



Crime Victims in the Finnish Criminal Political Thinking – Three Examples

RIIKKA KOTANEN & PÄIVI HONKATUKIA

UNIVERSITY OF HELSINKI & UNIVERSITY OF TAMPERE



The Finnish Criminal Justice Policy

- Internationally recognised as a part of the 'Nordic Exceptionalism'
 - A substantial transformation in the 1960s and early 1970s: '*humane and rational*' → e.g. due to the alterations in legislation and sentencing practices, the incarceration rate decreased fourfold
 - Since the 1970s, Finnish criminal justice policy has followed the neoclassical tradition which focuses on:
 - 1) the connection between criminal justice policy and social policy
 - 2) avoiding repression and causing suffering (lenient penal policy and treatment of offenders)
 - 3) society's collective responsibility of criminality: offenders as victims → the weakest part of the population suffering already from diverse social problems
- Effective social policy is regarded as the most efficient way to impact on criminality
- Criminal sanctions as the last resort when all other measures have proven ineffective



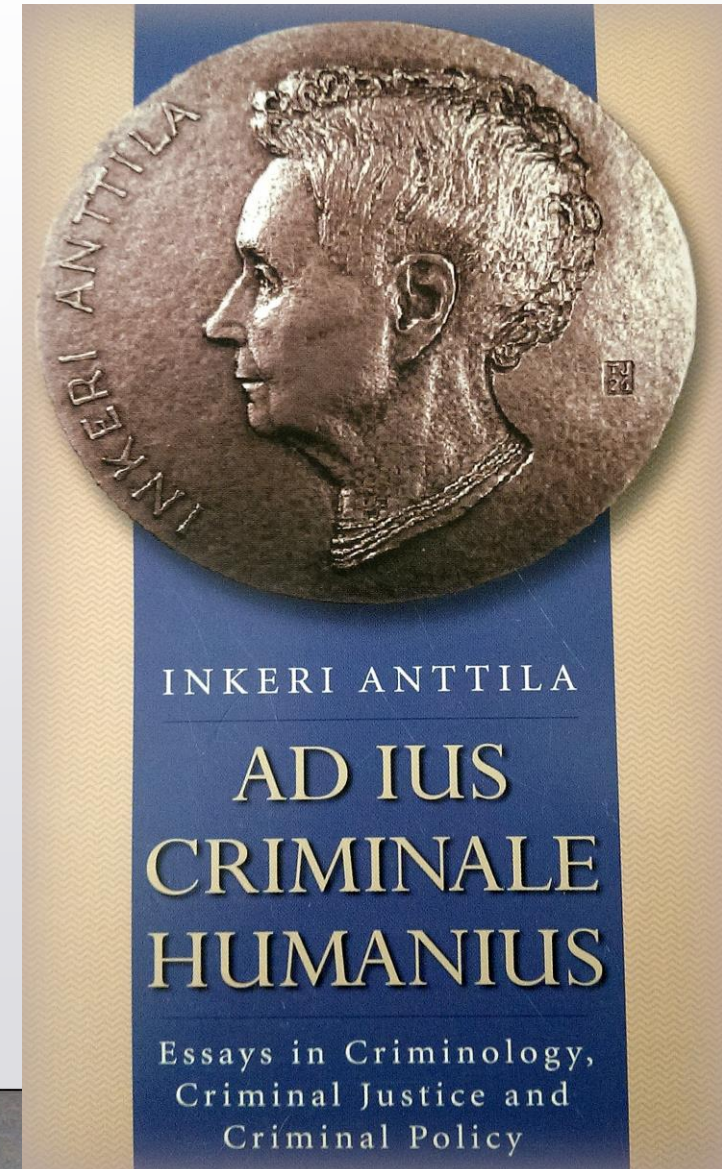
Questions we want to explore

- What is the content of the attributes of 'humane' and 'rational'? And how are they discussed viz a viz victim & offender from 1970s to present?
- Who has been seen as the responsible party for the harms caused by criminal activity?
- What continuities can be observed? What shifts have occurred?

Three case studies

- 1) Anttila & Törnudd: textbook 1971 and 1983; articles and conference papers from 1970s to early 1980s
- 2) Crime Victim Committee Report 2001
- 3) Governmental Proposal on the Crime Victim Charge, GP 293/ 2014 (paid by the offender)

Key texts and turning points in formulating positions of the crime victim and the offender in the Finnish criminal political thinking





Anttila & Törnudd: The core principles of the '*humane and rational*' criminal justice policy

- The cost-benefit estimations as the main criteria in the decision making process →
- Two key aims:
 - 1) minimizing the costs and harms produced by crime and crime control, and
 - 2) the equal distribution of these costs and harms →
- Equal sharing of the costs and harms caused by criminal activity:
 - 1) between the offender, the victim and the society
 - 2) between the members of each of these groups (e.g. between the first-time offenders and recidivists)



'Humane and rational' **or** 'rational and humane'?

