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Making Sense of Reduced Criminal Responsibility – Subjective and Institutional Consequences of ‘Partial Sanity’

In this paper, I will elaborate the project plan of my post doc research. The research project is at its beginning and thus, it is a work in progress.

In Finnish legislation, an offender’s accountability fall under three categories: (full) criminal responsibility, reduced criminal responsibility, and lacking criminal responsibility. When there is justifiable reasons to suspect that the defendant in criminal case might have committed the criminal act in such a mental state, which affects his/hers criminal accountability, the defendant is usually remanded for mental examination. The aim of the mental state examination is two-folded: to 1) diagnose, and 2) explore whether the defendant is mentally capable of ‘understand[ing] the factual nature or unlawfulness of his or her act’ and whether ‘his or her ability to control his or her behavior [was] decisively weakened’ due to ‘mental illness, severe mental deficiency or a serious mental disturbance or a disturbance of consciousness’ at the time of the criminal act (The Criminal Code of Finland 19.12.1889/39, Chapter 3, Section 4).

Basically, offender’s mental illness or mental disorder does not automatically mean that he/she is lacking criminal responsibility. Mental state examiners are aiming to make sense of the role of one’s mental illness in a situation where the criminal act have occurred. The court’s decision on defendant’s accountability, based on mental state evaluation, defines whether the defendant is going to serve criminal sanction, or is he/she rather detained in forensic psychiatric unit.

An interesting combination of medical and judicial consequences applies to defendant in the category of reduced criminal responsibility. In practice, an offender with reduced criminal responsibility has usually been diagnosed with a mental disorder but has not been given any recommendations for psychiatric treatment. Further, compared to pre-2003 practices, offenders with reduced responsibility usually serve out their full-length sentence. Long-term aim has been to develop the penal system in more therapeutic direction and facilitate access to mental health services, but at present the state of availability of necessary mental health services is equivocal. Thus, there is a potential risk of inadequate treatment and compromised legal protection of offenders with mental disorders in prison settings.

In my research project, I have identified four research needs: lack of knowledge of 1) the well-being and 2) everyday life of prisoners whom have been evaluated as having reduced criminal responsibility, 3) updated sociological theory of lacking or reduced criminal responsibility, and 4) development of multidisciplinary research of offending and mental health issues.

The aim of the research is to provide information on the social consequences of reduced criminal responsibility relative to the prisoner him/herself, and the functions and duties of the prison service.

The research questions are:

- How does the position of offenders with reduced criminal responsibility appear in prison, in terms of psychiatric and social rehabilitation and disciplinary measures?
- How are offenders with reduced criminal responsibility categorized by prison personnel?
- How is the evaluation process and assessment of diminished responsibility described/portrayed in the narratives of offenders with reduced criminal responsibility?

From the sociological point of view, theoretical framework of the research comprises concept of stigma related to the category (of reduced criminal responsibility), and on the special status of prisoners with this particular evaluation (stigma as a relationship between “an attribute and a stereotype”, which is a process leading to experience of status loss and discrimination). Further, reduced criminal responsibility is understood as a condition referred as primary deviance (in comparison to full responsibility as non-deviance). The consequences of the evaluation of reduced criminal responsibility are comprehended as secondary deviance.

The data and methodology of the research project is presented I table 1.

The sources of the data	Key information	Methodology
Mika Rautanen's data (n=200)	The identification of the offenders with reduced responsibility	
Register-based data from Prisoner data system of Criminal Sanction Agency (n= 200+200)	<ul style="list-style-type: none"> • Participation in rehabilitation programs and the use of coercive punitive measures (prisoners with and without reduced criminal responsibility) 	Comparison between prisoners with and without diminished criminal responsibility (Logistic regression analysis and Average Marginal Effects)
Register-based data from Data system of the Health Care Services for Prisoners (n=200+200)	<ul style="list-style-type: none"> • Psychiatric treatment (prisoners with and without reduced criminal responsibility) • Is there differences on the usage of psychiatric and social rehabilitation and disciplinary measures between the prisoners with or without reduced criminal responsibility? 	
<ul style="list-style-type: none"> • Interviews of prison personnel (n=20) • Interviews of prisoners with reduced criminal responsibility (n=20) 	<ul style="list-style-type: none"> • What kind of labels are associated with reduced criminal responsibility by the prisoners themselves and by the personnel? • What is the stereotype of prisoner evaluated as having reduced criminal responsibility? • Are prisoners with reduced criminal responsibility discriminated or excluded on individual or structural level? 	<ul style="list-style-type: none"> • Semi-structured focus group interviews (personnel) • Individual narrative interviews (prisoners)

This study is carried out in a collaboration with Psychiatric Hospital for Prisoners (Vantaa and Turku units). A starting position of the data collection is to identify research subjects who have been remanded for mental state examination and have been evaluated with reduced criminal responsibility. The actual research data will be collected from data systems of the Health Care Services for Prisoners and the Criminal Sanction Agency, and by interviewing prison personnel and prisoners. Research project is also associated with the multidisciplinary survey project (collaboration between Finnish National Institute for Health and Welfare, Psychiatric Hospital for prisoners and Institute of Criminology and Legal Policy), which will report the current situation of judicial practices relating mental state assessments and criminal responsibility, and mental health issues among prisoners and offenders lacking criminal responsibility.

This research project will contribute to Scandinavian criminological studies as a pioneer study of offenders with reduced criminal responsibility in Finnish prisons. More precisely, it will produce information on how do the prisoners with reduced criminal responsibility differ from other prisoners, increases theoretical understanding on the social consequences of reduced criminal responsibility in prison settings, and sets foundation for research collaboration between sociology and forensic psychiatry.

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