society – the legacies of Durkheim, Elias, Marx and Weber, and we might add Garland too – are applicable to these new and globalised penal landscapes, or, alternatively, if we need new tools to think with. This paper is an early attempt to grapple with these issues. In doing so, the inquiry engages two lines of critique: First, to transgress 'the national' as the scale of analysis from which to approach the study of punishment, and second, to transgress 'the metropole' as the object of analysis. As criminology generally, sociology of punishment has been a discipline of the West (Agozino 2003, Aas 2012, Carrington, Hogg, and Sozzo 2015). Empirical studies and analytical insights on the penal states of the UK and the US in particular has been taken to define the penal field in general, whereas studies on penal practices elsewhere too easily are defined as 'exceptional' whose relevance are contained as enticing case studies of the particular, rather than of bearing to 'mainstream' analyses of punishment and society. However, while the critique of punishment and society's epistemological frames are not new, what is needed now are conceptual tools that enable us to rethink the relationship between punishment and the nation-state, conceptual tools that enable us to see the exceptional, the particular, the periphery as relevant to the study of penal power and culture in global society.

To do so I lend insight from globalisation studies in an attempt to develop a global sociology of punishment. However, a caveat: The intention here is not to argue for an expansionist grasp on punishment, as if scaling up to the global produces bigger and better modes of reasoning – that would be what Burawoy (2008: 437) would call a ‘global sociology as universalism from above’. My intention is quite the contrary: my point of departure is the recognition that elements of this emerging global penalty are being looked at in isolation, without much thought given to how globalisation processes fundamentally produces new penal assemblages. My intention is thus to globalize our research imagination in the way we approach the study of punishment.

In the following analysis, I examine the ‘main underlying philosophical “building blocks” around which theories of globalization as a phenomenon...are being constructed’ (Jones 2006, 2010: 5), and I use these philosophical building blocks as tools to think with. These conceptual tools are (i) space and time, (ii) territory and sale, (iii) system and structure, and (iv) process and agency. Drawing examples from the field of international criminal justice, and specifically, research carried out as part of my doctoral work on the global and permanent International Criminal Court with jurisdiction to punish genocide, crimes against humanity and war crimes, in what follows I begin to flesh out how thinking in terms of i) space and time, (ii) territory and sale, (iii) system and structure, and (iv) process and agency can inform the study of penalty in global society.

Space and time

A widespread way of conceptualizing globalisation is that it alters notions of space and time, for example by a ‘shortening’ of time and ‘shrinking’ of space. Ideas and events and decisions made in one part of the world influence individuals in another. We can therefore say that with globalisation, the social is no longer necessarily confined within the borders of one’s immediate physical surroundings (e.g. Giddens 1990, Aas 2013). An institution such as the International Criminal Court adjudicates over events and individuals ‘at a distance’: Conflict and mass violence in one part of the world are transported into the court rooms in another; here they are rendered intelligible through law and legal experts who, with reason and logic, search for justice in the form of individual accountability. This trajectory of global justice-making is imagined to come full circle when the deliberations are over, when blame has been attributed, and ‘justice’ dispersed back to the site of conflict and mass violence.

However, a common critique of international criminal justice is that it is too far away from where the crimes took place; it is too distant. For example, the Court’s locality in The Hague, in the midst of the European heartland, makes it difficult for journalists, victims and interested parties to observe the proceedings – The Hague is not only an expensive city, it is also guarded by strong visa regulations for people visiting from situation countries such as Kenya and Uganda, Libya, Mali, Sudan, Cote d’Ivoire (Lohne forthcoming

2016). On the other side of this global justice-chain; the ICC has a very small presence in situation countries. In northern Uganda, where I did my research, the ICC had never actually had permanent representation.

In some sense, international criminal justice is supposed to be distant – an international recourse when national justice fails. But apart from individual criminal accountability, there is little room for the individual at the global level – there are no citizen rights at the global level. In the move to ‘the global’, Nils Christie’s (1977) thoughts on how the criminal justice system ‘steals’ conflicts takes on an additional dimension, as the conflict is not only ‘appropriated’ by the state, but by the ‘international community’ embodied in the ICC. In this ‘elevation’ of conflict appropriation, victims are further removed from their conflicts – physically and politically – as the ‘international community’ reflects the relationship between states.

Territory and scale

A slightly different conceptual approach to globalisation is concerned with notions of territory and scale (Jones 2010). Critical geographers, for instance, approach globalisation as a multi-scalar phenomenon, taking place within the local, the national, the regional and global (e.g. Massey 1992, Sassen 2001). Lending insights from these, the study of international criminal justice and international punishment does not only entail an analysis at the global scale. Rather, it can be approached as a multi-scalar project, meaning with attention to how it is constituted at local, national, regional and global levels. One example is how it impacts domestic criminal justice systems, such as when Norway increased its maximum penalty from 21 to 30 years because of its normative obligations to an international system of criminal law, or similarly, how it is heavily intertwined with rule of law development and ‘penal aid’ (Brisson-Boivin and O’Connor 2013) in the global south, thus merging with a ‘penal field’ that is often approached as a separate research domain. A multi-scalar approach therefore enables insight into how the ICC has become a vehicle for unleashing a number of criminal justice ‘exports’ (see Aas 2011). In this manner, attention might be given to how international criminal justice, rule of law development and penal aid are not only examples of how punishment is no longer the exclusive domain of a sovereign’s power of one’s citizens, but also how punishment has become part of a nation state’s *foreign affairs’ toolbox*.¹

Because importantly, the ‘deterritorialised’ notion of penalty and transborder penal landscapes does not imply a withering of the penal state (Bauman 1998), nor its separation from nation state formation. Rule of law development and penal aid to so-called ‘failed’ states are precisely a state building project. However, a question can be asked about what *type* of ‘penal state’ is constituted (Garland 2013), and to what extent one can talk about

¹ The author’s postdoctoral research will look further into this aspect in particular.

'penal import states' and 'penal export states'? Here, critical attention to how these processes turn space into time might also offer insights, and particularly to the language of how penal transfers flow from developed to *underdeveloped* criminal justice systems; and in so doing, converts differences into one single historical trajectory (Massey 1992). There is an assumption here that there is only one way forward, one type of penal progress, of penal development. In my mind, then, such 'penal mobilities' create a need to rethink what it entails to be sovereign state – and what it entails to be a penal sovereign.

System and structure

A third way of thinking about globalisation is as global order-making, of being about system and structure.² This captures the thinking expressed in Immanuel Kant's theory of cosmopolitanism, according to whom people have entered 'into a universal community...where violations of rights in *one* part of the world is felt *everywhere*'. This is the mentality of many of those advocating international criminal justice, human rights and humanitarian interventions in general. When national justice fails, the 'international' or 'global' is meant to provide recourse. It reflects a Hobbesian world-view scaled up to the global; global order mediated through global institutions such as the ICC and the UN.

Understood through this theoretical approach, the pursuit of a global sociology of punishment is the pursuit of the meaning of crime and punishment in the *making* of global social order. One may therefore ask: how do international criminal justice, transborder landscapes of penal transfers and other forms of penal cosmopolitanism shape the process of globalisation – shape the particular form of the developing global social order?

Process and agency

This brings us to the final concepts of thinking about globalisation and the global, namely the one that approaches it through the notions of process and agency. If the previous section dealt with the role of punishment in constituting the global order; here we would ask, whose order? For example, what does it mean that international human rights organisations advocate for 'ICC justice' in spite of the opinions of large segments of local civil society in contexts of mass violence? In recognition that laws have to be made, and that Howard Becker's (1991 [1963]) moral entrepreneurs operate on the transnational level and global levels too, we need to examine those involved in seeking to create a global *criminal* order. This type of research would yield insight into how punishment is shaped by broad social and cultural forces in global society. Because in spite of the universal and humanitarian claims to legitimacy made by penal cosmopolitanism, international interventions still follow the beaten track of colonial relations. As concerns international criminal justice

² For an early sociological account of the 'world-system approach', see the body of literature following Wallerstein (1974).

particularly, there is a spectre of selectivity – of winner’s justice – that has characterised the field since Nuremberg. In this manner, a global sociology of punishment may pay focus to how crime and justice function to include and exclude on the global level too, and how representations of victims and criminals of international crimes can be seen to parallel cosmopolitan dichotomies of insider and outsider, civilisation and barbarity, good and evil (see also Sagan 2010).

Conclusion

This paper is thus an early attempt to reflect on the ways in which alternative modes of thinking about the social can inform analysis of new penal assemblages. A lot of what is done at the international levels – whether international justice or rule of law development – are legitimised by terms such as ‘doing good’, ‘efficiency’, ‘humanitarianism’, ‘reform’, and ‘progress’ (Aas 2011). However, just as treating punishment as an index of civilization makes for uncritical sociology at the domestic level of analysis, the same is true for the global level. Indeed, much of criminology’s distinctiveness is found in its critical engagement with notions of crime and justice, in its critical engagement with abstract and universal claims by the criminal justice system. So while decades of research on the social functions and meanings of punishment at the national level has revealed it as a practice ingrained in the rationalities and techniques of power and government, it would be naïve to think that these processes and insights bear no relevance to the study of criminal punishment gone global.

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WORKSHOP J

EMERGING CRIME RISKS

Virtual punishment in the making: When citizen journalism enables processes of shaming and online victimization

Agneta Mallén

Film clips and still pictures captured by civilians, or citizen journalists, are increasingly used as evidence by judges or the police to prove specific accounts of events. This kind of visual data is, however, not without problems. The aim of this paper is to analyse how viewers perceived a mobile phone film clip as naturalistic data, enabling processes of shaming and eventually a 'justice' process on the Internet, including virtual punishment of the person filmed by the photographer. In the clip, a taxi driver records video of an agitated female customer whom he hinders from leaving the taxi. The film is then distributed on YouTube, where it attracts remarkable negative attention. However, the film clip is only one of several possible accounts of the filmed incident, as demonstrated by the police report about the incident as an alternative account showing that viewers cannot rely on the citizen journalistic film clip as objective, naturalistic data.

Introduction

A growing part of our daily lives takes place on the Internet - in online-communities, on social media and discussion sites. The advantages with communities online are that they can help in problem solving, information sharing, and provision of mutual support and empathy (Savolainen, 2011). As seen in this paper, online comments can, however, also provide a scene for harassment, bullying, stigmatization and labelling (Sengupta & Chudhuri, 2011; Svensson & Dahlstrand, 2014).

This paper analyses a citizen journalistic film clip on YouTube where a taxi driver hinders a female customer from leaving the premises. The customer in the film clip is referred to as 'Crazy Granny' in two introductory texts to the film clip on the Internet. The video attracted considerable attention on both YouTube and Internet discussion sites from 2006 to 2013, and several versions have existed on YouTube. Because the original version of the film clip has been removed, the analysis in this paper is based on a version with English subtitles (the conversation in the video is in Finnish), posted on YouTube in August 2008. This version exists at two different URLs on YouTube and is also available on a British discussion site and was downloaded over 129 000 times, receiving almost 600 viewer comments. By

March 2014, there were 14 different remix versions of the clip also available on YouTube that were downloaded over 300 000 times in all.¹

What is citizen journalism?

During the last decade, the mobile phone and emergence of Web 2.0 technologies, especially YouTube, have enabled a veritable explosion of pictures and film clips posted on the Internet by 'citizen journalists'. The term 'citizen journalism' has a variety of meanings but today always includes individuals whom Dan Gillmor (2004) has termed 'the former audience': listeners, viewers, and readers who now act as citizen journalists by blogging, creating websites, and compiling email lists (Gillmor, 2004; Mallén, 2012). According to Gillmor (ibid.), they provide an important source of news for others, including professional journalists and traditional mass media, who publish the citizen journalistic material. In this paper, the term 'citizen journalism' is used in a yet broader sense, presented by, for example, Luke Goode (2009), including practices such as current affairs-based blogging, photo and video sharing, and posting eyewitness commentary on current events, as well as re-posting, linking, tagging, and modifying or commenting on news material posted by other users or by professional news outlets (Goode, 2009; Lasica, 2003).

Citizen journalism as an unmediated form of bottom-up surveillance or 'sousveillance', where members of the grassroots monitor those in power, has been applauded as an inverse Panopticon, where anyone can take photos or videos of any person or event and then disseminate the information freely around the world, and where panoptic technology helps individuals monitor those in authority (Ganascia, 2010; Mann, Nolan, & Wellman, 2003). The case analysed in this paper, however, complicates this traditional image of citizen journalism because the monitored person is not a person of authority.

Method and material

The material analysed in this paper consists of:

1. The 7-minute film clip, filmed in a Finnish city by the taxi driver/citizen journalist and posted on YouTube; it includes utterances and/or movements by the taxi driver, the female customer, and the eyewitness.
2. 568 posted viewer comments on the film clip; 543 of these are posted on YouTube, and 25 comments are on a discussion site. Because the individual 568 comments occasionally discuss several matters and combine diverse standpoints, they can be divided into 597 separate comments.

¹ The case discussed in this conference paper is also analysed in the following article: Mallén, A. (2016) Stirring up virtual punishment: a case of citizen journalism, authenticity and shaming. *Journal of Scandinavian Studies in Criminology and Crime Prevention* 17: 3-18.

3. The police crime report of the case, which is based on police phone interviews with the taxi driver and the female customer.

The first category of data is film collected by a taxi driver, which I have analysed in its capacity as a third-party video: videos that people who are not social scientists have recorded and preserved (Jones & Raymond, 2012). The advantage with third-party videos is that they can capture the persons directly involved in interactions along with facial expressions, gestures, and body movements. They are thus a uniquely informative source for empirical data that enable the researcher to study subtle micro-interaction (Jones & Raymond, 2012; Schlegoff, 2005). For the social scientist, citizen journalistic film clips and pictures provide an unprecedented opportunity to build a sociological record of cultures and micro-interactive practices (Heath, Hindmarsh, & Luff, 2010).

Citizen journalistic material is frequently re-posted (compare Goode, 2009), and the uploading of the clips may therefore have been done by a person other than the taxi driver. According to the comments on the film clip, the taxi driver uploaded the very first version of the clip, which is now, however, removed from YouTube and not analysed in this paper. It can also be assumed that the customer was not able to check the film clip material before it was made public on YouTube. As Emmeline Taylor (2010) argues, the explosion of social networking sites such as YouTube makes the individual's control over what is made public even more important. Individuals who are photographed or filmed by citizen journalists seldom have the opportunity to check the citizen journalist's material before it is broadcast and therefore feel that they have lost control over the media material in which they are involved.

The second category of empirical data to be analysed consists of the comments in the online discussions of the 'Crazy Granny' film clip on YouTube. By March 4th 2014, 543 of the comments were posted on YouTube, and 25 comments were posted on a discussion site. YouTube is the third most popular website globally today, an online social space that facilitates both passive consumption of content and more dynamic interaction (Thelwall, Sud, & Vis, 2012). Ethnographical studies concerning the Internet mostly use text as their empirical material (Scaramuzzino, 2014). This empirical material consists primarily and sometimes only of threads and comments posted by participants in network sites, online games, virtual pubs, blogs, or personal homepages (Scaramuzzino, 2012). I analyse the online comments on the film clip studied in this paper narratively, using analytic bracketing (Gubrium & Holstein, 1997) as I alternate in studying what the commentators say and how they express themselves.

Because of the detailed information about the female customer's identity in the commentary fields and discussion threads, I was able to obtain a copy of the police report of the events depicted in the film clip. The police report is based on police interviews with the taxi driver and the female customer. The taxi driver reported the incident to the police. This third category of empirical data is used in its capacity as an alternative account be-

cause the taxi driver's account, the film clip, shows only parts of the whole incident between the taxi driver and the female customer. The idea of analysing the film clip and police report as accounts emanates from Dorothy E. Smith's article (1978) where she focuses on verbal accounts that co-operate in the construction of deviancy. I have analysed the film clip as an account that enables construction of deviancy, while using the police report as a totally divergent account about the incident depicted in the video.

What does the video clip show?

The video clip analysed in this paper starts abruptly, showing a woman who is gesticulating and trying to get past the person behind the camera. She is an elderly, elegant woman with immaculate hair, expensive clothes, and big jewellery. Although she is well-dressed, her fur cape is hanging askew, and she is moving unsteadily and pronouncing some of the words she utters with difficulty. During the 7 minutes, she alternately mumbles, talks, shouts, howls, screams, and yells. Five times on the clip, the female customer quite unexpectedly turns away from the taxi driver she is speaking to, turns towards the street behind her, and starts howling. Once she even holds her hand beside her mouth to magnify the sound. The woman is filmed from a distance of a maximum of one to two meters. In the clip, the taxi driver is clearly showing her face, which facilitates identification.

Behind the woman, on the street, stands a taxi cab with the motor running. Although the footage shows the colour of the taxi cab, its license plate is not visible. Further behind the taxi cab, the film shows an affluent housing area with detached houses from the early 20th century. First, the only person the film clip shows is the female taxi customer who is communicating with the male driver, whom we can only hear. The taxi driver who is filming the incident repeatedly says "We'll just stand here and wait for the police" To this, the customer repeats nine times that she has the right to go home. The taxi driver is not shown because he stands behind the camera. The viewer cannot see his moves but only whether he approaches the customer or stands still. Then, 4:45 minutes into the clip, a passer-by first becomes audible and then also visible in the film clip. The first lines by the passer-by is "Everyone has to pay for service".

The people who have uploaded the film clips on the Internet have laid down the broad outlines for how the commentators *should* view them. The outlines are drawn with the help of texts that introduce the videos: This is what we as commentators should see in the film clips. Of the three similar versions of the film clip analysed in this paper, two have introductory texts and the third, the YouTube version from 2010, is uploaded without it. On the British discussion forum, the customer is introduced as follows:

Crazy granny (...) trying to slip out without paying the taxi driver for her ride.

The female customer is in the introductory text defined as crazy and seen as trying to get away without paying for her taxi ride. The film clip from 2008 on YouTube presents the woman in a similar way:

There's this crazy granny (gipsy?) who's trying to slip out without paying the taxi driver for the ride. The driver is filming the whole thing.

Here, the definition of the customer is described as deviating in two ways. First, she is crazy; second, her ethnicity is defined as 'gypsy' – in this case probably referring to a negative stereotyped term representing 'the others' (c.f. Mallén, 2005, p. 115); and third, she is trying to leave the premises without paying for the ride. The taxi driver is described only as someone trying to film the events.

What the viewers thought had happened

Out of the 597 comments on the film clip analysed in this paper, 43% or 248 comments are negative comments about the customer. Only 3 comments, 0.5% out of 597, are positive about her. The 248 negative comments discuss the female customer in terms of, for example, negative metaphors, negative age stereotypes, and shaming. The negative metaphors stem from the folklore (the customer cries like 'a Banshee'), from the animal kingdom (the woman looks like a 'chicken', 'deer'), or from history or culture (she moves like 'Hitler' or 'Tarzan'). These negative metaphors can here be seen as symbols, used to communicate the customer's deviancy (Charon, 2010): By using the metaphors as symbols, the commentators share a common understanding that the customer's actions are violating the boundaries of normative behaviour.

The female customer's age and looks are also recurrently used negatively in several of the comments. She is referred to as 'granny' and 'old bag'. It is, however, difficult to define whether this is a result of the young age of the commentators on this YouTube clip. On Facebook, ageism has been explained with social identity theory according to which negative stereotypes about the out-group (the older individuals) generate a positive social identity for the in-group, the younger Facebook users (Levy, Chung, Bedford, & Navrazhina, 2013). Whether this construct is accurate considering commenting on YouTube is not that evident: Commentators may belong to all age groups because young and old persons have been found to be equally active in posting comments onto Internet sites such as YouTube (Findahl, 2014).

In some of the comments, the possibility of the customer's being a criminal, not insane, is discussed:

She doesn't seem crazy to me. She tried to sneak away without paying for the taxi (...) and screams with the purpose to deceive passers-by and get sympathy from them (...) (British discussion forum, comment number 6).

Here, the customer is presented as a fraudster who is trying to trick passers-by and as someone who tries to deceive people. The comment above, however, is not as outspoken about the customer's deviancy as those below, where the customer is presented as a criminal, not a victim, only pretending to be insane:

The granny is essentially a criminal in this case. She is not the victim (YouTube 2008, comment number 460).

Some comments targeting the female customer are simply vile. One possible explanation for this low level of discourse is that the absence of face-to-face communication in social media may produce a sense of anonymity, which removes the fear of consequences and may result in more extreme thinking, manifested in comments such as these (Levy et al., 2013). The vile comments represent what Emma A. Jane (2014) defines as e-bile – a hostile misogynist rhetoric on the Internet that is laced with expletives and explicit imagery of sexual violence. Of the 597 comments, 34 comments are openly sexist or violent. Many of the comments about the customer's howl or scream are sexist. Several commentators also use the term 'bitch' about the female customer whereas others mention sexually violent acts as the commentators wish that someone would rape the female customer or kill her.

Fuck that bitch, you should show her some justice (...) Should take her home and cut her into one kilo pieces (YouTube 2008, comment number 503).

The two last comments can be interpreted as a way for the spectators to correct the customer's behaviour – they think that she has violated the norms and therefore must be corrected.

The incident eventually, using Kingsley Dennis' terminology (2008), expands into a case of 'virtual-vigilantism' on the Internet. The comments show that the commentators examine the film for clues to the customer's identity. It does not take long for the elderly woman to be identified and her personal information, such as name, profession, and place of work to be exposed. The revelation of her identity can be seen as an attempt to punish the customer for her 'offence' in the form of community humiliation that is similar to how earlier close community neighbourhoods operated (compare Dennis, 2008).

The film clip and the comments on it contain an interesting multi-dimensionality about who is the perpetrator and who is the victim in the incident filmed. On the one hand, the commentators perceive the taxi driver as the victim of fraud, or as one commentator points out: 'The female customer is a criminal, not a victim' (YouTube 2008, comment number 460). On the other hand, the customer can be seen as the victim of Internet shaming (compare Braithwaite, 1989) and even as a victim of virtual punishment as her personal details have been made public (Cheung, 2014; Dennis, 2008). The shaming processes occur as the spectators are posting insulting comments towards the female customer whose actions do not represent the commentators' own reality but seem to transgress or violate the com-

mentators' social norms (compare Cheung, 2014, p. 302; Smith, 1978). She is therefore tracked and ridiculed and has her personal information spread publicly on the Internet. This new kind of shaming is, however, only disintegrative, not reintegrative, because according to Cheung (2014), it is executed for the purpose of humiliation, social condemnation and punishment.

The shaming of an individual in a citizen journalistic film clip can eventually turn into a virtual punishment or trial by media (Chagnon & Chesney-Lind, 2015; Cheung, 2014; Dennis, 2008). The latter is defined as a form of multi-dimensional, interactive, populist justice in which individuals are exposed, tried, judged, and sentenced in the 'court of public opinion' (Greer & McLaughlin, 2012). As Chagnon and Chesney-Lind argue, trial by media may function as a discursive flashpoint upon which moral boundaries may be formed and reformed (Chagnon & Chesney-Lind, 2015, p. 42). Trial by media involves not only traditional journalistic coverage of crime but also participation of bloggers and an audience on the Internet. As seen in this paper and also found by Chagnon and Chesney-Lind (2015), the individual may not even have committed a crime while still being virtually punished for it.

What actually had happened: The Police crime report

According to the police report, the customer had paid her taxi bill without any purpose of deceiving the taxi driver for economic profit or to harm the taxi driver. The argument between the taxi driver and customer started because the parties could not agree on who would pay for the cleaning of the car because the customer's food had been leaking in the cab. This incident was not shown in the video clip. The taxi driver also wanted compensation for the working time spent on straightening out the matter with the customer. According to the police report, the leakage of food was not intentional on the customer's part, which means that the female customer's actions were not criminal but considered to be an accident. The events are not to be treated as a criminal act, states the police report, and the police thus closed the preliminary investigation.

Discussion: How was the virtual punishment stirred up?

Citizen journalism has been applauded for exposing the elite or those in power and for making visible the abuse that can target the weakest in our society (Ganascia, 2010; Mann et.al, 2003). This paper, however, discusses a case that enlightens two weaknesses of citizen journalism: The first weakness is how the film clip is perceived as showing the 'truth' by its viewers, an authentic representation of reality, although it shows only one version of an incident. The second is how the citizen journalistic film clip enables stigmatization, labelling, shaming, and eventually virtual punishment of a person who is perceived to be crazy or deviant (compare Chagnon & Chesney-Lind, 2015).

As shown in this paper, the citizen journalist's film clip gives only one version of an incident. Still, the viewers tend to perceive it as the truth. Why, then, is the film clip treated as naturalistic data by its viewers? One reason would be that the viewers perceive the taxi driver as the teller of the tale (Smith, 1978). Because he is the teller of the tale, the taxi driver's account is authorized and not questioned by the majority of the commentators. Another reason would be that the viewers see the shaky and blurry film clip as a mirror, a real representation of the incident (compare Kukkonen, 2014). A third reason would be the texts that introduce the videos on YouTube: In these texts, the female customer is presented as a crazy granny, as someone representing 'the others' and as someone who is trying to trying to get away without paying for her taxi ride. A fourth reason are the paratextual markers in the film clip, which are perceived as the sender's (citizen journalist's) clues in a message (Kukkonen, 2014). These show the viewers how they should interpret it.

The taxi driver's account is authorized and not questioned by the majority of the commentators. The presence of an alternative account in the form of a police report suggests that the citizen journalist's film is only one of several possible accounts about the incident. Still, it is treated by the commentators as the proper collection of events. As Smith points out, if something is to be constructed as a fact, it must appear the same way to everyone, and everyone's recognition of it as a fact must be based on direct observation (Smith, 1978, p. 35). The material analysed in this paper would, however, show that to be constructed as a fact, the observation of something can also be made through film, not only through direct observation; the viewers treat the film as direct observation, as if they were getting close-up, naturalistic data about the taxi customer. They provide accounts for the 'crazy granny', typify her, laugh at her, and express sympathy for her, as if sharing an experience directly from the place of the event.

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Social media as a platform for crime

Hanne Stevens

Abstract

As part of the police response to street level drug dealing, a prevalent method consisting of sales adds on the social media platform, Facebook, has been exposed. This paper describes the magnitude of the problem in the Police District of North Jutland, Denmark, and relates the findings to implications for police work pertaining to both investigative and preventive strategies.

