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Joachim Enkvist

ABSTRACTS

The main trafficking and illegal immigration routes in Europe are described. Then, trafficking in women and children for sexual exploitation is analysed, beginning with the problems of definitions, data sources and measurement. The extent of the crime, and its source and destination areas are described. For this purpose, Europe is divided into Northern Europe, Western Europe, Central Europe, the Balkans and the Eastern Mediterranean, the Western Mediterranean, Eastern Europe, and the Caucasus. The characteristics of trafficking in women and children for prostitution are summarised. Then, whta is known of other forms of trafficking in women and children is reported. Finally, conclusions as to prevention, crime control and witness protection legislation are presented. The most crucial questions are presently: 1) creating extensive and reliable systems for collecting comparative data on the whole continent; 2) criminalising the trafficking in women in all European countries with relatively uniform criteria and sanctions; 3) develping and increasing the co-operation in crime prevention both internationally and between the European countries; 4) improving the status and rights of the victims in the legislation of the Europrean countries, and 5) creating efficient witness protection legislation and programmes applicable to the victims of trafficking.

Since the 1970's the phenomena of economic crime has been a disputed subject in Sweden. The public debate most often includes descriptions of the frequency and distribution of the phenomena. But, as many writers have noted, there is a lack of reliable information. This is the starting point for the project Statistics on Economic Crime. The purpose is to examine the possibilities for improving official statistics relating to economic crime. One part of this work involves investigating, by means of a literature study, which of the available methods and sources might be suited to a statistical illumination of various types of economic crimes. This part has been concluded and presented in a licentiate's dissertation. The second part of this project is to carry out two pilot studies. The project will be focused on the study of crime against employees and consumers, and more specifically health and safety crime and fraud against consumers. The first study focuses on the statistics as a product of organisational practice and wider social structures. The other study on the other hand expresses a belief in the possibility to problematise the picture painted by criminal statistics, by means of alternative methods. In the paper that will be presented I will discuss some observations from this ongoing work.

The purpose of the present study is to develop empirically grounded concepts that can help to understand how deviant, or criminal labeling influences the lives of people who are formally processed as criminals. Interviews were conducted with individuals that have been convicted for a law violation as adults or sent to a correction institution as a juveniles. The interviews focused on the influence of formal criminal intervention on social status. Preliminary findings from the study suggest that the influence of deviant labeling on the lifecourse and on subsequent involvement in deviance and crime is subtle and indirect. In many situations the person´s criminal history is unknown to others. Nevertheless, labeling often occurs at critical moments and has consequences for the person´s lifecourse, however indirect. For example, I provide accounts where criminal labeling leads to a sudden loss of a stable job and school suspension at a crucial age, where a wife leaves her husband due to the perceived degration of her husband's labeling. Such events have long-term exclusionary influence on the lifecourse while the event causing labeling to occur may become forgotten or concealed. But criminal labeling also has internal influence on the person´s definition of the situation. For example, some respondents refrained from applying for good jobs due to the fear of embarrassment and shaming that would arise if a criminal past would become known to the employer during a job interview. As some scholars have suggested, mainstream stereotypes against certain categories of deviants may work to exlude the person from conventional opportunity structures through the perception of rejection.

Can men convicted of child sexual abuse be regarded as 'ordinary heterosexual men'? Can their narratives of the abuse and their self-presentation in the interviews be regarded within a analytical framework of normalityk? And, is it possible to understand sexual ab use as a form of 'cultural over-doing' and more-of-the-usual, rather than as acts of deviance? Obviously, the answers to these questions depend on what kind of theoretical glasses you're wearing; what kind of analytical focus you explore/choose. In this paper, I

will use the study 'Encounters with men convicted of child sexual abuse' as an illustration of the importance of methodological and theoretical reflexivity in this field of research. Child sexual abuse/rs can be said to be an extremely sensitive research area, and a high degree of flexibility and reflexivity is required on the hand of the researcher. Or else s/he would risk being stuck in taken-for-grantedness and thus reproducing existing stereotypes of the abuse/rs; the main stereotype being that abusers are 'sick individuals', 'sexual deviants', 'paedophiles' who often suffered abuse in their own childhood, and thus lack empathy. As shown in my study, which has quite a different analytical focus than the traditional perpetrator-research, is based on (qualitative, obviously) conversational interviews with eleven men convicted of child sexual abuse, the informants can be understood as 'cultural agents' presenting culturally meaningful stories. Their statements, however 'brute' they can be, are not grasped out of thin air, but rather is culturally recognizable. Concepts that are central in my analysis of the interaction with the informants are: narrativ, script, discourse, and, regulatory versus constitutive norms. On the basis of my own experiences with interviewing men convicted of child sexual abuse, I have critically examined a quite large body of literature on 'child sexual abusers', 'paedophiles' etc., and I use 150 pages in the theses to present and disuss this 'perp-research'. What I found was that the majority of these studies present complicated, but yet over-simplyfied pictures of the abuse/rs. I'll tell you more about all this when I see you!

Clausen, Susanne **(DK) – An Evaluation of the Danish Victim Support Program**……...**58**
In my paper I will present some of the result from the evaluation on the Danish victim support program, which I'm working on at the moment. The Victim support program was started up in 1998 and almost every police district has a Victim support program now. The evaluation is based on questionnaires handed out to the counsellors and victims, and on interviews with counsellors, victims and the police.

du Rées, Helena **(S) - Environment, penal law and corporations**……...**67**
The use of penal legislation to protect the environment is a relatively new phenomenon. Recently, however, both in Sweden and the rest of Europe, the political focus has been directed increasingly at the use of criminal law as a means of controlling environmentally hazardous activities. A relevant question then is: Does criminal law affect the behaviour of corporations, and if so, in what way? In my paper I examine the question of whether criminal law can function as a means of controlling corporations. I discuss the mechanisms of general prevention and present some results from interviews done with hea representatives of 22 corporations.

Elonheimo, Henrik **(F) – Restorative justice theory and the Finnish mediation practices** ……**72**
The theory of restorative justice is noble indeed. Furthermore, the literature is rife with inspiring anecdotes of successful restorative ceremonies: The parties meet and experience a moving emotional shift form hostility towards empathy and co-operation. Creative win-win agreements are reached. Eventually, the parties may hug and even make friends and invite each other to have dinner, etc. In Finland, the most prominent manifestation of restorative justice is victim-offender mediation. In order to investigate to what extent the restorative ideals are in fact realized within the Finnish mediation practices, 15 cases of victim-offender mediation have been observed. The data has been gathered by law students in the city of Turku between 2001-2003. According to the data, there are many advantages to mediation: Viable agreements are reached rather quickly and at a low cost. The offenders are motivated to compensate for the damages, and the parties end up satisfied with the process. The parties get to tell their stories in their own words. The initial tension is reduced as the mediation proceeds. Rather than the state¹s retributive interests, the victim¹s rights are being promoted. However, discrepancies between the action and the theory were also revealed: It is difficult to make especially young offenders truly participate in the mediation process. Emotions are not openly conveyed. The crime itself, its moralities and its emotional aspects are left largely undiscussed, while the most attention is paid to the making of the agreement. The agreements are not very creative. The compensation tends to be solely monetary while other options are ignored. Access to the mediation as well as the mediation process depend on the attitudes of single persons. Too few and too lenient cases are being directed to the mediation. In order to more fully exploit the restorative potential in crime reduction, mediation practices need elaboration.

Flyghed, Janne & Nilsson, Anders **(S) - Locked up or locked out: The marginalisation and social exclusion of convicted offenders and the homeless**……...**78**
The initial years of the 1990s witnessed an economic crisis that was relatively major by Swedish standards, with rising unemployment and cutbacks in state welfare provision. Studies have shown that these increased levels of unemployment and the economic cutbacks led to worsening living conditions and an increase in the levels of inequality between different social groups. Groups that were already

vulnerable were harder hit by the effects of the economic crisis than others. Thus there is good reason to expect the living conditions of groups regarded as deviant, such as convicted offenders and the homeless, to have undergone a similar relative deterioration. This is made even more likely by the fact that these groups are often given a low priority, something which becomes even more noticeable in times of economic distress. An increase in the distance between these groups and the remainder of the population is also to be expected in light of an increasing intolerance for persons regarded as deviant and an individualisation of the way social problems are viewed. In the paper we try to test the hypothesis of increasing levels of exclusion and an increase in the levels of inequality between groups regarded as deviant and the remainder of the population.

Gundhus, Helene O. **(N) - Policing as risk communications**……...**89**
Contemporary policing strategies strongly rely on the use of information and communication technologies. I am working on a project exploring how the new technologies change the practical and cultural aspects of policing. The project particularly focus on the work of the crime-analysis units established at Oslo Police Department, especially the criminal intelligence division, which are using a number of information systems techniques relating to risk profiles, criminal careers, risk areas, control of communication, control of movement etc. Based on an accomplished fieldwork I will examine the unit's ICT practices, and the cultural impact of the technological change. The objective is to gain insight into how ICT is transforming the everyday police work and culture. However, the new technologically mediated policing strategies seem to be driven by a different logic than traditional policing, indicated by the term proactive policing. They are not only reacting to past criminal events, but are rather future-oriented and driven by the logic of risk minimisation. One of the objectives will therefor be to study contemporary risk discourse. It will focus on the role of risk thinking and risk communication in the everyday practice, based on a study of the content of the risk communication genres, narratives and the cultural aspects of the communicated information. The project will furthermore describe the consequences that the new ICT-intensive methods have for the police culture, organisational structure, and penal culture, as well as the ethical dilemmas that they bring up. The paper will be divided into two parts. In the first I will present a brief summary of the project I am working on. In the second I will discuss what role ICT has in the risk-based modes of thinking and acting.

Gunnlaugsson, Helgi **(I) - Criminal Victimization and Attitudes Toward Crime in Iceland**……...**93**
Criminological research often reveals a mismatch between public perceptions of crime and the reality of crime experiences and crime statistics. This study compares findings of four different crime surveys conducted in Iceland during 1989-2002. Among the issues raised in the surveys were whether respondents believed crime to be a serious problem, what their attitudes were toward criminal punishment, which type of crime they believed to be the most serious problem, what their sense of security was, and finally whether respondents had been victims of crime. The findings show a deepening crime concern over time and an increasing feeling that penalties are too lenient. At the same time, sense of personal safety did not change significantly suggesting a deepening concern with offending as a social problem rather than fear for oneself.

Holmberg, Lars **(DK) - Localized police patrol and citizen safety**……**100**
Whereas it is common knowledge among police scholars that motorized police patrol cannot be shown to influence citizens' feeling of safety in any significant way, some experiments with localized patrol in the US have shown that citizens' feeling of safety can be increased through the use of this strategy. In other experiments, however, such patrol is shown to have a negative impact on citizens' feeling of safety. Based on recent quantitative and qualitative data from a series of community policing experiments in Denmark, this paper discusses why similar police strategies may lead to different results in different places. The paper suggests that patrolling local neighbourhoods and patrolling public space in general are different tasks, and that the police should reconsider their strategies accordingly.

Hörnqvist, Magnus **(S) - Repression and empowerment in post-liberal societies**……...**105**
The paper explores some theoretical issues raised by the current management of crime and normality. In Sweden, as in many other countries, security-based policies expand alongside empowerment practices. The prison grows and so does the cognitive skills program within the prison. The private security industry grows in the same impoverished areas where the government launches high-profile city renewal policies. What does this mean? How can the parallel expansion of repressive and productive ways of exercising power be understood? Starting from a basic assumption of complementarity, the two concepts, "governing through security" and "governing through freedom", will be used to shed some light on the regulation of post-liberal societies.

Johansen, Nicolay B. **(N) – Order under extreme conditions: the street-level drug scene of Oslo** ……**110**

The increase in use of police and police-like measures to combat crime and illegal groups throughout Europe and the so called ”western world”, has prompted several questions which brings our sociological ancestors to the fore. One clear example is found in the drugscene. I will present my study of trust among drug addicts in the centre of Oslo. There is an immense pressure on this ”subculture”, from the police and other repressive institutions. The sentencing practices are severe, the police methods are extrarordinary, and officers find that they may transgress ordinary standards for human respect in encounters with people doing drugs. One should expect that the police had good opportunities to ”break up” the drugscene. The health situation in the group has been compared to that of ”underdeveloped countries”, and there is a widespread poverty. For young people in Norway (between 18 and 35), overdosis was the most frequent cause of death in 2001. The life-situation of street-level drugusers are horrible by any standard of a welfare state. And if this was not enough, people in this milieu, are famous for cheating each other. There is a lot of violence among the members, and from time to time, we hear about instances of robberies of people lying, sometimes dying in overdose. Many people feel lonely, and that they cannot trust anybody else in the group. Still the drugscene persist. The police has tried to break it up for more than 20 years. They constitute a weel directed and recourceful external threat. But not even in a situation where the internal threats are just as overwhelming, has it looked possible to ”break it up”. What is it that keeps it together? Generally the question may be formulated as a problem of order, or as an instance of the ”Hobbesian question”. This is one of the (if not the) core questions of classical sociology. The drugscene, in Oslo, as well as most other places, is an area which lends itself to empirical research of the ”eternal” questions in sociology. This study hopefully brings some light to questions of which powers repressive control are combatting. And more generally, why ”organic” society do not break up and atomize in to a heap of basic units? How come the drugscene prevail, given the internal friction and the external pressures?

Karma, Helena **(F) - Problems of Evidence in Sexual Crimes: Theory of Evidence and Discourse in the Finnish Courts**……...**116**

I am currently preparing a doctoral thesis on evidence in sexual crimes. The aim of my research is to examine the evidentiary problems of sex offences from the victim's point of view. I try to find new instruments in order to extend our understanding of the gendered nature of sexual crimes. I will outline the problems of evidence in sexual crimes in a way that also makes the victim's experience visible. I examine, whether the essential elements of sexual offences include components, which lead to difficulties in providing evidence of these crimes. I study this question mainly with the help of Finnish criminal doctrine and Anglo-American discourse on theory of evidence. I approach the doctrine of criminal law using the model by Dr. of Law Johanna Niemi-Kiesiläinen. According to the model, the woman's perspective needs to be given more importance when a sexual act and a sexual crime are defined. When speaking of sexual crimes, it has to get rid of the act-centered consideration and take into account the relationship between the victim and the perpetrator. In addition to the defendant-centered point of view, it is important to consider the interpretation of events the woman in question gives. The object of legal protection directs the interpretation of sexual crimes. Therefore it has to extend from the principle of sexual self-determination to the protection of the woman's integrity. My case-analysis is based on the presumption that dominating attitudes considering sex, sexuality and rational human beha-vior define sentences. The courts' ways of expressing themselves maintain the discourse on sexuality. Departing from this idea, I survey, what kind of attitudes towards sexuality, sexual violence and rational behavior do discourse in courts include? How do courts construct and produce a credible rape victim? Whose interpretation of events do courts take into account in evaluating the evidence? My case-analysis is based on the discourse -analysis that is realized in depth-reading technique. I try to bring out implicit truths of sentencing and there included attitudes and meanings. I have adopted the relativistic idea of knowledge. The background theory of knowledge in my research is social constructionism. It assumes that people construct their own and each other´ s identities through their everyday encounters with other people. The approach sees reality and language as intertwined. It means that facts are always transmitted to the judicial decision-making through language.

Kemppi, Sari **(F) - Fear of Crime and Violence in the Press** ……**122**

Fear of violent crime, increased drastically in Finland in the period 1988-1997. At the same time, however, the risk of victimisation remained stable. In a study conducted in the year 2002, we discussed that one of the possible variables that may have something to do with fear of crime is crime reporting in the media. The study concluded that although tabloid violence reporting did not necessarily caused the

increase of fear, both front-page violence reporting and fear of crime increased significantly and independently of real violent victimisation in Finland. (Kivivuori & al. 2002.)

***Kinnunen, Aarne* (F) - The role of penal responses to drug problems in Finland** ……**128**
One of the main goals of Finnish drug policy has been to sustain negative popular attitudes towards drugs. This was done partly by introducing a notion of blame into the criminal justice system, and partly by education and media coverage. The criminal justice system therefore became the main social response to drug problems. However, several changes took place in recent years. In 1998, the Finnish Government launched a drug strategy where a broad multidisciplinary approach was adopted, including harm reduction measures, such as needle exchange programmes and substitution treatment. The cooperation of law enforcement and social welfare and health care authorities was seen as a key factor in developing a successful drug policy. Regardless of the new broader approach to drug issues, a belief in the deterrent effect of the criminal justice system is, however, still strong in Finland. For example, drug legislation is quite literally applied in law enforcement. An amendment of the Criminal Code in 2001 gave the police and the prosecutors the right to fine drug users without taking the case to court. This obviously tightened the policy towards drug users. Before the new legislation entered into force, waiving of measures was quite extensively used. In addition, the elections of a new Parliament in March 2003 revealed the reluctance of the political parties to open up a debate, and the parties competed in declaring the importance of sentencing drug users. In this respect, Finland does not seem to follow the more pragmatic approach to drug policy, adopted by many other European countries. In this paper, the role of criminal justice responses to drug problems in Finland is discussed, focusing on the practices of law enforcement authorities, administrative processes and the perspectives in political discussion.

***Kristinsdóttir, Kristrún* (I) - The deterrence of punishment** ……**136**
Theories of legal punishment fall into two main classes. The forward looking theories, the utilitarian ones, focus on the good consequences of punishment, whereas the backward looking, retributive theories focus on responding appropriety to the offense committed. As frequently has been pointed out the utilitarian view on punishment may justify that the innocent may be punished and punishment meted out does not necessarily have to be proportionate to the guilt of the offender, the offender is treated as means to an end for the greater good of all men. If we follow those consequentialist theories we may need to focus on the deterrant effects of punishment for justification. By exploring the consequences of a change in the Icelandic Criminal Code towards harsh punishment for drug trafficking, an example of a focus on the deterrant effect of punishment as a means in the war on drugs, questions can be raised whether this view is effective when it comes to cross-border crimes.

***Kruize, Peter* (DK) - Non-prosecution in Denmark: A sociological analysis of waiving and withdrawing criminal charges – Initial findings**……**144**
Danish criminal procedure allows prosecutors to decide whether or not to proceed with criminal cases, i.e., the expediency principle. This paper describes and analyses cases of non-prosecution. Special attention is paid to the procedures by which suspects become officially charged, and to the reasons why charges may be waived or withdrawn. National statistics indicate the overall frequency of relevant cases in Denmark. The empirical analysis of the context in which such decisions are made is conducted with data from two police districts.

***Kvist, Camilla* (DK) - Knowledge and the Policing of Social (Dis)Order: Pre-fieldwork Notes on a Study of Criminal Investigation within the Danish Police** ……**154**
The paper springs from a study of criminal investigation as 'knowledge praxis' aimed at exploring how knowledge is generated and practised within the field of criminal investigation in Denmark. The aim of the study is to elicit which factors condition the process and how these influence and structure criminal investigation as a specialized field of knowledge. The paper explores different theoretical perspectives on the concept and praxis of criminal investigation as a means of policing social (dis)order, prior to a years fieldwork with 'kriminalpolitiet'. Some preliminary findings based on smaller fieldwork within a projectbased organisation based on the subject of criminal investigation within the Danish police will be presented.

***Laitinen, Pirjo* (F) - Female offenders and interpersonal violence**……...**165**
The aim of my research is to explore the level and the quality of crimes of violence, homicides and assault, women in Lapland in Finland have committed, especially acts of violence directed to the members of the family, partners or children as victims. The data of research consists of official documents and analyses controlling and defining powers of different discourses of authorities. As research data will be

used crime statistics, police reports, court resolutions and forensic psychiatric evaluations and statements. The research combines statistical methods used in criminological research and qualitative methods used in the field of the anthropology of law. The statistical research concentrates on the changes of the violent crimes committed by women in Lapland. The qualitative methods will be used in the analyses of the police reports and forensic psychiatric evaluations. The practices of violence encounters are reconstructed from the written material. Special attention will be given to the place and time of the crime, means of the crime, the history of the intimate relationship and family relations. Other themes which are explored include the representations of violent women as mothers and wives. Are violent women represented by authorities, psychiatrists or police as victims or as perpetra-tors? Are violent women defined through their relationships with men? How is the category victim/ perpetrator feminized/masculinized in case of the violent woman? How is the violent women's body constructed and defined and how is the control/loss of control of sexuality discussed? Future plans for developing more gender- and culture-sensitive approaches in the area of the criminal law and legislation is also discussed in the research.

***Lilja, My* (S) - The representation of drugs in Russian newspapers** ……...**170**
The representation of drugs in Russian newspapers This paper is a part of a dissertation in Criminology. The general aim of the dissertation is to look at how different actors in Russia construct the drug issue, with a particular emphasis on NGOs (non-governmental interest organisations), media and politicians. The dissertation will be based on a social constructivist perspective. According to this perspective a phenomenon becomes a social problem when it is defined as such by different actors in society, e.g., politicians, scientists, interest organisations or the mass media. In Western Europe and the United States many social problems have been brought to public awareness by representatives of non-governmental interest organisations or the mass media. However, in Russia NGOs and independent media are new phenomena because they were not allowed during the Soviet period. The paper presented at the ESC conference examines how the drug problem is constructed in Russian newspapers. The analysis involves three daily newspapers and one weekly paper. The period will cover a sample of three years, 1996, 1999 and 2002. Particular attention will be paid to drug policy tendencies, causes and solutions to the drug problem, how drug punishment or treatment is discussed, and the sources to which reference is made.

***Mallén, Agneta* (S) - Fear of Crime, Trust and Insulation from Crime in a Rural Community in South-western Finland**……...**173**
Trust and risk are seen as concepts typical for the late modern community. According to Giddens (1991), trust originated in the tradional community through kinship, local community or religious belief. According to Gellner (1989), trust and social cohesion do not exist in urban communities, as trust would be a phenomenon typical for a Gemeinschaft-, or pre-modern community. Yet, without trust, modern life – especially modern economic life – could not flourish (Fukuyama 1996).Trust is also often studied in relation to fear of crime. In some research, fear of crime is explained as fear of, or lack of trust with, strangers. Also, if people feel insulated from occurring crimes, they probably will not be fearful of crime. The degree of insulation comes from knowing and trusting the people with whom you interact (Garofalo 1994). Today, the task of insulating people from crime is mostly exercised by official government agencies, especially the police. Nelken (1994) has studied trust related to white-collar criminality. In his study, Nelken points out four important questions considering trust in criminological research. First, Whom can you trust, second, how do you trust, third, how much can you trust, and fourth, when can you trust. These questions can be used also in other empirical studies of trust. The relation that people have with crime, victimization and fear of crime seem to be mediated by their relationship with their local community and their structural position in that community (Walklate 1998). Understanding the nature of these relationships suggests the question of trust is of greater value in highlighting who is and who is not afraid of crime.This paper studies trust in a contemporary, rural community. I will look at different aspects of trust and fear of crime in eight municipalities in the Åboland area. Geographically, this area consists of the Swedish-speaking areas in the South-Western archipelago of Finland. Of the municipalities in the Åboland area, Dragsfjärd, Houtskär, Iniö, Korpo and Nagu, are outer archipelago and Pargas, Västanfjärd and Kimito inner archipelago. Having Nelken's four questions as my point of departure, I will discuss the pattern of trust in the Åboland area.

***Melander, Sakari* (F) - Principles of criminalisation and European criminal law** ……**187**
Criminal policy and criminal law are becoming more and more "Europeanised". Today several actions in the field of the criminal legislation arise from nationally conclusive international legal instruments. These instruments are often products of law drafting in the European Union, e.g. the Council's framework decision on combating terrorism. This means that it is no longer possible to define the limits of the criminal law on purely national basis. Traditionally in Finland the limits of the criminal law have been

discussed within the research concerning the principles of criminalization (e.g. (i) the principle of protecting interests (Rechtsgut), (ii) the ultima ratio-principle and (iii) the principle of weighing harms and benefits of criminalization). Nowadays also the fundamental rights have a strong effect on the research concerning the fundamental values and justification of the criminal law system. However the situation has changed after the so-called "Europeanisation" of the criminal law. The traditional principles of criminalization have to face a different situation where the role of these principles is somewhat unclear. In my paper I will examine the role of these principles in this changed situation. I will also discuss the possibility of the "criminalisation principle-like principles" that could be derived from the European law.

***Mikkonen, Tanja* (F) - Family violence - a human rights issue?** ……**195**
This paper focuses on violence against women as a human right violation. In the traditional notion family violence hasn´t been understood as a human right problem. Traditionally human rights have protected individuals from power exercised by the state and violence between individuals haven´t been included in the human rigts area. In the last few years the attitudes have changed, and it has been pointed out that violence against women has to be recognized as a human rights issue in order to be reported, prosecuted, condemened and remedied. Basically this means that the international human rights convention and declarations concerning the matter requires that the state actively interviens if violence occurs in the family. This means also that the state has to take legislative measures to improve the situation of the victims. My interest focuses on the basic international legal documents that conducts the state actions on the matter.

***Nyborg Lauritsen, Annemette* (GR) - The Most Dangerous Men of Greenland**……...**199**
The Criminal Law of Greenland is called the most modern and humane law in the world. Principles of bringing the culprit back to normal life in the Greenlandic society is central for the law. In some cases though this humane law turns out to have very difficult identical consequences to the affected: Those criminals who are described as "The Most Dangerous men of Greenland", and for whome the prize of this law is deportation from Greenland to a prison in Denmark. The current paper focuses on qualitative research with prisoners and ex-prisoners from Greenland who have served a sentence in a prison in Denmark to discuss the identical consequences for staying in Denmark during their sentence - and the possibilities for resocialization back to the Greenlandic society.

Ohisalo, Jussi (F) - Argumetation in the criminal process: the case of economic crime……**203**
Traditionally, the study of the criminal procedure has limited the scope of its interest to the study of the norms that govern the conduct of the procedure. One could say that this type of research is the study of the framework of the criminal process. In addition, the interpretation and application of norms of the material criminal law is typically considered if not a mechanical task, at least one which can take place in abstracto, without regard to the context in which it takes place. Moreover, the study of these fields has traditionally been separate, at least this has been the case in Finland. However, due to the changes in the nature of some fields of the material criminal law and also developments in the structure of the process (of which the reform of 1997 toward a fully adversarial process is an example), a new approach is, in my opinion, needed. There is a real need to consider the criminal justice system as a whole, without the artificial division between the material and the procedural with all its undesirable repercussions. One way this might be achieved is to study the interaction between the structure of the process and the material criminal law not in abstracto but as it is manifested in the argumentation within the process. For this purpose the object of study has to be defined as the human activity that takes place within the context of the process, not as black-letter abstractions somewhere "out there".Without this type of approach there is in my view a danger of lack of transparency in the criminal process. Without tools with which we can examine the development of argumentation in the process it is impossible to set standards on the functions of the different actors. And without such standards the way in which the police, prosecution, defense attorneys and judges actually carry out their work is surrounded by an air of secret craftmanship that can not be controlled from "the outside". The paper sets out some rough, tentative ideas as to how such research might be carried out. It is partly based on interview data obtained in connection with a small study on the Finnish criminal process in cases of economic crime and aims to assess the possibilities of certain influential currents in argumentation theory.

***Olaussen, Leif Petter* (N) - Confidence in the courts among Norwegians**……**208**
People's confidence in the Norwegian court system is fairly high. For more than one hundred years lay people have had a strong position in courts handling criminal cases. The first question to be addressed is whether the participation of lay people as judges in criminal cases increases or decreases people's confidence. Secondly: During the last ten years the level of confidence in courts seem to have diminished,

or people have become more reluctant to give the highest confidence score to the courts. It will be argued that this change in confidence is only partly connected to the court system. Reduced confidence in courts among people is reflecting a more general feeling of estrangement between people and central political institutions in the Norwegian society.

***Olsen, Hilgunn* (N) - Self help group - Crime- and drugproblems** ……**216**
STIFTELSEN LIVET ETTER SONING (L.E.S.) • Aim: to support people that is coming out of the prison, so that they can get the chance to make a change in their lives. The goal is that earlier prisoners can live a life without drugs and crimes, and be well integrated in the society. • The organisation consists mainly of people that have a background from prisons and drug abuse. Volunteers will do most of the job. In that sense it can be called a self help organisation. Questions that will be discussed: - Is it really possible to run a self help organisation for this group? - Isn't the idea a contradiction to earlier ideas of rehabilitation for drug abuse and criminality? The common idea is that if criminals mingle with other criminals, it can be a factor that leads them to be more criminal. Also in the drug rehabilitation system, the advice clients are given is to stay away from other with the same problems.

***Pettersson, Lotta* (S) – The men of freedom–The efforts to fight organized, transnational crimes in the European Union and some men convicted of smuggling of alcohol and tobacco**……**220**
According to statistics from the Swedish customs, seizures of alcohol and tobacco have increased since the middle of the 1990's. It has been claimed that this increase is actual, possibly as a result of structural changes (for instance reduced control at the borders) due to Sweden's membership in the European Union. For individual's who engage in the road haulage industry, the changes in their ordinary work-life were noticeable in terms of the reduced time spent at the border controls. However, at times when the large scale alcohol and tobacco-smuggling is revealed, a lorry is often involved as a means for the transportation. Smuggling of this sort of goods is, for different reasons, at times associated with so called organized criminality. The smuggling phenomenon is in it self nothing new. The liveliness of the related (political) discussion, on the other hand, may well be. The paper is based on interviews with individuals convicted for smuggling, aiming to explore economic crimes, from an actor-perspective within the industry. The interviewees' therefore had a work-related role in the road haulage industry. In the paper I intend to contextualize smuggling from the interviewees' perspective.

***Pettersson, Tove* (S) - Conceptions of girls and boys as perpetrators of acts of violence**……...**224**
The study proceed from a gender theoretical perspective. In short, gender is considered as something that is constructed in relation to others. This means that the focus for the construction of gender is not individual in the first instance, but rather interactional. Doing gender is primarily a question of doing difference between girls and boys, and between women and men, and this is done in a social context. At the same time, this gender activity reproduces and reinforces the structures within which individuals act. This continuous gender activity takes place within systems of relations and also within a structural context. The data consists of four focus group interviews with youths aged fifteen to sixteen. The study provides an interpretation of how young people in groups construct their understanding of girls and boys as the perpetrators of violent acts. The objective was to examine whether the youngsters' descriptions of perpetrators may be interpreted as indicating that violence constitutes a resource for the construction of gender, and if so in what ways. The objective further included the youths' descriptions to attempt to work out the way they themselves construct gender. I employed the concepts reproduction and opposition. The term reproduction refers to descriptions that reproduce conceptions of differences between what is considered feminine and masculine, and/or subordination/disparagement of the feminine. The term active opposition on the other hand relates to the adoption of positions that are expressly opposed to conceptions of the kind just described. The term opposition refers to descriptions that contradict the above described conceptions of difference and subordination, but where the statement in question does not involve an express articulation of opposition against these conceptions. The result shows that violence tend to be a resource for doing gender for boys but hardly for girls. An examination of the interviews using the categories reproduction, opposition and active opposition, indicates that reproduction constitutes the most commonly occurring category of descriptions. There were however a number of interesting examples of active opposition. Examples of opposition, on the other hand, were more or less completely absent. This means that the descriptions of perpetrators are characterised either by a differentiation between girls and boys and with girls as subordinate, or by resistance to this differentiation and subordination. The discussions may therefore be said to have been characterised by thoughts on differences, even if the individuals interviewed sometimes opposed such differences.

***Poppel, Mariekathrine* (GR) - Domestic violence-violence against women** ……**245**
The number of reports to the police concerning the Criminal Law in 2001 amounted to 5.575 of which 772 were related to violence (the total population is 56.500). This is the highest number of incidents ever reported in a single year. In 2000 the head of the prosecution initiated a special investigation into violence. The impact of the investigation was that three categories of level of sanctions were initiated: 1. Serious violence or brutal violence with injuries, maltreatment, violence against children, accidental street violence imposes an imprisonment order. 2. To violence at restaurants, domestic violence, violence at work and accidental violence related to conflicts, the level of sanctions has been raised to rehabilitation judgement or a suspended sentence and fine. 3.In case of extenuating circumstances and in case of level less servere violence a fine of first offence was imposes. The prosecution has firther had the aim to shorten the time of preparing the cases witnin 30 days. As a part of my PhD project on Domestic violence - violence against women I have been allowed to access to the police reports. Among the 772 reports I have selected 28 reports on men´s violence against women for further analyses. My presentation will contain preliminary results from the analyses.

***Renland, Astrid* (N) - Her mistress' voice** ……**253**
In this paper I will describe the organization of prostitutes interest organization in the Nordic Countries. Traditionally, giving role either as deviant or the ultimate victim of patriarchal society, women in prostitution have been excluded from the public discourse. On the basis of this description the paper will focus on how the formation of the prostitute's interest organization has to be understood as a response to a progressively worse and more repressive regulation of prostitution in Western Societies. But, also as a mean to increase empowerment, and work against the marginalizing of women within the prostitution in the society.

***Saemundsdottir, Margret* (I) - A comparison between offenders serving community service depending on type of sentence**……**257**
Community service was first implemented in Iceland in 1995. Unlike many other countries it is the Prison and Probation Administration (PPA) not the courts who decide if offenders are suitable to serve community service instead of imprisonment, after they have been sentenced (max. six months). I am currently working on quantitative research of those who have served community service in Iceland from January to July 2003. The main emphasis will be on the time period after the year 2000 when a new Act was passed which allows persons who are sentenced to pay a fine to apply for community service as an alternative to imprisonment. The research is based on comparison between two groups: Group A is serving community service instead of a prison term and Group B is serving community service instead of paying a fine. Questionnaires have been handed out to these two groups. It is expected that approximately 300 persons will serve community service this year which will mean a 10% increase from last year (incl. both groups) The aim is to examine how they perceive and evaluate the community service. For example, how seriously do these two groups take the community service? Is a persons experience of community service different depending on how he/she came about serving it, - Group A vs Group B? Do both groups experience it as a form of punishment? Does community service have a rehabilitative effect? The paper will be classified into two parts. Firstly, brief explanation how the community service is performed in Iceland will be carried out and secondly, the above mentioned research will be introduced as well as the result.

***Skardhamar, Torbjørn* (N) - New Start in Working Life – Strategies for Inclusion**……..**264**
Many people with criminal records have problems finding and keeping a job. The prison population consists of people with poor occupational skills, who often are unemployed on entering prison, and many have a history of homelessness, drug addition and mental health problems. People who have spent time in prison face a variety of problems after release. Lack of supportive network and lack of decent housing are severe obstacles for many ex-offenders seeking employment. The pilot project called "New Start in Working Life" was implemented in 1999 and is a cooperation between the Prison and Probation Department and the Directorate of Labour. Prior to the start of the project the employment offices had no systematic recruitment from prisons and no special attention to the needs and problems of the prison population group. During the project, Labour marked schemes offering Supported Employment and Preparatory job training developed "tailored" vocational rehabilitation services for the target group. Participants who previously had fulfilled cognitive skills training programs in prison, were offered vocational training combined with elements of these cognitive skills courses in certain labour marked-schemes. The Employment Service also established a regular service at the prisons to help inmates prepare and apply for job at release. This service includes i.e. information about vacant positions - and help to obtain them, decisions about economic support, and counselling with regard to occupations,

education and labour market schemes. Nine local employment officers have been working with providing these kinds of services to prisoners before and after release. The pilot project lasted until the end of 2002 and the Work Research Institute (AFI) has conducted a formative evaluation throughout the project period. Both actual evaluation results and theoretical perspectives will be addressed in the paper.

Skilbrei, May-Len **(N) - Nordic Prostitution Control** ……**266**
During a two year post-doc-scholarship, I will compare discussions on prostitution control in media and political bodies in Denmark, Norway and Sweden. A few years ago, the legal position of prostitution was almost identical in Denmark, Norway and Sweden. In 1999 the clients of prostitutes were penalized in Sweden. The same year the Danes removed a paragraph which could be utilised in prostitution. Norway made no such changes. I am interested in the debates on prostitution control which took place in all three countries in that period, beforehand and after. The question I ask is what the differences and similarities are between these countries and the debates. I will attempt to systematize and analyse the use of different arguments and references in these debates: What seems to be the underlying assumptions about prostitution? What is said to be the reason? Which words are used? What problems seem relevant in the discussions? I wish to link this to theoretical discussions of control, gender, social class and ethnicity. The project has just started, but by the time of the conference, I will be able to present preliminary results and analysis.

Skrinjar, Monica **(S) - Male Drug Users** ……**268**
This presentation examines the extent to which negotiations about guilt and responsibility occur during qualitative interviews with drug users, and how they are involved in their identity constructions. The data are from a project on drug use among socially marginalized groups, where 22 drug users (eight women and 14 men) were interviewed about their current life situations, and their views of drug use and abuse. Repeated interviews were conducted with the informants who form a heterogeneous group both in relation to drug use and life situation. I focus on a small number of interviewees and analyse the occurences of excuses and justifications in their narratives and presentations of themselves. My point of departure is that the interviewer is not a neutral reciever of information but an active participant in the identity constructions. I will discuss questions about how the interviewees´ need for justifying and/or excusing themselves in the interviews can be interpreted and understood.

Smolej, Mirka **(F) - Crime in the Media and Fear of Crime** ……**271**
The discussion concerning media violence has been lately fairly intense in Finland both in the public sphere but also among the social science and media research arena. The discussion has been concentrating particularly on the contents of fictional media violence and their effects on adolescents and teenagers. The contents and consequences of violence in the news media have been studied in a lesser degree. However, there is some scientific evidence that violent content in the news may influence estimates about prevalence of crime, shape attitudes concerning criminal policy and even strengthen fear of crime. My personal interest concerning this topic is directed towards television programmes that mix serious and entertaining elements in their crime reports. These kind of shows are often referred as Reality-TV. The official goal of these crime shows is usually to help the police in solving crimes. Nevertheless it's probable that these shows also serve other purposes for the viewing audience. In my forthcoming research I intend to approach the meanings and views that a given to reality-based crime shows by investigating the perceptions and interpretations among different audiences. Do people perceive this kind of material purely as entertainment or do they consider these kinds of crime programmes as reflecting "reality" or actual crime trends? What implications might these different constructions on media crime material have on estimates about prevalence and features of crime or on feelings of personal security and fear of crime?

Sorensen, David **(DK) - Do Anti-Victimization Programs Generalize Across Borders?**
Prospects for a Danish Experiment in Burglary Reduction ……**275**
The initial design of any crime prevention program requires answers to two questions: what to do, and whom to do it to. Research concerning the proportion of overall crime attributable to repeat victimization suggests that cost-effective prevention can be accomplished through a focus on prior victims. This approach has become an integral part of crime prevention in the UK, where a handful of well-conducted evaluations suggest its effectiveness. Nonetheless, it remains unclear whether repeat victimization is a generic, global phenomenon, or one that varies significantly across nations. The current paper focuses on the prospects for a Danish experiment in burglary reduction via repeat victimization approaches.

***Stecher, Jesper* (DK) - Computer Crime - is it a problem?**.....**284**
Politicians, police and others claim computer crime is a major problem - a severe problem that legislation should deal with accordingly. The paper tries to look at and debate the matter on a meta-level.

***Stevens, Hanne* (DK) - Evaluation of Youth-contracts** **291**
The paper focuses on an evaluation of the treatment effect of a new Danish youth sanction, called Youth-contracts. The youth-contracts, which were introduced in 1998, aim at (amongst other things) reducing recidivism amongst young offenders. The study, which is based on data from the Danish Central Crime Registry and using survival-analysis, seeks to determine to which degree this new sanction has in fact reduced recidivism. I will present the main results of this study and discuss methodological problems and advantages connected to the choice of method.

***Storgaard, Anette* (DK) - Treatment of drug addiction in prisons**.....**296**
Drug addicts is one of the groups of prisoners which is offered special treatment programmes during the time in prison. This rises new challenges for the prisons. For example: How to cooperate with private treatment institutions? How to cooperate with the social system which has the responsibility for the treatment when the prisoner comes out? How to convince the prison-staff that they have to accept new colleagues? Furthermore there is an informal and not precisely defined expectation that treatment reduces criminal recidivism. 5 years of experience in 1 prison will be presented and some items, problems and "results" will be highlighted.

***Svensson, Kerstin* (S) - Who needs victim support?**.....**300**
To be in need or to manage is a question open for negotiation. The concept of need is depending on the interpretation of the one who defines it. When a person is a victim of crime, her needs' can be defined from many different perspectives. Organisations for victim support are becoming more and more established. These organisations are founded on ideas of "need", the organisations are "needed" because no one else gives the support that the victim "needs". Which are then the societal needs that create a space for this kind of organisations and how do the persons involved regard the needs of the victims? I will present results from a study of the Swedish victim support organisation. First, I will discuss the role of the organisation in the Swedish welfare state. The main focus in my presentation will though be the volunteers in this organisation. With data from interviews with volunteers, employees and supported victims as well as data from a vignette study I will discuss the idea of the ideal victim as it is presented within the organisation. This way, I elucidate how the needing victim is constructed and understood in the victim support organisation and partly also how the need of this voluntary organisation can be understood in the frame of the welfare state.

***Thorisdottir, Rannveig* (I) - Perception of safety and crime in the neighborhood** **307**
Fear of crime is a complicated phenomenon, influenced both by individual and societal factors. Women and those who are older are more likely to report fear of crime than male and those who are younger. Environmental factors such as homogeneity, social bonds and stability of the neighborhood is linked to fear of crime. Perception of the environment and primary and secondary knowledge of crime has also been found to influence fear of crime. To look closer at the impact of the environment, fear of crime is compared between neighborhoods in the district of the Reykjavik police in Iceland. Data from a crime victim survey conducted in Reykjavik in June of 2000 is analyzed as well as police data from the same period. Relation between fear of crime, actual experience of crime and the crime rate in the neighborhood is measured, as well as the impact of visual signs of crime or declination of neighborhoods on fear of crime. The question raised is whether crimes such as vandalism and public drinking have more effect on fear of crime than crimes that are less likely to be visible by the general public.

***Virtanen, Timo* (F) - Drug-free Units in the Treatment of Drug Abuse as Experienced by Prison Inmates** **311**
The aim of the present study was to examine, from an inmate perspective, treatment effects at prison drug-free units in Finland. Design of the study was a survey, presented to the respondents as an anonymous, self-administered questionnaire. The results suggest that drug-free units offer a supportive environment for those individuals that wish to abstain from drug use. Moreover, the respondents were satisfied with the program of the drug free unit when it offered practical skills as physical activities and food preparing. In particular, positive treatment experiences were related to the 12 Step Program which may show that within this program drug problems among prisoners are treated effectively and without provoking guiltiness among prisoners.

TRAFFICKING IN WOMEN AND CHILDREN IN EUROPE

Aromaa, Kauko & Lehti, Martti

Concerning trafficking in women and children, Europe is divided into two parts: the member countries of the European Union serve as a destination area, and Eastern Central Europe, the Balkans and the CIS-countries as source and transit areas. Illegal immigration as a whole has six main routes to and inside Europe: 1) from Moscow through Lithuania, Poland and/or the Czech Republic to Germany and Austria; 2) from Ukraine through Slovakia, Hungary, the Czech Republic and/or Poland to Austria and Germany; 3) from the Middle East and Turkey to Greece and Italy; 4) from North Africa to Spain and Italy; 5) from Turkey through the Balkans to Italy and Austria, and 6) from South and Central America to Portugal and Spain. These routes also serve as the main routes of trafficking in human beings (NCIS UK, 34).

A. Trafficking in women and children for sexual exploitation

1. Overview

In Europe, the trafficking in women and children is dominated by trafficking connected with prostitution and other forms of sexual exploitation. A recent study shows that more than 80 percent of the victims from South-Eastern Europe (one of the main source areas) end up as prostitutes, and about 10 percent as suppliers of other erotic services. Approximately 10 to 30 percent of the victims are under 18 years of age; mostly 15-18-year-old girls, but also younger children are involved (Hajdinjak 2002, 51; Omelaniuk 2002).

Precise information on the volume and turnover of the crime is not available. This is mainly due to the following:

1) The absence of comparable statistics on reported crimes, indictments and court cases, as well as on the number of victims involved (on the whole, national statistics indicating the number of victims in reported crimes are available only in a few European countries);

2) The heterogeneous criminalisation of the crime of trafficking in women in the national legislation of European countries;

3) The characteristics of trafficking (as organised transnational crime), which result in a high dark figure and make trafficking hard to control and to prevent;

4) The poor legal status of the victims in the legislation of the European countries, which makes them unwilling to report the crimes or to co-operate with the authorities during investigation and court proceedings;

5) The heterogeneous use of the concept of trafficking in women in both international and national contexts.[1] This is partly due to the heterogeneous national legislation in

[1] The term trafficking is used in this report as defined in the UN Palermo Protocol on Trafficking in 2000: ”Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of position

Europe, and partly to the different ideological and moral attitudes to prostitution. At its largest, trafficking in women is understood to include all (international) female prostitution, and at most limited, only certain crimes against personal freedom criminalised in national legislation.

Hence the current extent of trafficking in women in Europe is subject to rough estimates, and in most cases it is unclear how these estimates have been reached. Furthermore, due to some of the definitional grey areas involved, very accurate estimates would be impossible to make even in theory.

As far as the whole continent is concerned, the Swedish NGO Kvinna till kvinna estimates that every year approximately 500,000 women and children are trafficked for sexual exploitation to the European Union member countries. According to the latest estimate of IOM, the volume of trafficking to the European Union from and through the Balkans is 120,000 women and children a year, and from the whole of Eastern Europe about 200,000 women and children. In addition to the trafficking directed at the European Union, trafficking in women and children for sexual exploitation is common also to, in and between the countries outside the EU, as well as from Europe to other continents (North America, the Middle East, Japan and Southeast Asia). Estimates of the extent of this activity are even more vague than those of trafficking to the EU, but the volume is probably smaller. According to the latest estimate by the US Drug Enforcement Administration (DEA), the annual volume of all forms of trafficking in women and children all over the world **is** 500,000 victims, of whom 200,000 go through the Balkans. According to the US State Department, the corresponding figure is 700,000. All the above mentioned estimates must be considered as indicative only, for there are no exact data (and, for definitional problems, it is doubtful if such data will ever exist) on the actual volume of trafficking in women either in Europe or on other continents (Hajdinjak 2002, 51; Laczko etc. 2002, 4; Organised crime situation report 2001, 41; fpmail.friends-partners.org; www.janes.com; www1.umn.edu/humanrts/usdocs).

It is, however, evident that in Europe, the volume of trafficking has increased rapidly over the last ten years. Two plausible explanations are to be found: Firstly, the demand for prostitution and other sexual services has increased in Western Europe. Secondly, the former Socialist countries in Eastern Europe with their current economic and social problems form a source area from which trafficking in humans to Western Europe can be organised far more easily and more economically than from the old source areas (Southeast Asia, West Africa and Latin America). Estimates of the yearly turn-over of the crime vary from 100 million euros to several billion euros (Hajdinjak 2002, 51; Organised crime situation report 2001, 41; fpmail.friends-partners.org).

The majority of the victims of trafficking come from Albania, Lithuania, Moldavia, Romania, Russia and Ukraine. Of the victims of coerced prostitution assisted by IOM over the last few years, about half have been Moldovians, one-fourth Romanians, and one-tenth Ukrainians. Trafficking in women to Europe from other continents is most common in the Mediterranean countries and in Western Europe. The main source areas are Southeast Asia (Thailand), Latin America (Columbia, Brazil, and the Dominican Republic) and North and West Africa (Morocco, Nigeria and Sierra Leone). According to Europol**,** the extent of this trade has remained about the same over the last decade. The increase in the total volume of trafficking in women in Europe thus originates from Eastern Europe (Organised crime situation report 2001, 41; fpmail.friends-partners.org).

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of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.

2. The characteristics of trafficking in women and children for prostitution in Europe

On average, the victims of trafficking for prostitution in Europe are not only from the economically most depressed, and socially and politically most unstable areas of the continent, but also belong to the most disadvantaged social and ethnic groups of those areas. They are usually also very young: teenagers, or in their early twenties. When seeking better opportunities in life, they fall easy prey to criminals promising good jobs and high wages abroad. For the criminals and organised crime groups, trafficking offers an opportunity to make very high profits with minimal risk and low capital requirements.

Trafficking operations are usually carried out in co-operation by several, relatively small local criminal groups. This makes the activity both flexible and difficult to prevent, since the elimination of one group does not usually affect the activity of the whole network: the missing link will only be replaced by another (NCIS UK, 34-36).

The relations between the groups are normally pure business relations, and each groups can act in several networks simultaneously. The women are transported either directly to the ultimate destination country, and engaged in prostitution after arrival, or they are moved in stages, in which case they are exploited at each stage. The first method is common in trafficking from the Baltic countries and Russia to Western Europe, and the co-operation between the recruiters, transporters and exploiters is usually close. The latter method, on the other hand, is frequently used in the trafficking through and from the Balkans; the co-operation networks are loose and change from operation to operation (NCIS UK, 34-36).

The victims are recruited in the source countries through newspaper and Internet advertisements, by individual recruiters (often female), or by front agencies offering legal or illegal employment opportunities in the EU member countries as, for example, maids, nannies, waitresses, models, striptease-dancers or cleaning women. Some of the women are recruited knowingly into prostitution, but even in their case the conditions of their employment often differ from what has been agreed. In the actual trafficking, the recent trend, at least in the Baltic countries, has been towards personal recruiting instead of general advertising. In some countries, women are also recruited by abduction; from Albania and Kosovo, there are even reports on families selling their daughters to traffickers (Hajdinjak 2002, 51; NCIS UK, 35; Sipaviciene 2002, 14).

Once recruited, the victims are controlled during the transport and in the destination countries by a variety of means, but violence (implied and actual) is common and ever-present. There are more and more reported cases of extreme forms of coercion, assaults, rapes and even homicides. Especially the trafficking from and through the Balkans is reported to be exceptionally violent by nature, and the invasion of the Balkan groups on the West European prostitution market has had a brutalising effect on the working methods also outside the Balkans. A common trend of the last few years has been the increasing use of forced addiction of women to hard drugs, which ties the victims to the traffickers in a very effective manner. This method is especially popular among those traffickers who are also involved in the drug trade, and in Finland, for example, where foreign prostitution is mainly mobile, prostitutes are regularly used as drug smugglers/couriers and dealers. In most European countries, the groups trafficking women are usually also involved in other forms of trafficking and smuggling (Laczko etc. 2002, 15; Lehti & Aromaa 2002, 87-92; NCIS UK, 35, 38-39).

The traffickers also exploit the economic, social and cultural vulnerabilities of the victims. Debt is one of the most common means of control. The women usually agree to pay their travelling and recruiting expenses from the future earnings. This debt is passed from one trafficker to the next until it ends up in the hands of the exploiter in the destination country. Together with the inflated housing and living expenses charged from the victims, the debt soon becomes impossible to handle. The earnings of the victims are then directed at the pockets of the exploiters, and the women become totally dependent on their abusers because they have no financial means to escape. It is also normal to confiscate the passports and other

identity documents of the victims, and to threaten them with local authorities, deportation and detention. The effectiveness of the threats is increased by the fact that they are often at least partly real: in most European countries, it is almost impossible for the victims to avoid immediate deportation, and that effectively prevents the women from approaching the authorities even in the most aggravated cases of abuse (NCIS UK, 36).

B. Other forms of trafficking in women and children

As mentioned above, presently 80-90 percent of the trafficking in women and children in and to Europe is serving organised prostitution and other forms of sexual exploitation. As far as the other forms of trafficking in human beings is concerned, the lack of information, and the confusion of concepts are even greater than in the case of trafficking for sexual exploitation (Forced Labour 2002; Omelaniuk 2002).

Trafficking in women and children for forced or slave labour seems to be fairly rare in the EU member countries, even if the recruiting of employees for, for example, hotel and catering business and of domestic servants and nannies from the Balkans and the Baltic countries sometimes meets the criteria. In several European countries, the staff of a few African and Asian embassies have caused problems by trafficking domestic servants from their home countries to work for their employees in conditions resembling slave labour. Trafficking for industrial work is found in Italy, for example, where 30,000 foreign children (mostly from China) are estimated to work in small-scale clothing and other industry in conditions similar to slave labour. In Greece, some 3,000 children, mostly Albanians, are estimated to work in corresponding conditions as window cleaners and in other similar occupations. On a larger scale, children are trafficked and made to work for organised crime in begging rings, or as pickpockets and thieves. This practice is exercised in the whole of Europe; the victims usually come from Eastern Europe, and the proportion of Roma is considerable (www.globalmarch.org).

The evidence of trafficking connected with the international trade in human organs is almost non-existent in Europe. It is true that in Russia, for example, there are rumours and allegations of kidnapping street and orphanage children for this purpose. However, the only known case is from the year 2000, when a Muscovite grandmother sold her grandchild for 90,000 USD to police officers, acting as traffickers, to be used in organ trade. Since the events of this case were triggered by a trap laid by undercover police, its value as evidence is questionable. As far as is known, other cases with concrete evidence of this kind of trade have not been reported from Europe in the last few years (www.globalmarch.org).

Apart from trafficking for prostitution, the most important forms of trafficking in humans in Europe are at present the illegal trade of children for adoption, and the trafficking in workers for the shadow labour market existing between the legal market and slave labour.

The source areas of trafficking in children for illegal adoption to Western Europe are the Eastern European countries and the third world countries. In addition, children are trafficked from Eastern Europe to industrial countries outside Europe, especially to North America. There are no estimates available on the extent of the trade (www.globalmarch.org).

Trafficking in workers for the shadow labour market serves mainly the recruiting of seasonal labour force for agriculture. In addition, there is demand for such labour force in the construction industry and other business sectors where large numbers of unskilled workers are employed, the turnover of labour is high, and the official control weak. The destination for grey labour in Europe are the EU member countries, whereas the Balkans and the Eastern European countries serve as source areas. Workforce is smuggled into the European Union also from outside Europe, especially from North Africa as well as East and South Asia; one of the primary individual source countries is China. If the smuggled employees are minors, this kind of activity must always be regarded as trafficking. The Palermo Protocol on Trafficking states quite explicitly that the recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation is to be considered as trafficking in persons, regardless of whether coercion and deception are involved. In the case of adults, it is somewhat more difficult to determine if the terms of recruitment, employment and working

meet the criteria of trafficking in humans. When compared with the legal labour market, the terms and conditions employed on the shadow market are generally considerably worse, and various malpractices are common. On the other hand, the workers usually know this already when they are recruited and make the contract with the traffickers more or less voluntarily; it seems that in many cases, the immigrants rather tolerate working conditions that resemble forced labour, than the impoverished freedom in their home countries. In spite of this, there can be no justification for any forms of forced labour, and both the governments and civil society groups should show more political will in order to tackle the problem. The majority of the grey labour force smuggled into Europe are men; women are mostly recruited to the hotel and catering sector, or work as domestic servants. There are no estimates available on the volume of the trade (Forced Labour 2002, 5; Plant 2002).

C. Prevention, crime control, and witness protection legislation

The main reason behind the rapid increase in trafficking in women and children in Europe after the collapse of the Iron Curtain at the beginning of the 1990s is the deep difference in the standard of living between the Western European countries and the former Socialist countries. It is not a coincidence that four of the most important source countries for the trafficking (Albania, Moldavia, Romania and Ukraine) are also the poorest countries in the continent, one (Lithuania) is the poorest country in the Baltic Sea area, and that in Russia (sixth most important source country), there are large areas where the standard of living is exceptionally low and the social problems enormous. Thus, it is improbable that any fundamental positive changes in the situation can be achieved before the internal differences in the standards of living have been levelled down throughout the continent. The point is illustrated by the recent development in Poland, Hungary and the Czech Republic, where the positive social and economic development has significantly and rapidly reduced trafficking.

The most effective means to improve the situation and to prevent trafficking is to support and facilitate the social and economic development in the Eastern European countries. In this respect, the enlargement of the European Union can be expected to produce significant positive results. However, the most problematic countries will be disregarded at least in the first phase of the enlargement, and especially Moldavia and Ukraine have been left to play second fiddle in EU-Eastern European relations.

In the actual crime control policies concerning trafficking in women, the most crucial questions are presently:

1) creating extensive and reliable systems for collecting comparative data on the whole continent;
2) criminalising the trafficking in women in all European countries with relatively uniform criteria and sanctions;
3) developing and increasing the co-operation in crime prevention both internationally and between the European countries;
4) improving the status and rights of the victims in the legislation of the European countries, and
5) creating efficient witness protection legislation and programmes applicable to the victims of trafficking.

For the time being, there is no reliable, comparative information available on the extent of trafficking in women in Europe, or on the numbers and the nationalities of the victims; not even concerning the reported and prosecuted crimes. In order to improve the situation, the European countries should invest in gathering national statistics on reported trafficking crimes which would employ relatively uniform criteria and comparable standards. In addition to the relevant authorities, important sources of information are NGOs that assist and provide support for prostitutes and the victims of trafficking. Means should also be created in order to make an efficient and extensive collection of their information possible in each country as well as all over the continent. Mere statistics would, however, produce only indicative

information at best. In order to obtain better knowledge of the situation, and to create a basis for more efficient data collection systems, it is of utmost importance to increase basic research concerning trafficking and organised prostitution in Europe and in each European country. Much valuable knowledge has already been produced within the STOP and STOP II programmes, the IOM research projects, and some national research programmes. The need for additional research is, however, urgent.

The legislation concerning trafficking in women is still fairly heterogeneous in the European countries, but in recent years, harmonisation in regard to the criteria of the crime, sanctions, and the status and rights of the victims has been achieved. Activities of the Council of Europe (COE), the Organisation on Security and Co-operation in Europe (OSCE), and the European Union have been crucial.

Several conventions of *the Council of Europe* are relevant to combating trafficking in women (for example, the Conventions on Human Rights; on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime; on the Compensation of Victims of Violent Crimes; and on Extradition). However, so far all the special COE regulations concerning the trafficking in women are mere recommendations. The most important of these is the R (2000) 11 (Recommendation on Action against Trafficking in Human Beings for the purpose of Sexual Exploitation) which proposes that:

> 1) trafficking should be made a special offence;
> 2) courts of law should have the right to seize assets belonging to convicted traffickers, and
> 3) victims of trafficking should receive help and protection; governments should set up agreements to facilitate the victims' return to their native countries if they so wish, and victims should be granted, if necessary, temporary residence status on humanitarian grounds.

Other relevant COE recommendations include: R (91) 11, R (96) 8, R (97) 13, R (80) 10, R (85) 11 and R (87) 21. Their objective, at least indirectly, is to harmonise the legislation of the member countries, and to improve the legal status of the victims of trafficking.

According to the 2002 data, in 28 of the 52 European countries and other de facto independent jurisdictional areas, the trafficking in women is criminalised as a separate crime, and in at least three others an amendment for this purpose is being drafted. Not a single European country has at the moment specific legislative witness protection programmes designated specifically for the victims of trafficking. Of the EU member countries, Belgium, Denmark, Finland, France, Luxembourg and Sweden do not have any formal witness protection programmes; in the remaining member countries, witness protection for victims of trafficking is provided on the basis of either general legislative witness protection provisions or non-legislative protection programmes, and the entry criteria are by default so strict that they are not attainable by standard victims of trafficking. Of the Central and Eastern European countries, at least the Czech Republic and Hungary have general witness protection programmes applicable to the victims of trafficking (Holmes & Berta 2002).

As mentioned, there currently is no special European Convention on trafficking. There is, however, a convention under discussion which aims at a binding regulation concerning the legal status and protection of the victims of trafficking in humans. The convention would focus specifically on minors, and include an efficient monitoring system (CM (2002) 129; Trafficking in Women, 42).

The Organisation for Security and Co-operation in Europe is a regional organisation**,** and another source of non-binding regulations on trafficking. The OSCE and especially its Office for Democratic Institutions and Human Rights (ODIHR) have become increasingly involved in the issue over the last ten years. In 1999, the OSCE Parliamentary Assembly adopted a Resolution on Trafficking in Women and Children, in which the member countries were called upon to make sure that they have the necessary legislation and enforcement mechanisms to punish traffickers. Country reports requested from the member countries presently form the most extensive source of information on the extent of trafficking, and on

the existing legislation concerning trafficking in the European countries (Trafficking in Women, 42-43).

The European Union legislation concerning trafficking in women and children is variable and constantly developing. The three most important pieces of special legislation with regard to combating trafficking in women and children are the Council framework decision on combating trafficking in human beings (2002/629/JAI), the proposed Council framework decision on combating the sexual exploitation of children and child pornography, and the proposed Council directive on the short-term residence permit issued to victims of action to facilitate illegal immigration or trafficking in human beings who co-operate with the competent authorities (COM (2002) 71). The framework decision on combating trafficking in human beings obligates the member countries to ensure that trafficking in humans for forced labour as well as for sexual exploitation are criminalised, as are the instigation, aiding, abetting and attempt of such activity. The decision also includes stipulations on the maximum penalty (six years of imprisonment) and on aggravating circumstances. The criminal liability of corporate actors is addressed, as well as issues of jurisdiction and co-operation between the member states. The proposed framework decision on combating the sexual exploitation of children is intrinsically linked with trafficking in children because at the moment, prostitution and other forms of sexual exploitation dominate trafficking in children in Europe. The proposed decision defines a child as a person under 18 years of age.

The proposed directive on short-term residence permits includes regulations on the conditions and procedures for issuing short-term residence permits for victims of trafficking in human beings. The objective is that the victims who in the course of a certain reflection period consent to assist the authorities in the investigation and prosecution of the crime, would on certain conditions have the right to a temporary residence permit in the EU member countries. At request, the permit could be renewed according to the needs of the investigation and the court proceedings, but it could not be renewed after the proceedings have been concluded. The conditions for the permit are strict, and the whole procedure is always dependent on the victim's willingness to co-operate. Nonetheless, the directive would improve the present situation in which the victims are as a rule deported from most EU member countries (similarly to the other European countries) immediately and without exception. If the changes brought about by the directive are able to make the victims more co-operative towards the investigation and prosecution of the crimes, there are hopes that the clearance and conviction rates will improve, which in turn would have a significant invigorating effect on the prevention of trafficking. This is not, however, self-evident, for even if the stipulations of the directive are implemented, the factual position of the victims still remains rather insecure.

At present, the day-to-day protection and support of the victims of trafficking in Europe depend mostly on the activity of various NGOs. The European Union has supported and supports their work within the STOP, STOP II and Daphne programmes. However, the main responsibility as well as the financing of the activity are shouldered by voluntary citizens' organisations and volunteer workers.

At the moment, only the Netherlands, Belgium, Spain, Italy and the Czech Republic have promulgated special witness protection legislation applicable to the victims of trafficking. In some countries, such legislation is under preparation. All of the above mentioned laws are relatively new, and there is not yet much experience on how they work in practice. They all include the possibility of issuing temporary residence permits for victims of trafficking; in Belgium and the Netherlands, the consent of the victim to co-operate in the investigation and prosecution is required, in Italy all victims have similar rights whether they co-operate or not. In Spain, the stipulations of the general witness protection law apply also to the victims of trafficking. Presently, only Italy and Spain offer the victims actual, active police protection that continues also after the court proceedings have ended (by establishing a new identity, for example), but even here the right for this kind of protection is to a large extent only theoretical. It is questionable how effectively the victims' willingness to co-operate with the authorities (which is crucial to combating trafficking in humans) can be improved by granting mere temporary residence permits; on the other hand, a great many

European countries do not presently have any kind of efficient witness protection programmes, and the population in many countries is so small that it would be virtually impossible to create such programmes without some kind of common programme covering the whole of Europe (Pearson 2001, 10-13).

Since trafficking in humans is a transnational crime, it is necessary to have effective international police co-operation to combat and prevent it. In Europe, the co-operation is both bilateral and international (Europol). In addition to the everyday co-operation, several large-scale special operations have been conducted in the last few years, usually with good results. For example, during the Sunflower operation in 2002, more than 80 suspects were arrested in an operation carried out by the Europol and nine national police forces (news.bbc.co.uk).

The routes of trafficking in Europe are so manifold, and the organisation of the crime so flexible that it is not possible to close all the routes and eliminate all the trafficking networks. It is more practicable to concentrate the crime prevention efforts and combating operations on the main source countries and the most important junctions of the trafficking routes. When the Eastern Central European countries join the European Union, the possibilities to control the transit trafficking carried out via them will improve significantly; but there is still a need for a more efficient police and intelligence co-operation both inside the EU, and in particular between the EU member countries and the non-members. It is also crucial for the effective prevention of trafficking in women and children to continue and invigorate the combat against corruption in border controls, police forces, and on all levels of government which is rampant not only in many source countries but also in many of the main destination countries of trafficking in Europe, both inside and outside the European Union (NCIS UK, 34-36).

D. Conclusions

Exact information about the volume, characteristics and organisation of trafficking in women and children in Europe is still so scarce, and most of the programmes and legislative changes aimed at combating the crime so new that it is hard to say how they work in every-day crime prevention, and what practises of countering are the best and most effective. On the whole, it seems that the measures taken should be many and varied, comprised of legislative measures, police operations as well as different awareness campaigns, support programmes and media actions.

In several European countries, the implementation of even the basic legislative and other recommendations of the COE, OSCE, EU and UN concerning trafficking in women and children is still deficient. Thus, the most urgent short-term task in Europe should be the adoption and implementation of compatible and appropriate legislation concerning the crimes of trafficking, as well as the developing and strengthening of effective protection and assistance mechanisms for victims of trafficking in all European countries. This should be combined with the strengthening of socio-economic support programmes and awareness-raising activities in both the source and the destination countries. The urgent need to collect and exchange comparative information on trafficking throughout the continent, and to allocate sufficient funds to monitor trafficking, create databases and carry out further research on this issue should also be underlined.

In the long run, the best and most effective way to prevent trafficking is to support and facilitate the general social and economic development in the Eastern European and third world countries.

Sources

Literature

A Study: Trafficking in Women and Children from the Republic of Armenia. IOM 2001.

Country report of the Republic of Slovenia. Trafficking in Human Beings. Permanent Mission of the Republic of Slovenia to the OSCE. OSCE/ODIHR Country Reports.

The Danish Government´s action plan to combat trafficking in women (2002). Copenhagen: Department of Gender Equality.

Eela, Riikka (2003). Saksa, seksipalveluja koskeva lainsäädäntö [Legislation against selling and buying sexual services in Germany]. BERD 1459-20, Suomen suurlähetystö [Finnish embassy], Berlin.

Feodorow, Sauli (2003). Seksuaalipalvelujen ostamista ja myymistä koskeva lainsäädäntö Luxemburgissa [Legislation against selling and buying sexual services in Luxembourg]. LUX 0002-11, Suomen suurlähetystö [Finnish embassy], Luxembourg.

Fijnaut, Cyrille & Bovenkerk, Frank & Bruinsma, Gerben & van de Bunt, Henk (1998). Organized Crime in the Netherlands. Den Haag: Kluwer Law International.

Force Labour, Child Labour and Human Trafficking in Europe: An ILO Perspective (2002). European Conference on Preventing and Combating Trafficking in Human Beings, Brussels 18-20 September 2002.

Hajdinjak, Marko (2002). Smuggling in Southeast Europe. CSD Reports 10. Sofia: Center for the Study of Democracy.

Hollmén, Lauri & Jyrkinen, Marjut (eds.) (1999). Building up a network for monitoring, analysing and combating trafficking in women and children. Helsinki: Ministry of the Interior.

Holmes, Paul & Berta, Krizstina (2002). Comparative Matrix on Legislation and Best Practices in Preventing and Combating Trafficking in Human Beings in EU Member States and Candidate Countries. European Conference on Preventing and Combating Trafficking in Human Beings, Brussels 18-20 September 2002.

Joona, Hannu (2003). Seksuaalipalvelujen ostamista ja myymistä koskeva lainsäädäntö Virossa [Legislation against selling and buying sexual services in Estonia]. TAL 0009-18, Suomen suurlähetystö [Finnish -Embassy], Tallinn.

Kotkajärvi, Johanna (2003). Seksuaalipalvelujen ostamista ja myymistä koskeva lainsäädäntö Norjassa [Legislation against selling and buying sexual services in Norway]. OSL 0002-12, Suomen suurlähetystö [Finnish Embassy], Oslo.