- The rational criminal policy is “**price-conscious policy**”
- Intertwine of the humane and rational → decisions which are cost-effective to the society produce humane outcomes for the **offenders**; e.g. policies which are minimizing imprisonment in favor of the wide range of non-institutionalized sanctions
- The role of the crime victim:
 - 1) rather invisible: the legal rights of victims are strong
 - 2) the tone when describing victims is neutral, suffering of victims is not discussed, by contrast, victim is even seen to cause crime as a provocator
 - 3) victims as part of rational, price-conscious crime prevention → it is known who the crime victims are, hence it is easier, and more inexpensive, to effect on the action and behavior of the victims than the offenders



Crime Victim Committee 2001: main tasks

- Background: international discussion/measures, research, "forgotten victim"
- How can authorities and NGO's improve the position of crime victims in Finland" [...] **especially via other means than legislation?**
- How to secure the rights of the special (vulnerable) groups of victims: women, children, elderly, "foreigners", disabled
- What are the possibilities of **mediation/restorative justice** from the point of view of victims

"It has been understood that strengthening of the victim's position does not mean weakening of the suspected person's legal protection - the advantages of the victim and perpetrator do not in most cases compete with each other" (p. 5)

KOMITEANMIETINTÖ • KOMMITTÉBETÄNKANDE 2001:5

Rikosuhrtoimikunnan mietintö

Betänkande av brottsofferkommissionen





Victim & Offender in the Victim Committee

- Traumatizing consequences of victimisation are recognised (suffering)
- "Ideal victim" criticized: overlapping of the victim and offender positions is common, those in the societal margins are often forgotten **"since only respectable citizens are often seen as victims deserving protection"** (p. 10)
- It is emphasised how both the victim and the offender are societally marginalised – criminal justice interventions are not often sufficient/appropriate:
"The majority (70 %) of both the applicants and those who have received restraining order were either receivers of income support, customers of substance use services, or targets of child protection measures. In order to restraining order to achieve its aims there is a need for besides surveillance, also for social work measures to help both those who protected and restrained by the order" (p. 19)




Main measures suggested/discussed

- **Criminal process:** more support for the victims when they have dealings with the criminal justice system (the police, prosecutor, courts) or claim compensation
- For the victim, **mediation** is seen an emotional opportunity in receiving apology, encountering the offender "**as a human being**".
- For the offender, mediation is a chance to understand the consequences of his/her action.
- Improvements are suggested in how the crime victim **are encountered in social and health services** (e.g. education of professionals)



GP 293/2014: Introduction of the victim charge (Act 669/2015)


- Charge of 40-80 € (depending on the maximum length of the sentence, 800 € for legal persons)
- Background: the victim support services in Finland do not reach the minimum criteria set in the EU's Victim Directive and the Istanbul convention → lack in supply, availability, and also in referring victims to the services
- The aim: to strengthen **"the state funding"** for victim support services
- The victim: in the need of the society's support → **"Protecting the position of the crime victims is one of the objectives of the Finnish criminal justice policy"** and **"[...] more attention has been directed to the position of the victim along with the protection of the offender's legal position [...]"**
- The offender: the aim is to **"engage"** the offender to the funding of the victim services, i.e. pedagogical purposes → **"The core of the criminal responsibility is that the offender takes responsibility for his actions, this concerns the punishment as well as the losses and sufferings of the victim"** and **"The victim charge would highlight the societal responsibility of the offender"**



GP 293/2014: Introduction of the victim charge (paid by the offender)


- The equal sharing of the costs and harms caused by the criminal activity in 2014:

”[...] these costs should be distributed to the different parties [*society and offender*] according to the key principles of the social justice and distribution of responsibility. The legal protection and rights of the offender must be taken care of, but simultaneously the victim and the rights of the victim needs to be protected. The minimum requirement is that the psychological and material losses of the victim are rectified as well as it is possible [...]”



Development of the thinking regarding the victim inclusion?

- First phase (1960-1999): invisible, but important in crime prevention; not particularly traumatised → Victims = cost within the price-conscious CJP?
- Second phase (2000-2009): legal rights should be accessible in practice. Victims are often from marginal backgrounds (like offenders) → social work/political measures or mediation work best.
- Third phase (2010 →): via legislation, the offenders are made partly responsible for the existence of support services for victims → responsabilisation of the offender, together with society, for the suffering of the victim



From 'rational and humane' to 'humane and rational'?

- Shifts in thinking → from emphasizing rational towards emphasizing humane?
 - Victims: from rational crime prevention aids to vulnerable persons in need of support and justice
 - Offenders: from marginalized and suffering victims to ones who need to be responsible for victims' suffering and victim services, but without increasing their suffering
 - Responsibilities: society's responsibility for the offender (and the victim as a provocateur) has transformed to the responsibility of the society and the offender for the well-being and protection of the victim
- Discussion on punishments is avoided as well as any kind of juxtaposition between the offender and the victim
- Avoiding imprisonment and lowering the prisoner rate continue to be core principles of the CJP