Background

In recent years, an increasing amount of interaction, especially amongst young people, is taking part using online communication. This trend is also apparent when it comes to the sale of illegal drugs. While there is a budding literature dealing with narcotics trade on the Dark Web (e.g. Martin 2014, Demant et al. *forthcoming*), the role of social media seems yet to be largely unexplored. It must be assumed that the problem is relevant across a variety of different platforms, however, the empirical parts of this paper deals exclusively with Facebook. This website is considered the largest social media site in the world (Europol 2014: 53), and an estimated 70 % of Danish children and youngsters aged 9-16 years have a profile there (Livingstone et al. 2014).

In the latter part of 2014, the Special Patrol¹ in North Jutland Police, began to notice a shift in methods when it came to street level drug dealing. Whereas end-user drugs sales are traditionally conducted in open or closed markets, where potential buyers must be knowledgeable about physical locations for drugs sales in public areas (Harocopos & Hough 2011) or private residencies (Sampson 2001), sales are increasingly facilitated through postings on Facebook. This approach allows for flexible arrangements regarding the actual exchange of drugs and money.

In the opinion of the Special Patrol, this method of selling was becoming highly prevalent. And although they had continuously gathered information for use in their daily work, the information was largely unstructured and unvalidated. So a decision was made to assess the magnitude of the problem in a systematic way.

¹ The special patrol are plain clothed police, and have street level drug dealing as a primary responsibility.

Methods

Data were collected during the period from late April to early June, 2015, where the primary source was information gathered by the Special Patrol during searches of known drug dealers. In addition to information from searches, some information was also achieved through tips from the public and in one instance from a search of a mobile phone conducted as part of a criminal investigation (for an unrelated crime). A key consideration in the data collection process was to obtain valid information in a way that was compatible with the workflow of the Special Patrol, which can be fairly fast paced. A pragmatic solution to this issue was to have them take screen shots of mobile phones, showing the relevant information.

Legality

Since data was collected as part of police business, and ultimately for police purposes, it was necessary to take heed of legality issues. The Danish Attorney General has outlined specific guidelines for social media (Rigsadvokaten 2010). This includes covertly gaining access to both content and basic subscriber information (IP-addresses etc.), however, this necessitates cooperation from Facebook and requires international warrants, which can be a bureaucratic and lengthy process. In addition, the police can legally gain access to content in one of three ways:

1. By searching a suspect's phone or computer. In these cases there must be a search warrant (or conditions for searches without a warrant must be met)
2. By creating an alias and thereby bypassing privacy settings through being admitted to groups or establishing connections ("friends"). In these cases the same rules apply as for physical observation and infiltration, i.e. it is legal to interact with suspects as long as there is no entrapment.
3. By gaining access through the profile of a victim, informer or suspect. In these cases there must be consent from the person in question.

Communication on Facebook

In order to describe the mechanisms, it is useful to first take a look at the structure of communication on Facebook. Users must first create a profile; these are usually thought of as personal (such that there is a time-stable one-to-one relation between a person and a profile). However, it is entirely possible for several people to use the same profile, or for the profile to change hands over time. This is probably most relevant in relation to profiles that are not connected to a specific person's identity.² Profiles can connect to other profiles

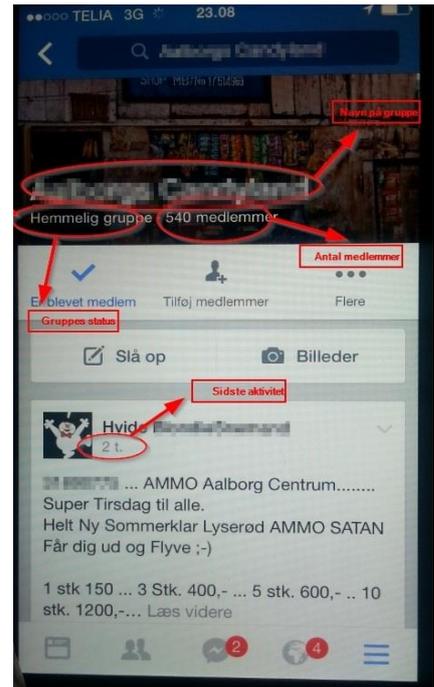
² Alias profiles can have names that are obviously not the identity of a real person (e.g. "The Snowman"), but can also have a random name (e.g. "Pete Smith").

(as “friends”) or join groups.³ Communication can take place directly between two or more profiles in private messages, through postings on the wall of a profile, or through postings on the wall of a group. The majority of the drug dealing we uncovered happened in this latter fashion.⁴

The groups on Facebook can have the following privacy settings:

1. **Public groups:** Content and members are visible to all. Membership by invite or request.
2. **Private groups:** Members are visible to all, but content is only visible to members. Membership by invite or request.
3. **Secret groups:** Only visible to members, i.e. even if the name of the group is known, it cannot be found in a search by non-members. Membership by invite only.

The drug sales were mainly happening through secret groups that had been created for that very purpose. Some of the groups had names and group pictures with very explicit drug references, while others were more discrete. In either case, the group walls would be used for posts where narcotics were offered for sale. Most typically, an add would contain pictures of the drug(s) in question along with prices for different quantities and a telephone number where orders could be placed. Many sellers were offering delivery in a large geographical area on a 24/7 basis, and in a few instances, sellers were advertising different telephone numbers for different geographical areas.



During police operations, the Special Patrol would extract relevant information (e.g. phone numbers or identities) directly for their own use. And although the groups contained a host of interesting information for analytical purposes, such as prices and slang terms for various drugs, at this point the main aim was simply documenting the prevalence and size of the groups. To this end, each group was photographed (see figure 1) and sent to the analyst who could then extract relevant information from the picture itself and from metadata. The collected information included: Name of group, size of group, privacy settings of group, recency of activity in the group (latest post) and date of documentation (from metadata).

³ Facebook has a third category of content named “Pages” – these are predominantly used by businesses, celebrities and organizations, and will not be further elaborated in this report.

⁴ Due to the collection method, we did not have access to direct communication between users in private messages.

Results

During the 1½ months of collection, a total of 34 groups that were active in the North Jutland area were documented (see table 1). Some groups were documented more than once, which provided the possibility to see if the member count changed. Incidentally, most of the groups grew during data collection; some modestly, others quite rapidly. A few of the groups also decreased in size, but none with more than just a few members, and only one group had an overall decrease in members over the entire period. In addition to the documented groups, the Special Patrol were knowledgeable of 17 other groups, however they had not recorded information about the size of these groups, any time reference to the groups, or information on whether or not they are still active. In more than half of the documented groups (20 of 34), it was apparent that harder drugs (primarily cocaine, amphetamine and MDMA) were offered for sale along with various cannabis products.

Table 1: Groups by size

Group size	N of groups
More than 1000 members	3
500-1000 members	9
100-500 members	15
Less than 100 members	7
Total	34

Summing all the membership counts, there were 15 796 members in the groups combined. From the data collection it was apparent that some drug dealers were members of multiple groups, and while we were unable to test the hypothesis that this is also true for some buyers, it must be assumed that the combined reach of the groups is considerably smaller than this number. Relatedly, the recording of the most recent post was added to the information collection in order to assess whether groups existed consecutively rather than simultaneously. The majority of the recorded groups (27 of 34) had activity within minutes or hours of the time the screen shot was taken, whereas only in 3 groups weeks had passed since the last posting.

Due to the data collection method, many of the documented groups were active in Aalborg, which is the main city in the police district. But some sellers were advertising delivery in all of North Jutland, and recently we have documented groups that are catering specifically to relatively small rural communities. In some of the groups, sales adds related to other parts of the country (Capital area, Western Zealand and East Jutland) were found, just as there were examples of sales adds posted in public groups with membership counts

in the thousands, thereby being visible to people who had shown no active interest in drugs.

The findings point to a need to gain a deeper understanding of the mechanisms in the groups, i.e. the degree of organization, the patterns of communication, the link to other parts of the country or to transactions on the dark web, the potential for recruiting new sellers etc.

Police implications

Some of the investigative challenges that have emerged, concerns linking a social media profile to one or more people. For one thing, it is common for the dealers to use aliases rather than their real name. Also, a profile is not necessarily personal – often a group of people share a profile, so they can take shifts and have a 24/7 operation running, or profiles are sold for drugs or money. Finally, the easy access to buyers through the Facebook groups facilitates the possibility of frequent changes of phone numbers without loss of business. This means that there is potentially a lot of extra work if the police want to intercept their communication.

In terms of prevention, there is a pressing question of whether the shift to online facilitated sales will result in more active users. For alcohol and tobacco there is a consistent finding that decreased availability is associated with decreases in use and conversely that increases in advertisement are associated with increased use (UNODC 2015: 25-26). Although these findings probably do not apply directly to the use of illegal drugs, certainly, this new method of sale with a high level of convenience means that the buys can be more impulsive, compared to having to physically go to the location of the seller and subsequently carry the drugs for long distances. As such, there is potentially a shorter distance from thought to action.

While the focus in this project has been on documenting the sale of drugs on Facebook, a variety of other illegal content, such as doping, prescription drugs, illegal fireworks, weapons, and stolen goods were also found. Especially in the case of selling stolen goods, there is a mixing of the white and black market. This points to a general need for police to consider strengths and limitations in using social media as part of investigations. It also remains to be established, to what extent information gathered in this way can be used as evidence in court.

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How widespread is cybercrime: Types and Volume of Public Victimization in Iceland

Jónas Orri Jónasson and Helgi Gunnlaugsson

Abstract

In recent years police authorities worldwide have noted a growing shift of criminal activity from the “real world” to the Internet. Criminals have started to use the web more as a source to target suitable victims all over the globe. By using the Internet criminals are able to connect to people worldwide which offers all kinds of new opportunities for deviant activities. Recently a variety of internet-related threats have been reported in the mass media, e.g. computer fraud, cyber vandalism, cyberbullying and most recently cyberwarfare. This is the first study in Iceland examining cybercrime victimization among the Icelandic public. A questionnaire was sent out to a sample of 2000 individuals via e-mail asking about Internet use and cybercrime victimization. According to the findings about 13 percent of the respondents reported having been victimized by cybercrime in the past three years. Respondents aged 30-44 years old were most likely to have been victimized. Slander and consumer fraud were the most common types of victimization.

Introduction

Nowadays, everyday life happens more and more online, especially for those of us in westernized societies. Everyday routine tasks are more often taking place online, we pay our bills online, communicate with friends and family, order food, plan holidays, book flights, hotels etc. According to Eurostat (2015), about 96 percent of Icelandic households had internet access in 2014. This was the highest percentage of homes in Europe along with Luxembourg and the Netherlands. Close by were Denmark and Norway where 93 percent of households had access to the internet. Icelandic users are also the most likely to use the internet regularly. About 97 percent of internet users in Iceland reported to use the internet at least once per week. This figure is the highest percentage of regular internet users in Europe (Sigurðsson, 2015).

The fact that people spend more time online has offered a vast range of new opportunities for criminal and deviant activities. Such risks have become a part of everyday life and are something that people are increasingly more aware of. Reports of some form of cybercrime are becoming a daily occurrence. The social media group at the Reykjavik Metropolitan Police has for example posted at least 15 warnings on their Facebook page this year to warn people about online scams and cybercrime related activities. According to the local

police, criminal violations increasingly take place online such as buying and selling stolen goods, fraud and sexual related offences (Haraldsson, 2015).

Making sense of cybercrime is challenging for criminologists, mainly because of the lack of a consistent definition. The term cybercrime has no specific reference in law, yet it is often used in political, criminal justice, media, public and academic discussions (Yar, 2013). Cybercrime is also almost non-existent in official data. Few offences are reported to the Icelandic police and studies have shown that a large proportion of offences remain unreported for a wide variety of reasons. Victims, for example, may be unaware of that an offence has been committed, they do not consider the incident to be serious, believe the police would not react or they might be embarrassed.

Another challenge of defining cybercrime is that targets can range from governments and multinational corporations to individuals. Therefore it can be difficult to grasp cybercrime as a single phenomenon, it should rather be seen as a range of illegal activities. A typical definition for different forms of cybercrimes is that it has been committed using computers or other online platforms (Yar, 2013). Rather than looking at cybercrime as a single phenomenon it should be seen as an umbrella term used to describe two closely related criminal activities: cyber-dependent and cyber-enabled crimes. As stated in the term, cyber-dependent crimes depend on computers, computer networks or other forms of information communications technology (ICT). Cyber-dependent crime can therefore only exist online and cannot be committed without the use of computer technology. These types of offences include for example hacking, spread of viruses, i.e., which are directed against computers or network resources via other computers. Cyber-enabled crimes on the other hand, are traditional crimes which are amplified in their scale or reach by the use of computers or computer networks. Unlike cyber-dependent crimes they can be committed without the use of the internet or computers, for example fraud, data theft and sexual offending (McGuire and Dowling, 2013).

The focus in this study is on the individual level as we examine victimization among the Icelandic public. Our main focus is on experiences which are considered as cyber-enabled crimes and deviant activity that can have an impact on the victim. Very little is known about how widespread cybercrime is in Iceland. The objective in this study is to provide new information concerning internet use in Iceland and perceived exposure to cybercrime victimization. What is the actual scope and scale of such crimes in Iceland? What fraction of society is most likely to be victimized and what is the most common form of cyber victimization in Iceland? Moreover, we also ask participants about their own criminal and deviant activity. How many admit to have knowingly broken the law by downloading illegally copyrighted material? And how many admit to have visited websites

Previous research and theoretical framework

According to earlier research, identity theft, phishing, sexual offences and fraud are among some of the most common types of cybercrime (e.g. Oksanen and Keipi, 2013; Wolak, Mitchell and Finkelhor, 2006; Yar, 2013; Ybarra, 2004). Cyber victimization tends to be low among the general public but higher among younger online users when compared to older age groups (e.g. Norton, 2016; Wolak et. al, 2006). It has also been reported that children who use social media to a great extent are more likely to be victimized than children who do not use social media as much (Staksrud, Ólafsson and Livingstone 2013). Residents living in rural areas are also less likely to become victims of cybercrime than those living in larger cities (Glaeser and Sacerdote, 1999).

One study showed that more than 3 million new malicious softwares, such as viruses and Trojans, appeared in the first half of 2015 alone (G Data Securitylabs, 2015). Furthermore, data from the US indicate that about 10 percent of internet users in 2012 reported being victims of online scams or phishing (Norton, 2012) and that in 2014 more than 348 million identities were exposed by hackers (Norton, 2016). Data from a recent National Crime Victimization survey in the United States has also shown that about 7 percent of all households had been victims of identity theft (Harrell, 2015). In a Näsi, et al. (2015) survey study about 6.5 percent of young people, aged between 15 and 30 years, living in Finland, the US, Germany and UK reported having been victims of cybercrime during the past three years.

Research in the field of cybercrime is often built on the routine activity theory (RAT) developed by Cohen and Felson in 1979. It has been shown to be capable of adaptation to cyber victimization and what influences the likelihood of becoming a victim of deviant behaviour online (e.g. Näsi, et al, 2015; Marcum, Higgins and Ricketts, 2010; Pratt, Holtfreter and Reisig, 2010). Social behaviour is believed to influence the likelihood of victimization according to the routine activity theory. Those who engage in risky behaviours, are poorly guarded and are exposed to groups of motivated offenders are more likely to be victimized than others (Siegel, 2016). RAT has mostly been used to understand violent crime but it can also be used to shed light on online victimization. Those who report using the internet frequently are more likely to become victims of deviant or illegal behaviour online than users who use the internet less (e.g. Reyns and Henson, 2015; Näsi et al. 2014; 2015). Also those who use the internet for deviant activity such as looking at pornographic material or downloading copyrighted material tend to be more likely to become victims of cybercrime (e.g. Buzzell, Foss and Middleton, 2006). Yet not all scholars agree. Yar (2005) has for example argued that cyber victimization is substantively different from being victim of 'traditional' crime, in that the online environment, unlike physical space or the 'real world', can be spatio-temporally disorganized and relatively unstable.

Data and Methods

The data is derived from a web-based survey with participants aged between 18 and 76 years old from Iceland. The questionnaire was only available in Icelandic thus only Icelandic speaking participants could take part in the research. Data collection was administered by the Social Science Research Institute affiliated with the University of Iceland and the data was collected in March of 2016. All participants had agreed to be members of the institutes' panel. We used a stratified sample mirroring the population in terms of basic socio demographic variables of age, gender, residence, education level and income. The sample size was a total of 2001 members of the panel and the response rate was satisfactory or about 60 percent.

First it was examined what the respondents had used the internet for, in the past three months. For example if they had read news online, used online banking, social media or an online provider of streaming movies, TV series or music such as Netflix and Spotify. The respondents were also asked if they had bought or sold goods online. Furthermore we wanted to see how many had knowingly broken the Icelandic law by downloading copyrighted material or visited pornographic websites. The main focus was to distinguish between legal and illegal online activity.

The second objective of the study was to examine how many of the respondents had been victims of cybercrime. This was measured by asking the respondents the following question: Have you been the victim of any of the following offences online in the past three years. The options given were slander or defamation of your character, threat of violence, identity theft, sexual harassment, blackmail, consumer fraud or had your photos shared online without your permission. With the last question we were trying to grasp the extent of revenge porn in Iceland.

Finally it was examined how different background variables influenced the likelihood of becoming a victim of online crime. Several different independent variables were included such as gender, age and residency, i.e. if participants lived in or outside the Reykjavik capital area. Participants were divided into four age groups, 18 – 29 years old, 30 – 44 years old, 45 – 59 years old and 60 years old and older. Fewer younger members of the panel answered the survey and also more participants with university degrees participated. Therefore, the data had to be weighted for age, gender, education level and residency in order to satisfactorily reflect the Icelandic population.

Results

Figure 1 shows the percentage of participants who had illegally downloaded copyrighted material in the past three months. About one-third of the participants admitted to have

done so. The data did not show any significant difference between men and women. However, looking at the difference between age groups the difference was statistically significant. About two-thirds of participants aged 18 to 29 years old and about half of respondents aged 30 to 44 year old had illegally downloaded copyrighted material, compared to only four percent of participants aged 60 years or older, and about ten percent of 45 to 59 year olds. The difference between participants living in the Reykjavik metropolitan area and those living outside of Reykjavik was also statistically significant. About one-third of residents in Reykjavik had illegally downloaded copyrighted material, but only about one in four living outside of Reykjavik.

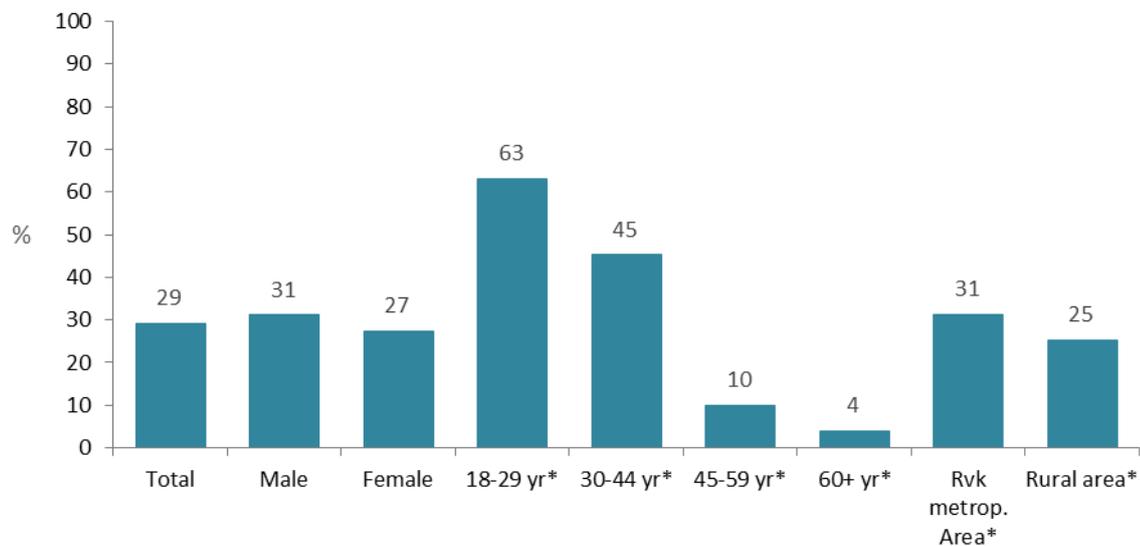


Figure 1. Percentage of participants who reported having downloaded copyrighted material in the past three months, based on gender, age and residency.

* marks significant difference between groups ($p < 0,05$)

Figure 2 shows the percentage of participants who stated they had deliberately visited pornographic websites in the past three months. About one in four Icelanders admitted to having visited pornographic websites in the past three months. The gender difference was statistically significant. About 39 percent of males but only 12 percent of females admitted to have looked at pornographic material online in the past three months. There was also a significant difference between different age groups. About half of the younger participants stated they had visited pornographic websites in the past three months and about one-third of participants aged 30 to 44 years old. Fewer of the older participants admitted to have done so, about 17 percent in the age group 45 to 59 and about six percent of respondents 60 years and older. Residency had no impact.

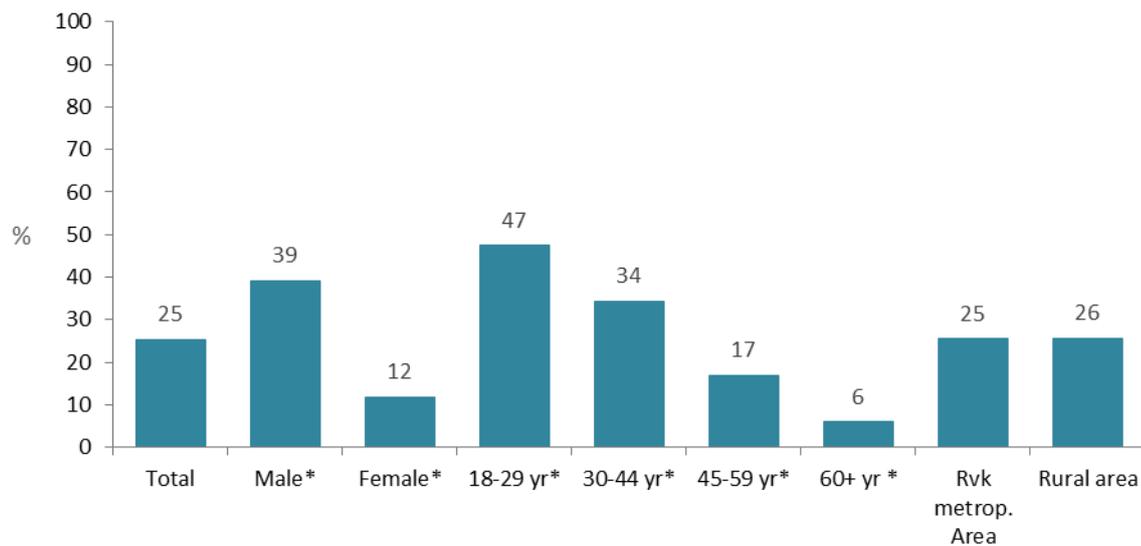


Figure 2. Percentage of participants who had deliberately visited pornographic websites in the past three months, based on gender, age and residency.

* marks significant difference between groups ($p < 0,05$)

As shown in figure 3 about 13 percent of respondents had been victimized by any of the cybercrimes we asked about. Gender had no significant impact on cybercrime victimization. Age on the other hand had a significant influence. Unlike previous research cyber victimization was not highest among the youngest online users but in the next age group above, i.e. those 30 to 44 years old. About 18 percent of the participants in that age group admitted to victimization, and about 16 percent of the younger group. Fewer of the older participants reported being victimized in the past three years. There was also a significant difference between those living in bigger cities compared to those in rural areas. About 15 percent of the participants living in the Reykjavik area reported being victimized compared to about 11 percent of those living outside of the Reykjavik area.

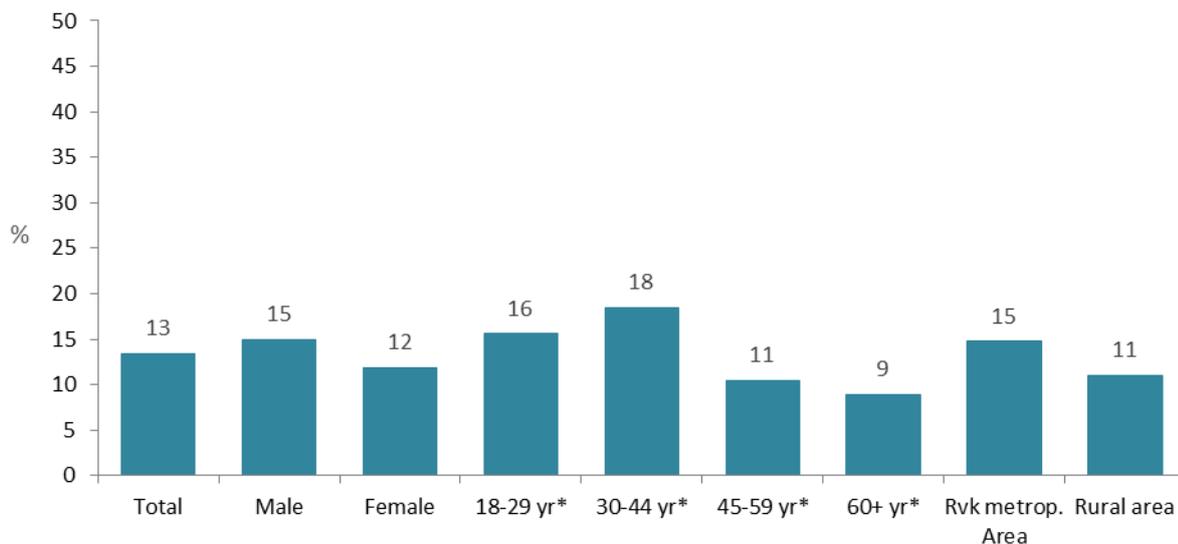


Figure 3. Percentage of participants who reported having been victimized by cybercrime in the past three years, based on gender, age and residency.