Kännedom om prostitution 1998-1999 (2000). SoS-rapport 2000:5. Linköping: Socialstyrelsen.

Laczko, Frank & Klekowski von Koppenfels, Amanda & Barthel, Jana (2002). Trafficking in Women from Central and Eastern Europe: A Review of Statistical Data. European Conference on Preventing and Combating Trafficking in Human Beings, Brussels 18-20 September 2002.

Lampinen, Markku (2003). Seksuaalipalvelujen ostamista ja myymistä koskeva lainsäädäntö Ranskassa [Legislation against selling and buying sexual services in France]. PAR 0007-23, Suomen suurlähetystö [Finnish Embassy], Pariisi.

Lehti, Martti & Aromaa, Kauko (2002). Trafficking in Human Beings, Illegal Immigration and Finland. Helsinki: European Institute for Crime Prevention and Control, Affiliated with the United Nations (HEUNI), Publication Series No. 38.

Leskinen, Jari (2002). Organisoitu prostituutio ja paritus Suomessa [Organised prostitution and procuring in Finland]. The Seminar "Miehet rajalla - Naiskauppaa Pohjolassa", Kemi (Finland) 28-29 October.

Lindroos, Claus-Jerker (2003). Seksuaalipalvelujen ostamista ja myymistä koskeva lainsäädäntö Irlannissa [Legislation against selling and buying sexual services in Ireland]. DUB 0003-20, Suomen suurlähetystö [Finnish Embassy], Dublin.

MON-EU-TRAF. A pilot study on three European Union key immigration points for monitoring the trafficking of human beings for the purpose of sexual exploitation across the European Union. Final Report (2002). European Commission.
Moustgaard, Ulrikke (2002). Bodies across borders. NIKK magasin 1/2002.
NCIS UK Threat Assessment 2002.
Norwegian report on anti-trafficking activities. Royal Ministry of Foreign Affairs. OSCE/ODIRH Country Reports.
Omelaniuk, Irena (2002). Trafficking in persons: Nature and logistics. ”Trafficking: Networks and Logistics of Transnational Crime and International Terrorism”, Courmayeur 6-8 December 2002.
Organised crime situation report 2001 (2003). Strasbourg: Council of Europe.
Organisert kriminalitet i Norge.
Plant, Roger (2002). Trafficking for Labour Exploitation. The Role and Activities of the ILO. Trafficking: Networks and Logistics of Transnational Crime and International Terrorism, Courmayeur 6-8 December 2002.
Poland: Information about the situation and the government policies in the area of combating trafficking in human being. The Secretariat of the Government Plenipotentiary for Equal Status of Women and Men, Warsaw, February 2003.
Regjeringens handlingsplan mot handel med kvinner og barn 2003-2005 [The Norwegian Government action plan against trafficking in women and children 2003-2005] (2003). Justis- og politidepartmentet.
Salovaara, Johanna (2003). Seksuaalipalvelujen ostamista ja myymistä koskeva lainsäädäntö Puolassa [Legislation against selling and buying sexual services in Poland]. VAR 0005-37, Suomen suurlähetystö [Finnish Embassy], Madrid.
Sinkkonen, Teemu (2003). Seksuaalipalvelujen ostamista ja myymistä koskeva lainsäädäntö Espanjassa [Legislation against selling and buying sexual services in Spain]. MAD 0002-12, Suomen suurlähetystö [Finnish Embassy], Oslo.
Sukuvaara, Katri (2003). Seksuaalipalvelujen ostamista ja myymistä koskeva lainsäädäntö Itävallassa [Legislation against selling and buying sexual services in Austria]. WIE 0013-5, Suomen suurlähetystö [Finnish Embassy], Vienna.
Sipaviciene, Audra (2002). You will be sold like a doll. NIKK magasin 1/2002.
Säilä, Hanna (2003). Seksuaalipalvelujen ostamista ja myymistä koskeva lainsäädäntö Islannissa [Legislation against selling and buying sexual services in Iceland]. REY 0002-24, Suomen suurlähetystö [Finnish Embassy], Reykjavik.
Trafficking in Women and Prostitution in the Baltic States: Social and Legal Aspects (2001). Helsinki: International Organization for Migration.
Tunturi, Seppo (2003). Seksuaalipalvelujen ostamista ja myymistä koskeva lainsäädäntö Italiassa [Legislation against selling and buying sexual services in Italy]. ROO 0014-36, Suomen suurlähetystö [Finnish Embassy], Rome.
2002 EU Organized Crime Report (2002). Den Haag: Europol.
U.S. Department of State, Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report (2001).
Verkkoranta, Rae (2003). Seksuaalipalvelujen ostamista ja myymistä koskeva lainsäädäntö Belgian osalta [Legislation against selling and buying sexual services in Belgium]. BRY 0034-28, Suomen suurlähetystö {[Finnish Embassy], Brussels.
Vuorenpää, Marja-Leena & Oikarinen-Vasilopoulos, Jaana (2003). Seksuaalipalvelujen ostamista ja myymistä koskeva lainsäädäntö Kreikassa [Legislation against selling and buying sexual services in Greece]. ATE 0007-16, Suomen suurlähetystö [Finnish Embassy], Athens.
Zitting, Theresa (2003). Seksuaalipalvelujen ostamista ja myymistä koskeva lainsäädäntö Alankomaissa [Legislation against selling and buying sexual services in the Netherlands]. HAA 0001-27, Suomen suurlähetystö [Finnish Embassy], The Hague.

Web sites

allserv.rug.ac.be/~rmak/europap/rappor.html
fpmail.friends-partners.org: fpmail.friends-partners.org/pipermail/stop-traffic
migration.ucdavis.edu/mn/archive_mn/nov_1999-11mn.html
missions.itu.int/~romania
news.bbc.co.uk/1/hi/world/europe/2293947
209.190.246.239: 209.190.246.239/ver2/cr/country.pdf
web.pdx.edu/~leopoldo/ncsexwork.pdf
www.althingi.is/go/raedur/safn/000241.html
www.balticseataskforce.dk/Trafficking/Traffickingreport.htm
www.brama.com
www.erieri.com
www.europap.net/national/prostitution_in_bulgaria
www.ex.ac.uk: www.ex.ac.uk/politics/pol_data/undergrad/aac/country.htm
www.georgia-gateway.org
www.globalmarch.org: www.globalmarch.org/worstformsreport/world/country.html
www.greekhelsinki.gr: www.greekhelsinki.gr/english/reports/ihf-wit-july-2000-country.html
www.if-hr.org /reports/women/macedonia.pdf
www.inet.co.th
www.interpol.int
www.janes.com
www.osce.org: www.osce.org/odihr/attf/pdf/nap_country.pdf
www.portcult.com
www.protectionproject.org/human_rights/countryreport/malta.htm
www.rferl.org
www.scottish.parliament.uk:www.scottish.parliament.uk/whats_happening/news-03/clg03-002.htm
www.sexwork.com: www.sexwork.com/coalition/englandwales.html
www.state.gov: www.state.gov/g/drl/rls/hrrpt/2001/eur/country.htm
www.un.org/News/Press/docs/2001/WOM1294.doc.htm
www.undcp.org: www.undcp.org/odccp/trafficking_projects_country.html
www.uri.edu: www.uri.edu/artsci/wms/hugnes/country.htm
www.worldsexguide.org: www.worldsexguide.org/country.html
www1.umn.edu/humanrts/usdocs

ECONOMIC CRIME – ANYTHING TO COUNT ON?

Bergqvist, Martin

> One of the biggest difficulties in approaching this subject is to find a way of putting dramatic and newsworthy cases of business misbehavior in some sort of context and proportion. Study of the distribution and frequency of white-collar crimes is made problematic by the fact (not in itself unimportant) that, especially in the common law countries where the concept was first formulated, most white-collar crimes are not included in the official statistics which serve as the basis for debates about the "crime problem". The usual difficulties of interpreting the statistics are greatly magnified here (Nelken 1997 s.891)

1. Introduction

The phenomena of *white collar crime* or *economic crime* have been a debated issue in Sweden since the 1970's. Researchers, politicians, special interest organizations and journalists have all participated in the debate about what should be defined as *economic crime,* the extent of the phenomena, what the consequences are, what the causes are and what countermeasures should be taken (Lindgren 2000).

The lack of reliable information on the frequency and distribution of the phenomena has been viewed as a considerable problem for both political decision making and research. For example, the Swedish government states in its yearly publication on economic crime that it is not possible to give any satisfactory description of the phenomena. And for research, the lack of reliable and suitable data have been a debated issue (see for example Gottfredsson and Hirschi 1989; Steffensmeier 1989) and textbooks on economic crime often states that this is a problem (see for example Friedrichs 1996). In this context it is also common to describe economic crime as something diffuse and relatively invisible (see for example Jupp, Davies and Francis 1999) which needs to be revealed and uncovered.

However, uncovering the phenomena in a systematic manner is not unproblematic. A fundamental problem is that there is no single definition that is generally accepted and thereby there is no stable foundation for studies of the phenomena. As a consequence the studies that are carried out apply different definitions which make comparison difficult (Slapper and Tombs 1999; Friedrichs 1996:38). Another problem that is often presented is that much of our knowledge on crime is based on an individual's direct victimization and that the invisibility is a consequence of the fact that the victims of these crimes are not aware of their victimization (Jupp, Davies and Francis 1999). Further, some economic crimes are downright described as victimless. Often, arguments can be presented against these descriptions, but some times the victimization is undeniably difficult to establish and its existence is object for a theoretical discussion, as in the case of insider trading (see for example Hetzler 2001; Nelken 1997). These and other problems are often seen as impairing both regular criminal statistics and the alternative methods that are normally used in criminological research (Nelken 1997:892).

Factors as these have led some researchers to be pessimistic about quantitative studies as a foundation for knowledge in this area of research (see for example Braithwaite 1985). At the same time, it has been noted that quantitative information is an important part of the public debate and the dominating instrument in the construction of crime and criminality (Maquire 1997) and that lack of reliable information may have consequences (Tombs 1999). This concern has also been expressed concerning the Swedish public debate. Lindgren (2000), who studied the public debate on economic crime during the period 1970-1997, argued that lack of information led to a confused debate and that this in turn led to rather free

speculations being the ground for political decisions and measures. A similar view has been expressed by Axberger (1989) who argued that hypothetical scenarios, in this situation, transformed into facts and reality.

The aim of the present article is twofold. Firstly, one aim is to discuss the problems and the possibilities to improve the quantitative information on the frequency and distribution of economic crime. Secondly, I will also take the opportunity to discuss some of the more fundamental problems one has to relate to when one studies the question of measuring the extent of economic crime. It should also be stated that the starting point is that the problems with the present criminal statistics are significant and that there exists a need for alternative methods of measurement. The article is based on a more extensive literature review, with the purpose to study which of the available methods and sources might be suited to a statistical illumination of various types of economic crimes.

To begin with, something will be said about my view of the phenomena and on different perspectives on criminal statistics and alternative methods and sources. Thereafter the scope of criminal statistics, its problems and design are discussed. Finally, different methods and studies that have been used to study different types of economic crimes will be presented and discussed.

2. Important questions and fundamental problems

The project *Statistics on Economic Crime* has been involved with the question: *How should we measure economic crime so that we can provide reliable information on the phenomena?* This question is indeed problematic. For starters, as all scholars know there is no definition of the phenomena that is generally accepted. Instead different definitions are presented from varying political, scientific and disciplinary standpoints focusing on different things such as the smooth function of a market system, as critic against powerful interests in the society or as a foundation for practical police work. Then one has to decide how to take on this problem, which basically boils down to a theoretic scientific problem. Are there any phenomenons that *are* economic crime independently of the perspectives taken which can be measured? While trying to answer the next question makes it voice heard, namely the one of how to measure this phenomena. With other words, we have to have an idea of what the phenomena are and what different methods can do for us.

The most discussed theme in the research on white collar or economic crime are the question of the definition, i.e. what the subject should be about. From an *essentialist perspective* one should take on this question with the aim to find the true definition that corresponds perfectly with the phenomena, i.e. there is something that *is* economic crime and our definition should reflect this perfectly. My standpoint is however that there is no essence in the concept economic crime. It is not possible to find and describe its real and true core. However, that is not to argue that it is not possible to find the lowest common denominator in the debate. On the contrary, it would be possible to argue that most scholars agree that economic crime is something that takes place within the economic system or the economy, although this in turn can be defined quite differently. What I do say is that economic crime is something that is construed on an arena by different actors with varying aims and starting points. In the present work the aim is to improve statistics on this phenomena and this information should provide for different needs. Therefore it is necessary to try to consider the width of the debate on economic crime. The approach taken in the project was to try to apply a wide and quite open definition and as far as possible to try to recognize the different perspectives on these phenomena and to operationalize it with different types of crimes such as insider trading, health and safety crimes etcetera that in different ways relate to discussed categories such as type of victim. A starting point was also that different types of crimes problably partly should be studied with different (or specific) methods.

These statements also imply that there are no phenomena – economic crime – that exists independently of the public debate. Consequently one has to ask oneself: *Is it then possible to measure these phenomena's in a meaningful manner? And what do the different methods contribute to our understanding of the phenomena?* A preliminary answer could be

that we can still get some understanding of these phenomena since the concepts relate to acts and events. What still makes this difficult is that these acts and events (or series of events) constantly are interpreted differently in different contexts and by different people. Therefore, even if one could be clear on what kind of acts that constitute a crime and an economic crime, then it will still be a question of a contextualized interpretation. Then, measuring the phenomena boils down to making different constructions of the phenomena, from different perspectives and with varying methods.

Given that it is possible to measure acts and events that relates to different definitions of economic crimes; *what does different methods contribute to our understanding of the phenomena?* Or put differently: *how should we understand the results from different sources and methods*?

One of the main sources on crime and criminality are *criminal statistics.* However, this source could be understood in different ways. Coleman and Moynihan (1997) identify and discuss three perspectives on criminal statistics: realist, institutional and radical perspectives. *The realist perspective* is inspired by positivism and empiricism (May 2001). The statistical information is viewed as an objective indicator of the phenomena. Representativity and reliability are central concepts from this point of view. *The institutional perspective* rejects this view. Instead, statistical information is seen as a reflection of organizational judgments and practices. That is, statistics is seen as a product of social and institutional processes (Coleman and Moynihan 1997), a perspective inspired by idealism and social constructivism (May 2001:15). *The radical perspective* agrees with the institutional perspective that statistics are socially constructed and that it represents organizational priorities and judgments. But the perspective goes further and argues that it is also situated in a wider social structure. Production of statistics is from this perspective a means for a higher goal, which is power and control (May 2001:105; Deflem 1997).

However, it is not unusual to combine these perspectives (Coleman and Moynihan 1997:17).[2] Steven Box (1983) is one example of a researcher who combined these three perspectives in his book *Power, Crime and Mystification.* He argued that the prevailing picture of serious criminality would not be maintained if more information were publicized on how definitions of criminality were created along with results from self-report studies and victim surveys. The picture of criminality may be dissolved and transformed. I follow Box (1983) and argue that it is in some way possible to combine these three perspectives. The understanding of crime takes place in social context and an important part of this is formulating what should be the problem and how it should be measured. The actors in these processes are situated in a power structure, researchers included. However, given that one takes a perspective and is clear on ones starting point, different acts and events and its consequences are measurable. Therefore it is also possible to take a critical standpoint to the present description on what constitutes the *crime problem* in society.

It is also possible to view official statistics as a part of the construction of criminality and as a part of society production of knowledge. From this perspective the lack of statistics on *economic crime* can be viewed as a skewness and as part of a reproducing process. Positive or negative, it is reasonable to conclude that the lack of statistics and the design of the existing statistics on economic crime influence what is considered the crime problem in society. Tombs (2000:65) has, for example, argued that health and safety crimes should represent a crime problem. The fact that most of these events are not part of the discussion on

[2] At the same time as the realists is open to the critic coming from institutionalists, the radicals cling on to the possibility to say something about reality. To view the statistics from a pure constructivist perspective is not attractive for any of these groups. The realists are trying to establish the dark number of crime and the radicals argue that the statistics is skewed against the marginalized groups in society. These questions are not possible to answer without some foundation to compare with.

violence, despite that they result in deaths and serious physical injuries, illustrates a self-fulfilling prophecy. The lack of usable data results in low attention which in turn results in the fact that the work with improving data is nonexistent. Therefore, critical research has to question existing and dominating, including official, assumptions and practices such as the collection and presentation of data. The necessary response to the lack of official criminal statistics is to seek other sources of data and if necessary reconstruct to them. It is also important to notice that the production of statistics is situated in an historical and social context and thereby dependent on the views that are dominating in the groups that have the power to influence the production of this information. This is said without believing in conspiracies and I will later try to illustrate how this is present in everyday life of production, which will be done in the part on criminal statistics.

An important question is however, how one understands the relationship between alternative methods and criminal statistics.[3] An often used metaphor describes the relationship in terms of an iceberg that is characterized by the fact that the bigger part of it is beneath the surface and therefore invisible. The visible part represents what is covered in the criminal statistics. The other part is crimes that are invisible but that may be uncovered through alternative research methods and researchers diving into the cold water. Most often, this perspective partly accept criminal statistics as a construct, in the meaning that it is acknowledged that different parts of criminal statistics reflects judgments in different parts of the justice system and that these judgments not always are based on the criminal status of the act. However, this perspective does not view the *crime* as socially constructed (Maquire 1994: 239). Instead it is seen as existing independently of time and place as a physical measurable phenomena.

Maquire (1997) is skeptical about the fact that self-report studies, which includes acts and events not reported to the police, is viewed as an uncovering of the complete picture of crime, or the true level of crime. Instead he presents another metaphor. Production of knowledge on crime should rather be understood as a "*constant repainting – by a motley army of artists with different styles and techniques – of a canvas of indeterminate size, each time highlighting new areas or depictiong old areas in greater detail or different form"(Maquire 1997:142).* The starting point is that human acts are defined and quantified as crimes through a complex and constantly shifting interactive and interpretating process. *All descriptions of crime are dependent on definitions, rules and procedures that contribute to the final result.*

To further elaborate on this subject I would argue that the idea of the iceberg is even more problematic (a question of degree) when it comes to acts that are referred to in the discussion on economic crime, since those are often more complex (Friedrichs 1996). For example, if we begin with physical assault this is quite forthcoming. Of course, this is not criminal in some contexts such as the hockey arena where quite much physical assault is seen as acceptable whereas the view of these acts have changed radically over time in for example the context of public schools (Estrada 1999) – if one should generalize. However, it is still possible to ask quite simple question in a survey that would give us quite a good picture of the extent of event. Once again, of course different persons will interpret these questions differently, but I am talking about a fair picture of the phenomena. Thereafter we can discuss these results in relation the picture given by criminal statistics and the general view of the phenomena in different contexts. But if we instead are interested in the phenomena of *insider trading* this will not be dealt with in the same manner. The extent to which interpretation of acts are present are magnified in this area, as I will illustrate with a study of the work at Swedish Financial Supervisory Authority (Wesser 2001), later in this article.

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[3] The concept alternative methods refer to methods that are not dependent on the authorities' regular work, such as criminal statistics or studies building on official crime records.

This perspective does not mean that the statistics should not be compiled or used. It is only important to conclude that it is dangerous if it is presented without understanding of its relation to the reality it is supposed to reflect. As long as the limitations are known and outspoken the statistics can constitute a tool for description of social problems. And as such it is one of many types of information forming a foundation for the public debate.

One consequence for this presentation of alternative methods are that they, with their varying starting points and focus, can contribute with different perspectives on the phenomena than that given by criminal statistics. That applies, even if these methods are not cumulative and does not have the potential to give any final answer about the frequency and distribution of different types of economic crimes. Before moving on to the alternative methods, something should be said about the present criminal statistics in Sweden.

Criminal statistics

Indicators of organizational work

Steven Box (1983) opens his book *Power, Crime and Mystification* with the words: "Murder! Rape! Robbery! Assault! Wounding! Theft! Burglary! Arson! Vandalism! These form the substance of the annual official criminal statistics on indictable offences…/---/ Aggregated, they constitute the major part of "our" crime problem". This is probably not a fair description of Swedish criminal statistics of today and economic crime is now seen as a social problem, or a prioritized crime problem (see for example Regeringens skrivelse 1994/95: 217; Lindgren 2000). But what one can still notice is that criminal statistics constitute an important part of the social production of knowledge on crime and criminality. It is an important source on crime for researchers, politicians, mass media and the public. Further, one can notice that criminal statistics is not an objective reflection of the punishable acts in society. It is rather a part of the construction of these acts. As Coleman and Moynihan (1997) put it, it constitutes the official picture of crime.

Interpretation and categorization is present in different steps in and outside of the justice system. Criminal statistics are situated in a social context. Over time the statistics can also reflect the interest for different types of crimes – and from this perspective this article, in itself, can be understood as a consequence of an increased public debate on the subject of economic crime.[4] If one study the statistical information there are several important aspects one have to consider. Firstly, categorizes and codes used in the statistics are the foundation on which the statistics is built. Therefore it is interesting to study how the existing categorizes are constructed and how they were design (see for example). Secondly, it is important which crimes are interpreted as crimes (not discovered) and subsequently reported to police and proper authorities. Finally, there is the classic question of which acts or events will be processed in the justice system (see for example Sutherland 1949). These questions will be dealt with in the two forthcoming sections.

Categorization and coding in the criminal statistics

If one studies the codes and categories in the criminal statistic one will see that it mainly reflects the so called traditional criminality. A new system for categorization that was implemented in 1998 was an improvement in the reports. Crimes against creditors, tax crimes and environment crimes are more differentiated than earlier. Further, it meant that one could study crimes against different laws such as: laws regulating joint-stock companies, insider trade, trade on financial instruments, pollution by vessels and prohibition to run a company.

But the criminal statistics are, in spite of these improvements, still strongly bound to traditional crimes. The general picture of a crime is not something that takes place within the business world. And that also applies to the environment in which statistics is produced. In

[4] For a study of the Swedish public debate, see Lindgren 2000.

2002 the authorities started a work to reform the whole system of criminal statistics. Different groups worked with different types of crimes and I was part of a group that should present a proposal for new statistics on economic crime. The group were given a scheme for categorization which we should fill with relevant categories. The problem were however that the scheme made me think of a game a played when I was young(er), called Cluedo. The game takes place in big house and the aim of the game is to figure out who was the murder, in which room the murder took place and what kind of murder weapon was used. In other words, the whole system of statistics were to build on a foundation of the idea of a very traditional type of crime with an individual person as perpetrator, one physical place where the crime took place and a simple modus operandi (by knife). It should be said though that we were free to suggest other ways to categorize and we did. But what I mean is that the idea of a crime as this kind of act are strong and it does not necessarily does not boil down to simple defense of ones own group interest.

If we move on to the present statistics I can take one example just to illustrate how economic crimes are categorized in relation to the so called traditional crimes. One can compare the differentiation on different crimes, such as theft and property crimes on the one hand and tax crimes on the other. The former are categorized with 67 different codes which describes the victim, place for the crime etc. Tax crimes, on the other hand, are categorized with six codes based on paragraphs in the law. And, then it should be added that tax crimes are seen as central types of economic crimes in the Swedish public debate and with a strong direct victim, the State (Lindgren 2000).

Kommentar [MB1]: Eventuell något om hur mallen såg ut när vi arbetade med statistiken på BRÅ, följer traditionella brott.

The victimological aspect, that is who the victim is, is today only registered for those crimes that have a large number of codes such as theft and robbery. And for some types of crimes, for example frauds, which can contain so called traditional crimes as well as economic or white collar crime (of course dependent on definition of the phenomena), it seems as if some groups of victims are premiered before others. The codes in the statistic are primary for crimes directed against insurance companies and banks. Of the 9 specified codes only one are for private persons (handicapped). In other words, it is unknown and impossible to gather to what extent private persons are victimized and to what extent this is in their role as consumers. The latter is also connected to the fact that the organizational or occupational aspect is lacking (other than organizations as victims of burglary, theft etc.) in the statistics. Therefore it is not possible to separate crimes by individuals clearly connected to their occupational role from crimes by private persons in their civil role.

Considering that most definitions in the academic and political debate states that the crime should be committed in the role of an occupation or within a corporation or organization it is not possible to apply existing definitions on criminal statistics. It is not even possible to apply the Swedish definition which, even if it has not been official, has been dominant. But, even if this problems were solved, there will still exist be highly problematic to simply use these figures because of the filtration that takes place before the justice system enters the arena.

Reporting and processing of different acts and events[5]

Economic crimes differ from traditional crimes in the sense that they are detected, interpreted and reported differently. Most of these crimes are reported as a consequence of supervision and inspections done by authorities (ref). One Swedish study that was carried out in 1985 showed that 50 percent of all reported acts and events to economic crime units came

[5] Sutherland (1949:6) "Persons who violate laws regarding restraint of trade, advertising, pure food and drugs, and similar business practices are not arrested by uniformed policemen, are not tried in criminal courts, and are not committed to prisons; their illegal behavior receives the attention of administrative commissions and of courts under civil or equity jurisdiction".

from tax authorities. Another 20 percent were reported by liquidation administrators. Only about 7 percent came from the public or from corporations (Persson 1986). Studies of later date strengthen the conclusion that the activities of the authorities are central to the understanding of criminal statistics in this area, although the percentages reported by different agencies vary (Ds 1996; Brå 1996; Wesser 2001). Although this may be seen as an obvious statement, it has not prevented researchers to use these kinds of data as a foundation for far-reaching conclusions (see for example Gottfredsson and Hirschi 1989). Others use the data in a more careful manner (Brå 2002) but later the results are interpreted and communicated as valid statements about the phenomena (Apropå 2002).

Criminal statistics is influenced by a number of factors such as the frequency and efficiency of inspections, interpretations made by different officials, law (direct and indirect) and other surrounding events. Especially important are the activities of the authorities. For example it has been shown that the numbers of tax crimes reported over time are highly dependent of the number of audits made by tax authorities (Malmer et al. 1994; Persson 1986:106f; Lindgren 2000) even if the tendency to report vary between different local tax authorities (RRV 1996:75). At the same time, the decisions not to report acts are based on other grounds than that of the criminal status of the act. Studies on Swedish Tax Authorities (Riksdagens revisorer 1994/95; Riksrevisionsverket 1996:75), the Swedish Financial Supervisory Authority (Wesser 2001) and the Swedish Environment Authority (du Rées 2002) have shown that representatives of these authorities has decided not to report acts and events on the basis that they believe that the prosecutors and police does not have resources to investigate these crimes. Environment inspectors have also stated that they have decided not to report because they have prioritized cooperation with the corporation or that it in a small municipality should have been politically controversial to report (du Rées 2002). The Swedish Work Environment Authority has, at least earlier, been characterized by strategies of cooperation and has only sparsely used sanctions (Lundberg 1975).

A Swedish study (Wesser 2001) of the Swedish Financial Supervisory Authority also illustrates how the criminal statistics is a result of considerations not connected to the criminal status of the act. It should be said that the purpose of the study is not to discuss criminal statistics, but the results still illustrates how the statistics is constructed through the practical work of the investigators at the authority. In the ideal justice process those acts that are filtrated out of the system should be those in which the investigators can conclude that the act is not a crime. But the law of insider trading gives the investigators considerable space for interpretation. Of the cases investigated at the authority *nine out of ten* was not forwarded to the prosecutor's office. In about 35 percent of the closed cases the investigator concluded that the act were not a crime. Consequently, 65 percent of the cases were closed on other grounds than that of the criminal status of the act. About 28 percent were closed on the basis that the investigator had done an *assessment of reasonableness*, based on the size of the trade, the profit made, influence on the stock rate, or on the lack of evidence. In the motivations made by the investigators words as "small numbers", "influence on stock rate not evident", "difficult to prove". The investigators are considering how the case will make it in the justice system and in some cases they give direct references to the expected reaction from the prosecutor. About 15 percent are closed because the case has been outdated (and further investigation is meaningless) or that the authority does not have enough resources to investigate the case.

Beyond Official Criminal Statistics

So far I have illustrated what many already knew, that criminal statistics are problematic in relation to economic crime. Also, in the introduction it was stated that the pessimism concerning the quantitative study of economic crime are widespread. However, a

number of studies with different methods have been carried out in this area.[6] In the following section different methods that have been used to study varying forms of economic crimes will be presented and discussed. The present review is not extensive and should rather be understood as a selection of studies in this area.

Abnormal development at stock exchange – national economics and insider trading

Tax evasion and the so called hidden economy have been studied for a long time by national economists. But the methods used by this discipline have also been used to study money laundering and insider trading. The methods that have been applied on tax evasion are already well discussed in the literature (see for example Lottas grå bok; Pedersen 1998; RSV 2001; Bergqvist 2002) and the method that has been used to study money laundering is very problematic (see for example Walker 1994; van Duyne 1999; Bergqvist 2002). Here the attention will be focused on the study of insider trading.

The starting point for the model is an ideal situation, where there are no insider trading. It is forbidden by law to trade while in possesson of non public information. During the period before the information is made public it should not influence the stock rate, i.e. if there is no insider trading. Stated in a more complicated manner; The Market Model states that, for a single corporation, there should not be any significant deviation from the markets average returns (ref.). In other words, the development of a specific stock rate should not deviate significantly from the general development at the market. Deviations in the development of stock rates of corporations which have gone through business events that might influence the stock rate can be interpreted as illegal insider trading. This perspective is also used in the supervision of the stock exchange, abnormal movements in the stock rates indicates that something may be wrong and the company may get a telephone call from the authorities, although only when the movements for a single company are relatively large.

However, with this method, called the event method, one does not only count individual companies. Instead calculations are done on an aggregated level. The developments of stock rates are studied for all companies, before and after events (merging, affair etc). The returns of these companies before an event can thereafter be compared to an average return for the stock exchange. American and Swedish studies have in this manner demonstrated that the stock rates rise before takeovers and that this rise begins up to two weeks before public announcement, and that the largest rises are in the days just before takeover (ref). Some researchers view this as evidence that the illegal trading activities are significant at American stock exchange (see for example Keown and Pinkerton 1981) or in the Swedish context, at least existing (de Ridder 1989; Damlin och Modin 2000). Other researchers mean that these rises can be explained by other factors than illegal trade (see for example Jarrell and Paulsen 1989) arguing that this is an example of the fact that the market is effective, that is that the stocks reaches it correct value quicker because all public information are used in judgments of the value.

The method uses the same indicator as supervising authorities, but on an aggregated level. Problematic are however that it is difficult to exclude concurring explanations for the rising stock rates. Firstly, it has been argued that the rising stock rates are a consequence of speculations in media. Jarrell and Poulsen (1989) found, in their study, that existence of articles in media to a high degree correlated with rising stock rates before takeovers. However, this may still be insider trading since the articles may be based on information that is not public. The Swedish law has also been more and more inclusive in its description of information and insiders. Secondly, the rise can be based on the fact that corporations make small purchases in advance, i.e. before the takeover they buy stocks in the company. Jarrell and Poulsen (1989) also found some support for this argument, even if it were less secure

[6] The direction of the Swedish research are not in focus here, but it can be said that what has mainly been studied in Sweden are tax crimes and book-keeping crimes.

than that of media's role. Their conclusion was that the method should be used with great cautiousness as a tool for estimation of insider trading.

Survey methods – asking about economic crime

In the study of traditional criminality victim- and self-report surveys are widely used. When methods for studying economic crime are discussed it is standard to conclude that these methods are not suitable for these crimes (see for example Nelken 1997; Friedrichs 1996). But despite this skepticism different kinds of surveys have been used to study both crimes against companies and against consumers (see for example Ellingsen 1995; Pearce 1992; Titus et al. 1995; NWCCC 2000).

But the skepticism is legitimate. There are a number of reasons why reporting are not correct, some of them will be mentioned here. Firstly, the respondent may have been victim of a crime, but are not aware of it or does not interpret it as a crime even when asked about it. This can of course be the case for traditional crimes as well, but are seen as especially problematic in respect to economic crime. The greater ambiguity of the laws makes it more difficult to know if they have been victimized (Friedrichs 1996: 52). However, as has been argued by Reiss and Biderman (1981), the survey might in itself contribute to the construction of the event as a crime, or with other words the victim is diffusively aware of the fact that the event could be a crime but it is finally defined as such through the survey. Secondly, if one focuses on corporations as victims of economic crimes the former problem may be enhanced. To what extent are these events known within an organization and who within an organization has this kind of overview that they can report these events? A Swedish survey with the purpose to study the extent of computer related crimes concluded that organizations did not always have that kind of knowledge. Within many large companies there existed no internal reporting of events and incidents. Some organizations even asked for permission to use the research survey for internal reviews (RRV 1997:23). It is also standard to argue that even if the events are known within the organization it will not be reported in a survey, because of the sensitive nature of the information (see for example Walker 1994).

There are however, other arguments that are in favor of victim surveys. Firstly, the method can provide a picture of the events and potential crimes that are seen as problematic within organizations, that is even if include events that are obvious crimes but that are not interpreted as such, one can theoretically include those events that are interpreted as crimes but not reported to the authorities. Secondly, this method does not contain the *same type* of filtration that the criminal statistics and can therefore constitute an interesting complement. Finally, as long as the problems are constant over time, as they are not in the criminal statistics, these surveys can reflect the development over time (Ellingsen 1995). Further, these surveys can be used to study factors not directly concerned with the extent such as attitude to laws etcetera.

Another form of survey has also been used, which can be called bystander survey. The respondents are asked if competitors or "other in the branch" in different ways are committing illegal acts. This is one way to evade the sensitivity in reporting ones own criminality. There are several examples of surveys that have employed this method and it has been applied on different groups and issues; representatives of companies generally (Ellingsen 1995), restaurant owners (Alalehto 1999), stockbrokers and stock analysts (Hetzler 1999; Affärsvärlden 1999; IMF 2001; Transparency International 1998) have been asked about crime in their branch. These kinds of methods presuppose that the respondents have knowledge on these phenomena. The biggest problem is therefore creation and reproduction of myths that are not grounded in experience. And it might also be as sensitive to report other people's crimes as it is to report ones own.

Expensive reparations; Consumer Fraud and the Field Experiment

The Field Experiment has been used to study frauds against consumers. The method is simple. A researcher, in collaboration with a specialist, visits workshops with the stated purpose of repairing a consumer commodity. The problem with the product is staged and of

the simplest kind. Thereafter they just wait for the response from the repairman – will he or her report that the problem was solved without any work or will he or her make unnecessary repairs and/or debit an overprice.

This method was used by Jesilow (1982) in his dissertation *Deterring Automobile Repair Fraud: A Field Experiment.* The purpose of the study was to find out the proportion of automobile repair shops in a given area that defrauded their customers. The research team took used batteries to repair shops and asked them to load the batteries. It was established by experts that these batteries were reachargable and therefore did not need to be changed. The procedure was carried out at a number of represenatively selected companies. Of course, the method gives an underestimation of fraud since these companies might be involved in other types of frauds but it provides a minimum estimation. Jesilow (1982:124) identified groups and crimes that had not been discovered through other methods. Out of his 313 companies, 34 (10,9 percent) did argue that the batteries should be changed into new ones.

The number of areas in which the method can be used are guite few (Green 1990:44ff). It is appliable when crimes are against individuals (primary direct victimization) carried out by small companies where the consumer has difficulties in judging the quality of the service. This is often seen as a marginal type of economical crime that is relatively trifled. At the same time it is crimes that affect indivual consumers and that may affect them in their everyday life (Croall 2001), crimes that have been neglected in the discussion on economic crimes in Sweden (Korsell 1999).

And what do we have here? – Random audits, tax and bookkeeping crimes

The designs of the studies of tax crimes vary and there are three different designs that have been used: random audits, audits in a whole branch and focused actions from the authorities that are documented. Of course, these designs also have consequences for the possibility to make conclusions on the criminality in the branch in general. Regarding the regular controls there are not much to comment, what is discovered depends on who are audited, what is audited and to what degree this is made and how much resources that are spent on these audits (Malmer and Persson 1994). It is difficult to say anything about the distribution of crimes, for example betweeen branches, even if they have been used for this purpose (see for example Holmqvist 1990). However, random audits are more relevant in this context since they allow us to make statements about the audited branch in general.

Magnusson and Wikström (1992) documented control audits in seven different branches: automobile repair shops; cleaning; painter; real estate, restaurant, taxi and haulage contractors. These actions were made on a random selection of companies within the different branches. The companies were inspected through a tax audit that considered different types of information. The study gave information on the share of companies that had potentially committed crimes, the number of potential crimes and the monetary aspect of those crimes, measured in withheld sums in respective branch.

However, these studies are not covering all aspects of this phenomenon. They are totally focused on tax related crimes and principally exclude all other types of economic crimes. And is not possible to include companies that are not known to the authorities, that are working totally hidden, and it is not possible to include black work (svartarbete) when it is something that the client or customer are in agreement of. It is also difficult to discover all types of crimes, even with a thorough audit (Magnusson and Wikström 1992:38). Axberger (1998) has also presented an intresting aspect of these audits. His point is that these investigations are actions from one part, whose purpose it is to find funds to tax but not to investigate different possibilites of reduction of taxes. The consequence is that if one is interested in tax evasion, inverted audits might very well show to large taxes from the state.

Reconstruction of alternative information

This strategy presupposes that there exists some form of information that is not filtrated to the same degree as the criminal statistics. Example of such information could be data on the number of persons with injurys that are caused by consumer products (cf. Levi

1985), or the number of reported cases of food poisoning related to commercial food production and processing. One further example could be statistics over the number of illegal oil discharges, statistics that are collected by the Swedish Coast Guard. That would be a way to problematize different types of corporate crimes that has been discussed in the literature (see for example Johansen 1991; Croall 2001; ref).

Here, I will follow Tombs (1999) and use health and safety crimes as an example just to illustrate the principal. He argues that these crimes do not get constructed as crimes, although they from a juridicial point are criminal. As already discussed the criminal statistics can therefore be seen as an indicator of ideology and priorities within the system of control rather than the number of cases that *could* be processed within the judicial system. From this standpoint other data has to be considered and for these types of crimes that might be statistics concerning the number of deaths and injuries in workplaces. The first question is then the relationship between accidents and injurys on the one hand, and the number of health and safety crimes in the criminal statistics. In Sweden, the number of accidents that were reported in 1998 was 35000, of which 7877 were serious. The same year 121 persons were reported in the criminal statistics as *being the cause of an injury or disease at a workplace*. Also, 52 persons died at work that year, and 7 persons were reported as *being the cause of person's death at workplace*.

It has been argued that these types of acts are not construed as crimes even if it is possible to view them as such (Tombs 1999). One example that might be illustrating are that a Swedish committé in the 1980's questioned the fact that the police had a code "death by work accident where no crime is suspected" since they meant that all accident should be thoroughly investigated before it is possible to establish that the event were not caused by a criminal act or negligence. They argued that all events should be coded as "*being the cause of persons death"* until the opposite could be established by an investigation. But that is not what happened, instead the code "9002 – work accident, without suspicion of crime" are automatically implemented if the police officer open a report with the words *work accident* (Arbetsmiljö nr 6, juni 1997). Earlier studies have shown that The Swedish Work Environment Authority (Lundberg 1975; eventuellt tillsynsrapporten Eso) sparsely uses sanctions and it is also possible that other, from a judicial point of view, irrrelevant considerations influence the decisions, as has been shown for environmental crime (du Rées 2002). To relate accidents, diseases etcetera at workplaces to criminal acts demand a theoretical foundation and studies of the work of authorities. The knowledge on the extent of injurys and accidents are relatively good and it should be productive to study how damage or accidents are construed as a crime.

Concluding remarks

Criminal statistics is an important tool for the construction of criminality. But unfortunately it is mainly designed to answer questions about traditional crimes. The information on economic crime needs to be more detailed, and also to be adjusted to the existing discussions on the phenomena. For twenty years there has been varying definitions in Sweden that has focused crime in the businesses, but still it is not possible to apply that criterion on the statistics. The issue of finding a generally accepted definition which take up the first part of many texts on economic crime should not be viewed as an obstacle for criminal statistics. Instead statistics should be differentiated so that the user can apply statistics independent of definition. Another important aspect is that, even if the statistics will be more detailed, we need studies of the activities of the authorities to be able to relate the figures to some kind of reality.

A description of the phenomena should reflect the ambivalence in the criminality (cf. Cressey 1958), that is to take into account the different ways in which the phenomena have been defined and interpreted. Further, criminal statistics and the *different* methods have varying potentials and problems, some of them are dependent on the victim's knowledge or definition of victimization while others stand free in this aspect. For example, if one would like to give a description of insider trading one should use criminal statistics combined with

studies of the authorities which give us an understanding of the acts or events that are processed in the judicial system. But with the use of national economical methods we can also get an impression of the potential width of illegal trade with non public information. Further, through surveys we can form a picture of how central actors attitudes to the law and the problem of illegal trade. But they can also give their impression or knowledge of the extent of illegal trade. Once again, this does not necessarily mean that the criminal statistics give us the top of the iceberg and that we, with these methods, dives beneath the surface. But these methods give us new perspectives on insider trading.

Finally, it can be concluded that there are no miracle methods that will let us dive with crystal clear sight. The metaphore is in itself problematic. Nevertheless, through use of studies of criminal statistics, an improved criminal statistics and alternative methods we can create many quantative perspectives on economic crimes that go beyond today's criminal statistics.

References

Affärsvärlden (1999) "Bara toppen av isberget". Affärsvärlden. 8 april 1999, nummer 14.

Alalehto, Tage (1999) Motiv eller tillfälle: en studie om ekonomisk brottslighet i restaurang-branschen. Atlas. Stockholm.

Axberger, Hans-Gunnar (1988) Eko-brott, Eko-lagar och Eko-domstolar: En rättspolitisk utvärdering av lagstiftningen mot ekonomisk brottslighet. BRÅ-rapport 1988:3.

Box, Steven (1983) Power, Crime and Mystification. Tavistock: London.

Braithwaite, John (1985) "White Collar Crime". Annual Review of Sociology. Årg.11. s.1-25.

Brottsförebyggande rådet (1996) Ekonomisk brottslighet – den rättsliga processen. BRÅ-PM 1996.5. Fritzes: Stockholm.

Coleman och Moynihan (1997) Understanding crime data. Haunted by the dark figure. Open University Press: Buckingham.

Croall, Hazel (2001) "The Victims of White Collar Crime". I: Lindgren, Sven-Åke (red.) *White Collar Crime Research. Old Views and Future Potentials.* Brottsförebyggande rådet rapport 2001:1.

Damlin och Modin (2000) Insiderhandel. En studie huruvida insiderhandel förekommer, i samband med börsstopp orsakade av uppköpsbud, vid Stockholms Fondbörs. C-uppsats, Företagsekonomiska institutionen, Stockholms universitet: Stockholm.

De Ridder (1990) Kurspåverkande information : en analys av börs- och noteringsstopp. Stockholms fondbörs, Stockholms universitet: Stockholm.

Deflem (1997) "Surveillance and Criminal Statistics: Historical Foundations of Governmentality". Studies in Law, Politics and Society. Årg. 17.

Ds 1996:1. Effektivare ekobrottsbekämpning. Rapport från regeringens ekobrottsberedning. Stockholm: Fritzes.

Du Rées, Helena (2001) Kan straffrätt skydda miljön? En studie av samhällets reaktion på miljöbrott. Stencil. Kriminologiska institutionen. Stockholm.

Ellingsen, Dag (1995) Den ekonomiske kriminaliteten slik de naeringsdrivande erfar den: en offer- og holdingsundersokelse. Kriminalitetsforebyggande rådet: Oslo.

Friedrichs, David. O (1996) Trusted Criminals: White Collar Crime in contemporary society. Wadsworth Publishing: Albany.

Gottfredsson and Hirschi (1987) "Causes of White Collar Crime" *Criminology, 25. pp. 949-971.*

Green, Gary (1990) Occupational Crime. Nelson-Hall: Chicago.

Haggerty, Kevin (2001) *Making Crime Count.* University of Toronto Press, Toronto.

Hetzler, Antoinette (1999) "Insiderbrott – kontrollmyndigheternas arbetssätt och marknadens attityder". Projektbeskrivning. I: Brå (1999) Forskning om ekonomisk brottslighet: en översikt. Brå-rapport 1999:7. Stockholm.

Hetzler, Antoinette (2001) ”Insiderbrott och regleringen av värdepappersmarknaden – en värdefråga?. I: Appelgren, Lars och Sjögren, Hans (red.) Ekonomisk brottslighet och nationalstatens kontrollmakt. Gidlunds förlag: Hedemora.
International Institute for Management (2001) The World Competetiviness Yearbook. IMD International. Lausanne.

Jarrell och Poulsen (1989) ”Stock Trading Before the Announcement of Tender Offers: Insider Trading or Market Anticipation?”. I: Journal of Law Economics and Organization. Årg. 5, nr. 2.
Jesilow (1982) Deterring Automobile Repair Fraud: A Field Experiment.
Johansen, Per-Ole (1991) ”Forurensning som tradisjon. I: Studier i ökonomisk kriminalitet. KS-serien nr 1-1991. Oslo.
Jupp, Victor., Davies, Pamela och Francis, Peter (1999) Invisible Crimes: Their Victims and Regulation. Mac Millan Press Ltd: London.
Keown, Arthur och Pinkerton, John (1981) ”Merger Announcements and Insider Trading Activity: An Empirical Investigation”. Journal of Finance. Årg 36, nr. 4.
Korsell, Lars (1999a) ”Ekobrott, liksom”. Svensk Juristtidning, Årg. 85 s.932-965.
Levi, Michael (1985) ”A Criminological and Sociological Approach to Theories of and Research into Economic Crime”. I: Magnusson, Dan. (red.) Economic Crime – programs for future research. Research on Economic Crime. The National Council for Crime Prevention in Liber Förlag/Allmänna förlag: Stockholm.
Lindgren, Sven-Åke (2000) Ekonomisk brottslighet. Ett samhällsproblem med förhinder. Studentlitteratur: Lund.
Lundberg, Lars (1982) Från lag till arbetsmiljö. Avhandling. Uppsala universitet, Företags-ekonomiska institutionen.
Magnusson, Dan och Wikström, Pia (1992) Skatterevision i sju branscher. En studie i ekonomisk brottslighet. Brå-Pm 1992:2. Stockholm.
Malmer och Persson (1994) Skattereformens effekter på skattesystemets driftskostnader, skatteplanering och skattefusk. I: Malmer, Håkan., Persson, Annika och Tengblad, Åke (red.) Århundradets skattereform: uppföljning av skattereformen 1990-1991. Fritzes: Stockholm.
Maquire (1997) ”Crime Statistics, Patterns and Trends: Changing Perceptions and their Implications”. I: Maguire, Mike., Morgan, Rod och Reiner, Robert (red.) The Oxford Handbook of Criminology. Clarendon: Oxford.
May, Tim (2001) Samhällsvetenskaplig forskning. Studentlitteratur: Lund.
National White Collar Crime Center (2000) The National Public Survey on White Collar Crime. National White Collar Crime Center, Training and Research Institute. Morgantown.
Nelken, David (1997) ”White Collar Crime”. I: The Oxford Handbook of Criminology. Red. Maquire, Morgen och Reiner. Clarendon Press: Oxford.
Pedersen (1998) The Shadow Economy in Western Europé. Measurement and Results for Selected Countries. The Rockwool Foundation Research Unit. Köpenhamn.
Persson, Leif (1986) Kampen mot eko-brotten. Del 1: Polisen. Forskning om ekonomisk brottslighet. Brå rapport 1986:3. Liber förlag/Allmänna förlag: Stockholm.
Regeringens skrivelse 1994/95:217. Samlade åtgärder mot den ekonomiska brottsligheten.
Reiss, A. J. & Biderman, A. D. (1980) Data Sources on White-Collar Law-Breaking. Bureau of Social Research. Washington, DC.
Riksdagens revisorer 1993/94.6. Den ekonomiska brottsligheten och rättssamhället. Stockholm.
Riksrevisionsverket (1996b) Skattekontroll vid tre skattemyndigheter.
Riksrevisionsverket (1997) Datorrelaterade missbruk och brott – en kartläggning gjord av Effektivitetsrevisionen. RRV-rapport 1997:33.
Slapper, Gary och Tombs, Steve (1999) Corporate Crime. Pearson Education Limited: Harlow.

Steffensmeier, Darrell (1989) 1989 "Causes of white-collar crime revisited: an assessment of the Hirschi and Gottfredson assertions." Criminology 27:345-358

Titus, Richard., Heinzelmann, Fred och Boyle, John (1995) ”Victimization of Persons by Fraud”. *Crime and Delinquency.* Årg. 40, nr 1. s. 54-72.

Tombs (1999) ”Health and Safety Crimes: (In)visibility and the Problems of ”Knowing”.” Jupp, Victor., Davies, Pamela och Francis, Peter. Invisible Crimes: Their Victims and Regulation. Mac Millan Press Ltd: London.

Tombs, Steve (2000) ”Official Statistics and Hidden Crime: Researching Safety Crimes”. I: I: Jupp, Victor., Davies, Pamela och Francis, Peter. Doing Criminological Research. Sage: London.

Transparency International (2000) [Interet: www.transparency.org. Hämtad 2001-11-19].

Walker, John (1994) First Australian National Survey of Crimes Against Businesses. Australian Institute of Criminology. Canberra.

Van Duyne, Petrus (1996) Organized Crime in Europe. Nova Science Publishers, Inc.: New York.

Wesser, Erik (2001) Har du varit och shoppat Jacob? En studie av Finansinspektionens utredning av insiderbrott under 1990-talet. Sociologiska institutionen, Lunds universitet.

THE SUBTLE ROLE OF DEVIANT LABELING: AN EMPIRICALLY GROUNDED ANALYSIS

Bernburg, Jón Gunnar

Introduction

The present study is an attempt to develop a grounded analysis of some the processes triggered by deviant criminal labeling, that is, when a person becomes defined as a deviant offender by others. The well-known but highly controversial labeling perspective argues that deviant labeling, official deviant labeling in particular, tends to trigger processes that stabilize involvement in deviant behavior (see Liska and Messner, 1999:118-25 for a review). Some theorists (Lemert, 1967; Matsueda, 1992) have focused on changes in the self-concept and on the dynamics of symbolic interaction, arguing that deviant behavior is stabilized or maintained because the labeled person tends to conform to the stereotypical expectations of others. Other theorists (Becker, 1963) have argued that deviance is stabilized because the stigma of the deviant label tends to block access to nondeviant others and it tends to block access to structured opportunities, such as employment. As a result, the labeled person tends to seek the company of deviant others and hence becomes immersed in deviant networks that provide stable opportunities and motivation for deviance.

While more or less neglected in mainstream criminology since the late seventies and early eighties, the last few years have seen a revival of the labeling approach (see reviews by Bernburg, 2002; Paternoster and Iovanni, 1989; Zhang and Messner, 1994). For example, building on the work of Bruce Link and his associates (Link, 1982; Link et al., 1989), Sampson and Laub (1993, 1997) have recently suggested that deviant labeling may be viewed as a transitional period in the lifecourse – a period that potentially may push the individual on a pathway of cumulative social and structural disadvantage, that is, reduced social ties to conventional others, increased ties to deviant others, and exclusion from structured opportunities, such as education and employment. Deviant labeling may thus have indirect, long-term stabilizing effect on subsequent criminal behavior.

In collaboration with American collegues, I have recently attempted to test these ideas using quantitative data. Using longitudinal survey data on youth collected in the United States, we have found a good deal of support for this approach. Focusing on the period from early adolescence to early adulthood, we (Bernburg and Krohn, 2003) have found that males that experience police intervention or juvenile justice intervention during adolescence have higher rates of offending in early adulthood, while controlling for serious adolescent delinquency and other relevant factors. Consistent with Sampson and Laub's argument, we further show that this long-term effect of official labeling on future offending is explained in part by the effect that official labeling has on subsequent educational attainment and employment during early adulthood. In another analysis focusing on early adolescence, we (Bernburg, Rivera and Krohn, 2002) have found that official intervention (juvenile justice intervention) is positively associated with increased likelihood of delinquent offending in a subsequent period (net of relevant controls), and that this effect can be explained in part by the positive effect that official labeling has on subsequent association with deviant others (e.g. gang membership).

However, our ability to interpret quantitative findings such as these is limited, because we lack accounts of the actual processes involved. While this work is supportive of important hypotheses drawn from labeling theory (see also Hagan and Palloni, 1990; Palarma et al., 1986) it says little about how in fact deviant labeling is enacted and how it plays out in specific social contexts. How in fact does an event like arrest or a line of events leading to a conviction influence social ties with others? What are the specific processes that translate the labeling of the person as a deviant, or more specifically as a delinquent or a criminal, into social marginalization? Labeling theory of crime and delinquency has given us some general

statements to this effect but few specifics. With some important exceptions (Bodwitch, 1993), theoretical insights into these issues have rarely been grounded in concrete accounts of individuals' social experiences. Hence there has been limited theorizing on these issues in addition to the general propositions of classics such as Goffman (1963), Lemert (1967), Becker (1963), and Tannenbaum (1938).

The present study attempts to gain insight into these social processes by studying criminal labeling in concrete social situations, using non-statistical methods. The goal is to build concepts and categories that can capture commonalities in the concrete experiences of labeled offenders.

Method

During the past several months I have been conducting open, in-depth interviews (see Weiss, 1994) with males that have been formally processed as offenders, that is, males that have been convicted for a crime and, in most cases, spent time in prison or in other types of correctional facilities (such as juvenile correction facilities). The interview guide consists of open ended questions about respondents' experiences with regard to four major themes: 1) events of arrest, trial, conviction, and imprisonment, 2) the significance of such events for the person´s ties to family, peers, school and work, 3) the significance of deviant labeling for self and 4) the perceived reactions of strangers and society in general toward offenders and ex-offenders.

The study is still work in process. About 15 individuals have been interviewed while about 20-30 more interviews will be conducted to complete the study. The interviews last about 1-2 hours each. Most of them were recorded on tape and then transcribed verbatim. The datum was analyzed by means of coding the interviews and categorizing themes as suggested by Weiss (1993) and Lofland and Lofland (1995). Preliminary results consist of a few emerging themes. The names of respondents reported below are made up to protect the participants of the study.

Facets of societal reaction

Preliminary analysis of the data has resulted in a few emerging themes that I think lend insight into some of the facets of societal reaction. Some of these themes are not developed enough to discuss here so I will focus on those themes that already have considerable grounding in my respondents' experiences. In the following I discuss my respondents' experiences in regard to 1) identity making and deviant status attainment, 2) reaction of community members, and 3) perceived stigma and social withdrawal.

Identity Making and Deviant Status Attainment

Individuals that develop a deviant reputation during adolescence are often active participants in the making of their reputation as deviants in the community. They want to be known as deviants. Their actions, including their deviant behavior, is often directed at projecting, or asserting their identity as deviants. The deviant status makes them feel famous in the peer community, that they are getting attention from the girls, the respect of their peers, and so on. Hence they are often eager to project the image that they are deviants. When stories and rumours (true or untrue) about their deviant involvement start to circulate in the community, these individuals do not attempt to refute them, but on the contrary use them to attain the deviant status, that is, to develop the reputation of a deviant, the tough guy, the rebel.

Siggi (#1) was a troubled teenager who had a career as a serious delinquent during middle adolescence. His involvement in deviance and delinquency begins at age 14, shortly after he and his family move into a new neighborhood. The move makes him insecure about his status among peers and feering peer rejection he starts to associate with delinquent friends and project a deviant image of himself.

> [Being deviant] fitted me quite well. My feeling of self-worth was low. I was afraid of being rejected in the new school. . . . I had just witnessed an extreme case of peer rejection and bullying at my old school. There was a new kid at the school who just became a victim. That's what I was thinking at the time. Soon I was committing petty crimes.
>
> I wore a leather jacket and such. I was in a disguise you see. I hadn´t done anything wrong and I hadn't even started drinking or smoking. But everyone, even the teachers, were convinced that I was an addict and a drug seller. They thought this just because of the way I looked [I was also the new kid in town]. I was made a scapegoat for the mis-behavior in my group of friends. Even though they started before me. And I took advantage of all that. I feared rejection from my peers. I pretended that I was drinking, smoking and skrewing, you see.

Pési (#6) was also engaged in serious delinquency during adolescence and beyond. From age 14 he commits serious, often violent offenses, gets expelled from school and does time in juvenile treatment facilities (*Meðferðarheimili*). While Pési does not share Siggi's fear of peer rejection, he nevertheless starts to enjoy the attention he gets for becoming known as a deviant in the peer community.

> Jón Gunnar: Did you start to think about you in a different way when you started to become delinquent?
>
> Pési: I felt that I was much cooler than I used to be. It felt as if I was making it big. . . . I wasn't rejected by my peers at all. I was a part of the group at first. But after I started drinking and messing around with delinquency, it felt as if I owned the school. . . . My peers were fearsome, I think . . . but, still, this was a good time in my life and the girls at the school . . .[liked me] . . . Or, that's how I saw it. It was quite a change.

Similarly, Þrándur (#11), also a delinquent teenager and later a professional criminal:

> I remember parties when I was young. I wasn't welcome and the crowd started talking about me in the third person, as if I wasn't there – and I participated in it. I started thinking whether I was such a big star in the criminal world or if the crowd didn't know who I was. Whether it was something against me – I didn't care, I just liked it.

In some cases the deviant reputation, coupled with the desire to sustain the deviant status, can produce a self-fulfilling prophecy. The individual may frequently finds himself in a situation demanding that he live up to the expectations of others; deviant behavior thus becomes a means of defending one's social identity. The individual feels forced to perform the deviant behavior others expect from him. Failure to conform to this image can result in everything from public humiliation to violent victimization.

Biggi (#12) used to be known as a fighter and a tough-guy during adolescence. This reputation made him feared and even respected among his peers. However, he frequently found himself in a situation where he was compelled to conform to the expectations made to his reputation as a fighter and a tough-guy:

> You had to live up to the stories. You had to perform. I was a tough guy, understand? I got the reputation that I was a tough guy, a fighter. This story circumlated among all the other tough guys in the other schools, and we heard stories of them. Then we ran into one another downtown and then we had to fight and threaten one another. I didn't want to fight, I'm like you, I shake from fear when

> I'm about to fight. But you had to do your bit. I used to get into these situations all the time, I was forced to participate in violence due to this reputation. In reality I was very scared to fight, scared to get hurt, scared to get beaten up – of course there was the adrennalin kick also.

Similarly, Björssi (#4) has multiple convictions for violent offenses. His career as a fighter lasted through adolescence and beyond, working as a doorman and having a blackbelt in martial arts.

> Jón Gunnar: Did you have an image of yourself as a figher?
>
> Björssi: Yes, I did. It was a tickle. I liked this image and I lived up to it. But then it is difficult to quit. People get you into situations where you have to fight. For example, I would hear that someone and someone meant to beat me up. One reason was that my friends used me as backup. I then hurried to beat them up first. . . . It is difficult to shake of the fighter image. People tell stories and exaggerate. Now I've been in prison and its even more mythic. Now I have an image that I don't want to have.

Regardless of whether the person initially desires to attain the deviant status or whether the deviant status is forced upon him, deviant labeling usually sets in motion subtle processes that tend to trigger distancing from conventional others, and thus lead to increased association with deviant others. These processes also tend to work as barriers to structured opportunities, such as employment. These processes vary a great deal among individuals and contexts and have a differential impact on the person's life depending on the social context in which labeling occurs and depending on the social meaning attached to the deviant label. In the following, I consider cases of community reactions when the individual has become widely recognized as a deviant offender in the community. Such individuals are subject to various exclusionary reactions from community members. I then consider cases demonstrating how the reaction of self to perceived threat of stigmatization can lead to social withdrawal, even while the individual's deviant status is not widely known to others.

Reactions of Community Members to Known Deviants

Juveniles who develop a community reputation as deviants are subject to various exclusionary reactions from community members. These reactions trigger subtle processes that lead to social exclusion, although these processes can also be quite overt. First of all, juveniles that are labeled as deviants typically become subject to rumours and exaggerations about their deviant character.

Siggi (#1) became known as a delinquent offender in his community at age 14:

> I had a hard time with rumours in Town. I looked different than anybody else in the new school. I was a *pönkari* (a punk rebel). . . . Everyone was convinced that I was bad company, that I was the root of my peers' mis-behavior. I was just a scapegoat. During a certain period I felt as if I was being harrassed by everyone. That's how I experienced it. The school did me wrong, the police did me wrong [by telling the school and the parents "how I was"], even the social workers did me wrong. The social workers told other kids and their parents that I was the root of all their problems. . . . I remember I thought it was fun to hear all kinds of stories about me. The teacher had told my mother this and that. But then it just became frustrating. I heard stories about myself every week.

Rumours about Siggi's involvenment in deviance circulated in the community and developed into exaggerations that went far beyond his actual involvement in deviance, at least at that time.

> Jón Gunnar: Do you remember one of these stories?
>
> Siggi: The teachers were talking to my best friend's parents. They had me analysed to the bone – that I was that kind of man, just on the edge, only one step away from finishing myself off..., that I was in very serious business, drugs and stuff – which wasn't true. . . . We were bad, but we were just drunks. But everyone thought we were doing drugs.

Similarly, during adolescence Biggi (#12) associated with delinquent peers and developed a reputation as a tough-guy and a fighter. He and his friends also became subject to rumours and exaggerations:

> Jón Gunnar: Where you delinquent during adolescence?
>
> Biggi: I was labeled a failure and a loser at age 13. It started with the teachers. I was dislexic and had no interest in studying. We were constantly fooling around me and my friends. We are outcasted. The teachers did nothing to help me. . . . Then these crazy stories and rumours started to circumlate about me and my pals. For example, once it was discovered that a friend of mine was fooling around with a needle in one of the restrooms at school. Then the rumour started that we were doing drugs. It was absurd. We were just drinking alcohol at the time.

What makes the reactions of parents in the community to labeled deviant juveniles an important facet of societal reaction is that it creates social distance between labeled and nonlabeled peers. Youths who become defined as deviants are often blamed for the misbehavior of their peers – they become scapegoats – and as a result they are subject to hostility and contempt from members of the community, especially other kids' parents, but also from teachers and peers. My interviews revealed several accounts of parents blaming teenagers with a deviant reputation for the misbehavior of their own kids. Hence parents often attempt to deter their kids from associating with known deviants in the community.

Pési (#6) developed a reputation as a deviant delinquent in his community. He describes how parents of other kids in the community reacted to him with hostility and contempt, making him a scapegoat for the misbehavior of their own kids. In Pési's account he stops associating with the kids in his neighborhood as a result and instead starts spending most of his time associating with delinquent others, thus becoming more immersed in delinquent networks.

> Jón Gunnar: Have there been situations where you are uncomfortable due to your reputation as a delinquent?
>
> Pési: When I'm visiting my pals, I always get the feeling that their parents treat me differently than other people. I don´t think it ever fails, except when I'm visiting someone I've known since I was a little kid. I try to avoid situations like that. I've often been uncomfortable for this reason. Like, in my neighborhood when I'm walking, I often feel like [gives a look of discomfort] and I know that [parents say] "you can't be around this kid". . . . For example, there was this lady who went to my mother and told her that I had dragged her son into *ruglið* [delinquency]. It wasn't true, he had started before me. As a result I am careful in this regard. . . . It is very annoying. I now avoid going home to people's

houses. Like with some kids I can't even knock on the door at my friend's, even though I've known them for years. . . .

Although his companions at the time had started drinking before him their parents thought that their misbehavior was his fault. In Pési's account parents of other kids often wrongly assumed that he was the leader behind the misbehavior of his peers, because he was loud and aggressive when he drank alcohol. "I stand out when we are drinking, you would notice me right away."

Similarly, Hreinn (#7) has been involved in delinquency and crime since pre-adolescence. He experienced parents of other kids attempting to minimize contact between him and his peers and he was frequently made a scapegoat for the misbehavior of others.

Jón Gunnar: Have you ever noticed that others look at you as a delinquent?

Hreinn: Always, since I was age 10. All the mothers used to come and say that I could be with their sons and that kind of bullshit. You just sensed it. . . . I was big for my age . . . It didn't matter what you were doing, breaking windows and stuff, when the police came I was the subject of their attention.

And Þrándur (#11) a delinquent juvenile and later an adult professional criminal:

Jón Gunnar: Did you experience any reactions of other kids' parents to your delinquency?

Þrándur: Oh yes. I was usually the bad guy when something came up. I was the one that the other kids shouldn't be hanging out with. When it started I was not the bad guy but the other troublemakers in the neighborhood. I was sneeking around to be able to hang out with them. Then all of a sudden I became the bad guy myself...

In addition to the exclusionary reactions of the parental community, and despite the perception that the deviant status provides youths with attention from peers, the deviant label influences peer interaction in ways that enhance distancing of the labeled youth from conventional peers, and leads to increased immersion in deviant networks. Fear and mistrust toward deviants plays a role in creating social distance between labeled deviants and their peers. Biggi (#12) and his delinquent friends felt that they didn't have anything in common with other kids.

We were outcasted. [I: How so?] I just sensed it on people. . . . Often we were not invited to parties. People didn't want us there, or they were simply afraid of us, that we would damage something. People really didn't have any reason to be afraid of us. It was because of all those rumours about us being in really messy shit (*ruglinu*). Often of course we behaved silly. But if we went to a party we usually went into one room and just stayed there not talking much to other people. . . . We became a very tight group, like family. It was like we and the others.

And Þrándur (#11) who grew up to be a professional criminal:

Jón Gunnar: Have you ever been unwelcome somewhere?

Þrándur: All my life I've had the sense to dress OK. Not to look like what I do. Sure I have been unwelcome. I remember parties when I was young. I wasn't welcome and the crowd started talking about me in the third person, as if I

> wasn't there – and I participated in it. I started thinking whether I was such a big star in the criminal world or whether the crowd didn't know who I was, whether it was something against me – I didn't care, I just liked it. This was when I was an adolescent. Yes they told me I couldn't come to parties and stuff like that.
>
> Jón Gunnar: Who told you that you couldn't come?
>
> Þrándur: Just the people having the party. I thought you would come and ruin everything. That was the reason why they didn't want me there.

Pési (#6) enjoys the rewards of having a deviant image but at the same time senses that his peers have become fearsome of him and discovers that they cannot "be themselves" around him.

> Jón Gunnar: Do you remember anything specific that suggested to you that your peers were fearsome of you?
>
> Pési: Well – I wasn't really observing this that much – one of my pals told me that some people just couldn't be themselves around me. That they started to be kiss-ass like. I didn't like hearing it that way. I just thought everyone were digging me the way I was and no bullshit. But then when he said this I thought "This is not right". I didn't talk about this but I started being a bit paranojed.

While the processes leading to distancing are usually subtle in cases of juvenile delinquency, being placed in the category of the sex offender is an extreme case of stigmatization and puts in motion overt reactions from others, especially if the community context is a small Icelandic village. There is a stark contrast to the experience of the juvenile deviant. In such cases the processes of exclusion from conventional others and structured opportunities is quite overt. Egill (#14) worked as a teacher in a fishing village when charged and eventually receiving a short prison sentence for having an affair with one of his female students, a teenager. The stigma of being placed in the sex-offender category made it impossible for him to live in the town.

> It was a tremendous shock. Just terrible. . . . It was as if everything I owned and had worked for was being swept away. I totally broke down. . . . Soon I moved to the city to my parents' . . . I didn't want to be in that town with this hanging over me. Aside from the fact that I didn't have a job. The Child Protection Agency had sent a letter to my employer warning them of me as a person. I also wanted to be somewhere where I could talk to someone. I was totally isolated socially in that place. . . . People looked away when I ran into them and didn't want to say hello. . . . I also received the middle finger from the local youths. I had been a popular teacher and it was strange to experience this.

Even in the city "the story" chases him wherever he attempts to settle down at a job. He is therefore subject to negative stereotyping and social exclusion:

> What I fear in a small society such as ours is that although many people knew about this when it was happening, and for several weeks beyond that, the story is still chasing you today. For example, in the place I now work (a gas station) something frightening happened. There was some truck driver that had heard about this and was talking about me being a serious sex-offender. And there was a girl working there who went to the manager and asked if this was a serious sex-offense. The manager just said no. . . . When someone starts to talk about this everybody thinks you are some kind of rapist. . . . My old pals from youth

> don't talk to me [after they heard about this]. The prejudices work such that people don't think any, you are just labeled [snaps fingers], that's what I think.

Perceived Stigma and Social Withdrawal

Regardless of whether the offender becomes known as a deviant in his community, the stigma of having been processed as an offender, a law-breaker, and the reactions of others to the stigma—whether these reactions are real or a potential threat—become issues of concern as the individual arranges his routine behavior and self-presentation. This point has also been raised by Link et al.'s (1989) modified labeling theory of mental illness. Link et al. suggest that the fear of rejection, which is triggered by internalized conceptions of discrimination against the mentally ill, may often lead individuals who have been processed as mentally ill to withdraw from many conventional social settings, and may thus have a pejorative impact on his or her ability to pursue ordinary opportunities and to participate in social life.

Most respondents had some ideas about what their criminal stigma meant to others. They looked for clues about the attitudes of others in social interaction and in the media. Offenders are also aware of the stereotypes they themselves had internalized before they became convicted offenders themselves.

> Interviewer: Do you see criminals differently now that you have been in prison yourself?
>
> Respondent: Yes, definitely. I got to know bunch of criminals in prison. They are people like us. But before I went in I thought they were all rats, that's what they were supposed to be – people that shouldn't be free. That's how I saw it, and I think that's how most people see it. That's why I'm conscious of what people think of me—I used to be of the same mind myself.

Often labeled deviant offenders avoid social situations where they expect rejection of others and fear that feelings of shame and discomfort may arise due to their stigma, at other times they are careful to conceal their past and attempt to pass as nondeviants. This process seems to be an important facet of the social marginalization process, as Link et al. (1989) have suggested. Many of my respondents told me that they have become "careful about themselves", avoid going out among people, especially people they don't know.

My interviews provide many accounts showing that expectation of rejection is usually seen as an unbearable situation, leading the individual to avoid a conventional social setting. Above we have seen how the negative reaction of parents in the community may be a potentially important factor in triggering distancing between labeled and nonlabeled juveniles. Pési (#6) provides an account that demonstrates the exclusionary impact that the reaction of the self to the hostile reaction of others can have. Perceived hostility from other kids' parents fills Pési with feelings of shame and discomfort, leading him to avoid situations where he might run into these parents. Hence he begins to avoid other kids in the neighborhood community and withdraw from regular peer social activities.

> It was very uncomfortable, I couldn't go to a party because this one lived there, or because this one lives next to him. And also, if I met someone like this [a parent] I just looked down and walked. It was is as I was ashamed for me as I am.
>
> I stopped being around the kids in my neighborhood. That thing with their parents – I think it was a big influence. I stopped being able to call them, I couldn't knock on their door. I started to move into the company of those who were like me. I were always doing something [delinquent]. When I was with the others [that is, the kids in my neighborhood] I was more stable but we [the new group] felt no restrictions.

Pési's experience is suggestive in light of Goffman's (1963) observation that social interaction between "normal" people and the stigmatized is often characterized by uneasiness, embarrasment, ambiguity, and intense efforts at impression management, and that these experiences are felt by those who bear the stigma as well as those who do not. Goffman has suggested that "the very anticipation of such contacts can . . . lead normals and the stigmatized to arrange life so as to avoid them" (p. 13). In this vain, nonlabeled adolescents and labeled adolescents may tend to avoid one another in order to avoid uncomfortable interaction dynamics. Some of my respondents told me that they felt more comfortable associating with delinquent others because among them they did not feel the shame and the discomfort of the deviant label. Pési describes how he felt more comfortable with delinquent others:

> I: Were you more comfortable with friends who didn't have such attitudes?
>
> Pési: Yes, in the end it was just a tight group, all the kids were on the same role, with similar attitudes toward things and we are together in all this, you see. I went to a juvenile treatment home, then some of these kids were there . . . [sentence never ends] One didn't have to think about things with them. Yes, I felt better with them.

My respondents' experiences suggest that the perception of stigma and fear of the potential negative reactions of others leads labeled offenders to avoid a variety of social situation. Bjössi (#4) who has multible convictions for violent offenses describes his fear of experiencing feelings of shame when found out by others. As a result he does not want to apply for any jobs where his history could become an issue.

> Bjössi: I don't apply for jobs that demand to see a criminal record. . . . I want to avoid uncomfortable situations. I could just as well be naked [if I would find myself in a situation where my deviant past was revealed]. I don't feel like this with my friends.
>
> Interviewer: How do you mean naked?
>
> Bjössi: It's a metaphor. You are so defensless. I want to be able to stand up for myself. I feel uncomfortable when people throw something at me that I can't answer for. Especially, if it takes me long to think about my response it looks as if I'm making something up. . . . I don't like to be cought of-guard. I get this feeling of being cought of-guard when someone is inquiring me about this past. I become insecure of myself.

Þráinn's (#11) experience demonstrates just how uncomfortable such a situation can be:

> Interviewer: Have you ever had problems with your criminal past when looking for a job?
>
> Þráinn: Yes, sure. . . . I don't remember if this was a job in *Hampiðjunni* or in painting or whatever. I was asked if I had ever had dealings with the law. I just said yes. It obviously wasn't to my advantage. "Oh really" and then the person just started an autopsy [started to interrogate me about this]. . . . It was my fault to answer truthfully. I could have said no and then I would have gotten the job. I thought it was stupid. I was there, I wanted the job, I was ready to do the job and then I get a question like this at the end of the interview. I said "yes" and then she said "how" and I tried to avoid the issue and talk my way out of it. The person noticed – not doing an interview for the first time – that I was backing

> out of it, trying to minimize it, and didn't like it. Then I started disliking the person and then it was over. . . . [I was so angry afterwards that I thought about going back and beating the person but instead I broke into her office that night].

Egill (#14), a convicted sex-offender, describes his fear about being found out:

> I hate to have to worry about being found out at work due to this bullshit. I don't want to move abroad to be able to work. . . . What I fear in a small society such as ours is that although many people knew about this when it was happening, and for several weeks beyond that, the story is still chasing you today, a year later.

Svenni (#9) is a first time offender was been serving a sentence for smuggling drugs and is now in a half-way house in Reykjavík.

> I: Do you think your criminal record will affect your job prospects?
>
> Svenni: I do but I have decided to answer truthfully if this comes up. I have worried about this quite a bit. [How?] If someone would ask me about this then... well my self-worth would go down to zero, it is not high as it is. If people start asking me questions about this I can feel that I start to sweat. . . . I avoid talking about this. In general I avoid being with people I don't know.

Conclusion

While the themes discussed above are preliminary – this is work in process – they demonstrate how qualitative accounts may strengthen the theoretical basis of labeling theory and help future research to specify and measure the social processes induced by deviant labeling. I am optimistic that this approach to studying deviant labeling "in context" will prove useful in the sense that we may use such accounts to develop grounded theory about labeling processes. Moreover, such accounts may prove useful in guiding the interpretation of quantitative research, and they should help us to do a better job of specifying and measuring the social processes induced by deviant labeling.

References

Becker, Howard. 1963. *Outsiders: Studies in the Sociology of Deviance*. NY: Free Press.

Bernburg, Jón Gunnar. 2002. *State Reaction, Life-outcomes, and Structural Disadvantage: A Panel Study of the Impact of Formal Criminal Labeling on the Transition to Adulthood*. Department of Sociology, University at Albany, SUNY.

Bernburg, Jón Gunnar and Marvin D. Krohn. 2003. "Labeling, Life Chances, and Adult Crime: Direct and Indirect Effect of Official Intervention in Adolescence on Delinquent Behavior in Early Adulthood." Forthcoming in *Criminology, Vol 41.*

Bernburg, Jón Gunnar, Marvin D. Krohn and Craig Rivera. 2002. "Formal Criminal Intervention, Deviant Networks, and Subsequent Delinquency: A Test of Structural Labeling Theory." *Presented at the Annual meeting of the American Society of Criminology in Chicago in November 2002.*

Bodwitch, Christine. 1993. "Getting Rid of Troublemakers: High School Disciplinary Procedures and the Production of Dropouts." *Social Problems* 40:493-509.

Goffman, Erving. 1963. *Stigma: Notes on the Management of a Spoiled Identity.* Englewood Cliffs, NJ: Prentice Hall.

Hagan, John and Alberto Palloni. 1990. "The Social Reproduction of a Criminal Class in Working-Class London, 1950-1980." *American Journal of Sociology* 96:265-99.

Lemert, Edwin. 1967. *Human Deviance, Social Problems and Social Control.* Englewood Cliffs, N.J.: Prentice-Hall.

Link, Bruce. 1982. *"Mental Patient Status, Work, and Income: An Examination of the Effects of a Psychiatric Label."* American Sociological Review *47:202-215.*

Link, Bruce, Francis T. Cullen, Elmer Struening, Patrick E. Shrout, and Bruce P. Dohrenwend. 1989. "A Modified Labeling Theory Approach to Mental Disorders: An Empirical Assessment." *American Sociological Review* 54: 400-423.

Liska, Allen E. and Steven F. Messner. 1999. *Perspectives on Crime and Deviance*. Englewood Cliffs, N.J.: Prentice Hall.

Lofland, J. og Lyn Lofland. 1995. *Analyzing Social Settings: A Guide to Qualitative Observation and Analysis*. Belmont, CA: Wadsworth Publishing Company.

Matsueda, Ross L. 1992. "Reflected Appraisal, Parental Labeling, and Delinquency: Specifying a Symbolic Interactionist Theory." *American Journal of Sociology* 97:1577-1611.

Palarma, Frances, Francis T. Cullen, and Joanne C. Gersten. 1986. "The Effect of Police and Mental Health Intervention on Juvenile Deviance: Specifying Contingencies in the Impact of Formal Reaction." *Journal of Health and Social Behavior* 27:90-105.

Paternoster, Raymond and LeeAnn Iovanni. 1989. "The Labeling Perspective and Delinquency: An Elaboration of the Theory and Assessment of the Evidence." *Justice Quarterly* 6:359-94.

Sampson, Robert, J. and John H. Laub. 1993. *Crime in the Making: Pathways and Turning Points Through Life.* Cambridge, MA: Harvard University Press.

------. 1997. "A Life-Course Theory of Cumulative Disadvantage and the Stability of Delinquency." Pp. 133-161 in Terence P. Thornberry (ed), *Developmental Theories of Crime and Delinquency.* New Brunswick: Transaction Publishers.

Tannenbaum. 1938. *Crime and Community*. Boston: Ginn.

Weiss, Robert. 1993. *Learning from Strangers: The Art and Method of Qualitative Interview Studies*. New York: The Free Press.

Zhang, Lening and Steven F. Messner. 1994. "The Severity of Official Punishment for Delinquency and Change in Interpersonal Relations in Chinese Society." *Journal of Research in Crime and Delinquency* 31:416-433.

REFLECTIONS ON THEORETICAL AND METHODOLOGICAL ISSUES RELATED TO RESEARCH ON CHILD SEXUAL OFFENDERS.

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Can men convicted of child sexual abuse be regarded as 'ordinary heterosexual men'? Can their self-presentations and narratives of the abuse be discussed within a perspective of normality? And, is it possible to regard sexual abuse of children as a form of 'cultural over-doing' of 'the heterosexual script', and thus as more-of-the-ordinary – rather than as a *per se* act of deviance?

The answers depend on ones point of departure and theoretical framework. Depend on where you see *from;* on your 'theoretical matrix', so to speak. The choice of methodological approach, obviously, also has a huge impact on what you are able to sence/grasp as a researcher. In a so called sensitive field like this one, I might add. There is little doubt that the 'topic' of child sexual abuse involves extra challenges – for the informant, and for the researcher. One challenge for the researcher is to let the informants 'come forward' with their own 'logic' or reasoning, and to allow unexpected 'things' to emerge. Another challenge is to move on from the 'empirical' and descriptive level of the informant, and on to the level of analysis. When working on this level, the interview-transcripts are analysed 'as texts', by way of analytical concepts; as 'tools-for-thought'. This involves applying alternative and 'critical' interpretations of the self-presentations and narratives of the informants. However unpleasant, this is our job as qualitative researchers, I would argue.

In my study, titled *Encounters with Men Convicted of Child Sexual Abuse,* I have tried to actively make use of the potential for flexibility and exploration that characterize qualitative approaches. And, importantly, the research-relation is treated as *a relation*; e.g. the knowledge produced through this study is the result of a 'dialogical' and a high degree of 'self-reflexivity' In the analysis of the 'dialogical interviews' with perpetrators, methodological (and theoretical) reflections on the communication and relationship between informant and interviewer has been central to the formulation of a sex/gender-perspective (or feminist, if you like) as the 'matrix' I've come to 'see' the data-material through.

Here, I will describe my own process of understanding ('my theoretical process'), as it gradually developed in this project, – and how I today hear the men's stories. I have interviewed eleven men convicted of child sexual abuse. Eight of the informants admit to the abuse – to me, and to the police –, while three men consider themselves innocent. I have chosen a cultural focus, with attention paid to how the cultural environment (the sex/gender culture) makes their narratives of the abuse possible – and meaningful on a cultural level. Child sexual abuse is terrible and beyond comprehension, everybody agrees on that. Including the men convicted of abuse that I interviewed, who clearly state that: »sexual abuse is terrible», »everybody who commits such an act, knows that it's wrong», »obviously, I didn't consider the consequences at all». Child sexual abuse is an act and a 'phenomenon' that needs an explanation. *WHY?,* is the question on everybody's lips. This goes for the informants too. In the interviews, they are all occupied with questions of causality, – concerned with themselves, and how all this came to happen to *them*. They make use of different 'externalizing strategies', and they all talk about different problem-circumstances: regarding work, marriage (problems with their wives), health problems, difficult childhoods etc. Thus, the narratives of the informants also reflect the dominating and 'official' discourses on 'child sexual abusers, such as the treatment-discourse, the revictimization-discourse and the pedophilia-discourse. Furthermore, the narratives are characterized by *fragmentation* (cutting-up-facts), *minimalization* (reducing the severity, and the consequences, of the abuse), *relativization* (it-might-have-been-worse). This can be regarded as strategies for reducing/eliminating their own responsibility for their own actions and the sexual abuse. »It wasn't that many times that it was more than it ought to be», »there was no violence, there

was no cruelty», »I never used any kind of force» (or coercion), »It started quite gently», »I got no signal that it was wrong», or rather: »She – the victim – gave no signal that it was wrong». And »It's very important that children learn what kind of behaviour they're allowed to engage in – and *not*». At the same time: The informants do not seem to identify at all with 'monster-images' of so called 'really dangerous perpetrators'. »If I was a pedophile, I obviously would have abused a *lot* of children, - which I have *not*, even though, through my work I had the possibility all the time». When they talk about »the relationship» to the victim in terms of mutuality, rather as in terms of power, this is interpreted as illustrating the process of disclaiming all responsibility for the abuse – as *abuse*. By way of a 'mutualizing' of the offender/victim-relation, the men placing themselves right in the centre of the definitions.

Within the analytical framework that was developed during the research process, the men convicted of child sexual abuse are seen as engaging in/doing some sort of meaning-creation-work in the interviews, some sort of 'dignity work'. Thus, the interview is the context in which the stories or self-presentations are constructed (an interactional process of self-presentation). They try to bring together the different bits and pieces of what happened and why, e.g. their narratives/stories are constituted of what the informants choose to present within the context of a research interview. The fact that the men are convicted means that they have been through the process of police investigation and court trial. One might think that because of this, the men would present a 'clear cut story' in the interviews, but this is not the case. Rather, the analytical focus on the self-presentations of the men, shows the ways in which their narratives/stories of what-really-happened, are constructed within the dialogue of informant and researcher. And, the sex/gender culture is always *there*, playing in the background (as well as frontstage). The concepts that helped me explore the data-material analytically, were: *narrative, script, discourse, and, regulatory vs. constitutive sex/gender norms*.

I regard it as logical and meaningful that the men go back and forth between different perspectives/discourses – and speak with many different voices. For instance that: »child sexual abuse is the *most far out* act you can possibly commit», and at the same time state that: »*surely*, you *accept* an offer like that» (when his daughter »offers herself sexually» to him – I'll come back to that). The interview-relation is alive and kicking, so to speak, –and to illustrate this, I'll present quite long excerpts of the interview-transcripts.

»How can you *stand* it!?»

»How can you *stand* interviewing those men?», quite a few people has said when they learned about my 'topic'. And, – well, yes, it *has* been quite draining and difficult at times, – but it has also been interesting, and it has always felt important to do this work. However, the fact that the research process has been a really 'swinging' one, I have regarded this more as a 'challenging analytic possibility' than as a problem.

Encounters with other people's reality and self-understanding may dramatically challenge the self-understanding of the researcher. Which makes it quite understandable that so many researchers in this field tend to embrace theories, methods, categories and concepts that insure a safe *distance* to the 'phenomenon' being studied. This way, a wall is being put up between 'them' and 'us'; between deviance and normality.

Looking back, I now regard the 'mode of understanding' that was my point-of-departure in this project as partly 'traditional & positivist'. However, more and more, my own encounters with the men convicted of child sexual abuse led me to paying attention to the presence of an *everyday nature* in their narratives/stories. However, I started out with a more traditional – and somewhat 'positivist' perspective on 'truth', 'empirical vs. theoretical', 'deviance' etc.

The analysis of the data-material partly grew out of confusion about what the men 'really' said in the interviews, as well as what-really-happened between us. My confusion was an analytical trigger, so to speak. When I read the transcripts of the interviews, I considered my own statements as sometimes quite stupid. However, I decided not to fix up my own statements, while the men's statements were left in an oral mode (in writing).

Gradually, I was more and more occupied with the ways in which the interaction between informant and researcher developed, as we spent time together, and that this, in itself, did produce quite an interesting *data-material*. One analytic strategy was to focus *the ways in which* informant and researcher speak together on the 'topic' of sexual abuse – as well as on other 'topics'. We articulate ourselves *as cultural agents;* e.g. as representatives of different positions and understandings: informant/researcher, man/woman. The informants' narratives/ stories are (seen as) constructed within this dialogue – with 'natural' gender and hetero-sexuality present as a taken-for-granted frame of interpretation, whether explicitly articulated or 'just' silently present – like the air we breathe.

Within a perspective of normality, sexuality is regarded as a *continuum* – as an uncut/continuous line or a coherent whole. Within this analytical framework, both 'good sex' ('mutual sexuality', 'love') and 'bad sex' ('rape', 'violence') are included in the definition of 'sexuality'. And, within this thought model, child sexual abuse can be regarded as a result, a part, and a continuance of the 'normal sex/gender culture'. Within this theoretical framework, child sexual abuse can be discussed as a *'cultural over-doing'*, rather than as a direct deviance from a normative standard. Within this thought-model, deviance and normality are not regarded as mutually exclusive categories, but rather exist on the same *continuum*. This perspective regards child sexual abuse as connected to, and made possible by, the same sex/gender-culture that facilitates/makes possible romance, love and mutual sexuality. Child sexual abuse is not 'the same', but not the opposite, either. This way, child sexual abuse is a cultural responsibility shared by us all, rather than something fundamentally different from everything 'normal', – a 'topic' that concerns us as *professionals*, but not as persons. *Fenomenization,* I would call this way of thinking). The legal-psychiatric perspective seems driven by an over-focusing on deviance and causal explanations, which is typical of the research on men who have sexually molested children. This is also typical of the cultural climate in general; – political debates on law-texts and court-decisions, or the ways in which the media and the public opinion address/present child sexual abuse and the question of treatment of the perpetrators. Thus, this frame of understanding may be termed 'official'. Thus, it's quite logical that these perspectives also are present in the narratives/ stories of the informants. The official/common view seem to be that perpetrators are 'sick individuals' who 'lack empathy', whether they are rapists or child molesters. In our Nordic context of welfare and equality, it's obviously easier for us to define and recognize perpetrators of sexual violence – and especially perpetrators of child sexual abuse – as 'individual sick men', with childhood-experiences that can explain their deviant behaviour.

***How* do the men talk about the sexual abuse?**

My first encounter with perpetrators happened, obviously, through the reading of other research based literature on perpetrators. During this 'first session' with the international literature on perpetrators, I was astonished by two things: 1) The perspective of deviance seemed totally taken-for-granted, and 2) the main characters (the perpetrators) seemed totally absent in the texts! They simply weren't *there*. In this (quite large, actually) body of research, there was – and *is* – a huge distance between 'them' and 'us', a distance that lies implicit in the theoretical and methodological frameworks dominating this type of research.

Main characteristics:
1) ***the concept of pedophilia***, the amount/quantity of testing and test-methods (screening-tests etc.)
2) ***revictimization & the abuse cycle***, and
3) ***no focus on sex/gender***, whatsoever!

In my project, I wanted to do something *different*; I wanted to bring forward the men's voices (a cliché!); their own perspectives and reflections. In short, I wanted to bring forward what the informants themselves considered important and wanted to talk about in the context of a research interview. However, time went by until I was able to put some sense into what

'really' happened during the interviews, – there were so many 'things' I didn't understand. In the beginning, I considered the informants' speech to be some sort of authentical accounts; from a 'naked empirical reality', so to speak (ha-ha), and I considered the men to be really 'brave', to talk so 'openly and honestly' about all these 'difficult & sensitive' topics. In other words, in the early phase of the project, I was rather traditional and positivist in my line of thought. Gradually, this changed. Or rather, gradually my own theoretical framework/ perspective developed.

After having interviewed the very first informant, I remember being confused about *not* feeling anything. Maybe I felt a little disappointed? Had I expected more severe abuse? More acts of abuse? Or was the feeling of emptiness really a reaction to *not* understanding very much of the interaction between us and the 'information' I got? I really do not know. But as the research-process progresses, I felt a growing confusion and discomfort in relation to the men's descriptions of the abusive relationships – and this, more and more, also became a kind of drive in the process of analysis (-work).

»Surely, you *accept* an offer like that»

The informant Christian, is in his forties, and he has nearly finished serving his sentence of 2.5 years for having sexually molested his own daughter, during the period from she was app. 11 until she was 17. In his account, the abuse started in situations where she, the daughter, crawled onto his lap, – and this developed into masturbation. Gradually, the relationship developed into including sexual intercourse – periodically, this happened quite often. He emphasizes that »at times, there was *no* abuse», but rather, that »the relationship was 'off' for approximately one month». However, his daughter may well have experienced a threat of invasion/abuse as present at all times, including these 'off'-periods. Maybe it was all around her, just like the air we breathe. Obviously, the perspective of the perpetrator may sharply contrast the perspective of the victim. When the men describe the sexual abuse as something quite mutual, something that they both wanted, so to speak (»she gave no signal that it was wrong»), this can be regarded as 'leaving themselves out', 'it just sort of happens to happen' – which, in my view, points to the power of definitions held by the perpetrator, in relation to the victim. The way of referring to the participation/complicity of the victim, troubled me in the interviews – to a varying degree, of course. This was indeed the case with Christian, who was interviewed 3 times, 3–4 hours each time. Christian shocks me sometimes with what he is telling me, and sometimes I really wonder about whether he – in his therapy – has succeeded in developing an 'empathic' understanding of the victim's situation. However, I *like* him, and I feel that we 'make contact'. On the one hand, there is a lot he doesn't want to talk about, "-because the abuse is so severe, that episodes are totally blocked out of his memory". On the other hand, he talks openly and freely about himself and the circumstances surrounding his sexual abuse of his daughter. Christian is highly 'dialogical' in the interviews, quite different from his description of the silent communication between his wife and himself. I clearly remember when he said to me, after having finished up the third interview, »The way you and I have talked now, together, you know back and forth, I *never* experienced this in my marriage».

On the one hand, Christian seems to present a sort of outside-perspective on what he is saying, by his choice of words, he seems to withdraw/distance himself from his own story. At the same time, I experience him as quite 'present' in the interviews. The way he talks about his relationship to his wife (sexuality, battering), as well as the abusive relationship with his daughter, often seems 'neutralizing' on behalf of his own action; and things just sort of 'happens', and relationships are presented in a light of 'mutuality'. For example, (in the two first interviews) Christian talks about the battering of his wife, in terms of »fussing and fighting», and (in the third interview) describes his daughter, as »more willing to go along sexually» and »less dead meat» (in bed) than his wife…

Within my own frame of interpretation, Christian's story is a *gendered and heterosexual narrative*, indeed. In my understanding, *he himself* defined and created the situations that he talks about in the interviews. Compared to how *victims* tend to describe

experiences with sexual (sexual) violence and the grim consequences, Christian's story is characterized by *fragmentation and minimalization;* violent and abusive acts are described more or less as single/separate acts, cut loose from a larger context. And, the obvious difference of power is ignored, when the 'relationship' is described in terms of 'mutuality'. Right here, in this choice of words, lies his power; *the privilege of definitions*.

When I visit Christian for our first interview-session, after we had picked up some coffee in the Guards' room, Christian starts the interview by saying:

--Generally, it's difficult to be in jail. You forget how to behave. You forget how to talk, even words disappear. You keep a lot to yourself, you know. To cover up problems, maybe, when you serve this kind of sentence, I mean. I've been lucky, really, while I've been here (in jail). I got to know an inmate serving the same kind of sentence, and through him, I got into therapy. The most important thing is to understand or develop empathy with the other party involved, –if you are to understand *WHY* you did what you did. On my part, I think that marriage-problems and family-problems have caused it.

--As a *person,* you've [addressing me] probably experienced quite a few times that your other party (counterpart), your husband, without asking permission, holds you or hugs you, at times when you feel sad, but you don't want to talk about it, but rather just leave it silent – the silence-thing, you know. The fact that you sit by yourself and feel bad, and you'd like to make contact, but you're unable to ask for it. That is where, I think, it starts to slide and you start loosing control.

--[Marianne: (I) start to talk about the study and the interview. I tell him that I'm interested in learning about what *he* himself regards as important, and emphasize that he can talk about whatever he likes. And then I, 'formally' start the interview by stating that] :

--Marianne: I know nothing about you beforehand……

--*That* you can really be happy for. Maybe I should start by mentioning some characteristics about my background. I've always enjoyed my work, even though it has been tough and draining. I have nothing to complain about. With animals or people, I never had an enemy. Outside the home, there were never any problems that could have caused things like that (abuse).

My childhood is worse, I guess. My childhood was a free and protected childhood. There was never any trouble in the home, I always could go to my parents. So, in the home, I see nothing to put my finger on. But I do see something to put my finger on when it comes to school, the time in school, and when it comes to health-problems. .. Oh, well, that's pretty much it. I was never under pressure of any kind.

It took time for me to realize that the informants tended to *begin* their stories by presenting an 'opening clue' – that represented their own (main) frame of interpretation; the position from which they told their stories about themselves and the sexual abuse…..

The 'opening clue' to Christian's story is that he has been lucky to get into therapy, and thus can obtain »a better understanding of the other party» and »why you did what you did». The sexual abuse is presented as caused by family- and marriage-problems, by the silence-thing, and – importantly – by his »terrible anger and aggression», inherited from his father, who was exactly the same type – easy to 'trigger'. Christian talks in a dialogic manner, and more and more (as we spend time together), he turns to *me, Marianne*, to ask me what *I* think about this and that. When he tries to make me understand what he means, he can use examples involving me, in a presumed position of 'heterosexual woman' – and my presumed relationship to men and sexuality. But I engage in this 'game', too, I play along with his 'flirting' or whatever we should call it. For example when Christian, in the second interview, asks about what we are going to talk about now….., whether we shall continue to discuss the transcript of the first interview. My answer is »Well, we could continue with the transcripts, or we could talk about something else, I'm game for anything». He picks up on this, smiles, and says: »*No-o*, not *anything*, I presume..», I answer »NO», whereas he leans forward, blinks his eye, and says »*That's* my girl». OK, so I feel stupid, like I 'asked for it', sort of. But so what! Maybe this kind of 'flirting' can be regarded as *the* known form of communication when one is otherwise strangers to one another, that we make use of a known manuscript for interaction – a *heterosexual script*. And maybe some 'flirting' of this kind can

make the interview-situation become a little less 'serious' and a little more relaxed, – when it is allowed to mix humour and 'tough stuff', and you can 'retreat' into humour once in a while.

This kind of 'loose interaction', rather than a more formalized interaction, I believe, makes it easier to talk about 'sensitive issues' in an interview, as well as for informants to try out different lines of thought and arguments.

–Marianne: How did the first sexually abusive act happen?

–I have to go back to that 'silence-thing' [in my marriage]. I had problems, this was just after a fight [with the wife]. The first time. I was grumpy and fed up. The oldest girl, at that time she was about fourteen, she crawls onto my lap. Sits down and is nice and good, makes daddy happy again. Right there and then, some bubble did burst. You get the feeling of a person who has kindness and intimacy to share, that you do not get from the other party, who is your wife. Then you start to need to get these needs satisfied, because you don't get any satisfaction from the other party (the wife). This process just escalates, more, more, more. So, it happened in her [the daughter's] room, in my wife's and my room. From that point in time, that moment when.., let's say, the first abusive act happens, there's a long process involving all kinds of emotions and needs, - and all this brings you closer and closer to point where you commit a sexually abusive act.

–Marianne: For how long a period did the sexual abuse go on?

–For about six years. From age fourteen, that's when it started to develop, so to speak..

–Marianne: Was there something going on before fourteen, also?

–Well, yes, you know, for a person with the kind of problems that I had, an innocent child, like she [the daughter] was, it's like a magnet. One who is trustful, who understands, who is sweet as a lollipop. Just the characteristics of a child that will make her a magnet, – and then it starts to develop.

–Marianne: This love- and understanding-thing, does that lead to a sexual desire in you?

–Well, no, the sexual needs didn't develop until.., you know, between two people, there is built a good and solid intimacy, and, you can say, you feel that this person [the daughter] has more to offer than the other party, who is your wife. She kind of replaces the wife, in that meaning.

When Christian talk about when and how the sexual abuse started, in his understanding, 'abusive acts' seem only to have happened when the acts are *serious enough* to be defined as clearly abusive. From the age of fourteen *is* what really has developed. Like other informants, Christian sort of presents a 'double story' about the sexual abuse: His 'main story' is based on the victim's statement [at the police station, or in court] – that the sexual abuse started when she was eleven, and lasted until she was seventeen. However, when he talks from 'his own' perspective, so to speak, based on his own interpretation, his story and statements are quite contradictory. Like other informants, Christian has the hunt for *causal explanations* and *various problems* (– including the therapeutic discourse on treatment of perpetrators–) as his point of departure (and frame of reference) when he tells his story within the dialogic context of the interview. Thus, he reflects widespread discourses on this issue (– -speaking of causes as an act of conformity). »For a guy with the kind of problems like I had», who missed »closeness and kindness», the daughter becomes a »magnet», someone who has »more to give than .. your wife», someone who became »the best buddy in my marriage» – someone who could »make daddy happy again». However, Christian doesn't remember that much of the sexual abuse itself, he says:

–The whole thing was discovered when it had gone so far that the daughter had told her mother. So the mother confronted me, you know. And I behaved just like a school kid who was caught red-handed, pants down, you know, I just gave a full confession right away. I was very sad. ... And then, suddenly, I was picked up at home one day, and brought to the police station. The police wanted to talk to me regarding the daughter. *I* figured right away, you know, that »Now, it's going to burst». And then, all of a sudden: a total black out on my part, I just *couldn't* remember anything [about the sexual abuse]. Whether it was amnesia or blocking-out-the-abuse, I don't know. It implies shutting it out, detach yourself from it

completely. Then it was custody. I never could remember much more than the *last* thing that happened (the sexual abuse). Behind that, – just total black out. So I have to agree to the statements that my daughter gave as to what had happened, because I just don't manage to get hold of it. Maybe, I think, the shock from being arrested and all, may have caused some of it. The shock over being in a police-car, over being thrown in, Pang!, door closed. I do remember some of it, if I were to be really heart-breaking, raw and brutal, and say that the abuse is of such a format, that you just can't stand remembering it, that you don't want to remember it, that you can´t stand to 'look' at it. In retrospect, you understand that what you did is a terrible thing. Then, you see the unfairness in everything that you have put on to the other person. ... I think about her pain in all different forms. I didn't think about that back then.

–Marianne: How were your thoughts back then?

–I was more egoistic, thought more about myself, I guess. From the time when the abuse started, and until it was detected, there's a process where you, at first, just explore something, and then it becomes a habit. You know, really, at core, you don't want this to happen. It's kind of a bad circle. It's like starting up a bonfire that you are unable to put out.

–Marianne: Can you tell me a little bit more about the police-questioning?

–I had to tell the police everything just as it was; that I didn't have any possibility what so ever to answer their questions, because I just didn't manage to remember, - so I chose to believe what my daughter said.

–M: Why didn't you sexually abuse your other daughter?

--Well, that is about different types of persons. The other daughter was more grim, angry, and impossible to control. I really didn't *like* the younger daughter. So, the elder daughter was the one to be a victim.

--M: Not liking her, couldn't that just as well be a reason to abuse her?

--No. Because she would scream and make a scene right away. In my view, a child like that would never be a victim, while a child who is quiet and kind, is a possible victim, you know.

→ (here, 'victim' seems to be used as a 'positive term', jf. 'mutual, 'relationship' etc.)

And now, to the "episode", the situation where his daughter "offers herself" to him sexually (after one month without any abuse)

--M: I remember that you told me, that after a fight with your wife, and, after your wife went to bed, your daughter came into the living room, saying: Don't be sorry, daddy, you may sleep with me.

--Yes, I did experience that once. And it hurts to think about it. Because it's a brutal exploitation. So brutal that I have no words for it, I don't know how to describe it.

--M: But you *accepted* the offer..

--Yes, surely you *accept* that offer, but at that point in time, you just feel so sorry for yourself, that's the only thing on your mind (, but I could have felt just as sorry for the one who went to bed, the wife).

--M: When your daughter said that: "Daddy, you may sleep with me", ... I find that quite 'heavy', and when I think about it, I can feel it in my chest, and I think it's quite gruesome.

--Yes, it is gruesome. And, in a way, it was like this the whole time, that the *kids* were the ones that had to put things right.

This kind of disruption, plus the altering between different perspectives, inspired me to look for contradictory sets of norms present in the narratives of the men. The analytical tools used were *the concepts 'regulatory' vs. 'constitutive norms'* (Eva Lundgren). Statements like "child sexual abuse is terrible" and "impossible to describe", are in accordance with official (regulatory) norms, clearly condemning child sexual abuse. However, at the same time: When a woman is *available*, and *offers herself* sexually to a man, and he has a lot of problems, it is culturally understandable that he reacts with sexual arousal, and legitimate that he "accepts that offer" – a statement that corresponds with in-official, more accepting, norms (constitutive norms).

Accepting such an offer can be regarded as speaking from some kind of '*heterosexual solid ground'*, based on cultural expectations about masculine desire (awakened by women and) (partly) uncontrollable, combined with the *expectation of women's availability to men's attention, caringly and sexually*.

Within my analytic framework, the men's speech is seen as constructed within the dialogue of informant and researcher, in which the sex/gender culture is indeed present.

The men tell their stories/narratives by way of a 'cultural reservoir of statements' about gender, sexuality and sexual abuse – *already there*, so to speak. The statements of the men are *not* grabbed out of thin air, which makes it logical and culturally meaningful that the narratives are constituted by different/contradictory perspectives and discourses. The ways in which the men/informants focus on problems and circumstances surrounding them, make the men sort of disappear from their own stories, it-just-sort-of-happened-to-happen. This way, they indirectly *situate themselves right in the centre of the interpretations – they* are holding the definitions.

The narratives of the men convicted of child sexual abuse illustrate the 'relational & cultural work' that they do when they – engaging in a 'cultural dialogue' – present meaningful stories/narratives about the sexual abuse. This happens within a contradictory cultural framework, in which (child) sexual abuse on the one hand is totally impossible to understand – other than as the actions of 'individual sick men' – but, on the other hand can be a temptation, fully understandable on a cultural level.

AN EVALUATION OF THE DANISH VICTIM SUPPORT PROGRAM

Clausen, Susanne

1. Background

The Danish Victim Support Program began operation in 1998 - one year after the Danish Government had decided to strengthen the legal status of crime victims. One of the ways to do that was to initiate a Victim Support Program. The government was inspired by other countries, especially Sweden, that have had this kind of program for at long time.

To get the Program started, the Ministry of Justice told the police in every police district to find a group of people who wanted to work as counsellors in the Victim Support Program.

Today there are Victim Support Programs in 47 of the 54 police districts in Denmark. In some neighbouring police districts they have a joint Victim Support Program, while in two police district they have no Victim Support Program operating at the moment. In some of the 47 police district the police are still at an early stage in finding the counsellors and trying to get the Victim Support Program started.

The counsellors work as volunteers. They don't get paid to do the counselling. It is ordinary people who work as counsellors. The counsellors don't have a lot of training – only a few courses on counselling before they start working in the Program.

The counselling consists mainly of two things: personal support and guidance. Personal support involves listening to the victims and letting them tell their story – sometimes over and over again. Guidance consists of providing victims with information concerning psychologists, legal advisors or victim compensation, and/or to tell them about other organisations that may be of help.

In most police districts, victims have to contact the Victim Support Program themselves. In a few police districts, counsellors at the Victim Support Program get information on victims directly from the police, and the counsellors phone the victims to ask them if they need any help. Sweden uses this last-mentioned method for victim recruitment.

A decision was made to evaluate the Program one year ago, and the evaluation process began in January 2003. The evaluation has to parts: (1) a study based on interviews with counsellors and their contacts at the police, and (2) a survey based on questionnaires handed out to the counsellors and the victims.

This paper presents some of the results from the survey.

2. The data set

The questionnaires were collected over a three-month period during the spring of 2003. Therefore, only those new cases going to the Victim Support Program during this period are included in the current study.

Counsellors were asked to complete a questionnaire concerning the counselling given to every person they had contact with during this period. Counsellors were instructed to inform victims that there was an evaluation in process, and ask them if they were willing to participate. If the answer was yes, they then gave or sent them a questionnaire. In the end, 157 completed counsellor questionnaires were available for analysis along with only 51 questionnaires completed by victims.

This doesn't seem like a lot. To find out whether the number of questionnaires I received corresponded to the number of victims in the Victim Support Program during the three-month period, I asked all counsellors in the Victim Support Program whether they had completed the questionnaires for every person they had counselled during the three-month study period. The result of this showed that questionnaires from the counsellors were completed in about 2/3 of all cases during the period (and about 20 percent from the victims).

The first thing I want to discuss is how many victims of crime actually used the Victim Support Program.

Table 1. Victims of crime in contact with the Victims Support Program

	Crime victims in contact with the Victim Support Program	Police recorded victims in a 3-month period	Percent of victims in contact with the Victim Support Program
Assault	65	2578	2,5%
Threats	7	697	1,0%
Attempted homicide	2	49	4,1%
Robbery	13	549	2,4%
Property offences	4	5567	0,07%
Domestic burglary	2	6068	0,03%
Sexual offences	6	530	1,1%

Source for assault, threats, attempted homicide, robbery, property offences and sexual offences: Ofre for straffelovsforbrydelser, 2001, Danmarks Statistik.
Source for burglary: Anmeldelsestal April, May and June 2003, Rigspolitiet.

As the table shows, only a small proportion of the victims actually get in touch with the Victim Support Program. It is most common to use the Program in cases of assault, attempted homicide and robbery - and most seldom in cases of burglary and property offences.

It is difficult to say whether these low percentages reflect the victims' perception that they are not in need of victim counselling or whether these victims are simply unaware of the Program's existence. Personally, I think that non-awareness of the Program's existence is the primarily reason for the low percentage of involvement.

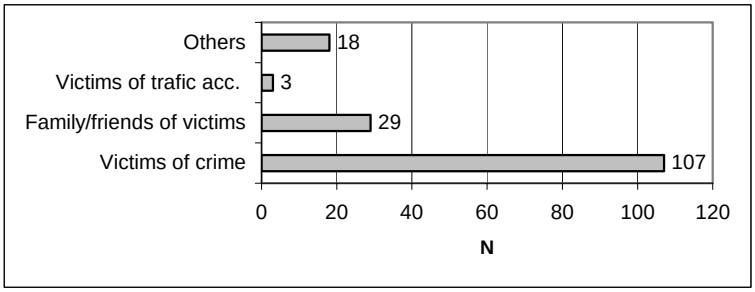
The interview study showed that in some police districts they are very supportive and very good at informing the victims about the Victim Support Program while in other police districts they less supportive - which to a certain degree influences the number of victims contacting the Victim Support Program. In general, it is mostly in connection with violent cases that the police inform the victims about the Victim Support Program.

3. Results

The users of the Program

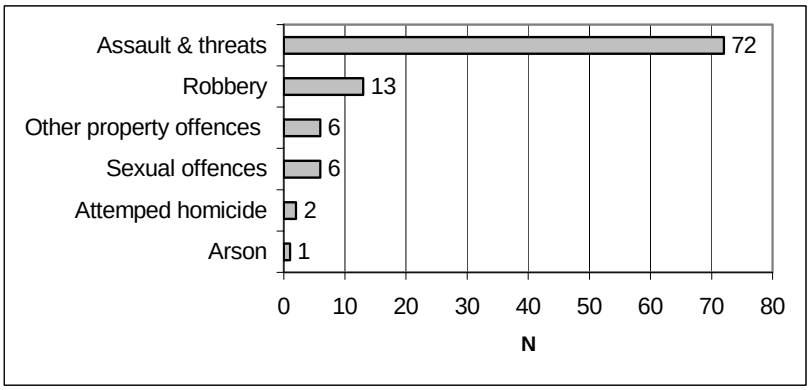
Looking at who uses the Victim Support Program, we can see that crime victims are the primary clients of the Program. 68 percent of the users are victims of crime. However, other types of victims are also eligible for the Victim Support Program. 18 percent of the users are family or friends to a victim. Two percent are victims of traffic accidents. 11 percent are 'other' types of victims, for instance people who have witnessed a crime, family/friends of people killed in traffic accidents, or people that have social problems or problems in their family. Yet while not all are real 'victims', I use the collective term 'victims' in this paper.

Figure 1. Users of the Victim Support Program



107 victims of crime have used the Victim Support Program. The most common crimes are assaults and threats. Two-thirds of the victims have been exposed to assaults or threats.

Figure 2. Victims by type of crime

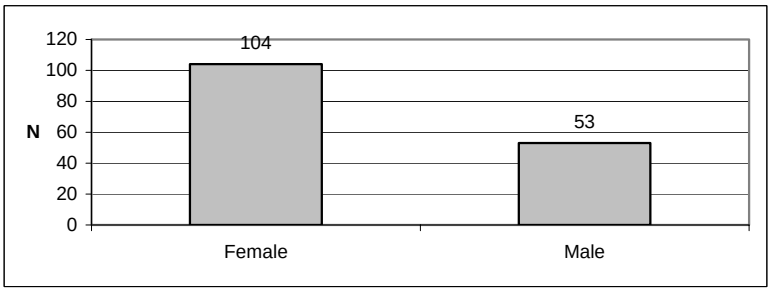


In 7 cases the type of crime is unknown.

Gender

It is mostly women who make use of the Program. Two-thirds of the victims are women. The general victim statistics show that 54 percent of all victims are women, and when it comes to victims of violent offences only 1/3 are women. It can thus be concluded that women contact the Program more often than men when they become victims of crime.

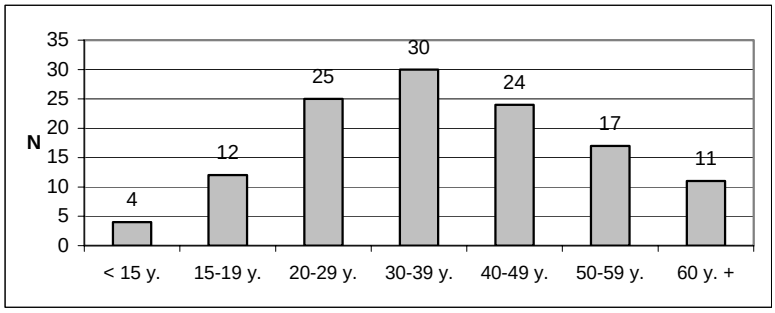
Figure 3. Gender



Age

Concerning the age of the victims, most victims are in their 20'ies, 30'ies or 40'ies. However, I have to add that the data on age is a bit uncertain since it is based on the counsellors' estimation of the age of the victims.[7]

Figure 4. Age



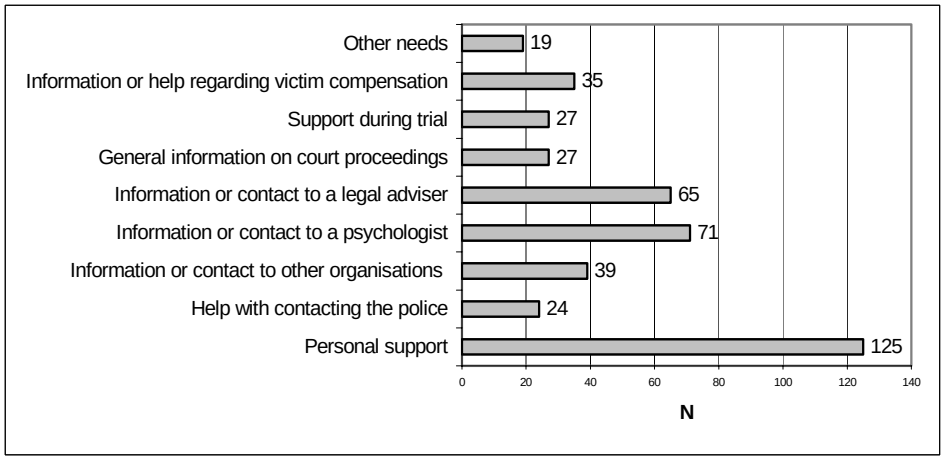
36 did not answer the question.

This gives us an idea of the age distribution of the victims who utilize the Program. When we compare this to overall victim statistics we can see that victims who use the Program tend to be older than victims in general, since victim statistics indicate that 46 percent of all victims are below age 30 while only 33 percent of the users of the Program are below age 30.

The needs

In the counsellor questionnaires, we asked counsellors what kinds of services victims were in most need of. This is how they answered.

Figure 5. The victims needs according to the counsellors



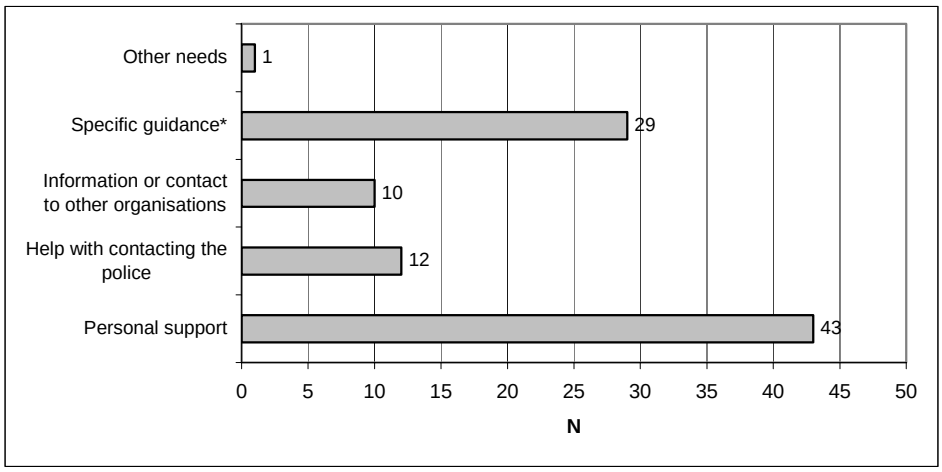
[7] In the questionnaire to the victim I did not ask about their age since I wanted to make the questionnaire as small as possible. Furthermore, during the pilot study conducted prior to the main evaluation, the counsellors told me that they in most cases knew the age of the victim.

The total number exceeds more that 157 since counsellors were allowed to give more that one answer. The figure shows that the counsellors primarily found the victims in need of personal support. 80 percent of the counsellors said that the victims needed personal support. As previously mentioned, personal support consists primarily of listening to victims' stories, and maybe telling the victim that their feelings were not unusual for someone in their position.

Victims also needed information concerning the availability of, and methods for contacting, psychologists and legal advisors. The counsellor questionnaires indicated that 41 percent of the counsellors felt that victims were in need of information concerning psychological counselling. 45 percent felt that victims would benefit from legal advice. Figure 5, however, indicates that the counsellors perceived a variety of needs in the victims interviewed.

The questionnaire to the victims included a similar set of questions. Victims were asked about what kinds of help they received from the counsellors. Since victims could also give more than one answer, the total number of responses exceeds 51. The results obtained are similar to that obtained from the counsellors. 84 percent of the victims reported having received personal support, while 57 percent said they needed some specific guidance. The term 'specific guidance' refers to information about psychologists, legal advisors or victim compensation.

Figure 6. Needs fulfilled according to the victims

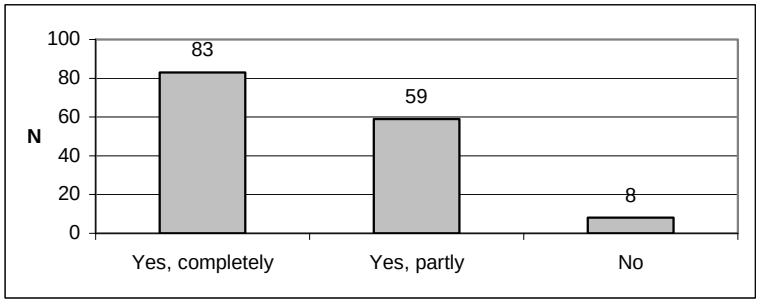


* Specific guidance (e.g. information about psychologist, legal advisor or victim compensation)

The capability of helping the victim

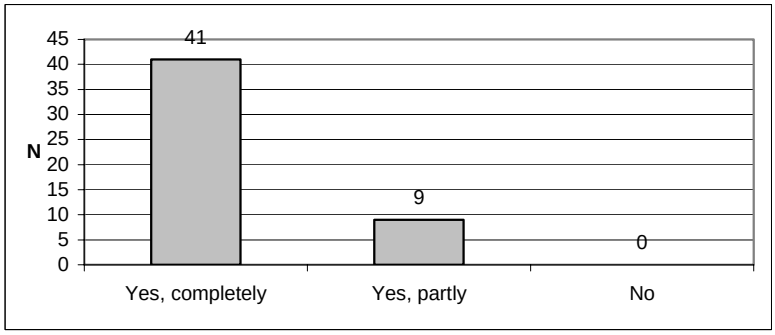
The counsellor questionnaires asked whether counsellors felt they were able to help their victim clients, while the victim questionnaires asked victims whether they felt they got the help they needed. 53 percent of the counsellors and 80 percent of the victims answered 'yes, completely' to these respective questions. None of the victims said they did not get the help they needed.

Figure 7. Capability of helping the victims according to the counsellors



7 did not answer the question.

Figure 8. Capability of helping the victims according to the victims

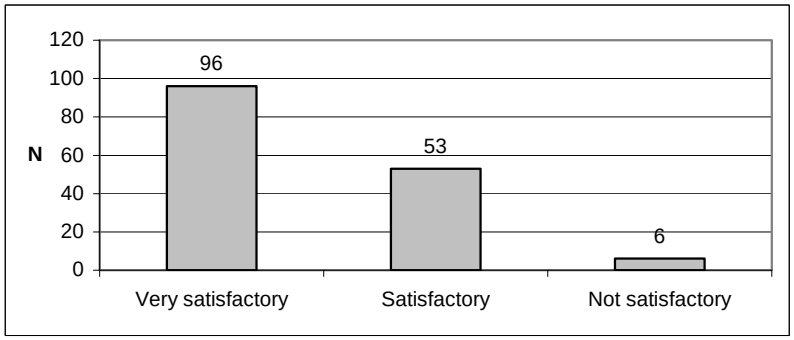


1 did not answer the question.

Assessment of the counselling

The last result I want mention concerns a question regarding a general assessment of the counselling. 61 percent of the counsellors evaluated the counselling they had given to be 'very satisfactory', while 34 percent said it was 'satisfactory', and 4 percent said it was 'not satisfactory'.

Figure 9. Assessment of the counselling according to the counsellors

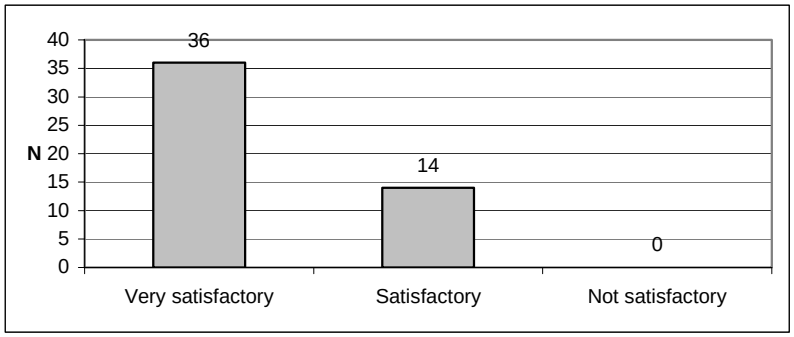


2 did not answer the question.

71 percent of the victims said the counselling they had received was 'very satisfactory', while 27 percent said it was 'satisfactory'. None of the victims felt that the

counselling they had received was 'not satisfactory'. The last two questions show that, in general, victims were more satisfied with the counselling they received than the counsellors were with their own performance.

Figure 10. Assessment of the counselling according to the victims



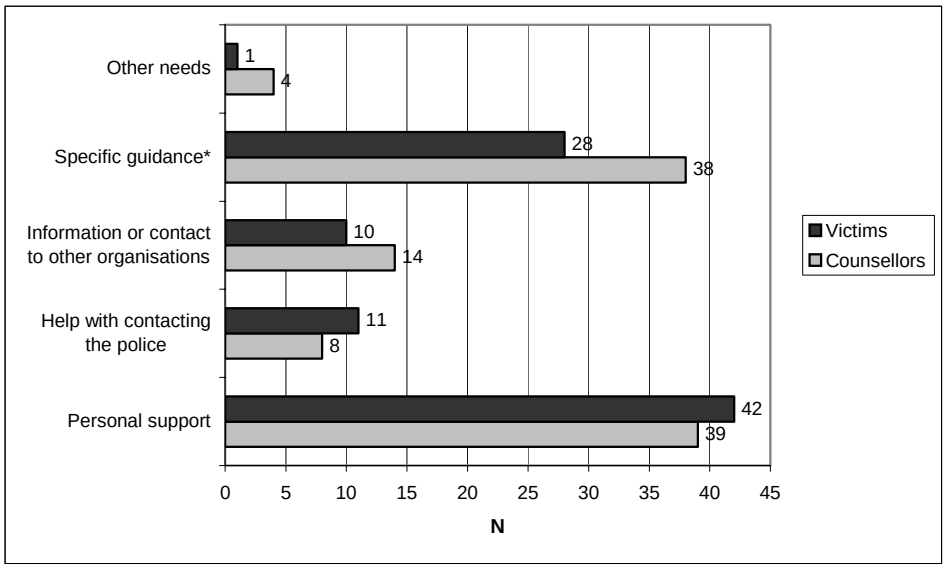
1 did not answer the question.

4. Comparison of the 49 cases

Up to now, I have presented results from all questionnaires received in connection with the evaluation. The next three figures limit the analysis to only those 49 cases in which I received questionnaires from *both* the counsellor and the victim.

Victims needs

Figure 11. Victims needs



* Specific guidance (e.g. information about psychologist, legal advisor or victim compensation)

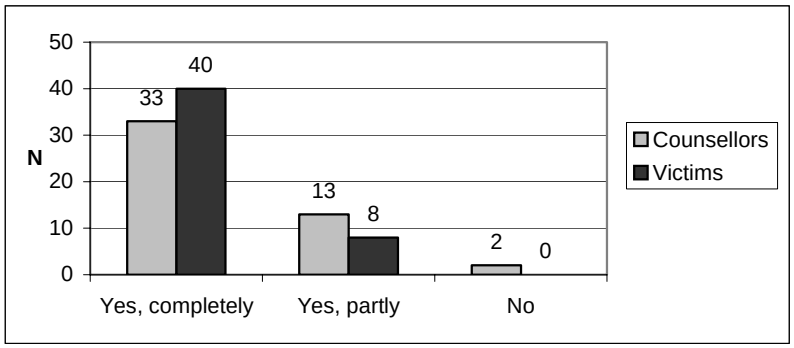
Figure 11 indicates that counsellors and victims tend to agree that the most importing aspect of the counselling is personal support to the victim. The largest discrepancy between counsellor and victim responses is seen in connection with the question on specific guidance - where the counsellors seem to give a bit more information than the victims actually needs.

42 of the victims reported that they needed personal support, while 39 of the counsellors reported feeling that the victims needed personal support. In 37 of these cases both parties answered that personal support was needed.

Capability of helping the victims

A comparison of the results concerning the capacity of counsellors to help the victims suggests that counsellors and victims are in relative agreement on that as well. The victims are, however, a bit more satisfied with the counselling they received than the counsellors are with the counselling they delivered. In 30 of the cases both parties answered 'yes, completely' to the question on capability of helping the victim.

Figure 12. Capability of helping the victims



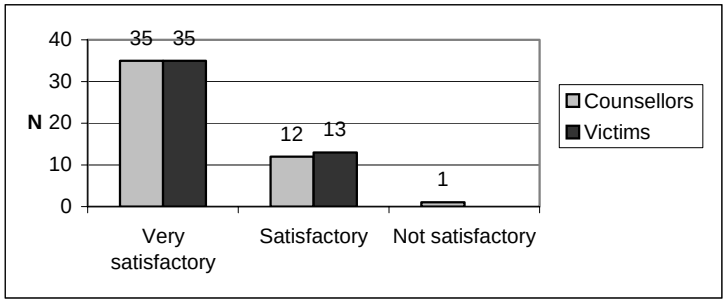
Assessment of the counselling

When it comes to a general assessment of the counselling experience, counsellors and victims also seem to agree. In 35 cases the counsellors say they are 'very satisfied' and in 35 cases the victims say they are 'very satisfied' with the counselling in general. Curiously, however, these 35 cases from counsellors and victims were not necessarily linked. Both parties reported the counselling experience as 'very satisfactory' in only 27 of the 35 cases. In the one case where the counsellor was 'not satisfied', the victim actually said she was 'very satisfied'.

5. Conclusion

The results from the survey indicate that only a small proportion of all victims actually use the Victim Support Program. In a few police districts the Victim Support Program is working very well, and a lot of victims are contacting the Program. From the 159 cases in the survey almost half of them, 79 cases, come from just 2 police districts. But in 25 percent of the police districts in Denmark, the Victim Support Program had no victims at all contacting them during the 3-month study period during which data were collected.

Figure 13. Assessment of the counselling



Nonetheless, the survey does indicate that the victims who actually use the Victim Support Program are quite satisfied with the support and the information they receive from the counsellors. This is at least the case among those victims who completed victim questionnaires.

There is, of course, no concrete information on those victims who failed to complete questionnaires. It may well be that the most satisfied victims are most likely to have completed questionnaires - as token of their gratitude for the help they received.

In an effort to assess whether those victims who failed to submit questionnaires were, in fact, less satisfied than those who completed questionnaires, I compared these two groups in terms of responses received on the counsellor questionnaires - that is, answers from the counsellors given in connection with the group where I only received counsellor questionnaires and answers from the group where I also received victim questionnaires. This analysis does not suggest any significant differences between groups, although there is a tendency for counsellors to have been more satisfied with the overall counselling provided to victims who ultimately submitted questionnaires. This suggests that the victims who submitted questionnaires may have also been more satisfied with the counselling they received. Unfortunately, we cannot know for sure. Nonetheless, this result supports the hypothesis that the most satisfied victims may be over-represented in terms of the victim questionnaires submitted for analysis.

ENVIRONMENT, PENAL LAW AND CORPORATIONS

du Rées, Helena

Introduction

In Sweden today, the activities of approximately half a million enterprises are classed as constituting an environmental hazard.[8] Comprehensive regulations have been introduced with the object of ensuring that these enterprises are conducted in such a way that they give rise to no unnecessary harm, or risk of harm, to people or the environment. Environmental criminal law constitutes one part of this system of regulation, and is the part that should ultimately ensure that those engaged in various forms of environmentally hazardous activities do not breach the environmental regulations. The use of penal legislation to protect the environment is a relatively new phenomenon. In Sweden, the Environmental Protection Act from 1969 was the first piece of integrated legislation with the objective of protecting the environment. Over recent decades, however, both in Sweden and the rest of Europe, the political focus has been increasingly directed at the use of criminal law as a means of controlling environmentally hazardous activities (SOU 1987:32:408 f, McLoughlin & Bellinger 1993:105, Faure & van der Wilt 1997). The question remains, however, whether criminal law is capable of protecting the environment. One often hears in this context, for example, that environmental crime is financially rewarding, and that environmental offenders usually "get away with it" (See, for example, Expressen 010829:18f, Metro 980923:24f, Göteborgsposten 960915:2, "Striptease" SVT 960918).

Criminal law as a means of control

The legislator conceives of criminal law as controlling people's behaviour through general prevention, i.e. in the first instance by means of deterrence, but in the longer term also by affecting the public's moral sensibilities (Wennberg 1996:11 f, Jareborg 1994:41, SOU 1986:14:67, Riksåklagaren 1998:60 f). In the case of environmental criminal law, conditions are felt to be particularly well-suited to achieving a general preventive effect. This is because environmental crimes committed in the context of various types of enterprise are assumed, unlike many other forms of criminalised behaviour, to be determined by rational calculation and are generally the result of a premeditated decision. The threat of sanctions in this context is directed at groups of people of high social standing who is assumed to feel considerable loyalty towards the legal system at the general level. Their professional operations are to a large extent dependent on reputation and goodwill. Direct general preventive effects are therefore expected to be considerable (Riksåklagaren 1998:7, SOU 1987:32:440, SOU 1986:14:41).

For a general preventive effect to be achieved, however, certain conditions must be fulfilled. This is the case irrespective of the kind of behaviour that a criminalisation is intended to control. The three essential conditions are regulatory acumen in the actors whose job it is to apply the legislation, a certain probability that offences will result in sanctioning, and sanctions that are sufficiently severe to deter potential offenders (Träskman 1992:10).

Research objective and data

My presentation is based on a study whose main objective has been to investigate the possibilities for environmental criminal law to function as a means of controlling

[8] Based on the number of enterprises that are the object of environmental monitoring at the local authority level. See Svenska Kommunförbundet 2000:11.

environmentally hazardous activities (see du Rèes 2001). The study examines the conditions necessary for environmental criminal law to serve a general preventive purpose.

In the first part of the study I looked at the implementation of the environmental criminal law. The empirical data were in part comprised of a questionnaire survey of local authority supervisory agencies, county administrative boards, police and prosecutors and in part on two further questionnaires, one which was distributed by the Office of the Prosecutor General to supervisory agencies and prosecutors, and one which was distributed to the country's police authorities by the National Police Board. The conclusion of this part of the study was that problems with the implementation of the environmental criminal law primarily were related to the probability of being sanctioned for environmental hazardous offences. It was relatively common that the officials at the supervisory agencies did not report offences. The explanations given why the supervisory agencies did not report the offences was often based on a lack of confidence in the capacity of the legal system to deal with breaches of the law in a satisfactory manner (du Rées 2002).

In the second part of the study I have examined the corporation's view of environmental criminal law and environmental crime. I have done interviews with executives with responsibility for questions related to environmental protection in the corporations. The sample of corporations was strategic on behalf of the size of the companies and included 22 corporations in different branches, from very small enterprises with a few employees to very big international groups of companies.

Corporations and social control

Here I will outline some reflections about corporations and social control theory. First I will examine some data about the executives' views on the causes of environmental crime and their opinions on if it is economically rational to commit these crimes.

When asked about why corporations commit environmental crimes the executives primarily related to either one of three themes: Economic reward, lack of knowledge, or that breaking the law is the easiest solution of the problem.

Half of the executives thought that the main reason to why environmental crimes are committed is that these crimes can be rational in an economic view. The risk of being sanctioned are sometimes, and for some, to low in relation to the costs connected with a legal solution of a problem, for example dumping spill-oil in the sea or getting ride of hazardous waste.

Five executives meant that environmental crime could be the easiest solution of a temporary problem, for example difficulties to store some hazardous waist.

Finally five executives thought that the reason to commit environmental crime was lacking knowledge about the legal norms and/or how to deal with the process or the chemicals in question.

A majority of the executives said that they thought the risk of being discovered when committing environmental crime is low. Half of the executives also mentioned that they understand the sanctions, when it comes to environmental crime, not to be hard enough. Despite this, all but three of the executives meant that environmental crimes were not rational for a company in a longer perspective. This is so because a "going concern" or any company with a trademark or any form of invested goodwill will easily lose this investment if the company becomes connected with pollution or some other form of environmental crime. The executives meant that an enterprise who wants to have a long future can not risk to be branded as one which don't protect the environment in a prescribed manner. Two quotations from the interviews could illustrate these attitudes:

- In the media debate you could sometimes see the statement that environmental crimes are profitable. Would you say that environmental crime is profitable?

"Perhaps it is profitable for some….if it don't harm an industry, a name, if I don't destroy my good reputation, or if I don't even have a reputation to destroy. On the other hand, if I have invested in a good reputation it won't be profitable."

"It's a question of perspective! I don't think it will be profitable in a long-term perspective. [ ] No one wants to work in or co-operate with a company with a bad reputation."

A majority of the executives ranked the legislation as the most important means of controlling environmental hazardous activities. The executives in general had a positive attitude to the environmental penal law. Half of the executives also presented opinions which showed that outlawing in the area of environmental protection was important per se.

"It is not "the money" [the sanction] per se which is deterrent. The company don't want that brand. The management of the company spreads propaganda for "to be a good citizen". [ ] So, the outlawing has promoted a higher awareness about environmental issues."

"One of the reasons to the introduction of the environmental management system was that the company has been reported [for environmental crimes] several times, which gave rise to lots of bad will."

These opinions could be related to social control-theories, and especially Hirschi's theory about the social bond. In these theories you make an assumption of an existence of a dominating system of norms in the society. Hirschi (1969) meant that four variables were important for the strength in the individual's ties to the conventional society and thus his or her behaviour when it comes to breaking the laws:

-Attachment to significant others
-Commitment in a conventional life
-Involvement in conventional activities
And
-Belief in the existing norms.

These variables are both independent and highly interrelated. When it comes to corporations and what wishes and expectations that control the decisions of the executives in these the social bonds seems to work in a similar way. This would mean that the more the enterprise in question have invested in a conventional society, that could be goodwill and/or a trademark, and the more a company is involved with, or perhaps dependent on, conventional others when it comes to partners to co-operate with or personnel to hire, the less likely the enterprise is to engage in some kind of blameworthy or criminal behaviour.

It is also interesting that the executives ranked the legislation as the most important means of controlling environmental hazardous activities and in general had a positive attitude to the environmental penal law. This shows that the executives of the companies also held a strong belief in the existing system of (legal) norms. They also meant that it was important that the law was implemented and that companies who neglected it should be prosecuted. According to Hirschi this impression and conviction in the belief of the existing norms is in need of a constant reinforcement. If Hirschi is correct in his assumptions, here the supervisory agencies and the justice system have an important role to play. If the existing norms about how to treat the environment should continue to dominate the in this arena, it may be important that the legal rules will be implemented and that the breaking of laws will be prosecuted.

A conclusion of this extension of Hirschi's theory to an application on company management shows that criminal law could have a role as a means of control when it comes to environmental hazardous enterprises. The stigma and blameworthiness that is connected to the committing of what is defined as an environmental crime seems to be a deterrent threat for corporate management today.

References

du Rées Helena (2001) Can Criminal Law Protect the Environment? *Journal of Scandinavian Studies*, nr 2/2001 s 109-126.

du Rées Helena (2002) Miljöstraffrätt i praktiken, En studie av rättstillämpningen, Rapport 2002:10, Brottsförebyggande rådet.

Faure Michael G & van der Wilt Harmen (1997) *Environmental Criminal Law in Europe*, Maastricht, METRO, Institute for Transnational Legal Research University of Maastricht.

Hirschi Travis (1969) Causes of Delinquency, Berkeley, CA: University of California press.

Jareborg Nils (1994) Defensiv och offensiv straffrättspolitik, *Nordisk Tidskrift for Kriminalvidenskab*, mars 1994. nr 1.