* marks significant difference between groups ($p < 0,05$)

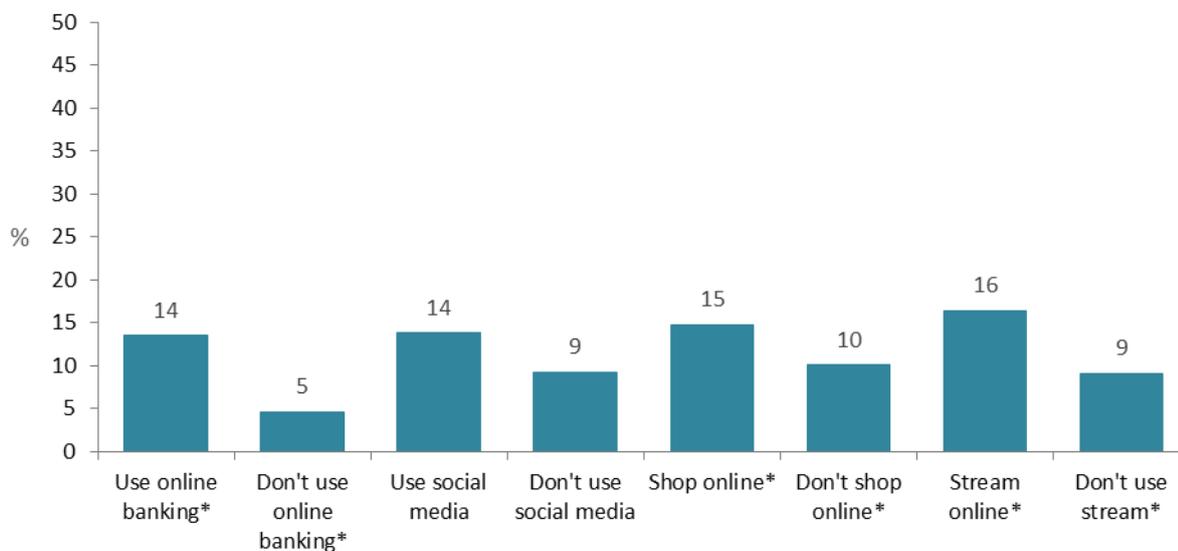


Figure 4. Percentage of participants who reported having been victimized by cybercrime in the past three years, based on legal online activities.

* marks significant difference between groups ($p < 0,05$)

Figure 4 shows cyber victimization based on various legal online activities. About 14 percent of the participants who had used online banking and about 15 percent of those who had sold or bought items or services online had been victims of cybercrime of some sort, compared to only about five percent of respondents who had not used online banking and about ten percent of those who had not used the internet to sell or buy goods. About 16 percent of the participants who had used the internet to stream TV shows, movies or mu-

sic in the past three months had been victims of some sort of cybercrime compared to about nine percent of those who did not use the internet to stream.

As figure 5 shows participants who had illegally downloaded copyrighted material in the past three months were most likely to have been victims of some sort of cybercrime. And there was a significant difference between those who had downloaded illegally and those who did not. About one in five participants who had downloaded copyrighted material had been victimized compared to about one in ten of those who had not. Interestingly, there was not a significant difference between those who had visited pornographic websites and those who had not. About 15 percent of pornographic users had been victimized and about 12 percent of those who did not visit such sites in the past three months.

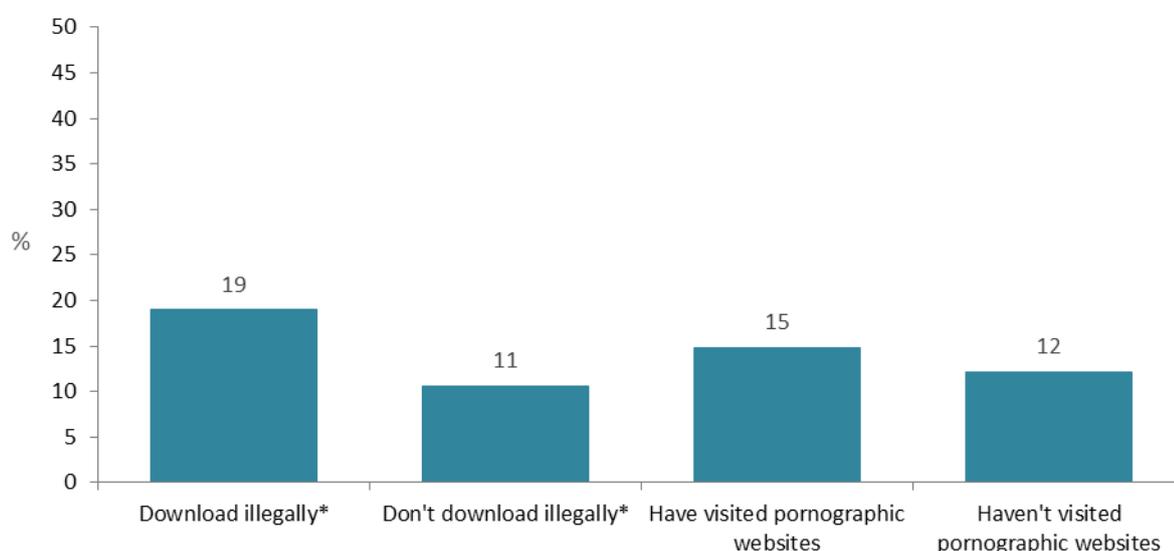


Figure 5. Percentage of participants who reported having been victimized by cybercrime in the past three years, based on illegal online activities.

* marks significant difference between groups ($p < 0,05$)

According to the data of those respondents who had been victims of cybercrime, slander or defamation of one's character was stated as the most frequent type of crime as shown in figure 6. About one in three reported this as the type of crime victimization they had experienced. The second most frequently mentioned victimization was consumer fraud, that is, receiving the wrong product or one's credit card had been charged without receiving the product. Just over a quarter reported having been victims of consumer fraud online in the past three years. About 17 percent of respondents had been victims of credit card fraud; i.e. having their credit card number stolen and used without their permission. About nine percent stated they had been victims of identity theft; that is, misuse of personal data such as their social security number.

About 18 percent of respondents who reported being victims of cybercrime had been threatened by violence in the past three years and about 12 percent had been sexually harassed online. It is interesting to note that only about three percent reported being threatened with sharing personal data or personal pictures of them. Yet, almost one in five respondents reported that someone had shared a picture of them without their permission.

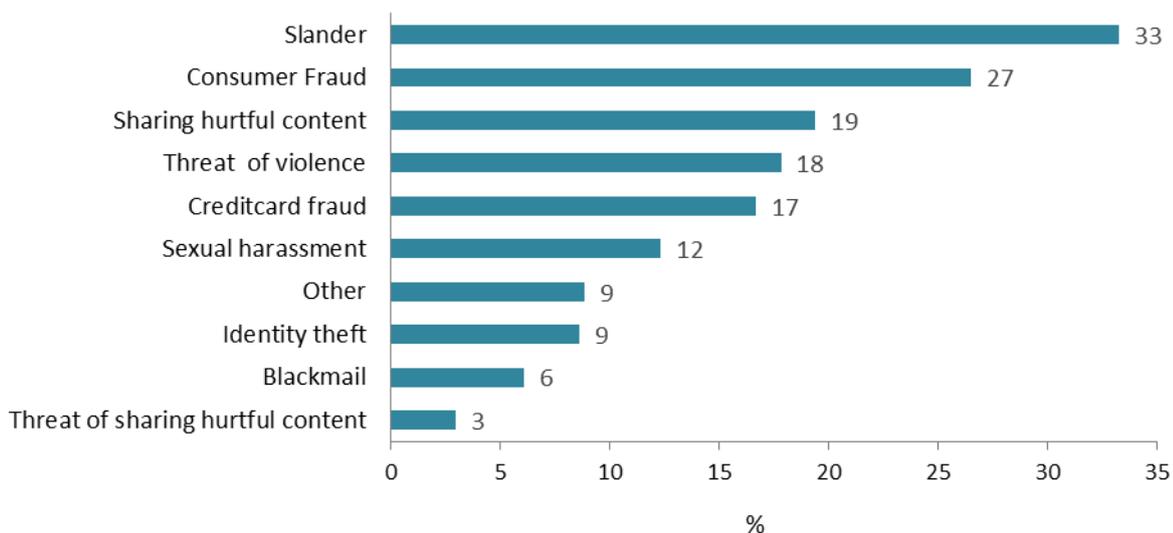


Figure 6. Percentage of participants who reported having been victimized by cybercrime in the past three years, based type of cybercrime.

Discussion

The number of households with internet access has increased drastically in the past few years. Almost every Icelandic household is connected to the internet (Eurostat, 2015) and about 97 percent of Icelandic internet users connect at least once per week (Sigurðsson, 2015). With increased internet use online victimization apparently also has increased. The objective with this article was to provide new data on cyber victimization among the general public in Iceland. The results showed that about 13 percent of Icelandic internet users had been victimized by cybercrime of some sort. Therefore cyber victimization appears to be more frequent in Iceland than has been reported in earlier research (Harrell, 2015; Näsi, et. al., 2015). Still, these figures cannot be fully compared because our survey asked about a wider range of victimization experiences and the focus was more on crime which can be categorized as cyber-enabled crime rather than focusing on cyber-dependent crime, such as phishing, spread of viruses, etc.

Previous research had shown that younger online users tend to be the most likely victims of cybercrime (e.g. Oksanen and Keipi, 2013). This tendency did not show up in our data where middle aged Icelanders appear to be slightly more likely to have been victimized than other age groups. Yet, the difference between respondents aged 18 to 29 years old

and 30 to 44 years old was not great. Gender had no significant effect on cyber victimization. The most common form of cybercrime reported in this survey was slander and consumer fraud. Our findings appear on the whole to be somewhat in line with prior research (e.g. Oksanen and Keipi, 2013; Wolak, Mitchell and Finkelhor, 2006; Yar, 2013; Ybarra, 2004).

This study was not set up to test whether the lifestyle-routine activity theory originally put forward by Cohen and Felson could be used to explain cybercrime. Yet it can be safely stated that more online activity, especially online piracy, increases online victimization. About one in five participants who had downloaded copyrighted material had been victims of cybercrime of some sort. Online behaviour can therefore be a predictor of cyber victimization. That is when engaging in risky behaviour online, such as online piracy, users tend to be more exposed to motivated offenders and therefore increase the risk of becoming a victim of cybercrime. Cybercrime might just be new wine in old bottles; that is old or traditional criminological theories can also be used to explain new crimes.

The reported data is brand new and offers many possibilities. Cyber victimization in Iceland has not been studied like this before. This study is therefore important to shed a new light on the extent of cybercrime in Icelandic society. Yet further work is clearly needed in this field. Our next step is to run a logistic regression analysis model to calculate the odds ratios of being victimized by factors which have been found to be influential. The findings will also be compared with other Icelandic crime victimization surveys to examine if there is any difference between those victimized by cybercrime and those victimized by more traditional forms of crime.

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Homicide and social marginalization

Karoliina Suonpää

Introduction

Violent offences have severe consequences for victims and their families. They cause bodily harm, material damage, and various health problems. In 2014, approximately 33,000 assault offences and 327 attempted homicides were reported to the police in Finland (Salmi, Lehti, Danielsson, Aaltonen, & Kuitunen 2015). The severity of violent assaults varies from minor assault to lethal violence which is the most severe of all crimes with the most serious consequences for the victims and their families. In 2014, 114 homicides were reported to the police in Finland (Lehti 2015). Compared to other Scandinavian countries, the annual homicide rate is exceptionally high. Offenders usually come from the lowest social strata and have a severe criminal history (Kivivuori & Lehti 2011; Lehti & Kivivuori 2005).

This paper is based on my ongoing doctoral dissertation on lethal violence. In my first sub-study, my goal is to examine whether or not homicide perpetrators are generally the most socially disadvantaged group with the most severe criminal history. In other words, my aim is to evaluate whether or not homicide is the culmination of social marginalization. The empirical results of my own study will be submitted later in a refereed journal. In this paper I present prior research, which considers the differences between lethally and non-lethally violent offenders. By contrasting events with a lethal and non-lethal outcome I aim to deepen our understanding of the dynamics of lethal violence and produce information relevant for building efficient preventive policies.

Prior research

Various empirical studies have shown that a person's criminal history is one of the strongest predictors of future offending (Gottfredson & Hirschi 1990; Nagin & Paternoster 1991; Sampson & Laub 1997). Considering lethal violence, earlier empirical research has shown that a majority of lethal perpetrators have a criminal history (Dobash, Dobash, Cavanagh, & Medina-Ariza 2007; Farrington, Loeber, & Berg 2012; Soothill, Francis, Ackerley & Fliigelstone 2002). Moreover, among the lethal offenders with a criminal history, many of them had a history of violent crimes (Dobash et al. 2007; Farrington et al. 2012; Ganpat, Liem, Van der Leun & Nieuwbeerta 2014). Besides a criminal history, violent offending is also associated with many other forms of social marginalization and deprivation, such as low socioeconomic status (e.g. the meta-analysis by Ellis & McDonald 2001; Farrington et

al. 2012), parental incarceration (Weijer, Bijleveld & Blokland 2014), and various problems during childhood (Farrington et al. 2012).

It appears that lethal and non-lethal violence have at least partly similar social determinants and are linked in many ways. Lethal violence could be seen as an extreme manifestation of various risk factors (e.g. Hardwick & Rowton-Lee 1996). However, not all violent encounters end lethally. In the literature, studies explicitly comparing the criminal history and other social determinants of lethally and non-lethally violent offenders appears both to be scarce and to have somewhat mixed results. Next I present some relevant findings from the empirical studies comparing these groups.

Smit, Bijleveld, Brouwers, Loeber, and Nieuwbeerta (2003) used the Dutch Homicide Database for examining the differences between perpetrators who had been convicted for homicide (N=142), attempted homicide (=1,054), aggravated assault (=604) and attempted aggravated assault (N=1,437). Surprisingly, offenders of attempted and completed homicide had more previous criminal offenses in total, but fewer violent offences than offenders of attempted and completed aggravated assault. When contrasting only the perpetrators of completed and attempted homicide, the differences in their criminal careers did not reach statistical significance.

Dobash et al. (2007) compared lethal and non-lethal violence against an intimate female partner in England, Wales, and Scotland. The group of lethally violent perpetrators consisted of men (N=106), who were convicted for the murder of a current or former partner in a marital, cohabiting, or serious dating or engaged relationship. The group of non-lethally violent offenders consisted of men (N=122) convicted of an offense relating to domestic violence. In regards to criminal history, the authors found that lethally violent perpetrators were less likely to have had at least one previous conviction or previous violent conviction. Results were similar considering other risk factors as well: lethally violent offenders were more conventional with respect to their childhood backgrounds, education, and employment.

DiCataldo and Everett (2008) contrasted two groups of young males who had committed lethal (N=33) or non-lethal violence (N=38) and were confined in the same secure detention program in the USA. Non-lethally violent offenders had significantly greater numbers of total offenses, and also more violent offenses. Considering the family history during childhood, there were no statistically significant differences in parental criminality or parental death, separation, or divorce but non-lethally violent perpetrators reported significantly more frequent sibling delinquency and out-of-home placements. Overall results suggested that non-lethal offenders seemed to be more problematic, based on many of the variables of analysis. However, the authors warned that some of the differences identified in the study may have been caused due to the sampling bias: the number of subjects was small and all of them were confined within the same secure detention program.

Ganpat et al. (2014) compared the criminal history of lethally (N=3,678) and non-lethally (=4,788) violent perpetrators in the Netherlands. The former group consisted of offenders whose index crime was manslaughter or murder, while the latter group of offenders were convicted for attempted manslaughter or attempted murder. Results suggested that although the majority of both groups had a criminal history, non-lethally violent offenders had a more severe criminal history than lethally violent perpetrators. An individual's history of prior violent crimes seemed to decrease the probability of lethal violence compared to non-lethal violence. However, the results were somehow ambiguous: there were no statistically significant differences when compared to the mere existence of a prior criminal record, and the total number of all crimes (not only violent crimes) in one's criminal history had a positive association with lethal versus nonlethal outcomes.

Discussion

Lethal violence occurs in the context of non-lethal violence (Dobash et al. 2007) and all violent encounters do not necessarily end lethally. Based on the studies presented here, lethally violent offenders do not seem to constitute the most problematic group as differing clearly from the non-lethally violent offenders: compared to non-lethal perpetrators, lethal perpetrators did not have the most severe criminal history, the most problematic childhood, or the lowest socioeconomic status. Rather, criminal history and other forms of social marginalization seemed to predict various kinds of violent offending. Future studies should also consider the role of other factors explaining lethal violence, for instance, the situational factors such as the spatial location and the social context of the violent encounter, the availability of weapons, the role of alcohol and other substances, and the relationship of the subjects involved in the encounter.

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Governing security in spaces of flows

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This paper is based on a PhD- project description.

Introduction:

The globalized world has been characterized, to borrow Inda and Rosaldo's (2002) words, as a 'world in motion'. Despite globalization is not a historically new phenomenon as such (Aas 2013, p. 24) various global flows are now shaping and influencing a range of aspect of our life more than ever. The increasing flows of people, good, cargo, capital and information we have witnessed during the last couple of decades may have led to new opportunities for crime – ranging from smuggling of humans, drugs and other illegal goods, to financial fraud and cyber-crime. Accordingly, one can argue that new risks and vulnerabilities have been added to the security agenda – an agenda that has been substantially broadened during the last 50 years (see e.g. Buzan, 1991 on the widening and deepening debate within the IR- tradition; Buzan, Wilde, & Wæver, 1998; Krause & Williams, 1996; Tarry, 1999). In order to capture this fluidity and motion of people and things, the concept of flows has been presented as a fruitful point of departure. The perspective of flows and in particular the policing of flows has now become an upcoming and important field of inquiry within the criminological literature. Moreover, a range of topics have been explored empirically; e.g. border control and the use of surveillance at ports of entry (Aas & Gundhus 2015; Cote-Boucher, 2008, 2013; Pellerin, 2010; Wilson & Weber, 2008). However, I will present the argument that the notion of policing of flows should not be perceived as a new phenomenon as such. Histories of policing from the English speaking world, for instance, suggest that policing of flows is a historical activity dating back to the middle ages, but is particular seen within the activities of the police during the 18th and 19th century (Foucault, 1978/2007). Similar tendencies can also be observed within the continental tradition of policing histories, particular of France and Germany.

The topic of this paper is the insecurities and securities of flows of a particular category, namely, flows that runs through airport and maritime ports. The new risks and vulnerabilities that have arguably been added as a result of (global) flows can manifest themselves in a variety of fields and sites. It is argued by Mark Salter (2008) that few sites are more iconographic of the vulnerabilities derived from globalization than the international airport. The transportation of people by air has seen a vast increase in recent decades. In 2014, for instance, around 3.3 billion passengers were transported by the global aviation industry (IATA, 2014). Despite the explosive growth in the aviation industry during the twentieth century, most of the world trade still remains highly dependent upon maritime transport.

For instance, about 80 per cent of global trade by volume is carried by sea (UNCTAD, 2014). Furthermore, a vast number of people travel by seas and thus uses ports as points of entry. Moreover, there is a high circulation rate at both sites, that is, a large number of people and things flow through these areas every day at a high pace. Airports and ports are thus perceived to be highly important, but at the same time vulnerable nodes within the global mobility regime. Consequently, airports and ports are sites that clearly need to be secured; both the sites themselves and the flows within the sites. Following this perceived necessity to create safe(er) environments, governing of security within the port and airport are placed high on the international community's agenda.

Research issue and questions:

Over the years I have developed a great interest in two different concepts which makes the starting point of the project. First is the concept of flows of people and things (i.e. migration flows, informational flows, financial flows, electrical flows). During the last decades one can identify significant changes and transformations concerning all spheres of governance (Burriss, Kempa, & Shearing, 2008; Kersbergen & Waarden, 2004), as traditional mechanisms of governance have been challenged and new arrangements have emerged. One important dimension of the transformation is concerning the structure of governance. In order to capture the fluidity of governance, the structure is often described in relation to the concept of network (Marcussen & Torfing, 2003; Rhodes, 1996; Sørensen & Torfing, 2005), giving rise to network governance. A significant theoretical contribution regarding network is found in the seminal work of Manuel Castells on the network society. Castells (1996, p. 398) suggest that the network society is 'a new society, based upon knowledge, organized around networks, and partly made up of flows'. This point is also highlighted by Aas (2013) as she argues that information, capital, objects and humans are moving through flows. Moreover, it is argued that the developments toward a network society have implications for how the concept of space and time is interpreted. Thus, Castells outlines a new perception of space, as 'space of flows' compared to the more common used perception of space, as 'space of places'. Such an interpretation of space, as presented by Castells, seems to have important consequences for how one conceive the spatial boundaries in society. Within the space of flows the 'objects' (people, capital, goods, information) are in constant motion and may thus challenge the idea of the permanent jurisdictional boundaries in societies. What I am particular interested in, regarding the notion of flow, is the possible consequences these flows may have on the society. That is, to elucidate the responses made by both public and private bodies in order to meet new challenges that originate from the risk and vulnerability of flows.

The second concept is security and in particular security governance. Contemporary understandings of security often highlight the importance of the distinction between objective and subjective security (G. Aas, Strype, Bjørge, & Runhovde, 2010; Egge, Berg, & Johansen, 2010; Johnston & Shearing, 2003; Wood & Shearing, 2007; Zedner, 2003, 2009).

Security can therefore refer, first, to the objective state of being without, or protection against threats (i.e. the absence of threats), and secondly, used to describe the subjective condition of freedom from anxiety originating from threats. In this project, it is crime that is considered to be the threat against security; that is what Baker (2010) describes as 'personal or citizen security'. It is emphasized that the subjective condition of security is as important to most of us as any objective state of security (Johnston & Shearing, 2003). Thus, in order to effectively govern security, measures must both meet the subjective perception as well as the objective threats to security. This project is seeking to combine these two aspects – flow and security – which leads to the research issue that the project address:

How is security governed in areas characterized by flows and circulations and what are the normative implications thereof?

Following the research issue, I would argue that the project has two particular objectives. First, to provide an empirical account of how plural security governance assemblages functions and operates in areas influenced by flows and mobility, and secondly, the project aims to enter into the normative debate concerning issues of legitimacy and accountability in times of plural security governance. It has been argued that the pluralized security governance may challenge democratic values. For instance, questions concerning whether democratic values are being threatened and compromised by the plurality and hybridity of actors have been raised (see e.g. Kempa, 2012; Wood & Dupont, 2006).

In order to highlight the mentioned research issue and to investigate the empirical sites of airports and maritime ports, three sets of research questions will be explored. The underlying research questions are:

1. How do the various actors work and think in order to govern security at airports and maritime ports in Norway? What are the underlying mentalities of the involved actors?
2. Are there differences in the ways which security is governed between airports and maritime ports? Further, in what way does the international regulation of the aviation and maritime industry influence how local security is governed?
3. How, if any, are the cooperative relations between the actors involved in the security governance at airports and maritime ports in Norway? Can differences in mentalities be a hinder to successful and effective cooperation?

The first question is mainly concerned with the exploration and investigation of security actors' perceptions of their work by focusing on the notion of mentalities. The nodal governance framework, as it is developed by Clifford Shearing and colleagues through a range of works (Burriss, 2004; Burriss, Drahos, & Shearing, 2005; Johnston & Shearing, 2003; Shearing, 2006; Shearing & Wood, 2003; Wood & Dupont, 2006; Wood & Shearing, 2007), is

a way of capturing the plurality in the governance of security. A mentality refers to a mental framework that shapes the ways in which we think about the world and the way we decide to act. Within the nodal approach a mentality, then, refers to the ways of thinking about the matters and issues that the actor has emerged to govern (Burris et al., 2005). Moreover, since not all actors are created equal, actors will vary in their accessibility and their efficacy. Thus, by placing the emphasis on the internal characteristics of the actors one is capable of capture and investigate how a whole range of actors work and think in order to govern security within areas characterized by flows.

The second question is oriented towards a comparison of the security governance at airports and ports. As suggested above, airports and ports may be affected by similar risks and vulnerabilities. Both sites of inquiry possess important places within the global trade and mobility regime. Consequently, to secure and protect the infrastructures and individuals at these sites have, according to Russell Brewer (2014), become a priority for governments around the world, including Norway. There are different aspects that may be of relevance in order to explore this second question. Though airports and ports are both concerned with the flows of people and things, it is still possible to discern a difference. In general, airports are more oriented towards the transportation of people (passengers) whilst ports are more concerned with the transportation and handling of cargo and goods. This point is also highlighted by Braithwaite and Drahos (2000). But of most interest, in terms of comparison, for this project is the influence of international regulation of the aviation and maritime industry. That is, in what way do the regulations and standards developed at the international level influence how local security is governed.

Network and relations are significant for the above-mentioned nodal approach. One important element seems to be that actors may be linked to one another through networks but they also may not be (Fleming & Wood, 2006; Wood & Shearing, 2007). Hence, it is an empirical question whether or not actors are connected through networks. Furthermore, one assumption in the nodal perspective is that the characteristics of the actors affect the developments of network relations and collaborative ties. However, as Ayling, Grabosky and Shearing (2009) stresses, the characteristics of the actors have also the potential of being affected by the relations that are developed. This means that there is a dynamic aspect between the characteristics of the actors and the developments of relational ties among the actors. The third and last question is thus concerned with the collaboration among different actors involved in the security governance. One particular aim is to explore and capture the possible driving forces or factors behind these relationships.

Theoretical contribution:

The theoretical framework of nodal governance holds an important position within the project. However, this is not what I want to focus on now (see Nøkleberg, 2016 for an elaboration of the framework). I would rather direct my attention towards one particular theoretical framing of the project, that is, a theoretical contribution.

The project aims to examine the dynamics between the securitization of the border as a barrier to mobility on the one side, and the economic imperatives of free flow and movement of people and goods at the other hand. One aspect of this is that the understanding of borders has been changing within the last decades. For instance, the notion of 'virtual' borders have been introduced and explored (see for instance Lyon, 2008). The notion of virtual borders has in particular been brought about by developments in communication, surveillance and related technologies. Moreover, it is possible to argue that borders are being moved abroad through the deployment of liaison officers operating in other countries. These developments seem to have altered the traditional physical, geographical borders, that is, new understandings of borders are presented. Through the 1990s it was even suggested by some scholars that a borderless world would arise as a result of globalization (Ohmae, 1999; Pellerin, 2005). However, this may not be the case, as the securitization of the border has now become a fundamental aspect of the globalizing condition (Aas 2013). As a result, global flows of people and things are now constantly checked at a range of different points of entry. It can even be argued that the border policing have become in many respect stricter in the age of globalization. Following this, then, it seems possible to claim that the securitization of the border function as a barrier to mobility and flow, not everyone and everything can move freely around the world.