McLoughlin J & Bellinger E. G. (1993) *Environmental pollution Control. An Introduction to Principles and Practice of Administration*, London, Graham & Trotman.

Riksåklagaren (1998) *Effektivare miljöbrottsbekämpning*. Rapport från Riksåklagaren, december 1998, Stockholm, Riksåklagaren

Statens offentliga utredningar (1986) *Påföljd för brott. Om straffskalor, påföljdsval, straffmätning och villkorlig frigivning mm*, del 2 motiv, Huvudbetänkande av Fängelsestraffkommittén, SOU 1986:14.

Statens offentliga utredningar (1987) *Betänkande av utredningen om miljövårdens organisation, För en bättre miljö*, SOU 1987:32.

Svenska Kommunförbundet (2000) *Miljö- och hälsoskydd i kommunerna, en enkätundersökning 2000*, Svenska Kommunförbundet.

Träskman Per Ole (1992) *Miljöbrott och kontroll av miljöbrottslighet*, Helsingfors, Institutionen för straff- och processrätt.

Wennberg Suzanne (1996) *Introduktion till Straffrätten*, Fjärde upplagan, Stockholm, Juristförlaget.

In the media debate you could sometimes see the statement that environmental crimes are profitable. Would you say that environmental crime is profitable?

- Perhaps it is profitable for some….if it don't harm an industry, a name, if I don't destroy my good reputation, or if I don't even have a reputation to destroy. On the other hand, if I have invested in a good reputation it won't be profitable.

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- It's a question of perspective! I don't think it will be profitable in a long-term perspective. [ ] No one wants to work in or co-operate with a company with a bad reputation.

- It is not "the money" [the sanction] per se which is deterrent. The company don't want that brand. The management of the company spreads propaganda for "to be a good citizen". [ ] So, the outlawing has promoted a higher awareness about environmental issues [in the company].

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- One of the reasons to the introduction of the environmental management system was that the company has been reported [for environmental crimes] several times, which gave rise to lots of bad will.

Four element important for the social bond to conventional society:
-Attachment to significant others
-Commitment in a conventional life
-Involvement in conventional activities
-Belief in the existing norms

(Hirschi 1969)

RESTORATIVE JUSTICE THEORY AND THE FINNISH MEDIATION PRACTICES

Elonheimo, Henrik

Abstract

The theory of restorative justice is noble indeed. Furthermore, the international literature is rife with uplifting anecdotes of successful restorative ceremonies where the parties to a crime meet and experience a moving emotional shift form hostility to empathy and co-operation. Creative win-win agreements are reached. Eventually, the parties may hug and even make friends and invite each other to have dinner, etc. Does this happen also in Finland?

In Finland, the most prominent manifestation of restorative justice is victim-offender mediation. In order to investigate to what extent the restorative ideals are actually realized within the Finnish mediation practices, 16 cases of victim-offender mediation have been observed. The data has been gathered by law students in the city of Turku between 2001-2003.

According to the data, there are many advantages to mediation: Most of the time, the parties come up with viable agreements they are satisfied with. The offenders are motivated to compensate for the damages. The parties are given voice, they have the opportunity to tell their stories in their own words. The initial tension is reduced as the mediation proceeds. Rather than the state's retributive interests, the victims' rights are promoted.

However, discrepancies between the practice and the theory were also revealed: It is difficult to make especially young offenders truly participate in the mediation process. Emotions are not openly conveyed. The crime itself, its morals and the emotions attached are left largely undiscussed, while the most attention is paid to the making of the agreement. Premediation meetings and support persons are not taken sufficient advantage of. Furthermore, the agreements are not very creative. The compensation tends to be solely monetary while other options are ignored. Access to mediation as well as the mediation process depend on the attitudes of single practitioners. Too few and too lenient cases are referred to mediation. In order to more fully exploit the restorative potential of crime reduction, the Finnish mediation practices need elaboration.

Introduction

Mediation in Finland

Victim-offender mediation is the most important example of restorative justice (RJ) in Finland. It has been practised here since 1983. Nowadays, most of the Finnish municipalities offer mediation services. Mediation is carried out by volunteers and co-ordinated by social welfare authorities.

However, RJ remains in the margin of our crime control: mostly lenient cases and young offenders are referred to mediation. Also the concept of RJ remains unfamiliar in Finland. Mediation and RJ are largely skipped in the law schools, and many legal practitioners have little knowledge of them. Also the basic training of the mediators is parsimonious, lasting approximately 30 hours at the local level.

There is no actual legislation on mediation. Only a couple of paragraphs refer to it in the procedural legislation.[9] Therefore, the practice of directing cases to mediation as well as the mediation process itself depend on single persons. Recently, a law of mediation has been drafted. However, it is uncertain whether it will ever come into effect. The law's main functions would be to enhance mediation's legitimacy and secure the availability of mediation services all over Finland.

The research questions

RJ theory is noble indeed. Furthermore, the international literature is rife with inspiring anecdotes of successful restorative ceremonies where the parties meet and experience a moving emotional shift form hostility to empathy and co-operation. Emotions are vent and the crime and its impact are lively discussed. Agreements reached are creative and satisfy all stakeholders. Family and friends are also involved in the conferences. Eventually, the parties may hug and even make friends and invite each other to have dinner, etc. (See e.g. Umbreit 2001, Braithwaite 1997, Wachtel 1997) Is this happening also in Finland?

Mediation sessions are confidential. Because the public does not have access to the conferences, it is important that researchers scrutinize them (Braithwaite 2003). There is also another reason for studying mediation in action: the success of restorative practices depends on their quality (Maxwell & Morris 2002, 2000). The more restorative the process, the better the results (Braithwaite 2002). Therefore, the essential questions are: What actually happens during mediation? To what extent is the Finnish mediation restorative?

The restorative principles

In order to clarify what is meant by RJ, I briefly go through some of its main principles. Some of them are more fundamental than others. E.g. respectful dialogue must always be required. On the other hand, some values are rather by-products that cannot be forced, e.g. forgiveness. (Braithwaite 2003)

Empowerment: Empowerment is one of the most fundamental elements in RJ. The parties are in the centre, while the authorities and the mediators provide them with a safe place for dialogue. The parties are given voice. They make the agreements, they are the experts. (See Christie 1977) The mediators only control that the agreements do not violate the human rights or exceed what would be imposed in a court of law (Braithwaite 2003).

Restoration: In the restorative process, all material, emotional and social damages caused by the crime are subject to healing.

Responsibility: The offender is to take full responsibility for the criminal act.

Dialogue: The parties can tell their stories in their own words. They understand, what is being said and agreed upon. Through a genuine dialogue and storytelling, the parties come to understand each other better.

Emotional process: Rather than just a method to resolve conflicts, RJ is an emotional process. Emotions constitute the core of the dialogue. Emotions need to be dealt with in order to get over the psychological crisis. (E.g. Umbreit 2001) Victims needs to resolve their fear, offenders their shame (Ahmed et al. 2001).

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[9] Stating that mediation forms one of the bases the prosecutor or the judge may waive further measures on. Mediation can also lead to a lighter sentence.

Respect: Although the wrongful act is disapproved of, the offender is treated with respect.

Community: Community also plays a central part in the restorative process. The significant others need to be invited in the conference for they have the most influence on the individual's behavior and can best monitor the fulfilling of the agreement. (E.g. Braithwaite 2002)

Rehabilitation: RJ is concerned about resolving underlying problems, not just the isolated conflict. The parties can be referred to social services where victims can get support and offenders treatment, education, etc. (E.g. Christie 1977)

Creation: RJ enables creative, individual, win-win agreements.

Empirical data

In order to study the micro processes of mediation, observation is a useful method. In this study, 16 cases of mediation have been observed. However, three of them were cancelled before the parties even met each other. The cases have been attended by the law students who have participated in a mediation course at the Faculty of Law, University of Turku. The data has been gathered in the city of Turku between 2001-03. In the cases, there were at least 8 different mediators. Mostly, the students were only passive observers.

The data consists of nine cases of violence and seven property offences. The crimes included e.g. stealing a car, stealing a moped, breaking into a car, breaking into a storage, shoplifting, and rather muddled acts of violence. Many of the crimes were committed intoxicated, and none of them resulted in serious injury.

The cases observed were selected by the local mediation office. The students were given access neither to the most sensitive cases (including e.g. family violence), nor to rather dull cases with low chance of succeeding. So, the extremes may have been left out and the data may give a fairly reliable picture of mediation.

Advantages to mediation

According to the data, there are many advantages to mediation: In most of the cases, the parties met each other and made an agreement. Only three of the 16 cases did not result in an agreement; in these cases the parties did not even meet. The parties had an opportunity to tell their stories in their own words. They also listened to what the others had to say. After the mediation, the parties seemed satisfied. The agreements were viable and just. Furthermore, they were reached quickly and at a low cost.

Rather than the state's retributive interests, the victims' rights were promoted. They had a say on the procedure as well as the agreement. The damages agreed upon were not trivial: the maximum was 1200 € and the median 250 €. The victims are also likely to really get the payment. In four cases, the offenders had already paid off.

The offenders were motivated to compensate for the damages. Their motivation was enhanced by certain aspects of the mediation process: they were treated with respect, they could affect the terms of the agreement and the process was voluntary. In one case, the offender was not willing to co-operate and was about to leave the conference. However, as the mediator stated that he was not obliged to stay but was fully entitled to leave, he decided to stay!

There was also an emotional progress taking place: The initial tension of the parties reduced along the mediation process. First, the parties were anxious and angry, but as they heard the other's story and had an opportunity to express their feelings, they became more relaxed and peaceable. Also direct communication between the parties increased towards the end of the sessions. Typically, the victims were relieved to hear that there was no personal motive for the assault. Also receiving information of the process helped the parties relax.

All in all, the students believed that the cases were better suited for mediation than for a court of law. Also the mediators were valued for their charitable work for the common good.

Problems found

However, not all restorative practices succeed in realizing the demanding restorative principles (see e.g. Daly 2003, Barton 2000). Also in this study, discrepancies between the action and the theory were revealed:

Lack of dialogue

Rather than discussing with each other, the parties shortly replied to the mediator's questions. It was especially difficult to make young offenders truly participate in the process. Emotions were not openly conveyed. The crime itself, its morals and the emotions attached were left largely undiscussed, while the most attention was paid to the making of the agreement. E.g., remorse was not openly expressed, spontaneous apology was absent, no hugs were observed. The Finnish reintegration ceremonies (Braithwaite 1989) seem to be limited to the signing of the agreement and shaking hands.

The expressing of disapproval and reintegration are crucial for shame management. Though not always overt, lack of dialogue may risk those processes. Unacknowledged and undischarged sense of shame may lead to unhealthy defensive responses, even violence. (Van Stokkom 2002, Ahmed et al. 2001) More active participation would probably bring about remorse, apology and make the conference memorable. These kind of factors are inversely linked with recidivism. (Maxwell & Morris 2002, 2000)

Lack of premediation meetings

It is important for the mediator to meet the parties separately before they meet each other. The parties need information of the mediation in order to feel safe. Premediation meetings help them relax and concentrate on the dialogue in the actual mediation. (E.g. Umbreit 2001) However, in the observed cases, premediation sessions were rare. Usually, the mediator only called the parties by the phone in order to settle a date for the joint session. As a consequence, the parties entered them somewhat confused.

In one exceptional case, where premediation meetings *were* applied, the mediator had already written down the contract before the joint session. Then, as the parties finally met each other, they signed the agreement and little time was spent on the dialogue.

Monetary compensation prevails

The agreements were not very creative. Typically, the mediator just filled in the blanks in a form. Ironically, although RJ would indeed enable individual agreements, also mediation becomes guided by the routine and favors standard outcomes (Kandel 1995). The compensations were only monetary, while other options were ignored. E.g., none of the agreements included work. Working could mean a much more concrete, active and direct sanction than paying. Furthermore, through working, especially young offenders could learn new skills and enhance their self esteem and self control.

Lack of community

Significant others are important sources of shaming and reintegration. Effective shaming and shame management are not easily produced in the absence of the offender's loved ones. (Ahmed et al. 2001) This potential is not fully realized within the Finnish mediation. Of the observed meetings, only five included support persons. Mostly they were the children's parents. In one case, the offender had a supporter with him, but the mediator did not allow him to participate because the victim did not have any supporters either.

Furthermore, in those cases where supporters did attend, they dominated the discussion. They inhibited the actual parties from expressing their views and in some cases

even made the decisions for the minors. If the parties are silenced, they will not be committed to the process nor its outcome. In the cases, minors used to hide under their caps, play with their mobile phones, joke with each other, make faces and so on.

Powerful mediators

As the parties were relatively passive, the mediators' role became stronger. They formulated the agreements, and in some cases, outrightly determined the amount of the compensation. In the most extreme case, the mediator manipulated a higher sum than the victim claimed, in order to show the offender how serious the crime was. In another case, the mediator bargained about the compensation on behalf of the offender, referring to the legal praxis.

Admittedly, the task of the mediator is to prevent more severe sanctions than the judge would impose in a court. However, the mediator should not violate the parties' autonomy. When empowerment fails, RJ fails. (See e.g. Braithwaite & Mugford 1994) Another, a more practical problem is, whether mediators are informed of the legal praxis.

Powerful victims

Also the victims' position was quite strong. In some cases, they were very keen on their monetary claims and threatened to go to court were their demands not met. There is a risk that perpetrators agree to pay excessive damages out of their fear of the trial. On the other hand, the autonomy of the parties is emphasized in the restorative ideology and the mediators are there to control the agreements. Furthermore, the parties may admit unnecessary high damages in the court as well. However, the focus on money still implies a material bias in the mediation process: do the victims' other needs remain unaddressed?

Lack of rehabilitation

It is plausible that the most effective crime control combines RJ and rehabilitation.[10] RJ provides a suitable forum in which to address the parties' rehabilitative needs (Braithwaite 2002). However, there was only one case where the mediator inquired if the victim needed any therapy. The needs of the perpetrators were not discussed either, although they obviously had at least problems with alcohol or other intoxicants.

Haphazard policy

Also this study reveals that access to mediation as well as the mediation process depend on the attitudes of single persons: police, prosecutos, mediators. Too few cases are referred to mediation. Although the range of cases that can be mediated is not restricted by the law, mostly rather lenient or juvenile cases are mediated. Also the mediators are guided by their personal beliefs and customs rather than RJ theory. (See also Mielityinen 1999, Takala 1998, Scimecca 1991)

Conclusions and discussion

According to the cases observed, there are many advantages to mediation: Usually, the parties meet and come up with an agreement they are satisfied with. The parties are given voice. The victims play a central role, and also the perpetrators are accepted as equal partners in the negotiation. The perpetrators are motivated to compensate for the damages, and the victims' prospects of actually receiving the compensation are high.

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[10] With deterrence and incapacitation on the background (Braithwaite 2002).

Yet, the high demands of the restorative theory are not fully met: Rather than dialogue-driven, mediation is settlement-driven (see Umbreit 2001). Premediation meetings could be utilized more in order to foster dialogue. Nor are support persons taken advantage of in the sense the theory puts it. Agreements could also be more creative and individual.

More attention needs to be paid on the training of the mediators. Obviously, the scarce basic course does not provide them with skills needed e.g. to activate the parties. Lack of dialogue is likely to entail lack of commitment and undermine the crime reducing potential of RJ. Were mediation developed, it would also gain legitimacy and more serious cases.

In many respects, the results support those obtained in the previous studies on the Finnish mediation (Mielityinen 1999, Takala 1998). On the whole, RJ theory needs to be more broadly introduced also in Finland. The current practices must be up-dated and new ones adopted. RJ could be seen as a wider social policy than just victim-offender mediation (see e.g. Strang & Braithwaite 2002). Although the advantages of the Finnish mediation are evident, there is much more potential to RJ than this.

References

Ahmed, Eliza & Harris, Nathan & Braithwaite, John & Braithwaite, Valerie (2001) Shame Management Through Reintegration. Cambridge Criminology Series. Cambridge University Press.

Barton, Charles (2000) Empowerment And Retribution In Criminal Justice. In Strang, Heather & Braithwaite, John (eds.) Restorative Justice. Philosophy to Practice. Ashgate, 55-76.

Braithwaite, John (2003) Principles of Restorative Justice. In Von Hirsch, Andrew & Roberts, Julian V. & Bottoms, Anthony (eds.) Restorative Justice and Criminal Justice. Competing or Reconcilable Paradigms? Hart Publishing, 1-20.

Braithwaite, John (2002) Restorative Justice & Responsive Regulation. Oxford University Press.

Braithwaite, John (1997) Restorative Justice and A Better Future. Dalhousie Law Review, Vol. 76, No. 1, 9-31.

Braithwaite, John (1989) Crime, Shame and Reintegration. Cambridge University Press.

Braithwaite, John & Mugford, Stephen (1994) Conditions of Successful Reintegration Ceremonies. Dealing with Juvenile Offenders. British Journal of Criminology, Vol. 34, No. 2, 139-171.

Christie, Nils (1977) Conflicts as Property. The British Journal of Criminology. Vol. 17, No. 1, January 1977, 1-15.

Daly, Kathleen (2003) Mind the Gap: Restorative Justice in Theory and Practice. In Von Hirsch, Andrew & Roberts, Julian V. & Bottoms, Anthony (eds.) Restorative Justice and Criminal Justice. Competing or Reconcilable Paradigms? Hart Publishing, 219-236.

Kandel, Randy Frances (1995) "Developmental Appropriateness" as Law in California Child Custody Mediation: Towards a Jurisprudence of Persuasion. Journal of Legal Pluralism and Unofficial Law. No. 35/1995, 75-118.

Maxwell, Gabrielle & Morris, Allison (2002) Family Group Conferences and Reoffending. In Morris, Allison & Maxwell, Garrielle (eds.) Restorative Justice for Juveniles. Conferencing, Mediation and Circles. Hart Publishing, 243-263.

Maxwell, Gabrielle & Morris, Allison (2000) Restorative Justice and Reoffending. In Strang, Heather & Braithwaite, John (eds.) Restorative Justice. Philosophy to Practice. Ashgate, 93-103.

Mielityinen, Ida (1999) Rikos ja sovittelu. Valikoituminen, merkitys ja uusintarikollisuus. Oikeuspoliittisen tutkimuslaitoksen julkaisuja 167, Helsinki.

Scimecca, Joseph A. (1991) Conflict Resolution And A Critique Of ADR. In Pepinsky, Harold E. & Quinney, Richard (eds.) Criminology As Peacemaking. Indiana University Press.

Strang, Heather & Braithwaite, John (eds.) (2002) Restorative Justice and Family Violence. Cambridge University Press.

Takala, Jukka-Pekka (1998) Moraalitunteet rikosten sovittelussa. Oikeuspoliittisen tutkimuslaitoksen julkaisuja 151, Helsinki.
Umbreit, Mark S. (2001) The Handbook of Victim Offender Mediation. An Essential Guide to Practice and Research. Jossey-Bass, San Fransisco.
Van Stokkom, Bas (2002) Moral emotions in restorative justice conferences: Managing shame, designing empathy. Theoretical Criminology, Vol. 6, No. 3, 339-360.
Wachtel, Ted (1997) REAL Justice. How We Can Revolutionize our Response to Wrongdoing. The Pipers Press, Pipersville, Pennsylvania.

DEN SOCIALA EXKLUDERINGEN AV STRAFFADE OCH VRÄKTA - EN STUDIE AV SAMHÄLLETS IN- OCH UTELÅSTA

Flyghed, Janne & Nilsson, Anders

Inledning

För den svenska befolkningen i stort är kännedomen om välfärdens fördelning och förändringar i levnadsförhållanden god. Exempelvis gör Statistiska centralbyrån (Statistics Sweden) årligen s.k. levnadsnivåundersökningar där man frågar människor om hur de har det på olika områden som är centrala för individens välfärd, som hälsa, utbildning, ekonomi, boende, sociala relationer, trygghet och politiska resurser (Palme et al 2002). Liknande undersökningar görs i de andra skandinaviska länderna. Dessa undersökningar har varit betydelsefulla för beskrivningar av social exkludering och beslut i välfärdspolitiska frågor.

Men det finns levnadsförhållanden och grupper i samhället som är svåra att fånga med denna typ av urvalsundersökningar baserade på stora befolkningsgrupper. Vid urval på befolkningen i stort blir deras representation nämligen mycket låg. Detta beroende på gruppernas storlek samt att bortfallet här är högre. Därtill går sådana populationer endast undantagsvis att identifiera i denna typ av undersökningar. Vad gäller mer extrema former av ofärd är därför tillgången på kunskap begränsad, i synnerhet beträffande utvecklingen över tid.[11] Vi har valt att fokusera på grupperna fängelsedömda och vräkta. Det rör sig om marginaliserade, delvis överlappande grupper som förknippas med sociala problem som brottslighet, hemlöshet och missbruk (Flyghed 2000a; Flyghed 2000b; Nilsson 2002). Som populationer definieras de utifrån samhälleliga sanktioner; straff och vräkning. Sanktionerna tar sig olika uttryck. I det ena fallet tvingas personen in (i fängelse), i det andra ut (ur bostaden).

Vid 1990-talets början befann sig Sverige i en med svenska mått mätt relativt djup ekonomisk kris. Hur påverkades de grupper vi uppmärksammar av 1990-talets krisår, med ekonomisk nedgång, ökad arbetslöshet och nedskärningar i välfärdssystemen, samt senare års ekonomiska återhämtning? En studie av välfärdens marginaler och socialt utsatta grupper bidrar till en mer fullständig bild av välfärds- eller ofärdsutvecklingen. Genom att synliggöra dessa grupper och hur de utvecklats över tid blir det möjligt att bättre förstå effekterna av sociala och strukturella förändringar. En studie av populationer som per definition förknippas med sociala problem ger möjligen en annan bild av utvecklingen än den som dominerar befintliga studier av välfärdens fördelning och utveckling. Hur ett samhälle behandlar sina avvikare säger också något om samhället i stort. En hypotes är att vi har en utveckling mot tilltagande marginalisering och social exkludering av grupper i samhället som samman-

[11] Tidigare undersökningar som särskilt riktat sig till mer utsatta grupper i samhället är i huvudsak av tvärsnittskaraktär och brister därtill ofta i jämförbarhet med såväl befolkningen i övrigt som andra undersökningar.

kopplas med olika former av sociala problem. Detta antagande har sin grund i framförallt två förhållanden.

1) Tidigare forskning har visat att det är redan resursmässigt svaga grupper som drabbas hårdast vid generella försämringar. Kännetecknande för den ekonomiska krisen under 1990-talets första hälft var att redan svaga grupper drabbades hårdare och därtill i mindre utsträckning än andra kom att ta del av det sena 1990-talets ekonomiska uppgång (Palme et al 2002). Att grupperna straffade och vräkta är socialt och ekonomiskt utsatta i jämförelse med befolkningen i sin helhet är väl belagt i tidigare studier (för svenska studier se Flyghed & Stenberg 1993; Flyghed 2000b; Nilsson 2002). Det finns därför anledning att förvänta såväl en absolut som relativ försämring av levnadsvillkoren för de grupper vi valt att studera.

I sammanhanget bör det noteras att det rör sig om grupper som har svårt att få gehör för sina behov och ofta är lågprioriterade, vilket blir än tydligare i tider av ekonomisk åtstramning och nedskärningar av offentliga medel (Bergmark 1995; Flyghed 2000b; RRV 1999). Fångar och vräkta står också i stor utsträckning utanför de gängse sociala trygghetssystemen eftersom dessa i Sverige huvudsakligen bygger på att individen har en anställning (Marklund & Svallfors 1987).

2. Antagandet om ett ökat avstånd mellan de grupper som ska studeras och befolkningen i övrigt går även att koppla till en minskad tolerans gentemot avvikare, något som satts i samband med strukturella förändringar och en ökad individualisering av synen på sociala problem. På 1960- och 70-talen betonades i västerländska samhällen integrering och rehabilitering av avvikare. I jämförelse med decennierna därefter betraktades inte avvikaren i lika stor utsträckning som ett hot utifrån, utan som någon som måste socialiseras eller rehabiliteras. Synen på brottslingen var mer förstående och i viss mån sågs denne som ett offer för samhällsfaktorer. I dagens samhälle har kraven på lag och ordning ökat och toleransen gentemot avvikare minskat. Avvikaren själv betraktas nu oftare som orsak till det onda (Young 1999; Melossi 2000; Garland 2001). Enligt Waquant (2001) ska det ökande antalet fångar i Västeuropa förstås mot bakgrund av att sociala problem omdefinierats till ordningsproblem; the state relies increasingly on the police and penal institutions to contain the disorders produced by social and economic factors and the shrinking of social protection.

För svenska förhållanden kan förändringar inom kriminalpolitiken ses som ett uttryck för detta. Behandlingstänkandet har gett vika för ett påföljdstänkande baserat på avskräckning och straffvärde (Tham 1995) och frågor om behandling och resocialisering har fått lämna utrymme åt risk- och farlighetsbedömningar (Hörnqvist 2003). En bakgrund härtill är att välfärds- och behandlingsoptimism förbytts av pessimism. Den ändrade synen på brottslingen och individualiseringen av förklaringar till avvikande beteende som skett sedan slutet av 1980-talet har vidare satts i samband med ekonomiska förändringar och välfärdsstatens försvagning (Melossi 2000; Tham 1995; Young 1999). Utvecklingen är i detta perspektiv inte exklusiv för hur brottslingar betraktas, utan hänger samman med en mer generell utveckling mot ökad individualisering av synen på sociala problem. Uttryck för minskad tolerans finns också då man ser till hemlösa och tiggare. En utveckling som delvis kan förknippas med 1990-talets nolltoleranstänkande. Hemlösa har påvekats av strategier med syfte att förbättra ordning och handel i kommersiella centrum, vilket inneburit en utestängning från stadscentrum (Sahlin 2000). Det är inte nog med att man saknar bostad, man har heller inte tillträde till vissa offentliga platser. Något som skulle kunna beskrivas som en dubbel hemlöshet. Hemlöshet och tiggeri har kommit att omdefinieras till ordningsproblem. Uttrycken för detta är flera. Ett exempel gavs nyligen av den moderata riksdagsmannen Carl-Axel Roslund när han menade att blotta åsynen av tiggare försämrade hans livskvalité och därför borde förbjudas (AB 2003-02-26).

Marginalisering, social exkludering och polarisering

Med marginalisering och social exkludering brukar avses minskat handlingsutrymme och minskad delaktighet. Begreppen har använts för beskrivningar av såväl tillstånd som processer. Därtill har det tillämpats på olika analysnivåer. Gemensamt för flertalet använd-

ningar är att det rör sig om sociala grupperingar med svag social förankring, de är utstötta eller riskerar bli utstötta, från ett socialt deltagande som flertalet tar för givet.

Social exkludering är tydligare än marginalisering ett mångdimensionellt begrepp: ”social exclusion can involve not only social but also economic, political, and spatial exclusion, as well as access to specific desiderata such as information, medical provision, housing, policing, security etc.” (Young 2002:457). Dessa dimensioner tenderar att hänga samman, vilket gör detta gör de totala skillnaderna mellan individer och grupper mer påtagliga.

Vårt huvudintresse ligger på exkluderingsprocesser med vilket här avses dels i) avståndet mellan grupper i samhället, dels ii) händelsekedjor på individnivå. De förra benämner vi polarisering och de senare händelsekedjor. Det är i huvudsak det förstnämna som tas upp i denna artikel. Utvecklingen av avvikande beteenden - brottslighet, narkotikamissbruk och hemlöshet - kan också i sig ses som indikatorer på exkludering och social utslagning. Vi kommer därför att beskriva denna utveckling i ett längre perspektiv med tonvikt på det senaste decenniet. Men även om problemen inte ökat sett till antal personer, så kan situationen ha förvärrats för dessa grupper och avståndet gentemot befolkningen i övrigt ökat (se t.ex. Nilsson & Estrada 2003). Det är m.a.o. inte tillräckligt att se till förekomsten, d.v.s. räkna antalet; inte heller att beskriva de exkluderade. Man bör även identifiera faktorer som utlöser in- och utgångar från dessa tillstånd/positioner. Vilka faktorer exkluderar människor och vad kan motverka en sådan process?

En möjlighet är att resonera i termer av grundläggande, betingade och utlösande faktorer (Korpi 1973). De grundläggande faktorerna rör ojämlikheten i samhället. Till de betingade faktorerna hör individens socioekonomiska ställning, uppväxtförhållanden, bosättningsort, kön och ålder. Utlösande faktorer för exkludering är sådana faktorer som förändrar individens ekonomiska och sociala situation genom att minska hennes resurser eller genom att öka hennes behov. Exempel på resursminskande faktorer är arbetslöshet, sjukdoms- och missbruksperioder och som behovshöjande faktorer kan nämnas höjda hyror och sjukvårdskostnader. Bland indikatorer på social förankring intar sysselsättning och boende en särställning. Till stor del saknar de grupper vi avser att studera förankring; de står utanför såväl arbetsmarknaden som bostadsmarknaden. De som trots allt har arbete som försörjningskälla har därtill ofta en svag ställning på arbetsmarknaden och de som har bostad har ofta en svag position på bostadsmarknaden (Nilsson 2002).

Frågan om polarisering gäller främst hur avståndet till befolkningen i övrigt utvecklats. Men polarisering kan även syfta på dynamiken inom grupperna (Kyvsgaard 1995). Med det senare avses huruvida selektionen till grupperna förändrats och vilka konsekvenserna i så fall blivit. Att studera hur den sociala situationen och sammansättningen av gruppen vräkta förändrats har till exempel relevans för frågan om det blivit fler som aldrig kommer in på bostadsmarknaden, samt för att belysa kopplingen mellan vräkning och hemlöshet. En minskning av antalet vräkningar behöver nämligen inte innebära att antalet personer med mycket svag position på bostadsmarknaden minskat; det sjunkande antalet vräkningar kan tvärtemot vara ett tecken på att antalet hemlösa ökat. Detta då vräkta har fått det svårare att komma tillbaks in på bostadsmarknaden (Flyghed 2000b). Hypotesen är att det parallellt med en ökad polarisering i samhället också skett en polarisering inom de marginaliserade grupperna. Vad kan vi då säga om utvecklingen? I det följande ska vi kort redogöra för utvecklingen över tid beträffande antalet fångar och antalet vräkta. Därefter tar vi också upp sociala förhållanden och förändringar av dessa.

Fångar

Fångpopulationens storlek hänger inte entydigt samman med brottsligheten, vilket framgår av länderjämförelser (Lappi-Seppälä 2000; vonHofer 2003). I stor utsträckning rör det sig snarare om ett politiskt val (vonHofer 2003). Så kan man också förstå den skilda utvecklingen sedan 1980-talet mellan de nordiska länderna, som haft en relativt stabil eller minskad fångpopulation, och länder med en dramatisk ökning av antalet fångar, som USA, Frankrike och England (Westfelt 2001).

I Sverige ökade användningen av fängelsestraffet kraftigt under 1980-talet, men beläggningen ökade inte. Detta berodde till stor del på att villkorlig frigivning efter halva strafftiden infördes 1983 för dömda upp till två års fängelse.

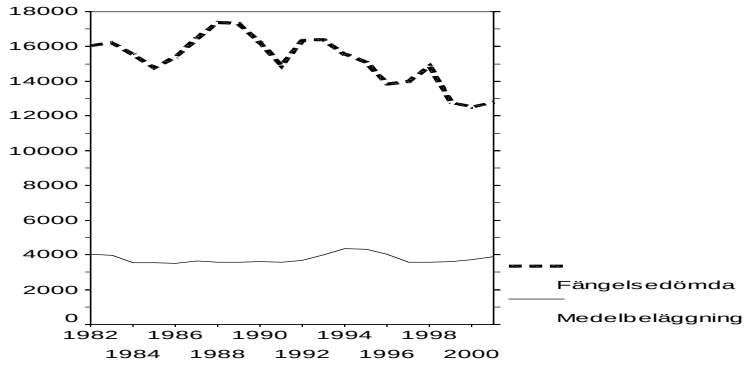


Diagram 1. Fängelsedömda och fångpopulation (medelbeläggning) 1982-2001

Mot slutet av 1990-talet skedde en kraftig minskning av antalet nyintagna i fängelse och gapet mellan antalet fängelsedömda och antalet intagna i fängelse ökade (diagram 1). Detta beror till största delen på införandet av intensivövervakning med elektronisk kontroll som alternativ till anstaltsverkställighet (KVS 1998a). Reformen med intensivövervakning och minskningen av nyintagna gör att vi i slutet 1990-talet ser den minsta fångpopulationen för hela perioden. Detta gäller i synnerhet för nyintagna. Att medelbeläggningen inte minskat i större utsträckning beror på avskaffandet av den obligatoriska halvtidsfrigivningen 1993, längre strafftider och att andelen av den utdömda tiden som avtjänas för de långtidsdömda ökat (KVS 1998b). I slutet av perioden kan vi se en ökning av beläggningen. För första gången på mycket länge planeras också en utbyggnad av fångkapaciteten (vonHofer 2003).

För förståelse och tolkning av förändringar i gruppen fångar över tid är kriminalpolitiska förändringar och ändringar i selektionen till fängelset av vikt. Aktuella exempel som nämnts ovan är införandet av intensivövervakning och en ökad användning av samhällstjänst. Användandet av dessa alternativ till fängelse bidrar till att fångpopulationen framstår som mer belastad än tidigare (KVS 2000b). I denna bemärkelse har vi en polarisering mellan lagöverträdarna; de mer resurstarka lagöverträdarna ges möjlighet till alternativa påföljder, medan de övriga blir kvar i fängelset. De senare avviker i högre grad från ”det normala”; vid en jämförelse är det fler av dem som missbrukar och fler som saknar ordnad sysselsättning och bostad. Sysselsättning och bostad är förutsättningar för att kunna beviljas intensivövervakning och en ansökan om intensivövervakning kan avslås om det föreligger risk för alkohol- eller narkotikamissbruk under verkställigheten (BRÅ 1999). Indikatorer på att fångarna blivit en mer belastad population sedan de nya påföljderna införts är en ökning av andelen missbrukare och en ökad andel som tidigare avtjänat fängelsestraff (KVS 2000a).[12] Att fångpopulationen blivit mer belastad förefaller därför i första hand vara en effekt av ändringar i valet av påföljd. I det längre perspektivet kan utvecklingen avseende brottstyper och strafftider ses som indikatorer på polarisering; t.ex. innebär en ökad andel narkotikabrottsdömda en ökad andel med missbruksproblem. Under periodens senare del understryks

[12] Det har även framförts att det som ett resultat av avinstitutionaliseringar blivit fler psykiskt störda bland de intagna. Det finns också indikatorer på att så är fallet. I en enkät till anstalterna gjorde t.ex. flertalet bedömningen att det skett en ökning (SOU 1994:5). Det finns även en långsiktig trend mot att färre överlämnas till rättspsykiatrisk vård.

polariseringen mellan lagöverträdare av att strafftiderna blivit längre och restriktionerna fler för dem som hamnar i fängelse (Tham 1995; Wellholm 1998; Hörnqvist 2003).

Utvecklingen av alternativ till korta fängelsestraff innebär en stor kriminalpolitisk förändring. Dess positiva konsekvens är att färre personer behöver avtjäna sina straff i fängelse. Det blir möjligt att undvika fängelsets negativa skadeverkningar. Samtidigt innebär det lägre kostnader för samhället. Men det finns även negativa konsekvenser. Kyvsgaard (1999, s. 50f) menar att utvecklingen innebär att likheten inför lagen åsidosätts. Möjligheten till alternativa verkställighetsformer finns bara för vissa. Under 1970-talet genomfördes i Sverige reformer i syfte att underlätta fängelsevistelsen för de intagna (Ekbom m.fl. 1995, s. 97). Sedan slutet av 1980-talet har säkerhetsaspekter allt mer kommit att betonas och förhållandena på anstalterna har i olika avseenden skärpts, i synnerhet för dem med långa strafftider. Möjligheterna till särbehandling av långtidsdömda har ökat och beslut har tagits om skärpta regler avseende kontakter med yttervärlden, kroppsbesiktning och urinprov i syfte att begränsa narkotikahanteringen i fängelserna (Tham 1995; Wellholm 1998). Vidare har kriminalvården under 1990-talets senare del blivit mer restriktiv när det gäller att bevilja permissioner (KVS 2000a). Den ändrade sammansättningen av anstaltsklientelet – att fångpopulationen straffmässigt har blivit mer belastad – är ett motiv till ökade restriktioner. Ett annat är bilden av en mer hotfull brottsling.

Som tidigare nämnts kan fångpopulationen i jämförelse med befolkningen i övrigt beskrivas som socialt exkluderad. Detta framkommer också i en studie av fångars levnadsförhållanden som vi har gjort (Nilsson 2002). Jämförelser av förekomst och ansamling av resursbrister och problem inom olika välfärdsområden – hälsa, ekonomiska resurser, boende, sysselsättning, utbildning, politiska resurser, utsatthet för brott – pekar på avsevärda skillnader mellan fångar och befolkningen i övrigt. Bristande delaktighet och anknytning till arbetsmarknaden och förekomsten av resursbrister gör att fångarna som grupp kan beskrivas som socialt exkluderade.

Den tvärsnittsundersökning vi gjort ger kunskap om situationen vid en given tidpunkt. Men kunskapen om hur den sociala situationen förändrats är mycket knapp. En uppgift som dock finns är sysselsättning bland straffade med frivårdspåföljd, d.v.s. i huvudsak villkorligt frigivna och dömda till skyddstillsyn. Uppgifterna om deras sysselsättning bygger på enkäter som besvaras av frivårdsinspektörerna och ingår i kriminalvårdens officiella statistik. En jämförelse av andelen med arbete i befolkningen[13] respektive bland personer under frivård stöder hypotesen om en tilltagande exkludering och ett ökat avstånd mellan straffade och befolkningen i övrigt. Minskningen av andelen med sysselsättning under 1990-talets krisår är större bland personer under frivård. Vid periodens början är det 35 procent av frivårdklienterna som har ett arbete och vid dess slut endast 20 procent. Motsvarande minskning av andelen sysselsatta i befolkningen (16-64 år) går från 83 till 74 procent. I ett längre perspektiv är det möjligt att göra vissa jämförelser mellan olika tvärsnittsstudier, även här finns det stöd för att det skett en försämring av fängelsedömdas levnadsförhållanden. T.ex. är det en större andel fångar idag än vid slutet av 1960-talet som står utanför arbetsmarknaden (Nilsson 2002). Annan nordisk forskning gör också gällande att levnadsförhållanden för dömda till fängelse försämrats i förhållande till normalbefolkningen (Kyvsgaard 1989; Fridhov 1991. Se även Smith & Stewart 1997).

För att kunna besvara frågan om ett ökat avstånd mellan straffade och befolkningen i övrigt och en eventuellt tilltagande exkludering skulle det emellertid behövas en mer noggrann jämförelse med samma eller åtminstone mer lika indikatorer på arbetsmarknads-

[13] Uppgifterna om sysselsättning för befolkningen (16-64 år) har hämtats från SCBs Arbetskrafts-undersökningar (AKU). Som sysselsatt definieras här en person som normalt utfört något avlönat arbete som arbetstagare eller egen företagare under mätveckan (se vidare Nilsson 2002:166f).

status för straffade och den övriga befolkningen än de som nu finns tillgängliga. Det skulle dessutom vara önskvärt med uppgifter som täcker in fler välfärdsområden. För att bättre kunna förstå och tolka utvecklingen skulle det även behövas en möjlighet att kontrollera för förändringar i selektionen av straffade.

Vräkta

Fram till 1991 verkställdes strax under 5000 vräkningar per år. Därefter skedde en mycket snabb ökning av såväl verkställda vräkningar som ansökningar om vräkning (se diagram 2). Den främsta orsaken till detta var kraftiga hyreshöjningar, mellan 1990 och 1993 ökade de med hela 70 procent. Huvuddelen av höjningen förorsakades av riksdagsbeslut, främst 1990 års skattereform som slog igenom på hyrorna 1991. Hyresnivåns betydelse för antalet vräkningar har belagts vid ett flertal tillfällen (Stenberg 1990; Flyghed & Stenberg 1993).

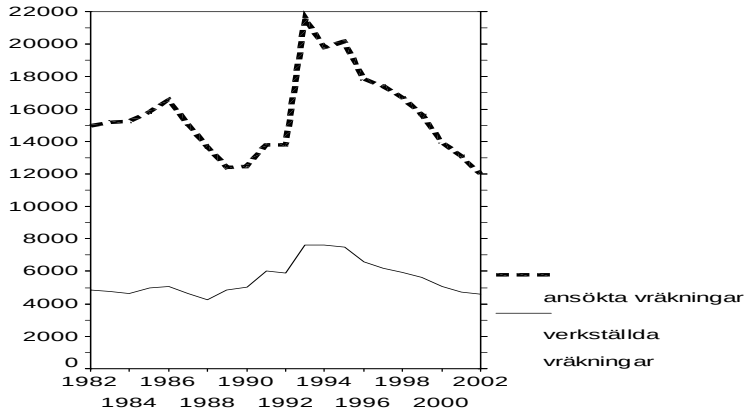


Diagram 2: Ansökta och verkställda vräkningar 1982-2002.

Att skattereformen skulle leda till högre hyror var beslutsfattarna medvetna om. Därför ingick det i reformen att hushåll med små inkomster skulle kompenseras genom höjda bostadsbidrag. Dock talar det mesta för att denna kompensation inte nådde fram till en av de grupper som skulle vara i störst behov av det, nämligen de vräkningshotade. I en undersökning av vräkta hushåll 1991 framkom att knappt 30 procent av hushållen hade bostadsbidrag. Med tanke på de vräktas svaga ekonomi kan detta tyckas paradoxalt, men det visade sig att huvudskälet var att tre fjärdedelar av dem som inte hade bostadsbidrag inte ens hade sökt (Flyghed & Stenberg 1993,47). Men då personer med en svag position på bostadsmarknaden inte är en aktörsstark grupp, är detta inte så förvånande. Slutsatsen blir att det bland de vräkta finns personer som är berättigade till bostadsbidrag, men inte får detta stöd då de inte sökt. Hur många vräkningar som kunnat undvikas om bostadsbidragen kommit fram går det endast att spekulera om. Efter 1994 har antalet verkställda vräkningar sakta men säkert minskat. Ska detta tolkas som att problemen för hushåll med svag position på bostadsmarknaden har minskat? Inte nödvändigtvis. Bostadsmarknaden består av såväl en utgång som en ingång. Om vi bortser från de som frivilligt lämnar sin bostad för annat boende, så heter utgången vräkning. Ingången är kontraktstecknandet. Båda dessa slussar har stor betydelse för vräkningsutvecklingen. Vi vet att det är svårt för den som blivit vräkt att komma in på bostadsmarknaden igen. I den tidigare nämnda praxisstudien framgick också att värdarna under 1990-talets första hälft skärpte sin bedömning av nya hyresgäster. Innan de skrev kontrakt inhämtade de kreditupplysning och kontaktade tidigare värd i större utsträckning än tidigare. En tredjedel av de tillfrågade värdarna tog även kontakt med arbetsgivaren (Flyghed 1994). Å andra sidan hade de blivit något mer återhållsamma i sin vräkningspolicy. Med andra ord hade de stängt till såväl ingången som utgången. Det förelåg marginella skillnader i detta avseende mellan allmännytta och privatvärdar. Allmännyttan har under åren antagit en alltmer utpräglad marknadsmässig hållning. Pressade av ekonomiska försämringar tar de inte samma sociala ansvar som tidigare. Det är en bidragande förklaring till att andelen vräkta som kommer från de allmännyttiga bolagen minskar. Då de inte längre i samma utsträckning tar in potentiella problemhushåll, behöver de inte heller ansöka om lika många

vräkningar hos kronofogdemyndigheten. Detta är analogt med Sten-Åke Stenbergs s.k. miljonprogramshypotes. Miljonprogrammet medförde att fattiga hushåll och hushåll med allvarliga sociala problem fick egna hyreskontrakt, främst i allmännyttan. Därmed ”flyttade bokstavligen fattigdom och andra sociala problem in i de nya bostadsområdena” (Stenberg 1990,115). Och det var just dessa hushåll, bestående av personer som tidigare till stor del varit hemlösa, som främst drabbades av vräkning. Miljonprogrammet kom därmed att synliggöra ett tidigare dolt socialt problem: de hemlösa i välfärdsstaten. Det finns således ett starkt samband mellan förändringar vid entrén in och bakdörren ut. Det förefaller därför rimligt att anta att en stor del av dem som vräkts under de senaste fem åren haft stora svårigheter att komma in på bostadsmarknaden. Det är viktigt att beakta att det inte är samma personer som vräks år efter år, utan huvudsakligen är det nya hushåll som utestängs. Antalet personer som fått eget kontrakt trots att de tidigare vräkts och som sedan vräks igen är nämligen litet. 1990-talets vräkningsvåg torde med andra ord ha genererat ett stort antal personer som inte längre har eget kontrakt. En del av dessa bor i andra hand, andra på härbärgen och vissa är hemlösa. De senaste årens minskning av antalet verkställda vräkningar behöver således inte innebära att antalet personer med mycket svag position på bostadsmarknaden minskat i samma grad. Det förefaller rimligare att anta att det sjunkande antalet vräkningar tvärtom är ett tecken på att antalet hemlösa ökat. Den situationen kommer att bestå så länge de bostadslösa inte får komma in på bostadsmarknaden och därmed ges möjlighet till eget boende. En hypotes är att vräkningspopulationen har närmat sig normalpopulationen samtidigt som de som varit vräkta en tid blir alltmer distanserade från densamma.

Liksom fångpopulationen är de vräkta en population som kan karaktäriseras som socialt exkluderad. Det ligger i sakens natur att en stor del av dem som vräks har dålig ekonomi. I en intervjuundersökning med vräkta ställdes bland annat frågor om ekonomisk situation. En fråga gällde kontantmarginal. I de nationella levnadsnivåundersökningarna svarade 83 procent av de tillfrågade hyresgästerna att de skulle klara att få fram 10 000 kronor på en vecka. För de vräkta är det istället 73 procent som säger att de inte skulle klara detta. Även i fråga om hälsa, utsatthet för brott och självfallet boende hade de vräkta en sämre situation (Flyghed & Stenberg 1993).

Då vi än så länge inte har kunskap om utvecklingen över tid beträffande de vräktas sociala situation får vi istället se till en angränsande grupp, nämligen de hemlösa där kunskapen är något bättre. Till skillnad från grupperna straffade och vräkta är hemlösa en mer svårdefinierad och också mer svårfångad grupp. I Socialstyrelsens återkommande inventering av hemlösa indkerar att förhållanden för de hemlösa försämrats under 1990-talet. Mellan 1993 och 1999 har andelen med psykiska störningar och missbruk ökat (Socialstyrelsen 2000). Även socialtjänsten i Stockholms återkommande inventeringar av hemlösa pekar på försämrade förhållanden, bland annat har försörjningssituationen förändrats till det sämre (Finne 2001). Men att de hemlösa fått det sämre under de senaste tio åren innebär inte att detsamma gäller för de vräkta. Bostadsmarknaden består av såväl en utgång som en ingång. Om vi bortser från dem som frivilligt lämnar sin bostad för annat boende, så heter utgången vräkning och ingången är kontraktstecknandet. Vi vet att det är svårt för den som blivit vräkt att komma in på bostadsmarknaden igen. Under 1990-talets första hälft skärpte värdarna sin bedömning av nya hyresgäster. Innan kontrakt tecknades inhämtade de i större utsträckning kreditupplysning samt kontaktade arbetsgivare och tidigare värd (Flyghed 1994). Det förefaller därför rimligt att anta att en stor del av dem som vräkts under de senaste fem åren haft mycket stora svårigheter att komma in på bostadsmarknaden. Det är viktigt att beakta att det inte är samma personer som vräks år efter år, utan huvudsakligen är det nya hushåll som utestängs. Antalet personer som fått eget kontrakt trots att de tidigare vräkts och som sedan vräks igen är nämligen litet. 1990-talets vräkningsvåg torde med andra ord ha genererat ett stort antal personer som inte längre har eget kontrakt. En del av dessa bor i andra hand, andra på härbärgen och vissa är hemlösa. De kan hamna på en sekundär bostadsmarknad utan fast förankring, vilket riskerar bli ett permanent tillstånd (Sahlin 1996).

Händelsekedjor på individnivå

De studier vi tidigare gjort besvarar inte frågan om polarisering, d.v.s. förändringar i avståndet gentemot befolkningen i övrigt. Men de säger något om förändringar över tid för de intervjuade. För studiet av social exkludering så är även händelsekedjor på individnivå av intresse. Med detta avses hur individuella förhållanden förändras över tid. Vilken effekt har missbruk, vräkning och straff för rörelsen mellan inkludering och exkludering? I vilken utsträckning innebär vräkning och straff ytterligare marginalisering? En sådan analys av händelsekedjor innebär ett mer dynamiskt perspektiv på marginalisering och de bakomliggande processerna och gör det möjligt att identifiera faktorer som utlöser in- och utgång från dessa positioner. Vilka upphör med brott och rör sig mot förankring, och vilka återfaller? Vilka kommer tillbaks in på bostadsmarknaden och vilka hålls utanför?

Såväl vräkning som fängelsevistelse innebär generellt försämrade levnadsförhållanden. En studie av levnadsförhållanden och återfall i brott bland svenska fångar visar att såväl tidigare brottsbelastning som dynamiska riskfaktorer avseende problem med utbildning och sysselsättning, narkotikamissbruk och kriminellt umgänge har samband med återfall (Nilsson 2003). I förloppet från brottsdebut till återfall med ny kriminalvårdpåföljd sker en selektion i flera led. Fångarna som grupp skiljer sig till en början från befolkningen i stort, bl.a. i det att de har sämre uppväxt- och levnadsförhållanden, vidare kännetecknas de fångar som återfaller av sämre levnadsförhållanden än de som upphör med brott. Därutöver tillkommer straffet och fängelset i sig som en komponent i en exkluderingsprocess; med fortsatt kriminalitet ökar därför beroendet av kriminaliteten både för försörjning och socialt umgänge.

För de vräkta försämras situationen på ett flertal områden efter vräkningen. Vräkningen kan påskynda processer som leder till temporär, i värsta fall permanent, hemlöshet. Den som blir av med sin bostad har mycket svårt att behålla jobbet och även att upprätthålla sociala relationer. Möjligheterna till ordnad försörjning försämras och andelen med socialbidrag ökar. Av intervjuer som gjordes med dem som vräktes 1991 framgick att när de tvingades lämna sin bostad kändes det som att bottenpluggen i existensen drogs ur (Flyghed & Stenberg 1993). Få händelser skapar så stor risk för en drastiskt försvagad position på bostadsmarknaden som att bli vräkt från sin lägenhet. Att det finns en koppling mellan vräkning och hemlöshet har bl.a. belagts i amerikanska undersökningar. Där har man till och med menat att vräkning är den främsta orsaken till hemlöshet (Sosin m.fl. 1988). Även svenska undersökningar indikerar detta. Trots omfattande spårning gick tio procent av dem som vräktes 1991 inte att lokalisera 18 månader efter vräkningen. Mycket talar för att dessa personer befinner sig i hemlöshet, eller åtminstone har en ytterst svag position på bostadsmarknaden (Flyghed 2000b).

Avslutande diskussion

Vad kan vi då säga om utvecklingen? Har det skett en tilltagande exkludering? Underlaget tillåter oss inte dra mer precisa slutsatser. Om man ser till de straffade så stöder de få indikationer som finns en sådan slutsats. Här har det även skett en polarisering inom gruppen då alternativ till frihetsberövande bara är öppna för vissa. Samtidigt har strafftider blivit längre och restriktionerna fler för dem som placeras på anstalt. För gruppen vräkta har vi ingen kännedom om förändringar av sociala förhållanden under 1990-talet. Det finns dock tecken på att situationen för de hemlösa försämrats under samma period.

Fångar och vräkta är till viss överlappande grupper vilka per definition förknippas med avvikande beteende. Inte sällan ses det avvikande beteendet i sig som orsaken till andra problem. Missbruk framhålls t.ex. som orsaksfaktor till såväl kriminalitet som hemlöshet (Fölster & Säfsbäck 1999). Det avvikande beteendet i sig tenderar att förklara och riskerar därmed att normalisera marginalisering och utslagning av dessa grupper (jfr Bauman 1999, s.105). Genom att studera utvecklingen över tid och avståndet till befolkningen i övrigt, är det möjligt att problematisera denna ”normalisering”. Kriminalitet eller missbruk kan knappast förklara en generell utveckling mot tilltagande marginalisering/exkludering. Att studera överlappningen och dess omfattning har även ett värde i sig; inte minst för en problematisering av definitioner av sociala problem. Hur definieras de som har flera av dessa problem? De

hemlösa betraktas ofta som ”stackare” medan fängelsedömda och missbrukare är ”skurkar” (se Sahlin 1994). Detta trots att det många gånger handlar om samma personer. Det är legitimt att värna de hemlösa så länge de inte missbrukar, tigger, begår brott eller på annat sätt beter sig klandervärt. För att de ska få komma in på bostadsmarknaden krävs att de ska upphöra med sådana beteenden. Men trots att denna multiproblematik gör deras situation än värre, d.v.s. de saknar inte enbart bostad, blir mångfalden problem ett hinder. Ju fler problem desto större är risken att hamna än längre ut i marginalen, vilket leder till fler problem - en spiralprocess där varje varv leder vidare mot utslagning.

Vad vi har att studera är personer som vandrar mellan olika tillstånd, d.v.s. som vi alla men med den betydelsefulla skillnaden att dessa personer är utsatta för sanktioner. Det paradoxala är att sanktionerna riskerar att placera dessa grupper allt längre ut i marginalen. Samhällets åtgärder är tveeggade. Fängelsestraffet exkluderar, men ska samtidigt bestå av insatser som gör den dömdes återanpassning så smidig som möjligt. Vräkning har liknande effekt. Så snart den är verkställd, satsas resurser på att de vräkta snarast möjligt ska få någonstans att bo igen. Den korrigerande sanktionen måste kompenseras så den inte får negativa konsekvenser på lång sikt. Men sällan står styrkan i de inkluderande motåtgärderna i proportion till kraften i de exkluderande sanktionerna.

Vi behöver mer kunskap om de mest utsatta. Framförallt saknas kunskap om utvecklingen över tid. Det finns ett stort behov av longitudinella studier av förhållanden för dessa särskilt utsatta som möjliggör analyser av utvecklingen över tid i termer av marginalisering och polarisering; såväl inom och mellan grupperna som mellan grupperna och den övriga befolkningen. En sådan ansats skulle kunna ge ett värdefullt tillskott till kunskapen om exkluderingens orsaker och verkan.

Vi har påbörjat en uppföljning av vräkningsstudien som genomfördes 1993. En jämförelse med de vräkta 2001 kan bättre besvara frågan om vilka effekter de strukturella och institutionella förändringar som skedde under 1990-talets ekonomiska nedgång fått för några av samhällets mest utsatta.

Referenser

Bauman, Z. (1999). *Arbete, konsumtion och den nya fattigdom*. Göteborg: Daidalos.

Bergmark, Å (1995). *Prioriteringar i socialtjänsten*. Institutionen för socialt arbete, Socialhögskolan, Stockholms universitet.

BRÅ (1999). *Intensivövervakning med elektronisk kontroll. En utvärdering av 1997 och 1998 års riksomfattande försöksverksamhet*. Brå rapport 1999:4. Stockholm: Fritzes.

Finne, E. (2001). *Statistik över missbrukare, psykiskt störda och hemlösa i Stockholm 1999*. FoU-rapport 2001:11.

Flyghed, J & Stenberg, S-Å (1993). *Vräkt i laga ordning*. Konsumentverket.

Flyghed, J (1994). *Värden, kronofogden, socialtjänsten och de vräkta*. Stencil: Socialstyrelsen.

Flyghed, J (2000a). *Vräkningar och psykiatriskt slutenvårdade*. Underlagsrapport till Kommittén för hemlösa (SOU 2000:14) Stencil.

Flyghed, J (2000b). Vräkning – orsak eller verkan? En studie av marginellt boende. I Runquist, W. & H. Swärd (red.): *Hemlöshet. En antologi om olika perspektiv och förklaringsmodeller* Stockholm: Carlssons 2000

Fölster, S & Säfsbäck, P (1999). *Bostad sökes – en ESO-rapport om de hemlösa i folkhemmet*. Ds 1999:46.

Fridhov, I-M. (1991). *Alt som for? Om norske fangers sosiale- og skolebakgrunn*. Oslo: Justisdepartementet.

Garland, D. (2001). *The Culture of Control. Crime and Social Order in Contemporary Society*. Oxford: Oxford University Press.

Hörnqvist, M. (2003). ”Ordningspolitikens födelse.” I Flyghed, J. & Hörnqvist, M. (red.). *Laglöst land*. Stockholms: Ordfront.

Korpi, W (1973). *Fattigdom i välfärden. Om människor med socialhjälp*. Stockholm: Tiden.

KVS (1998a). *Kriminalvårdens officiella statistik 1997*. Norrköping: Kriminalvårdsstyrelsen.

KVS (1998b). *Kriminalvården och klienterna. En framtids- och omvärdsanalys om klientutvecklingen och klientsammansättningen i kriminalvården*. Norrköping: Kriminalvårdsstyrelsen.

KVS (2000a). *Långtidsdömdas utevistelser. 1999 års permissionsutredning. Analys och förslag*. Norrköping: Kriminalvårdsstyrelsen.

KVS (2000b). *Kriminalvårdens redovisning av återfall. Uppföljningsperiod 1994-1999*. Norrköping: Kriminalvårdsstyrelsen.

Kyvsgaard, B (1995). Den samhälleliga polariseringen och oskadliggörandet av lagöverträdaren. I Victor, D, red. (1995). *Varning för straff*. Stockholm: Nordstedts.

Kyvsgaard, B. (1999). Motsättningarnas kriminalpolitik. Pendling mellan defensiv och offensiv modell. I: BRÅ: *8 reflektioner om kriminalpolitik*. Stockholm: Fritzes.

Lappi-Seppälä, T. (2000). The Fall of the Finnish Prison Population. *Journal of Scandinavian Studies in Criminology and Crime Prevention*, vol. 1, nr. 1, s. 27-40.

Marklund, S. & Svallfors, S. (1987). *Dual Welfare. Segmentation and Work Enforcement in the Swedish Welfare Swedish.* Umeå, Department of Sociology, (Research report no. 84).

Melossi, D. (2000). Changing Representations of the Criminal. *British Journal of Criminology*, vol. 40, s. 296-320.

Nilsson, A. & Estrada, F. (2003). Victimisation, Inequality and Welfare during an Economic Recession. A Study of Self Reported Victimisation in Sweden 1988-1999. *British Journal of Criminology*. Accepted for publication.

Nilsson, A. (2002). *Fånge i marginalen. Uppväxtvilkor, levnadsförhållanden och återfall i*

Nilsson, A. (2003), Living conditions, social exclusion and recidivism among prison inmates. *Journal of Scandinavian Studies in Criminology and Crime Prevention.* Vol 40, Nr 1.

Palme, J., Bergmark, Å., Bäckman, O., Estrada, F., Fritzell, J., Lundberg, O. & Szebehely, M (2002), “Welfare Trends in Sweden. Balancing the Books for the 1990’s”. *Journal of European Social Policy*.

Sahlin, I. (1994). *”Stackare” eller ”skurk”? om den kluvna klientbilden*. Research Report 1994:1. Lund: Kriminalvetenskapliga nätverket vid Lunds universitet.
Sahlin, I. (1996). *På gränsen till bostad. Avvisning, utvisning, specialkontrakt.* Lund: Arkiv.
Sahlin, I. (2000). Enclosure or Inclusion? Implications of policies targeting homeless people, paper presented at the ENHR 200 conference in Gävle, 26-30 June 2000.
Smith, D & Stewart, J (1997). Probation and Social Exclusion. *Social Policy and Administration*, vol. 31, no. 5, sid 96-115.
Socialstyrelsen (2000). *Hemlösa i Sverige 1999. Vilka är de och vilken hjälp får de?*
Socialstyrelsen följer upp och utvärderar 2000:1.
Sosin, M.; Colson, P. & Grossman, S. (1988). *Homelessness in Chicago: Poverty and Pathology. Social Institutions and Social Change*. Chicago: University of Chicago.
SOU 2001:1: *En uthållig demokrati! Politik för folkstyrelse på 2000-talet*. Demokratiutredningens betänkande. Stockholm: Fritzes.
Stenberg, S-Å (1990). *Vräkt ur folkhemmet*. Stockholm: Carlssons.
Swärd, H. (2000). Utvecklingen av den svenska hemlösheten under 1990-talet. I SOU 2000:37 *Välfärdens förutsättningar. Arbetsmarknad, demografi och segregation*. Stockholm: Fritzes.
Tham, H. (1995). Från behandling till straffvärde - Kriminalpolitik i en förändrad välfärdsstat. I: Victor, D. (red.). *Varning för straff*. Stockholm: Nordstedts.
von Hofer, H. (2003). Prison populations as political constructs: The case of Finland, Holland and Sweden. *Journal of Scandinavian Studies in Criminology and Crime Prevention.* Vol 40, Nr 1.
Waquant, L. (2001). The penalisation of povert and the rise of neo-liberalism. *European journal on criminal policy and research*, 9:401-412.
Westfelt, L. (2001). *Brott och straff i Sverige och Europa*. Avhandlingsserie nr. 5. Kriminologiska institutionen, Stockholms universitet.
Young, J (1999). *The Exclusive Society. Social Exclusion, Crime and Difference in Late Modernity*. London: Sage.
Young, J. (2002). Crime and Social Exclusion. In *The Oxford Handbook of Criminology*, 3:d edition, s. 457-490.

POLICING AS RISK COMMUNICATION

Gundhus, Helene O.

Contemporary policing strategies strongly rely on the use of information and communication technologies. I am working on a project that explores how the new technologies change the practical and cultural aspects of policing. The paper will be divided into three parts. First, I will present a brief summary of the project that I am working on. Second, I will discuss what role information and communication technologies (ICT) have in the risk-based modes of thinking and acting. At last, I will talk about what I have done, the empirical research strategies of the project.

The objective of the project is to gain insight into how ICT is transforming the everyday police work and culture. My objective is to explore what these new strategies mean. However, I am less interested in whether they work. The effort is therefore to subject these new practices in policing to critical scrutiny and not to assess their effectiveness. However, the new technologically mediated policing strategies seem to be driven by a different logic than traditional policing, which is also indicated by the term proactive policing. This type of policing is focusing on potential offenders and offences, and it is anticipatory and based on probabilities. Police are not only reacting to past criminal events, but are rather future-oriented and driven by the logic of risk minimisation. The goal is to prevent criminal acts from occurring, not to investigate criminal acts committed in the past. The police are therefore interested in suspect groups or individuals to find out what offences they might be committing. In this way police work is becoming knowledge work where the central work is structured around information. One of the objectives of my project will therefore be to study contemporary risk discourse.

The project will focus on four main factors that are transforming the nature of police work: a) internationalisation of control, b) technological change, c) demands for efficiency and d) new definitions of risk and danger (Flyghed 2000). It particularly focuses on the work of the crime-analysis units established at Oslo Police Department, especially the criminal intelligence division, which are using a number of information systems and techniques relating to risk profiles, criminal careers, risk areas, control of communication, control of movement etc. Based on an accomplished fieldwork I will examine the unit's ICT practices, and the cultural impact of the technological change. I will also study the content of the risk communication, genres, narratives and the cultural aspects of the communicated information.

The project will focus on the role of risk thinking and international risk communication in the everyday practice of the Norwegian police. I will compare the findings with relevant and comparative international studies. The project will furthermore describe the consequences that the new ICT-intensive methods have for the police culture, organisational structure, and penal culture, as well as the ethical dilemmas that they bring up, such as issues related to integrity and privacy and consequences of 'categorical suspicion'[14].

Risk-based police practices

How is the risk thinking manifested in the policing practices? The risk thinking in crime management has been manifested in a range of risk-based policing practices - both in the public police and commercial risk management. For example, in the field of public police

[14] Gary Marx (1988) term 'categorical suspicion' indicates a society where data-subjects are 'guilty until proved innocent', which is a mockery of the basic right to equality before the law

there has been a huge growth of a wide variety of risk-based technologies, which include designing out crime, offender profiling and situational crime prevention.

But what role is ICT playing in the risk based police practices? First of all, the risk based crime prevention places a considerable emphasis on the collection, compilation and dissemination of information. Risk management is proactive and anticipatory, and both the public police and the commercial risk management have a growing orientation towards information gathering, rational calculation of results, anticipatory engagement, proactive intervention and systematic surveillance. Such risk-based practices depend mainly upon the systematic production of quality intelligence that has to be communicated internally and externally. ICT is therefore a central tool for accomplishing risk thinking in practice.

One significant development in the drive towards intelligence led policing, has been the decision to marshal the security services in the fight against serious crime, and establish Intelligence departments in the ordinary police organisations. Norway is not an exception. For example, in 1995, it was decided that all the police stations in Oslo and police districts in Norway should have their own 'Intelligence service departments'. Therefore, the uses of integrated systems for compiling and interrogating databases, and computer matching have become a vital tool in the Norwegian public police work. I will come back to the unit in Oslo, because it is the case study in my project. Furthermore, the public police are also involved in tracing out the territories for surveillance. In doing that they use high-tech electronic surveillance, data-analysis systems and database resources to provide information on types of crime and suspects prevalent in particular zones, as Ericson and Haggerty (1997) point out in their Canadian study.

The above mentioned ethnographic study by Ericson and Haggerty (1997) provides substantial evidence for the trends towards risk-oriented policing. However, I wonder whether they sometimes overstate their argument and whether they fully investigate the points of tension within this transformation. As Herbert (2000) suggest, Ericson and Haggerty at times seem to be of two minds about the move toward risk communications. On the one hand, they regularly suggest that police officers' discretion is taking a back seat to risk communication formats. At other points, they discuss officers who regularly ignore all the necessary forms or who simply ignore their computers, and they often describe situations where the risk logic has no effect on officers' actions (see for example p. 395). This suggest both that their claims are necessarily more temperate than they sometimes indicate, and that there are myriads of ways in which departments resist these external and internal demands, and that officers use a variety of tactics to subvert attempted reforms.

However, the role of ICT in the process seems to be that they a) increase the institutional capacity for processing of information, b) encourage communication with standardised knowledge formats, and c) increase internal surveillance and accountability of the police as an institution (Ericson and Haggerty 1997). ICT is therefore central to the concept of the risk based policing, because it is a necessary tool to both manage the information and communicate it. In other words - the use of ICT is important to achieve the purposes of the risk-oriented strategies. Although different emphasis on national or local police agencies and different legal traditions have led to some variety, all western societies have seen significant growth of surveillance in the shape of policing during the past decades (Marx 1995).

Police culture and transformation

The above mentioned theories describing a shift from past-oriented to future-oriented policing force me to ask the following questions: In what way can the public police - which are so bound up to the traditional retributive 'doing justice' be risk-oriented? Which processes and factors promote and restrain a risk-oriented public police? I am especially interested in how the police officers respond to the new economic, political, cultural and technological framework, how they interact with the new demands of accountability. In what way is the use of ICT implemented in the everyday police work? Does the police culture resist and deflect technological incursions, because policing is a non-reflective, action-

oriented job? I am also going to explore the cultural aspects of the mediated communication. How does the use of ICT influence the processes of inclusion and exclusion of deviant behaviour? Are there aspects of ICT formats, which underpin ways of thinking that emphasize differences between criminals and non-criminals? Do they in that way also underpin strategies of exclusion and tough justice, not only risk-oriented preventive strategies targeting normal rational consumers? What are the practical and legal consequences of strategies based on suspicion of whole categories of persons - especially those at risk within a particular category - rather than targeting specific individuals and suspects?

One of my objectives has been to describe the various logics in a police department – in what way the institution is shaped by a risk and retributive logic. I wanted to examine how a policing division selects and defines risks, and to describe the institution's construction of knowledge – the so-called discourse, but also the instruments, the social practice, the formats and the ICT. In order to explore how the possible transformations of policing, I had to describe the ways in which the police think, act and interact, to illustrate the knowledge structures that govern the everyday life, and in what way the actors interact with the demands of the new structural framework. And since all this takes place within a social organisation of territories, material objects, people, rules, formats and technologies, I had to go inside an institution and enter the everyday, routine and mundane world of policing.

From March to July 2000 (I got two daughters since then) – I therefore accomplished a 4 months anthropological field-research in the Oslo department called Criminal Intelligence division, where the themes of my project seemed to be especially relevant. The Criminal Intelligence division was established in 1994, and got 100 employees in 2000. Its object is to fight organised crime, such as MC-crime, gangs, drugs, trafficking in women and economic crime. Their means to achieve that goal is intelligence, communication surveillance, information exchange, provocation and undercover police work. The division is also in the centre of intelligence groups at 5 local police stations, which are to be focusing on the so-called everyday crime – car-theft, pickpockets, gangs and other types of street-crime.

My methods include direct observation of activities, extensive open-focus interviewing and document analysis. Observations of the activities in the division occurred in various contexts - I have been an observer at meetings, the patrols, various routines etc. I was there usually 8 hours a day during the 4 months, and my aim was to reconstruct the taken-for-granted commonsense of the social practices. I observed in particular the work at the communication unit, which are supporting police officers on their tasks outside the office and other police officers who need information from a wide range of police databases they have access to. To grasp the everyday life, I also conducted 25 open-focus interviews with the police officers at the division about their work – police officers and other employees from the strategic, tactic analysis and technical departments in the division, all working with crime analysis, planning, supervising, information systems, system administration, statistic, surveillance. They represent a diversity of knowledge work roles at various levels in the division. I have also been a reader of the internal and external databases that the police officers use to produce knowledge. During the fieldwork I was given copies of a lot of internal documents - like strategies, instructions, procedures, reports, plans, manuals, and forms etc., which probably can tell me about the institutions thinking at the formal level.

I am now working with the analysis of the empirical data. However, after the fieldwork, one thing seems clear to me: everyday-life at the division was a lot more culturally diverse and more operational and punitive than I imagined.

Literature:

Ericson, Richard V. and Kevin D. Haggerty (1997): *Policing the risk society*. Oxford : Clarendon Press.

Flyghed, Janne (2000): "Polis i omvandling". *Brottsbekämpning : mellan effektivitet og integritet : kriminologiska perspektiv på polismetoder och personlig integritet*. Janne Flyghed (red.). Lund: Studentlitteratur. P. 161 - 190. 29 s.

Herbert, Steve (2000): ”Reassessing police and police studies”. *Theoretical Criminology*. Vol 4, No 1. P. 113 – 119.

Marx, Gary T. (1988): *Undercover : police surveillance in America*. Berkeley : University of California Press.

Marx, Gary T. (1995): "Undercover in comparative perspective: some implications for knowledge and social research". I: *Undercover : police surveillance in comparative perspective*. Gary T. Marx og Cyrille Fijnaut (red.). Hague : Kluwer Law International. s. 323-337.

CRIMINAL VICTIMIZATION AND ATTITUDES TOWARD CRIME IN ICELAND

Gunnlaugsson, Helgi

Criminological research often reveals a mismatch between public perceptions of crime and reality of crime experiences and crime statistics. Some researchers have argued that fear of crime is out of proportion to the risk of crime while others maintain that public perceptions of risk are fairly accurate and realistic. This study compares findings of four different crime surveys conducted in Iceland during 1989-2002. Among the issues raised in the surveys were whether respondents believed crime to be a serious crime problem and what their sense of safety was in their residential area. The findings show a deepening crime concern in 1989-1997 but then levelled off in 2002. At the same time sense of security did not change markedly untill 2002 when it increased. Criminal victimization did not have an impact on sense of public safety and more respondents believed it likely to become a crime victim in the next 12 months than had actually experienced a crime during the previous 12 months. However, a crime experience has an impact on how a crime risk is estimated in the future.

Research on public safety and fear of crime has drawn considerable attention over the last few decades in criminology. While most reserchers agree that crime is a serious social problem in modern societies there are still controversies regarding reactions to it, which remain to be settled. One of the controversies centers on whether fear of crime is realistic or not, or how realistic fear of crime acually is. Some scholars argue that there is a close link between fear of crime and risk and that people are fairly realistic in assessing the mountains of information around us regarding victimization and interpreting their risk (Ferraro, 1995 and Stafford and Galle, 1984). On the other hand, some scholars have painted a picture of rampant fear of crime, not the least among older people, due in part to a misunderstanding of true risk (e.g. Clemente and Kleiman, 1976). In this respect some even maintain that the fear of crime causes an even bigger social problem than than the offenses themselves (Zedner, 1997). If this is true, it is therefore not enough to reduce criminal offenses to reduce the fear of crime; it is rather the public fear of crime itself that has to be tackled specifically.

Causes and Consequences of Fear of Crime

There are various reasons why crime causes widespread anxiety within the community. Conversations with relatives, friends, and neighbors who have been victims of crime have been found to generate fear. This “vicarious victimization” seems to predict an individual´s level of fear even better than his or her own victimization experiences (Lavrakas, 1982). The way criminal offenses are presented in the mass media has heightened fear, especially if the reported crime is gruesome, local, and without apparent motive (Rosenbaum and Heath, 1990 and Surette, 1992). An environment showing signs of neglect, vandalism such as graffity and broken windows has also been shown to result in enhanced feelings of insecurity and distress among citizens (Lewis and Salem, 1986).

Even though researchers do not fully agree on how realistic fear of crime is, it is clear that the consequences of fear are real and measureable. Fear of crime causes people to lock their doors and windows, install expensive alarm systems in addition to restricting their activities and even leads to decreased social integration. Therefore, it is vital for researcers and society in general to study and address fear of crime, not only by locating fear of crime among different segments of the population, but also the factors triggering fear in society. If fear of crime is out of proportion to the true risk of crime we need to address fear separate from crime itself but if we find fear to be realistic then fear of crime is not the real problem;

but crime is instead. To some extent we need to do both but the balance needs to be carefully meted out.

In this study we focus on part of this problem by looking at public safety in Iceland and the impact of criminal victimization on safety. Iceland has a small population of less than 300 thousand citizens and a relatively homogenous ethnic stock. Moreover, Iceland has a relatively low rate of serious criminal offenses (Gunnlaugsson and Galliher, 2000). Therefore, we believe the results can be of some interest especially because most of the criminological research on fear of crime have been conducted in large and heterogenous societies where crime is by objective means more pronounced than in Iceland and fear of crime should therefore be more profound than in Iceland.

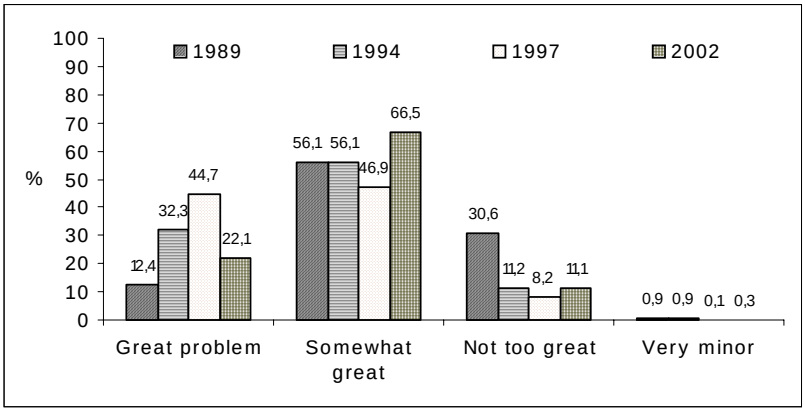
Data and Measures

The data on which the findings are based were obtained in four different surveys conducted in cooperation with the Social Science Research Institute of the University of Iceland during the years 1989, 1994, 1997 and 2002. We used random samples from the national register, all between 18 and 80 years old on all occasions. All of the surveys used phone interviews and the response rate was usually about 70 percent with a satisfactory congruence acheived between the sample and the nation by sex, age and location of residence. Many of the studies on fear of crime and public safety have been limited in the sense of studying only one urban place or perhaps a limited sample of a metropolitan area. This study however uses a national sample including urban and rural areas, which should help to extend our knowledge of the subject.

Crime Concerns in 1989-2002

Graph 1 shows how respondents regard the overall severity of the crime problem in Iceland over time. As the graph indicates, the number of respondents who believed crime to be a great problem increased significantly between 1989 and 1997 but has since levelled off. Yet it is apparent that substantially more respondents believed crime to be not too great in 1989 than in 2002; in 1989 almost one-third felt crime not to be too great in Iceland but in 2002 only about 11 per cent believed so.

Graph 1. Do you believe crime to be a major or a minor problem here in Iceland?

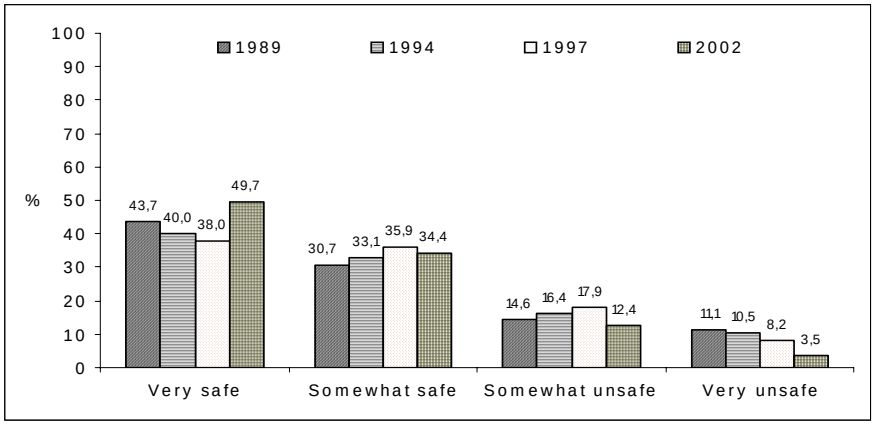


Perceptions of Public Safety in 1989-2002

But how does a growing concern for crime influence the way Icelanders feel about their own security? Graph 2 shows how safe respondents feel when walking alone late at night in their residential area during the years 1989, 1994, 1997 and 2002. As we can see

there is a slight decrease in the number of those who felt very safe during 1989 and 1997, yet not statistically significant, but then safety increased again in 2002. Then, about 16 percent felt very or somewhat unsafe. Therefore, this trend in safety over the whole period tends to follow the same pattern as the concern for crime, still perceptions of safety show much less fluctuations over time than believes regarding the overall severity of the crime problem. In comparative terms, this study shows higher levels of safety in Iceland than was found in the International Crime Victims Survey in 2000 (van Kesteren, Mayhew and Nieuwbeerta, 2000), where on the average just under a quarter felt very or a bit unsafe in their area after dark.

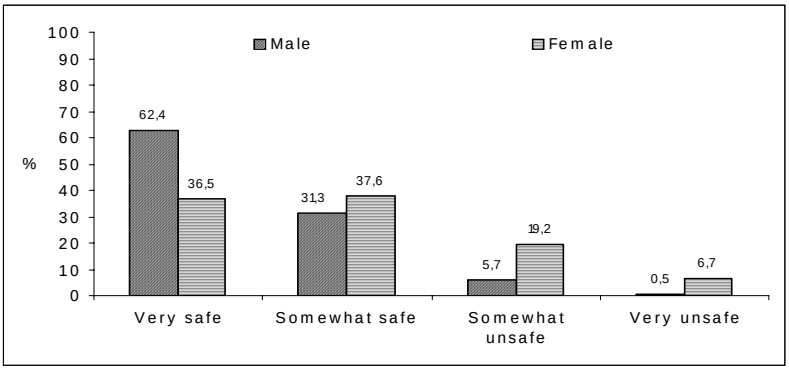
Graph 2. How safe do you feel alone late at night in your residential area in 1989, 1994, 1997 and 2002?



Public Safety in 2002 by Gender, Residence and Age

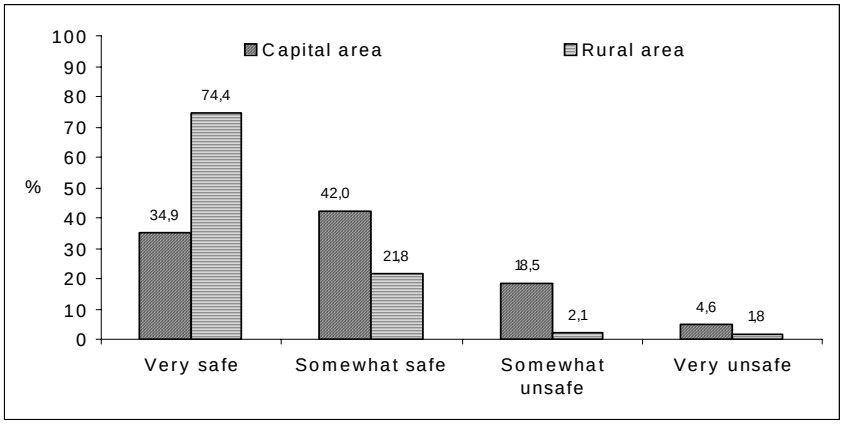
When the proportion of those who feel very safe is examined by gender it is clear that there is a vast difference. About two-thirds of males say they are very safe while only about one-third of females say so (graph 3). This finding is congruent with research in other countries and seems to appear consistently regardless of the type of crime considered. Women are more afraid of crime than men and some researchers argue that this fear derives primarily from the fear of sexual crime which tends to shadow daily interaction and fear of other types of victimizaton (Ferraro, 1995).

Graph 3. How safe do you feel alone late at night in your residential area in 2002 by gender?



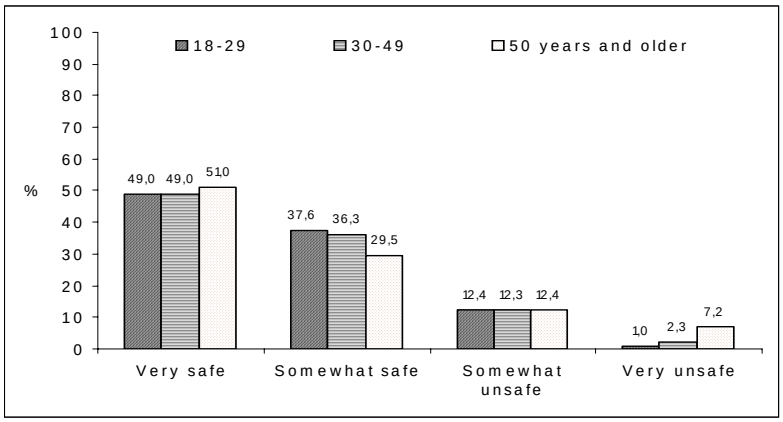
Graph 4 shows the impact of residence on public safety. It is also clear that residents in the rural area feel substantially safer than those who reside in the capital area where most Icelanders live in a city like atmosphere. As can be observed on graph 4 about 75 percent of those residing outside the capital area feel very safe while only about one-third of those in the capital are feel so. This finding also matches with other studies on the subject which indicate clear regional differences in how people report on safety (Ollenburger, 1981).

Graph 4. How safe do you feel alone late at night in your residential area based on residence? 2002.



When we look at the age distribution and safety, we see on graph 5 that there is not much difference between the three different age groups shown in the graph. The oldest age group, those who are older than 50 years old, tend to be slightly more unsafe than younger age groups, but this difference is not statistically significant. The findings from this survey seem to contradict a common finding in the criminological literature that there is a rampant fear of crime among older people (see e.g. Clemente and Kleiman, 1976). Yet, this needs to be studied more carefully to assess the relationship between age and public safety and fear of crime.

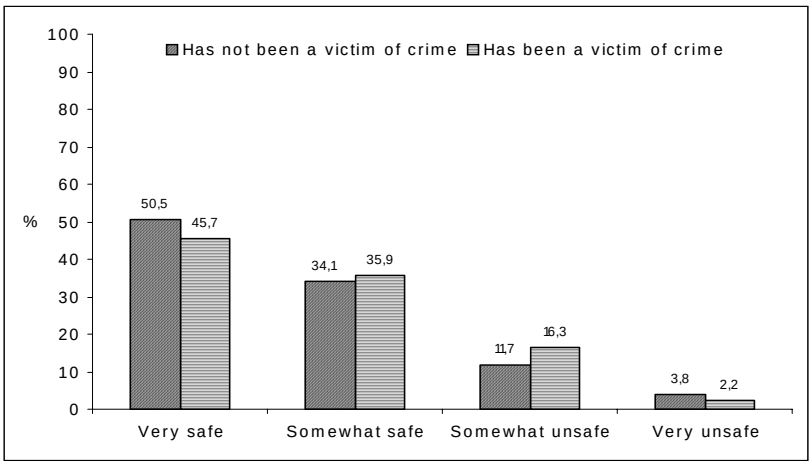
Graph 5. How safe do you feel alone late at night in your residential area based on age? 2002.



Personal Safety and Victimization in 2002

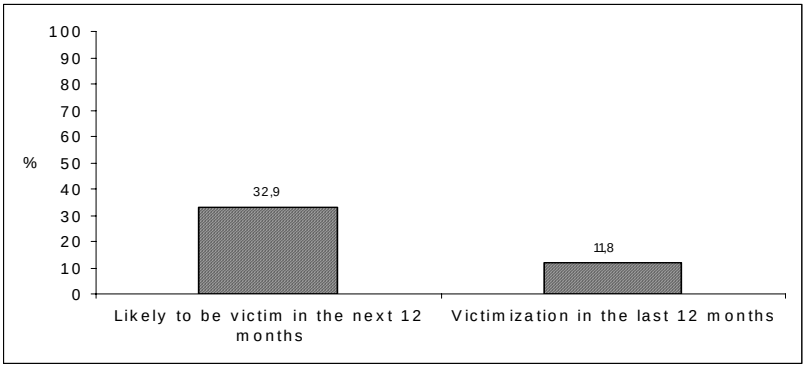
But how does personal victimization affect personal safety in your residential area? We would expect that experience with crime increases personal insecurity if the thesis that fear of crime is realistic is valid. Graph 6 shows that there does not seem to be a strong relationship between the two. About half of all respondents who had not been a victim of crime in the past 12 months felt very safe while about 45 percent of those who had been a victim of crime felt so too. Even though there is a slight difference in safety, it is not enough to be statistically significant. This finding is consistent with the International Crime Victimization Survey, where the measure of street safety was not consistently related to levels of victimization experiences (van Kesteren, Mayhew and Nieuwbeerta, 2000).

Graph 6. How safe do you feel alone in your residential area based on whether respondents had been a victim of crime in the past 12 months. 2002.



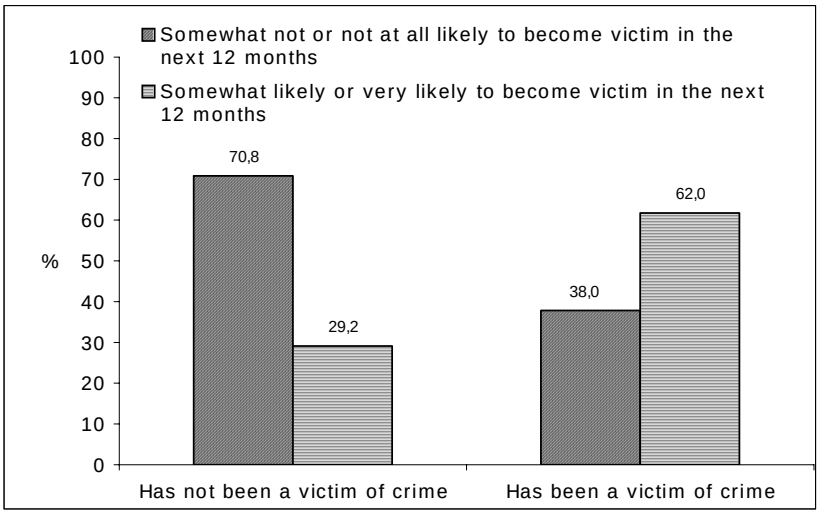
If we compare those who had been a victim of crime in the past twelve months to those who believe it to be likely to become a crime victim in the next 12 months an interesting picture appears (graph 7). About 11 percent of all respondents had personally experienced a crime in the past 12 months; about half of them theft, one-third a burglary and one-fourth had experienced a property damage. However, we see that close to threefold more or 33 percent of all respondents believe it likely to become a crime victim in the next 12 months. Thus it is apparent that the fear of crime affects a considerably larger group than those who actually have been a victim of crime or are going to face such an experience later in life. This finding seems on the face of it at least to support the notion that many of the problems associated with crime, including fear, are independent of actual victimization. In this respect, some researchers contend that public beliefs about crime are inaccurate largely because of media distortion of crime, which in turn increases crime anxieties in society (Warr, 1982). In this study here, close to 90 percent of all respondents admitted that they get their knowledge of crime in society through the mass media, but not through their own personal experiences or contacts ("vicarious victimization"), which might support the media distortion thesis.

Graph 7. How many had been a crime victim in the last 12 months and how many believe it likely to become a crime victim in the next 12 months?



If we however compare those who had been a crime victim and those who had no such experience during the past 12 months a vast difference appears in regard to how likely they believe to become a crime victim in the next 12 months. As can be seen on graph 8, about two-thirds of those who had been a crime victim believe it likely to become a crime victim in the next twelve months while only about 30 percent of those who had not been a crime victim believe it to be likely. In other words, a personal crime victimization experience affects significantly your expectations of how likely you believe to become a crime victim in the future. This finding suggests an overall pattern of considerable public accuracy in estimating crime risk and therefore undermines the notion that public beliefs about crime are inaccurate or irrational. Yet, we have to keep in mind that many of those who had not experienced a crime still believed it likely to become a crime victim and also many of those who had indeed experienced a crime did not expect it to happen again in the coming year.

Graph 8. How likely respondents believe to become crime victims in the next 12 months based on whether they had experienced a crime in the last 12 months.



Conclusion

On the whole, we can conclude that fear of crime concerns a considerably larger group than those who have actually been victims of crime or are going to face such an experience later in life. Moreover, a crime experience does not seem to have a marked influence on how safe you feel alone late at night in your residential area. At the same time however, it is clear that a crime experience has an impact on how you estimate your crime risks in the future. To settle the controversy concerning public reactions to crime we therefore need to include a number of factors which have an impact on crime perceptions and safety.

This study is only one part of a larger project and more steps definitely need to be taken. The next step in this research project, to answer more fully the question on fear of crime and criminal realities, involves studying closer how different crime experiences affect fear of crime, in addition to including crimes known to the police and media coverage of crime. Only, by making use of different methodologies and different sets of data, will we be able to satisfactorily shed light on the relationship between public safety and crime and in turn be able to offer a deeper theoretical understanding of this relationship.

References:

Clemente, Frank og Michael Kleiman (1976). "Fear of Crime Among the Aged". *Gerontologist* 16:207-210.

Ferraro, Kenneth F. (1995). *Fear of Crime: Interpreting Victimization Risk.* Albany: State University of New York Press.

Gunnlaugsson, Helgi and John F. Galliher (2000). Wayward Icelanders: *Punishment, Boundary Maintenance, and the Creation of Crime.* Madison: The University of Wisconsin Press.

Lavrakas, Paul J. "Fear of Crime and Behavioral Restrictions in Urban and Suburban Neighborhoods". *Population and Environment* 5, 242-264.

Lewis, Dana A. og Greta Salem (1986). *Fear of Crime: Incivility and the Production of a Social Problem***.** New Brunswick, N.J.: Transaction Books.

Ollenberger, Jane C. (1981). "Criminal Victimization and Fear of Crime". *Research on Aging* 3:101-118.

Rosenbaum, Dennis P. og Linda Heath (1990). "The "Psycho-Logic" of Fear-Reduction and Crime-Prevention Programs". In John Edwards et. al., eds., *Social Influence Processes and Prevention*. New York: Plenum pp. 221-247.

Stafford, Mark C. og Omar R. Galle (1984). "Victimization Rates, Exposure to Risk, and Fear of Crime". *Criminology* 22:173-185.

Surette, Ray (1992). *Media, Crime and Criminal Justice*. Pacific Grove, CA: Brooks/Cole.

Van Kesteren, John, Pat Mayhew and Paul Nieuwbeerta (2000). *Criminal Victimization in Seventeen Industrialized Countries: Key findings from the 2000 International Crime Victims Survey*. Wetenshhappelijk Onderzoek- en Documentatiecentrum (NSCR).

Warr, Mark (1982). "The Accuracy of Public Beliefs About Crime: Further Evidence". *Criminology* 20: 185-204.

Zedner, L. (1997). Victims. I Mike Maguire, Rod Morgan & Robert Reiner (eds.) *The Oxford Handbook of Criminology*, 2nd ed. Oxford: Clarendum Press.

LOCALIZED POLICE PATROL AND CITIZEN SAFETY

Holmberg, Lars

In Denmark, the positive effect of random police patrol has for many years been considered a self-evident fact. The National Police Commissioner has, in various contexts,[15] emphasised that patrol not only prevents crime, it also enhances citizens' feeling of security.[16] From politicians, there have been recurring wishes for "more police in the streets", and the last two parliamentary agreements on police finances (covering the years 1996-99 and 2000-2003) demanded an increased number of police hours spent on patrol.

International research, however, does not support the idea that increased police patrol always prevents crime, nor is there evidence that it will increase citizens' security in all contexts. Recent studies of a community policing experiment in Denmark suggest that this is not the case here, either. In the present paper, some of the findings from the study will be presented, and the implications for police practice will be discussed. The findings suggest that police presence and patrol induce different feelings in different circumstances, and that police patrol should be organized accordingly.

Previous studies of police patrol.

Ever since the results from the Kansas City Preventive Patrol Experiment (Kelling et al. 1974) were presented, most scholars and some police professionals have not held much belief in the preventive and security-inducing effects of random motorized police patrol. The general public, however, still seems largely convinced about the virtues of patrol, and due to popular demand, both within and outside of the police, patrol still makes up a large part of police work in many countries. In spite of this, innovative police chiefs and researchers seeking to impact crime and/or citizens' security have, turned elsewhere, most notably to foot patrol, community policing and problem-oriented policing. The focus of the present paper, however, will remain on the topic of patrol, since ideas about the virtues of this police strategy are far from abandoned in Denmark. Looking at the relation between patrol and citizen security, a number of experiments have been carried out in this field:

- In Newark, New Jersey (Pate 1986), foot patrols in beats resulted in citizens feeling safer in their local area, and citizens felt that the level of crime was reduced. The recorded crime level, however, remained unchanged, as did citizens' inclination to report crimes to the police. Citizens were, however, more satisfied with the police.
- In Flint, MI (Trojanowicz 1986), an experiment with beat foot patrol was shown to reduce reported crime and citizens' fear of crime. Again, citizen satisfaction with police increased.
- A similar experiment with beat policing, foot patrol and bicycle patrol in Australia (Criminal Justice Commission 1998) did also enhance citizens' satisfaction with the police, but their fear of crime was unchanged except for the fact that their fear of walking in their local area after dark did in fact *increase* somewhat.

In contrast to motorized patrol, foot patrol has been shown to increase citizen security, but not in all experiments. Unfortunately, reports of the experiments do not all include detailed information about the extent and frequency of the foot patrol, and thus it is

[15] E.g. Politiets Årsberetning 1996:4

[16] In the present text, the word security denotes citizens' feelings of (subjective) security, whereas safety denotes objective safety.

impossible to say whether differences in this regard can account for the different results. The present paper will focus on other possible explanations.

Localized patrol in Denmark

In Denmark, in the police district of Elsinore, an experiment with community policing was carried out in the years 1997-2001.[17] Localized patrol, including foot patrol, and close police-citizen contact were pivotal parts of the new police strategy, and the experiment was evaluated through citizen surveys, observation of police work, interviews with police and liaisons etc. Some of the results were as follows:

- A significantly higher percentage of citizens from Elsinore reported feeling insecure when compared to citizens from the rest of the country.
- There was no relation between police visibility/availability and citizen security, neither in Elsinore or the rest of the country. Citizens who had had little or no contact with the police, and did not recollect having seen the police patrolling within the last week felt no more or no less safe than did citizens who reported having been in closer contact with the police or having seen the police patrol on several occasions.
- Foot patrol could not be demonstrated to have an impact on citizen security.
- Elsinore citizens perceived significant decreases in all kinds of police patrol during the first two years of the experiment, while no changes were reported from the rest of the country. Observations of, and information from, the Elsinore police confirmed that patrol was reduced due to lack of personnel
- Citizens perceived local problems to be diminishing significantly during the first two years of the experiment, while local problems increased in the rest of the country
- The burglary rate decreased in Elsinore during the experiment, while increasing in the rest of the country.
- Citizens in Elsinore were significantly less satisfied with the police when compared to citizens from the rest of the country.
- Liaisons to the police reported to be very satisfied with the intensified personal relations they established with local officers.

Analyses and conclusions regarding these results can be found in Balvig (2001) and Holmberg (2001): only findings related to police patrol and citizen security will be discussed here.

Explanations for the lack of effect

Why did the study fail to demonstrate a relation between police visibility/availability and citizens' feeling of security? Several explanations seem possible.

First, there is the important issue of police density and patrol frequency. Traditionally, Denmark has a rather low ratio of police officers to citizens (in 1990, the ratio was 510 and in 2000 it was 521), suggesting that patrol intensity may not be very high either. It is, however, very difficult to estimate the actual amount of patrol hours generated by the police, since official statistics list only "hours spent outside the police station",[18] a category containing a multitude of different police tasks, including some that do not involve making police visible to the general public. Analyses of the number of officers available, information from different police districts, and personal experiences from fieldwork in the police (Holmberg 2003) all indicate that patrol intensity is, in general, relatively low, with the possible exception of the central areas in the major cities. To see the police on patrol in one's local area will, for most

[17] See Balvig (2001), Holmberg (2001) for a comprehensive description of the preliminary results of the study. Holmberg (2002) presents a brief overview in English. A final evaluation of the experiment will be published by the end of 2003.

[18] "Udetid"

citizens, be a rather unusual experience. This also means that an increase in police patrol hours of, say, 10 per cent will, for most citizens, be impossible to discern.

In the experimental district of Elsinore, the number of hours spent on patrol decreased significantly, as did citizens' 'sightings' of the police, especially in the later stages of the experiment. However, the lack of police visibility/availability and citizen security was not only found in Elsinore, but in the rest of the country as well. Furthermore, *some* respondents indicated that they had seen a lot of police patrol recently, without this fact leading to them feeling more secure than did respondents who had not seen police patrol at all.

A second explanation might be that the police conducted mostly motorized patrol, thus not creating the impact that might have been achieved by foot patrol. However, an analysis focussing on foot patrol alone also failed to show any impact on citizens' security.

A third explanation, which will be explored here, is that of unexpected impact of police visibility. The hypothesis put forth here is that seeing the police may not necessarily reduce citizen anxiety; in fact, it may sometimes increase it.

The impact of police patrol.

The police are highly visible in the public space. Riding in a patrol car through normal traffic, one will see numerous signs that the police have been observed: drivers in front of the patrol car will slow down and sometimes change to the right lane, people speaking on mobile phones will quickly turn them off[19], and drivers not wearing their seatbelt will try to buckle up, often in a concealed manner. The preventive – albeit short-lived[20] – effect of police visibility regarding traffic violations is readily observable.

Likewise, the appearance of a patrol car in a residential area will often attract attention. If the officers actually leave the vehicle, it is not all that unusual for local citizens to come out and ask them: 'What has happened?' In such situations, citizens associate the sight of a police vehicle with the possibility of problems in the local area. This is by no means a new observation, and it is exactly this fact that has lead to the proposal of foot patrol instead. An officer conducting foot patrol symbolizes something completely different than an officer in a patrol car – or that, at least, is the theory.

Accompanying numerous officers on foot patrol has lead me to question this assumption. Officers patrolling on foot will often meet and chat with local citizens who express their satisfaction with police presence, but some citizens will also query about the reason for their presence: they associate the police with the (possible) problems and disorder. In such cases, officers are quick to reassure the citizen(s) that they are just on a routine patrol; or they may offer a more specific reason: "We're checking on the neighbourhood because there have been a number of burglaries."

To me, it seems an open question whether such information will make the citizen feel more secure, or if the conversation may in fact have the opposite effect. Discussing crime risks may prompt citizens to think more about them, and/or seeing the police may lead citizens to conclude that there is in fact a specific reason for the police presence. Furthermore, it seems reasonable to assume that only a minor part of the citizens who see the police will actually make contact with the officers. Thus, a number of citizens will be left to their own ideas about the reason for the police presence in their area.

The argument that I am making here is, of course, a speculative one, based as it is on a limited number of observations of police-citizen encounters. Conversations with a number of Danish police officers have, however, confirmed that the advent of local residents expressing their worry at the sight of the police is not uncommon.

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[19] Using a hand-held mobile phone while driving is illegal - but still very frequent – in Denmark.

[20] It should be noted that this effect is often of a temporary nature, as many drivers will know: as soon as the patrol car disappears, speeding drivers will return to their previous speed.

It may be hypothesised that, instead of symbolizing order and security, patrolling police may in fact in some situations symbolize disorder (or, rather, the threat of disorder), resulting in citizens feeling less, instead of more, secure. If this is in fact the case, it will explain why experiments with police (foot) patrol may have such mixed results.

Taking this hypothesis a step further, one may speculate about how patrol should be organized in order to obtain the desired effect. Here, some findings from the Elsinore experiment are useful.

What do the police signify?

Results from the Danish indicated that the most positive result of the experiment regarded the "personalization" of policing, that is, the fact that different liaisons (professionals cooperating with the police, such as teachers, social workers, health care personnel) established a personal relationship with the officers working in the local area. These liaisons all stressed the fact that they now had a person, instead of an institution, to cooperate with, and they were convinced that 'their' officer(s) took an interest in local problems. Furthermore, they felt that such local officers were more accessible than were the police in general. The same was true for citizens in a very small area in which one officer was permanently stationed. The officers, liaisons and citizens were on 'common ground'.

Arguably, these findings may be useful in an analysis of patrol, too. I will make a crude distinction between citizens' local area (or areas)[21] where they feel 'at home', and the rest of public space. In their home area(s), I will suggest that citizens may perceive of a police officer as an alien body who does not belong, and whose significance cannot readily be determined. In such a setting, the presence of police may create insecurity.

Contrarily, when citizens are outside of their home area, or between areas perceived of as home, the police may take on a different significance. We know that a large part of the citizenry will feel less secure in public space (especially in places of transit, such as train stations) than they do in their home area. In such situations, the presence of police may be reassuring; the police uniform may actually be perceived as something familiar in an otherwise 'strange', and possibly insecure, situation.

In short, I will argue that police on patrol may, as a sign, be interpreted in rather different ways, depending on the location and the citizens' point of view.[22]

Implications for practice

It follows from this line of thought that the police, when patrolling local residential areas, should adopt a different strategy than when patrolling public space in general. I will suggest that, in order to avoid heightening citizens' anxiety, patrolling in local areas should be conducted in a way that makes the sight of the police a commonplace instead of an anomaly. This would, as a minimum, require the following: A high frequency of patrol conducted in a more or less predictable manner by officers assigned to the area on a long-term basis. An important aim of such patrolling should be to establish personal relationships to local citizens. Here, it is first and foremost the *person within the uniform* that matters.

What is important for patrol work in public space, on the other hand, is that police presence is distributed according to knowledge about 1) where problems are most likely to

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[21] The definition of local area is, of course, a tricky one. In the Elsinore experiment, that definition has been left to the interviewees themselves. Most often, however, the local area will be centred around where people live. In the present context, I'm concerned with the distinction between areas in which people feel at home, and areas in which they do not.

[22] The present analysis is limited to the question of the security-inducing effect on citizens. Obviously, police presence may be interpreted in other ways too, for instance by those who are the subjects of special police attention.

arise, and 2) where citizens are most likely to feel insecure.[23] Furthermore, low technology patrol, (foot or bicycle patrol) is to be preferred. In such contexts, however, there is little demand (and generally little opportunity) for personalization; it is *the uniform itself* that matters.

Will it work – and should it be adopted?

There is international evidence that directed patrol can reduce crime, but whether directed patrol can also reduce citizen insecurity has not been examined. In Denmark, no experiments with police patrol *per se* have been conducted. As of yet, we have only anecdotal evidence that personalized patrol work will actually have discernible effect on citizen security. It is most likely that the general patrol frequency in Denmark, even in areas participating in the community policing experiments, is far to low to create an impact, whether or not it is carried out according to the principles outlined above. Furthermore, as Balvig (2001) has noted, the general feeling of security in Denmark is, compared to other countries, high in the first place.[24] It will be a very difficult and costly task to increase citizens' security in their local areas further through police patrol.

Still, patrolling local residential areas is given a high priority in most police districts. The logical implication of the Danish findings and the analysis presented here would be for the police to abandon the strategy of general patrol and visibility, and instead try to devise other (symbolic) strategies aimed at citizens' feeling of security.

It is doubtful, however, whether such a change will take place in the foreseeable future. When the results from the Danish study were presented at a community policing conference in 2001, the Danish Minister of Justice conceded that he did no longer hold any strong belief in the security-inducing effects of police patrol, but, as he said:[25] "The citizenry still wants to *see* the police, and as a politician, I must abide by that."

References

Balvig, F. (2001): Det nære politi – 2 år efter. Rigspolitichefens trykkeri, København.

Criminal Justice Commission (1998): Beat Policing: A Case Study. In: Bayley, D.H. (ed.): *What Works in Policing*. Oxford University Press, New York.

Holmberg, L. (2001): *Det personlige politi – Foreløbige resultater af en række forsøg med nærpoliti i Danmark.* Rigspolitichefens trykkeri, København.

Holmberg, L. (2002): Personalized policing: results from a series of experiments with proximity policing in Denmark. *Policing: An International Journal of Police Strategies & Management*, vol. 25, nr. 1, s. 32-47.

Holmberg, L. (2003): Policing Stereotypes. A qualitative study of policing in Denmark. Galda + Wilch Verlag, Berlin.

Kelling, G., Pate, Dieckman & Brown (1974): *The Kansas City Preventive Patrol Experiment. A Summary Report.* Police Foundation, Washington D.C.

Kesteren, J.V., Mayhew & Nieuwberta (2001) Criminal Victimization in Seventeen Industrialized Countries. Key Findings from the 2000 International Crime Victims Survey. NSCR, Netherlands.

Pate, A.M. (1986): Experimenting with Foot Patrol: The Newark Experience. In: Rosenbaum (ed.): *Community Crime Prevention – Does It Work?* Sage Publications, Beverly Hills.

Politiets årsberetning 1996. Rigspolitiets Trykkeri, København.

[23] Such locations may be overlapping, but this is not always the case.

[24] See Kesteren et al.(2001).

[25] Cited from the author's memory.

Trojanowicz, R.C. (1986): Evaluating a Neighborhood Foot Patrol Program: the Flint, Michigan, Project. I: Rosenbaum (ed.): *Community Crime Prevention – Does It Work?* Sage Publications, Beverly Hills.

REPRESSION AND EMPOWERMENT IN POST-LIBERAL SOCIETIES

Hörnqvist, Magnus

In the management of crime, security-based policies expand alongside empowerment practices.

This is the starting point for this presentation. In three steps I will outline the meaning of this proposition.

First, "security-based policies expand", second, "empowerment practices expand", and then focusing on the dual expansion, happening at the same time**.** What does it *mean* to say that security-based policies expand alongside empowerment practices?

I will not offer any reasons to believe that the proposition is true, only explain what it means – or can mean. The labour of collecting evidence will be carried out during the next few years in the writing of a doctoral thesis.

Basic assumptions

Concerning the theoretical approach, and in order to give a hint of my research interest and to facilitate an understanding of the reasoning behind: I try to combine a Foucaldian analysis with an upgraded form of historical materialism.

There are two fundamentally different ways of exercising power: repressive and productive. Repression subdues individuals and prevents acts, while productive power trains subjects and produces behaviour. This is a classical foucauldian analysis.

Following the regulation approach, mainly concerned with the role of the state within western capitalist societies, every historical period is characterised by different sets of institutions, different ways of organizing the production, different political ideas and so on.

Basic question

Shouldn't there also be different ways of exercising power; a historically specific repression and historically specific normalisation?

My overall concern is to understand the change in the way power is exercised. There are reasons to believe that both repression and normalisation has undergone internal changes, and that this is a structural shift – a development going on during the last 20-30 years. It holds for Sweden, I think, as well as many other countries.

So, the basic question is: *what is the historically specific way of organising and exercising repression and normalisation?*

Repression:

From law to security

According to what pattern is force being deployed? What principle underlies government approved measures directly tied to the use of physical force?

This is the basic question regarding the way repression is exercised. Here I think we are confronting a major change. Let me explain it this way.

First of all: The field for interventions has expanded, so that, as a result, ever more situations and behaviours within the society can be met with force.

This is made possible by a dual development. The law has been bent in two directions at the same time: upwards and downwards.

Upwards: The difference between war and crime has been blurred.

The best example here is **terrorism**, or the way this phenomenon has been interpreted and challenged by western governments. Terrorism is not war and it's not crime either. It's

different from serious crime because of the political intentions behind the act. And it's blurring the boundary between the police and the military. It implies a state of emergency, almost as it was a conventional war, but not really, and an overwhelming display of force.

Downwards: The difference between crime and disorderly conduct has been blurred.

The best example here is local **crime prevention.** The boundary between crime and other unwanted acts is being erased, just as the boundary between the police and the social services. Measured feelings of insecurity are as important as documented acts, crime or not crime. Social problems are targeted in the name of crime prevention, based on a calculus of cost-effective use of force.

As a consequence, a wide field has been established where state and private institutions can co-operate and use force according to principles other than the law.

The law is still effective, but has been – or rather: is under way of being – transcended by the security logic.

The next question is: how does this logic differ from the rule of law?

It has three characteristics.

1. This logic does not primarily handle individuals, but groups.
2. It does not operate on acts but on risk evaluations.
3. And it is a administrative measure, not a court decision

This is basically what Feeley & Simon called "the new penology" in their famous article, analysing the American correction system in the beginning of the 1990's.

Now, this logic has spread, from prison to the society at large.

Most institutions which have grown during the last twenty years on the expanded field for interventions act according to this security logic.

Not exclusively, of course, but increasingly.

That goes for

the prison system

(Selective incapacitation and perpetual risk-analysis are guiding principles for the deployment of force and restrictions during the entire prison term.)

crime prevention and community safety

(Fear of crime and loss reduction is more important than combating crime and sentencing law-breakers.)

border control and police co-operation

(Refugees are not denied entry into EU countries on individual grounds, and pro-active arrests of potential troublemakers are being made, especially before important events)

the private security industry

(Measures to regulate entry, harm and loss reduction, risk analysis are central concerns, of which combating crime and sentencing law-breakers is a part, but no more than a part.)

Normalisation:

From discipline to empowerment

The productive way of exercising power is also undergoing a change. There is a move away from discipline to empowerment. This change was first described by Gilles Deleuze in is famous and very short text "Postscript on Control Societies".

The basic idea is that, until 20-30 years ago, we lived in a society where citizens and workers were disciplined within a small number of institutions**.** If you, for example, were an ordinary working-class man in Sweden,

- you grew up in a family with two parents
- went to school (from the 60's on called "unitary school" because it was more or less the same everywhere)
- went to the army for a year
- and started working in a factory where you stayed for a long period of time

In each of these institutions you were disciplined, that is, taught and trained certain skills and habits, characterized by compliance and stability.

Now this has changed. The family and the school are weakened as disciplinary institutions. You don't have to go to the army, and many industries don't exist anymore. Moreover, you often change workplace, even schools, and no single institution can really be trusted to have a strong enough impact.

This does not mean that power is no longer exercised within these institutions, but the way it is exercised has changed.

In **the workplace:** the twentieth century factory discipline has been replaced by a devolved responsibility and a continuous learning process, in order to produce flexible, responsible and socially competent workers.

In **the school:** much the same thing is happening there as well; a devolved responsibility from the teacher to the pupils, who are becoming more and more responsible for their own education. The internal disciplinary system is also being replaced by the surrounding reality, that is, failure is punished not at present but in the future.

The shift from discipline to empowerment is also taking place in the most classical of repressive institutions, **the prison**. The big Swedish prisons, built in the 50's and 60's, where the inmates were to learn the skills of industrial production, are now being replaced by cognitive skills programs taught in classrooms.

The goal of these programs is the same in the workplace, the school, the prison or anywhere else in society were they are applied, namely, to train flexible, responsible and socially competent workers

Regarding the skills and habits produced, empowerment-practises differ from the discipline. The former produce responsibility and flexibility, whereas the latter create compliance and stability.

They also differ in respect of the institutional setting: Empowerment-practises are increasingly applied *within* the classical disciplinary institutions such as the factory, the school and the prison. But they are also applied by government authorities and contracted private companies or NGO's on people *outside* of these institutions, primarily people out of work, incapable of being parents and/or people living in poor suburbs.

In the latter case, they operate on two levels.

On an individual level, they take the form of clearly defined programs:

- cognitive skills program in the prison
- job seeking courses at the labour exchange (the "activity guarantee")
- parent education administered by the social services
- order-oriented work specifically designed for groups at risk (Lugna Gatan, Centrumvärdar)

On a community level, they take the form of high-profile government campaigns: city renewal projects specially targeting poor suburbs with an emphasis on:

- mobilising civil society and creating local partnerships
- reducing welfare dependency and improving employability
- reducing crime and improving community safety

Taken together, this represents an expansion. Normalising strategies are being deployed not only within institutions such as the company and the school, but also – complementing them – almost everywhere in society.

To sum up:

The way of exercising repression and normalisation has *changed* – and *expanded*. As mentioned earlier, I will not give you any figures or other evidence, this presentation is concerned with the conceptual level. Instead I want to move on – *presuming* there is an actual increase – and take the third and last step, questioning the meaning of the dual expansion.

The dual expansion

What does it mean to say that repression and empowerment expand *at the same time?* Is this not a contradiction?

No, the strategies are complementary,

- practically
- politically
- economically

1. The practical level.

Repression and empowerment is not only exercised at the same time but also against (a) the same kind of people and (b) at the same place.

(a) The target group.

It's the same target group: criminals, drug addicts, unemployed, immigrants, youth at risk, marginalized communities, and people on welfare. They are all targeted, either by force or by compulsory training programs.

(It's obvious that force is almost exclusively applied against marginalized groups. In contrast, empowerment practises are applied in all institutions, thus targeting principally everyone, but they particularly focus on so called groups at risk, trying to integrate those excluded by repressive measures or by the economic processes.)

What is the common denominator? It is about people who are i) out of work ii) not sick and iii) represents an economic cost to the public sector (either through the social insurance system or through the black economy).

This is fundamental. i) + ii) + iii) justifies an intervention, either repressive or normalising, and you don't get out this grip unless you leave the target group.

(b) The target area.

The target area is also overlapping. Precisely the places most hit by repressive measures, with a high proportion of excluded people, are also experiencing new kinds of empowerment programs. That goes for the prison, and for poor communities.

2. The political level.

The security state pure and simple is the corollary of the neoliberal economy. It's a simple logic. The social safety net is replaced by physical force against poor people. Exercise of power is about keeping the excluded excluded.

In Sweden, this is not the case. The primary goal of all intervention against the target group – whether they are unemployed or dangerous criminals – is integration. The integration of the excluded. That is, you try to integrate the poor, and use repressive means if that fails.

This is the social democrat *Third way solution.* The market forces are regulated by the security state AND the activating state.

On an individual level, this means that there is always a door back to society. That was the historical mission of the welfare state and it lives on today in the political emphasis on social inclusion.

Now, empowerment practices are embedded in this political project. They aim at social inclusion and economic growth through cutting crime, unemployment and welfare expenses, which clearly is in line with the Third way model.

Moreover, work has a central place, both in empowerment practices and in the Third way model in general. The main theme of the large city renewal campaign in Sweden is, for example, "integration through work". And from an individual perspective, work is also vital, because the only way back into society – social inclusion – is through work. Jobs available through the current labour market.

3. The economical level.

The complementarity of both modes of regulation is also obvious from an economic perspective.

There are two possible outcomes: success and failure.

If the empowerment techniques are **successful** (in prison, in the labour exchange etc), citizens-workers requested by the companies and employable at the conditions of the current labour market are constituted.

If, on the other hand, the empowerment techniques are **not successful**, this is a failure not of the institutions but of their clients In fact, it's a double failure. First they fail to integrate in the sense that they are unemployed, drug dependent or criminals, and then they fail to complete the empowerment programs.

The blame is placed on the poor themselves. But what is even more important is that there are other institutions at hand. The security-based practises are capable of handling the failure.

And the security-based practices are fool-proof, you now what you get. What are constituted, in that case, when exposed to the wide range of punishments, are not flexible workers but objects for the control industry. Without this continuous input of manageable security risks, the control industry would be shrinking instead of expanding.

There is no hidden agenda or special purpose behind any of the applied techniques. Statistically, people both succeed and fail, and measures are being taken for both outcomes: success and failure.

In the first case there is the low-wage service economy ready to exploit the freshly constituted citizen, and in the second case there is a whole security sector prepared to minimize the potential harm.

Conclusion

The dual expansion of repression and empowerment is consistent.

The measures are completely different in many respects. Repression is about effacing, about taking away: excluding people, eliminating risks, while empowerment is about integration and compensating lacks: adding skills and introducing new habits.

But if this analysis is correct, they fit well together, as two sides of a political project, two sides of the current management of poverty and poor people.

ORDER UNDER EXTREME CONDITIONS: THE STREET-LEVEL DRUG SCENE OF OSLO

Johansen, Nicolay B.

In this paper I will present some basic findings from a study attempting to conceptualize cohesion among drug using street people in Oslo, in terms of trust.

The drug scene as a semi closed social system.

There are many forms of drug addiction, and the question of addiction is itself a problematic one. However, there is a stable group of people in most cities of a certain size, who regularly inject heroin, pills and/or amphetamines directly in to their veins. Some of theses people are homeless, unemployed, make income through crime and prostitution, and not least, live most of their daily lives in the streets. Many of them are highly visible in central places in city centres. These are the "street people". But among the street people, there also some who do not use drugs. There are some mentally disturbed and/or lonely people, who approach this environment, maybe for social reasons.

Street life is a social life. There is a constant flow of contacts. Drugs are bought and sold, and stolen goods are traded. People meet acquatancies and exchange stories, gossip and the latest news. And there are lots of news. Who was busted by the police? Who died? Who survived a dramatic case of overdosis? Furthermore, people exchange information about the whereabouts of i.e. institutions, injecting places and opening hours. The Swedish sociologist Svensson has labelled this milieu as one of "sociality" (1996).

This sociality is to a large extent limited to other street people. Street people rarely mix with "straight" people, except if they are helpers (social and medical), fences, some "contacts" in the distribution chain of drugs, "pensioners" (selling their sedatives and tranquilisers). There are of course exceptions from this picture. Most street people do have some contact with parents and other family, some also have friends outside the sphere of the street. However, street people have a tendency toward predating on their surroundings. Sadly, this includes families and friends, and counts for a general predatory attitude to the public.

People living on the streets, are generally in a poor condition. There are huge differences, but as a group, the health situation is appalling. Lately this has been documented in several areas. The prevalence of inflammations is widespread. Most street people have infections, either in the form of abscesses, in the womb, or suffer from more general cases. The prevalence of gastric ulcer is estimated at 60 times more widespread than in the "normal" population. The most problematic health problem however, might be the issue of Hepatitis. Several scrutinies have been conducted, and it seems beyond doubt that 3 out of 4 of the street people have Hepatitis C. More than 50% of these will probably get liver cirrhosis or cancer in the liver. Furthermore 50% are estimated to be at risk for undernourishment. (For a more detailed overview of the medical situation in Norwegian, see Johansen and Myhre, forthcoming).

The death rate is dramatic. Among the countries that publish statistics of deaths from overdosis, Norway is a number one.

The mental health is also considerably worse than in the general public. Some have suggested that more than half of the population of street people suffers from depression and mental disorders, stemming from or being prior to the addiction (Johansen and Myhre, forthcoming). Even if this might be a high estimate, any observer of this group will undoubtedly be struck by the prevalence of mental illness.

The same may easily be claimed in relation to different forms of maltreatment in childhood. Here, there are no positive surveys that support the claim. But whichever way one looks at it, the prevalence of biographies involving maltreatment is widespread. However, this does *not* mean that all, or even most of the population has this experience. But the

prevalence is not just significantly higher than in the rest of the population, it is dramatically higher than in the public at large. And this is probably also reflected in the prevalence of mental disorders.

Adding to this, life in pursuit of drugs is a life in poverty. However strange it might seem for outsiders, considering the amounts of money passing through the hands of a drug addict, he/she leads a life where there is seldom room for a cup of coffee, proper meals, new clothes or leisure activities.

One easily forgets that people on the streets do not only commit crimes, they are the most victimized group. Violence, robberies and thefts are a part of their daily life. The fear of crimes is more based on real risks than any other group.

Furthermore, many drug addicts live with guilt, shame, and amidst all the sociality, people feel lonely. Lonely - not just because friends are dead, but because most junkies are solemnly concerned with their own struggle to keep their heads "above water".

Despite the sociality of the street-level drug scene, this is a group displaying a misery which is hard to compare with any other group in western societies. Most people at risk for getting in to this group, would know that. Most of the young people labelled as drug addicts or junkies today, have ended up in this hopeless position, without wanting it. They are recruited from a massive segment of the youth and adult cohorts for whom drugs and alcohol are a daily routine. The final steps into this milieu, are most often done unconsciously. One thinks one is in control. But suddenly this is no longer true. The most common "career" ends as one loses control with ones habit, then losing the apartment, job, friends and loses contact with the family (Stewart 1987). (However, as we have just seen, we know who are most likely to end up as street-level drug users).

It is fair to say that it is easy to get in. On the other hand, it seems almost impossible to get out. Despite the horrors of the drug scene, there is a common experience that most participants return to the drug scene shortly after release from prison and/or treatment programmes. There seems to be little or no problems actually quitting the drugs, the problem is not to start again. Percieved as a social system, there is a stable mass of participants. Even as the norwegian death rate is the highest in the world, "only" 2% leave the scene by death annually. Some quit by themselves, others quit through treatment programmes. Some disappear for some years, they "go out of circulation", but later return.

On these grounds, I claim that we can regard the street-level drug scene as a semi closed social system, characterized by a high degree of sociality, a high level of deprivation and a dramatic somatic, mental and social health situation.

Order under extreme conditions

The remainder of this presentation will refer to my report "Trust and betrayal on the drug scene" (Johansen 2002a[26]). Svensson made a characterization of the drug scene as one of sociality. He continued by saying "but no solidarity". Thus he summarized what was my starting point investigating how street people trust each other. In what was planned to be a pilot-project, I interviewed eight drug users while they were in a treatment programme. The study also draws heavily on several years of experience working in close contact with street people in parts of their "natural" environment.

It is a common experience, that the cohesion among drug users is strikingly absent. It is a widespread observation that drug users work in pairs for some period. Just as commonly, these unions are split up, accompanied by mutual accusations of betrayal. But this is just one example of a wide variety of relations between drug users, with elements of cheating and even thefts. Cheating in drug trade is common. Thieving from each other, likewise. The most shocking example however, might be found in the prevalence of "friend-robberies". In cases

[26] This report can be downloaded or ordered at www.sirus.no. Alternatively one can call +22340400. The report is free.

of non-mortal) overdoses, it is not rare that street people wake up without drugs, money and cell phone. The fact that some people on the drug scene in a case of emergency chose to make a robbery of the needing part, stands out as a representation of horror, the internal cohesion considered.

Cohesion on the drug scene can be more generally described in terms of trust. The study focuses on a number of situations where street people risk losing some valuable belongings. Vulnerability connects trust to specific situations. I have examined vulnerabilities in buying-selling relations, "shooting up" together, "sharing" and "bringing people home".

Analytically, trust contains an expectation about the other persons future behaviour. Trust can be distinguished according to what this expectation is based on.

First it turns out the trust the respondents reluctantly admit to give others in the same situation, is based on monitoring of the other persons personal interests. This is contrasted to a trust based on norms of obligations and norms of tradition (what one "usually" does). I claim that trust based on monitoring the other persons personal material interests, is more unpredictable than trust based on other kinds of norms. Personal interests are more predictable in short term, but harder to assess in the long term. The interplay between, let's say partners, is also shifting the account and thus alters their interests in continuing the relationship. This becomes obvious when one analyzes the relation with the concepts from game-theory and "Prisoners dilemma". It is possible then to say, that sociality among drug using street people is based on a "thin" trust.

The thin and/or lack of trust, was manifested in many different ways. Even basic interaction between individuals was hampered by mistrust. I suggested that there are two elementary forms of trust, "depositing" and "sharing". The interviews revealed that both forms of cooperation were limited. To let another have ones money in possession, to go some place and buy the needed drugs, is rarely done with persons who are not emotionally very close. And even then occasionally it turns out that the trusted person steals the money. There were several stories about people who had been given money to buy drugs, who did not turn up again. But there were also other examples of problems with depositing goods. One man told a story of finding a bag ("quarter" of a gram) of drugs on the street. The man he was walking with at the time, asked if he could see it. After a while my respondent wanted to have it back. The other then claimed he had thrown it away, on the grounds that there was nothing in it. The other person made himself completely untrustworthy in the eyes of my respondent, for the benefit of 20 Euros worth of drugs.

"Sharing" was also rarely conducted, outside personal relationships. Everybody could tell tales about having been given drugs when they were "sick", and situations when they themselves had given drugs to someone else sick. But these were stories of extraordinary incidents. There was very little evidence of norms of reciprocity in practical everyday life among the drug using street people.

Compared to the "drinking-teams" of the street people of yesterday, the "alcoholics", it was hard to find any cooperation resembling the sharing of drinks and the leadership of the teams, described by the Norwegian anthropologist Burman (1971). Drunkards commonly organized their drinking in groups of 5-10 people, with one leader "running the show". The leader collected the money and the liquors from all participants, and distributed it according to some concept of justice.

This form of sharing requires not only that the participants trust the leader, but also that they trust each other to give what they actually have of money and liquors, that they do not withold something on the side. In reality, withholding was probably done by all, to some extent. And the internal life of these groups was not characterized by calm harmony. Rather it was a turbulent life with many conflicts, and "drinking teams" were rarely long-lived. This does not interfere with the general point that all members in a "drinking team" had to trust each other. It was a matter of fact that these teams were organized again and again.

The trust in drinking teams was both more complex in all its relations, and the presence of a leader was probably also an important social factor. Drinking teams represent a form of sharing on a much higher level, than the simple sharing between two parties. Teams resemble

insurance institutions, following Sahlins' classic essay, we may term it "pooling" (Sahlins 1972).

Today, not even sharing in the simplest form, works in relationships between street people. The starting point of this study, was as we remember, that dyadic relations (i.e. in pairs and couples) were breaking down echoed by mutual accusations of cheating. This, however, implies that such relationships are also entered on a regular basis. Like "drinking teams", dyadic relations are organized and abandoned frequently. It is as if the trust can bear the kind of relationship, but only just. Thus I claim that trust among street people has deteriorated since the days the drunkards dominated the scene. We have seen a decline in trust. The trust among street people can no longer carry the weight of insurance-like organizations or "pooling".

In general then, the behaviour that street people displayed toward each other, involves little vulnerability. Cooperation is absent where it might have been benefiting the parties involved, and where this would have been natural for non users. Some of the behaviour also has some resemblance to the behaviour that is reported from concentration camps. Primo Levi has described life in Buna, Auschwitz III, in the Second World War. Prisoners were portrayed holding on their only belongings at all times. Even when they were showering, they held their clothes and spoon/knife between their knees. When sleeping, the jacket and knife/spoon was kept as pillow, and never let out of sight. When people died in the camps, other prisoners were reportedly quick to secure the dead persons belongings (Levi 1990). Here too, basic forms of trust were missing from daily encounters.

Of course, this resemblance should not be taken too literally. It is to some extent a question of choice to become a drug addict. It is however, impossible to deny the similarities between the two groups. Both are more or less tight, regarded as social systems. Participants experience random deaths, excessive violence from their "guards" and each other. The social "density" is high - to some extent, there are no possibilities for retreat. Illnesses are prevalent. Both milieus experience robberies of dead and dying people.

Many of my respondents told stories from the early days on the street. That was for many a time of "innocence", meaning that they did know the norms of the street. One recurring theme was how they gave money to some people, who volunteered to "help" buying drugs. These helpers never showed up again, the money lost for the rookies. This was not condemned however. Rather it was considered as a "cheap learning lesson".

A similar situation is reported by Levi. Newly arrived prisoners would normally complain about the conditions, and when eating, more experienced prisoners could give some "helpful" advice. The experienced prisoner could advice the newcomer to approach the guard, and ask for transfer to another camp, with better conditions. In the meantime, the experienced prisoner would offer to watch their soup. Of course, the soup was gone when the newcomer returned (Levi 1990). But more interesting, this was not ill perceived, as in the case of our contemporary drug users.

Furthermore, this gives an indication on the moral environments we are here discussing. One can also find an ethos resembling Banfields "amoral familism".

> **"Maximize the material, short run, advantage of the nuclear family: assume that all others will do likewise." (Banfield 1967, page 12.)**

This is most evident in the common saying "take care of yourself, nobody else does". This is a common expression used on the street, and it is both meant as a friendly gesture, and taken as one. The friendliniess, one can assume, stems from the value of the advice, and perhaps from the senders accept of the recievers egocentric future behaviour. Behind all the warmth that may surround the message of the sender, there is an ideology preventing cooperation and displays of vulnerability.

Despite the conceptualization of lack of cohesion in terms of trust, the milieu of street people prevails. Although depositing is avoided, sharing is avoided, and there is an ethos resembling "amoral familism", the daily routines "work". Street people get by. How do participants of the scene organize the daily transactions and unavoidable vulnerable situations

with each other? Since the social system of street people prevails, there must be some forms of trust. The meeting point on the drug scene for instance, involves a transaction of money and drugs. This requires an element of trust. How do people trust each on the street-level drug scene?

The question of trust is a complex one, and has to be related to specific situations (and forms of vulnerability). Thus there is not one answer to questions about trust among street people, or others for that matter. I have argued that the trust we actually find among street people can be seen as "thin", based on mutual monitoring of self interest. In this presentation I have focused on characterizing the most apparent features of the drug scene in terms of trust. This has brought forward an "apocalyptic" picture. For a fuller presentation the question of order has to be addressed thoroughly. But that has not been the aim here.

Who is to blame?

These features of the milieu of the street-people are hard to come to terms with. Stressing these features might lead to the conclusion that street-people are somehow responsible for their own plight, that they are only to blame themselves. However, I find this to a very unsatisfactory conclusion. A brief comment is required.

Drug users are single minded. To get a fix is all there is. Very little matters beside this. Stewart (1987) makes this claim with some credibility, as she is a former user herself. However this is also quite evident from an observers point of view. They are poor, and need finances. Legal incomes run out quickly when one has lost control of the habit. This is a difficult situation, and leads to a stressful life, where eating, housing, hygiene as well as friendship and loyalty are qualities suffering in the search for dope. This is made even more difficult by the threat of the police and demands for "detox" before one can receive substantial help. Despite using up to several hundred Euros daily for drugs, this is a life in extreme poverty. Furthermore, this is a life without the most basic ingredients for a straight person: a place to go to be alone, adequate health-situation, regular eating, trustworthy friends, and so on. In short, a life in extreme deprivation compared to the "straight economy".

Like other people in even more deprived situations, prisoners in concentration camps or refugees in refugee camps, one does not think of blaming them for antisocial behaviour. On the other hand, I do not want to acquit all street people of moral judgements. But I think this is a general position that is more in line with the reality they experience in their daily routines.

Whether we blame the members of the street-level drug scene, or not, the question of order remains. We have seen that this can be understood as a closed social system, and also that there is an apparent lack of internal cohesion. Contrary to what many commentators seem to think, this is not a milieu of tight relations, a closed community confronting the "straight society". This is a fragmented and more or less atomized social system, however paradoxical this might sound.

Of course, one can easily exaggerate the lack of trust among street people. In this paper I have not emphasized the trust that actually bind the participants together. I have mentioned that this is "thinner" trust, than what we normals are used to. However, this is not developed here, but for a preliminary discussion those topics, I refer to Johansen (2002a).

References

Banfield, Edward (1967): *The Moral Basis of a Backward Society*. The Free Press, New York.

Burmann, Frank (1971): Pers Lag: I Ramsøy, Odd, Frank Burmann, Per-Ole Johansen og Torbjørn Kalberg (red.): *På livet, fra filleproletariatet i Oslo*. Universitetsforlaget.

Cooney, Mark (1998): *Warriors and peacemakers. How third parties shape violence*. New York University Press.

Johansen, Nicolay B (2002a): Tillit og svik i narkomiljøet. Sirusrapport nr 4/2002.

Johansen, Nicolay B (2002b): Violence and social control among drug users in Oslo. I *Perspektiv på våld*, rapport fra NSfK:s 44:e forskarseminarium. Nordisk Samarbeidsråd for Kriminologi.

Johansen, Nicolay B and Hanne Myhre (forthcoming): *Skadereduksjon i praksis*. Rusmiddeletaten i Oslo.

Levi, Primo (1990): *Hvis dette er et menneske*. Document, Oslo.

Sahlins, Marshall (1972): *Stone Age Economics*. Aldine de Gruytier.

Stewart, Tam (1987): *The heroin users*. Pandora Press.

Svensson, Bengt (1996): *Pundare, jonkare och andra*. Carlssons.

PROBLEMS OF EVIDENCE IN SEXUAL CRIMES: THEORY OF EVIDENCE AND DISCOURSE IN THE FINNISH COURTS

Karma, Helena

1. Introduction

My doctoral thesis is part of an ongoing research project, Violence in the Shadow of Equality: Hidden Gender in Legal Discourses led by Dr. of Laws Johanna Niemi-Kiesiläinen. My study focuses on evidentiary problems in sexual crimes. Other research topics in the project concentrate on how tacit perceptions about violence against women are reproduced in legal discourse. The multidisciplinary project concerns women as actors and legal subjects. Additionally, it focuses on women's invisibility in Finnish criminal law and in criminology, criminal procedure and legal theory.

The aim of my study is to examine the problems of evidence in sexual crimes from the victim' s point of view. The starting point of the study is the following claim: The official criminal procedural project of the Finnish Courts is modern, i.e., the focus of the courts in the criminal procedure is on finding the modern objective truth. The fact remains, however, that the (procedural) truth is constructed through language in a certain value- and perspective-bound context. In the second part of the study, this hypothesis will be tested with the aid of the analysis of the trial case material.[27] Interpretative guidelines for equitable and contextual evidentiary evaluation will be constructed, e.g., by examining the principle of beyond a reasonable doubt from the perspective of the rape victim. The aforementioned burden of proof standard is the most fundamental part of the Anglo-American criminal justice system. It was adopted to ensure that nobody would be convicted of a crime unless the jury was absolutely certain of the defendant's guilt (Corwin 2001, 1). It seems that the principle of beyond a reasonable doubt is in the process of being absorbed also in Finnish Courts, including The Supreme Court of Finland.

One hypothesis in my study is that although it is the prosecutor's duty to take care of clearing up all the facts of the case and to present all relevant evidence, the victim is, in practice, under obligation to protest that she is not to blame for becoming a victim of a sexual crime. The hypothesis will be scrutinized in this presentation, after a brief description of the methods.

2. Methods

The study is based on the relativistic idea of knowledge. The background theory of knowledge in the research is social constructionism, which assumes that " people construct their own and each other's identities through their everyday encounters with other people" (Honkatukia et al. 2002, 6). The approach sees reality and language as intertwined (Burr 1999, 6). It means that " facts are always transmitted to the judicial decision-making through language" (Honkatukia et al 2002, 7).

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[27] The case material consists of 98 trial documents of sexual offences of all Appeal Courts of Finland. The material includes all sentences and to these cases related other trial documents passed according to Penal Code 20th Chapter 1-5 articles on a time-scale 1.1.1999- 30.4.2002.

The study distances itself from the Nordic modern theories of evidence, i.e. from the evidentiary value method and the theme method, which are based on frequencies and the objective concept of probability. These methods arise from the idea that the probability of an event is determined by the number of times the event occurs in the population (Pölönen 2003, 54). The study also distances itself from C. Diesen's theory of alternative hypothesis. According to the method, courts will consider the constructions of the hypothetical course of events, made not only by the parties, but also the members of court themselves ex officio (see Diesen 1994, 120-148).