Even though border policing may have become stricter in recent years, contemporary governments are struggling with one particular aspect in relation to controlling and regulating the flows that runs through and cross borders. One can also identify a beneficial potential of different flows of people and things, particular of relevance of the national and even to the world economy. Accordingly, governments across the (western) world seem to be trapped in a dilemma: the need to regulate the flows of people and things are being challenged by the importance of easing movement of certain groups of people and goods, which could have vast beneficial impacts on the economy. It is the task of both public and private policing agents to balance between these two contradicting impulses. One can thus argue that the objective of policing and regulating flows that try to cross borders is not to seal off the border completely but rather to manage them efficiently.

Methodological considerations:

Following the discussions above, a pressing question now is concerned with the methodological framework, that is, how can one go about and research and collect data on these issues I have outlined above? Are there some methods that are more suitable than others? As the purposes of the project is to provide an empirical account of how plural security governance assemblages functions and operates in areas influenced by flows, and to explore the cooperative relations and the driving forces behind them, I need to develop a framework that are capable of capturing such aspects. To elucidate the research issue at hand, the project will make use of both qualitative and quantitative methods/data.

The qualitative data foundation for this project will first and foremost be derived through interviews with representatives (key informants) affiliated organizations that belong to the categories of law enforcement and intelligence agencies, regulatory authorities, business, labor. It is expected that the data gathered through this approach will reveal much about the nature of operation of the various actors; how do they act and think in regard of crime and security at the different sites of inquiry. The second data foundation of this project, quantitative data, will be derived through a survey of the relational ties that link actors together. This mapping of structural relations will reveal how the various actors are connected and thus explore the collaborative ties between them. Through this combination of research methods and data one will be able to investigate both single actors in-depth and to map and analyze the overall network structures. Such a combination draws inspiration especially from Dupont (2006) and Brewer (2014).

However, as I have experienced some difficulties of getting access to the field, in particular to the police I have had to reconsider some of my initial plans of how to go about to collect data in order to overcome this challenge. The solution is to expand the use of quantitative data sources in order to measure and explore the cooperation among policing agents at the airports and on the waterfront and to identify significant factors contributing to these relationships. The main reason is that collaboration among policing agents has been highlighted as an important feature both by policy makers and academics (Brewer, 2014; Justis- og politidepartementet, 2005; Politidirektoratet, 2005).

Within the policing literature, some scholars have speculated that successful partnerships are a product of trust and an abundance of social capital amongst partners. The concept of social capital has been much debated across the social sciences (Coleman, 1986, 1988, 1990; Fukuyama, 1995, 2002; Lin, 2001; Putnam, 1995). While there has been some disagreement regarding how to interpret this phenomenon, it is possible, according to Brewer (2014), to draw linkages between some of the conceptual discussions. Thus, social capital can be understood, rather broadly, as 'a process by which social relations are used to facilitate individual and collective action, or outcomes for mutual benefit' (Brewer 2014: 15). By reviewing the literature on social capital, the concept seems to consist of two significant elements: networks of relationships (structural dimension), and norms of trust and reciprocity. It is argued that these two elements represent the building blocks of social capital. As a result, these two core elements are crucial to all productive social relationships (Brewer 2014).

To first measure the networks of relationships amongst the numerous public and private actors involved in security governance at the airport and on the waterfront, the analytical tool of social network analysis will be used. The very idea of (social) network analysis is to map the distinct patterns of relationships which exist between different actors, and then analyze what implications this may have on the network itself. The main purpose of the network analysis is to identify who are the most central actors within the boundaries of the network. The reason for this is that centrality is tightly coupled with the concept of

power and how power is distributed in the network (Borgatti, 2005; Borgatti, Everett, & Johnson, 2013; Freeman, 1979). It is argued that the more central an actor's position is the more opportunities it will have, the fewer constraints it will experience, and the more influence it will derive from its position in the network. Accordingly, actors with a central position will therefore have a greater potential of influencing the course of events. This mapping of structural relations will reveal how the various actors involved in the security governance are connected and thus explore the collaborative ties between them. The idea is to conduct such a mapping across the largest airports and ports in Norway.

The relational and structural dimension may indeed be influenced by how collaboration is perceived by the actors. That is, actors may view collaboration as a threat to traditional ways of operating, which has the potential effect of weakening the collaboration processes. However, it seems possible that collaboration can also be perceived and understood as an opportunity to increase the organizational operation, for instance by improving the allocation of scarce resources. I would argue that actors' perception of collaboration may be influenced by the notion of norms of trust, which constitutes the second core element of social capital. What follows from this, then, is how to measure security actors' perceptions of collaboration?

By reviewing the theoretical literature I have identified numerous quantitative research models and instruments which explore different features of collaboration as perceived by individual actors, mostly derived from the field of psychology and organizational theory. One such instrument is the Perception of Interprofessional Collaboration Model (PINCOM) (Strype, Gundhus, Egge, & Ødegård, 2014; Ødegård, 2006; Ødegård, Hagtvet, & Bjørkly, 2008; Ødegård & Strype, 2009). This model seems to be of great importance for this project. The PINCOM consists of twelve constructs (ranging from actors motivation to engage with others to organizational cultures), and each of the twelve constructs are operationalized by four indicators or items. Moreover, PINCOM, as highlighted by Strype, Gundhus, Egge, and Ødegård (2014), has shown good results regarding reliability and validity scores. However, some work is needed in order to adapt the instrument to fit the field of security governance, in particular to incorporate and develop measurements of the notion of norms of trust. Again, data will be collected through a questionnaire sent to actors involved with security governance at the largest airports and ports in Norway. In order to analyze the data retrieved from this particular survey, the analytical tool of factor analysis will be used.

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WORKSHOP K

THEORETICAL PERSPECTIVES

Theoretical Challenges in Contemporary Hate Crime Studies

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At the Threshold

"Du tror att det är himlen som är blå, men det är inte den.

Det är dina ögon som är blå, deras svar på ljuset som är blått.

Det blåa är ett eko av den ensamma partikelns lockrop, av hur den i ordlös längtan kastar sig mot ögats bråddjup.

Himlens blå är inget annat än en färgseendets blåtira, ett hematom efter fotoners hjärtslag mot pupillen. Sådana är de, dina ögon: blinda skalders enfaldiga skönsång.

Det du tror är himlens blå är bara ljudet av din kropp som sjunger för dig."¹

(Granström, 2010:5)

The problems identified by Granström (2010) are ones of science and of being in itself. We cannot escape the limits of our measurements, as little as we can escape misinterpretations rooted in the ways of which the world appears to us when we observe it, always endowed with our pre-understanding. There are different ways to respond to these problems.

¹ Authors translation:

"You believe that it is the sky that is blue, but it is not it.

It is your eyes that are blue, their response to the light that is blue.

The blue is an echo of the particles' lonely calling, of how it in wordless longing throws itself towards the depth of the eye.

The blue of the sky is nothing but a blue-eye of color vision, a hematoma of the pupil from the heartbeats of photons.

Such are they, your eyes: fatuous songs of blind poets.

What you believe is the blue of the sky is nothing but your body singing for you."

Rosenberg (2008) wrote that causality is uninteresting, and presented the sinking of the Titanic as an example. He argued that causality is void of content and that the only information it provides is that the ship sunk because it hit an iceberg (ibid.). I myself see quite different things in the same example. I see motion, pressure and velocity might appear empty if you cannot see them. That they become void of content when the underlying mechanisms escapes your hands without leaving traces, much like the dark matter that travels through our instruments of measurement, elusive on its journey through the universe (CDMS II Collaboration 2010). So intensely present, so fundamental and entangled with our existence, yet so otherworldly.

Needless to say, it is the otherworldly things that fascinate me the most. Those that cannot be directly caught by observations or counting and those that are unspeakable when you only speak of experiences. The following paper consists of an interrogation of three classical criminological theories. Unlike Weber (1994), I do not apply these theories as approximate models capturing regularities, but as points of departure that along with empirical studies and careful analysis can bring us closer to understanding bits and parts of certain phenomena of this world, in this case hate crime.

Introduction and Aim

Hate crime is an umbrella term, usually employed when referring to crimes that are in part or whole founded on prejudice towards the real or perceived group belonging of the victim. Countries that acknowledge hate crime as a category usually incorporates it as an aggravating circumstance but the regulation is far from uniform across contexts (Brax & Munthe 2015). In Swedish law, hate crime includes threat and harassment, violent crime, vandalization, theft and burglary, unlawful discrimination and hate speech insofar they are, in part or whole, founded upon prejudice towards the perceived race, skin colour, national or ethnic origin, confessions of faith, sexual orientation and transgender status of the victim (BRÅ 2015). Hate crimes thereby includes a broad array of actions targeting objects as well as individuals. Additionally, it encompasses a wide array of incentives as the law does not only include several protected grounds but also states that it is enough if the prejudice is a partial motivator: it does not have to be the main motive. It can be concluded that hate crime as a phenomenon place high demands on explanatory models.

The present paper reviews the applicability of three classical criminological theories with different ontological positions; a) Sutherland's differential association that trace the origins to criminal behaviour in social interaction, b) Merton's strain that holds that the causes of criminal behaviour is to be found in societal structure and culture, and lastly, c) Becker's labelling theory which has a relativist approach to criminalization and primarily focuses on repeat offending.

More specifically, I am concerned with the predictions and knowledge-claims made by these theories and the extent to which they concur with empirical research on hate crime from a critical realist perspective (Bhaskar 1998, Sayer 1999). Consequently, available data on hate crime are not treated as truths by themselves, but taken together they can provide us with guidance to the Actual and the Real (ibid.). I do not mean to propose that critical realism comprise an approach that is free from faults; it has its quirks and perks as theories of science in general does. However, a detailed discussion on the benefits and drawbacks of critical theory falls outside of the scope of this paper.

Differential Association

I have chosen Sutherland to represent the beginning of modern criminology due to several reasons. Firstly, his work *Principles of Criminology* (Sutherland, Cressey & Luckenbill 1992) marks a shift in thinking; from eugenically understanding the criminal as inherently bad by nature (Foucault 1999, Lombroso & Lombroso-Ferrero 2014) to tracing the origins of criminal behaviour to learning processes in primary groups (Sutherland, Cressey & Luckenbill 1992). Further, while the theories of earlier sociologists, such as Durkheim, has been applied widely, Sutherland was the first to present an influential theory with a focus on criminal behaviour specifically. Lastly, the propositions (Prop. 1993/94: 101, Prop. 2001/02: 59) and official reports (SOU 1991:75, SOU 2000:88) on hate crime in Sweden is evidently influenced by the ideas of Sutherland though it is not stated explicitly. It becomes particularly clear in the official reports in which hate crimes are presented as a problem of learnt attitudes (alike differential association, attitudes are collapsed with actions) that develop in peer groups, primarily during adolescence (ibid.). The latter brings us upon the first question we ought to ask ourselves when considering the applicability of differential association on hate crime, namely, is prejudice learnt?

The construction of difference seem to be an innate part of our functioning; we come to understand ourselves not only in terms of what we are, but also in terms of what we are not (Foucault 1994, Goffman 2014). As pointed out by Derrida (1997), the same process of defining not only through what something is but by what something is not, is also incorporated in the linguistic practises that give meanings to the signs which we use in our daily communication. By merely observing our daily practices of constructing our individual boundaries and selves we can swiftly draw the conclusion that the construction of difference in itself does not need to be, and rarely is, prejudiced. Differences are mostly the source of curiosity and interest between individuals, and sometimes a source of admiration. Social constructivists have argued that the grounds upon which we construct differences are arbitrary and that the meaning-making assigned to these grounds are variable in time and space, but it does not logically follow that the construction of difference in itself is not an innate part of how we as human beings come to make sense of our existence (Bhaskar 1998).

When it comes to prejudiced attitudes, neurological research on racism (for an overview see Amadio 2014), which avoids the bias of social desirability, indicate that out-group prejudice is commonly manifested in mid-adolescence and moderated by the context of which the individual grow up in (Telzer, Humphreys, Shapiro & Tottenham 2013). Individuals who grow up in diverse neighbourhoods, who have friends of racial out-groups and parents who endorse diversity are less likely to develop unconscious neurological fear responses to racial out-groups, in comparison to individuals who grow up in homogeneous environments (ibid.). Similarly, sociological research have shown repeatedly that racism tend to be higher in homogeneous environments (SOU 2005:56).

At first glance, this research seems to confirm differential association as prejudice does indeed seem to be learnt during adolescence, but the learning process that these studies imply are of a different kind than the one proposed by Sutherland (Sutherland, Cressey & Luckenbill 1992). The social ecology and inter-human relationships during childhood appear to play a larger role than the meaning-making taking place in intimate groups during adolescence. The results suggests the presence of a latency period between the learning and the emergence of attitudes that make it appear as if though the learning takes place in adolescence (Telzer, et al 2013, Amadio 2014). Intimate groups, such as family and peers, do seem to play a significant role, but so does the neighbourhood ecology – a factor that Sutherland deemed irrelevant for learning (Sutherland, Cressey & Luckenbill 1992).

Sutherland further placed great weight on definitions, proposing that belief in definitions favourable to certain behaviour will steer individuals to behave in that particular way. However, when Kornhauser (1978) conducted a review on studies focusing on the link between attitudes and criminal behaviour she concluded that adolescents who engage in criminalised behaviour still premier and value law-abiding behaviour higher than criminalized ones. Such results challenge the practice of assigning great weight to the link between attitudes and acts. Further, little is known of the link between prejudiced attitudes and prejudiced behaviour. As Green, McFalls and Smith have pointed out:

“It might take the better part of a lifetime to read the prodigious literature on prejudice, particularly if one were to include studies that investigate the manner in which institutions, organizations, and social groups have introduced, perpetuated, or dismantled discriminatory practices and policies throughout the world. Yet, scarcely any of this research examines directly and systematically the question of why prejudice erupts into violence.” (Green, McFalls & Smith 2001:480)

Despite being written 15 years ago, the statement still holds true, and studies that do treat this link are often weak in methodology. One example is Franklin² (2000) who claims to have found a significant link between homophobic attitudes and homophobic acts. Though the link is significant it was found to be small in effect size and the index used to measure homophobic attitudes had an α -value of .41 (Franklin 2000), making the results unreliable as it is unclear what kind of attitudes that are expressed by the index.

In spite of the limits of studies examining the direct relationship between attitudes and actions on an individual level, we can conclude that the prejudiced attitudes themselves are not a sufficient cause of hate crime as the number of individuals who hold prejudiced attitudes are far greater than the number of individuals who engage in hate crime. It is possible to draw such conclusion by comparing hate crime victimization rates in self-report studies, such as the Swedish annual crime victim survey (BRÅ 2015), with the results of studies focusing on prejudiced attitudes among the Swedish population (FRA 2009, SOU 2005:56).

Consequently, there is currently no support for a direct association between prejudiced attitudes and violent acts. On a theoretical level, one needs to be able to distinguish the concept of hate crime from its predictors. The latter is a common thought error in theory development, and can for example be seen in Messerschmidt (2014) who explains the high criminality among men by the mere fact that they are men (critique explained in detail by Hood-Williams 2001). Similarly, Sutherland has also been criticized for making circulatory arguments and collapsing concepts such as culture, attitudes and acts (Kornhauser 1978).

Strain

Strain theory on the other hand proposes that individuals commit criminal acts as a consequence of the discrepancies between materialistic goals of society and the institutionalized means to achieve those goals (Merton 1938). The greater the discrepancy, the greater the strain and thereby predisposition to commit criminal acts. There are, naturally, differences between the societal structure of contemporary Sweden and the late 30's United States which comprised the object of Mertons (1938) analysis. In difference from the USA, Sweden has had a history of free education, strong labour movement, and strong social safety net. On the other hand, the accessibility of institutions such as higher education and/or the labour market has proven to be governed by more complex social orders, rather than purely financial matters, making these institutions unequally available to minority and majority populations in contemporary Swedish society (Hällgren 2005, SOU 2005:56, SOU 2014:34, Folkhälsomyndigheten 2015). Further, differences in income within the Swedish

² Factors with strong α -values and greater effect sizes were high levels of alcohol consumption, thrill-seeking, deep dynamics and self-defense.

population have increased since the 1990's (Salonen 2015); an indicator that the level of strain in the socio-economically weak strata of Swedish society is increasing.

When applying strain theory on hate crime, we need to ask ourselves if hate crime offenders are under strain. In particular, we need to ask ourselves: are they marginalized and do they lack institutionalized means to achieve the materialistic ideals of society? To the knowledge of the author, there are currently no studies directly assessing the association between marginalization and hate crime offending. In order to approach the question I will resort to summarize studies on the crime patterns and demographic composition of hate crime offenders. Though these studies do not directly examine the link between marginalization and hate crime offenders, they can still provide us with information about the potential presence of strain within the group.

Offenders of hate crime appear to belong to the group of offenders that Moffit (1993) refers to as life course persistent offenders. Studies on convicted hate crime offenders show that they are likely to be repeat offenders; 55% had previous convictions according to a Swedish study (Roxell 2011) and 58% in an American study (Dunbar, Quinones & Crevecoeur 2005). The actual crime rate within the group is likely to be notably higher due to the high threshold for convictions and it is well established that the repeat offender group is characterized by various forms of marginalization (Laub & Sampson 2003). One study has focused more specifically on the background of hate crime offenders. The authors found that substance abuse was common, as were educational problems and broken families with parental separation and domestic violence (Dunbar 2003). However, the precision of the study is limited by a small sample size, $n = 58$ (ibid.).

The background of hate crime offenders is clearly an under-researched area, and yet, the results (Dunbar 2003, Dunbar, Quinones & Crevecoeur 2005, Roxell 2011) do suggest that a large proportion of hate crime offenders are strained. They appear to be so both in the sense of having a low socio-economic status and having other vulnerability factors that contribute to marginalization and inhibit individual capacity to fulfilling cultural material goals through institutionalized means. The generalizability of the studies presented above need to be discussed as it is evidently limited. As mentioned previously, the threshold of convictions is a high one – the results might therefore have differed if the subjects of study had been suspects or self-reported offenders. Perry (2001) have justly pointed out that hate crimes and hate incidents committed by structurally privileged individuals, such as official authorities or middle class students, cannot be accounted for by strain theory (Perry 2001). The presence of such experiences among hate crime victims (Perry 2011, Wigerfeldt, Wigerfeldt & Kiiskinen 2014) along with the absence of such incidents in hate crime convictions (Dunbar 2003, Dunbar, Quinones & Crevecoeur 2005, Roxell 2011) illustrates that hate crime reporting and hate crime policing are not neutral practices.

The latter calls one further aspect into question; the relationship between offenders and victims, and the social position of the victim group. At my presentation at the NSFK 2016, I illustrated this question by asking "*Where are all the criminal lesbian and transgender women of color?*". Strain do propose a linear correlation between the level of structural marginalization and criminal propensity (with the development of strain in the middle, functioning as a consequence of the marginalization and cause of crime), but the individuals who are most commonly targeted by hate crimes are, in relation to their offenders, often more structurally marginalized (Perry 2001, Iganski 2001, Funnell 2014). Consequently, the group that strain predicts as the most motivated offenders are instead the victim group when it comes to hate crime³.

Merton (1938) does leave space for differences in individual responses to strain, and all of these responses do not result in acts that are criminalized. It can be reasoned that the tendency to react in certain ways could differ between social groups. Such a difference may stem from having different social outlooks and expectations, and thereby explain the relationship between hate crime victims and offenders. Merton (1938) has been criticized by Kornhauser (1978) for assuming that all individuals are equally socialized into conventional norms and values. I concur in the problem, as the only theoretical possibility to variation in degree of socialization that Merton (1938) directly treats is on a societal level. At the same time, when discussing the responses to strain he acknowledges that "*To treat the development of this process in various spheres of conduct would introduce a complexity unmanageable within the confines of this paper*" (Merton 1938:676). The latter indicates that he never implied that the theory should be understood in solely in the crude simplicity in which it was presented.

When assessing strain as a model for hate crime, we also need to ask ourselves to what extent the marginalized in society are prejudiced. Studies conducted in a Swedish context have indeed found that low income is associated with higher levels of racist attitudes (Integrationsverket 2005, Hjelm 2009). The differences in racist attitudes across income levels is primarily true for men who, in general, are more racist in comparison to women (ibid.). The results thereby suggests that it is not the individuals that are the most marginalized that most extensively develop bigoted attitudes.

In summary, judging from what is currently known about racism and hate crime in a Swedish context, it does not seem to follow the pattern suggested by strain theory (the most strained are most likely to become hate crime offenders). Instead, the social structure seems to operate in a different way in which individuals need to hold a place of relative privilege in relation to the victim in order to offend and develop prejudice.

³ Note that other types of crimes are not handles in this analysis – hate crime victims may very well committ other forms of offences in high extent but these are not the particular object of this paper.

At the same time, societal structure and culture cannot be entirely discarded if one aims to understand contributors to the phenomenon of hate crime. Victims of hate crimes are often marginalized populations (Perry 2001), and visible minorities are at significantly higher risk for such victimization (Andersson, Mellgren 2016). Perry (2001) argues that the structural origin of hate crimes reside in the institutions of labour, power, sexuality and culture. She argues that labour contributes by excluding stigmatized Others from entering the labour market, power by granting an order in which one group can set the terms for discourse and action at the expense of other groups, sexuality by proclaiming the ways in which individuals are allowed to form inter-human relationships, and culture by providing the meaning-making around the roles that we ascribe to ourselves and others (ibid.). Culture, according to Perry (2001), can thereby be viewed as a super-structure, piercing other social institutions by providing the ground for assuming differences upon socially constructed groups, such as gender and race. It is also evident that social structure and culture cannot alone account for the causes of hate crime as the majority of the most visible minorities are not subjected to hate crime victimization (Andersson & Mellgren 2016). Chakraborti and Garland (2012) provides a further discussion on situational, temporal, and individual factors that contribute to hate crime victimization for the interested reader.

Labelling Theory

According to Becker (1997), labelling theory has been widely misused and misinterpreted. In his text "Labelling theory reconsidered" he makes the following statement;

"Further, the act of labelling, as carried out by moral entrepreneurs, while important, cannot possibly be conceived as the sole explanation of what alleged deviants actually do. It would be foolish to propose that stick-up men stick up people simply because someone has labelled them stick-up men, or that everything a homosexual does results from someone having called him a homosexual." (Becker 1997:179)

As such, labelling theory never intended to propose an aetiology of criminal behaviour, nor did it aim to explain crime recidivism as a practice of identity making stemming only from the mere descriptions that some people make about some other people. In short, the causal chain that many has taken labelling theory for suggesting (linguistic practice causes identity, identity causes behaviour) is wrong according to its author (Becker 1997). Instead, the aim was twofold; 1) to describe how institutionalized labelling results in practical circumstances that encourage recidivism and discourage law-abiding behaviour and 2) to move focus from the criminal individual to the practice of criminalization which is held to be arbitrary (ibid.). The second aspect will be examined first, as it expresses the relativist core of the theory, one that often goes unmentioned by researchers applying it.

Becker (1997) defines criminal acts and other deviant behaviour as rule-breaking. These rules are held to be non-universal and variable cross contexts. Their sole commonality is that they are primarily constituted by influential individuals in positions of power. As such, criminal acts are understood as acts that break group rules with no other inherent quality of their own (Becker 1997).

The first question one needs to ask oneself when applying the theoretical prerequisites for labelling theory on the phenomenon of hate crime is thus if hate crimes constitute a phenomena without any intrinsic qualities. Though many have argued that usage of violence has been regulated across time and cultural contexts, I believe that the answer to the question is ultimately one of ontological positioning.

I would argue that hate crimes, along with any violent acts⁴, do have intrinsic qualities and that the rejection of these qualities is a symptom of a naive misunderstanding of the phenomenon of violence as such (for a more extensive debate see Dupré 2007). Taking a position that acknowledge the existence of an essence of certain phenomena does neither mean taking an uncritical stance to meaning-making practices and to treat these as inherent truths of things, nor does it mean rejecting the notion that certain phenomena are socially constructed (Bhaskar 1998, Sayer 1999). Quite the opposite – I would argue that this position opens for the possibility to critically assess norms and meaning-making. It encourages responsibility for the structures that we reproduce as individual scientists and scientific community, while simultaneously ridding us of contextual immunity (Merton 1942). Further, these possibilities are direct consequences of the acknowledgement of the intrinsic qualities of certain phenomena and cannot be attained through the relativist stand-point proclaimed by Becker (1997). By acknowledging that violence has intrinsic qualities, I do not mean to argue that criminalization is always based on inherent qualities in the acts that are criminalized, or to propose the existence a common quality of all criminalized acts. The phenomenon presented by Becker (1997), marijuana usage, is one example that is much more ambiguous both in nature and consequences in comparison to hate crimes.

Secondly, I would like to turn to the practices of criminalization. Becker (1997) proposes that law is created upon the initiatives of moral entrepreneurs on a mission to save society from some form of vice, such as moral decay or threats to equality. In the documents preceding the legislation in Sweden, hate crimes are indeed presented as a threat to the democratic state as the practices that constitute hate crimes are perceived as targeting fundamental principles of equality (SOU 1991:75, Prop. 1993/94: 101, SOU 2000:88, Prop. 2001/02: 59). The penalty enhancement of these incidents is further presented as a measure taken to counter-act the rise of extreme right wing groups (ibid.). The juxtaposing of hate crimes next to right wing extremism persists in official reports despite research showing a weak

⁴ Regardless of being physical or verbal

link between these two phenomena (Ryan & Leeson 2011): a strong incentive for including sexual orientation as a protected ground was that right wing groups were found to be quite vocal in their homophobic opinions (SKR 2000/01:59).

Though clearly morally endowed, the documents that I have cited above indicate a less evangelistic debate than the one proposed by Becker (1997). This could be due to cultural differences in the political climate between Sweden and the USA of the 1960's. It could also be due to the nature of the material as the conclusion might very well have been another one if one were to study the narratives in political debates within the parliament or media, but to my knowledge there have been no such studies in a Swedish context.

Lastly, we turn to the first aim of Becker's (1997) labelling theory, namely, the question of whether labelling results in practical circumstances that encourage recidivism and discourage law-abiding behaviour. The studies on convicted hate crime offenders (Dunbar, Quinones & Crevecoeur 2005, Roxell 2011) do suggest higher levels of recidivism in comparison to the Swedish average which is approximately 40% over the course of three years (Kriminalvårdens utvecklingsenhet 2010). When applying labelling theory we may therefore feel tempted to assign the higher rates of recidivism to the sentence enhancement that characterize hate crime legislation. Once again we have come across an error of thought; the lack of adequate control groups by which we can control outcomes (Sampson 2010). Indeed, the practical circumstances following a prison sentence, such as loss of housing, family and an extended network of other criminals, can pose practical problems even for individuals with high motivation to leave their criminal activities behind (MacKenzie 2002, Sampson & Laub 2003). However, the problem of comparability between the individuals who receive harsher sanctions, such as incarceration, and individuals who receive minor sanctions persists as they are ultimately different populations wherefore one needs to be cautious to draw such conclusions (Sampson 2010).