In the study, a contextual perspective on the evaluation of evidence is constructed with the aid of social constructionism and discourse analysis, with the trial documents analyzed both quantitatively and qualitatively, intertwining the discourse analysis with traditional legal analysis. The quantitative analysis is needed, e.g., in order to clarify the nature of the rape trial discourses and the course of the testimony in general. The qualitative analysis, on the other hand, is required for the detailed case analysis realized by the jurisprudential and discourse analysis. The analysis is discursive because it takes into account the constructive nature of legal language and potentially ambiguous truth claims, especially from the victim's point of view.

I approach the Finnish doctrine of criminal law with the aid of the model developed by Johanna Niemi-Kiesiläinen (2000, 163), according to which, when a sexual act and a sexual crime is defined in the legal sphere, the woman's perspective needs to be given more importance. Speaking of sexual crimes, one should pay more attention to the relationship between the victim and the defendant. Instead of the standard offender-centered point of view, the woman's interpretation of the events deserves more attention. The concept of the object of legal protection has to be extended from the principle of sexual self-determination to the protection of the woman's physical and psychic integrity. (ibid.)

3. Preliminary Results

I analyze the language of court trials. Trial documents show that during the criminal proceedings officials and lawyers may lead discussion onto paths which relevance seem dubious, as the following examples of written pleadings illustrate:

> The complainant and the defendant were dating. They had slept together just before the alleged rape.
> The defendant had told coherently, in the preliminary investigation, in the court and in the psychiatric examination, that the willing state of mind of the complainant had not ceased to exist at any moment…
> The complainant had, in part, given up her integrity by having voluntary sexual intercourse with the defendant. This does not imply that saying "yes" once equates to always consenting to sexual intercourse, but in evaluation of the seriousness of the event it has to be taken into account.
> (Case number 51.)[28]

> The complainant may have overreacted (to the incident) because of her drunkenness and the mental problems she had suffered earlier. (Case number 50.)

[28] In my research, I use the confidential information by respecting the parties constitutional and human rights to privacy. The Supreme Court of Finland has set limits to the use of the case material. For this reason, the identification data of the cases have been changed.

The studied case material shows that the defendant or the victim may be asked if he or she had had a sexual relationship with the adversary earlier. In addition, the victim's relationships with other parties may be at stake. During the proceeding, wide-ranging discourse on the victim's level of intoxication, on her reasons for associating with a stranger or with a man who was well known for his aggressive character is not unusual.

The victim may be accused of lying because she had not suffered enough injury or had not screamed during intercourse. The discourse reflects the mythical assumption about the psychology of women that is well-documented in Anglo-American sociological and legal literature (see e.g. Brownmiller 1975; Adler 1987; Temkin 1987; Lees 1996): that women easily fabricate rape accusations because of their guilt or in order to get an alibi for the night willingly spent with the defendant. In Finnish rape cases, the discourse on victim's provocative clothes depicted in the legal literature (the so-called mini-skirt discourse) seems to be absent. However, when the defense is consent, the victim's alleged provocative behavior flavored with the assumption of uncontrollable sexual drive of men may be included in the discussion.

In one case, the defendant considered unconvincing the victim's claim that she did not understand men in the bar paying attention to her sexually. According to the defendant, the victim claimed that she is of an extrovert character and has a strong desire for performance without having any intention to excite or provoke anybody…-In the defendant's opinion, the victim understood that she excites men but, at the same time, demanded that the defendant should not have been interested in her sexually. (Written pleading, case number 48.)

The Finnish courts' understanding of a reliable and rational rape victim often seems to resemble the ideal rape victim described in the (feminist) literature concerning Anglo-American (Brownmiller 1975; Adler 1987; Temkin 1987; Lees 1996) and Nordic criminal proceedings (Boëthius 1990; Ekström 2002; Wennstam 2002). In compliance with the Finnish courts' reasoning, an ideal rape victim seems to be a hysteric girl, hopefully a virgin, and raped by a stranger. An ideal victim reports about the rape to her family and friends immediately, makes out a crime report without delay (so-called "prompt complaint" doctrine), and removes no evidence, and goes to a doctor because of her severe injuries at once.

The reasoning of the verdicts presents the idea of the typical rapist as a stranger jumping out of the bushes and attacking the victim. In the studied material, more severe punishment could be rationalized, e.g., with the fact that the parties didn't know each other before the rape. Sometimes the court gives strong evidentiary value to the fact that the crime has taken place in an isolated and remote area. In light of the cultural and scientific knowledge of the nature and prevalence of domestic violence, this reasoning seems inaccurate. These depictions of a reliable rape victim and a typical rapist strongly direct officials and parties' (their advocates') understanding of the nature of the alleged crime. In many cases biased and prejudicial attitudes of the defence toward the rape victim seem evident. In some cases also court officials demonstrate stereotypical male-dominated conceptions of gender, sexuality and sexual violence. The double-standard may be embedded in court's reasoning, as the following case of a court of first instance indicates:

Women should be cautious, especially at night, and they should not associate with people they do not know. A rape victim experiences pain and suffering because of the crime for long. The victim's mistake, i.e., the undue trust, cost her a lot, although she was not to blame. (Case number 48.)

The questioner can effectively direct and control the course of testimony (DelTufo 2002, 3). When the defense counsel attacks the victim with incriminating questions, the

victim cannot but defend herself. Further, the court is obliged to commit itself in the verdict on all relevant claims against the prosecution. At this point, an interesting question is: what kind of claims are, according to the judges and lay members of a court, legally relevant and for what reasons?

The Anglo-American-driven linguistic analysis of rape and other sexual-offence trials has shown how prevailing cultural understanding about sexual violence penetrates into the discourse of the criminal justice system (see Ehrlich 2001; Matoesian 1993). Analysis of how the legal reasoning and the outcome of trials are affected by the discourse that concentrates on the victim's characteristics and behavior is therefore needed in the Finnish context as well.

4. Trial Outcomes

In many rape cases, the reasons for court decisions reveal that the discourse is focused on the victim's behavior. In one case of the higher court instance[29], according to the victim, three men forced her in a car from a bar and took her to the defendant's residence where the rape took place. Two of the men violently raped her in turns, meanwhile the other men kept her down. The court convicted all three men of rape and sentenced them to unconditional imprisonment. The reasoning in the court decision reveals that, also in this case, the discourse focused on the victim's behavior. The defense concluded that the complainant fabricated the accusation of rape because she was infuriated for not getting a lift back home from the defendant's residence. Because of this and of her own feeling of guilt she retaliated at the defendants.

In addition, the defense referred to the victim's level of intoxication, her alleged mental problems and to the alleged fact that she was attracted to the defendants at the bar. Furthermore, the defense paid attention to the fact that the victim had not screamed for help during the intercourse and alleged that the complainant suffered from a post-traumatic stress disorder caused by the voluntary sexual intercourse.

The defense took advantage of the traditional stereotypes of the nature of sexual relations. The defense employed myths[30] about rape that abound in our society: women mean yes even when they say no, women wearing provocative clothes are asking for it, all women want to be raped, women cannot be raped against their will, the majority of raped women are promiscuous, drink alcohol or have, at least, a bad reputation. (Brownmiller 1975, 311; Torrey 1991, 1.)

In the case, the victim was perfect: she was a young, religious virgin with serious injuries caused by a gang rape. She hysterically asked the neighbors for help immediately after the attack, destroyed no evidence, and made a prompt complaint. The problem with the ideal victim construction is that it is, in part, based on a double standard and on unrealistic ideas of virtuous womanhood. In addition, the behavior exhibited by a rape victim after the attack can strongly vary. Some women will react in an expressive style, emotionally and openly; others will show calmness and control.

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[29] The identification of the case is not possible because of the confidentiality of the information.

[30] The rape myths are cultural beliefs based on dominating prejudices. They are hegemonic cultural preconceptions colored by non-analytical and unscientific common reasoning.

In this case, the court found it necessary to scrutinize the events preceding this alleged crime. Discourse analytical reading of the court's reasoning arises the following question: if the victim would have left the bar with only one man (and not with three men as it was in this case) in the daytime (the attack took place in the darkness) without her strong resistance (the victim did resist on the way to the defendant's residence, but without serious injuries caused), might these facts, preceding the rape, have caused devaluation of the victim's credibility.

In this particular case, this kind of speculation is irrelevant from the legal point of view. However, the language used in the court's reasoning participates in the construction and reproduction of the extra-legal cultural understanding of sexual violence. Affirmative answer to the aforementioned question would be, at least in part, based on conventional and patriarchal notions of gendered responsibilities in these situations. It would also be unacceptable in light of the aim of the sexual crime legislation currently in force. The aim is to protect everyone's sexual autonomy, which includes right to say no and change one's mind whenever one wishes.

In the case, the argumentation that focuses on the way the victim acts before the rape, i.e., whether she left the bar of her own free will, is prone to widen the relevant context in this case in an inaccurate and biased manner. On the other hand, in domestic rape cases, the proceeding violent history with the rapist should be taken into account in order to understand the paralyzing nature of women's fear and threat of violence and to be able to recontextualize the complainant's passiveness and deficient signals of consent as acts of resistance, as a strategic aim to minimize injuries (Ehrlich 2001; DelTufo 2002, 1-3).

Several preliminary conclusions can be drawn from my material thus far. First, defense strategies in the Finnish courts are often based on rape myths that blame the victim. The presuppositions of the defense argumentation frequently reflect a double standard and patriarchal ideology, and they penetrate court discussion. Second, the construction of the ideal rape victim adopted by some courts is inaccurate in many respects. It is based on insensitivity to how the rape is manifested in the victim and forward the rape trauma syndrome (see Burgess & Holmström 1974). Third, court discourses focus on evaluating the victim's behavior, although the defendant's conduct is on trial. Finally, the contextualisation of the events before, during, and after the attack needs to be done in a sensitive manner taking the victim's experience of the events and her practical possibilities for using her autonomy in the situation seriously. My study is, among others, a detailed analysis of how the outcome of a trial is affected by the male-dominated legal discourse in the Finnish courts.

5. Crime Prevention

Culturally dominant notions of sexual violence, rape myths, and the double standard are connected to discourse on crime prevention. Honkatukia (2001) concludes that in Finland the police are the central authority in defining sexual violence. In 2002, there was a passionate discussion in the main Finnish daily news papers on the role of crime prevention in rape cases as well as on the way rape cases are tried in the criminal justice system. While the police focused on women's behavior and their possibilities for preventing the victimization, the feminist social scientists turned the discourse to the problems of cultural male-dominated values and the double standard. The police emphasized women's responsibility for their own conduct and told women not to loiter drunken in the streets at night. The feminists, instead, stressed that in the Finnish democratic society, everyone should be allowed an identical and equal freedom of action. They stated that gender-specific rules of action that limit women's freedom should not be the focus of sexual crime prevention discourse.

A certain choice of values precedes the sexual crime prevention discourse of the police that concentrates on women's responsibility. The police rape prevention discourse seems to

shrug off the responsibility of rapists as unimportant or ineffective means of prevention and (unintentionally) reinforce biased attitudes toward rape victims. The police as an authority of preliminary investigation construct a primary image of the alleged crime.

The preconceptions of the police further are reflected in the criminal proceeding of rape cases and thus have a strong impact on the trial outcome. Additionally, the rape prevention discourse that focuses on women's characteristics and behavior discourages rape victims from reporting rapes, at least the victims that do not, for one reason or another, fit the picture of the ideal rape victim. For this reason it is most important to continue the discourse on the specific problems connected to the cultural notions of sexual crimes.

References

Adler, Zsuzsanne: Rape on Trial. Routledge & Keagan Paul. London 1987

Boëthius, Pia: Patriarkatets våldsamma sammanbrått: varför våldtäkt finns. Bonnier, Stockholm 1990

Brownmiller, Susan: Against Our Will. Men, Women and Rape. Secker & Warburg, London 1975

Burr, Vivien: An Introduction to Social Constructionis., London and New York 1999 (first published 1995)

Corwin, Melissa: Defining " Proof Beyond a Reasonable Doubt" for the Criminal Jury: The Third Circuit Accepts an Invitation to Tolerate Constitutionally Inadequate Phraseology. Villanova Law Reviw, 46 VLLR 829, 2001

Del Tufo, Kara M.: Resisting "Utmost Resistance": Using Rape Trauma Syndrome to Combat Underlying Rape Myths Influencing Acquaintance Rape Trials. Boston College Third World Law Journal, Spring 2002

Diesen, Christian: Bevisprövning I Brottmål. Norstedts Juridik AB, Stockholm 1994

Ehrlich, Susan: Representing Rape. Language and Sexual Consent. Routledge. London and New York, 2001

Ekström, Simon: Trovärdighet och Ovärdighet. Rättsapparatens hanternade av kvinnorsanmälan av våldstäktsbrått Stockholm 1946-1950. Gidlund, Hedermora

Honkatukia, Päivi: "Ilmoitti tulleensa raiskatuksi". Tutkimus poliisin tietoon vuonna 1998 tulleista raiskausrikoksista. Oikeuspoliittisen tutkimuslaitoksen tutkimuksia 180, Helsinki 2001

Honkatukia, Päivi & Niemi-Kiesiläinen Johanna & Ruuskanen Minna: Legal Texts as Discourses, Presentation in the Conference Law and Society, Vancouver, 1.6.2002

Lees, Sue: Carnal Knowledge. Rape on Trial. Hamish Hamilton, London 1996

Matoesian, Gregory: Reproducing Rape: Domination Through Talk in the Courtroom. University of Chicago Press, Chigago, 1993

Niemi-Kiesiläinen, Johanna: Mitä seksuaalirikoslailla halutaan suojella? In: Honkatkia, Päivi & Niemi-Kiesiläinen, Johanna & Näre, Sari, Tyttöjen kokemuksia härinnästä ja seksuaalisesta väkivallasta. Nuorisotutkimusverkosto, Helsinki, 2000, 137-168

Temkin, Jennifer: Rape and the Legal Process. Sweet & Maxwell, London 1987

Torrey, Morrison: When will we be believed? Rape Myths and the idea of a fair trial in rape prosecutions, U.C. Davis Law Review 1013, 1991

Wennstam, Katarina: Flickan och Skulden: En bok om samhällets syn på våldtäkt. Bonnier, Stockholm 2002

FEAR OF CRIME AND VIOLENCE IN THE PRESS

Kemppi, Sari

1 Introduction

Media has a central function in societal discussion: to create, spread and control information (Pentikäinen 2001, 58). On one hand media can be seen as creating a daily agenda in public discussion, largely defining what is said or whom is talked about. Media texts not only influence what we think about the world, but they also define what we think *in the first place* (Mustonen 2001, 53). On the other hand it seems too naive to assume that media's influence is the only thing that shapes our understanding of the world. People don't live in a vacuum, where the only outside-world information comes from different media. It is criticised that media content is very often one-sided. And even when the media field is seen as pluralistic, the messages are usually seen as too similar to each other. It is quite rare to have conflicting point of views or texts that undermine the mainstream views, especially in the most powerful media. This is sometimes seen as one of the problems when discussing media's influence on people's opinions.

The criminological study of media crime usually focuses on the connections between the constructions of different crimes in the media and other aspects related to criminality such as the tendencies of reporting to the police, population's perceived victimisation or attitudes towards crime and people's fear of crime. The focus has then been mainly in the discussion of the effects of media crime on people's attitudes and their sense of victimisation.

According to the national Crime Victim Survey Finnish people were more afraid of violent victimisation in the 1990's than the decade before. At the same time, however, the actual victimisation rates remained stable. (Heiskanen et al. 2000.) It has been suggested that media representations of crime influence people's sense of safety, their crime fears and can partly explain the rising of fear in the past decade. Crime perceptions are often based on information channelled through the mass media; only rarely the perceptions are based on one's own experiences. (E.g. Chiros et al. 2000; Korander 1994; Williams & Dickinson 1993.) Despite the conflicting views about media influence on our opinions, it would be dangerous to underestimate the power media has on our understanding. We just cannot exclude the fact that the majority of people get their overall information about the world – especially about issues outside one's own environment – nowhere else than from various media. Furthermore media's purpose is not only – idealistically – to inform us; there are also several economic and political questions influencing on what is said and what is not said. (Cf. Mustonen 2001, 53-63.)

In media crime research it is perceived that media representations concentrate very often on violent crimes while other offences are underrepresented (e.g. Warr 2000). This means that the crime picture is distorted. If this distortion grows through time it is possible that public perceptions on crime begin to follow more media constructions of crime than the actual changes in crime rates. This in turn can affect attitudes concerning criminal policy and people's sense of safety and fear of crime. Besides the discussion of criminal statistics representing a real growth in criminality or just the growth of reactions to crime, the intensive release of offence numbers in the media can create an image of criminality, that may have no foundations in reality; or even if it has, it might give a distorted picture of the society. For example the compile statistics of juvenile crime grew explosively in Sweden because the schools turned to report even the slightest batteries and assaults to the police (Estrada 1999, 143; von Hofer 2000, 65.)

2 Research questions, data and method

In Finland the crime publicity research has mainly been interested in drug-related news (Piispa 1999 and 2001; Rantanen 1997). This paper presents the main results of the first research on violence in the media (Kivivuori et al. 2002). The data included all non-fictional

crime news from the headlines of the front pages of the two national tabloid newspapers *Ilta-Sanomat* and *Iltalehti* (limited only to violence). The selected years were 1980, 1988, 1993, 1997 because the Finnish national victimisation surveys were conducted in those years, creating the possibility of comparing the media data with actual risk of victimisation and, from 1988 onwards, with fear of violence. In addition the year 2000 was analysed. I will limit this presentation only to Finnish violence coverage; other crime coverage is described shortly to help to compare the overall crime publicity of the past 20 years. Additionally, because of the pluralistic media field I will contrast the results with those on violence publicity in the editorials of the main national newspaper *Helsingin Sanomat* (Kemppi 2003).

The data of the tabloid front-pages was collected by using *content analysis*, according to a word list comprising most of the offences of the Finnish penal code, all the words related to offences such as 'victim' and 'offender', all the compounds with 'crime' and 'justice', and all the words representing the authorities (police, courts and so on). Only the *first four sentences of the main or other headlines* were considered. The data of the editorials was collected by using the same inclusion principle, with the exception of considering the *headline* or the *first sentence* of the editorial. This because it is assumed that people, even if not reading the whole editorial, at least take a look at the title and, at most, read the first sentence to have an idea of the topic of the editorial.

The research on tabloids' violence coverage aimed *primarily* to produce quantitatively descriptive data on the intensity of violence reporting in the past 20 years. *Secondly* the research aimed on developing a standardised model of content analysis for the purpose of measuring violence reporting in the press. *Thirdly* the research compared violent crime publicity with the extent of victimisation and fear of crime as measured in the Finnish National Crime Victim Survey. The study focused on contrasting the *trend changes* in crime publicity with levels of actual victimisation and fear of crime as reported by the victim surveys. The crime publicity in the editorials focused instead on discussing how changes in criminality are explained and what kinds of attitudes towards different types of crime the editorials reflect. A special interest was given to violence related texts.

The reason for taking into account two so different types of media products was to investigate and to discuss the possible differences or similarities of violence constructions. It was impossible to state a priori that the attention given to violence and criminality in general through time varies or differs between media formats, although there was the assumption that front-pages and editorials are produced and read differently. The attention and the importance given to them by the public can be very different: one represents popular crime news and the other an elitist point of view; one is aimed to sell with eye-catching news, the other focuses mainly on discussing society's policies and problems.

Furthermore the choice of front-pages is mainly explained by their high visibility in the streets; the front-pages of both tabloids can be read at every kiosk, supermarket and grocery store checkout counter in Finland. This means that the front pages are read by far more people than their actual buyers. The editorials on the other hand are a commentary type of journalism. Editorials do not merely report individual cases, as does the traditional news reporting. The commentaries express opinions and viewpoints, but also reflect how issues are conceptualised and understood. Editorials reveal what the editors and, perhaps, newspaper owners regard as 'important' issues (Estrada 1999, 65).

One of the underlying hypothesis was that fear of crime *may be* connected to the amount of crime news and articles in newspapers and/or television news: the more press talks about crimes the more people are afraid of being victims of crime. But this was not the only option. Media representations can be, yes, connected to fears, but the other way around: media might only *reflect* what people feel and fear. *Or*, the third possibility, there is a third variable influencing both media crime news and people's fears. The project of studying the

multifaceted relationships between peoples' fears and media representations has just begun in Finland, so the results should be interpreted as a starting point in a wider research to be.[31]

3 Violence reporting, victimisation and fear

As the interest in this paper is in analysing and contrasting the trends of violence-reporting with trends of violent victimisation and fear of violence in the general population, the results should be read only in relation to the differences in trend changes, that is the percentages per se should be left outside the interpretation. First, an overview of the intensity of violence reporting in the tabloids as contrasted to violence in the editorials is considered. Then I will compare these two intensity rates to people's fear of violence and real violence victimisation.

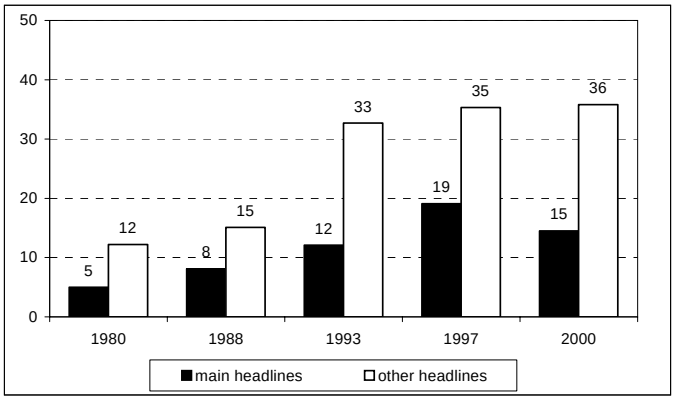
3.1 Tabloids and editorials

Headlines

As figure 1 demonstrates, the intensity of violence reporting increased quite drastically from 1980 to 2000. The main increase happened between 1988 and 1993. Main headlines – which can be only one per issue – seem to have increased in a relatively stable manner, whereas other headlines witnessed a considerable increase from 1988 to 1993. Violence in the main headlines was at its highest peak in 1997. Although there was a slight drop in the intensity in 2000, violence reporting remained higher than in 1993.

Because there can be only one main headline per issue, we can see that from the 1988, when violence as a topic was in almost every tenth main headline, the increase is to every fifth publication day in 1997. Other than main headlines – that can be more than one per day – more than doubled their reporting intensity from the 1980's, but they seem to come to a stabilisation in the 1990's. Here too the year 1997 represents the highest intensity rate. The most recent observation year suggests that the overall increase of tabloid front-page violence reporting may have saturated.

Figure 1. Headlines reporting violence in the front pages of Finnish tabloid newspapers per 100 issues in each year.



[31] Although I recognise the problems related to the term 'fear of crime', I won't go into the discussion about it in this paper. I remind the readers to take into account the wide discussion that is taken place about the problems related on how do researchers define fear and the discussion about surveys' limited results. (See e.g. Ditton 2002; Warr 2000.)

Additionally, the tabloids showed a shift to more visualised and de-localised violence reporting during the analysed period. The pictures – including both drawings and photographs – usually depicted victims or suspects. As in the 1980's the front-pages often located the violence-related news in a city or town, the decade after such geographical attributes were increasingly dropped from the headlines.

When violence reporting was compared with other offences, the difference was huge and in contradiction to reality. Comparing with property crime, traffic offences, drug-related crime and white-collar crime, violence reporting had increased almost exponentially as the quantity of other types of offences had remained stable. There are some differences – such as the increase in white-collar crime reporting in 1993 and drug-related news until 1997 – but the changes are not even close to the dramatic increase in violence. No one other crime type has had the same intensity of publicity in the tabloids as violence has.

Editorials

The editorial interest in crime related topics has also increased over the last 20 years in Finland. Compared to tabloids, this increase has been, as expected, quite modest and the interest has focused on different crime types at different times. Editorials about violence increased during the period 1980-2000; in fact they doubled from 1980 to 2000, but given the relatively small absolute numbers of violence-related editorials (as other offences too) the conclusions are extremely tentative. Even so, as with tabloids, violence commenting in the editorials has proportionally been the most argued topic in comparison to other offences. Generally the year 1997 was the most popular in crime topics, only violence and drug-related editorials' having their peek in the year 2000.

Comparing the 1980's to the 1990's, editorials show a shift in their violence-related topics. The texts focus more and more on some specific violence types (such as domestic violence and sexual assaults), on offences that have socially weaker victims (children and women) and on the most shocking and untypical crimes (e.g. organised crime, police murders). Additionally, editorials focusing on sexual crimes and family violence are a 1990's topic, whereas youth violence was an interest already in the 1980's data, returning to the editorials' topics only in the year 2000.

All the analysed years present a picture of violence that is spreading and becoming more cruel, although this is accentuated only in the 1990's texts. The reasons from which violent behaviour is seen originating have not changed: societal structure changes and childhood experiences are mentioned throughout the analysed period as the most important influencing factors on deviant behaviour. In violence prevention the importance of social networks – most of all family and school – and the general well-being of people are emphasised, although the attitudes are biased: on one side the emphasis is on "soft" measures, because it is understood, that the hardening of criminal policies is not the answer; on the other, as violence is seen spreading and toughening, the tightening of control policy is demanded. Overall the discussion and the attitudes have shifted to a more control-oriented views in the 1990's.

3.2 Media versus victimisation and fears

After the analysis of the Finnish tabloids' front-pages and the editorials of the main national newspaper, the intensity of violence reporting was compared with the actual violent victimisation rates and people's fear of violence (figure 2). During the period 1980-1997 the percentage of people who were victimised or threatened with violence remained relatively stable. More precisely, the number of violent incidents actually decreased during that period. In figure 2 the victimisation time series includes people who have been threatened. If we examined only violence resulting in physical injury, the percentage of victims would actually decreased.

Whereas the amount of violent victimisation has not changed much during the last 20 years or so, people's fear of violence has been growing. As indicated in the graphic, the percentage of population fearing violence increased from 33 % in the year 1988 to 45 % in

1997. In comparing fears and the temporal changes in it with the tabloids' reporting intensity, we can see that the trends are highly similar and move in the same direction. In addition, the period of most increase in front-page violence reporting (1988-1993) is the same where fear of violence increased the most.

Figure 2. Violence reporting in the front pages of at least one of the two tabloids (% of annual publication days), victims of violence or violent threat (% of adult population), people who fear violence (% of adult population) and violence in the editorials of the main national newspaper (% of annual publication days)

On the other hand, the editorials' intensity of violence reporting (or, better, commenting) is instead far more similar with the actual violent victimisation time series. In overall, tabloids reporting and people's fears mark an increase from the 1980's to the 1990's, highly differing at the same time from actual victimisation propensity, which is followed more by the editorials. Similarly, fears and victimisation differ from each other, as do tabloid front-pages and editorials.

4 Concluding discussion

In sum, the period 1980-2000 violence reporting in the front-pages of the two national tabloids witnessed a substantial increase; the editorials' of the main national newspaper did not follow the same trend. The proportion of the articles on violence and in general on crime remained quite low, although there was some increase in the 1990's, especially in the attitudes toward a more control-oriented criminal policy. The most recent observation (2000) suggests a saturation or stabilisation in violence reporting in the Finnish press.

As indicated by large-scale national crime victimisation surveys, there were no relevant increases in the levels of violent victimisation in the period 1980-1997; actually there was some decrease in the number of violent incidents. The research concluded that the radical increase in front-page violence reporting was neither preceded nor associated with any actual increase in violence in the Finnish population. Violence-reporting trends in the tabloids and trends of real violence in society were highly divergent, whereas the editorials seemed to follow a much more realistic trend.

However, the period 1988-1997 witnessed a remarkable increase in the fear of violence. Additionally, significant increase in fears occurred in the same period (1988-1993) as tabloids' front-pages violence reporting grew the most. The same increase in violent victimisation did not happened. Thus, both tabloid violence reporting intensity and fear of violence grew *significantly and independently* of real violent victimisation in the Finnish society.

The research had its limits. One of them is that we cannot draw any simple conclusions about the effect of violence reporting in the media on people's fears. Nor it is possible to say that tabloid violence reporting *caused* the increase of fear. However, the changes in both of the time series – fears and reporting – were quite similar. From the point of view of

explaining the increase in fear of violence, the massive newspaper reporting is only one factor (for further discussion see e.g. Smolej in this publication).

Although violence reporting may have effects on fear of crime and on the levels of general social trust and attitudes towards criminal policy, it is also possible that the relationship is the other way around: media reporting is only reflecting people's feelings, just placing different crimes "on the agenda". The research in media and fears is a tricky one, and not without many dilemmas and critics. Recently, criticism has been made especially on the use of the term "fear" in the victim surveys. This is a quite recent development in criminological – but not only – discussion and further research has to be done both on people's fears and in their relation to media representations.

References

Chiricos, Ted & Eschholtz, Sarah & Gertz, Marc 1997: Crime, News and Fear of Crime: Toward an Identification of Audience Effects. *Social Problems 3.* 342-357.

Ditton, J., with Farrall, S. & Bannister, J. & Gilchrist, E. 2002: Crime Surveys and the Measurement Problem: Fear of Crime. *In* Jupp, V. & Davies, P. & Francis, P. (Eds.) *Doing Criminological Research.* Sage Publications, London, Thousand Oaks, New Delhi. 142-156.

Estrada, Felipe 1999: Juvenile Delinquency as a Social Problem (English summary). In Estrada, Felipe: *Ungdomsbrottslighet som samhällsproblem. Utveckling, uppmärksamhet och reaktion*. Avhandlingsserie Nro 3. Kriminologiska institutionen, Stockholms Universitet.

Heiskanen, Markku & Aromaa, Kauko & Niemi, Hannu & Sirén, Reino 2000: *Tapaturmat, väkivalta, rikollisuuden pelko. Väestöhaastattelujen tuloksia vuosilta 1980-1997.* Tilastokeskus, Oikeus 2000:1. Oikeuspoliittisen tutkimuslaitoksen julkaisuja 171, Helsinki. 135-153.

Hofer, Hanns von 2000: Criminal Violence and Youth in Sweden: a Long-term Perspective. *Journal of Scandinavian Studies in Criminology and Crime Prevention 1.* 56-69.

Kemppi, Sari 2003: *Pääkirjoitusten väkivalta. Tutkimus Helsingin Sanomien pääkirjoitusten väkivaltakommentoinnista vuosina 1980-2000*. Sosiologian pro gradu –työ, Helsingin yliopisto.

Kivivuori, Janne & Kemppi, Sari & Smolej, Mirka 2002: *Etusivujen väkivalta. Väkivalta iltapäivälehtien etusivuilla, todellisuudessa ja ihmisten peloissa 1980-2000.* [English summary: Front-Page Violence. Violence reporting on the Front Pages of the Finnish Tabloid Press 1980-2000]. Oikeuspoliittinen tutkimuslaitos, 196. Hakapaino, Helsinki

Korander, Timo 1994: *Suomalaisten turvallisuuden kokeminen ja suhtautuminen poliisiin 1993.* Sisäasiainministeriön poliisiosaston julkaisuja 10, Helsinki.

Mustonen, Anu 2001: *Mediapsykologia*. WSOY, Helsinki.

Pentikäinen, Mikael 2001: Sananvapauden vaaliminen on median tärkein tehtävä. In Arolainen, Teuvo (ed.): *Turvallisuutta, draamaa ja uutiskilpailua. Yhteenveto poliisin ja vakuutusalan ajankohtaisseminaarista "Tiedottaminen, julkisuus ja oikeusjournalismi" Helsinki 15.-16.5.2001.* Poliisiammattikorkeakoulu tiedotteita 16, Helsinki. 58-67.

Piispa, Matti 1999: *Alkoholi, huumeet ja media. Viisi tapaustutkimusta päihdevalistuksen mahdollisuuksista*. Terveyden edistämisen keskuksen julkaisuja 9, Helsinki.

Piispa, Matti 2001: Sanomalehtien tarjoamat huumeviestit. *Yhteiskuntapolitiikka 5/2001*. 463-470.

Rantanen, Teemu 1997: Lehtien huumekirjoittelu. Mihin on unohtunut sosiaalinen ja psykologinen näkökulma? *Alkoholipolitiikka 3*. 201-215.

Warr, Mark 2000: Fear of Crime in the United States: Avenues for Research and Policy. *In* Measurement and Analysis of Criminal Justice. *Criminal Justice 2000*, Volume 4. National Institute of Justice, USA. 451-489.

Williams, Paul & Dickinson, Julie 1993: Fear of Crime: Read All About It? The Relationship between Newspaper Crime Reporting and Fear of Crime. *British Journal of Criminology 1*. 33-56.

THE ROLE OF PENAL RESPONSES TO DRUG PROBLEMS IN FINLAND

Kinnunen, Aarne

The Main Goals of Drug Policy

In Finland, the policy alignments related to drug issues are closely connected to the welfare model of the Scandinavian societies. Authorities in Finland and in most other countries try to prevent drug use and drug-related harm. These methods are above all:

1) Educational methods: the Government tries to increase the ability of the citizens to control their lives and to educate them on the potential danger of drugs,

2) Social and health policy methods: the Government tries to influence the circumstances underlying drug use. Persons suffering from drug-related problems are helped.

3) Control policy methods: the Government tries to control and limit drug use through law enforcement measures and the powers of criminal law. Drugs are linked to general efforts to maintain social order and norms.

Educational methods are not controversial in drug policy discussions, and it can be stated, that the strong tensions stand between social and health policy methods and control policy methods (Tammi 2002). Despite the emphasis on welfare society, Finnish drug policy has been strongly criminal-policy-oriented. Finland has firmly committed itself to international agreements. Furthermore, Finnish drug policy has considered important that authorities give a clear signal to the public, saying that drug use is not permissible or approvable. To give this signal, drug use and possession for one's own use are forbidden in the Criminal Code. Furthermore, the strict drug legislation is quite literally applied in law enforcement (Kinnunen & Kainulainen 2002).

At least four main lines of argumentation can be distinguished in the tight approach and *restrictive* drug policy that Finland has adopted (see e.g. Peltoniemi & Larmela 1998). The first one is based on *socio-cultural circumstances.* It is considered that drugs do not belong to the traditional cultural heritage of Finland – as alcohol does – and must therefore as far as possible be forbidden. The second main line of argumentation is based on *the public health approach*. It is believed that when the number of legal and permitted intoxicants is kept as small as possible, the social harms and health hazards caused to the public will also be minimised. The third line of argumentation is based on the *criminogenic properties* of drugs. It is believed that drug trade increases criminal activities in the country and enlarges the magnitude of illegal markets. Drug users support this tendency each time they purchase drugs. The fourth argumentation is based on *the tabu-nature* of drugs (Partanen 2002, 19-21). In this approach drugs are a moral problem more than anything else and drug users represent something dreadful.

According to population surveys, the majority of the population sees that a restrictive policy is the right approach to tackle drug problems in the country. In 1992, only four per cent of the total population thought that drugs should be legalised. These attitudes remained more or less unchanged through the 1990s. (Kontula 1997, 27.) In a Scandinavian study conducted in 1996, the vast majority of the respondents in Finland (82 per cent), Norway (87 per cent) and Sweden (89 per cent) thought the use of cannabis should be forbidden (Hakkarainen et al. 1996.) In a national population survey conducted in 2000, 87 per cent of the Finns considered drug dealing should be punished more harshly than now. This goes for possession of soft drugs as well (64 per cent). Up to 60 per cent thought severe punishments would reduce drug use. (Hufvudstadsbladet 28.6.2000.)

Drug issues were recently widely discussed in political life and in public when Finland elected a new Parliament in March 2003. Almost all the parties reflected the tight approach of the population and took an extremely intolerant attitude to drug issues.

Although the majority of the Finnish population and most of the political parties share quite a non-tolerant view on drug issues, social and health care efforts are also strongly promoted. During past decade there was a strong tendency to combine measures of social and health care with crime-policy measures in Finnish drug policy. Government bodies, working groups and decision-makers have tried to seek a consensus between the social and health care approach and the penal approach (Huumausainestrategia 1997; Valtioneuvoston... 1999; Valtioneuvoston… 2000).

In this paper I try to analyse how Government drug policies try to respond to the growing drug problems, what the possible effects of recent changes in drug legislation related to drug users are, and what means, according to the Finnish political parties, will be relevant when tackling drug problems in the future.

Recent Developments in Finnish Drug Policy

Since 1990, the existing indicators show a constant trend in the Finnish drug situation: drug experiments and use, as well as drug-related harms, have steadily increased during the decade. At the turn of the millennium we saw the first signs suggesting that the rapid growth in drug experiments and use is perhaps slowing down. Furthermore, in 2001 there were signs suggesting that the growth in drug-related mortality, morbidity and infectious diseases has slowed down. The rapidly growing number of new HIV infections due to intravenous drug use seems to be slightly declining, and the same applies to new Hepatitis C infections (Virtanen 2003). According to the latest population survey, the number of persons experimenting with drugs is still increasing, while the number of regular consumers has become stable (Hakkarainen & Metso 2003).

Finnish Goverment administration paid an ever-increasing attention to drug questions throughout the late 1990s. In 1996, an inter-administrative group of experts was formed in order to create a national drug strategy (Huumausainestrategia 1997). This work eventually resulted in a Government Decision-in-Principle on Drug Policy at the end of 1998 (Valtioneuvoston... 1999). In many municipalities these policy documents started a process of planning local drug strategies. The implementation of the Decision-in-Principle started on the national level in 1999. The core results of the nation-wide implementation process are linked to a Government decision on drug policy in 2000, intensifying the 1998 decision, and a supplementary budget for work with drugs was furthermore adopted (Valtioneuvoston… 2000).

The Government's Decision-in-Principle on Drug Policy (1999) emphasises the importance of both pursuing a restrictive prohibition policy and of developing the treatment system - including harm-reduction measures. According to the Decision-in-Principle:

> The goal of drug policy is to prevent drug use and the proliferation of drugs while making the individual, social and economic harms entailed by drug abuse, and related prevention, care and control measures, as small as possible.

The means how to achieve these goals were written as follows:

> The aim is to intensify drug control based on a total prohibition of the distribution and use of drugs, to prevent experiments with drugs and the use of them, as well as to provide, and promote access to, adequate care and treatment for drug abusers.

In these more or less incoherent formulations it can be seen that the Government, while still counting on a restrictive policy, is willing to develop an effective treatment system which even includes low-threshold harm-reduction measures. The same line of action was pursued in the report of the working group on drug prevention among young people (Nuorten…2000) and in the report of the working group on drug treatment (Huumausaineiden…2001). The police, the customs and the prison authorities have also produced their respective intoxicant and drug strategies in line with the 1998 Government Decision-in-Principle.

The development of low-threshold services and related training was emphasized in the treatment system, the aim being to involve clients in the system as early as possible. The harm-reduction methods in drug treatment in practice also gained success in Finland, and for instance needle-exchange programmes are fairly common in larger cities. An infection-counselling centre called the *Vinkki* is a place where used hypodermic needles can be exchanged for new ones. Almost twenty municipalities had founded such a centre by the end of 2001. Substitution treatment is also more extensive than before, and at the moment 400-500 drug users receive substitution treatment (methadone or buprenorphine).

The Role of the Police and the Penal System

The Finnish approach to drugs has been strict ever since the 1950s. Finland was the first Nordic country to criminalize drug use. This happened in 1966. However, the criminalization of drug use was always controversial. Criminalization was approved for legislation after a tight vote in 1972. Drug legislation was revised in 1994. The use of drugs still remained a criminal offence. In the revision of legislation, the central provisions on drugs were laid down in Ch. 50 of the Criminal Code. They prescribed sentences ranging from a fine to maximum two years' imprisonment. The minimum penalty for aggravated drug offence is 12 months in prison, and the maximum is 10 years.

Several amendments were made in the Pre-trial Detention Act and the Coercive Means Act in order to give the police more extensive powers to investigate drug offences. In 2001, the police were given powers to engage in fictitious purchase of drugs and undercover operations. Generally, law enforcement staff resources for anti-drug work were greatly increased in the police, customs, prosecuting and prison administrations. One proposal was dealing with the introduction of drug tests in schools and work places. But possible mass screening for drugs has aroused much debate in public. Some legislative amendments relating to drug tests in working life are, however, now in progress.

The principle of legality shall govern criminal proceedings in Finland. The police shall, according to the basic rule, investigate all reported offences. Moreover, the prosecutor is obliged to prosecute if the offender and the required evidence of the offence are at hand. However, the Finnish system of penal sanctions recognises a specific legal procedure called "waiving of measures". These provisions give the police, the prosecutor and the judge the power to waive further measures under specific circumstances, defined in detail in law. Accordingly, the law speaks of "non-reporting" (in respect of the police), "non-prosecution" (in respect of the prosecutor) and "waiving the sentence" (in respect of the courts).

Generally, if a person has used drugs or has a small amount of drugs in his possession, the police will investigate the offence. The police may in certain cases consider the investigation unreasonable, for instance if the user just started a treatment programme. Furthermore, in some cases it may be tactically beneficial for the police not to proceed with the investigation, for instance if they hope the user will give them information about more extensive drug offences. But these are quite rare exceptions. As strict as it may seem, the general policy seems to imply that it is important to maintain the deterrent effect of the penal system by investigating all crimes as far as possible (Kinnunen & Kainulainen 2002).

The police have relatively extensive powers in pre-trial investigations. The police are entitled to use several coercive measures, such as arrest and remanding in custody. The police can hold a drug user in custody for 24 hours, if seen necessary. In a study conducted in 2000, it became evident that some of these measures can be used to discipline users and the police may apply these methods as part of a "nuisance policy" to enhance the deterrent effects of the

penal system (Kinnunen 2003). For example, a search of premises can be carried out even in most minor cases of drug possession (Kinnunen & Kainulainen 2002). There seems to be a general agreement in the police force that there are no low-priority drugs or drug offences, and that all illicit substances shall be controlled by the penal system.

Reform of Drug Offence Legislation: Illicit Drug Use

An amendment of the Criminal Code (654/2001) introduced a new set of constituent elements as regards illicit drug use in Finland. The new Act, in force since September 2001, applies to persons who illegally use, possess or try to obtain small quantities of narcotic substances for personal consumption. The penalty is a fine or maximum six months' imprisonment. The penalty scale enables summary penal proceedings, implying that the prosecutor can impose a punishment (a fine) outside the court. The preliminary investigation material is in such cases less extensive than in an ordinary pre-trial investigation.

The reform tried to clarify the regulations on the waiving of prosecution or punishment in drug offences. Prosecution or punishment can, according to the new legislation, be waived if a drug offence is to be considered insignificant in respect of the amount and quality of the drugs and other circumstances. Prosecution or punishment can also be waived if the suspect has *sought* treatment specified by a Decree (290/2002) of the Ministry of Social Affairs and Health. The former law required that the person in question, in the latter case, had to *commit* himself to treatment. In September 2002, the Office of the Prosecutor-General provided the prosecutors with special guidelines as to how sanctions should be meted out in drug-user offences (VKS:2002:3).

The guidelines (VKS:2002:3) pay specific attention to two groups of drug users: young persons under 18 years of age and addicted heavy users. The guidelines stressed that:

1) As a rule, a person under 18 and arrested for a drug-user offence for the first time, must attend a hearing and cautioning that aims at withholding him from crime and refraining from sanctions. The meeting has representation from his guardian, the police and the social welfare services.
2) The police should advise all suspects of drug use on how to seek treatment, especially when dealing with problem users. In case of addicted suspects who have already sought treatment, sanctions can be waived.
3) When dealing with adults who do not need treatment, sanctions should be waived only in minor user offences at the first time – in other cases, a punishment can be imposed.

Preliminary observations suggest that the hearing and cautioning sessions with young people have been quite successfully carried out. In addition, referral to care and the waiving of prosecution on the grounds of seeking treatment have increased. The police and the prosecutors did not have any problems of attitude when dealing with referral-to-care cases or the waiving of sanctions because of application for treatment. However, penal system experts have pointed out that the lack of treatment possibilities are an obstacle to these positive attitudes (Jääskeläinen 2002).

An inherent problem in the new legislation and its implementation is the fact that the suspect in fact, in police-initiated summary penal proceedings, loses the opportunity to have his sanction waived by the prosecutor. In such cases a police investigation is too narrow for the prosecutor to weigh the criteria for refraining from sanctions. Furthermore, the decision to waive prosecution is in practice much harder to make than it is to impose sanctions (Jääskeläinen 2002).

A most interesting fact is that the new legislation does not include any *reversed presumption* of waiving the measures, as the previous legislation did. The main rule, before the law was amended, was that the prosecutor or the judge must waive the measures if there are no weighty arguments against this. Now the presumption is *the principle of obligatory prosecution.* This means that there must be a weightier argument for waiving the measures than for imposing punishment. According to the guidelines of the Office of the Prosecutor-

General (VKS:2002:3), this kind of weightier argument can be found when dealing with youngsters and addicted users. However, when dealing with adult non-addicted consumers, no such counterarguments normally exist, and a punishment can thus be imposed.

The bulk of the drug-user population does not consist of youngsters or addicted users in need of treatment. In fact, there is a new generation of recreational consumers who try to avoid addiction, health consequences, delinquent stigma, or any other problems related to drug use (Salasuo & Rantala 2001). According to the new legislation and the guidelines of the Office of the Prosecutor-General (VKS:2002:3), the great majority of the consumer population should be punished, and the ideas of *integrating* the users into society should apply only to youngsters and addicted users, not for example to recreational and habitual drug consumers. The punishment imposed is not severe, 100-200 euros on the average, but an entry into police registers can be very harmful to a person's future life.

The Finnish line of argumentation seems to contradict mainstream thinking in the European countries where alternatives to criminal sanctions are being sought (Prosecution… 2002). The impact of the new legislation in Finland is still unclear. An on-going research project, however, revealed that the provisions on drug users have been applied in a completely different way in various prosecutorial districts. In some districts, the police and the prosecutors have applied summary penal judgements and imposed fines on users. Other districts have, at least to some extent, been able to use the possibilities to waive the measures. (Kainulainen 2003.)

The Election of Parliament in 2003

As described earlier, drug users are being relatively harshly treated in the Finnish penal system. The police, the prosecutors and the judges share the similar strict and negative attitudes to drug use. Drug use is perceived as one of the most serious social problems, and public opinion strongly supports the official restrictive policy of the country. Studies conducted in Finland indicate that newspapers in general tend to report on drug issues in a criminal context, emphasising the threat that drugs pose to Finnish society. (Järvinen 1997.)

General knowledge of drugs increased in the 1990s, although very few Finns have had any personal contacts with drug users (Hakkarainen & Metso 2001, 2-3). The public discussion about drugs also increased (Piispa 2001). The debates in the election campaign for the new Parliament in March 2003 were in this respect most revealing. An MP candidate for the environment party, the Green League, openly claimed that cannabis should be decriminalized in Finland. He stressed his point by smoking cannabis near his election booth in Helsinki. The leading politicians of the Green League were immediately put under fire about the party's stand on drug policy. All the other main parties used the opportunity to appear in an upright and moral light in public and issued most restrictive and sometimes even zero-tolerance declarations against drug use. In all about 60 per cent of the candidates were in favour of stricter legislation and more resources to the police and the customs (HS 22.02.2003; 04.03.2003). Even the Green League dissociated itself from its pro-cannabis member and declared itself opposed to all forms of decriminalisation of any drugs. The main newspaper Helsingin Sanomat, before the election, didn't seem publish any opinions, statements or other materials on drug policy that were considered liberal. Generally it can be stated, that the atmosphere where the discussions were held before the election was *narcophobic.* As Juha Partanen (2002, 18) defines the term, narcophobia means an aggregate of attitudes, mass media information, and societal responses, where essential are fear of consequences of drug use, unsympathetic view towards drug users, and unwillingness to deal openly with the problem.

Table 1 expresses the statements of the main political parties. The statements are not firsthand but interpretations of the Helsingin Sanomat (22.02.2003) of how the political parties would answer the question *"Is punishing drug users the right way to reduce drug problems?"*. The interpretations are based on the parties' programmes for the election, on their statements on drug issues, and on interviews with members of the party concerned.

Table 1 Views of the main political parties in Finland on the question: *"Is punishing drug users the right way to reduce drug problems?"* Published in the Helsingin Sanomat on 22.02.2003

> **True Finns** (right wing): Hard measures and zero tolerance in drug issues. Use and possession of drugs must in all cases lead to sufficiently severe and effective punishment.
>
> **Christian Democrats:** Zero tolerance towards drug use. Treatment instead of prison should be given to criminal drug users.
>
> **The National Coalition Party** (right-wing): Keeping drug use punishable indicates society's negative attitude to drug use. Society must with determination intervene in drug problems; otherwise drugs will be more widely available and to younger persons than before.
>
> **The Swedish People's Party:** Criminalizing drug use gives a clear signal that there are dangers and risks involved in drug use. Municipalities must have enough low-threshold treatment beds to offer.
>
> **The Finnish Social Democratic Party** (left-wing): A solution implying that society signals tolerance towards drug use is a wrong message to youngsters. Those who have been convicted of drug use must have possibilities to withdrawal treatment.
>
> **The Center Party** (for agriculture)**:** Both the carrot and the stick are needed when tackling drug problems. At the same time, when drug offenders are punished, attention must be paid to the treatment and training of addicted users.
>
> **The Left-Wing Alliance**: Punishment for drug use reduces aggravated drug crime. Furthermore it gives a signal that drug use is not desirable.
>
> **The Green League**: It is justifiable to maintain the criminalization of drug use, because it reduces interest in drug experiments. On the other hand, punishing users protects the drug dealers, because it makes the consumers their partners in crime. This also makes it more difficult to seek treatment.

In the statements of the political parties we can see that the strategy planners in the parties were counting on the idea, that relying on the negative attitudes of the population towards drugs would be the best way to gain votes in the elections. There seemed to be no clear difference between the parties in terms of their standpoints on drugs. However, some of the parties stressed drug users right to treatment and withdrawal while maintain the criminalization of drug use. The clear exception was the Green League that questioned the arguments for a restrictive drug policy, while not really dissociating itself from Government policy.

The views of the political parties must be seen in the context of the electoral campaign. The parties utilised the Green League's "mistake" and interpreted populations views by taking quite precipitous standpoint. Even the Green League understood that analytic argumentation of the drug policy could possibly only worsen the situation.

Conclusion

Finnish drug policy is based on a restrictive prohibition policy, on the one hand, and on an integrative social and health policy, on the other. Policy documents and multisectorial working groups have searched a consensus between these two approaches.

Recent developments indicate that penal responses are still emphasized in the formulation of policy, although the treatment sector and harm reduction measures are gaining strength as well. The amendment of the Penal Code (654/2001) with regard to illicit drug use made it possible for the police and the prosecutors to use a summary penal judgement, instead of taking cases to the court. This in fact restricted the possibilities to waive measures, as it turned the presumption around so that there must be special reasons to waive the measures. These reasons are easy to find if the user is young and first-timer or addicted, but more difficult to find if he is, for instance, a recreational or habitual drug consumer. In this sense Finland has chosen a fairly strict approach compared with most other European countries (Prosecution…2002).

A strict criminal policy is supported by a majority of the Finnish population. The strict approach was disclosed when the political parties declared their standpoints in the campaign for the election of Parliament in March, 2003. All the parties strongly supported a prohibitionist policy, and many of them were ready for actions of the zero-tolerance type. The Green League was the only party to question the principal arguments for a restrictive drug policy. The March 2003 election was the first time when drug issues were openly discussed in public. This probably had positive effects in terms of cleaning up the air and giving an impetus to more honest considerations. We are still waiting for honest and open discussion about the role of penal responses to drug problems in Finland.

Despite its aspirations to create an integrated and holistic approach, aiming at *including* users in society, the strict drug policy tends to *exclude* them from society (Young 1999; Garland 2001). It is evident that drug users face a risk of exclusion from education, employment and housing. Many risks of social exclusion are further exacerbated by addiction problems. Penal responses might deepen this tendency. It is possible that drug problems in Finland have become a permanent part in the accumulation of risks of social exclusion. The Finnish consensus policy still has a long way to go when it tries to find a balance between the two contradictory approaches.

References

Garland, David (2001): The Culture of Control. Crime and Social Order in Contemporary Society. Oxford University Press, Oxford.

Hakkarainen Pekka, Hübner Lena, Laursen Lau & Ødegård Einar (1996): Drug use and public attitudes in the Nordic countries. NAD publication 31.

Hakkarainen Pekka & Metso Leena (2001): Onko huumeiden käytön yleistyminen taittumassa? (Is the increase in drug use being interrupted?) Yhteiskuntapolitiikka 66:3.

Hakkarainen Pekka & Metso Leena (2003): Huumeiden käytön uusi sukupolvi (The new generation of drug users). Yhteiskuntapolitiikka 3/2003.

Heinonen Risto & Hannula Ilari (1999): Valvonta tietoyhteiskunnassa (Control in Information Society). Edita.

Helsingin Sanomat 22.2.2003: Poliitikot: Lisää hoitopaikkoja (Politicians: more beds for treatment.)

Helsingin Sanomat 4.2.2003: Vaaliehdokkaat kannattavat ankarampia rangaistuksia (Election candidates go for harsher punisments).

Hufvudstadsbladet 28.6.2000. Finländare kräver strängare straff (Finns claim more severe punishments).

Huumausaineiden ongelmakäyttäjien hoitoa kehittäneen työryhmän muistio (Report by the Working Group for Developing Efforts of Treating Addicted Drug Users). Sosiaali- ja terveysministeriö. Helsinki 2001.

Huumausainestrategia 1997 (Drug Strategy 1997). Komiteamietintö 1997:10. Sosiaali- ja terveysministeriö. Helsinki.

Jääkeläinen Petri (2002): Seuraamuksen määrääminen huumausaineen käyttörikoksesta (Deciding on criminal sanctions for drug users. Haaste 2/2002

Järvinen Saija (1997): Rhetorics of the drug issue in a Finnish afernoon tabloid: constructing the drug problem. Alcologia, 9(3), pp. 195-201.
Kainulainen Heini (2003): Asiantuntijakuuleminen 20.5.2003 huumausaineen käyttörikosta koskevasta uudistuksesta. (Hearing of experts on the reform of drug-user offences)
Kinnunen Aarne (2003): Intensified police drug control in the metropolitan Helsinki area. In Pedersen Esben Houborg & Tigerstedt Christoffer (ed.): Regulating drugs – between users, the police and social workers. NAD publication 43 (forthcoming).
Kinnunen Aarne & Kainulainen Heini (2002): Finland. In prosecution of drug users in Europe. Insights series 5. European Monitoring Centre for Drugs and Drug Addiction.
Kontula Osmo (1997): Huumeet Suomessa 1990-luvulla. (Drugs in Finland in the 1990s). Sosiaali- ja terveysministeriön monisteita. Helsinki.
Nuorten huumeiden käytön ehkäisytoimikunnan mietintö (Report by the Committee for Preventing the Use of Drugs among Young People). Sosiaali- ja terveysministeriö. Komiteamietintö 2000:3.
Partanen Juha (2002): Huumeet maailmalla ja Suomessa (Drugs in world and in Finland).
Peltoniemi Teuvo & Larmela Timo (1998): Kahta mieltä kannabiksesta. Prevnet, A-klinikkasäätiö. Saarijärvi 1998. 83 sivua. Hinta 70 mk.
Piispa Matti (2001): Sanomalehtien tarjoamat huumeviestit (How the Press Communicates on Drugs). Yhteiskuntapolitiikka 66:5.
Salasuo Mikko & Rantala Kati (2002): Huumeiden viihdekäyttö ajan kuvana (Recreational drug use as a sign of the times). In Kaukonen Olavi & Hakkarainen Pekka (ed.): Huumeiden käyttäjät hyvinvointivaltiossa (Drug users in welfare society). Gaudeamus, Helsinki.
Tammi Tuukka (2002): Onko Suomen huumepolitiikka muuttunut (Has Finland's drug policy changed?) In In Kaukonen Olavi & Hakkarainen Pekka (ed.): Huumeiden käyttäjät hyvinvointivaltiossa (Drug users in welfare society). Gaudeamus, Helsinki.
Valtioneuvoston periaatepäätös huumausainepolitiikasta (Government Decision-in-Principle on Drug Policy). Sosiaali- ja terveysministeriö. Julkaisuja 1999:4.
Valtioneuvoston päätös huumausainepolitiikan tehostamisesta (Government Decision on the Intensification of Drug Policy). Valtioneuvoston yleisistunto 5.10.2000.
Virtanen Ari (2003): National Report on the Drug Situation in Finland 2002. Statistical Report 3/2003. National Research and Development Centre for Welfare and Health, Stakes.
Young Jock (1999): The Exclusive Society. Social Exclusion, Crime and Difference in Late Modernity. Sage Publications.

THE DETERRENCE OF PUNISHMENT

Kristinsdóttir, Kristrún

Introduction

In this paper I will discuss an amendment of the Criminal Code in Iceland that took place in 2001, where the maximum punishment for drug offenses was raised from 10 to 12 years imprisonment. The proposal was debated a lot both in the parliamentary assembly, where it was discussed for days, it was widely covered in the media and discussed both among the public and experts.

The proposal apparently raised many questions, both practical questions on the utility of punishment and more fundamental questions on crimes and punishment in general, such as 'what is the justification for punishment' and 'can more severe punishment be justified', that is the questions of why we punish and how much to punish. Here I will focus on the question if a justification can be found to raise the punishment for drug offenses. In order to look for an answer to that question, I will explore the generally accepted theories on legal punishment.

First the theories of legal punishment will be described shortly, especially with a view on how punishment may be justified according to each main group of theories of punishment in general. Then the change in the court practice and the law in Iceland towards harsher punishment for drug offenses will be explained along with the arguments put forward in the debate in Iceland when the proposal for the amendment was introduced. The grounds for the justification of this law amendment will be discussed in the light of the theories of legal punishment leading to my conclusion that the amendment may only be justified on utilitarian grounds and with the focus on the general deterrent effect of punishment.

At last the numbers of persons charged with drug offenses before, during and after the change in the Icelandic Criminal Code will be explored in order to evaluate the results of the change. While looking at the numbers of Icelandic offenders and foreign offenders separately I will reflect on whether this use of general deterrence is effective when it comes to cross-border crimes. Some decrease in numbers of Icelandic offenders will be found while the numbers of foreign offenders go up. I will find that more deterrence could be created in Iceland than abroad, mainly because of the limited flow of information abroad. I will conclude that in light of the difference between the groups, the decrease in numbers of Icelandic offenders is more likely to be caused by general deterrence than other factors. If this is true the law amendment may be justified on utilitarian grounds.

Theories of legal punishment

Theories of legal punishment fall into two main classes. The forward looking theories, the utilitarian ones, focus on the good consequenses of punishment, whereas the backward looking, retributive theories focus on responding appropriety to the offense committed. In the constant debate on the justification for legal punishment, or whether there is one, it has been stated that the ideal theory on punishment would need to be able to support with arguments that all the guilty and only the guilty may be punished. As frequently has been pointed out the utilitarian view on punishment may in some cases justify that the innocent may be punished and punishment meted out does not necessarily have to be proportionate to the guilt of the offender, the offender is treated as means to an end for the greater good of all men. If we follow those consequentialist theories, including theories which focus on rehabilitation of the offender, we may need to rely on the deterrent effects of punishment for justification. The answer to the question how much to punish with the utilitarian view would be subject to which consequenses are desired.

On retributivist theories punishment is primarily based on retaliation. The punishment is necessary because the offender is guilty and imposed only because of the crime and the

offender, not to serve other purposes as the utilitarian view calls for, the offender is treated as an end, not merely as a mean to an end. We may punish in order to show respect for the offender, making him responsible for his actions, to show respect for the victim and to show the community respect by condemning immoral behaviour through punishing the criminal. We may only punish the guilty and we must punish all the guilty. The answer to the question how much to punish with the retributivist view, is that the punishment should be proportionate to guilt, should fit the crime, and therefore it would in a way have to reflect society's views on what sort of treatment is deserved by an offender, given the crime he has committed. The justification for the punishment is basically that it is deserved.

The Law Amendment and the Arguments of the Debate

The specific case I will discuss in the light of the above mentioned theories of legal punishment is the amendment of the Criminal Code in Iceland that took place in 2001, where the maximum punishment for drug offenses was raised from 10 to 12 years imprisonment.

According to Article 173. a of the Icelandic Criminal Code, no. 19/1940, as amended by Law no. 32/2001, a person who in breach of the Act on Drugs gives drugs to persons or hands drugs over to a person in exchange for considerable amount of money or in another special criminal way, shall be imprisoned for a period not exceeding 12 years. The same punishment shall be given to a person who in breach of the Act on Drugs manufactors, makes, imports, exports, buys, hands over, receives or possesses drugs with the purpose of handing it over in exchange for considerable amount of money or in another special criminal way.

Historically drug offenses were first punishable under Icelandic legislation in 1923, but the provisions were a part of a special legislation on drugs, among provisions on medical drugs. In 1974 the Criminal Code was amended and Article 173. a was inserted by Law no. 64/1974, with Danish legislation as a model and the upper limits of punishment was set at 10 years imprisonment. The change I will discuss here was the amendment of this provision in 2001, where the maximum penalty was raised from 10 to 12 years imprisonment.

To support the proposal for the amendment of the Criminal Code a number of decisions of the Supreme Court of Iceland and some decisions of two of the District Courts in cases where punishment was meted out under Article 173. a, were introduced. The Court practice shows that the sentences were gradually rising, from 2- 3 years for importing drugs in 1982-1983, to 5 years in 1987, to six years in 1997 and finally up to 9 years in lower court in the year 2000 confirmed by the Supreme Court in February 2001, just before the law amendment. The cases are not identical and can not be compared as such, the more recent cases involved big numbers of MDMA or ecstacy, the last case mentioned involved over 14.000 tablets, while the earlier cases involved mainly hassish and cocaine. The trend of the Courts to use harsher punishment than before is nevertheless obvious. In the proposal for the amendment from the Minister of Justice, special emphasis is given to the seriousness of these offenses and the evaluation of the Courts to use harsher punishment is supported. It is stated that even though every possible means are used to prevent criminal activity of this kind the legislation must assume for appropriate punishment for even more serious crimes than we have experienced before. The proposed change should not alone lead to harsher punishment for drug offenses, but was meant to give the Courts the scope they need to mete out the punishment they may find appropriate, as the proposal said. From the wording of the proposal and the arguments put forward in the debate by the supporters of the proposal, it is nevertheless evident that the purpose is of preventive nature, where harsh punishment is regarded as one of the means in the fight against drug crimes.

In the cited Court decisions, supporting the amendment, the wording of the reasoning seem to change, from more retributive in the early eighties with the weight on the criminal intent of the offender and the offenses being committed with the aim of financial gain, to the recent ones which focus on that the crimes are serious mainly because of how dangerous the drugs are and the large quantity of the drugs imported to Iceland. In general it is rare to find reasoning in a judgment that is entirely utilitarian or entirely retributive, generally there

would be elements of both in the reasoning, and the theories that may justify the punishment are hardly ever mentioned when the punishment is meted out. The penal system in the Nordic countries has been described as a combination between general and special deterrence with elements of retribution.

The Justification for the Amendment

The need for a justification

If we are of the opinion that punishment as such, is a necessary evil, it should not be imposed unless it can be justified. As described above the justification may be different depending on which theory we follow, we may either find the most important factor to be that the offender gets what he deserves or that the most important thing is that it serves the purpose of the greater good for all to punish. One may ask what difference does it make to find the justification for punishment in each case, that is, why we punish. Why not use a combination of all these valid arguments and find the ultimate justification for punishment? In my opinion it is essential that there is no doubt about why we punish. One of the reasons for this opinion is that the answer to the question, how much to punish, depends on the justification.

The retributive justification

Before the question, whether justification for the amendment may be found in the retributive theories, can be answered, I find it necessary to give a brief overview of the social and legal environment in Iceland. The country is inhabited by approximately 288.000 people. Over half of the population resides in Reykjavík and it's surrounding towns and Reykjavík is the only city in the country. Crimes like burglary, theft and assaults are becoming more visual in the city in recent years, along with what seems to be increase of the use of drugs. Murders are very rare, maybe 1-3 a year, unsolved crimes are rather rare and the crime rate seems to be under the average in Europe. The Icelandic Criminal Code gives somewhat wide range of penalties for each offense. It is customary that the courts sentence near the lower limits in almost every category. For example the penalty for murder ranges from 5 years to life in prison. Murderers would normally get 8-12 year sentences. Life imprisonment has never been used. Sentences tend to be very short, measured in weeks or months rather than years. Approximately two-thirds of Iceland's prisoners are serving sentences of three months or less, few have been serving sentences of more than one year, but the numbers are going up in recent years. Less than 10% of those who were released in the year 1995 had served more than one year imprisonment while almost 18% of those released in 1999 had served more than one year. Still, imprisonment rates in Iceland, approximately 40 per 100.000, are among the lowest in the world. In short, prison sentences are neither long nor harsh in Iceland.

As I said before, the answer to the question how much to punish with the retributive view, is that the punishment should be proportionate to guilt, should fit the crime, and therefore it would in a way have to reflect society's views on what sort of treatment is deserved by an offender, given the crime he has committed. In view of the described tradition of legal punishment in Iceland, imprisonment for ten or twelve years seem to be extremely harsh punishment. This amendment of the Criminal Code seems not to have been called for by the public. In fact the public has after the amendment loudly opposed the disproportion between punishment for drug offenses and the punishment for other crimes, notably sexual crimes and violent crimes, where we see punishment range from few months to a few years imprisonment. In Iceland, like we would see in any other country, the loudest voices call for the lower punishment to be raised, not the other way around, but basically it is the nonconformity that make people angry. In view of this I dare to state that the amendment can not be justified with recourse to retributive arguments.

The utilitarian justification with focus on special deterrence

While the utility of general deterrence may be gained by harsher punishment, the same can not be said when it comes to the individual. The special deterrence of punishment, the desired end, the greater good, seems better to be reached by more lenient punishment. It was pointed out in a recent study of recedivism in Iceland, that this element, the special deterrent element of harsh punishment, may have been highly overrated. This study shows that in every catagory, after accounting for different caracteristics of the offenders, the more lenient punishment used, such as suspended sentences and community service, the individual was less likely to reoffend and those exposed to harsher punishments, such as imprisonment, were more likely to reoffend.

Among the arguments put forward by the opposition in the parliamentary debate against raising the upper limit of maximum punishment for drug offences, were the results of this study, that shows that harsher punishment seem to increase recidivism, thus undermining the alleged special deterrence effect of harsher punishment. A review of past recidivism studies shows that recidivism rates tend to be very similar in different countries, independent of the crime rate found in these same countries. The special deterrence seems to be unable to justify harsher punishment with a utilitarian view, when the utility of the individual deterrent of the punishment is shown to be a constant of 35% to 45% recidivism rates in general, no matter how harsh the punishment is, and certainly would not suggest harsher punishments as a means to lower crime rates.

The utilitarian justification with focus on general deterrence

Again, one of the main arguments for harsher punishment is the widely accepted view that punishment deters crimes and the harsher the punishment the more general deterrence can be gained. In the debate in the Icelandic Parliament the proposal for the amendment was supported by those arguments. Conditions for making use of the general deterrence effect were good, since this change of legislation was debated in the media a lot and news of harsh punishment announced widely in Iceland, the change was made very apparent to the Icelandic public.

As said before, I believe that it is important to know why we punish, because the answer to the question how much to punish depends on what the justification for the punishment is. As discussed above retribution would not in this case call for such harsh punishment given how much is punished for other crimes in the society. The amendment can therefore not be justified on retributive grounds. Harsher punishment seems to increase recidivism rates so justification can not be found in arguments for special deterrence. This amendment can in my opinion only be justified with the utilitarian view of creating the desired general deterrence. This is supported by the outspoken intent of the government to clear the country of drugs, for the greater good of all.

The Results in Numbers

Now, after this speculation it might be interesting to take a look at the development following the change in court practice towards harsher punishment for drug offenses and the amendment of the Criminal Code. The numbers below are the numbers of all persons charged with any kind of drug offenses in Iceland in the years 1995-2002. The numbers are divided by the nature of the offences the persons were charged with under the police investigation.

Year	Art 173.a	Distrib. sale	Import	Poss. use	Product	Other	Total
1995		36	143	137	1	131	448
1996	3	97	88	858	19	145	1210
1997	4	52	43	669	12	103	883
1998	1	69	51	704	8	93	926
1999	3	121	86	1083	29	154	1476
2000	5	85	51	777	17	108	1043
2001	2	81	66	872	12	131	1164
2002	5	123	67	1049	13	125	1382
Total	23	664	595	6149	111	990	8532

The numbers show an increase of the numbers of persons charged with drug offences, from 1995, with a peak in the year 1999 in almost every catagory, the numbers falling in the years 2000 and 2001 and then going up again in 2002. As shown the charges for importing drugs have dropped from 86 in the year 1999 to 67 in 2002 and charges for possession dropped from 1083 in 1999 to 777 in 2000, then up to 872 in 2001 and 1049 in 2002. The numbers for distribution show the same trend, from 121 in 1999, down to 85 in 2000 and 81 in 2001, and then up again to 123 in the year 2002.

In view of this it may be argued that the reduction of drug crimes following the year 1999 is a sign of effective general deterrence caused by much general media coverage in 1999 on the cases where the courts meted out more severe punishment than known before followed by the amendment of the Criminal Code, where the maximum penalty for drug offences was raised from 10 years to 12 years imprisonment, which was generously covered by the media until the spring 2001 when the new law passed, but rarely after that. Bearing in mind that the discussion above led to the conclusion that the only justification for the amendment of the Criminal Code was to create active general deterrence with the aim of reducing drug crimes, import of drugs in particular, the amendment may seem to have been successful. The fact that the numbers go up again as soon as the media loses interest in the subject in 2002, seems to support this theory.

The debate is still alive among certain groups, a politician, supporting the amendment, has earlier this year in a journal published by law students, cited the information from the National Commissioner of the Police, that in the year 2002 only 781 ecstacy tablets were confiscated, but in the year 2001 the number was 93.715, other drugs were not mentioned in the article. The politician then argues that this is an indication of the effective general deterrence created by the law amendment. The importance of this argument must be viewed in light of the fact that, 67.485 tablets were found in one case in 2001. That is the only case to this date where the new upper limit has been used following the amendment in the year 2001, where 12 years imprisonment was meted out in lower court as the appropriate punishment for carrying 67.485 tablets of MDMA at the Keflavík airport. The offender was a foreigner and his intent was to import the drugs to the USA, he was just passing through Iceland on his way there. The majority of the Supreme Court of Iceland changed the punishment to 9 years imprisonment in May 2002, the minority of the court voting for 10 years.

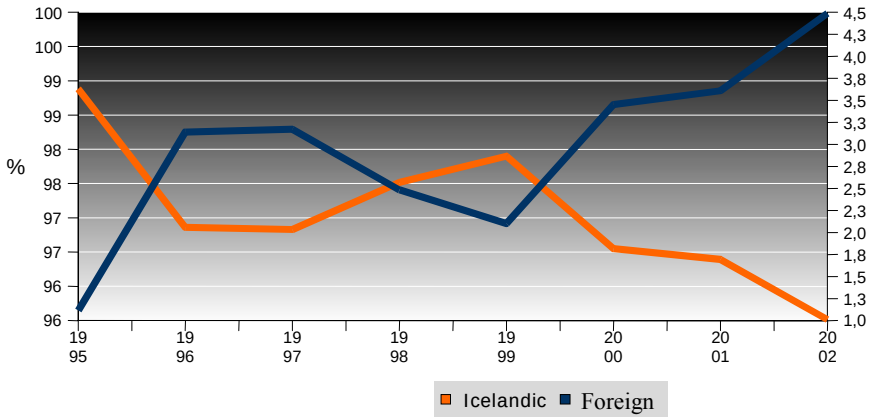
Above we find reduction in numbers of drug offenses that indicate that the amendment was successful. Those numbers can however not convince us that this is mainly caused by general deterrence effects and not other factors that may have as much impact. In order to try to isolate the deterrence factor I choose to look next separately at the numbers of Icelandic offenders and foreign offenders in the figures above.

Deterrence Works Best at Home

It lies in the nature of the general deterrent effect of punishment that it only works as a deterrent if the punishment is known to the future offenders. While in earlier centuries people were punished in the streets, whipped or even executed, now the media serves the same purpose as a reminder of the existence of punishment for the public. The utilitarian justification for more severe punishment that can only be justified because it creates general deterrence, relies on that the knowledge of future offenders is a significant factor in the increase or decrease of offences. If we believe that the media coverage generated deterrence effect among the public, that prevented some future offenders from taking the risk of committing drug crimes, those needed to be persons who the media could reach. Icelandic media is in the Icelandic language, which is understood by the 288.000 Icelanders and a few other persons. Amendments in Icelandic legislation and Icelandic crime policy is in general not covered by international media. Therefore it is safe to say that foreigners in general had little opportunity to know of the penalties for drug offenses in Iceland.

By looking at the number of cases of drug offenses before, during and after the change, divided by the nationality of the offender we can see that the numbers of Icelandic offenders have decreased. On the other hand the figures show that the offenders of foreign nationality seem to have increased in numbers.

Year	Icelandic	Foreigners	Total		Icelandic	Forei.
1995	443	5	448	%	98,9	1,1
1996	1172	38	1210	%	96,9	3,1
1997	855	28	883	%	96,8	3,2
1998	903	23	926	%	97,5	2,5
1999	1445	31	1476	%	97,9	2,1
2000	1007	36	1043	%	96,5	3,5
2001	1122	42	1164	%	96,4	3,6
2002	1320	62	1382	%	95,5	4,5
Total	8267	265	8532			



The figures show that in the year 1995 five foreigners were charged with drug offenses in Iceland. In 1999 there were 31 foreigner and in the year 2002 the number of foreigners charged with drug offenses in Iceland is 62. The proportion foreigners compile of all drug offenders in Iceland increased from being only 1,1 % in the year 1995 up to full 4,5% in 2002, as shown above.

A few foreigners seem to play important role in the war on drugs in Iceland, unintentionally without doubt. Before I have mentioned two Supreme Court cases, one before the law amendment in February 2001 and the other after the amendment in May 2002, the punishment was 9 years imprisonment in both cases, involving in one case over 14.000 tablets of ecstacy and in the other over 67.000 tablets. In both cases the offenders were foreigners, captured in transit at the airport in Iceland and the intent of both was to bring the drugs to the USA for distribution there. Now reflecting on the justification again, deterrence by harsh punishment through legislation, with the aim of stopping import of drugs to Iceland. The irony is that those who received the most severe punishment assumingly had no knowledge of the penalties in Iceland for drug offences and their crimes had nothing to do with the drugs on the market in Iceland. It may be stated that the example made of those foreigners had through the media coverage of their cases, in fact general deterrence effect on drug offenses in Iceland.

Discussion

The numbers above that show some decrease in drug offences in general in Iceland may indicate that the knowledge of severe punishment reached some local future offenders effectively. Obviously other means used in the society to fight the use of drugs, not covered here, can play an important role. Those means, along with more police surveillence, should affect both Icelandic and foreign offenders. The difference between nationalities may best be explained by the fact that the information necessary to deter from drug crimes did not reach the foreigners, at least not as quickly as the Icelanders.

In short I believe the numbers show that the amendment did have general deterrence effect in Iceland and that deterrence works best at home at the time when the discussion of the punishment is active. Only two years have passed since the law amendment and we can already see the numbers of offenders go up again. The fact that the numbers of foreigners increase in this lapse of time remains unexplained. I will take the liberty to make a wild guess regarding the reason for this. Numbers of offenders captured while trying to import drugs are apparently working for others, as ‘mules’. Maybe foreigners can more easily be hired as mules than Icelanders, or for less money, after the punishment was raised, since the Icelanders knew of the more severe punishment, while the foreigners didn't. The information, that it is not advisable to take drugs to Iceland, may with time spread out among foreign drug traffickers. I will not hold that general deterrence is never useful to fight cross-border crimes but I find it obvious that this view is less effective the more distance there is between the offender and the information of the punishment.

Earlier in this paper, when describing the theories of legal punishment I stated that when punishment is justified with the utilitarian view the offender may be used as a mean to an end and it may be justified to punish in order to reach a greater goal. Then I have argued that the only justification for this law amendment is the utilitarian one with the focus on general deterrence. The punishment being much more severe than the retributive view on deserved punishment can justify, I believe that the notion of fairness of many was disturbed, causing the big debate in the society. Furthermore I believe this case to be an example of the use of an offender as a mean to an end. The answer to the question, whether we find that such use of punishment can be justified, will depend on which theory of legal punishment we support.

Reykjavík, August 2003

List of References:

The Supreme Court of Iceland, registers 1995 - 2003.

Statistics from the National Commissioner of the Police, 2003

Alþingistíðindi 2000-2001; The proposal of the Minister of Justice and the parliamentary debate.

Alþingistíðindi 1940; Explanatory report to the Criminal Code.

Úlfljótur 2003; Markmið refsinga: Ragnheiður Bragadóttir (p.97-100), Þorgerður Katrín Gunnarsdóttir (p.105-107)

Ársskýrsla Fangelsismálastofnunar ríkisins 1999 (Yearly report of the Directorate of Prisons and Probation 1999)

Does Neoclassism Motivate Sentencing in Sweden but not in Norway, Eva Stenborre, dissertation introduced at NSfK's Research seminar in Latvia 2001

Réttlæting refsinga, hvað ef nokkuð, réttlætir refsingu ríkisvaldsins; Tímarit Lögfræðinga, (The Lawyers Journal), No. 4, December 1998; Kristrún Kristinsdóttir

Crime, shame, and recidivism; The British Journal of Criminology, London, Winter 2002, Volume:42, Issue:1; Eric Baumer; Richard Wright; Kristrún Kristinsdóttir; Helgi Gunnlaugsson

Ítrekunartíðni afbrota á íslandi, Reykjavík 2001. (Recidivism in Iceland: Research on Reoffending after Completion of Punishment, ISBN 9979-9489-8-1; Eric Baumer, Helgi Gunnlaugsson, Kristrún Kristinsdóttir and Richard Wright.)

Ítrekunartíðni afbrota á Íslandi (Recidivism in Iceland). Tímarit Lögfræðinga (The Lawyers Journal), No. 1, Vol. 51, April 2001; Eric Baumer, Helgi Gunnlaugsson, Kristrún Kristinsdóttir and Richard Wright.

NON-PROSECUTION IN DENMARK: A SOCIOLOGICAL ANALYSIS OF WAIVING AND WITHDRAWING CRIMINAL CHARGES - INITIAL FINDINGS

Kruize, Peter

Summary

Danish criminal procedure allows prosecutors to decide whether or not to proceed with criminal cases, i.e., the expediency principle. This paper describes and analyses cases of non-prosecution. Special attention is paid to the procedures by which suspects become officially charged, and to the reasons why charges may be waived or withdrawn. National statistics indicate the overall frequency of relevant cases in Denmark. The empirical analysis of the context in which such decisions are made is conducted with data from two police districts.

1. Under suspicion

Most registered crimes are reported to the police, but the police also detect violations of the law. In general may we state that crimes are reported when someone is aggrieved, while crimes detected by the police are without a direct victim. When the police detect crime, (some of) the suspect(s) is generally known as well. In case the police, for example, intercept a transport of narcotics they arrest the smuggler. It is, however, not said that other persons of the criminal network are arrested as well. When a crime is reported to the police the circumstances are different. Sometimes – mostly in cases of crimes of violence – the victim or a witness may point out a suspect, but in the majority of cases no suspect is known. In Denmark, around half a million Penal Code violations are registered and in ca. 20% of the cases a suspect is charged.

In most cases there is no doubt whether a suspect should be charged. There are, however, cases in which it is not obvious whether a person under suspicion should be charged. According to Section 96, Part 2 of the Administration of Justice Act, the prosecution service has the duty to prevent prosecution of innocent persons. This includes not charging persons on evidence that is too thin (Smith, 1994: 102). Being charged for a criminal act provides the suspect with some rights – the right to remain silent[32], inspection of documents and the right to a solicitor – but at the same time it is considered insulting. It is therefore difficult to judge whether the suspect's interests are best served by a formal charge.

Public prosecutors tend to say – in general – that a suspect has to be charged in cases of doubt.[33] To provide the suspect his rights is the main reason for this response. The social and psychological burden of being charged is wiped away with the remark that people misinterpret the meaning of being charged. Contrary to public opinion, being charged does not mean the suspect is guilty. A more specified question causes a more carefully balanced answer from public prosecutors. What to do, for example, in case a male employee in a kindergarten is accused of a sexual offence with one of the children? Charging the employee will – beside the psychological pressure – ruin his career. It seems that there is not a standardized routine in handling these kinds of cases. All prosecutors agree that such a case has to be handled with care, but they suggest different solutions. Some will interview the suspect without charging him, but underscore that he is not obliged to answer. Others will

[32] Also when a person under suspicion is not formally charged (s)he has the right to remain silent.

[33] Several interviews with public prosecutors are conducted.

first try to verify the accusation by investigating other sources, and on the basis of the outcome decide whether to charge the suspect.

In daily practice it is a police decision to charge a suspect. In exceptional cases, like the above example, it is common practice to consult the prosecution service first. When the suspect is not charged, the police may put the case aside (referring to Section 749 of the Administration of Justice Act). When the suspect is charged, the case has to be settled by a public prosecutor. Exceptions to this rule are violations of Special Laws and the Road Traffic Act, which are settled by police officers under the supervision of a public prosecutor – typically the Deputy Chief Constable.[34]

2. Danish criminal procedure

The public prosecution service has to look for the objective truth and therefore waive criminal charges in cases where sufficient evidence is lacking (Greve, 1996: 140). The criminal procedure for waiving criminal charges is described in the Administration of Justice Act in Section 721.

Section 721[35]
Charges may be (partly) waived in cases where
1) The charge has shown to be unfounded,
2) Prosecution is not likely to result in finding the suspect guilty, or
3) Prosecution of the case will lead to complications, costs or time schedules, which are not reasonable, related to the importance of the case and the expected punishment in case of prosecution.

In cases where sufficient evidence is present, criminal charges may be withdrawn according to the expediency principle. According to this principle, the question of whether to proceed with criminal charges must be balanced against other relevant factors, e.g. characteristics of the suspect (age, mental abilities) and/or resources of the prosecution service and the court. The procedure for withdrawing criminal charges is described in Section 722 of the Administration of Justice Act

Section 722[4]
Charges may be (partly) withdrawn in cases where
1) The crime may not be punished by more than a fine according to the law and the incident is of minor character,
2) Under the condition that the suspect undergoes help or treatment,
3) The suspect is under 18 years of age at the time of the crime,
4) The suspect is charged for a crime which was committed before the suspect is to be punished for (an) other crime(s) and the current crime is unlikely to change the verdict,
5) Prosecution of the case will lead to complications, costs or time schedules which are not reasonable related to the importance of the case and the expected punishment in the case of prosecution,
6) The law contains special arrangements for withdrawing the charges,

[34] "The Chief Constable is responsible for the control and direction of the police as well as for the discharge of policing duties within the district. In addition he is the prosecuting authority in district courts. The Chief Constable is assisted by a Deputy Chief Constable and by a number of Prosecutors – all of whom are attorneys." (The Police in Denmark, 1992: 27)
[35] An official translation of section 721 and 722 does not exist. The translation presented is not to the letter, but to the spirit of the sections. References to other sections are avoided.

7) This is the result of regulations by the Minister of Justice or the Director of Public Prosecution.

Part 2. In other cases charges may only be withdrawn if there are special extenuating circumstances or other special conditions and charges are not demanded by public interest.

Every time a suspect is officially charged for a criminal act, the public prosecution service has to settle the charges. In Denmark the prosecutor may settle the charges independently of the court – extra judicially – by waiving or withdrawing the charges or by a fine. In case the suspect does not accept the fine, the case will end up in court. Conditional withdrawal of the charges has to be accepted by the court. For Penal Code violations, about 50% of the settlements by the public prosecution services are extra judicial.

3. The waiving criminal charges

The waiving of Penal Code charges increased during the period 1995-2001 from 17.5% in 1995 to 22.6% in 2001 (see Table 1). Charges of Road Traffic Act violations are rarely waived. Also charges of Special Laws violations are – compared to Penal Code violations – seldom waived.

Table 1: Waiving of charges in criminal cases (1995-2001)

	Penal Code		Road Traffic Act		Special Laws	
	Number of cases	Percent of settlements	Number of cases	Percent of settlements	Number of cases	Percent of settlements
1995	10,605	17.5%	420	0,5%	622	2,9%
1996	10,795	18.8%	370	0,4%	682	3,4%
1997	10,570	19.1%	354	0,4%	733	3,8%
1998	11,133	20.0%	326	0,4%	508	2,6%
1999	11,135	20.8%	304	0,4%	581	3,4%
2000	11,487	21.9%	291	0,3%	503	3,0%
2001	11,868	22.6%	369	0,4%	643	3,8%

Source: Statistics Denmark

Penal Code violations are typically split into four categories: offences against property – which is by far the largest category – followed by crimes of violence and sexual offences. The fourth category consists of Penal Code violations that do not fit in one of the other categories, e.g. drug smuggling. In the period 1995-2001, an average of around 17% of the charges for offences against property were waived, while the percentage for crimes of violence was around 25%. Sexual offences had the highest percent of charges waived - around 38%.

To understand the overall rise in the waiving of charges concerning Penal Code violations, a more detailed review is necessary. Most reported crimes are labeled as offences against property. In 1995, there were 48,219 settlements for this type of crime. By 2001, this number had been dropped to 37,755. When considering the absolute number of charges waived in cases of offences against property, it appears rather stable over the years 1995-2001 – at about 7,000 per year. Logically then, the other kinds of settlements must have fallen over the years 1995-2001, since the total number fell. This is true for prison sentences and fines as well.

The most likely explanation for this tendency – a stable number of waived charges combined with a falling number of other settlements – is as follows. The number of reported offences against property fell over the years 1995-2001. The police often clear a reported crime because the public is able to point out the offender. When the number of reported

crimes drops, the number of offenders pointed out drops as well. This reasoning is supported by the example of shoplifting cases, which is a classic example of a crime where the offender is known when the crime is reported to the police. In 1995, the number of settlements, mainly fines, for shoplifting was 18,033; by 2001, that number had dropped to 12,764.

The stable number of police officers may explain the fact that the number of waived charges remained stable during the years 1995-2001. Since the capacity of the police to investigate crimes was the same over the years 1995-2001, it is reasonable to assume that a certain percentage of the investigations ended in a waiving of the charges. In other words, if the number of police investigations remains more or less the same but the number of cleared cases drops, the result will be a relative increase in the waiving of charges – as a side product of a criminal investigation – compared to other settlements.

The second large group of Penal Code violations – crimes of violence – suggests another explanation. The number of settlements for crimes of violence increased in the period 1995-2001. In 1995, 8,121 settlements for crimes of violence were made, while this number increased to 10,270 in 2001. Waiving the charges for crimes of violence was also on the rise during this period - from 1,863 in 1995 to 2,760 in 2001. The increase in charges waived for crimes of violence is larger than the rise in the total number of settlements for this type of crime – which results in an increased percentage of waived charges for crimes of violence.

Crimes of violence are generally characterized by direct eye contact between the victim and the offender. Because of this contact the victim is more likely to identify or describe the offender and the clearance rate is therefore significantly higher than for offences against property. Identification of the suspect is, however, sometimes only based on the statement of the victim. When a suspect denies the victim's version of the situation, it can be hard to collect solid evidence. Charges are typically waived in such situations. Since the waiving of charges is increasing (related to the total number of settlements), it may be assumed that offenders have become less willing to admit guilt, or that the police have become more likely to charge a person for a crime of violence.

It's hard to say which hypothesis is true. Political pressure on the police and public prosecution service to fight crimes of violence may stimulate the police to charge a person more quickly. On the other hand, interviews with public prosecutors indicate that the other hypothesis may contribute as well to the increase in charges waived since prosecutors state that offenders are less willing to admit their guilt.

Settlements for sexual offences and other Penal Code violations are less important numerically to the overall proportional rise of charges waived. Indeed, there seem to have been few changes in the way these crimes were processed during the period in question.

3.1 Unfounded charges

The public prosecution service decides in only rare cases that the charges are unfounded. In 2001, 781 of the 11,087 (1.5%) settlements of Penal Code violations were labeled as unfounded charges. In theory, a charge is unfounded when the wrong person is under suspicion or no criminal act has taken place. In practice, public prosecutors tend to see the person charged as the wrong person only when it is proved in court that another person has committed the crime.

An important discussion between public prosecutors concerns the question of whether charges are unfounded in cases where there is no criminal act. Classic examples include drunken driving and the search for drugs or weapons. In cases where the police stop a driver and note that the driver smells like he/she has been drinking alcohol, the officer may order the driver to undergo an alcohol test. When the test shows a high level of alcohol (more than 5 $^{0}/_{00}$), the driver is charged for drunken driving. Afterwards a more accurate blood test will be conducted and in cases where the amount of alcohol is found to have been under the specified level charges will be waived. Some of the public prosecutors interviewed will waive such charges as "unfounded," while others will waive them on the basis of "insufficient evidence."

The reason that public prosecutors sometimes decide differently in the above example is as follows. Those who will decide the charges were *not* unfounded are focusing on the moment at which the person was charged. Did the police officer have reason to charge the person? The answer is yes, because the suspect smelled of alcohol and the initial test was positive. In their minds, the charges cannot be unfounded when it was defendable to charge the suspect. Those who reach the opposite – and in my mind correct – conclusion state that after all of the facts became known the driver had not violated the Road Traffic Act, and since no crime had been committed, the charges made must be by definition unfounded.

A similar situation is found in cases of body searching a suspected person. Whether the police have a valid suspicion is not at issue. However, if the police charge someone for possession of drugs or weapons and fail to find any of these items, the charges are waived instantaneously. (This is one of the rare cases in which a police officer has the competence to waive charges). Some prosecutors argue that the charges in such cases were unfounded, while others deny this interpretation. The reasoning behind such arguments is similar as discussed above, and relates to whether the nature of the charges is evaluated with reference to the moment of charging or to the period afterwards when all the relevant facts are known.

Case analysis in the Police District of Hillerød shows that 36 (9%) out of 396 waived charges (including not only Penal Code violations, but Special Law and Road Traffic Act violations as well) in 2000 were labeled as unfounded. In the Police District of Glostrup, 13 (3%) of 512 waived charges were judged unfounded by the public prosecutor during this same time period. The prosecutors' bases for waiving the 36 charges in Hillerød may be divided into two categories: 'the wrong person' (16 charges) and 'no criminal act' (18 charges). In two cases the report contained insufficient information to reconstruct the prosecutors' reasoning. Charging the wrong person may itself be divided into two categories: a) when the police by accident or by indications of witnesses pick out the wrong person, and b) when the suspect was 'at the wrong place at the wrong time', e.g. when the suspect was in the house of friends while the police searched the place for stolen property. The category 'no criminal act' may also be split up into two distinct types. The first is 'no criminal act', already discussed above. In such cases, the police officer has had a (valid) reason to charge a person for drunken driving or illegal possession of drugs/weapons, but afterwards no criminal act was detected. The second type is where it is not the police officer that suspects the person charged, but other authorities and/or citizens. They inform the police about one or another criminal act, but in reality the information turns out to have been wrong.

3.2 Insufficient evidence

The second ground for waiving charges is insufficient evidence. The public prosecutor assumes that the court will decide to acquit the suspect and, for reasons of efficiency, decides to waive the charges. There is, of course, no way of knowing whether the court would indeed have decided on an acquittal. One can, however, examine the reverse by looking at the character of those cases that were prosecuted but ultimately acquitted. The decision to pursue prosecution in such cases may have been based on an overestimation of the strength of the evidence. It is, however, more likely that the prosecutor was in doubt and preferred to leave the decision to the court.

In the year 2000 public prosecutors waived charges in 11,424 cases. In 1.759 cases the court decided to acquit the defendant. Thus, for every 6.5 cases where the prosecutor waived the charges, the court decided to acquit the defendant in only one case. There are, however, significant differences between types of crime. 'Assaults against public servants' is a type of crime with a relatively high proportion of acquittals. This indicates that public prosecutors are frequently proceeding with charges of assault against public servants even when the evidence is insufficient. It is, however, not surprising that this type of crime frequently prosecuted even where the evidence is weak. This is because a prosecutor may well identify him or herself with a public servant and therefore prefer that the court be responsible for deciding that the case is not strong enough to go forward.

The same kind of reasoning may explain the differences between threats, common assault and grievous assault. The more serious the crime, the more likely the prosecutor takes the case to court. Table 2 shows that crimes of violence are more likely lead to acquittal than offences against property. The reason for this difference may be found in the fact that the (assumed) victim of violence in some cases can identify his attacker, while offences against property rarely involve direct contact between victims and offenders. When a victim of violence identifies the offender and the police charge a suspect, the testimony of the victim in and of itself may be insufficient evidence for the case to proceed.

Table 2: Waiving the charges because of insufficient evidence and court acquittals for the year 2000

	Waiving the Charges (evidence)	Percentage of all settlements	Acquittal	Proportion waiving and acquittal
Penal Code	10,630	20%	1,554	6.8
* Sexual offences	418	41%	55	7.6
- Rape	134	61%	10	13.4
* Crimes of violence	2,488	26%	635	3.9
- Assault against public servant	101	9%	62	1.6
- Common assault	1,614	28%	384	4.2
- Grievous assault	222	21%	100	2.2
- Threats	413	40%	53	7.8
* Offences against property	7,065	18%	760	9.3
- Forgery	418	25%	34	12.3
- Burglary	843	25%	48	17.6
- Shoplifting	668	5%	112	6.0
- Other theft	1,546	28%	121	12.8
- Theft of vehicles, mopeds etc.	661	19%	68	9.7
- Embezzlement.	941	30%	150	6.3
- Handling stolen goods	362	20%	58	6.2
- Robbery	356	32%	26	13.7
- Malicious damage to property	934	29%	101	9.2
- Other offences	659	21%	104	6.3
Road Traffic Code	291	0.3%	140	2.1
Special Laws	503	3%	65	7.7
Total	11,424	7%	1,759	6.5

Source: Statistics Denmark

3.3 Resources

The formal paragraph for waiving charges on the basis of inadequate resources is seldom used. In the Police District of Hillerød, 3 (1%) of the 396 waived charges were placed under this heading. In the Police District of Glostrup, 14 (3%) of the 512 waived charges were labeled as such.

Studying police reports in these two districts, however, indicates that the question of resources is far more prominent than the formal statistics would suggest. This observation is confirmed by interviews with public prosecutors. Resources may affect the decision to waive charges in two ways. First of all, even if the police have the resources for further investigation, they may suggest that the prosecution waive the charges anyway. This is likely in cases that do not have priority and where the police need their resources for other, more important cases. Such cases are generally waived under the heading of lack of evidence. In my mind the police often try to solve a (minor) criminal case by interviewing a suspect and waive charges if the suspect denies his or her guilt.

The second way resources comes in focus is in court. In Denmark, criminal cases are handled as either 'a plea guilty case' or 'a plea not-guilty case'. When a defendant pleas guilty the court procedures are – according to Section 922 of the Administration of Justice Act – less extended than in a case where a defendant pleas not-guilty. In cases involving a guilty plea, the defendant, his solicitor and the public prosecutor meet the judge in court. The defendant is confronted with the accusation(s) and answers the judge. If the defendant still pleas guilty and the judge does not assume a miscarriage of justice the verdict is pronounced. In cases where the defendant changes his or her mind in court and does not plea guilty anymore, the public prosecutor may decide either to take the case to trial or to waive the charges. In cases where the prosecutor waives the charges, the official basis for having done so is generally attributed to lack of evidence.

The situation becomes even more complex when a defendant pleas guilty for some charges, but denies one or more other charges. In such cases the prosecutor has to decide whether he wants to get the defendant punished for the crimes he or she admits to and waive the other charges, or whether *all* charges should to trial. Despite this, the interviewed prosecutors claim that they will not accept a situation where they think a defendant is cutting the charges too much. It is, however, difficult to believe that a prosecutor would not want to waive a lot of charges to reach a verdict. One of the interviewees states that a prosecutor really has to think twice before he or she takes a case home again (and goes to trial).

In the Police District of Hillerød 38 (10%) of the 396 waived charges were waived in court, while 72 (14%) out of 512 of the waived charges in the Police District of Glostrup were waived in court.

4. The withdrawal of criminal charges

As with the waiving of charges, the withdrawal of charges is seldom practiced in cases concerning violations of the Road Traffic Act. The withdrawal of charges is more frequent in cases concerning violations of the Penal Code and Special Laws. While the actual number of cases with charges withdrawn is similar in these two cases, the proportion of cases with charges withdrawn is highest in regard to violations of Special Laws (see Table 3).

Table 3: Application of withdrawing the charges in criminal cases (1995-2001)

	Penal Code		Road Traffic Act		Special Laws	
	Number of cases	Percent of settlements	Number of cases	Percent of settlements	Number of cases	Percent of settlements
1995	3,552	5,9%	151	0,2%	2,671	12,6%
1996	3,304	5,8%	195	0,2%	2,707	13,3%
1997	3,265	5,9%	209	0,2%	2,565	13,2%
1998	3,140	5,6%	205	0,2%	2,719	14,1%
1999	3,024	5,7%	205	0,3%	2,374	14,0%
2000	2,922	5,6%	183	0,2%	2,450	14,7%
2001	2,946	5,6%	243	0,3%	2,734	16,0%

Source: Statistics Denmark

National statistics do not give a clear indication of the specific element of Section 722 of the Administration of Justice Act that the prosecutor uses to decide to withdraw charges. The administration of the two selected Police Districts – Hillerød and Glostrup – show that withdrawal of the charges often takes place because the violation is characterized as a minor offence (see Table 4). By far the largest majority of those minor offences concern the possession of small quantities of narcotics. If the police check a suspect for possession of drugs and find, for example, a small quantity of hashish for his or her own use and, if this is the suspects first known offense of this nature, the individual will be charged with a violation

of the Euphoriants Act – which falls under the Special Laws. These charges are normally later withdrawn, at which point the suspect receives an official warning.

Table 4: Reason for withdrawing the charges

	District of Hillerød		District of Glostrup		Total	
	Penal Code	Special Laws	Penal Code	Special Laws	Penal Code	Special Laws
Minor offense	3	101	18	127	21	228
Treatment	1	-	19	-	20	-
Under 18	6	-	7	-	13	-
Already convicted	32	20	57	14	89	34
Resources	-	-	1	-	1	-
Special Arrangement	-	-	1	-	1	-
Regulations	26	1	13	2	39	3
Extenuating circumstances	3	-	6	-	9	-
Total	71	122	122	143	193	265

The second most common reason for the withdrawal of charges is where a suspect is already convicted for (an)other crime(s). The prosecutor assumes that the present crime would not have influenced the verdict significantly. To understand the rationale behind this reason to withdraw charges it is important to known that the Danish prosecution service collects all charges against a suspect before a court proceeding. It is considered efficient and fair to do so. On average, 1.7 charges are withdrawn for suspects who benefit by this rule (see Table 5).

Table 5: Withdrawn charges and unique suspects

	Number of charges	Number of unique suspects
Minor offense	249	246
Treatment	20	7
Under 18	13	7
Already convicted	123	73
Resources	1	1
Special Arrangement	1	1
Regulations	42	28
Extenuating circumstances	9	8
Total	458	371

The last numerically important reason for the withdrawal of charges comes under the heading of regulations. Prosecutors may, for instance, withdraw charges for violence in cases where no injury occurred. 16 of the 42 withdrawn charges for reasons of regulations concern simple violence (Penal Code Section 244).

5. Extra judicial settlements in perspective

As stated, a prosecutor may decide to give fine, to waive charges or to withdraw charges. When a fine is given the suspect admits guilt. In cases of violations of the Road Traffic Act, 99% of the charges are settled by fine. The large majority (78%) of violations of Special Laws are also settled by fine. Withdrawal of charges occurs in only 18% of the settlements of Special Laws violation. Almost without exception, these cases concern the possession of narcotics for own use.

About half of the extra judicial settlements in cases of charges for Penal Code violations are fines. In the year 2000, 21,077 fines were given for Penal Code violations. 15,249 were given extra-judicially, while in 5,828 cases the defendant was sentenced to a fine by the court. In 56% of the fine settlements the criminal charges were for shoplifting.

Table 6: Application of extra judicial settlements (2000)

	Penal Code		Road Traffic Act		Special Laws	
Fines[36]	15,249	51%	90,889	99%	10,749	78%
Waiving charges	11,487	39%	291	-	503	4%
Withdrawing charges	2,922	10%	183	-	2,450	18%
Total	29,658	100%	91,363	100%	13,702	100%

Source: Statistics Denmark

Waiving of charges for Penal Code violations are generally officially registered under the heading of lack of evidence. Resources, however, play an important role in the waiving of charges. This occurs both in the sense that the criminal charges are not fully investigated and in order to provoke a guilty plea during the court session. A withdrawal of the charges is used for Penal Code violations in cases where a suspect is already sentenced for other offences and a trial took place after the crime was committed. Reasons often discussed for the withdrawal of charges – the age of the suspect and treatment instead of punishment – are in practice not often applied; at least not in the Police Districts of Hillerød and Glostrup. There is no reason to assume that these districts are atypical.

6. Discussion

In my mind it is valid to state that the police do not have the capacity to fully investigate every crime. For that reason they have to prioritize and as such, it is defendable that some minor or less important crimes receive less investigation. But what should be done in cases where the police get information about a suspect more or less 'for free'? This may be the case when the police are interviewing a suspect and his or her modus operandi fits with similar crimes. This may also be the case when the victim is pointing at a particular person. It seems police practice is to charge a suspect in such cases. When the suspect admits guilt the case is cleared, but in quite a number of cases the suspect denies his or her guilt. If there is no strong evidence available right away the charges will typically be waived. I think that waiving the charges in such cases is feeding the idea that denying one's guilt pays. The general idea among people, and especially those with a career in crime, will be that you can get rid of criminal charges by denying guilt.[37]

Since it is very important for clearing crimes that suspects talk and finally admit guilt, the police are shooting themselves in the foot through their policy of charging and waiving. It

[36] The number of fines is 100% correct only for Penal Code settlements. Fines for Traffic Road Act and Special Laws violations are not divided in extra judicial fines and fines given in court. The number given is of all fines. I assume that the large majority of those fines are extra judicial.

[37] Proof for the statement that this process is already going on may be found in the number of 'plea guilty cases' and the number of 'plea not guilty cases'. In 1996, 9,466 'plea guilty cases' and 10,214 'plea not guilty cases' were registered. By 2001, the number of 'plea guilty cases' had dropped to 7,837 (decrease of 17%), while the number of 'plea not guilty cases' had increased to 11,751 (rise of 15%).

would be better not to charge a suspect in cases where the police already know in advance that they will not investigate the case anyway if the suspect denies his or her guilt.

References

Danmarks Statistik, *Kriminalitet.* Several annual publications

Greve, Vagn (1996) *Straffene.* Jurist- og Økonomforbundets Forlag.

National Commissioner *(1992) The Police in Denmark.*

Rigspolitichefen, *Politiets Årsberetning.* Several annual publications

Smith, Eva (1994) *Straffeproces – Grundlæggende regler og principper.* Gadjura, København.

KNOWLEDGE AND THE POLICING OF SOCIAL (DIS)ORDER: PRE-FIELDWORK NOTES ON A STUDY OF CRIMINAL INVESTIGATION WITHIN THE DANISH POLICE

Kvist, Camilla

Introduction

This paper is to be a presentation of my PhD project – addressing the field of criminal investigation in DK through the lens of an anthropology of knowledge. The purpose of the project is to explore how knowledge is generated, formed and practised within the field of criminal investigation in Denmark. The aim is to elicit which factors condition the process and how these influence and structure criminal investigation as knowledge praxis through an analysis of the relationship between institutional and organisational factors and individual cognition, experience, and knowledge production.

I will use this paper as a chance to juggle a few ideas I have formed so far in an informal and hopefully non-binding way – since, as suggested by the title, this is still a work very much in progress. Also I will try to present some of the theoretical considerations giving birth to the project along with some notes on how I wish to address this field anthropologically and methodologically. The general argument I wish to make is twofold: for one I wish to argue that criminal investigation is a specialized knowledge field within contemporary society, playing a part in what one may call a bureaucratized production of 'objectivity' or 'truth', which makes it a relevant object of study for an anthropology of knowledge. Secondly I wish to argue that criminal investigation as a field of knowledge production must be studied as social practice; being that knowledge is a practiced, political and social phenomenon. In relation to this argument, I wish to show that this perspective on the field of criminal investigation calls for an approach that takes into consideration several interdependent levels of analysis and lines of inquiry when designing the research project.

The field of criminal investigation – and "the politics of knowledge"

Criminal investigation represents the epitome of policing – it represents the crime-fighting function of the police at its purest[38] (Bayley 1994:56-57). In the mind of most people as well as in the mind of any police officer, criminal investigation is the systematic gathering of information in order to establish "what *really* happened". Criminal investigation (CI) is popularly associated with 'mind work', with the persistent and careful accumulation of knowledge about different aspects of the crime. Knowledge is supposed to be the crucial element; the key to the final 'solving' of a case, i.e. finding the 'solution' to the 'riddle'. In popular thought and public representation "*the detective is the hero of the police drama*", as David H. Bayley puts it (ibid.).

During a preliminary fieldwork study carried out in a project organisation created to address issues related to CI in the Danish police[39], the vocabulary surrounding the subject of criminal investigation has been quite revealing as to how CI is understood within the police organisation itself. Though far more complex and paradoxical than I can present it here, some

[38] In most police forces, criminal investigation (as a detective whose job description it is) is a specialization, for which experienced police officers can apply or are being selected.

[39] I have carried out so far short fieldwork studies among police leaders from different departments, branches and districts, representatives from the public prosecution, and other interested parties constituting the project organisation set up by the chief of police, to address problems and possible solutions regarding criminal investigation within the Danish police.

of the vocabulary, surrounding the subject addresses the special competences and characteristics possessed, or preferably possessed by the investigator. Underlying this discourse, as well as the organisation structure which single out detectives, by assigning them to special departments, which in the organisational culture has formerly been assigned higher status than the department housing patrol officers – is the notion that successful criminal investigation requires specialization and particular skills (se also Bayley 1994:58), hereby supporting the popular idea of the detectives being 'mind workers' needing to posses certain characteristics enabling them to perform such a job.

In addition to these popular associations attached to the concept and practice of criminal investigation, the field is also fraught with other more deeply structuring assumptions. For instance the notions relating to the concept of knowledge and information. Some of the vocabulary surrounding the subject of criminal investigation, suggests that there is a truth out there awaiting discovery[40]. One just has to go out and "find" or "collect" it (se also Buur 2003:120). To many of its practitioners, criminal investigation is, in other words, about finding the "true story" about a given social incident, or at least enough of it to objectively establish whether a criminal act has been performed, who did it and under what circumstances.

Knowledge work and the concept of knowledge and information play a significant part in the idea of policing. Criminal investigation rests well within the myth of the police as being able to control crime. One of the ways they are supposedly doing that is by gaining enough information about the social world to fight and prevent crime through apprehension of criminal elements and intervention in criminal environments. Interventions in the social milieu of the criminal elements rest on the acquisition of knowledge about who is doing, what, where and when. The general idea informing the use of knowledge and information within police work is, to it put differently that with enough of the 'right' information the police can 'control' crime in society (cf. Bayley 1994).

The style of thinking present in this discourse and legitimizing most police institutions in the western world (cf. Bayley 1994, Manning 1977) rests on what Zygmunt Baumann (1987) describes as 'the modern view of the world'. According to Baumann, the typically modern view of the world is one of an essentially orderly totality in which explanation of events is possible in a way that – if correct – can be used as a tool of prediction, and, if the required resources are available, of control. Control in this line of thinking is synonymously associated with ordering action (Baumann 1987), i.e. ordering by labelling people with assigned categories socially and/or according to the paragraphs of law. The activity of ordering through categorisations is connected to the distribution or dismissal of privileges; an ordering of the social world by 'keeping out' while 'closing in' those who challenge the social order for instance by being within the category of 'the criminal' (see Foucault [1961] 1972, ref. in Anders Fogh Jensen 2003).

Baumann is making a metaphorical connection between the modern style of thinking and the legislator role, arguing that it consists in making authoritative statements which arbitrate in controversies of opinions, and which select those opinions which become correct and binding. The authority to arbitrate is legitimized by '*an objective knowledge*' accessed through the workings of procedural rules which assure the attainment of truth, and the arrival at valid moral judgement. Such procedural rules have universal validity, as do the products of their application (Baumann 1987:4-5).

Baumann is using the 'legalist role' as a metaphor for intellectualist styles of thinking which he terms 'modern', but in the same breath he is also describing the history of bureaucracy, its authority and the lines of thinking legitimizing its workings in modern

[40] One very popular manifestation of this is the well known entrance line to the television serial X-files: "The truth is out there".

societies (cf. Herzfeldt 1992)[41]. One such bureaucracy tied closely to the birth of the state – is the police. The truth-finding mission statement characterising criminal investigation seems also to be born from this paradigm.

Following Baumann's line of thinking, the police can be said to be of a bureaucratic production of 'objectivity' performing certain procedural rules in order to produce and select the 'objective facts', to be presented in the courts in order to establish '*the* (objective) truth' about what happened. While there is a long tradition for research on the production of knowledge within the sciences (cf. Fleck 1979, 1986, Merton 1968, Knorr-Cetina 1981, Latour and Woolgar 1986, Woolgar 1988, McCarthy 1996, Meja and Stehr 1999), this bureaucratic production of 'objectivity', or to put it in more apt terms considering the field of study: 'rationality' and 'neutrality' (Herzfeld 1992:1-16, 44-47), has passed unnoticed and unchallenged.

The aim of this project is to address the processes by which these facts are produced and the context and circumstances that help them come about. The implicit epistemological statement behind this project formulation is that there is no unproblematic relationship between knowledge about the world and the ones gathering it. Knowledge is not inherent in the human mind, but interested "creative" intentional activity, creating the world through representation. Knowledge is practised, performed and acted out, situated in the realm of the intersubjective; in social relations, between human beings, and between human beings and objects of attention. Knowledge is passed on and acquired through participation and access to specific 'communities of practice' (McCarthy 1996, Lave and Wenger 1991, Jackson 1998). Therefore it is of relevance to explore how this special kind of knowledge system is constructed and practiced – on what cultural narratives, ideological discourses, interpretive strategies and social practices it rests. Knowledge is in other words in this study viewed as social practice, made explicit in that I am using the term 'knowledge praxis' about the object of study. As socially constructed and socially practiced the knowledge field of criminal investigation is not only accessible -, but also an obvious candidate for ethnographic inquiry.

What I wish to address next is how one approach a study of 'knowledge praxis' anthropologically, first by introducing a model for generating research questions on social practice, second by relating some of the existing literature on the field to the model in order to show how to generate relevant research questions.

The investigative process in the perspective of an "anthropology" of knowledge

In his inaugural lecture as professor in anthropology, Ton Otto (1997) argues convincingly that social practice must be studied through three levels of analysis all constituting the reality of social life. I agree. In order to elaborate his argument he draws a sketch of the relations of interest and their interconnectedness addressing the three main levels of analysis: the individual, cultural patterns and power fields.

[41] Herzfeldt explores the symbolic roots of western bureaucracy, and he argues that the founding idea of bureaucracy as well as its authority rest on the idea that it is infallible, rational, objective and presents universal equal rights for everybody. Which also seems to be the central problem in 'practicing' bureaucracies – giving birth to what he calls a form of secular theodicy (Herzfeldt 1992).

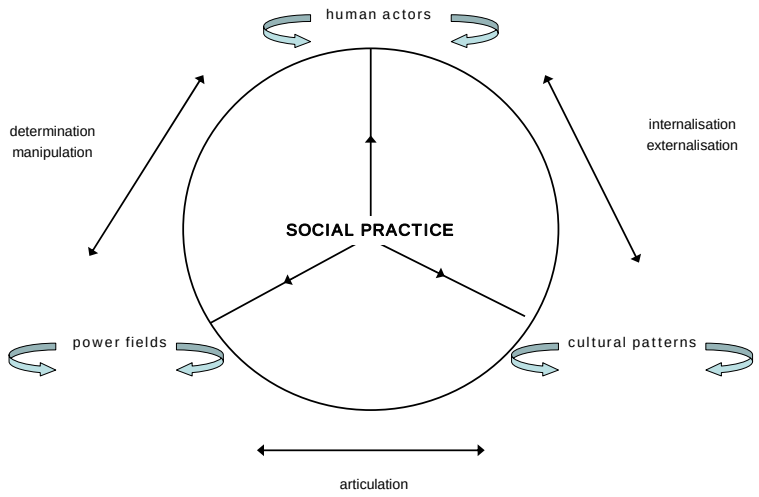


Figure 1: Revised model inspired by Otto 1997

Otto's sketch is illustrating processes working on each other to produce and reproduce social practice. One both determines and is determined by the others forming the complexity that is social life. He is in other words not targeting the categories themselves but their *interrelations* to understand something about social practice. Using the model on the field of criminal investigation a complex field of social interaction emerges. This helps to generate and sophisticate research questions without loosing sight of the complexity of social phenomena in this case; of criminal investigation as knowledge praxis. By visualising the interplay between different analytical levels of social practice, the model presents a frame of analysis delineated by overall questions such as: *How are individuals within the social field of study influenced by power structures and technologies and how do they resist and negotiate them through daily work practices? How do cultural patterns shape the conception of what counts as knowledge and the ideas and practices related to how to gain it, and in what way do individual competences, biographies and experiences express and interact with the cultural logic of the organisation? How are power fields, reified in for instance language requirements, architectural structuring, education systems, or technological frames and formats, influencing and articulating cultural patterns of the workplace; like work talk, metaphors, social interactions, handling of cases, department cultures, inter-department relations, etc., and how do individuals use, interpret, manipulate and express the resources available to them within the power structures they are placed? In other words: what are the interplay between individual investigators and institutional workings that make up the field of criminal investigation as knowledge praxis?*

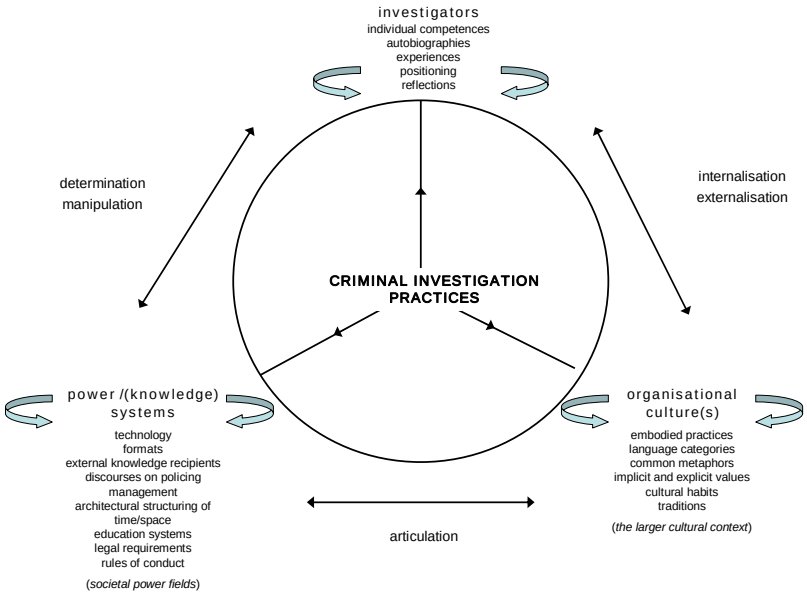


Figure 2: Model for question generation in the field of criminal investigation.

The police as knowledge workers

In their latest monograph Richard Ericson and Kevin Haggerty (1997) describes the police as an organisation of knowledge workers and modern policing as an expert-knowledge system (1997:37). The central feature of policing in contemporary society is the gathering, processing and distribution of knowledge (1997:21-36). In their studies of the communications systems within the police they tend to make it *the* central feature of modern policing. Information management is, according to Ericson and Haggerty, the main task of the police. The police are a knowledge based organisation interacting with other knowledge based organisations; being brokers of different kinds of knowledge needed by other government agencies as well as private corporations in their efforts to control risks (ibid.). According to Ericson and Haggerty this place in the "risk management business" is *determining* the way the police work, how they work − influencing police work ranging from how the individual officer act on the street to the whole make up of the organisation. The formats, technologies and discourses of contemporary police organisations are according to Ericson and Haggerty determined by the demands from other agencies, whom the police supply with information on risks, reified in the information technology and formats designed to meet those demands (ibid:33-38).

Though not having criminal investigation as their field of interest, Ericson and Haggerty are contributing to the field of research by directing attention to both external power/knowledge fields and interests influencing both the organisation and character of police work, and the internal dynamics of information management systems, technologies and communication formats. In their description of what makes up an institution, they are pretty much in tune with the argumentation presented by Otto. In their view: "*An institution consists of the relations, processes, and patterns associated with particular interests. It incorporates material elements (such as buildings and mechanical technologies), cultural elements (such as traditions, rituals, and scientific and legal technologies), political elements (such as the need for legitimacy), and social elements (such as when all of the above are reproduced through social knowledge and routine activity). Institutions do a lot of regular thinking on behalf of individuals by engaging in the perpetual elaboration of classifications and communication formats"* (Ericson and Haggerty 1997:25).

Although Ericson and Haggerty's formulation covers a large part of the model proposed by Otto they are dismissing entirely the individual actor – the acting subject. Their analysis has addressed only one aspect of the relationship between actor and structures, between power and culture, and the subject. This results in a lack of attention to important parts of what constitutes any social practice, the *interplay* between individual, power and culture. Ignoring questions such as: *How do individual investigators interpret and manage the mandate given to them? How are everyday practices challenging and reworking existing structures? How are individual competences, biographies, experiences and interpretations of reality influencing the daily routines and construction of case? Which individual competences, are used, unfolded and expressed as decisive in relation to investigative praxis and how are they cultivated and expressed?, etc. etc.*

The censorship of legalism

What Ericson and Haggerty are addressing are the knowledge and power fields influencing the work of the police. Focusing on power fields shifts the analytic focus to the relative effect of certain kinds of action; actions relating to for instance the control of the available means of violence, or the distribution of information or the like. Power fields as an analytical category directs attention to the fact that unequal weight is given to actions performed by different categories of people, who posses certain power positions (Otto 1997:78). As a bureaucratic organisation managing a mandate issued by the state the police can be viewed as such a power field, consisting of certain cultural symbols and traditions, ritualised and/or formalised norms of conduct, patterns of behaviour, embodied practices and individual actors manipulating as well as expressing the cultural world of policing and the positions of power and status within it.

Ericson and Haggerty is giving some attention to the workings of the police as a power field itself, looking to the impact changes within the police organisation has on the practices, legal regime, and discourse of policing (Ericson and Haggerty 1997:38). Hereby they pay attention to the fact that changes in police culture and organisation affect also the societal context of which it is part. This is a line of researching and thinking which is in sync with an anthropological exploration of criminal investigation as knowledge praxis, but again they are addressing only some aspects of the relationship between the police as a power field and other such fields in the societal context of which they are part.

Though the influence of other institutions on the work of the police rest on the fact that the police are just one power/knowledge field among others, one large dimension left for further analysis by Ericson and Haggerty is the fact that the police organisation is not only influenced by external agencies, but have in certain ways internalised the power structures exerted by the legal system. As described by Pierre Bourdieu (1991) 'specialized language systems' exert some kind of censorship over fields of knowledge and practice. The police and their activities are part of a larger knowledge or power field structured by legal language and requirements. Which for instances shows itself in the vocabulary, in the formats of the case managing systems as well as in the educational material and everyday talk of police employees.

According to Bourdieu, for a knowledge field to posses any power it is in need of certain ritualistic exercises that separate it from ordinary or easily accessible knowledge. This can happen through a structuring censorship, obtained through the systematic altering of the common language and through connections between words and formal rules. Connections that slowly make a knowledge system 'systematic' in a way that comes to function as the rules for conduct and knowledge claims in that community or field of knowledge, rendering certain phrases, vocabulary, syntax etc. the only way to be acknowledged within the field and thereby determining both form and content of the knowledge production within that specific field (Bourdieu 1991:137pp). The legal system can be viewed as such a 'specialized language system' imposing its censorship on the processes, performed by and through the police as mediators. My point here is that we can look at the police institution as the mediator between complex and messy social incidents and everyday language, and the formal expounding of

the court. This makes criminal investigation about collecting raw data and making them fit for the vocabulary and categorizations of the legal system, before cases can be submitted to the court. This perspective opens up avenues of inquiry addressing questions such as: *How are social incidents and chaotic experiences transformed into categories of law? How are individual experience and cognition performed and converted into practices as part of an institutional investigation? Which information is valued and which is devalued in the practice of CI? What institutional requirements are presented to the construction of a case and how do they influence the strategy and methods of the criminal investigator? How are investigators made competent in the field? Which expertises, technology and knowledge systems does the individual investigator draw on in his construction and solving of the case? Which methods, thought styles and cognitive patterns are apparent in the practice of investigating detectives?*

Symbolic dimensions of police work and police organisation

Bourdieu has also argued that studying the physical lay-out of a space, which is considered by its users and inhabitants as straightforward and doxic, may serve to elucidate important elements structuring the daily praxis and culture. As argued by Otto, cultural patterns are in reality intrinsically linked with power structures – one articulating the other, meaning that cultural habits are exerting and expressing power structures which are in return articulated through the "language of culture" (ibid.). The social habits expressed through the organisational language and the movement of individual bodies in space, are in other words fruitful avenues of inquiry for an anthropological study of criminal investigative practices.

Among others (cf. Manning 1977), Bayley (1994) has described the symbolic dimensions of police work and organisation. With this type of work he is addressing the cultural patterns of the organisation, focussing attention on explicit and implicit values, language- and emotional categories, bodily gestures, social metaphors, rituals and traditions – i.e. the sum of social habits that infuse social life with the predictability without which it cannot function (Otto 1997:77). When describing the symbolic dimensions of police organisation and work – Bayley is, then, also addressing the levels of articulated power as mentioned by Bourdieu when he directs attention to among other things the physical lay-out of space.

In *Police for the Future* (1994), Bayley addresses symbolic dimensions of police work and organisation relevant for the anthropology of knowledge addressing the field of criminal investigation. One aspect he touches upon is the internal division between detectives work and patrol officers, and the symbolic implications of such a division. Bayley addresses the division of labour that to a differing extent means the handing over of all investigative tasks to the detectives, even though in reality, important investigative tasks, which has to be performed immediately and the quality of which is often essential to the solution of the case, is often carried out by patrol officers. A praxis resting on the idea that investigation is a specialist job, requiring special skills. The reality with many police forces is that this division of labour affects status relations, which again is also expressed symbolically. One legible differentiation expressing the different levels in status is the dress code. Detectives wear civilian clothes, patrol officers wear uniforms. Besides the individual freedom of choice regarding clothing expressed herein, are also, according to Bayley, some symbolic dimensions worth mentioning. The work of the patrol officer is often in Danish police vocabulary associated with being the 'garbage collectors' of society, this underlines Bayley's point about the patrol officers job being a physical and dirty job, 'closest to nature' in Mary Douglas's terms (cf. Douglas [1970] 1975), which is Bayley's offer as to why it is also assigned the lowest status, whereas the work of detectives is performed in a more controlled environment, relating to the sophistication of evidence (Bayley 1994:56-73).

In the Danish police there is also reminiscences of a long history of privileging detectives work, i.e. separate unions, different work hours, higher degree of self-management, higher wages, and architectural separation through the placement of 'kriminalpolitiet' (detectives) on the first floor whereas ground level where occupied by

'ordenspolitiet' (street patrol) which historically has resulted in some level of animosity between departments with stereotyping and the rise of cultural ideas about the differences between being a 'K-mand' or an 'O-mand'. Although there are explicit initiatives and organisational reforms trying to change it, this 'culture of differentiation' still has some hold on the organisation.

For the elaboration of the cultural dimension of analysis, and the generation of research questions in relation hereto, I wish to draw attention for a moment to the workings of criminal investigation as knowledge practice. To this purpose, I have borrowed from a working group within the Danish police, a diagram, showing the course of a given case through the organisation from initial investigative steps, or the report by an injured part, to the handing over of the case to the court. The diagram is made in the shape of a pyramid. For the anthropological eye the pyramid address what we may term 'the social life of incidents' when turned into 'usable data', from entering the system through acquisition of a number in POLSAS with which goes a certain minimum requirement of information and predetermined codes and categorizations, to the '*packaged*' case ready for transition into the court system.

The 'case-managing pyramid'[42] – the workings of criminal investigation as social praxis.

The pyramid is a classic diagram used to show different forms of hierarchies and relations of sophistication and superiority.[43] Portraying the process as a pyramid may not be accidental, considering the symbolic aspects of policing as described by Bayley. The literature I have presented so far makes a preliminary analysis of the pyramid interesting, for the purpose of generating questions to be posed during fieldwork. 'Specialized language fields' or knowledge fields, as well as different power structures are according to Otto inseparable from their cultural articulation. Culture reveals power structures, because power is shaped and constituted in the language and habits of culture, and vice versa (Otto 1997:77). The pyramid represent in a rough sketchy way practices that are in other words to be addressed as one, although being analytically separated.

[42] The case-managing pyramid is drawn up by a working group within the Danish police to be used for internal purposes, other than the one I here submit it to.

[43] To illustrate processes of centralisation in for instance focus it is normally turned upside down or to the side to avoid the hierarchical associations of the normal pyramid pointing upwards.

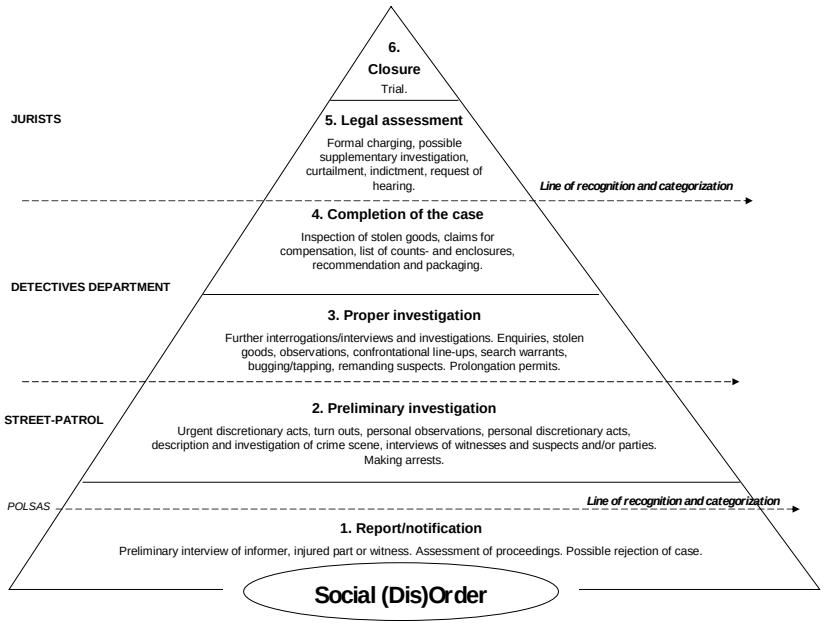


Figure 3: Case-managing pyramid

The conversion of social life to court cases comes about through the mediation or intervention of the police and their investigative actions. It is, in other words, here the conversion is in some way facilitated. It is my point that this mediation is structured (however imperceptibly), spatially, procedurally, formally and ritualistically. Considering the fact that knowledge is a constructed phenomenon and the interesting question anthropologically is how certain 'knowledges' are cultivated and generated to fulfil the demands of certain knowledge communities and even epistémés (Foucault 1972:370), what the pyramid is in fact showing is the process which transforms subjective experiences and individual stories into 'bureaucratic objectivity' (se also Roepstorff 2002). In the light of Bayley's points it may also show how architectural structuring, status issues, and the organisational milieu might subtly influence this process.

Following the flow of the case (knowledge acquisition) as presented by the workgroup we start at the bottom where the immediate dispositions are most often made by officers from the street patrol later to be handed over to the detectives which produce further data and in the end 'package' the case to judicial discretion, performed initially by police employed prosecutors who may initiate further investigation, before the final hearing in court. Besides the obvious status and hierarchical lines present in the pyramid, it seems that also the level of (symbolic) subjectivity seems to change accordingly with the moving of the case *up* through the system. In the end it is reduced to paper, attention to *objects* only; in the form of for instance 'viewing the stolen goods' and possible 'claims for compensation'; and 'packaging practices'. The level beforehand involved interaction with human subjects in interrogations and interviews, observations, identification line-ups, getting court orders, bugging and searching peoples houses or the like, and having suspects put away in custody, while performing the 'proper investigation'. Before that in the 'initial investigation' there is all people and a certain level of chaos, and the vocabulary of the box directs attention to the subjective intervention by the police in the form of the putting in the report and performing; 'personal observations', 'personal discretions and actions', crime scene descriptions- and investigations, interviews of witnesses, as well as suspects and parties involved, and making arrests.

Hierarchical status and the sophistication and elaboration of data are seemingly correspondent. The more data and the cleaner cut they become through investigation the closer to the 'packaging' process, for the jurists to take over. In symbolical terms the praxis of packaging may – as concrete a task it is – actually be a ritualistic or formalised 'objectification', marking the end of the 'subjective' intervention by the police.

Bayley's focus on the symbolic and cultural aspects of police work, along with the way these aspects articulate and reflect power structures – and the production of knowledge as exemplified in the 'case-managing pyramid' opens up for still more lines of inquiry, such as: *How are hierarchical structures influencing work practices and knowledge processes? Which metaphors, cultural models and motivations are used and explicated in relation to criminal investigation? How do bodies move in space? How are the case-flow structured organisationally and architecturally? By which means does an alteration of social life to report data come about?*

Conclusion

It seems inappropriate to make conclusions in a presentation meant only to generate questions and open up different avenues of inquiry. Nothing conclusive can in fact be said – this would be contradicting 'the anthropological project' (cf. Hastrup 1992). But since these are pre-fieldwork notes, it would seem appropriate to end by defining the contours of the fieldwork supposed to address the questions raised in this paper.

To address criminal investigation in the manner proposed by Otto one has to make use of different methodological avenues. With this project it is my intention to do approximately one year of fieldwork with 'kriminalpolitiet' (the detectives department), but with shorter stays with the street patrols, in special departments, units, and task forces, as well as with the project organisation established by the chief of police, which is made up of police leaders from different units, departments, and districts, plus representatives from the counsel for the prosecution.

My main focus and work method will be following the detectives in their daily routines, making use also of informal interviews and from time to time with attention specifically towards observational studies. In addition hereto, I plan to do a number of case studies in order to address how knowledge travels and is generated (and perhaps deleted) within the organisation as an institution. In these casestudies I intend to follow specific case numbers through the different departments and special units allocated to the case (that is when speaking of larger case complexes and when what the police calls advanced investigation is needed). Also, the case studies will act as a guide when analysing the information management systems, among others POLSAS used by the police, and the impact which this technology has on the investigative process.

Being a holistic discipline, the ethnographic view seems rather unfocused and all encompassing, but in that, it stands in a mimetic relation to the social world. It illustrates the necessity to address the whole circle when formulating new research in order to assure that the research questions and methods considered address all possible avenues of gaining information and of cultivating it analytically. Doing fieldwork means paying attention to details of which one might not see the immediate relevance and it means not knowing beforehand what the exact analytical focus may turn out to be. These pre-fieldwork notes therefore may be inconsistent, contradictory and even in some aspects mistaken in their preliminary assumptions. The description of the knowledge praxis of criminal investigation will hopefully provide answers along with a more coherent and eloquent analysis of criminal investigation and the knowledge community it forms; sorting out "what is *really* happening" during the investigative process as it is performed by Danish detectives and their colleagues in patrol departments, special departments and task forces, and as the cases travels through the case managing system – embodying the workings of a bureaucratic ordering of the world.

Bibliography

Baumann, Z. (1987). *Legislators and Interpretators*. Oxford, Polity Press.

Bayley, D. H. (1994). *Police for the future*. New York and Oxford, Oxford University Press.

Bourdieu, P. and B. Thompson John (1991). *Language and symbolic power*. Cambridge, Polity in association with Basil Blackwell 1991.

Buur, L. (2002). "Institutionalising the past: Information management and other methods of ordering the truth in the work of the South African 'Truth and Reconciliation Comission." *FOLK, Journal of Danish Ethnographic Society, Special Issue* vol. 44: 117-143.

Douglas, M. ([1970]1975). *Naturlige Symboler*. Viborg, Nyt Nordisk Forlag, Arnold Busk A/S.

Ericson, R. V. and K. D. Haggerty (1997). *Policing the risk society*. Oxford, Oxford University Press.

Fogh Jensen, A. (2003). Hvis din nabo var gal. *Informanten*. Studieblad for Etnografi, Juni 2003, Århus: Afdeling for Etnografi og Socialantropologi.

Foucault, M. (1972). Science and Knowledge. *The Archaeology of Knowledge*. London, Tavistock Publications**:** 178-195.

Fleck, L. (1986). Problems of the Science of Science. *Cognition and Fact. Materials on Ludwik Fleck*. R. S. C. a. T. Schnelle. Dordrecht, D.Reidel Publishing Company**:** 113-128.

Fleck, L. (1979). *Genesis and Development of a Scientific Fact*. Chicago, Chicago University Press.

Hastrup, K. (1992). *Det antropologiske projekt: Om forbløffelse*. København, Gyldendal.

Herzfeld, M. (1992). *The Social Production of Indifference: Exploring the Symbolic Roots of Western Bureaucracy*. Chicago, London, The University of Chicago Press.

Jackson, M. (1998). *Minima ethnographica : intersubjectivity and the anthropological project*. Chicago, University of Chicago Press.

Knorr-Cetina, K. (1981). *The Manufacture of Knowledge: An Essay on the Constructivist and Contextual Nature of Science*. Oxford, Pergamon Press.

Latour, B. and S. Woolgar (1986). *Laboratory life : the construction of scientific facts*. Princeton, N.J., Princeton University Press.

Lave, J. and E. Wenger (1991). *Situated learning : legitimate peripheral participation*. Cambridge [England] ; New York, Cambridge University Press.

Manning, P. K. (1977). *Police work : the social organization of policing*. Cambridge, Mass. ; London, M.I.T. Press 1977.

McCarthy, E. D. (1996). *Knowledge as culture : the new sociology of knowledge*. London ; New York, Routledge.

Meja, V. and N. Stehr, Eds. (1999). *The Sociology of Knowledge, volume II*. Cheltenham, UK and Northhampton, MA, USA, Edward Elgar Publishing.

Merton, R. K. ([1945] 1968). The Sociology of Knowledge. *Social Theory and Social Structure*. New York, Free Press**:** 139-165.

Otto, T. (1997). Social Practice and the Ethnographic Circle: Rethinking the 'Ethnographers Magic' in a late modern world. *Tre tiltrædelsesforelæsninger på Moesgaard*. Aarhus Universitet.

Roepstorff, A. (2002). "Transforming Subjects into Objectivity - An "ethnography of knowledge" in a Brain Imaging Laboratory." *FOLK, Journal of Danish Ethnographic Society, Special Issue* vol. 44: 145-169.

Woolgar, S. (1988). *Knowledge and reflexivity : new frontiers in the sociology of knowledge*. London, Sage.

FEMALE OFFENDERS AND INTERPERSONAL VIOLENCE

Laitinen, Pirjo

Women have always been peaceful, nursing and caring non-violent persons, but has this really been true or maybe something has changed in women's behaviour or in our world or society. Women have murdered their men and children formerly too and participated wars and struggles, but of course not as much as men. Newspapers use to write about wives, who have murdered their husbands, or mothers, who have murdered their newborn or even elder children. It can be scandalous material for media; television and tabloids, however social scientists or psychiatrists try to explain often very difficult social and psychological circumstances behind these tragedies.