I believe that it is safe to say that there is not support for assuming that the practice of sanctioning unwanted behaviour in itself necessarily results in practical circumstances that encourage recidivism. Instead, research clearly shows that the outcome of a given sanction depends on the nature of the sanction (Kriminalvårdens utvecklingsenhet 2010, MacKenzie 2002) as well as individual factors such as treatment receptiveness, motivation and earlier experiences of the offender (Sampson & Laub 2003).

Conclusions

Though none of these theories can fully account for hate crime, critically assessing them does inform us about the phenomenon of hate crime. From the assessment of differential association theory we can conclude that the practices of doing differences in part become prejudiced due to lack of multicultural stimuli and openness to differences during critical

periods of personal development. At the same time we need to acknowledge that our understanding of the underlying processes of why prejudice occasionally erupts into violence is at best modest.

From assessing strain we learned that offenders need to hold a position of relative privilege in relation to their victim. I do not mean to propose that these hierarchies expressed in hate crimes exclusively mirror the more general hierarchical order of society; such structures are clearly temporally and spatially bound. Further, we can conclude that hate crime offenders are likely to be repeat offenders who commit a multitude of crime types where hate crimes constitute one of these expressions. We also learned that socialization into common cultural goals is likely to vary between different groups.

Lastly, labelling theory informs us of the implications of the political processes prior to legislation and after sanction. Along with research on repeat offending it illustrates the importance of evaluation and careful consideration when sanctions are determined by moving focus from penalty to treatment.

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Connecting structure and emotions, connecting Bourdieu's field theory and cultural criminology

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The gross part of criminological theorizing - as presented in standard textbooks - seeks to answer *why some people commit crimes while most do not* (or, if we include non-reported crimes, at least do not commit serious crimes). Traditional theoretical approaches answer the question with emphasis either on structure or on agency, while some more recent contributions seek to bridge agency and structure in different ways. A particularly interesting theoretical development was made by Jock Young (2003) who in his version of cultural criminology integrated Robert Merton's strain theory with Jack Katz' account of the emotional rewards provided by criminal acts. Young did not, however, provide much of an explanation of *how* individual agency and structural conditions are linked. This is where some of Pierre Bourdieu's concepts may be helpful. While Bourdieu is among the most cited social scientists, even within research fields quite distanced from his own, his influence on criminology has remained quite limited. As Bourdieu's theoretical approach aimed at overcoming the cleavage between agency and structure, his possible contribution to criminology might be of high value.

Many criminologists are more interested in understanding punishment and social control than in answering the "why-question". Within studies of social control, Bourdieu has had more influence, first and foremost through prominent scholars like Wacquant (2008) and Garland (2001), who have both relied on Bourdieu in analyses of the expansion of crime control in the Western world. Bourdieu would probably not have wanted to be involved in answering the old "why"-question of criminology. The question takes for granted a social construction of "crime" that already, through the criminal law's definitions, reflects this world's injustices and unequal distributions (here Bourdieu would be aligned with the critical criminological tradition, combining constructivist and Marxist perspectives). Furthermore, he was far more interested in understanding the sociological mystery of why people conform and maintain social order than in understanding the cases where they don't (Bourdieu 2001). But as rule breaking is not that exceptional and cannot be explained simply (and structurally) with deprivation, as most deprived people do not recur to illegal means, the question of why some do still merit attention.

Cultural criminology

Ferrell (1999 p. 396) explains the term cultural criminology as « ...less a definite paradigm than an emergent array of perspectives linked to sensitivities to image, meaning, and rep-

resentation in the study of crime and crime control». Hayward & Young (2004), drawing on British cultural studies, advance that the particularity of cultural criminology is to see crime and control as cultural products and creative constructions that should be understood from the meaning they carry. The approach is juxtaposed on the one hand to a positivist tradition looking for causal explanations in quantitative data and on the other to rational choice theory. While the former is criticized for not accounting for the actors' motivations, the latter is criticized for a thin narrative of this motivation.

Young (2003) claims that while Merton has a good grasp on structural issues, but not on motivation (or *energy*, as Young terms it), Katz (1988) has a good grasp on motivation through his emphasis on the emotional rewards, or sensual pleasures, crimes provide. Katz claims he does not disregard structural explanations; only claims also poor people have sensual experiences when stealing. Young still holds that Katz' account for structural factors is too weak. Young introduces Carl Nightingale's (1993) study of the ghetto in Philadelphia. A common view on ghettos is that they are spatially and socially segregated places where people also have different moral values. Supported by Nightingale Young objects, as ghetto residents share a general American consumption culture to which they are just as exposed as everybody else, for instance through TV commercials. Applying Merton, Young claims ghetto residents share dreams and aims with people outside the ghetto, but lack opportunities to fulfil them. Applying Katz, Young asks which emotions this discrepancy between aims and opportunities leads to. His answer is *humiliation*, for not getting what other people get, and for being subjected to a stigmatizing discourse on ghetto residents. Humiliation is a structurally produced emotional force – or energy – behind crimes. This is therefore a theory about how social structures enter people's minds, and push some people toward some forms of crimes.

To me, Katz' point that the emotions involved in an act should be part of an explanation is crucial, and Young's Mertonian way of explaining the emotions with structural circumstances is a creative way of coupling agency to structure. It would be hard-core structuralism to claim such difficult emotions were structurally *caused* or *produced*. Considering them *structurally conditioned* is slightly softer, and an additional softening would be fine, as there can be no strict determination. The point is simply that the living conditions and stigmatization the kids are exposed to *fuel* the mentioned emotions – provides the energy in Young's terms - and that these emotions in turn serve as motivations or justifications for some criminal acts.

As emotions are at the basis of all forms of relationships and communities, the emotional path is definitely promising for criminology, but to attribute them such a key position may demand both stronger foothold within the sociology of emotions (i.e. Burkitt 2014) than Young provides and a discussion of the interplay between emotions and rationality (Exum 2015). But the most important is perhaps that Young follows the Durkheimian way of re-

garding emotions as collective entities: They are collectively coded even if they are experienced individually.

It is basically an empirical question which feelings are involved in crime. It remains to be shown that the feelings are felt by those who commit crimes, and that those in the same situation who do not recur to crime do not have the same feelings to the same degree. Or is the triggering feeling, like humiliation, to be seen as a group experience rather than as an individual feeling? Then the term energy is less appropriate, and the connection between structure and individual agency becomes opaque.

Cultural criminology may, however, also be criticized for taking the structural part of the balance somewhat easily. Webber's (2007) reworking of Runciman's relative deprivation theory seems to be a promising way of combining an understanding of structural inequalities that includes the structural threads both from Marx and from Durkheim with an understanding of agency. Webber discusses how the experience of relative deprivation involves the choice of somebody to compare oneself with, and also supplements Runciman's theory with Bourdieu's understanding of the relationship between the social agents' aspirations and their perception of the objective possibilities. Webber makes a convincing criticism of the cultural criminological tradition in pointing to its neglect of "the pain, tragedy and even tediousness of much crime" (p. 115). A usable approach to crime ought to explain not only why people seek obvious rewards, but also why they may make choices that from the outside may seem illogical, destructive and self-destructive. This is where a Bourdieu-inspired field approach may provide a somewhat better explanation.

A field-theoretical approach to crime

For Bourdieu, the social world is a space organized by the distribution of different socially valuable resources. While class analyses formerly depicted one-dimensional social hierarchies, Bourdieu paints a complex picture of how economic and non-economic assets work together or against one another in the formation of social groups. He shows how non-economic assets, especially cultural capital, work when social groups acquire status and indulge in practices of domination and exclusion. Another main point is that the perception of the social world depends on position in the social space, which, working through a person's *habitus*, will influence everything from social aspirations to moral judgments. So Lemert's (1967: 52) saying that choice tends to be a "compromise between what is sought and what can be sought", might be reworked by Bourdieu into seeing choice as a compromise between what is sought and what is perceived as possible to seek and as desirable to seek, or as appropriate for oneself to seek. This shaping of aspirations and judgments is how structural conditions work through the social agents' minds.

Symbolic capital is an overarching form of capital in Bourdieu's framework. In traditional societies, like the Kabylean villages Bourdieu studied in his earliest works, honour was the

symbolic capital all (men) strived for. Honour equals social recognition. Bourdieu (2000, chapter 6) argues that the basic drive for human beings is the quest for social recognition or symbolic capital. The justification of one's existence is to be found in the judgments of others.

Modern, differentiated societies are composed of different fields or sub-universes (Bourdieu and Wacquant, 1992). A field is a space of forces, where social agents in different positions strive to gain recognition from other participants, struggling over a field specific symbolic capital. For instance for social scientists our symbolic capital is the recognition from peers through publications, citations etc. – signs of recognition that seem meaningless and valueless for people outside our field, but for the insiders the evaluation from peers within the field matters far more than the evaluation from people outside. Therefore, understanding agency means understanding the agents' particular outlook on the world: why they see the world as they do and make the evaluations they make. In a literary field - one of Bourdieu's (1998) own examples - the recognition from other authors is what matters the most, and the recognition from an external public of readers may actually hamper the recognition within the field, as authors who sell many books are deemed "commercial".

Fields are arenas for struggles over both the distribution and the definition of the forms of capital that are specific to them. Participants in different positions and with different trajectories will have an interest in either maintaining or challenging the distribution of symbolic value and patterns of recognition. To be working truly according to this logic a field needs to be relatively autonomous from the outer world. The definition of the specific capital and the attribution of positions should be decided by the fields' participants and not by external actors. This autonomy is frequently limited or threatened. In the academic field this might for instance be in situations where religious, political or economic powers have influence over the attribution of academic positions.

A few scholars have brought field-theory to criminology through the use of capital terms. Bourgois (2003 [1995] p. 135) puts simply 'cultural capital' in quotation marks in his impressive ethnography about East Harlem crack dealers. His references to Bourdieu are scarce, but his approach seems close, especially in his thorough contextualisation of the crack dealers in general social and economic conditions in East Harlem and in his historical analysis of the Puerto Rican immigration to the US. Bourgois sees the destructive subculture as a compensation for the lack of access to traditional sources for masculine pride among Puerto Ricans, when they cannot even provide for their families. The crack dealers' daily lives are full of deceptions, abuse and violence, among them as well as against women and children. Bourgois is put on a challenge when seeking to understand as repulsive acts as gang rapes (Bourgois 1996: 425): "While all of the crack dealers are victims from a social structural perspective, they are also agents of destruction in their daily lives." The challenge is to keep the structural perspective without denying the dealers' agency. They

have a space of manoeuvre, which they use in destructive and self-destructive ways – understandable to Bourgois as these acts provide them with a sort of masculine pride. The book's second edition (Bourgois 2003) contains an update on the main participants. Most of them have actually moved out of the drug economy. Bourgois explains this first and foremost with an improved national economy, which has provided some new opportunities also for the poorly qualified. Drug fashions have also changed, with crack becoming less popular, reducing the economic gains from dealing. In Bourdieu's terms, these external forces have impeded on the field's autonomy.

If we reread Nightingale's (1993) study with the lens of Bourgois, the inner-city kids' culture appears also to be a compensating culture, which provides access to respect and self-respect. Money and consumption goods are not simply values in themselves, but have an added sign value ("conspicuous consumption"), being both aims and means (which points to a somewhat problematic distinction in Merton's theory). Adding Bourdieu's field-theoretic approach explains why the kids' quest for respect is oriented towards each other, and how their self-respect stems from the respect gained from their peers.

Thornton (1995) coined the term 'subcultural capital' to account for observations made at British techno and house music clubs, where certain competences and stylistic features served as a capital recognized by other participants. This capital is linked to being "underground" and opposed to being "mainstream", paralleling Bourdieu's (1998) French poets who distinguished themselves by inverting the outer world's evaluations. She has, however, not much interest for the more structural conditions for the subculture. After pointing to Thornton's limited interest for class, ethnicity/race and gender, Jensen (2006) provides a use of the concept subcultural capital that is more loyal to Bourdieu in an analysis of subcultural practices of marginalized young men of immigrant descent in Denmark. Their acts are understood as ways of gaining respect from each other through expressive masculinity and bodily capital, within the frame of a society that provides them with few opportunities and even fewer sources of positive recognition.

Building on Bourgois' conception of 'street culture', Sandberg & Pedersen (2009) have coined the term 'street capital', based on extensive fieldwork among drug dealers in Norway. The concept not only serves to connect agency and structure, but also to bridge between economic and cultural explanations of poverty and crime (Sandberg 2008 p. 157), and it gives a meaning to the violence Sandberg witnessed or heard bragging tales about during his fieldwork. A reputation for violence provided respect and thereby also a certain protection from robberies and assaults. Fraser (2013) uses instead the concept of 'street habitus' in order to highlight how marginalised young men in an inner-city area of Glasgow are adapted to the space they live within, while Ilan (2013) opts for 'street social capital' in a quite parallel analysis from Dublin.

In the mentioned works, a subcultural capital (or whatever term is chosen) is linked to specific capacities (for instance physical force, street smartness), a specific style (clothes, jewellery, tattoos ...), specific positions (within a gang or a drug economy) or specific resources. This capital has usually a limited value outside the field, but may in some cases be convertible (like when ex-drug users find employment in drug desistance projects, or graffiti artists in advertising agencies). The subcultures may have specific forms of capital and criteria for recognition that may differ sharply or even invert the judgments in the surrounding society. Thereby these works may explain why people may make choices that are difficult to understand outside the field, but seem perfectly rational, logical and natural for the peers within.

These works might, however, benefit from more explicit accounts of the criminal events, and in particular of the emotions involved in them. I will now present an example where I combine the field perspective from Bourdieu with the emotional perspective from cultural criminology.

Clever thieves

In a fieldwork among Mexican cross-dressing and feminine looking homosexual men (Priour 1998), among themselves termed *jotas* (a pejorative word for male homosexual put into a feminine form), I observed many breaks of laws, even if my research focus was elsewhere (on gender constructions). The fieldwork took place in the outskirts of Mexico City, in a poor and rough neighbourhood with a bad reputation. I lived in a house that served as a meeting place for homosexually oriented young men. Most of them were between 15 and 25 years old, most had left school at an early age, most lived without a regular income and many were also on bad terms with their families. The house was a welcoming place, where there always would be a bit of food and some joints to be shared, possibly a bed, too, for those who were not welcome in their family homes any longer. It was also a place for sexual encounters, as quite a few young men who were curious about sexual encounters with *jotas* also were hanging around here. For the *jotas* such ordinary, masculine looking young men, who did not self-identify as homosexuals, were regarded as the most attractive sexual partners.

The atmosphere among the *jotas* was friendly and joyful, but with a rude humour approaching bullying. Looks and sexual encounters were the most frequent subjects of conversation. Hierarchical relationships were quite explicit, expressed in order of seating and serving and in who might command and who should receive orders, run errands, clean up etc. The host (a somewhat older homosexual man) was at the top, and the others were attributed a position first and foremost based on whether they were able to provide for themselves, maybe even for others, or whether they were dependent on others' generosity. The most successful sex workers were, together with those who ran their own hair dressing parlour, at the top of this hierarchy, and the glue-sniffing, 15 year old run-aways at the

bottom. To sell sex was seen as risky, demanding, but also as a business requiring competences and talent: the ability to capture good clients, judge them well in order to not be cheated or assaulted, protect oneself against other sex workers as well as against the police and last, but not least, to not waste the gains on drugs and partying. There was nothing shameful about sex work - on the contrary being a successful sex worker was a source of pride and respect.

I heard about or witnessed many thefts, which was not surprising from a more structural perspective. Why should these poor guys not steal? Besides, when sex workers take advantage from the physical intimacy to steal from their clients, it may be explained both by the fact that the earnings from selling sex may come at a high price while the risk for police prosecution are low, as the clients usually want to avoid attention. I noticed, however, that *jotas* not only stole from clients, but also from other sexual partners, and they seemed to enjoy telling stories about these thefts, as these stories always incited a lot of laughter. These stories made me think the meaning of the stealing surpassed the gains.

The storytellers typically positioned themselves as smart and the victims as stupid. For instance, Patricia told about a Saturday night's raid at a discotheque, where a man paid her some drinks (Patricia is a pseudonym, and I use female pronouns about *jotas* who used female pronouns about themselves). She had spotted his thick wallet, but then another transvestite passed the table, gave the man a hug and picked the wallet. Patricia went over to another table, choosing an in her eyes rather unattractive man as her target. He was drunk and bragged about his earnings. Embracing him, Patricia put a hand into his left pocket and found the first wad of bills, which she hid in her wig – an ideal hiding place for hot goods. He did not notice, drove her home, and when embracing her again, he lost another wad from his right pocket. Everybody laughed as Patricia told the story.

In an interview, Gata described herself a kleptomaniac: "I say to myself 'why shall I accept that we touch each other?' - and zip! That it costs him something! I charge." Sometimes *jotas* reported stealing useless objects, only stolen because the stealing was perceived as a joyful experience. Stealing seemed to be a kind of risk sport; demanding skills, training, audacity and nerves. In addition to gains stealing provided entertainment and the satisfaction of having proved to possess the required skills. A "Katzian" (1988) analysis fits well.

Structural aspects should, however, also be part of the explanation. These thefts may be connected to the unequal relations between thieves and victims. The latter are positioned above the former due to money and social status (employment, perhaps education and marriage), usually also age and last but not least due to a vision of masculinity. The *jotas* embody a highly stigmatized identity as feminine and homosexual men, supposed to have the passive position in sexual encounters. Thefts serve to compensate and regain dignity: The victim may be richer and socially more respected, but the thief proves to be the smartest. The thief gets the money, the peers' admiration and also some self-respect.

Flaca's story may illustrate this. This is also a story that is told several times, as new people arrive, and they all get a good laugh. Flaca, at the time 16 years old, tells she was at a disco where she met a man who bragged about working for the prosecution authorities. He was wearing a suit and Flaca noticed a wad of bills in a packet of cigarettes in his pocket. She followed him to a hotel, and while penetrating him, Flaca reached out to grab the wad, but it fell on the floor. The sound made the man jump up, grab a bottle, threaten Flaca and search her, but he did not find anything. While he searched the room, Flaca retrieved the wad and hid it in the foam-rubber padding she always carried to hide her skinny hips. Their quarrelling got the proprietor to the room, and the client asked the proprietor to call the police because "this whore" – *puta* – had stolen his money. Flaca indignantly responded he ought to know Flaca was a *puto* (whore in male gender), as he had just been penetrated. Embarrassed, the man pulled Flaca out of the hotel and into his car, telling her they should wait for the police. But Flaca knocked him down with one of her high-heeled shoes and ran away. Not only had she robbed him, knocked him down, penetrated him (without a condom, although she believed herself to be HIV-positive) and exposed him to the proprietor's contempt; she also placed some hickies in his neck, enjoying the thought that the man's wife would discover the marks. A whole series of aggressive acts toward a man who represented everything that Flaca was not herself: adult, masculine, married and well-off. Also a whole series of acts that may seem irrational as they exposed Flaca to more dangers than the gained wad of bills would merit.

Concluding discussion

In this example criminal acts were understood against a backdrop of structural factors that put the perpetrators in deprived positions and limited their opportunities for achieving social success following socially desirable routes. The economic deprivation, possibly supplemented with discrimination and stigmatization, is a source of a series of emotions, like humiliation or frustration. The emotions are the energy, as Young put it; they fuel the acts. Crimes become compensatory acts providing access to a positive self-image through the positive evaluation from peers. The subcultures are in many ways cut off from the surrounding society, with their own forms of symbolic capital or sources of recognition, operating to a certain degree as fields in the sense of Bourdieu. These fields are, however, not perfectly autonomous, as they may be altered for instance by a changing economy, as in Bourgeois' case. The participants are also parts of other social universes, like their families, which may also at a certain moment succeed in pulling them out of the subculture (the 'aging out' phenomenon described in life-course criminology).

What does this field-theoretic approach achieve, one might ask, that is not already achieved by cultural criminology? Cultural criminology has made the great achievement of putting emotions in as the linking of agency and structure, but the structure, or culture, remains rather unclear. The framing within a Bourdieusian understanding of social space

and fields provides a stronger account of the structural aspects, and also of how social structure enters people's minds.

But is this then a theoretical model that only explains subcultural crimes? I think we may stretch it a bit further. If we accept Goffman's (1959, 1963) basic anthropological insight that people strive to protect their dignity in social interactions, the observations give good sense also on a more general level. We strive to present a positive image of ourselves to others, also in order to maintain a positive self-image. In the cases presented above, the image of the self is threatened by social and economic conditions, by discrimination and stigmatization. What is at odds for those involved, is how to keep up a sense of dignity in a vulnerable position.

Similar interpretations will probably work well in many other and quite different cases – like illegal hacking or hooliganism, where the perpetrators also are part of a group and their acts get known by this group. Other kinds of law-breaking acts may also be source of some (masculine) pride – like speeding, or illegal gambling – even if they do not occur within a peer group and the acts do not get known. A real audience is perhaps not needed, but an imagined audience is: people who would be impressed, if they knew... The imagined audience counts for a self-image: "I'm a daredevil", or "I'm smart". This explanation works then not only for subcultural crimes, but for crimes that are or could be bragged about (which may perhaps explain perpetrators' sometimes quite irrational bragging that police investigations so often benefit from). Perhaps this goes for a wider range of crimes than those one would at first think of. Sutherland (1983) reports of how frauds became sources of pride for vendors in different businesses, and quotes a repentant from the used car business (p. 242): "The thing that struck me as strange was that all these people were proud of their ability to fleece costumers. They boasted of their crookedness and were admired by their friends and enemies in proportion to their ability to get away with a crooked deal: it was called shrewdness." But it will not give sense for sexual offences or child- and wife-battering. So this is not an explanation for all forms of crime. Pointing to these limits is not a severe criticism, as I actually think criminological theorizing suffers from being too ambitious: What a society has chosen to label criminal acts, are a range of extremely different acts that cannot all be explained by the same factors.

The value of this approach needs, however, to be shown by challenging it empirically: new studies with open eyes for what the triggering mechanisms actually are as well as for how the linking of agency and structure is made in a concrete practice.

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Green criminology and wildlife trafficking, theories and perspectives¹

Ragnhild Sollund

In this paper I will start by giving a brief introduction to the field of green criminology including its theoretical perspectives, before I proceed to present ongoing research about illegal wildlife trade in Norway, Colombia and Brazil, ending with a discussion of findings from the project in perspective of the philosophical underpinnings of green criminology.

Green critical criminology

As shown by South (2014), *green* criminology arose as a field when researchers more or less simultaneously at different places on earth shared the same concern about environmental harms and crimes (See also Lynch and Stretesky 2014:3). Although Michael Lynch's (1990) article *The greening of criminology* is often referred to as a starting point for the field, many were not made aware of this article and research on environmental crime had been going on, about pollution at sea (Christophersen and Johansen 1991), e.g. in Norway, and of corporate environmental crime (Pearce and Tombs 2009) and pollution, although not clearly defined as belonging to any specific field of criminology apart from being *critical criminology*. As South says;

“[But] in an important sense, a green criminology is justified because it was inevitable and necessary. It reflected scientific interests and political challenges of the moment, carried forward the momentum of critical non-conformist criminology, and offered a point of contact and convergence” (2014: 8).

The umbrella under which green criminology topics are gathered is wide, and includes according to Beirne and South (2007) [...]the study of those harms against humanity, against the environment including space) and against nonhuman animals committed both by powerful institutions (e.g. governments, transnational corporations, military apparatuses) and also by ordinary people” (2007: xiii). Researching what is legally understood as crimes – breaches of law – has therefore been expanded to include studies of harms that are not currently criminalized or only criminalized under certain conditions, and the concept of crime is conceptually changed to encompass a normative element when it includes

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those harmful acts which are actually not crime, legally defined, but yet are as harmful as any act which is breach of law or regulation (Beirne and South 2007, Sollund 2008, Walters 2010, White 2007, 2013: 8, Stretesky et al 2013, Lynch et al 2014, Hillyard et al 2004, South 2008). Such harms may be part of daily practices (Agnew 2013) and even instigated by organizations like the IMF and the World Bank (O'Brien 2008). This marks a distinction to conventional, criminology with its focus preponderantly on those acts which are criminalized, crime prevention, offenders and punishment.

An important issue is thereby also the area *in between* the legal and illegal crimes; the justifications for criminalizing some acts and not others, for punishing some and not others, even when the acts/crimes they commit are qualitatively the same, and correspondingly in regarding some as "justified" victims and not others (Sollund 2012). Given the impact of political activism on green criminology, an important part of the field is to show *who* the victims of environmental harms are, and propose policy implications "which would 'work' legally speaking as well as being conceptually robust" (Hall 2014: 99).

There is as such no deep divide between critical criminology e.g. with its Marxist traditions at the Institute of criminology at the University of Oslo, or in the European Group for the Study of Deviance and Social Control, and green criminology (White 2011). Green criminology is a natural and necessary prolongation and expansion of critical criminology (Sollund 2014, South 2014), in a world facing even larger problems now than in the 70ies as consequence of the capitalist order, in which colonialism cannot be talked about in a past tense; it has merely changed its form. It is not any longer western states which "own" the colonial states, they are in practice to much degree often "owned" by large corporations, and these corporations have no other purpose than to increase the wealth of their owners on cost of the inhabitants of these previous colonies, and harming indigenous peoples whether in in Greenland (Myrup 2012), Canada, Nigeria (Zalik 2010), Colombia (Mol 2013), or Ecuador (Sollund 2012), or by the dumping of toxic waste (Bisschop 2013, White 2008).

Still, green criminology cannot be claimed to be a unitary field, as there are today degrees of how critical (radical) the writers appear to be, and the ways in which this reflects their research agendas. Further; the interests of criminologists writing within a critical tradition on "green" (e.g. Beirne and South 2007) eco-global (White 2011, Ellefsen et al 2012) topics are as diverse as are criminologists.

White (2013) categorizes the different branches of green criminology as follows; radical green criminology (e.g. Lynch and Stretesky 2003, Stretesky et al 2013, Lynch and Stretesky 2014), (Eco-global criminology (White 2011, 2012), conservation criminology (Gibbs et al 2010) Environmental criminology, (Wellsmith 2010, Hill 2015), Constructivist green criminology (Brisman 2012) and nonspeciesist criminology (e.g. Beirne 2009, White

2013: 23-24). And one could add: Historical criminology (Beirne 1994, 2009, Ystehede 2012) and green cultural criminology (Ferrel 2013, Brisman and South 2014).

One question arises; what may possibly unite all these branches of green; what do they have in common? The development into different fields of green criminology suggests that not all authors with their different fields of interests and research agendas will agree on perspectives, for example in eco- and species justice (Halsey 2004). A conventional criminologist could for example focus on illegal wildlife trafficking, the main problem being that animals are taken against laws or regulations, thus the discussion would circulate around how to prevent this as a (and because it is a) *crime*, rather than as a *harm* (Pires 2012, Warchol et al 2003). Such a perspective would be regarded as too narrow for a radical, anti-anthropocentric, criminologist who would refer to such acts as crimes either way and be equally concerned about those who are killed or abducted legally as those who are abducted and killed *illegally* (Rodriguez Goyes 2015, Sollund 2011).

As South pointed out already in 1998 (and see White 2013 b), green criminology provides no theory which can unify the field. This could by some be regarded as a deficiency. However, to believe that one grand theory could possibly unite all aspects of this rich field would probably undermine its content, because it would necessarily have to cover contradicting interests and perspectives, e.g. those which can be implicit in environmental rights versus species justice. The strength of green criminology is, according to Avi Brisman, its inclusion of a broad set of interpretations, explanations and predictions and in this way the scope of green criminology is broader, its potential greater and its significance far more profound (Brisman 2014: 24). As observed by Brisman, green criminologists do not come to the field without previous experience or theoretical baggage and have an array of theories to pick from in their analyses.

Naturally, theories that are applied within more critical criminology are also used by green criminologists, e.g. control theory. Sykes and Matzas' (1957) "Techniques of neutralization", can be used to discuss the various neutralization techniques people may apply to defend animal exploitation, to the degree they find this necessary, provided that animal exploitation is doxic (Bourdieu 1995), and deeply ingrained practices in most humans' lives (Sollund 2012).

Michael Lynch and Paul Stretesky, in their book *Exploring Green Criminology: Toward a Green Criminological Revolution*, further provides an overview of major criminological theories that have been applied by green criminologists in the analysis of green harms and crimes: 1) Deterrence theory, 2), situational crime prevention and routine activities theory, for example frequently applied in the study of wildlife trafficking and illegal hunting (Hill 2015, Pires and Clark 2011), self-control theory, social learning theory (Sollund 2011), and strain theory (Agnew 2012), the later in relation to climate change. Robert Agnew (2012)

has thus suggested that climate change will increase strain, reduce social control and increase social disorganization.

Robert Merton's (1968) anomie theory is applied to analyse corporate environmental crime where a company's success measured by its profits will pay little attention to environmental legislation (Nurse 2015); an example which may also be discussed in perspective of Edwin Sutherland's (1940), differential association learning theory. Both Merton and Sutherland have been applied to discuss behaviors of entrepreneurs who work at the margins between legal and illegal business, for example in relation to wildlife trafficking (Nurse 2015). Another theoretical perspective is fruitfully employed within green criminology, is theories of denial (Cohen 2001) for example in relation to animal abuse and exploitation. Nils Christie's (1974) findings relating to the importance of social distance for humans to commit abusive acts is equally relevant in analysing humans' treatment of those which are othered; indigenous groups, women and children in faraway countries and animals.

One thing many green criminologists further have in common, at least those which will position themselves within critical, green criminology, is an insistent awareness of exploitative relationships and injustice (Wyatt, Beirne, and South 2014). Justice perspectives, based in philosophical directions are therefore central in many green criminology studies, which may also include ecofeminism (Sollund 2012).

In the *human rights and environmental justice* stance, environmental rights are seen an extension of human or social rights so as to enhance the quality of human life, now and in the future. From the *ecological citizenship and ecological justice* perspective, humans are merely one component of complex ecosystems that should be preserved in their own right in light of the rights of the environment. Finally in the *animal rights and species justice* stance, environmental harm is constructed in relation to the role nonhuman animals play within environments, and their intrinsic right not to suffer abuse, whether this be one-on-one harm, institutionalized harm or harm arising from human actions that affect climates and environments globally (White, 2013, p. 6).

An empirical study of illegal wildlife trade

In my current research I study wildlife trafficking in Norway, Colombia and Brazil, with a specific focus on practices, control and law enforcement. Trade in endangered species, including 5600 animal species, is regulated under CITES; *The Convention on International Trade in Endangered Species of Wild Fauna and Flora* (CITES), now with 181 parties to the convention.

Many species are threatened because of trade or the combination of loss of habitat and trade (WWF 2014). Parties to the convention, e.g. Norway, Brazil and Colombia, must ensure CITES is fulfilled in their own legislation/regulation. The convention operates with three appendices; appendix one lists species which are critically endangered and therefore

trade is banned with a few exceptions, on appendix II are listed species with which trade must be controlled in order to avoid utilization incompatible with these species' survival, and species that are threatened in at least one member state are listed on appendix III (CITES-Secretariat, n.d.; Wyatt, 2013; Zimmerman, 2003). Despite the large number listed at CITES' appendices, a considerable number of species is not subject neither to ban, nor to regulation. The logic behind CITES is that when the trade in a species (or in combination with habitat loss) has entailed a critical threat to its survival, the trade in individuals of that species will be banned. It is important to underline that CITES is a *trade* convention, it is not *banning* wildlife trade, except under special conditions; i.e. when a species has become critically endangered; which is the case for the rhinoceros, pangolins and various parrot species which are examples of species that are heavily trafficked.

Methodology, data

The study is based on qualitative methods. From Norway I have in total 17 interviews with the Police, Customs, Norwegian Environment Agency, veterinarians and reptile keepers/smugglers. In addition I have roughly 50 Confiscation reports concerning animals or animals products that have been seized by Customs, 87 penal cases coded as 2510: Illegal importation of alien wildlife species (the Wildlife law § 47), 723 penal cases coded as 5901 Illegal importation/dealing with exotic species § 30 nr.76 (Under the animal welfare act) in addition to statistics from Customs over CITES confiscations.

From Colombia I have 14 interviews with experts in wildlife traded and wildlife working for state authorities and NGOs. From Brazil I have four interviews with experts and police. 17 of the interviews from Colombia were conducted by David Rodriguez Goyes.

Findings

I will briefly present some findings from the project. In none of the countries does the control and prevention of wildlife trafficking seem to be a prioritized field, and even less in Norway than in Colombia and Brazil, where wildlife trafficking and exploitation have long traditional, cultural roots.

Seizures from Customs from 2008-2014 include 1839 CITES listed animals /animal² products.

² The number of animals seized by Customs that are not CITES listed, is much larger but will not be detailed here.

Norway:

Year	Live Birds	Live Reptiles	Other ³	Dead/Stuffed/parts	Product	Total N
2008	4 ⁴	8	27	3 ⁵	2	44
2009		5		2	226 ⁶	238
2010	4 ⁷	2	2	3	11 ⁸	22
2011	33 ⁹	1	236 ¹⁰	67 ¹¹	6 ¹²	343
2012		5		10 ¹³	48 ¹⁴	59
2013		1	567 ¹⁵	19 ¹⁶	157 ¹⁷	744
2014	14 ¹⁸		242 ¹⁹	114 ²⁰	20 ²¹	390
Total	55	22	1074	218	470	1839

According to the Norwegian Eco-crime police overview of 87 cases coded as keeping and smuggling of exotic species, in the time span of 2000-2010, 28 were concluded with a fine, 31 cases were dismissed for different reasons, including because the case had grown too old. When I go through the police files I find that a fine is independently of how the cases

³ Includes corals, butterflies, crickets, spiders,

⁴ Parrots

⁵ Includes wolf, primate, hippo, predator birds

⁶ Incl. 200 tiger bone pills and armadillo plasters, turtle shell, bird neck (fish hooks)

⁷ 4 African Greys (Not in statistics overview, but according to confiscation report and verdict)

⁸ Incl. Whisky with Python snake and Musk tablets

⁹ 8 including African Greys (Not in statistics overview, but according to confiscation report and verdict)

¹⁰ 230 fish and 6 spiders for zoo shop

¹¹ Including bear pelts with head, predator birds, crocodile teeth, snake skins, claws,

¹² Including leopard plasters

¹³ Including brown bear, crocodile head, predator birds

¹⁴ Including sea horse tablets, rope from hippo, 33 ivory artefacts all sent to the same man and crocodile purse

¹⁵ Including 557 Corals, tarantella and butterflies

¹⁶ Including entire Siberian tiger, 15 alligator heads, seahorses and buzzard

¹⁷ Including boots, wallets, bags etc from crocodile skin and 148 Musk plasters, and ivory

¹⁸ Six African Grey, 8 parakeets

¹⁹ Corals and 35 leeches

²⁰ Including a lion pelt with head, 110 sea horses, two falcons,

²¹ Including ivory items, snake skin bracelet, crocodile wallet, Jungle cock fish flies, crocodile head

are coded, the usual reaction to the smuggling of wildlife to Norway, however normally between 5 and 10 thousand NOK.

I will now present two penal cases from Norway in more detail, showing the consequences of low priority and lack of competence by judges. These are cases I have tracked since I received seizure reports. One offender has been convicted several times for parrot trafficking and wildlife crime. There are four verdicts pertaining to this man concerning three incidents, but the man has, according to a note made on one of the confiscations reports from Customs, also been caught for trafficking parrots in 2000 (27 individuals) and in Gothenburg in 2007. In the verdict from Halden Tingrett from 3rd of December 2013 [13-156198MED-HALD], he was sentenced for, on Nov. 21st 2010 trafficking four African Grey parrots, on Nov 20th 2011, he trafficked eight. For the offence he was first fined 25000 NOK which he apparently did not accept as this case was added to the second in the sentence. It must be mentioned that in this first fine, the birds were not mentioned, only the alcohol he smuggled together with them, and in another document from Customs, the birds were listed as another species with less monetary value, 200 rather than 5-7000 NOK.

In 2010 the African Greys were all killed by the authorities after order from the Norwegian Environment Agency; the reason being they were only CITES II species. Although the Court argues in this verdict that for preventative reasons unsuspended prison sentence should be applied, the delay in the judicial system entailed the judges argued that the 30 days prison sentence should rather be suspended for two years. In addition he was convicted to pay a fine of 5000 NOK and the birds and the alcohol were confiscated.

What happened to the birds who were seized in 2011 is not revealed in the verdict, but according to data, some were saved, others killed. That the destiny of the victims in the case is not clarified in the verdict is an interesting point in itself.

In the second verdict pertaining to the man, from 20th of January 2014 [13-175645MED-DALA + 13-175658MED-DALA], he was convicted for breach of the Wildlife law and also for breach of the Law of biodiversity for taking a sea eagle egg from the nest. In this verdict, it is regarded as aggravating that he had been convicted before for similar crimes, and thus he got an unsuspended prison sentence of 45 days, in addition he had to pay 2000 NOK for procedural expenses.

The third and fourth verdicts pertaining to the man concern sentences from 2nd instance Courts as both the parrot and sea eagle egg cases were appealed by the offender.

In the verdict regarding the parrots from *Borgarting lagmannsrett* [14-093257AST-BORG/03], the judges have a lengthy discussion of whether the parrots are or are not 'wildlife', and consequently which law would apply in this case. They end up concluding that the trafficking of the parrots is *not* a breach of the Wildlife law due to these parrots' incapacity of surviving were they to be liberated in Norway, they are not 'wildlife' but 'cage birds' hence the offender must be convicted after § 5 of the CITES-regulation and thus according to § 18, jf. Law about Import and Export of 6 june 1997 nr 32 § 4, which

dictates a maximum of six months prison, rather than for breaching the Wildlife Law which dictates a maximum of two years prison. The trafficker was convicted to 60 days prison, of which 45 were suspended, 15 days were already passed in Custody so the man went free. In the verdict from Gulating lagmannsrett [13-175645MED-DALA + 13-175658MED-DALA] regarding the sea eagle egg, the man had his prison sentence reduced to thirty days suspended prison due to delay in the judicial system.

Findings from Colombia and Brazil

Categories of animals and motivations for use in and from Colombia:

The interviews in Colombia and seizure data provided a foundation for a typology relating to the various motivations for the exploitation of different kinds of animal species, whether they are trafficked alive and are meant to be kept alive, or whether they are subsequently killed.

Pet trade: Primates, like the *titi gris*, and parrot species, are often used as pets in Colombia and are the most trafficked species for this purpose. The pet trade also deals in other species, such as the *tigrillo (ocelot)*, reptiles (turtles/tortoises), fish and poisonous frogs that are trafficked from Colombia to be used for ornamental purposes in Germany, Japan, and the Netherlands, for example.

Animal experimentation and biopiracy²²: Nonhuman primates have frequently been trafficked for experimentation because they bear physiological resemblance to human primates. According to interviewee Luz Rodríguez, this use has declined as there has been a development in other experimental methods²³ that do not require the use of animals. All primates are listed in Appendix I or II of CITES. Despite this, in Colombia, the *Aotus vociferans* (night monkeys) have for decades been trafficked from the Amazon basin, including

²² The concept of *biopiracy* refers to the appropriation of knowledge and nature, describing the ongoing global and local corporate practice of asserting the right of ownership over genetic materials taken from living organisms (Mgbeoji 2006, in Rodríguez Goyes and South 2015, p. 3), including the patenting of medicines, seeds, plants and even other forms of life. Adherents of such processes would rather refer to these practices as 'bioprospecting'. All use of biological material may, from the perspective of the 'donor' or rather, from the *victim* from whom the genetic material was taken, be regarded as biopiracy because such activities normally include an invasion of personal integrity, provided the human or animal in question is a sentient being, even when samples may be taken with the donor/victim's consent. Consequently, the term *biopiracy* should not only include the appropriation of *knowledge* about how different genetic compositions may be applied to develop medicines, but also refer to the process of taking genetic material directly from individuals. This broader definition of *biopiracy* helps avoid tacit acceptance of animals as property, and even human beings as exploitable resources, who may be used for that purpose.

²³ These are known as the three Rs: reduction, replacement and refinement, and include computerized modelling and audio visual alternatives (Norecopa 2015, accessed on 4 January from <http://norecopa.no/about-norecopa>).

from Peru and Brazil, to be used in malaria research experiments by Manuel Elkin Patarroyo in Colombia (Maldonado et al. 2009; Maldonado and Lafon, this volume; Rodríguez Goyes 2015). Amphibians are abducted and used to find metabolites by the pharmaceutical industry.

Furs and skins: Taken from reptile species, including crocodile species and cats, such as panther and ocelot. Reptile skins that are exported illegally have been seized in Spain, Germany and the US.

Food: Icoetea turtles, iguana eggs, the *Capybara [chigüiro]* and eagles are hunted and used in Colombia and Venezuela because they are considered 'white meat' and thus allowed in festive seasons when red meat is regarded as unacceptable.

Handicraft: Turtles, conchs and corals are used for this purpose, for example jewellery, combs, and music instruments.²⁴

Witchcraft: Serpents are used in witchcraft and black magic.²⁵ The tail of the rattlesnake is used in amulets. Owls are trafficked a lot for such purposes. They are, for example, considered to bring good luck and are therefore used as 'mascots'.

Traditional medicine: Meat from raptors, such as eagles and hawks, are regarded as aphrodisiacs, or believed to possess special properties. Vultures' blood is believed to cure asthma and cancer.

Breeding purposes: The *zoocriaderos* (breeding facilities for species in demand) also buy free-born animals for breeding purposes. Therefore, breeding facilities are not alleviating the market; they may themselves be based on trafficking as well as facilitating WLT.

Brazil

Features of the destinies of trafficking victims in Brazil are that they are used as «pets», to entertain and be of adornment to a house as «songbirds», they are used as medicine and food.

Like in Colombia there are long traditions for keeping wild animals in private homes. The Sao Paulo military environmental police, Robis, states that Sao Paulo is the state where most wildlife seizures are done in Brazil. 90% of the animals they confiscate are small

²⁴ Another example from Boliva is the use of *armadillo* to produce the string instrument, charango.

²⁵ In an article from 1991, Guillermo Trujillo confirms the use of animals in witchcraft and the superstitious use of animals in medicine in Colombia. There are numerous academic articles referring to the traditional use of witchcraft in Colombia, including (Franco, 2001, and Uribe, 2003). The categories of traditional medicine and witchcraft are overlapping. A google picture search also reveals several photos of shamans using feathers of endangered Amazon parrot species. Presumably these birds have not been trafficked but killed so as to be used as adornment that forms part of such cultural practices.

https://www.google.no/search?q=cascabel+magia+negra&biw=1280&bih=597&source=lnms&tbm=isch&sa=X&ved=0ahUKewiT5JHLr_LAhUrGZoKHeSTDK0Q_AUIBigB#tbn=isch&q=chamanes&imgsrc=JkYw4CE2SII-EM%3A.

birds, in addition to turtles and snakes. In Sao Paolo in 2012 they confiscated 22 thousand birds, and 4 thousand other animals, while in 2013, 24 thousand birds and 3 thousand others.

Like in Norway and Colombia most offenders involved in wildlife trafficking who are punished in Brazil, receive a fine. The Sao Polo police imposed fines worth \$27 million reals in 2012 (about 12 million USD), and 29 millones reales (13 million USD) in 2013. This money goes to the Ministry of Environment. It must be added that according to Robis, the environmental police in the other states of Brazil are far from working as effectively and with the same priorities against wildlife trafficking, as they do in Sao Paolo. He says; quote: *“it is like a story without an end, because as long as the police in the states where the animals are caught do nothing to prevent it, I will stop more animals all the time”*.

According to him, many are trafficked from the North eastern state of Bahia, and when they are stopped by the Sao Paolo police, and like in Colombia, death rates are high. Interviewees both from Colombia and Brazil reckon up to 90% of animals (birds) that are taken from the forest die before they reach their destination, e.g. due to injuries like broken wings and legs, dehydration and starvation, or over sedation. Eg. birds are stuffed sedated into PVC tubes and trafficked in boxes, suitcases etc. The large amount of confiscations done by Sao Paolo military environmental police is a huge problem, as they do not have the equipment, the logistic and the resources to adequately deal with such large numbers of stressed and injured animal victims. Often, they do not know where the animals came from as some species may be endemic to the entire country. When confiscated they are sent to the Ibirapuera park; the wildlife reception centre in Sao Paolo.

Wildlife trafficking in perspective of neutralization techniques

We all remember Sykes and Matzas' five techniques of neutralization: The Denial of Injury, The Denial of Responsibility, The Denial of the Victim, The Condemnation of the Condemners and The Appeal to Higher Loyalties. Acts may be mal per se and mal prohibita.

Before I turn to these, I will explore briefly the protection the animals may have in legislation. As previously clarified, although there is legislation prohibiting wildlife trafficking, the CITES convention itself does not entail prohibition. Wildlife are still protected under legislation in Norway, Colombia and Brazil, but at least in Norway the logic e.g. in the Wildlife law, which is basically an Act regulating hunting, animals are only protected as belonging to a species, and their degree of protection will therefore depend on how threatened the species is (Sollund 2015). Animals have individual protection under Animal welfare legislation, but again this protection is also strongly related to them being property (e.g. Francione 2008) and is therefore very limited. However; whether the legislation that could protect wildlife, e.g. through its normative message, seems not to fill this function in the case study locations. For example, based on the number of animals that are trafficked in Colombia, 58 000 animals are seized per year, this implied that the dark figure of animal

trafficking victims likely by far exceeds this, due to lack of control. Consequently it is unlikely that the law succeeds in sending a normative message and that this message is accepted by the public.

I cannot here examine all wildlife exploitation practices in relation to all the neutralization techniques, but will briefly sketch how these may be employed in the analysis of wildlife trafficking. As mentioned the exploitative practices related to wildlife in Colombia and Brazil are deeply ingrained practices, covering many aspects of human life. For legislation to contribute to change these practices enforcement of the law would be important and thus its deterrent effect and this would have to weigh heavier than the cultural practices itself, e.g. the use of turtle meat during Easter in Colombia. For people who make a living from trapping birds or other animals to profit from them; the crime is near at hand, and the profit easy: Also these offenders can likely find support both in the denial of the victim; animals are food or profit, or in the appeal to higher loyalties; taking the animals may be regarded as a necessity, or as something they are entitled to. The denial of responsibility is also near at hand; since these are widespread practices, most people are complicit in these kinds of exploitation. Concerning pet keeping, keeping a chained monkey or a parrot in a cage in the patio, is widespread, and thus “normal” practice that needs not be excused, and therefore responsibility needs not even be denied, it is hardly questioned. Even though various wildlife exploitation practices are *mala prohibita*, they are unlikely to be regarded as *mala in se*, and the intervention by authorities, for example when wildlife is seized in private homes or during trafficking, or when fines are imposed may even entail condemnation of the condemners. This specific technique of neutralization is much more clear in this field, however, when the authorities persecute animal rights activists for condemning animal abuse through political activism and protest (Ellefsen 2015).

In Norway; the offender typologies; pet keepers, parrot sellers, tourists who buy souvenirs, consumers of Traditional Asian Medicine or collectors; will likely also apply techniques of neutralization should they be aware of the illegality of their crimes. They will likely deny any injury of an animal that is used for medicinal purposes and if necessary appeal to higher loyalties; i.e. the need for a cure. The parrot salesmen unlikely see the animals as individuals, but rather as merchandize and moreover; keeping “cage birds” is even in Norway so normalized that even the judges in the Norwegian Court denied that African Grey Parrots were wildlife, but stated they were cage birds, and therefore illegal goods rather than wildlife, and victims of trafficking. The collector of ivory items, similarly unlikely sees his hobby as committing any kind of injury, and there is a long distance between the living elephant on the savannah and the decorated ivory items in his post packages that he has bought on eBay auctions. The tourist who buys his crocodile skin purse or shoes, his dried sea horses, his cobra on a liquor bottle, or other *curiosa*, is unlikely to draw the connection between these items and the living individuals they were produced from, and far less likely to see the harm that was done to them. They are unlikely to feel the need to recur to neutralization techniques, whether denial of injury, of the victim

and of responsibility – after all these items may have been purchased e.g. at the air port shop, consequently they do only what tourists usually do.

Animal abuse, species and eco justice

Important perspectives in green criminology relate to justice and rights (Benton 1998, White, 2007, 2008, and 2011). As mentioned, *Ecological justice* implies that humans are but one part of complex ecosystems, which should be preserved for their own sake. A concern is for planetary well being and the rights of other species to live free from abuse and torture (White, 2007, p. 38, 2011, p.23). *Environmental justice* is seen as a prolongation of human rights or social rights to enhance the quality of human life, now and for the future (White, 2007, p.38-39, 2008, p. 18-21, 2011, p.23). *Species justice* implies that harm is seen in relation to the place non human species have in their environments and their intrinsic right not to suffer from abuse, whether one to one or institutionalized, or as consequence of human action harming habitats, the climate and the environment on a global scale. This means taking an ecocentric perspective (Halsey and White, 1998).

Wild animals' important roles in ecosystems enhance why they, particularly, should be secured ecological citizenship and rights to their habitats. A consequence of ecological citizenship and ecological justice, would be that individuals of all species should have environmental rights, and consequently, should have both individual rights and species related rights.

This brings me to a discussion of the rationale behind CITES, in light of ecological justice and species justice. The abduction, trafficking and killing of animals is legitimated through CITES as animals are consistently regarded as 'natural resources' which can be 'harvested' for human benefit (Sollund, 2011). To 'over'-exploit them, though, is unacceptable, principally because this will eventually harm humans, and can as shown also be illegal. Being illegal or not, the abduction and killing of animals which CITES indirectly encourages, has tremendous consequences in terms of individual (and species) suffering. When species are driven to extinction, this not only harms the individuals who form the species, but also the ecosystems to which the individuals belong.

When the ecosystem where the parrot belongs is drained, this is a breach of ecological justice, and when the species suffer as consequence of the reduction annual 'harvesting' of parrots causes, this is also breach of species justice, as it is when species go extinct due to loss of habitat because of humans' logging (Halsey and White 1998). The abduction and/or killing of the parrot are not the least a breach of what should be an individual right to live unharmed by humans.

We can thus distinguish between *individual rights*, which should be, but not necessarily are, connected to *species specific rights*, meaning; those rights pertaining to the specific needs of one particular species, for example to dig, crawl, fly, migrate, run or search for

food. It is a breach of both species specific rights and individual justice for example when the last remaining individuals are abducted from their habitats to be bred on in captivity, deprived of their freedom and habitat. A species can survive in a zoo, but this survival can be in contrast to individual and species specific rights. From this we can deduce that even if the species survives, and the species thus from one dimension is given justice, this may be inconsistent with ecological justice. Species survival can be, but is not necessarily connected to the right of the species to continue its existence in its natural environment and consequently species justice, just as humans who for no reason are held captive will feel they are unjustly treated, and regard it as a breach of human rights even though the human species is not at risk. It is also a question if species justice can at all be fulfilled if this is only accomplished at the cost of the individual rights of individuals of that species, for can a species be *more* than the individuals who form it?

Conclusion

I started this paper by providing a brief introduction to green criminology and theories that are applied within the field, showing that this has its deep roots within critical criminology as well as in the theories applied within more conventional parts of the discipline. I thereby proceeded to sketch some empirical findings from a research project about wildlife trafficking, showing that this is a harm that is both legal and illegal, and harming victims that are seldom recognized as such, which is partly the reason why these harms are seldom prioritized and may be hard to combat. Thereafter I applied perspectives that are important in green criminology such as species justice and eco-justice to analyse the harms that are committed in relation to wildlife trafficking, and consequently that green criminology benefit from both its firm fundament in critical criminology but also from new ways of perceiving harms, e.g. in relation to philosophical terms.

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WORKSHOP I

COLLECTIVE EFFICACY AND SUB-CULTURE STUDIES

Collective efficacy and out-doors arson

Manne Gerell

Abstract

Burning cars and containers during social unrest have become a topic of both scholarly and public interest in Sweden during the past decade. Studies have suggested that social disorganization theory, or its modern expression collective efficacy, may be important to explain why some neighborhoods experience elevated levels of arson and unrest while others do not (Malmberg et al 2013; Guldåker & Hallin 2013). To date no study has explicitly studied the link between arson and collective efficacy on the neighborhood level. The present study attempts to fill that gap by analyzing the association of arson and collective efficacy in the city of Malmö, Sweden. Data over collective efficacy from 104 neighborhoods were collected in 2012 in the Malmö Community Survey (N=4095). Arson data was collected from the rescue services which employ GPS-receivers to accurately record the place of incidents. Arson data was aggregated to neighborhoods using ARCGIS 10. Multi-variate regression models were fitted against number of arsons/capita (logged) controlling for concentrated disadvantage, ethnic heterogeneity and residential stability. Results show there is no significant link between collective efficacy and arson after appropriate controls. This suggests that arson may depend on other mechanisms than collective efficacy, at least on the neighborhood level.

Keywords: Arson, Collective efficacy, Social disorganization

Introduction

The combination of social cohesion and expectations for common action within a neighborhood, collective efficacy, has been linked to a number of outcomes, notably violent crime, disorder and fear of crime (Sampson et al 1997; Sampson & Wikström 2008; Gibson et al 2002; Swatt et al 2013). Collective efficacy is typically found to mediate a large portion of the association between neighborhood levels of disadvantage, heterogeneity and residential instability and outcomes of crime or similar (Sampson 2012; Sampson et al 1997). In contemporary Swedish academic discussion collective efficacy has also been discussed as a potential mechanism explaining the high prevalence of arson and riots in disadvantaged neighborhoods (Malmberg et al 2013; Hallin et al 2010; Guldåker & Hallin 2013). The

above mentioned studies note that there appears to be an association between disadvantage, segregation and similar structural level characteristics of neighborhoods and the outcome of arson. Only one small case study of four neighborhoods divided into 12 micro-neighborhoods has tested the association of collective efficacy with arson formally, noting a nonsignificant association (Gerell 2013). The present study attempts to further our knowledge on the association of collective efficacy with arson by formally modeling it with data from the city of Malmö. As such the present study will be the first study to examine the issue properly on a city-wide scale. This is of interest for our understandings of the neighborhood level mechanisms associated with arson, in Sweden and elsewhere. In addition, it is of interest in relation to the theory of collective efficacy as this is a new venue of investigation regarding the scope of collective efficacy. Arson can also be considered a form of disorder, and the present study thus contributes to the ongoing discussion of broken windows theory and collective efficacy (Wilson & Kelling 1982; Sampson & Raudenbusch 1999).

Collective efficacy theory

Although collective efficacy is a fairly new concept, its roots can be traced back to the early Chicago school of urban sociology (Park & Burgess 1924; Shaw & McKay 1969; Kornhauser 1978). The theoretical notion of social disorganization theory was based on the finding that neighborhoods characterized by low socio-economic status (SES), low residential stability and high ethnic heterogeneity tended also to suffer from crime and other problems. A possible mechanism that could explain such associations was how neighborhoods with low SES and related risk-factors would have difficulties maintaining a socially organized community, and how the social disorganization in turn would help explain the occurrence of crime (Kornhauser 1978). In early studies the focus was on correlates of social disorganization in the form of SES, population turnover and immigrants concentration, but in the 1980s a shift towards actually measuring the level of social organization took place. Sampson & Groves (1989) measured social organization through a survey which included items on the presence of organizations, social networks and unsupervised youth. Their findings broadly confirmed the theory; neighborhoods with low SES tended to have a lower degree of social organization, and social organization mediated the association of SES with crime.

The theory was further developed by Sampson et al (1997) in a seminal paper that established the concept collective efficacy. Collective efficacy builds on the theory by noting that the mere presence of social networks or organizations is not sufficient, rather it is the content of networks and the agency it promotes that is key (Sampson 2012; Sampson & Graif 2010). Organizations and social networks may help promote social cohesion and trust (Sampson & Graif 2010), and cohesion in turn is the basis upon which informal social control, agency, can be generated to achieve common goals in a neighborhood such as security and order (Sampson et al 1997). Collective efficacy does encompass two dimensions

of social capital, mutual trust and expectations to intervene for the common good, and the combination of the two is hypothesized to be important for our understanding of crime. It was noted that the structural variables of concentrated disadvantage, immigrant concentration (heterogeneity) and residential stability explained 70% of the variation between neighborhoods levels of collective efficacy (ibid). Concentrated disadvantage was an index constructed from variables related to SES, public assistance and unemployment, combined with other measures of disadvantage, female headed families, density of children and percent black residents. Consistent with theoretical expectations concentrated disadvantage, immigrant concentration and residential stability was associated with violence, however, a large share of such associations, in particular in relation to concentrated disadvantage, was mediated by collective efficacy which in itself had a strong negative association with violence net of controls (Sampson et al 1997).

The findings that collective efficacy is negatively associated with crime has since been confirmed in studies from several parts of the world, including Stockholm, Sweden (Sampson & Wikström 2008), Peterborough, UK (Wikström et al 2012) and Brisbane, Australia (Mazerolle et al 2010). Recently, two European studies noted very weak associations of collective efficacy with crime, highlighting the importance to further examine the issue. In the Hague, Bruinsma et al (2013) found no association of collective efficacy with crime. In London, Sutherland et al (2013) found a weak association of collective efficacy with police reported violent crime, and no association with ambulance call outs of knife injuries. For London it was also noted that ethnic heterogeneity was positively associated with collective efficacy, and some part of the discrepancy in findings may be attributed to the differing contexts of cities and countries. Another potential explanation rests with the definitions of neighborhoods which have differed dramatically between studies of collective efficacy, ranging from below 100 residents per neighborhood up to several thousand (Gerell 2015). More broadly it has been shown that a higher share of variance can be attributed to smaller types of neighborhoods, with arguments such as “smaller is better” (Wikström & Oberwittler 2009; Gerell 2015), or even “smallest is better” (Gerell 2016). Although the evidence over all points towards effects of collective efficacy, it is more uncertain in a European context.

Collective efficacy, disorder and arson

Although the bulk of collective efficacy studies have focused on violent crime, the relationship of collective efficacy with disorder, as discussed in the frame work of the broken windows theory (Wilson & Kelling 1982), has also received some attention (Sampson & Raudenbush 1999; Xu et al 2005; St Jean 2009). Broken windows theory states that disorderly behavior, social disorder, or the visible cues that such behavior result in, physical disorder, lead to more crime through signaling that no one cares, thus inviting criminal activity and discouraging crime preventive efforts of residents (Wilson & Kelling 1982). While some disagreement exists as to whether disorder has an independent effect on crime

or whether both crime and disorder is best seen as related to collective efficacy is a topic of debate, but studies tend to find significant negative association of collective efficacy with disorder either way (Sampson & Raudenbush 1999; Xu et al 2005).

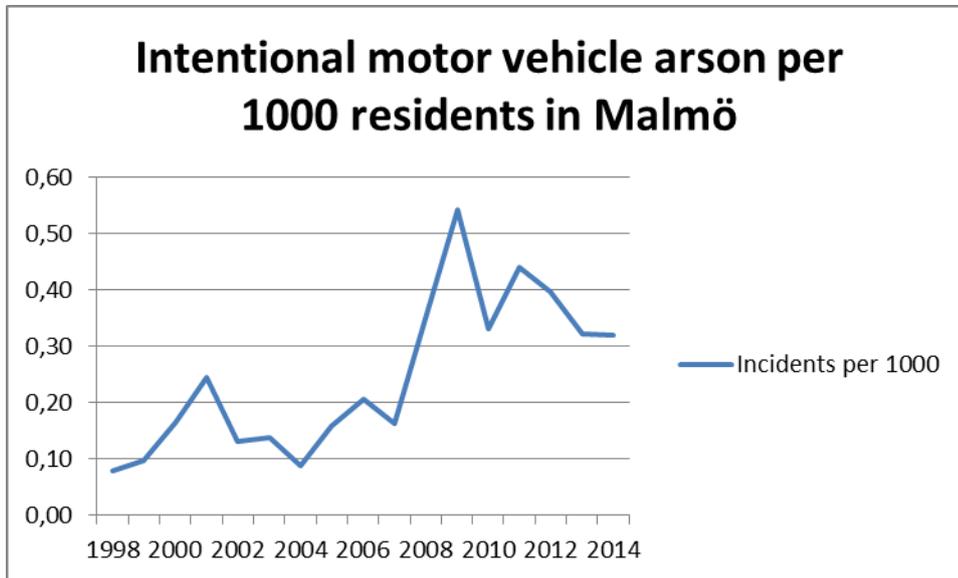
Studies on disorder typically include vandalism as a key component of disorder, but while arson can be seen as a form of vandalism it is rarely explicitly included in operationalizations of disorder. Arson is explicitly mentioned as a key type of disorder by Wilson & Kelling (1982), and some studies have discussed it as such (Gerell 2016; Drucker 2011). More generally, a key component of physical disorder is the visual cue it sends, and arguably a burnt out car wreck sends a very strong visual cue. A small case study of four neighborhoods in the city of Malmö has also shown that arson and (other forms of) physical disorder has a similar geographical distribution and clustering (Gerell 2013). The same study however noted a non-significant association of arson with collective efficacy, but a significant association for other forms of observed disorder with collective efficacy. Although not formally shown, the association of collective efficacy with arson has received scholarly attention, not least in relation to riots in Sweden (Hallin et al 2010; Malmberg et al 2013; Guldåker & Hallin 2013). Malmberg et al (2013) noted that car arson was associated with residential segregation, share of youth and share of welfare recipients in a nation-wide Swedish study, and discussed how such associations may indicate mechanisms of collective efficacy to explain riots. Guldåker & Hallin (2013) found a strong association of arson with poor living conditions, measured as an index of share of youth, number of residents per room, share with no higher education, share unemployed and share foreign born for the city of Malmö and discussed collective efficacy as a potential preventive measure. Hallin et al (2010) finally noted that a lacking collective efficacy may be one contributing factor to the emergence of large scale riots in the city of Malmö in 2008 and 2009. The present study will be the first to formally test the association of collective efficacy with arson, and while doing so also giving a tentative answer to whether social unrest in disadvantaged neighborhoods can be understood through the lens of collective efficacy theory.

The setting

The city of Malmö is the third largest city in Sweden with over 300 000 residents (Malmö stad 2014). It is situated in the southernmost parts of Sweden in the region of Skåne, and has a bridge connecting Sweden with Denmark. Malmö has a higher unemployment rate and a higher share of foreign born than Sweden as a whole (Malmö stad 2014; Statistics Sweden 2013). It has been described as a city with high crime (BRÅ storstadsrapporten), but the level of crimes reported to the police has dropped steadily since 2009 (Malmö stad 2016). The city was troubled with large scale rioting in the Rosengård district in the years 2008 and 2009 (Hallin et al 2010). Levels of arson are high compared with other Swedish cities, and increased rapidly in the early 2000s, but started decreasing in 2010 (Guldåker & Hallin 2013). Arson of motor vehicles, which is commonly associated with riots, show a

similarly increasing trend for the first half of the 2000s, and some decrease in the past few years (Figure 1).

Figure 1. Intentional motor vehicle arson per capita in the city of Malmö. Source: MSB/IDA.



The city of Malmö is divided into 136 city parts, most of which including residential areas, but some also consisting of parks, industrial areas or other non-populated areas. Map 1 show the city parts, with neighborhoods excluded from the study due to low population or few community survey respondents marked (see below) and the remaining 96 neighborhoods labeled according to the 2013 count of motor vehicle related arsons.

Figure 2. City parts in Malmö used to operationalize neighborhoods. Excluded neighborhoods have few residents and/or few community survey respondents. Remaining neighborhoods show number of motor vehicle related arsons registered in the neighborhood in 2013.



Research design

The present study departs from established methods of modeling the association of collective efficacy with neighborhood level crime after controlling for concentrated disadvantage, (ethnic) heterogeneity and residential stability (Sampson et al 1997; Bruinsma et al 2013). Models were fitted using multivariate linear regression in SPSS.

Data

Arson data is drawn from the Rescue Services in southern Sweden (Räddningstjänsten Syd), and is based on incidents where the rescue services have responded to a fire that a fire inspector deems to have been intentionally started with malicious intent ("brand anlagd med uppsåt"). Only arsons coded as "not in building" have been used as they are hypothesized to better capture riot-like incidents and similar. The rescue services employs GPS-devices to accurately capture the location of the incident which gives a high geographic precision compared to police data which commonly uses an address that needs to be geocoded, and which sometimes is incomplete. Data for the year 2013 was plotted in ARCGIS 10 and aggregated to the neighborhood level (min =0, max = 6.59 per 1000 residents, mean .86, standard deviation 1.23), and separately for vehicle related arson separately defined through the object of arson coded as motorcycle, trailer, car or similar (min=0, max = 3.83 per 1000 residents, mean = .362, standard deviation .596). Due to the highly skewed distribution of the outcome the natural logarithm was used in the main analysis. Models have also been fitted against the same types of arson for the time period 1st of January 2012 to October 31st 2014 to reduce the risk of potential bias from single years (bivariate correlation with 2013 = .848, p=.000).

Collective efficacy was measured in a community survey from 2012 with 4195 respondents over 104 neighborhoods, but only 96 neighborhoods were used in the present study. The excluded neighborhoods had less than 200 residents and/or less than 20 respondents in the survey. Five items each for cohesion¹ and informal social control² was used (Ivert et al 2013). Respondents with less than two items each for cohesion and informal social control was dropped, and missing values on the remaining respondents were set to the mean of given responses for the respondent to calculate indexed values for cohesion and informal social control. The cohesion and informal social control indexes were then combined into a collective efficacy index with a high reliability (alpha=.89).

Concentrated disadvantage is an index based on a factor analysis of variables commonly used to operationalize neighborhood level disadvantage (Sampson et al 1997; Bruinsma et al 2013). The index includes share of households on public assistance, share of unemployed, median income (reverse coded), share foreign born, and number of residents per room (all based on municipal registry data from 2011). All variables were standardized,

¹ The extent of agreement with *i*) "people in my neighborhood generally get along well", *ii*) "people in my neighborhood are helpful", *iii*) "people in my neighborhood can be trusted", *iv*) "my neighborhood is characterized by a strong cohesion among neighbors", and *v*) "people in my neighborhood share common values" (strongly disagree, disagree, neither agree nor disagree, agree, strongly agree).

² Willing to do something about *i*) "a group of children were skipping school and hanging out in the neighborhood", *ii*) "a group of children spray-painting graffiti on neighborhood walls", *iii*) "a child acting disrespectful towards an adult", *iv*) "a fight broke out in front of their house", and *v*) "an ongoing car burglary in front of the house" (very likely, likely, neither likely nor unlikely, unlikely, very unlikely).

and weighted by their factor score. Share of youth, which was included in the original collective efficacy study (Sampson et al 1997) had a factor loading below 0.6 and was excluded.

Heterogeneity is calculated through a Herfindahl index (Gibbs & Martin 1962) yielding the odds of two randomly drawn individuals in the neighborhood having the same country/region of origin (birth). The factor analysis showed that heterogeneity was strongly associated with concentrated disadvantage, and for the main analysis in this paper heterogeneity has been included in the index of concentrated disadvantage (re-weighted with new factor score). Due to theoretical concerns all models have been fitted with heterogeneity separately as well.

Residential stability is measured through an index of the share of owned homes in the neighborhood (municipal registry data from 2011) and the share of people that have lived in the neighborhood for at least one year according to the community survey. All independent variables were standardized before models were fitted.

Results

Table 1 shows the main results of the study. The combined concentrated disadvantage and heterogeneity index shows a strong association with arson, while collective efficacy and residential instability has no association with arson. Indeed adding collective efficacy to the model barely affects the explained variance at all. The substantial results hold when using the longer time period for the outcome variable (2012-01-01 to 2014-10-31), but notably the explained variance increases a lot (to .46) suggesting a better model fit (results not shown).

Table 1. Multivariate linear regression results with the natural logarithm of arson 2013 not in building per 1000 residents plus one.

	M1			M2		
	Coeff	Std error	P	Coeff	Std error	P
Disadvantage with heterogeneity	.315	.066	.000	.340	.094	.000
Residential stability	-.115	.075	.125	-.096	.092	.221

Collective efficacy				.033	.089	.715
R square	.203			.204		

Table 2 shows the same models run on the outcome of motor vehicle related arson only. Results are substantially the same, there is no association of collective efficacy with arson in cars, motorcycles, trailers and similar on the neighborhood level in the city of Malmö.

Table 2. . Multivariate linear regression results with the natural logarithm of arson 2013 on a motor vehicle related object per 1000 residents plus one.

	Model 1			Model 2		
	Coeff	Std error	P	Coeff	Std error	P
Disadvantage with heterogeneity	.276	.040	.000	.281	.057	.000
Residential stability	-.088	.045	.055	-.084	.056	.138
Collective efficacy				.007	.054	.895
R square	.349			.349		

All models were also fitted with the heterogeneity variable separately as it theoretically is an important variable in itself. This has no impact on collective efficacy, but in some models render concentrated disadvantage to be non-significant as well. It should be noted however that those models suffer from multicollinearity, with variance inflation factor scores in the range of 4-6 for collective efficacy, concentrated disadvantage and heterogeneity (results not shown).

Discussion and Conclusion

This study shows that there is no neighborhood level association of collective efficacy with outdoors arson after appropriate controls are included. This suggests that disadvantage and segregation, which previously have been suggested to be associated with arson through the mechanism of collective efficacy (Malmberg et al 2013; Hallin et al 2010), operate through some other mechanism to explain arson in the city of Malmö. It should be noted that previous research from the city of Malmö has suggested that both arson (Gerell 2016) and collective efficacy (Gerell 2015) are better understood at smaller scales of geography such as micro-neighborhoods. It is possible therefore that an association exists on smaller scales, but considering the relative stability of correlations across different geographical levels noted by Robert Sampson (2012), it would appear likely that other theories are better at explaining arson.

Perhaps arson, for instance, is best explained by institutional anomie, or similar theories, that show some promise in explaining neighborhood crime while the empirical basis has been considered as relatively thin (Pratt & Cullen 2005). A recent macro-level study by Chamberlain and Hipp (2015) showed that strain theory (Agnew 1999) was better at explaining property crime than social disorganization theory. Although no large quantitative studies on arson or rioting are known from such a theoretical perspective it makes sense to look in that direction now that social disorganization/collective efficacy appear to not be a key mechanism.

It should also be noted that although there is no direct association of collective efficacy with arson in the city of Malmö, collective efficacy may be of importance in disadvantaged neighborhoods in other ways. Collective efficacy has been linked to fear of crime in the city of Malmö (Ivert et al 2013), and if levels of fear could be reduced it may well also improve the functioning of the local community and help facilitate the work of authorities such as police in the neighborhood. Collective efficacy has also been linked to public environment violent crime in the city of Malmö (Gerell & Kronkvist, unpublished), mediating the impact of disadvantage and heterogeneity on neighborhood levels of public violence. The large variation in findings regarding collective efficacy highlights a need for better insight into *how* collective efficacy functions. Furthermore, little is known on how collective efficacy can be strengthened. In the future there is a need for experimental studies that can help shed some light both on how and when collective efficacy functions, but also how it can be strengthened. If experiments would be successful in increasing collective efficacy the effects on different times of crimes could be examined too, and help us further our understanding of neighborhood levels mechanisms and crime.

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Collective Efficacy, Social Disorganisation and Violent Crime in Finnish High-Rise Suburbs

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Introduction

The link between neighbourhood characteristics and various social outcomes, including crime, was famously proposed in the ecological models conceptualised by the Chicago school in the first half of the 20th century (Park, 1936; Park, Burgess, & McKenzie, 1925). Since the 1980's, a newly found interest in neighbourhood-level processes has emerged, most notably in the body of research that focuses on collective efficacy, operationalised as a combination of informal social control and social cohesion and trust among neighbours (Sampson, Raudenbush, & Earls, 1997). Using varying levels of geographic scale, the scholarly research on the subject has demonstrated the association between high levels of collective efficacy and lower violent crime rates and other criminal activity across neighbourhoods.

While the research tradition on collective efficacy is fairly established and numerous studies have found support for the hypothesis, the generalisation of the findings remains a potent problem. To this day, the bulk of the studies has been done in the U.S., and it remains unclear whether the findings are replicable in areas with differing social, cultural and economic settings. Indeed, in Europe, the results have thus far been mixed (Bruinsma, Pauwels, Weerman, & Bernasco, 2013; Sutherland, Brunton-Smith, & Jackson, 2013; Wikström, Oberwittler, Treiber, & Hardie, 2012). Some of this ambiguity might owe to the varying measures used (for example, the use of police-recorded crime or other administrative data versus survey-based measures), the choice of scale for the geographical units and the quality of the available data. Yet, as the concept clearly lends itself to universal application, absence of supportive evidence outside the U.S. would downplay its analytical significance.

The current paper focuses on collective efficacy and neighbourhood-level measures of social disadvantage in a sample of suburban housing estates in Finland. The survey data used in this study was collected in 2013 under the auspices of the PREFARE project (New Urban Poverty and the Renovation of Prefabricated High-Rise Suburbs in Finland), funded by the Academy of Finland, with a specific aim to study the attitudes and living conditions of the residents living in post-war housing estates across Finland. Additional neighbourhood-level administrative data were obtained from the Grid Database courtesy of Sta-

tistics Finland, while point data on violent crimes were obtained from the Finnish Data System for Police Matters.

This paper presents a short overview of the relevant literature on collective efficacy and neighbourhood effects, touching on the debate on the level of aggregation and the definitional issues of “neighbourhood”. Furthermore, this paper details how the PREFARE study was operationalised and how the study areas were defined. Some descriptive results concerning the study areas will be presented, however the results from the statistical models, as well as detailed conclusions, will be published in a separate paper.

Theoretical background

In *Juvenile Delinquency and Urban Area* (1969) Shaw and McKay argued that three neighbourhood-level structural factors, namely low economic status (SES), ethnic heterogeneity and residential mobility, led to the disruption of local community ties and social organisation, which resulted in *social disorganisation* within the neighbourhood. Social disorganisation, in turn, accounted for the spatial variation in crime and delinquency rates. Instead of focusing on individual factors, Shaw and McKay posited that disadvantaged neighbourhoods were characterised by enduring structural deficiencies that undermined the ability to realize the common values of its residents and to maintain effective social control (Bursik, 1984; Sampson & Groves, 1989).

The contemporary research on social disorganisation and its derivative paradigms generally includes the original components of low socioeconomic status, residential mobility and ethnic heterogeneity, while the chosen measures vary, often dictated by the available data. However, most studies typically experiment with a myriad of structural indicators and variables that broaden the focus on dimensions of social ties (Bruinsma et al., 2013). Using family disruption, defined as the proportion of families run by single mothers, as a predictor of violent crime and robberies, Sampson (1987) argued that single-parent households are less capable of executing effective social control, and thus cities with high levels of family disruption have higher rates of police-recorded violent crime. Utilising survey-based measures of violent and property crime, Sampson and Groves (1989) measured social (dis)organisation using measures of local friendship networks, participation in voluntary organisations and youth-supervision. The authors found that the association of the structural characteristics of the community and violent crime was largely mediated by the three dimensions of social disorganisation as well as neighbourhood-level rate of family disruption.

Building on the earlier work on social disorganisation and social capital, Sampson et al. (1997) introduced the concept of *collective efficacy*, defined as “the process of activating or converting social ties among neighbourhood residents in order to achieve collective goals, such as public order or the control of crime” (Sampson, 2010), which attempted to combine

the neighbourhood-level mechanisms of social cohesion and shared expectations for the informal social control (Sampson, 2012, p. 152). Expanding the focus on structural characteristics, the theory of collective efficacy posits that neighbourhoods vary in their ability to build and sustain prosocial ties, trust and solidarity, and in their ability to activate informal social control, which would influence the opportunities for interpersonal crime in the neighbourhood (Sampson et al., 1997). Thus, high levels of collective efficacy, i.e. a high supposed capacity of the residents in a given geographical area to intervene for the common good, is assumed to be inversely correlated with the crime rate between spatial units.

Defining neighbourhoods

All studies that use geographical units either as units of analysis or as a defining boundary are susceptible to the so-called modifiable areal unit problem (MAUP), which states that the choice of geographical scale and zonation can have an effect neighbourhood estimates (Lloyd, 2014; Openshaw, 1984). In recent years, research in geographical criminology has increasingly stressed the importance of the “proper” level of aggregation, often advocating the use of micro-places in favour of large-scale neighbourhoods (Oberwittler & Wikström, 2009; Steenbeek & Weisburd, 2015), while others stress the importance of multiple scales (Boessen & Hipp, 2015). The move towards the smallest possible scale of analysis has been bolstered by the strong evidence that crime is generally highly clustered and a small number of buildings, street segments and other crime hotspots are responsible for most of the recorded crimes, especially thefts and violent crimes, a phenomenon Weisburd (2015) has called “the law of crime concentration”.

Research on collective efficacy has generally tended to favour meso-level neighbourhood units, a solution that could be considered more in terms of practical decision (due to the survey instrument) rather than a solution based on theoretically oriented judgement. In the initial studies on collective efficacy, Sampson et al. (1997) combined census tracts in Chicago to form “natural” neighbourhood clusters that were geographically contiguous and homogenous on key census indicators, resulting in neighbourhoods that had on average 8 000 residents (see also Sampson, 2012, p. 79). In the study, a total of 8 782 residents were interviewed in their homes, with a net sample size of at least 20 residents to generate reliable neighbourhood estimates. A recent study by Sutherland et al. (2013), conducted in London, employed Lower-layer Super Output Areas (LSOAs) to represent neighbourhoods, which resulted in substantially smaller geographical scale compared to many previous studies with each “neighbourhood” consisting of 1 500 residents on average. Even smaller scale was achieved in the study by Wikström et al. (2012), who used UK Output Areas (OAs) with an average of 300 residents per neighbourhood “setting”.

An emerging consensus among criminologists posits that when studying spatially dependent phenomena, research should aim for the smallest practical scale (Oberwittler & Wikström, 2009). However, as Hipp (2007) has argued, different aggregation levels might

produce different outcomes, and there might not be a single “proper” level of aggregation, as some constructs work on one level of aggregation and others on another level. Regarding collective efficacy in particular, research has produced mixed results. Studies in the U.S. have typically found supportive evidence for collective efficacy even in larger study areas (Armstrong, Katz, & Schnebly, 2015; Morenoff, Sampson, & Raudenbush, 2001; Sampson et al., 1997), while studies conducted in Europe have so far shown that collective efficacy appears significant only on very detailed levels of analysis (Bruinsma et al., 2013; Sutherland et al., 2013; Wikström et al., 2012). Gerell (2015), in a study conducted in the Swedish city of Malmö, argued that there was little evidence of collective efficacy operating on large-scale neighbourhoods, as originally suggested by Sampson et al. (1997). At best, neighbourhoods could be considered as aggregates of micro-places or micro-neighbourhoods.

Data and measures

Data

The study combines 1) data derived from a community survey, 2) point data on police-recorded violent crimes and 3) block-level aggregated data on population, employment, income and education. Due to the restrictive nature of the survey instrument, the choice of the study areas was dictated by the survey design.

The community survey. The community survey, conducted in 2013 within the auspices of the PREFARE project (New Urban Poverty and the Renovation of Prefabricated High-Rise Suburbs in Finland), had a specific aim to study the living conditions and attitudes of the residents residing in suburban housing estates built between years 1960 to 1979, a period characterised by the post-war rural flight and rapid urbanisation in Finland. This required a detailed identification of high-rise clusters, which was conducted using GIS-coded statistical data from the Building and Housing Register (data courtesy of the Population Register Centre), YKR 250 metres by 250 metres grid data (Finnish Environmental Institute and Statistics Finland) and data for identifying Finnish city centres (Finnish Environmental Institute).

First, the housing data was used to identify multi-story residential buildings built between 1960 and 1979 and further narrowed down to buildings that resided outside city centres, using the Finnish Environmental Institute’s classificatory system. In order to be able to identify wider housing areas, and to distinguish housing areas from each other, buffer zones were calculated around the individual buildings, thus allowing identifying building clusters. Buffer zones were calculated for all cases where there were at least five buildings which were located within 250 metres from each other. An additional criterion was that the cluster had to include at least 300 residents. This resulted in 318 high-rise clusters in the vicinities of cities. (Stjernberg, 2013.)

The community survey was based on a stratified cluster sample where the primary sampling unit was a housing estate identified with the aforementioned procedure. At the first stage, five housing estates were hand-selected to the study. Of the remaining clusters, a stratified sample of 66 housing estates was drawn based on city size and unemployment rate, resulting in a sample of 71 housing estates across Finland. At the second stage, 19 844 residents aged 25 to 74 years were sampled from the Finnish Population Register using housing ID's. The total response rate in the survey was 38,9 percent with an average of 109 respondents per housing estate.

Violent crimes. Point data on crime were obtained from the Finnish Data System for Police Matters (*Poliisiasiain tietojärjestelmä*, Patja). For the analysis, violent crimes (homicides, aggravated assaults, assaults, minor assaults and robbery) recorded by the Finnish police between 2012 and 2013 were used. Each incident was geocoded in ArcGIS version 10.3.1, using information on the street address and the county where the incident took place. The reference database for geocoding procedure was the Road network with addresses element from the Topographic database, maintained by the National Land Survey of Finland. A dataset consisting of all property and violent crimes registered in Finland between years 2012 and 2013 was used for the geocoding procedure. A total of 341 707 crimes out of 454 260 were successfully geocoded, resulting in a 75,2 percent match, which is lower than usually suggested in criminal justice research. Some of the low matching rate is explained by incidents taking place in remote areas that have no proper street address nearby or where the actual street address of the crime was ambiguous. The resulting point data was delimited to violent crimes and aggregated to each housing estate using a buffer. Incident that took place within 125 metres of the buildings was categorised as belonging to that particular cluster. This procedure resulted in a total of 2 262 recorded incidents within the 71 study areas.

Block-level administrative data. As the housing data contains little statistical information about income, employment or population, the resulting survey data was combined with block-level grid data courtesy of the Finnish Environmental Institute and Statistics Finland. The Grid Database contains data by selected key variables describing the population's structure, education, main type of activity and income, households' stage in life and income, as well as buildings and workplaces on 250 metres by 250 metres grids. As the grid structure is shaped differently to the housing clusters, only grids where at least 50 percent of the population lived in that particular type of housing were included in the study data. The resulting clusters were further aggregated to create uniform polygons overlapping with the housing estates.

Dependent variables

The measure for *police-recorded violent crime* was derived from the geocoded violent incidents that took place between years 2012 and 2013 (see the description of the data). Recorded incidents were aggregated to the neighbourhood level and adjusted to 1000 persons

living in each housing estate. This resulted in an average rate of 11.8 violent crimes per 1000 residents among the 71 study neighbourhoods (table 1).

Other dependent variables were obtained from the community survey. *Self-reported victimisation* was measured as being victimised by any violence or threat of violence in the respondent's own neighbourhood in the past 12 months. Threats of violence were included in the measure as there were very few respondents reporting violent victimisation taking place in their own neighbourhood. *The neighbourhood rate for self-reported violent victimisation or experience of threats* was calculated as the share of respondents reporting any violent victimisation or threat of violence in the neighbourhood in the past 12 months.

Independent variables

Collective efficacy was measured following Sampson et al. (1997) by calculating a sum variable from the items used and aggregated to the neighbourhood level. *Neighbourhood stability* was constructed using items from both the community survey and administrative data. In the survey, each resident was questioned about the length of their residence in their current neighbourhood with categorised responding options. This was recoded into the proportion of respondents who had lived at least six years in the same neighbourhood. Following Sampson et al. (1997), a measure of home ownership was also utilised in formation of neighbourhood stability. Information on home ownership was available from the Grid Database maintained by Statistics Finland. The composite measure of neighbourhood stability was then formed using factor analysis.

Other neighbourhood-level measures were based on administrative data obtained from the Grid Database. *Immigrant concentration* was measured as the share of the population that spoke other than Finnish or Swedish as their native language. *Neighbourhood disadvantage* was constructed using unemployment rate, the share of residents with no higher than elementary or primary education (*peruskoulu*) and the share of low-income residents (whose household's disposable money income per consumption unit was lower than 60 per cent of the equivalent median money income of all households). The measure for concentrated disadvantage was derived from these measures using factor analysis. Other potentially crime-generating factors were controlled for by constructing a measure of the *presence of restaurants and bars*. The measure was similarly derived from the grid data, using the absolute number of jobs in that sector as the independent variable.

DESCRIPTIVE RESULTS

The following results are meant to highlight key operationalisations as well as some descriptive results, without dwelling into the results from the statistical models. The results from the statistical models and the related conclusions will be presented in a separate paper.

The PREFARE-project had an explicit aim to study the living conditions and attitudes of the residents residing in suburban housing estates built in the 1960's and 1970's. Due to this aim, the survey targeted a specific population living in fairly similarly structured neighbourhoods. The survey employed a clustering sample design, where suburban high-rise clusters formed the first level sampling unit and 25 to 74 year old residents formed the second level sampling unit. Contextual register data were derived from the Grid Database maintained by Statistics Finland. Data on violent crime incidents were derived from the Finnish Data System for Police Matters and geocoded using street address information.

The resulting neighbourhood structure is illustrated in figure 1. The "surveyed neighbourhood" is formed by the high-risers in the area (marked with dots), while the "contextual neighbourhood" is the area marked with blue squares, where each 250 metre to 250 metre square denotes a unit from the Grid Database. Grid units where over half of the population lived in the sampled high-risers were included in the contextual data. Violent crime incidents were aggregated using a buffer (thick black line in figure 1).

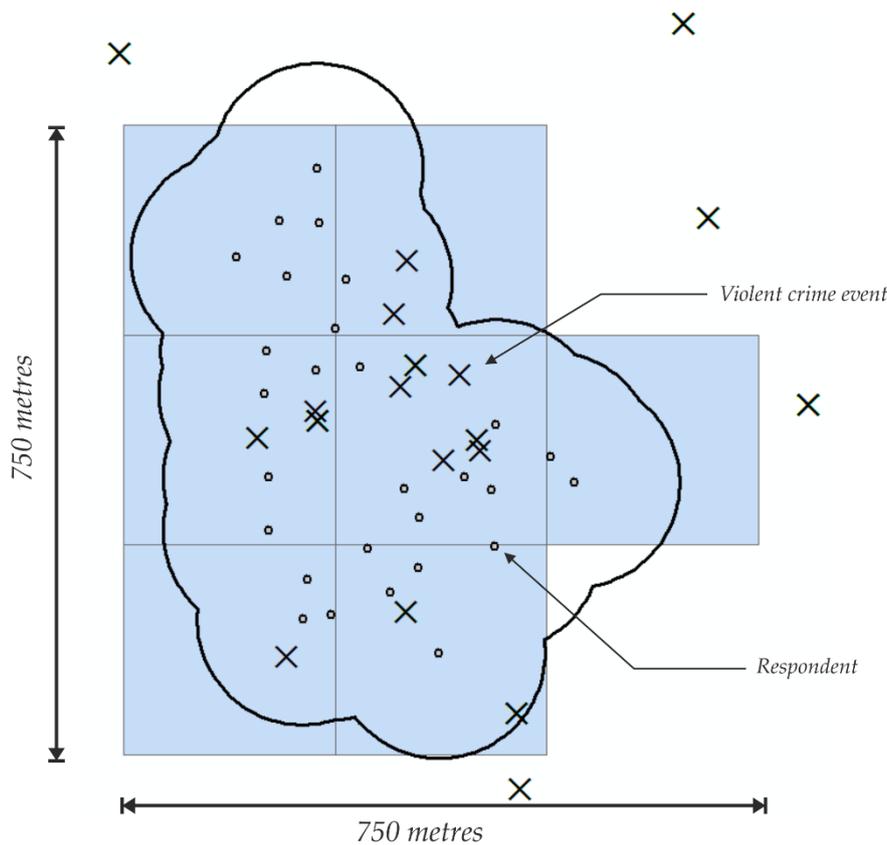


Figure 1. An illustration of the neighbourhood operationalisation in the study. Dots mark high-risers with respondents, X marks violent crime events.

The size of the study neighbourhoods varied greatly due to the identification method (high-rise clusters), as some housing estates had a lot of neighbouring high-risers while some had only a few. 40 percent of the housing estates were formed of either 3 or 4 grid units, equalling to 0,19 and 0,25 square kilometres. The mean number of grid units on each housing estate was 6,7, equalling to 0,42 square kilometres, while the median was 5 units and 0,31 square kilometres (table 1). One of the housing estates was a clear outlier with a size of 1,88 square kilometres and a population of 13 488 persons – the second biggest housing estate was only two thirds of that in terms of both size and population. The average population in the study areas was 2 279 with a median of 1 534 residents. In comparison to other studies conducted on the relationship between collective efficacy and crime, the classificatory scheme employed in the current study falls somewhere between the larger (e.g. Armstrong et al., 2015; Bruinsma et al., 2013; Sampson et al., 1997) and smaller neighbourhood categorisations (Wikström et al., 2012), most resembling the operationalisation used in the study by Sutherland et al. (2013). Although not ideal, the somewhat smaller size of the study areas could be considered reasonable in relation to the current trends of focusing on a smaller geographic scale. One additional advantage of the current operationalisation is the ability to study historically and spatially uniform areas, as all are situated outside city centre, are of equal age and are built employing roughly similar architectural ideas.

Table 1. Summary statistics of the study areas, per housing estate (N=71)

	<i>Mean</i>	<i>Median</i>	<i>Min.</i>	<i>Max.</i>
Number of respondents	109	93	14	298
Population ¹	2279	1534	408	13488
Area size (km ² ; based on grid units)	0,42	0,31	0,06	1,88
<i>Dependent variables</i>				
Violent crimes per 1000 residents (2012–2013) ²	11,8	10,3	0,0	32,4
Self-reported victimisation rate (%)	4,5	4,0	0,0	11,3
<i>Structural variables</i>				
Unemployment rate ¹	0,16	0,15	0,03	0,37
Residents with no post-primary education ¹	0,34	0,35	0,17	0,54
Low-income residents ¹	0,23	0,24	0,12	0,38

Immigrant population ¹	0,10	0,07	0,01	0,36
Residents in owner-occupant homes ¹	0,49	0,52	0,00	0,90
Jobs in the hotel and restaurant sector ¹	12,6	3	0	146

¹ Based on grid data.

² Calculated using a buffer around the housing estate and divided by population derived from the Grid Database.

Regarding variables on crime as well as neighbourhood structure, some preliminary observations can be made. First, variation in violent crime rate between neighbourhoods is fairly substantial, as the difference between neighbourhoods with the lowest and highest rate was around 32 crimes per 1000 residents and 436 violent crimes in total (table 1). Similarly, the interquartile range was 10 violent crimes per population and 32 crimes in total. On average, the violent crime rate in the study areas was a little over 10 violent crimes per 1 000 residents. Self-reported last year victimisation rate (percent of respondents) ranged from 0 to 11 percent with a mean of 5 percent. The correlation coefficient of victimisation rate and violent crime rate was 0,460 ($p < 0,001$), which is somewhat low considering that the measure is essentially the same but with police-recorded crimes vs. a survey-based outcome. There are, of course, several factors that could contribute to this. Obvious explanations for the disparity are, for example, different understanding of what constitutes a neighbourhood (resident perspective vs. technical definition), clustered/multiple victimisation and victimisation among non-resident visitors, who show up in police-recorded crime but not in the community survey.

Neighbourhood disadvantage varied considerably between the study areas. In regards to unemployment and the share of residents with no higher than primary education, there was a considerable difference between the most disadvantaged and the most well off neighbourhoods. The average unemployment rate in the study areas was 16 percent, almost double the national average, indicating that the study areas as a whole were relatively disadvantaged compared to other neighbourhoods – a finding that is not surprising, considering that the focus of the study project itself was on housing estates with supposed social problems. Most striking differences were found in home ownership, as some of the neighbourhoods had no owner-occupant apartments at all, while some had as high as 90 percent. Another fairly striking difference concerned the share of immigrant population, as the immigrant rate was as high as 36 percent in one neighbourhood, while the rate on average was around 10 percent. Some of this disparity, however, is explained by regional

differences, as immigrant population in Finland is highly concentrated in the capital region and few other large cities in the southern Finland.

Concluding remarks

While the theory of collective efficacy has been one of the central theorems in geographical criminology, the findings remain very much disputed. The findings in the U.S. have generally found supportive evidence of the association between collective efficacy and crime, even in geographically large neighbourhoods. Findings in Europe, however, have been somewhat mixed, as studies have typically found little to no evidence in favour of collective efficacy, especially on a larger scale.

Using a novel method for identifying neighborhoods, this study combines survey measures with police-recorded crime and block-level administrative data sources, focusing on suburban housing estates built in the post-war period. The unique nature of the study design allows a more detailed analysis of the association between collective efficacy and crime, broadening the geographical focus of the research tradition to a Scandinavian setting.

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For Some Other Reasons?" – Ethnographic study of an international outlaw motorcycle club.

Jussi Perälä

The title of this paper is taken from a multi-year study in which I examine an international outlaw motorcycle club from an ethnographic perspective. The study quotes a working title from the newest Finnish government proposal which ended up suggesting that the group accused of organized crime could originally be organized for some other reason than committing serious crimes. So far the Finnish criminal law has stated that the group accused of organized crime should originally be organized for committing serious crimes. This paper however is based on my seminar presentation in which I concentrated on different forms of control towards this community. First I shortly describe the construction of the need for the prevention of organized crime in Finland. Then I shortly describe data and methods and continue to actual results risen from the data. I present how this community and people around it is being controlled by the society in the name of fight against organized crime both in national and international level in order to prevent also their legal actions. I finish this paper with a short discussion.

The construction of organized crime groups

Even at best the majority of the Finnish drug trade can be defined as quite an unorganized business. Despite this the law enforcement officials have defined some actors as organized crime groups in the local drug market. The most suitable subjects for this have been certain motorcycle clubs. Signs of organized crime have been the longevity of these gangs and visible hierarchy in the vests the gang members are using. These vests with patches have been seen as a sign of threat of violence which in turn facilitate the actual crimes.

The term "criminal motorcycle gangs" began to take form in Finland some 20 years ago when the local motorcycle clubs violently acquired the patches of international outlaw motorcycle clubs of Hells Angels and Bandidos. Soon after this, the discourse of drugs and gangs was brought to Finnish discussion. This discourse originated from United States and the main theses was that when talking about gangs and drugs we are actually talking about professionally organized drug markets (Kuure & Parkkonen 1996.) According to law enforcement these motorcycle gangs have been taking care of large scale drug trafficking ever since particularly as professional, organized crime groups. During the 2000s the law enforcement started to underline that the gangs have infiltrated more deeply into society and in addition to drug crimes also started to take care of white-collar crimes. Several cases against motorcycle gangs as organized crime groups have been dealt in court. Actual sentences in different courts (district court & court of appeals & highest legal authority)

compared to charges have been petit. The actual sentences have most of all concerned individuals in these clubs.

During this 20 year history the actual research on organized crime in Finland has been rare. No statistical data on the organized crime hasn't been published neither by the police nor by the research institutes. Some research can be criticized for not fulfilling the criteria of research since the data and sources are from the law enforcement and the media features based on these law enforcement views. In addition, the preliminary investigation papers without court decisions can't be regarded as reliable sources in researches (see *From Illegal Markets to...* 2015). Critique has been few. Only few researchers have asked e.g. if the amount of oc is being oversized (Junninen 2006; Bäckman 2006; Viuhko & Jokinen 2009). The United Nations Palermo Protocol is the only universal agreement on the conception of organized crime. Regarding Finland, in this Protocol the minimum sentence of 4 years fulfills easily concerning drug crimes. Still, the EU Council recommendation in 2001 has affected to the fight against organized crime most (Palo 2010). Junninen (2006) actually came to a conclusion that the conception of organized crime has been constructed from threat politics which has been transferred from different times and different societies to Finland.

During the whole 20 years the police has been active in pointing out the organized crime actors through media. Appealing to fight against organized crime the law enforcement want to have the legal right to secret house searches. At the same time the procedure of anonymous witnesses is promoted. These are justified by the prevention against organized crime. The continuing increase of control resources and even fraction of rights for privacy has been justified by the need to prevent organized crime. Drug crimes and especially the part of motorcycle gangs in drug crimes have been a central argument when increasing the rights of police in telephone surveillance and person registers. Lastly in 2014 in the largest reformal of police law (Perälä & Ruuska 2016).

Before this reformal of police law the government resolution stated in 2013 that to prevent organized crime it is necessary to take in use new methods. Similar measures have been attempted internationally. Despite the lack of research and public knowledge the government solution in prevention against organized crime stated that one specific objective is to prevent the organizing of criminals and to underline that participation to action associated to organized crime is not a tempting option. Among this and other things the solution also stated that in the prevention against organized crime it is necessary to put in operation new methods, such as powerful use of administrative techniques and tight cooperation with the law enforcement and private sector. This demands the development of cooperation models between law enforcement and private sector and by some parts also the changing of legislation amongst other things in part of information exchange.

Data & method

Data for this paper is gathered from interviews with the hang arounds, prospects, members and people around the motorcycle club. The club is classified as outlaw motorcycle gang (OMCG) by the law enforcement internationally and regarded as organized crime. However, this categorization is not based on court decisions since there are none (Lauchs, Bain & Bell 2015). The club has several chapters and clubhouses in Finland. The membership is pursued by different stages (hang around – prospect – member). Only men are allowed as members and the median age is around 40 years. The club is nonpolitical.

I have been gathering the data through ethnography. While writing this I have been participating over two years with the club. During the field work I have been visiting chapters and clubhouses on different occasions. I have been in different kinds of parties, motorcycle runs, repairing bikes and visiting homes of the club members, to mention some of the participation done. During this I've been writing a field journal in addition to interviewing people.

One might ask why to research control among this community. Firstly, it is a good way to start for both the researcher and interviewee. One can speak about control to a researcher. Experiences about the control is also a topic of the day in the international level. The expanding control unites members internationally and it will be discussed when meeting members from other countries. Also, the community is an excellent research subject regarding the unconventional police methods. The members are used to it, some have experienced it for over 25 years. Lastly, the extent of control has also been a surprise to me.

How to make the action associated to organised crime not a tempting option.

Firstly, how does the law enforcement prevent the organizing of criminals and underlines that participation to action associated to organized crime is not a tempting option? Basics are in the harassment and unconventional police methods. Tailing and interception in traffic without a reason can be expected around every corner and on every highway. When stopped and asked what for the answer is most often a "routine check". This normally includes the checking of personal identification and bike or car identification, alcohol and/or drug testing. If one refuses of drug testing, driver's license is confiscated for the duration of inspection.

Confiscation of gun & bouncer licenses are usually being confiscated already in the hang around phase. Phone calls to work places and relatives are also being done to some candidates. In some cases visiting work places or even outside preschool is being done by the police.

These kinds of police methods are done mostly on hang around and prospect stage. Still, control can be expected at any time. The most common place for the control is when leaving the clubhouse, especially during the weekend. The club houses are also being moni-

tored. In one case an interviewee told that the neighbors came to tell him that the police had come to ask if they can put surveillance equipment in their promises in order to monitor the club house. Among the community these methods are not called as unconventional police methods, they are simply called as psyching and stressing.

Some members told that they have seen police inside their cars, apartments and work places. Some say that in some cases they have seen “a mark telling that we have been here”. Some have found strange electrical wirings in their cars. Among the community it is a common belief that also the phones and other electronic equipment are being tapped without any official permission from the court.

Methods and cooperation models between law enforcement and private sector

Then, how are the tight cooperation with the law enforcement and private sector and their cooperation development perceived by the community. In some cases the cooperation means denial or ending of insurances for companies. This is being done without any payment problems or criminal register of the partners in companies. The club membership is reason enough. In some cases these companies have been under inspection by the tax authorities for several years. The tax authorities had found no evidence of misuse within this company. Another private entrepreneur told that he has to have a receipt of everything he does within his company.

Since the club is international, also the cooperation operates on international level. The most visible cooperation is being done during runs. These runs are international yearly motorcycle meetings. During runs there are stops at the borders and on highways but also on the run sites. These include inspection of motorcycles, checking residential addresses, taking up other personal data, photographing persons and their vests, in some cases stripping down and taking photos of tattoos. These are done by international law enforcement cooperation.

Club members are also denied of entry to certain countries. They are also denied of applying citizenships to some countries and even returned to a birth country after years of residence in another country. People around the club are also denied working in certain places (e.g. factories and harbors). Support for club or associating with the club members is reason enough for denial.

From preliminary investigations to trials and prison

Thirdly I describe how the juridical system operates with the community members. The preliminary investigations are the first stage. Sometimes these investigations are being kept open as long as possible. In one case a hang around became a prospect member. Almost immediately after this he got a phone call from the police. He had been suspected of a serious tax fraud and after 5 years he was told to come for interrogation again. He was

told that his case is being kept open for 10 years. According to law the case can be kept open for 10 years.

In other case a suspect had gotten non-prosecution from the prosecutor regarding an assault. Almost after two years the prosecution started again. This was done after he became a prospect member. According to law the case can be kept open for 2 years. The preliminary investigations are also opened even after court decisions. In one case a member was arrested for 2 months for a reopened case which had had a court decision almost two years ago.

In the interrogation the suspects are asked to give passwords to phones. If one refuses, the phones are cracked and data is taken out. Some suspects told that they have been asked to talk about things without writing them on the paper a suspect is signing in order to agree what he has said. This is being done to get the suspects to act as informants.

Probably in most cases the investigation leads to a trial. These concern individuals or whole chapters. If the case is against a chapter, the charge is about being an organized crime group. If one charge doesn't succeed the investigation starts with other chapter. At the court there are same specialized prosecutors, same witnesses by the police. The evidence as organized crime comes from the international police reports which are translated from English into Finnish. So far the trials concerning acting as an organized crime group has lead to discharge. Trials may also lead to discharge concerning individuals in the club and vice versa. In some cases the juridical system is being criticized for giving wrongful sentences. One example is when a member got a sentence as being a one man organized crime group.

The community members also get harsher punishments when judged. This is called as gang or club add-on. For assault and battery one prospect member got 1 year and 8 months. In another case the police was listening to phones and this brought for one man a sentence of 11grams drug trade using coded language. He got 5 months served full time for this. Sentences are always served full time in a maximum security prison. Members having prison experience told that in the beginning of sentence a paper is brought for signing. If you don't deny the criminal organization you are in by signing you don't get the leave.

Personal experiences

Fourthly some of my personal experiences during these two years. I have been photographed by the police. My motorcycle and cars I have used (which two have been on loan) have been photographed. I've seen police checking my motorcycle on the street. During the parties I have seen drones flying in the air. At least during that time they were not officially in use. However, I was personally in contact with the law enforcement officials face to face when I was abroad with the club members and crossing border. In the first encoun-

ter (in addition to checking our personal identification and a car we were using) we were asked where our guns were and if we had any drugs. The second encounter happened during run. Our bikes were checked and everybody was asked our addresses and status in the club.

Discussion

When an individual starts to associate with the club, basic harassment should not be a surprise at the individual level. Basic harassment has been used against different kinds of clubs ever since their birth (e.g. Wolf 1991). In a way the overwhelming use of control is not surprising. To law enforcement and public these motorcycle gangs are simply actors in illegal market with illegal substances. Especially when the ones suspected are being reported as motorcycle gangs in the media, visible to the public, criminal acts are easy to perceive done by organized crime. The police has been active in promoting this view through media. According to governmental solution this is done in order to prevent fear among citizens.

Police methods aren't alike nationally nor internationally. They vary between cities and between countries. Not all have had such experiences of police methods, some say they have had "just basic harassment". Some say they haven't experienced basic harassment for years. They say they are so called "lost cases" which have a certain "do not stress" status among the law enforcement.

According to interviewees the stressing is hardest when a new chapter is being formed. After years of existence comes the prosecution of being an organized crime group. Still, the interviewees have brought up that at the individual level the law enforcement is not unanimous. Not every police officer probably would agree that this community can be regarded as organized crime group. Neither are universal nor national the cooperation methods between law enforcement and private sector. However, we are talking about a subject which is under coercive means. This is justified by the threat politics, not actual court decisions.

How then do these new methods affect in the community? Some may leave, most don't. If exclusive policing makes legal working impossible it isn't quite hard to figure out what will happen. Exclusive policing also increases tightness in the community which on the other hand may also be the purpose of these methods. Control and preliminary investigations naturally have functions in the club. At least some members have to use a lot of their time for the forthcoming events. Community members have to have access to legal aid and they have to collect data for the court cases. On the other hand it's a community with moral codes which "partly and within certain preconditions accepts certain criminal acts". From this point of view certain control is acceptable but one has to keep in mind that there is also control within the community. The social control and moral codes also decrease

criminality. One thing to consider about the control is the attraction of control and the need for the enemy. This affects both ways for the law enforcement and the club?

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