There can often be psychiatric reasons behind woman's violent behaviour; she can't find any other way out of her violent relationship because of her mental state for example in so called *battered wife syndrome* cases. However this explanation is valid only in few cases of women's violence. The traditional violent crime for a woman was to kill her violent husband with kitchen knife after many years' pain and fear. In Finland husband was victim in one third of cases after 1990, when husband had been the victim of his wife in 80 % of cases during 1950-1985.[44] *Victimization* is a popular explanation, which can make a part of this kind of violence comprehensible, but it is however a very little portion of all violent crimes women have committed. All these murdered husbands and boyfriends had not been violent against their partners, circumstances could have been even opposite; women had been violent and heavily drunken or under influence of drugs. LL. Doc. Marianne Wagner-Prenners research showed that after year 1990 alcoholism was more general secondary diagnose for women than men in the forensic psychiatrics evaluations.[45] Matti Joukamaa has researched Finnish prisoners and their health during 1980s and he found out that psychiatric disorders were more usual among female prisoners than among male prisoners.[46] So-called *street woman scenario* tries to find explanations for women's criminal behaviour in the hard conditions of street life, where these women can have been sexually abused and beaten by their criminal partners and boyfriends. Many of these women have been sexually abused or mistreated already in their early childhood or in their youth. All this can affect victimization process, which leads to an unsocial life style without any normal social relations or legal working possibilities.[47]

In my research material which consists of forensic psychiatric evaluations, court decisions and police reports, there are six cases, where female offender had killed or tried to kill her husband, cohabitee or partner. In one of these cases the offender had tried to kill her cohabitee and five years later, she was prosecuted for trying to kill his ex-cohabitee's new girlfriend. Only in one of these cases the motive was violent behaviour and sadistic oppression of the husband, which had continued during 12 years. In two of the cases the motive had been jealousy and the fear of losing her partner, according to what women had told in the forensic psychiatric evaluation and the psychiatrist had written down in his (psychiatrists were mostly men in these cases) statement. In other cases the misuse of alcohol or drugs had apparently affected the behaviour of the offender, who could not find any

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[44]p. 337, Wagner-Prenner, Marianne: Syyntakeisuus ja mielentila. Rikosoikeudellinen ja empiirinen tutkimus syyntakeisuuden määräytymisestä (2000).
[45]ib. p. 340.
[46]pp. 15, 179-180, Joukamaa, Matti: Suomalaisten vankien terveys (1991).
[47]pp. 135-137, Daly, Kathleen: Women's Pathways to Felony Court: Feminist Theories of Lawbreaking and Problems of Representation, pp. 135-154 in Daly, Kathleen-Maher, Lisa (eds.): Criminology at the crossroads. Feminist Readings in Crime and Justice (1998).

reasonable cause for her offence. She could describe her relationship good, warm, stable and she could not tell, why she had taken the weapon, which often happened to be the kitchen knife or so called *puukko*, typical Finnish knife used in fishing and camping.

In case A the cohabitee of the offender (31 year) had abused her by beating, kicking, burning her arms and drawing her hair. After one of these events she had been taken unconscious to a hospital and she had to stay there for four days. Her spouse had been violent and jealous during all their cohabiting years and he had a serious drinking problem. The offender had tried to get out the relationship many times, but he had always taken her back home. She told that she had become so bitter and depressed, that she could not seek help nor see any other solution for her situation. She had begun to misuse alcohol, too, and during the years she also became an alcoholic. Their children had been taken into the custody of authorities three years before the event. Then she had misused alcohol even more and had suicidal thoughts occasionally. She had not behaved violent ever before and had not committed any other crimes.

She told in the forensic psychiatric evaluation that after living in fear and under oppression during 12 years, she just could not "take it anymore" and therefore she killed her husband with kitchen knife. She had drunk two bottles of Koskenkorva during that day and she was quite heavily drunken (1.7 o/oo). She could not say, if she regretted what she had done, because she needed not to be afraid anymore. The situation had become even more difficult during last one and half year because of unemployment of both spouses and their daily use of alcohol. The forensic psychiatric diagnose was, that the offender had been criminal responsible for her offence and the only psychiatric disorder found, was *Alcoholismus (3039X)*.

The psychiatrist in this case does not say anything about the possible affect of many years' abuse for the state of the mind of the offender. *Battered wife syndrome* seem not to be considered as a possible diagnose in this case. When you reflect, what the offender had told about her life in this extreme violent relationship, you can imagine, why she had been so depressed and apatic, that she could not see any other way out from her situation. She could not seek any help or consider reasonably her offence, she had just got enough. It would seem like typical *battered wife syndrome,* as it is called in Anglo-American criminal process,[48] but in Finnish forensic psychiatry it is not considered at all an issue affecting the evaluation of the criminal responsibility. Professor Kevät Nousiainen has reflected the problem of *battered wife syndrome* and how it could be seen in Finnish jurisdiction,[49] but according to her, it could help only in evaluating the pain and the harm, which the offender had suffered during the years before her violent crime. In this case the offender had felt her mainly released after her crime; she couldn't show any quilt nor repentance. The interesting question is, if women today, more than before, see violence as one possible mean to make themselves free from a violent and unhuman life situation?

Knut Kolnar has used the concept *kreativ vold* (creative violence) meaning acts, which are connected to creating and maintaining the masculine identity[50]. Traditionally violence and masculinity have been connected, as professor Inger Lövkrona and historian Jonas Liliequist

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[48]See Westerwelt, Saundra Davis: Shifting the Blame, How Victimization Became a Criminal Defense (1998) and Walklate, Sandra: Researching Victims, p. 183-201 in King, Roy D.-Wincup, Emma (eds.): Doing Research on Crime and Justice (2000).

[49]Nousiainen, Kevät: Equalizing images? Gendered Imagery in Criminal Law, Suomen Antropologi 3/1999, p. 7-25.

[50]pp. 13-18, 432-433, Kolnar, Knut: Det ambisiøse selv. Avhandling till dr.art. graden, Filosofisk institut, NTNU, Trondheim 2003. Når jeg skriver om voldens rettethet, så er det ikke den eller det den i realiteten er rettet eller anvendt mot som er hovedanliggende, men den funksjon den har for den enkelte voldsutøvende individ, som for eksempel at volden har en konservativ kreativ rettethet. p. 69.

have shown in their researches.[51] Ethnologist Sidsel Natland has researched the risk behaviour of young girls in Norway, and she has an interesting idea about *negative feminity* as protest for those stereotypical concepts of the feminity. According to Natland violent behaviour seemed to release these girls and even helped them in constructing the other kind of female identity.[52] How does a human beings experience of the physical pain influence and what kind of traces have been left after years of mental violence, control and oppression? Researcher Jaana Haapasalo has studied the childhood and interviewed also the parents of the young delinquents, and she found unbelievable amount of severe physical and mental violence. The offender was not always a father, a stepfather or mothers partner, even mothers had physically and mentally abused their children, often very seriously.[53]

Jealousy is often mentioned as the cause of the violent crime, especially when a male person has killed his wife or girlfriend. Women claimed too, that reason for their crime was jealousy or the fear of the abandonment, but they usually didn't say that "no one else could get him", as men sometimes express their motive for killing their wife or partner. In case B the woman (29 years old) had tried to kill her partner by hitting him with a long kitchen knife. In the forensic psychiatric evaluation it was concluded that she had been acting without a clear reality testing capability and under influence of strong jealousy, therefore she was not responsible for her offence. The diagnose was a personality with psychotic disorder (3012C). Five years later she (34 years old) was prosecuted for an attempted murder of her former partner's new girlfriend. Psychiatrist considered her diminished responsible for her offence, but the forensic psychiatric council (TEO) concluded, that she had not been responsible, when she committed this attempted murder.

In case D the offender (20 years old) had killed her cohabitee by hitting him in his chest with a knife so that it reached his heart, and he almost immediately died. She told in the evaluation that he had been involved with her friend and she tried to stop him leaving with that girl from his apartment. She was considered diminished responsible for the offence and the diagnose was *Neurosis charachteris immatura (301.80),* which means immature personality with neuroses. In many of these cases the main issue was interpersonal violence between cohabitees or partners and the motive is claimed to be jealousy.

Minna Lahti has in her research *Domesticated violence. The power of the ordinary in everyday Finland* studied jealousy as the motive and control as an important element of interpersonal violence. A jealous husband seeks traces, evidence for adultery, on woman's body and does not want to hear any kind of explanations, but can silence her by strangling or putting a pillow or his hand on her mouth. Men controlled the time of the women, their sleeping or time awake, demanded sex at night, when coming home from restaurant. Many women told that the easiest way to avoid violence was to do what he wanted even they did not have any desire for sex just then.[54]

In case C the motive was not very clear, the offender (22 years old) had without any previous quarrel hit her partner in his back with knife (*puukko)* so that he had been seriously injured and had been operated immediately or he could have been killed. According to forensic psychiatric evaluation she was diminished responsible, when she committed the crime and diagnose was *Persona pathologica instabilis (301,88),* unstable disordered

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[51]pp. 9-23, Lövkrona, Inger: Den våldsamme mannen and pp. 88-123, Liliequist, Jonas: Mannens våld och välde inom äktenskapet, in Lövkrona, Inger (ed.): Mord, misshandel och sexuella övergrepp. Historiska och kulturella perspektiv på kön och våld. Lund 2001.

[52]Natland, Sidsel, unpublished paper in workshop Gender and violence, 4th-6th October 2002, in Lund.

[53]pp. 9–72, Haapasalo, Jaana (ed.): Väkivallan kierre, Vankeinhoidon koulutuskeskuksen julkaisu 5/99.

[54]pp. 196-199, Lahti (2001), see also p. 102 in Husso, Marita: Parisuhdeväkivalta. Lyötyjen aika ja tila (2003).

personality. The offender and the victim had not been together very long, he was more like an occasional partner and she could not explain her offence reasonably. This was a typical offence affected by alcohol, just like Finnish men often commit violent crimes and afterwards can't explain them otherwise but by the effect that alcohol must have had in their self control.

In case E the offender (23 years old) had also hit her cohabitee with knife (*puukko)* in his back. The offender told in the psychiatric evaluation, that she had been aggressive and they had had many quarrels because of his jealousy among other things. Her child had been in her parents custody and parents could not accept her new boyfriend, who she had been cohabiting during the last year. According to the forensic psychiatric evaluation, she was diminished responsible when she committed the crime and the diagnose was *Intelligentia subnormalis levis (310,29),* intelligence slightly retarded.

In case F the offender (19 years old) had serious hearing defect and she had had many problems in her personality development already in early childhood. Now she had hit her partner with knife (*puukko)* in his throat so that the victim could have got killed without an immediate care. She was considered as responsible for her crime and the diagnose was an unsocial personality (3017A). Five years later she had killed her new partner by strangling him and then yet hitting with kitchen knife in his back, which caused the death of the victim. Next day she had cut with a knife and an axe the arms and legs off the body, and hidden them in a lake and under an old boat, and the rest of the body under the stairs of the victims house. She had been released from prison two weeks earlier and lived after that in the house of the victim. They had drunk alcohol together and the victim had been violent against her. This time the diagnose was an unsocial personality (ICD-10:F60.2, DSM-IV:301.7), the misuse of alcohol and cannabis (ICD-10:F12.1, DSM-IV:305.20), but however, she was considered responsible when committing the crime.

In my research material there are two women, who have killed their husband or cohabitee, one woman who has killed her newborn baby (infanticide) and the other who has killed her 7 months old baby. In six cases of the attempted murder the victim was cohabitee or partner, in two cases the mother of the offender and in one case her father. Any other relatives had not become victims of these women. Nine of the women were in age 19-30, two 31-40 and only one was 48 years old, when she committed the crime. None of them was married but four women lived as cohabitee, one was widowed and three were divorced. Five of the women had children, and children of three women had been taken into the custody of the authorities. In forensic psychiatric evaluations there was not much written about womens' motherhood or the significance of the loss of the custody of children for these women. The educational background was very poor; five women had not finished primary school, two had been at reformatory schools and only two had finished secondary school and had the professional education and maybe therefore also employed. Five of the women were unemployed and five got social allowance because of their unemployment or sickness. Alcohol or drugs were strongly involved in these women's life in eight cases and their social status was usually very low, and they often lived on social welfare. Six of these women were considered responsible, four of them were diminished responsible and only two were considered irresponsible during their offence; the other one had killed her seven months old baby. Only two of these psychiatrists, who gave their forensic psychiatric statements of offenders, were female.

Women can't anymore get so easily the diagnose 'irresponsible', on the contrary it was during 1950-1985 as Marianne Wagner-Prenners research showed.[55] Of course you have to be very careful in conclusions, because the share of women, who have committed violent crimes, has been less than 10 % of all the violent offenders during last years; now it seems to

[55]p. 288-289 Wagner-Prenner (2000).

be increasing a little.[56] In media violence of the women can get an excessive attention. Recently we have been reading about "the gladiator woman", who has killed two men in Tampere, about mothers, who have killed their children, and about wives, who have killed their husbands. Last year in Finland seven tragic child homicides came out, where the offender was their own mother. Often there were serious mental disorders in the background, but it is impossible to explain all these offences with psychiatry only. I like to explore these cases, where no apparent explanation have been found, maybe there is no explanation. Do women kill today like men use to do in their drinking gangs, without any comprehensible reason, perhaps only because they have been drinking too much alcohol and lost their control for some trivial reason? Have women learned new violent practices, they did not know before? What is the influence of the media and new violent role models in cinema or in TV films for young girls? This kind of questions must be considered in researching the violence of women today.

[56]p. 17-18, Rikollisuustilanne 2000 and p. 11 Rikollisuustilanne 2001. See also Kivivuori, Janne: Suomalainen henkirikos. Teonpiirteet ja tekojen olosuhteet vuosina 1988 ja 1996, Optula 159, Helsinki 1999.

THE REPRESENTATION OF DRUGS IN RUSSIAN NEWSPAPERS

Lilja, My

Introduction

This paper examines how the drug issue is constructed in three Russian newspapers. The study is based on a social constructivist perspective (Berger and Luckman, 1966). According to the social constructivist perspective "different individuals and groups present claims on issues they want to interpret as social problems" (Spector and Kitsue, 1987, Lagerspetz, 1994). The media is one of the most important actors involved in these claims making activities (Lagerspetz, 1994, Afanasyev and Gilinskij, 1998, Goode and Ben-Yehuda, 1994). In Western Europe and the United States the mass media has been an important actor in the definition of social problems (Goode and Ben-Yehuda, 1994). However, in the Soviet Union independent media were not allowed during the Soviet period.

The drug issue has in Western Europe and the United States been one of the most discussed social problems. In Russia and the Soviet Union there has not been the same tradition with an open debate on social problems, so the drug debate has had a completely different development. In the Soviet Union drug addiction was regarded as a "characteristics of capitalism's moral decay" and it could not exist in a communist society (Kesselman, 1999). This changed by the time of Gorbachev. In 1985 Gorbachev was elected as President and one of his goals was to try to introduce elements of democracy in the soviet society. This policy was called *perestroika* (rebuilding). With the policy of *perestroika* there came an increased focus on social problems (Shelley, 1996). It was, for example, the first time that the media was allowed to discuss the drug issue.

Social, economic and political changes started already in 1985 (Afanaysev and Gilinskij, 1994). However the collapse of the Soviet Empire in 1991 was of course a major change for the Russian society. After the collapse of the Soviet Empire, the Russian parliament passed a drug law that removed criminal liability for drug taking. However, in April 1998, President Yeltsin signed a new comprehensive law on "narcotic drugs and psychotropic substances". This new law again prohibits use of drugs, which means that this law again symbolises a more repressive drug policy.

Soviet and Russian media

When Gorbachev was elected as a president in the Soviet Union another goal was *glasnost* (openness). The aim with glasnost was to open up Soviet History and public debate (McNair, 1991). A central actor in glasnost was the media, and in the end of the 1980s a public critical debate within the media began to emerge. The debate was encouraged not only from the government, but also from below (McNair, 1991). So the first decade of post communism was a period of press freedom (Lipman and McFaul, 2003). Yeltsin also appeared to value an independent press. During Yeltsin's period the media was not state controlled, but instead controlled by private actors, so called oligarchs. After Putin was elected as a president in March 2000, the Russian media context again changed. Putin began with a new approach towards the press that was different from Yeltsin's approach. Putin, of course, admitted that freedom of the press is necessary in a democratic society, but he also said in his first open speech that "sometimes the media turn into means of mass disinformation and tools of struggle against the state" (Lipman and McFaul, 2003). He pointed out that only the state can provide the citizens of Russia with "objective" information about what goes on in the country (ibid.). After Putin was elected as a president the media climate has been harder. At least two reporters have been arrested for "not reporting the truth about Chechnya", one reporter for not reporting the truth about the sinking of the Kursk submarine, and two of the largest TV channels have been closed down (Lipman and McFaul,

2003). However, Putin has received international critique and this development has not meant the end of all independent media.

Material and analysis

The aim of the study is to analyse newspaper articles which focuses on the drug issue. Only articles that mainly focused on the drug issue were analysed. Articles that only mentioned drugs, but not focused on the specific issue were excluded in the analysis. The material is collected from an American database on Russian newspapers (www.eastview.com). The material covers articles from three different national Russian papers, *Izvestiia*, *Komsomol'skaya Pravda* and *Argumenty i Fakty*. Izvestiia is one of the oldest Russian dailies with a circulation of about 265, 000 a day. Komsomol'skaya Pravda is the newspaper with the largest circulation of the dailies in the country, of about 2 million a day. Argumenty i Fakty is a weekly paper with a circulation of 2.8 million. The analysis covers all newspaper issues from year 1998 until 2002. A content analysis (Krippendorff, 1980, Bergström and Boréus, 2000) was made of totally 508 articles on drugs. Firstly type of article was analysed and secondly the content within the articles.

A problem with collecting articles from this database was that it was not written type of article, thus whether the article was for example an editorial, debate or news report. Therefore, one problem when carrying out the analysis was to separate different articles from each other. The articles were divided into four groups; *problem articles, news reports, letter to the editor* and *anecdotes, songs, poetry*. Problem articles problematize the drug problem more than only describe a shorter event. Problem articles includes for example, in Western terms, *features, debate articles* and *editorials*. News reports are for example material from news agencies and shorter articles on a particular event. The analysis showed that the total number of articles has decreased since 1998. It is difficult to say why the number of articles has decreased. Either there is a less interest to write about the drug issue. Another reason could be that there are now several other problems, other than drugs, competing for attention in the newspapers, such as terrorism or war in Chechnya. Another interesting finding was that there were more news reports than problem articles. However, other studies also show that most articles about crime in the media are news reports (Pollack, 2001). The distribution is presented in the following table.

Articles in *Argumenty i Fakty, Komsomol'skaya Pravda and Izvestiia,* 1998-2002, type of article

Type of article	**1998**	**1999**	**2000**	**2001**	**2002**	**Total**
Problem articles	46	39	42	32	29	**188**
News reports	67	58	44	55	47	**271**
Letter to the editor	8	11	13	8	3	**43**
Anecdotes, songs, poetry	3	-	1	2	-	**6**
Total No of articles	**124**	**108**	**100**	**97**	**79**	**508**

Secondly, the content of the problem articles was analysed by dividing the articles in main themes. Only problem articles were included in the second analysis. In 1998, most articles focused on individual cases. For example stories about users or parents to drug users. Another theme was articles about the "Mafia", e.g."Nigerian Mafia", "Chechnyan Mafia" or "Russian Mafia". Articles about the drug situation in other countries was also common. In 1999, there are still many articles about individual cases. For example a story about a former drug user, a story including a diary from a drug user who died, a story about a father to a drug user. Another central theme in 1999 is articles about the drug problem in Siberia or the Ural mountains. Poverty is often pointed out as the reason for a high number of drug users in

Siberia. In the year 2000 there is a changed focus within the articles. The most common theme that year is articles which describes drug issue in relation to Afghanistan or Central Asia. There are also some stories about the drug problem in Siberia. Drug treatment is another frequent theme in 2000. In 2001 most articles are still about the drug issue in relation with Afghanistan and Central Asia, e.g. drug smuggling. A new theme is articles about non governmental organisations, e.g. "Mothers against Drugs", "No to Alcohol and drugs" and "Doctors in the World". Harm reduction projects in Russia, such as needle exchange and methadone programs are another frequent theme in 2001. In 2002 there is still most focus on the drug issue in Afghanistan and Central Asia**.** The drug problem in Siberia is another area of interest in 2002 and now there are an increased number of articles which criticize the government's drug policy.

To summarise, there has, since 1998, been a decreased focus, in the analysed newspapers, to write about the drug issue. The content of the articles has also changed, from a micro level (e.g. many articles about individual cases) to a macro level (e.g. articles with a focus on the drug issue in relation to Afghanistan or Central Asia). This changed in the year 2000. The media is, however, only one actor in the drug policy debate. Another important actor is politicians. In the Russian political debate the drug issue in relation with Afghanistan and Central Asia is also a central theme, especially in the war against terrorism (Karaganov et. al, 1998:12, Russian National Anti-Corruption Committee, 2002). In an official statement by President Putin and President Bush it is stressed that Russia and USA will co-operate to stop the illegal drug smuggling from Central Asia, because this smuggling is part of the international terrorism (Putin and Bush document, Nov.13th 2001).

References

Afanasyev, V., Gilinskij, Y. (1994): Alcohol, Drugs, and Crime in the St. Petersburg Press, in Lagerspetz, M. (eds.): *Social Problems in Newspapers: studies around the Baltic Sea.* Helsinki: NAD Publications, No 28, pp.55-69

Afanasyev, V., Gilinskij, Y. (1998): Alarming cumulation of social problems, in Moskalewich, J., Tigerstedt, C. (eds.): *Public Opinion on Social Problems: a Survey around the Baltic Sea.* Helsinki: NAD Publications, No 36, pp.89-117

Berger, P., Luckman, T. (1966): *The Social Construction of Reality: a treatise in the Sociology of knowledge.* London: Penguin

Bergström, G., Boréus, K. (2000): *Textens mening och makt: metodbok i samhällsvetenskaplig textanalys.* Lund: Studentlitteratur

Goode, E. (1994): *Moral panics the social construction of deviance.* Cambridge: Blackwell

Karaganov, S., Malashenko, I., Fyodorov, A. (1998): *Drug Addiction in Russia: Treat to the Nation.* Moscow: Council of Foreign and Defence Policy

Kesselman, L. (1999): *Socialnye koordinaty narkotisma.* St. Petersburg: Russian Academy of Science, Institute of Sociology

Lipman, M., McFaul, M. (2003): Putin and the Media, in *Putin's Russia: past imperfect, future uncertain.* Lanham : Rowman & Littlefield

McNair, B. (1991): *Glasnost, perestroika and the Soviet media.* London: Routledge

Pollack, E. (2001): *En studie i medier och brott.* Akademisk avhandling. Stockholm: Institutionen för journalistik, medier och kommunikation

Shelley, L. (1996): *Policing Soviet society.* London: Routledge

Spector, M., Kitsue, J. (1987): *Constructing social problems.* London: Transaction Publishers

FEAR OF CRIME, TRUST AND INSULATION FROM CRIME IN A RURAL COMMUNITY IN SOUTH-WESTERN FINLAND

Mallén, Agneta

1. Introduction

Trust and fear of crime appear to be closely connected in criminological research. In studies on fear of crime, the general assumption is that a high level of trust reduces the fear of crime (see e.g. Garofalo 1994, Kennedy & Krahn 1984). In 1999, I carried out a survey on behalf of the police authorities in Åboland, a rural area in the archipelago of South-western Finland. The questionnaire included questions about safety and fear of crime and was sent to the inhabitants in eight rural municipalities in Åboland. The results of this study showed, that the inhabitants felt extremely safe, which brought about a further interest in studying the reasons to this. One of the reasons to the high level of safety could be the low level of victimisation in the area, but a low level of victimisation does not always imply a low level of fear of crime.[57] During interviews with persons who had participated in the survey, I noticed that the inhabitants in Åboland displayed a remarkable level of trust. In this paper I will therefore discuss the patterns of trust, the insulation from crime and the fear of crime of the inhabitants in eight rural communities in Åboland in South-western Finland.

In criminological research, also considering fear of crime, focus has dominantly been put on the urban environment. This thinking originates from the Chicago school, the first theoretical approach in criminology in the 1930's (Lilly, Cullen & Ball 1995). The Chicago school developed two concepts of special interest (Giddens 2001, 573). One is the so-called *ecological approach* in urban analysis, the other the characterisation of *urbanism as a way of life*, developed by Wirth (1938). According to the Chicago school, the city contained strong criminological forces (Lilly, Cullen & Ball 1995). Criminality was seen as a social, not individual pathological, problem. Burgess, one of the representatives of the Chicago school, divided the city into five concentric circles of which the second one, zone in transition, was consisted by slum. Criminality was concentrated into this second zone according to the Chicago school, and even today the zone in transition in large cities is seen as a socially disorganised and dangerous place (Walklate 1998, 552).

In *Urbanism as a way of life* (1938), Wirth points out that many people live in close proximity to one another, without knowing most of the others personally. This is a fundamental contrast to small, traditional villages. Most contacts between city-dwellers are occasional and anonymous and since those who live in urban tend to be highly mobile, there are relatively weak bonds between them. Wirth's theory recognises that urbanism is not just a part of society, but expresses and influences the nature of the wider social system.

Small societies, especially rural ones, are often considered as safe dwellings (Villa 1999). On a symbolic level, the countryside represents nationalistic and nostalgic ideas about "the good life on the countryside". Norwegian studies (ibid.) have shown that the experienced benefits with living on the countryside are closely connected with a low level of criminality, good conditions for children to grow up, an attractive landscape, a high quality of life and, also, a peaceful neighbourhood including close relationships among the inhabitants.

The problem with defining the term countryside is fairly new. The countryside has earlier been defined according the proportion of inhabitants connected to agricultural

[57] See the so called fear paradox – the high level of fear of crime of women and elderly despite their actual low degree of victimisation (Wilcox Rountree 1998, Pain 1997, Smith & Torstensson 1997, Hale 1996).

industries (Villa 1999). As the trade structure among the rural population has become more differentiated, the term countryside also has become more blurred. Tönnies' concepts of *Gemeinschaft* and *Gesellschaft* have been used somewhat misleadingly in defining the rural and urban environment, as both concepts can exist in the same context - and not specifically describing an evolutionistic transition from one kind of society to another.

2. The Åboland area

The area that is called Åboland consists of eight municipalities. Geographically, this area contains the Swedish-speaking areas in the South-western archipelago of Finland. Of the municipalities in the Åboland area, Dragsfjärd, Houtskär, Iniö, Korpo and Nagu, are outer archipelago and Pargas, Västanfjärd and Kimito inner archipelago (Nerdrum 1998). The number of inhabitants in the total area is approximately 23,000.

The industries in the eight municipalities are somewhat different, but main industries are farming and fishing (Nerdrum 1998). Tourism is also increasingly becoming an important industry. The level of growth and urbanisation in the municipalities is mostly dependent on proximity to the mainland. The smallest and most distantly situated of the municipalities is Iniö and the biggest, and most central, of these eight municipalities is Pargas.

The inhabitants of Iniö belong to 92 per cent to the Finnish Swedish-speaking minority (Nerdrum 1998). Main industries have been fisheries, sea freight and seafowl's hunt. Nowadays, these industries are out ruled by farming and stock raising. Pargas is the municipality closest to the mainland and was in the beginning of the 20th century an important farming area. In the villages out on the islands, fishing has been dominant. 61 per cent of the inhabitants in Pargas are Swedish-speaking Finns. The development of Iniö and the other municipalities in the outer archipelago is quite different from the development in Pargas. The population of Iniö diminishes but the population of Pargas has increased thanks to favourable economic growth. Pargas also has good communication to the mainland by bridge, but Iniö, being situated on the outskirts of the archipelago, is connected to the mainland by ferry.

This paper is based on the dichotomy of urban versus rural areas. Statistics Finland has since 1996 used a tripartite grouping of municipalities: *urban*, *semi-urban* and *rural* (Statistics Finland 1999). In an *urban municipality*, at least 90 per cent of the population live in urban settlements, or the population of the largest urban settlement is at least 15,000. In a *semi-urban municipality*, at least 60 but less than 90 per cent of the population live in urban settlements and the population of the largest urban settlement are at least 4,000 but less than 15,000. In a *rural municipality*, less than 60 per cent of the population live in urban settlements and the population of the largest urban settlement is less than 15,000, or, at least 60 but less than 90 per cent of the population live in urban settlements and the population of the largest urban settlement is less than 4,000.

Considering the municipalities in my study, Pargas is a semi-urban municipality, with 12,000 inhabitants. The other seven municipalities are rural municipalities - Iniö is the smallest of these, 242 inhabitants and Kimito the largest of the rural municipalities with 3,237 inhabitants.

3. Fear of crime in Åboland

The data in the tables below are based on data from a quantitative enquiry, *Turvallisuustiedustelu,* designed by The Police College of Finland. Based on a selection made by the Finnish *Väestörekisterikeskus*, the enquiry was in spring 1999 sent to 1,696 inhabitants in the municipalities of Dragsfjärd, Houtskär, Iniö, Kimito, Korpo, Nagu, Pargas and Västanfjärd aged 15-75. Table 1 shows the level of worry about victimisation among the inhabitants in Åboland. The respondents are mostly worried about crime against property - the exception is worry about traffic accident by drunken driver. One of the reasons to this might be a recent campaign against drunken driving, which has had unpredictable consequences.

Table 1. Distribution of worry about the respondent or member of the respondent's household being victimised. Percentage share.

Crime category	Not at all/ a bit worried %	Fairly/ Very worried %	Total %	N
Theft of motor vehicle	93	7	100	593
Damage on motor vehicle	86	14	100	590
Burglary (at home)	90	10	100	609
Burglary (in summer cottage)	86	14	100	461
Theft of bike	80	20	100	591
Theft of other personal property	89	11	100	590
Damage on other personal property	87	13	100	590
Robbery	95	5	100	586
Threat of violence	92	8	100	589
Violence	94	6	100	582
Rape, sexual crime	97	3	100	560
Traffic accident; drunken driver	67	33	100	599

The difference between distribution of worry in Åboland and the total of Finland is remarkable. Comparing the numbers from Åboland in 1999 with the numbers from Finland in 1993, the inhabitants in Åboland seem to be noticeably less worried about victimisation than Finns in general (Table 2).

Table 2. Respondents not at all/a bit worried about victimisation of themselves or member of the respondent's household. Percentage share[58].

Crime category	Theft of motor vehicle	Burglary at home	Damage on personal property	Robbery	Violence	Rape
Åboland	93	90	87	95	94	97
N	593	609	590	586	582	560
Finland[59]	39	53	40	61	55	71
N	1060	1161	1159	1157	1163	1120

The question "*How safe do you feel…"* is probably the most frequently used question in measuring fear of crime. This question was also used in the *Turvallisuustiedustelu*. It is obvious, that the inhabitants in Åboland feel very safe walking alone both in their housing area and in the centre of their dwellings late at night (table 3).

[58] The percentage shares considering Finland have been rounded off in order to facilitate the comparison with the percentage shares of Åboland
[59] Korander 1994, 27

Table 3. How safe do you feel walking alone late at Friday and Saturday evenings. Percentage share.

Feelings of safety	In the respondent's housing area		In the centre of the respondent's dwellings	
	Women	Men	Women	Men
Safe, fairly safe	94	98	80	91
Unsafe, doesn't dare to go out	5	1	14	7
Doesn't go out because of other reasons	1	1	6	2
Total %	100	100	100	100
N	360	314	353	307

Examining the feeling of safety according to gender, men seem to feel slightly safer than women. The difference between men and women is bigger considering walking alone in the centre of one's dwellings. The most remarkable is, yet, that comparing the numbers for Åboland and total Finland, the proportion of persons feeling safe is noticeably higher in Åboland than in Finland. In years 1996 and 2000, 18 per cent of the Finns felt unsafe walking alone in their housing area late at night (Aromaa & Heiskanen 2000, 14). In year 2000, 29 per cent of the women and 6 per cent of the men felt unsafe walking alone in their housing area late at night.

Another question in the questionnaire was about whether the respondent used any means of crime prevention. The most common means of crime prevention appears to be some kind of insurance. The second most common means of crime prevention is the use of neighbour watch. 48 per cent of the respondents rely on their neighbours control over the respondent's premises while the respondent isn't at home. Neighbour watch can also, except direct social control, include indirect control while fetching the mail from the mailbox or watering the flowers of an absent neighbour.

The remarkable feeling of safety, the low level of fear of crime and the strong reliance on neighbour watch, gave rise to a more thorough study of the connection between social control, trust and fear of crime. I will first present some explanatory models for trust and fear of crime and then discuss the pattern of trust in the eight municipalities in Åboland.

4. Trust and risk

Trust and risk are seen as concepts typical for the late modern community. According to Giddens (1991), trust originated in the traditional community through kinship, local community or religious belief. According to Gellner (1989), trust and social cohesion do not exist in urban communities, as trust would be a phenomenon typical for a *Gemeinschaft*-, or pre-modern community. Yet, without trust, modern life – especially modern economic life – could not flourish (Fukuyama 1996).

There are many different ways in categorising and defining the concept trust. Today's discussion about trust seems, though, to have been affected by a slight confusion of ideas. In the first chapter of the anthology *Trust in Society*, Hardin (2001, 3-25) presents several explanations of the concept. Hardin also tries to sort out the jungle of different definitions on

the concept trust.[60] *Generalised trust*, as an opposite of private trust, has often been presented as one of the elements of social capital. Hardin writes as follows:

> *At best, in any case, so-called generalized trust must be a matter of relatively positive expectations of others' trustworthiness, cooperativeness, or helpfulness. (…) the child who has grown up in a very benign environment in which virtually everyone has always been trustworthy. By inductive generalization, that former child now faces others with relatively positive expectations* (2001, 14).

Generalised trust, which also is called social trust, involves trusting other individuals and institutions. Generalised trust is not based on specific earlier relations to these individuals and institutions, nor does it consider *why* the individual's trust can vary in intensity.

According to Hardin (ibid.), studies on trust should in a higher degree also note the difference between *cognitive* and *non-cognitive trust*. Hardin means that the concept trust today often involves a cognitive trust. Cognitive trust means that the individual A founds his or her trust on earlier experience of, or earlier knowledge about the individual B. Hardin writes:

> *(…) my trust is encapsulated in your interest in fulfilling the trust. (…) My expectations are grounded in an understanding (perhaps mistaken) of your interests specifically with respect to me (2001, 3).*

When talking about trust as a concept that is lacking expectations or earlier knowledge about the other person, the trust is non-cognitive. Non-cognitive trust means that the individual A trusts the individual B without making any claims on B. According to Hardin (ibid.), the individual's trust to social institutions could be characterised as non-cognitive trust. This non-cognitive trust also corresponds to generalised trust.

4.1. An empirical study of trust

Nelken (1994, 220-244) has studied trust in relation to white-collar crime. In his study, he compares white-collar crime in Italy and in the U.K., but his categorisation can also be used as a more general tool in empirical studies of trust. Nelken presents three elementary questions considering trust. First, *whom can you trust*, second, *how, when and why can you trust*, and, third, *how much can you trust*.

Considering *whom* you can trust, Nelken points out that some groups and institutions often are seen as more trustworthy than others (ibid.). Nelken discusses trust between a state and its citizens in Italy and the U.K. According to Nelken, the British administrative system is based on trust towards state institutions as the Italian system is based on mistrust towards state institutions. Nelken thus talks about *generalised* or *focused trust* and, respectively, *generalised* or *focused mistrust*. In Italy there is a generalised mistrust towards the administrative system but in the U.K. there is a focused mistrust towards the administrative system.

Nelken also describes *how, when and why the individual experiences trust* (ibid.). There are great differences in when you are seen as trustworthy by an institution or a society. According to Nelken, it is difficult to be considered trustworthy – or to become a member – in institutions. But after having become a member, the control exercised by the institutions is

[60] Trust can e.g. be defined as cognitive and non-cognitive trust, generalised trust, private trust and identity-based trust (Hardin 2001). You can also study trust as a good, trust as behaviour and trust as knowledge.

weak. In a society, it is easy to become a member – or to be considered being trustworthy, but thereafter the individual is the object of constant control.

How much, then, can you trust? Nelken (ibid.) discusses whether the level of trust in a society can be increased. He differs between *personal trust* and *impersonal trust*. Personal trust is built on a reciprocal relation between the parties involved, a relation that is supported by an exchange of favours over the long term. Impersonal trust, on the other hand, is linked to a willingness to trust in universalistic operations of economic, financial, political institutions. Personal trust is extended at the expense of those not belonging to the relationship but impersonal trust feeds itself, according to Nelken (ibid, 236). In Italy, he claims, there is more personal trust and less impersonal trust while the situation is the opposite in the U.K.

5. Fear of crime

As discussed earlier, trust is also often studied in relation to fear of crime. In some research, fear of crime is explained as fear of, or lack of trust with, strangers (see e.g. Garofalo 1994, Bilsky 1993). In a study from 1977, Garofalo (1994, 80-97) discusses five general factors that influence the fear of crime. First, the actual risk of being victimised by a criminal act, second, past experiences of being victimised, third, the content of the socialisation processes connected with particular social roles, fourth, the content of media presentations about crime and victimisation and, fifth, the perceived effectiveness of official barriers that are placed between potential offenders and victims. Trust can be considered as one of the elements in the fifth factor above. As Garofalo writes:

> *If people feel adequately insulated from whatever crimes are occurring, it would seem reasonable to assume that they will not be very fearful of crime. To some extent a degree of insulation comes from knowing and trusting the people with whom one interacts. (…) the fear of crime is basically a fear of strangers. In the modern, impersonal urban environment, however, the task of insulating people from crime tends to fall more and more on official government agencies, particularly the police (Garofalo 1994, 99).*

How does fear of crime in rural areas differ from fear of crime in urban areas? There are three ways to look at fear of crime in rural areas. First, the rate of crime in urban areas is higher than in rural areas (Kennedy & Krahn 1984, 247-248). This assumption is somewhat contradictory, as some researchers have discovered that fear is as high in rural as in urban areas. This might be explained with the fact that although urban dwellers have higher levels of fear, rural residents rate their chances of being victimised higher than city residents do.

Second, cities are characterised by a lessening of trust, a breakdown of community support and a greater incidence of strangers. As discussed above, fear of crime is often explained as fear of the stranger, and since there are more strangers in larger cities, city size and fear of crime may be positively related (Wikström 1991, 238). The increased population density and heterogeneity of urban life leads to both isolation and loneliness and anti-social behaviour (Hale 1996, 113).

Third, some research suggest that increased fear occurs in communities which experience rapid growth – also residents in areas which experience rapid change seem to have high levels of fear (Krannich et. al. 1989). These areas can be rural or urban. According to Freudenburg (1986), victimisation and fear of crime increase in rapidly growing communities because of a decline in the *density of acquaintanceship*. Density of acquaintanceship is the extent to which people in a community know each other personally. In general, smaller communities have higher density of acquaintanceships. The close interconnections among citizens provide a sense of common identity and of belonging to a group. Close personal interactions also lead rural citizens to be more watchful of crime and unusual events in their communities.

6. The pattern of trust in Åboland

For this paper, I have studied eleven interviews with inhabitants in Åboland with Nelkens categorisation of the concept trust as my point of departure. In the interviews, I have tried to find the respondents' accounts of whom they trust, how they trust and the level of trust. There are various expressions for trust in the respondents' accounts and I have also had the opportunity to experience the respondents' trust in a more concrete manner: At one interview occasion, I came early to the interview just to find that the front door to the respondent's home was standing wide open though no one seemed to be at home. After having unsuccessfully searched for the respondent in her house, and having waited for the respondent in her garden for appproximately ten minutes, the respondent finally showed up. She had been working at the family's boat house, a five minutes walk from the house. The respondent - whom I call Britta in the interviews below - told me that it is very common that front doors are kept unlocked though no one is at home. This was also confirmed by the other respondents. The little incident strengthened my belief in trust being one probable reason to the low level of fear of crime in the Åboland area.

In the interviews, it seems fairly easy for the respondents do decide, whom to trust. According to the respondents there seems to be a *generalised mistrust* to state institutions, especially the police. However, the respondents experience a *generalised trust* to other local people. According to the respondents, most people living in the archipelago can be considered trustworthy. One of the respondents, Helge, says[61]:

Helge: *I would say that all people living in the archipelago are extremely honest. There are of course some exceptions, but generally speaking I must say that all the persons living here are honest and decent people.*

The respondents' generalised mistrust towards the police seem to appear as a tendency to take the law into their own hands. Only in case of the serious crime, the respondents report the crime to the police authorities.

Agneta: *Okay, so it takes a while before the police arrives…*
Erik: *Exactly. That may also somehow influence the behaviour - that you try to sort it out by yourself, I think. The threshold before you call the police is quite [high] when knowing that they arrive after maybe two hours. If it's not a crime so serious that it must become a police matter, of course.*

There are several ways to take the law into your own hands. One way is that the parties involved make an amicable settlement. The most common way doing this, seems to be to verbally communicate with the offender, using various strategies - from roaring to talking calmly with the offender. You *tell* the offender *not to*, and hope that the criminal behaviour won't continue. Also, the respondents seem to have faith in the deviant's *conscience*, hoping that the offender will give himself up to the police and end his criminal career. Gunilla, one of the respondents says "*I would leave the option to the person, I would tell him that I saw it happen"* meaning that the criminal himself would have to choose whether giving himself up or not. Helge tells about an incident catching shoplifters stealing: *"they knew they had been up to something criminal"*.

It seems that the inhabitants in Åboland are *born* into a spirit of community that includes the trust of other individuals. This could be connected to the quotation above, about people in the archipelago being generally thought of as very honest. The individual has the trust of the community until he or she commits an act that breaks the trust of the community. This kind of generalised trust seems to agree with Hardin's (2001) thoughts about generalised

[61] See appendix 1 for the original quotations in Swedish.

trust corresponding to a child's confident belief - based on an inductive generalisation – in everyone being helpful and trustworthy. Using Nelken's (1994) terminology, it is easy for the individual to be trusted by the surrounding society. But, exactly as Nelken puts it, the control that society excercises on the individual seems to be constant. The respondents also spontaneously mention the strong social control in the area:

Ivar: *The social control in a small community is awfully strong… That's what it is.*
Agneta: *How do you mean? (…) Do you mean that an outsider always is recognised?*
Ivar: *You notice right away if it's a stranger.*

Here, Ivar refers to the fact that strangers are easy to identify in the area. Still, the social control is also manifested in other ways. Another example of social control is gossiping – a very common means of exchanging information. In sociological research, gossip is generally considered as a typical means of social control which practices its regulating function most successfully in small, stabile, morally homogenous groups or societies (Bergmann 1993). In Åboland, the informal control is not only practised by gossiping, but also by the activities of informal social control agents. These informal social control agents can work as ferry drivers or supermarket cashiers. One of the respondents, Jonas, explains how the gossip runs:

Agneta: *So can you honestly say there is a lot of gossiping going on?*
Jonas: *That's how it is. I mean, if you want to go out and fetch some milk from the grocery store, it takes at least three hours… And we only have one and a half kilometres to the shop – it's gossip, gossip all the way down to the shop. Everyone wants to talk.*
Agneta: *Mhm. Yes.*
Jonas: *But that's the way it is – the tiniest issue becomes great news. If someone has had a car accident, they keep on gossiping for three days before the whole thing calms down.*

Studying the level of trust in Åboland, the area seems to be characterised by a *high level of personal trust* but a *low level of impersonal trust*. The low level of impersonal trust can be noticed in the inhabitants' opinions about the police. Generally speaking, the respondents are not satisfied with the police. This is partially caused by the fact that it takes a long time – up to one hour – for the police to turn out in answer to an emergency call. One of the respondents explains that after a burglary, the police doesn't arrive before the following day. The respondents also think that the police could be more visible in order to prevent crime. The following is an excerpt from a discussion about the police:

Agneta: *How often do you see the police in [place name] then?*
Gunilla: *Well, nowadays it's not that often. There are often traffic controls because a couple of years ago there was an article in the paper about it [the main road] being one of the most dangerous roads with death accidents and people who exceed the speed limits – you see death accidents fairly often. They have speed traps and breathalyser tests. They have even made me have a breathalyser test at half past six in the morning. You see them doing that, but otherwise I don't think you see them at all.*
Agneta: *Do you think there would be some positive effects with seeing them more often?*
Gunilla: *No I don't, but evidently there are – a police car on the main road reduces speed driving and other crazy ideas like unnecessary overtaking. The police certainly have a calming effect in that way. I'd also like to see more patrolling police officers at the market square.*

Language problems between the police and the inhabitants can also cause mistrust towards the police. The majority language in the area is Swedish, which may lead to a confusion of languages if the police authorities only speak Finnish. One of the respondents even uses the word *racist* while talking about the police authorities' language policy:

Agneta: *So why don't you [like the police]?*
Jonas: *They haven't understood that people living in these municipalities are Swedish-speaking, they send officers who only speak Finnish. There's always the same problem…*
Agneta: *Yes?*
Jonas: *It sounds weird, but the police officers are very racist, at least the Finnish-speaking ones around here.*
Agneta: *Okay - you mean considering the language or…?*
Jonas: *Yes, considering the language. You always get a very negative reception. You can see that it pisses them off when you talk Swedish to them.*

One of the respondents summarizes the low level of trust towards the police by saying: *So I don't count on the police making things any safer. No-o. I don't.* Another respondent says:

Anne: *Well, it's not 'cause of the police I feel safe 'cause they're not here that often. It's more because it's a small place and you know most of the people. If you were living in a high-rise house in town and something would happen in the staircase and you'd cry for help, no one would help you. But if I'd cry for help in the staircase in my house, my neighbours would come running. And you know, for example, that you can call the taxi rank, there are always taxis or then the person who's on duty – you can always call them if something's the matter. So you know where to call if you don't get the police…*

It seems as the inhabitants rather would trust informal agents, such as neighbours, in case of emergency. The high level of trust towards neighbours could also be an example of *high level of personal trust*. The inhabitants also trust other local people to a high degree. One sign of this is that front doors are kept unlocked though no one is at home. Cars and bicycles are also normally kept unlocked. Jonas describes it:

Jonas: *But there has never been any problems, it's… it's dangerous because something could happen any time 'cause most of the houses are unlocked or then the doors are locked but the key is still in the keyhole - my aunt always keeps her key in the keyhole. That's a good laugh. And if the key isn't in the keyhole, it's in a cupboard next to the door.*
Agneta: *So with some common sense you know…*
Jonas: *Yes, most often under the carpet…*
Agneta: *…or under a loose stone somewhere near the front door…*
Jonas: *It's never far away. I mean, when the whole family goes to Turku [the regional centre] we lock the doors, but never when we're at home. I don't know - why should we?*

The respondents express a high level of trust towards their neighbours while asking the neighbours to water their flowers, fetch their mail from the mailbox or keep an eye on the house when the respondent isn't at home. One respondent tells that she also sometimes asks one of the ferry drivers, who lives close by, to check the house when she and her husband are gone. In summertime, the inhabitants however lock their houses more frequently. The amount of summer visitors, and thus plausible strangers, is quite high in the area. Britta describes it as follows when I ask if she usually keeps her car locked:

Britta: *In summertime I sometimes do… If I remember, I lock the car. There are so much other people [strangers] here. If I park it, I also lock it. But in July, when there were lots of people here, my husband and I went to the village centre to do some shopping. My husband went to the bank and parked the car outside and I went to the grocery store . When I came out from the store, I noticed that he had left the key in the ignition and left the car window open. Left the car unlocked, a quite new car…*

There seems to be a lower degree of trust towards summer visitors. The stranger doesn't even have to take the shape of an actual person, but can be represented by an unknown car.

Agneta: *But you don't have neighbours round the corner…*
Katarina: *In that way you have to know – I know what kind of cars our neighbours drive and if there's a car driving on our road, we know, because it's a private road. I know it's either going to the gravel pit or then it's something I should be a little suspicious of.*

Another respondent, Clara, says that she *starts wondering* when she sees a strange car and Katarina, consequently, knows exectly, when a car isn't local. But, opposed to all fishy strangers, there are also "good strangers" according to the respondents. These strangers are not seen as a threat. One reason to why these strangers are seen as harmless could be that it seems to be easier to confront the strangers on "home ground", in your home village. Erik explains why strangers also can be seen as something positive:

Agneta: *What do you think about strangers, then, if you don't see them as a threat?*
Erik: *I think that it has changed somewhat, nowadays you see them as a possibility, an economic possibility. It has changed a lot since I moved here, too - in those days, there were much more critical comments about outsiders or strangers on the whole, but you seldom hear things like that anymore.*

A clearly positive aspect with strangers is thus the economic upswing they create in summertime. The increased need of services and the tourism create new jobs during summertime. In a sparsely-populated area like Åboland, this is of great importance.

7. Concluding remarks

As tables 1 and 3 show, the inhabitants in Åboland feel very safe and exhibit a low level of fear of crime. Obviously, there are several explanations to this, but in this paper I have focused on trust as a fear-decreasing factor. The qualitative interviews seem to point out that the level of trust is high in Åboland. This is the case especially considering trust towards other local people, i.e. personal trust. This trust can also be described as generalised trust – trust that stems from inductive generalisation.

Some categories seem to experience a lower level of trust than others in the Åboland area. These categories are strangers and state institutions, especially the police. Despite the dissatisfaction with the police, the insulation from crime is still perceived as good, as the level of trust towards other local people is quite high. Even though the police might not always be able to provide the inhabitants with sufficient protection against crime, the inhabitants seem to rely on help from other local people.

References

Andersson, Kjell & Eklund, Erland. 1999. Tradition and innovation in coastal Finland: The transformation of the archipelago sea region. *Sociologia Ruralis* Vol. 39/3: 377-393.

Aromaa, Kauko & Heiskanen, Markku. 2000. *Suomalaisten rikosriskit 2000. Kansainvälisen rikosuhritutkimuksen Suomea koskevia tuloksia*. Oikeuspoliittisen tutkimuslaitoksen tutkimustiedonantoja 49. Helsinki: Hakapaino.

Beck, Ulrich. 1992. *Risk Society. Towards a New Modernity*. London: Sage.

Bergmann, Jörg R. 1993. *Discreet Indiscretions. The Social Organization of Gossip*. New York. Aldine de Gruyter.

Bilsky, Wolfgang. 1993. Blanks and Open Questions in Survey research on fear of Crime. In: *Fear of Crime and Criminal Victimization*. Eds. Wolfgang Bilsky, Christian Pfeiffer & Peter Wetzels. Stuttgart: Enke Verlag; s. 9-44.

Douglas, Mary. 1994. *Risk and Blame. Essays in Cultural Theory*. London: Routledge.

Foucault, Michel. 1991. (1978). Governmentality. In: *The Foucault Effect: Studies in Governmentality*. Eds. Graham Burchell, Colin Gordon & Peter Miller. Chicago IL: University of Chicago Press; s. 87-104.

Freudenberg, W.R. 1986. The density of acquanitanceship: an overlooked variable in community research? *American Journal of Sociology* Vol 92: 27-63.

Fukuyama, Frances. 1996. *Trust: The Social Virtues and the Creation of Prosperity*. London: Penguin.

Garofalo, James. 1994. Victimization and the Fear of Crime. In: *Victimology*. Ed. Paul Rock. Aldarshot: Dartmouth Publishing Company; s. 80-97.

Gellner, E. 1989. Trust, cohesion and the social order. In: *Trust: Making and Breaking Co-operatvie relations*. Ed. D Gambetta. Oxford: Basil Blackwell.

Giddens, Anthony. 1991. *Modernity and Self-Identity. Self an Society in the Late Modern Age*. Cambridge: Polity Press.

Giddens, Anthony. 2001. *Sociology*. Cambridge. Polity Press.

Gronow, Jukka; Noro, Arto & Töttö, Pertti. 1996. *Sosiologian klassikot*. Tampere: Tammer-Paino.

Hardin, R. 2001. Conceptions and explanations of trust. In: *Trust in Society*. Ed. Karen S Cook. New York: Russell Sage Foundation; s 3-25.

Hale, C. 1996. Fear of Crime: A review of the literature. *International Review of Victimology*. Vol 4: 79-150.

Järvinen, Jan-Erik. 1999. Fisket och dess utveckling i Åboland. I *Åboland i sikte. Upptäck muséer i Åboland*. Eds. Anne Bergström and Anne Sjöström.

Kennedy, Leslie W. & Krahn, Harvey. 1984. Rural-urban origin and fear of crime: The case for ”rural baggage”. *Rural Sociology* Vol. 49/2: 247-260.

Korander, Timo. 1994. *Suomalaisten turvallisuuden kokeminen ja suhtautuminen poliisiin 1993*. Helsingfors: Inrikesministeriet.

Krannich, Richard S.; Berry, Helen E & Greider, Thomas. 1989. Fear of crime in rapidly changing rural communities: A longitudinal analysis. *Rural Sociology* Vol. 54/2: 195-212.

Lilly, J.Robert; Cullen, Francis T and Ball, Richard A. 1995. *Criminological Theory. Context and Consequences*. Thousand Oaks, California. Sage Publications.

Lupton, Deborah. 1999. Crime control, citizenship and the state: lay understandings of crime, its causes and solutions. *Journal of Sociology* Vol. 35/3: 297-311.

Mäenpää, Toivo. 1997. *Poliisin turvallisuustiedustelu Turun ja Porin läänissä 1996*. Turku. Turun ja Porin lääninhallituksen julkaisusarja 141/97.

Nelken, D. 1994. Whom can you trust? The future of comparative criminology. Pp 220-244 I *The Futures of Criminology*. Ed. D. Nelken. London: Sage.

Nerdrum, Monica. 1998. *Skärgårdskvinnor. Tradition, modernitet och diversitet*. Åbo: Åbo Akademis förlag.

Pain, Rachel H. 1997. Whither women’s fear? Perceptions of sexual violence in public and private space. *International Review of Victimology* Vol. 4: 297-312.

Rask, Henry. 1998. Åboland – ny landskapsidentitet. I: *I Åbolands skärgård*. Ed. Eva Ahl and Marika Lindström. Historicus r.f:s skriftserie vol. 13. Helsingfors: Limes ry:s offsettryckeri; s. 101-108.

Rountree, Pamela Wilcox. 1998. A reexamination of the fear-crime linkage. *Journal of Research in Crime and Delinquency* Vol. 35/3: 341-372.

Smith, William R. & Torstensson, Marie. 1997. Fear of crime. Gender differences in risk perception and neutralizing fear of crime. Toward resolving the paradoxes. *British Journal of Criminology* Vol. 37/4: 608-634.

Statistikcentralen. *Befolkningens struktur 1998*. Befolkning 1999: 5. Vantaa: Tummavuoren kirjapaino Oy.

Tönnies, Ferdinand. 1991 (1887). *Gemeinschaft und Gesellschaft. Grundbegriffe der reinen Soziologie*. Neudruck der 8. Auflage von 1935, 3., unveränderte Auflage. Darmstadt: Wissenschaftliche Buchgesellschaft.

Villa, Mariann. 1999. Bygda – sosial konstruktjon av ”trygt och godt”. *Sosiologi i dag* Vol. 29/4: 31-52.

Walklate, Sandra. 1998. Crime and community: fear or trust? *British Journal of Sociology* Vol. 49/4: 550-568.

Wirth, Louis. 1938. *Urbanism as a way of life.* American Journal of Sociology Vol. 44.

1.

Original quotations in Swedish

Helge: *Jag skulle säga att skärgårdsbon är genomärlig människa, det kan jag nog nästan säga (...). Men klart att det finns någo sån däna ströfall ändå att det kommer man ju aldrig ifrån men i allmänhet kan jag riktigt säga att det här bor genomärligt folk.*

Agneta: *Ja just det, så det tar ändå en lång stund [innan polisen kommer]…*
Erik: *Jojo. Och det kan nog hända att det liksom litet inverkar på detdär beteendet också, att man i alla fall inte, man försöker reda upp situationen själv kanske misstänker jag. Att tröskeln att ringa polisen är ganska, att man vet att dom kommer hit om ett par timmar så (otydligt). Om det nu inte är riktigt allvarligt att det måste redas upp av den orsaken naturligtvis.*

”*säger till*”

”*då skulle jag nästan lämna valet åt den [personen], säga att jag såg på”*

”*dom visste att dom gjort något brottsligt”*.

Ivar: *Dendär sociala kontrollen i ett litet samhälle den är jättestark... det är vad den är nog.*
Agneta: *På vilket sätt menar du? (…) Att om det är nån utomstående så ser man?*
Ivar: *Genast att det är nån främmande.*

Agneta: *Att det är liksom, kan du liksom uppriktigt säga att det är mycket skvaller eller?*
Jonas: *Men det blir ju det. Jag menar du far ut och köper en liter mjölk i butiken så tar det tre timmar och, inga går det snabbare int... då har vi bara en och en halv kilometer till butiken så det blir ju skvaller, skvaller hela tiden. Alla skall prata.*
Agneta: *Mmm, jåå.*
Jonas: *Men det är ju så – som alla små saker blir ju stora nyheter. Det räcker att nån kör ut med bilen så går ryktena i tre dagar innan det ungefär lugnar ner sej.*

Agneta: *Hur ofta ser ni polisen där i [ortsnamn]då?*
Gunilla: *Jaa det är nog nuförtiden väldigt sällan. Skall vi säga såhär att, trafikrazzior är där mycket för det var några år sedan en sån hän skrivelse att, skrivelser att det var en av dom farligaste vägarna och där var också till och med dödsolyckor ganska mycket, överhastigheter och dödsolyckor och sån häna, att det ser man nog ganska ofta. Att dom mäter hastighet och dom tycks ha en och blåsa. Att jag har nog också råkat ut, till och med halv sju på morgonen har jag hamnat att blåsa. Att där ser man men eljest tycker jag inte att man ser dem i [ortsnamn] överhuvudtaget.*
Agneta: *Tycker du att det skulle påverka i nån positiv riktning att man skulle se dem mera eller?*
Gunilla: *Nej, men det är ju klart att dom har, det vet man ju på landsväg när man ser en polisbil så minskar det nog på överhastigheter och sån däna vansinnigheter som omkörningar och sån hänt. Att nog har ju poliser på det sättet en lugnande inverkan. Så att gärna ser jag ju nog att till exempel vid torget att det patrullerar poliser, om dom kan gör nånting åt dom där. (…)*

Agneta: *Ja varför [tycker inte respondenten om poliser]?*

Jonas: *Speciellt i dom där hemkommunerna när dom inte har förstått att det är svenskspråkiga när dom skickar dit finskspråkiga poliser som dom alltid gör. Det blir ju alltid det där problemet sen…*
Agneta: *Jaah?*
Jonas: *Det är otroligt som det låter men dom är hemskt rasistiska dom här finskspråkiga poliserna här i alla fall.*
Agneta: *Jahaa? Alltså ifråga om språk då eller?*
Jonas: *Ja, ifråga om språk. Man får ett hemskt negativt mottagande. Man märker riktigt att dom får litet i nerverna [blir irriterade] på en när man sitter och pratar svenska med dom.*

”*Så inte räknar jag med att det finns någon trygghet i polisen. Nää. Det gör jag inte.”*

Anne: *Jå nog är det mera det, att int, int, int gör poliserna det att jag känner mej trygg här för dom är så sällan här. Att det är nog det när det är en liten ort och man känner dom flesta och. Att till exempel i ett höghus i stan om man, det där sku hända nånting i trappan och man sku ropa på hjälp så int int sku nån komma och hjälpa en. Men sku jag därhemma i min trappuppgång ropa på hjälp så sku säkert grannarna komma rusande. Och man vet tillexempel, man kan ringa här till taxistation, där finns alltid taxin eller så finns det den där nummern som dejourerar[har jour], där kan, dit kan ringa och få hjälp om det sku vara någa. Att man vet liksom vart man ska vända sej om man int får tag på någa poliser…*

Jonas: (…) *Men det har ju alltid varit så att det aldrig varit nå problem därnere, att det är... det är ju farligt på det sättet att det kan ju hända när som helst för dom flesta husen står ju faktiskt olåsta eller så är dom låsta med nyckel i dörren som faster alltid har. Det är bra ti’ se. Och är inga nyckeln där så är den i skåpet bredvid dörren.*
Agneta: *Att med litet bondförnuft så vet man*
Jonas: *Ja oftast under mattan och...*
Agneta: *…eller under nån sten nära trappan…*
Jonas: *Den är aldrig nå långt [borta]. Samma när man far liksom längre bort, när vi far till Åbo hela familjen så har vi nog låst men aldrig sådär därhemma att... Jag vet inte, att varför skulle man göra det?*

Britta: *(…) På sommarn brukar jag nog ibland… Om jag kommer ihåg, tänker efter, att jag låser bildörren. För det är ändå så mycket andra mänskor som rör sej här i allfall. Att om jag ställer den att jag låser den. Men nu var jag och handlade, det var nu riktigt i juli när det var som mest folk så [maken] var med och han skulle gå till banken och jag gick in och han ställde bilen utanför. Och när jag kom ut från butiken så hade han fönstret opp och nyckeln i och… Helt nervevat och nyckeln i ny bil som han hade lämnat så…*

Agneta: *Men ni har inte grannar liksom i knuten, jåå…*
Katarina: *Så att på det sättet måste man, jag vet nog vilka bilar som grannarna har, och om det går nån bil där på vår väg, så då vet vi, för att det är privat väg. Så då vet jag att antingen skall den gå till gropen, eller så är det något som man kan vara litet misstänksam över.*

Agneta: *Vad då tycker man om främlingar, om dom inte är ett hot så?*
Erik: *Jag tror i och för sej att det litet har ändrat att man nu ser dom som nå sån där möjlighet, ekonomisk möjlighet, nu är det på det viset. Det har nog ändrat egentligen jämfört jag flyttade hit också, då tycker jag det var mycket mera kritiska kommentarer om utomstående eller främlingar överhuvudtaget men det är sällan man hör något sånt nuförtiden.*

PRINCIPLES OF CRIMINALISATION AND EUROPEAN CRIMINAL LAW

Melander, Sakari

Introduction

Demanding a rational justification for the use of the criminal law is absolutely necessary. *Cesare Beccaria* stated in his famous work "On Crimes and Punishments" that all use of power directed to people that is not absolutely necessary is the result of tyranny. It is fair to say that the criminal law even nowadays is the absolute form of power that the state can direct to its citizens. Through the criminal justice system it is with the help of the modern punishment possible to restrict or to take away citizens' fundamental rights; the personal freedom and integrity or the property.

This intervention through means of the criminal justice system is not restricted only to intervention through punishment. Before punishment there must be something—crime. Theoretically, if a person commits an act, which is described as crime by the law, the state is justified to intervene in person's rights in a manner that the law describes as regards a crime or offence in question. In situations like these we talk about criminal sanction, punishment. However the interference of rights occurs in the first place in a situation where a certain act is criminalised. It comes down to the (possible) interference of rights that happens through threatening with punishment. It could be possible that this threatening crucially encroaches citizen's rights or their right to enjoy these rights without any interference.

The Principles of Criminalisation in Finland

In order to somehow manage the sphere of the punishable, we are in need of tools by which we could operate when a criminalisation of a certain act is examined or discussed. In Finland the principles of criminalisation have worked as these tools that could manage the limits of the punishable. These principles have mainly been formed in criminal law literature, but to some extent they are also recognised by the authorities.[62] The principles of criminalisation work as critical tools that set requirements that need to be fulfilled so that the criminalisation would be possible and justified. The basis of these principles lies mainly on criminal policy, criminal law theory and on social philosophy.

Before the 1970's the foundations of criminalisations was a topic that was rarely mentioned in Finnish criminal law literature. One might argue that the turning point was the Criminal Law Committee's report in 1976.[63] In the report the question on the use of the criminal law was widely discussed.[64] In Finnish criminal law literature the topic has not been

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[62] Finnish ministry of justice has published a memorandum "On Criminal Policy and criminal legislation" (Ministry of Justice 1999) where critical approach towards new criminalisations and certain principles of criminalisation are adopted.

[63] Committee Report 1976:72. Ministry of Justice 1976.

[64] The Committee report was very important in numerous ways. Concerning the topic of this paper the Committee was ahead of its time by introducing aspects according to which criminal law ought to be used to protect the fundamental rights—social rights included—that are guaranteed in the Constitution. Committee also introduced the so-called "sector approach" that was to be used in redefining the area of criminal behaviour. See Inkeri Anttila — Patrik Törnudd, "The Dynamics of the Finnish Criminal Code Reform", in Raimo Lahti — Kimmo Nuotio (eds.), Criminal Law Theory in Transition (Helsinki 1992), pp. 11—26, at p. 18.

widely discussed until the 1990's.[65] It can be mentioned that the situation is almost alike in the Swedish criminal law literature. It has been expressed in a recent Swedish dissertation that the problems on criminalisations were quite sparingly discussed in Sweden. The dissertation in question was the first where the theme was widely—and in the light of the German and Anglo-Saxon discussion—examined.[66]

However, certain stability can be found in the way that the problems concerning criminalisations are discussed in Finland. It could be stated that in Finland the principle of protected interest, the ultima ratio-principle and the principle of weighing the harms and benefits of criminalisation have been considered as principles of criminalisation. Sometimes also the principle of legality and the principle of inviolable human dignity are mentioned in this context.

The role of the principles of criminalisations or the opinion that there is something that could be called as the principles of criminalisations is to some extent stabile in Finnish criminal law literature. However there is no absolute consensus on the contents of these principles. On the other hand the necessity of the unanimous way of thinking could be questioned here on grounds of the development of the society and the dynamics of the criminal legislation.

The principles of criminalisation have also had their impact on legislative process. The Finnish Ministry of Justice has in its memorandum[67] recognised three of the principles mentioned above (the principle of protected interest, the ultima ratio-principle, and the principle of weighing the harms and benefits of criminalisation). In the parliamentary proceedings the principles of criminalisation are taken into account in the committees of the Parliament. The Committee of Constitutional Law has formulated the prerequisites of limitations to fundamental rights and freedoms (Report of the Committee of Constitutional Law 25/1994), and stated that a criminalisation that intervenes a fundamental right must be considered as an intervention of a fundamental right in general. These prerequisites have certain common elements with the principles of criminalisation although they are not identical.[68] The Committee has also stated that the penal punishment always means an intervention on freedom (imprisonment) or on property (fine) (Committee's report 23/1997).

When certain principles of criminalisation are strengthened in the level of the authority that is responsible for the criminal law drafting in Finland—the Ministry of Justice—and when an important Committee of the Finnish Parliament has introduced certain criteria that are to be applied when the criminal legislation is drafted or legislated and that have certain common elements with the previously formed criminalisation principles, it could be on good grounds argued that the problems concerning criminalisations are not entirely political. Also legal element must be recognised. In this element especially perspectives on criminal policy, criminal law theory and social theory have a great impact.

The principle of protected interest. — According to the principle of protected interest it is required that an important societal need requires the use of criminal law and the societal

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[65] At first especially in Tapio Lappi-Seppälä's works. See for example "Om straffrättsystemets (externa) berättigande", in Kerstin Berglund et al. (ed.), Skuldfrihet och Ansvarslöshet (Helsingfors 1994), pp. 73—94. Also Raimo Lahti has discussed the theme—slightly after the Committee's Report. See Raimo Lahti, "Rikosoikeuskomitean kriminalisointeja koskevat ehdotukset" ("The Criminal Law Committee's proposals concerning criminalisations"), Lakimies 1978, pp. 808—833.

[66] Claes Lernestedt, Kriminalisering — problem och principer (Uppsala 2003).

[67] See footnote 1.

[68] On the differences and the common elements between the principles for criminalisation and the prerequisites of limitations to fundamental rights and freedoms see Sakari Melander, "Kriminali-seringsprinciper och förutsättningar för begränsning av grundläggande fri- och rättigheter", NTfK 2002, pp. 237—258.

need of a kind—that must be protected—should be in the background of every criminalisation.[69] A range of offences on the level of criminal legislation should be defined to encompass only the acts that protect a certain precisely defined interest. The question on these interests is perhaps one of the most difficult questions in criminal policy and in criminal law theory.[70] The principle is connected to criminal policy, as the final decision on criminalisation is always a political one. On the level of criminal law theory the principle enables the valuation of the protected interests that for one's part makes it possible to proportion the offences in relation to each other.

The ultima ratio-principle. — According to the ultima ratio-principle the use of the criminal justice system is not possible if it is possible to use another system or means, which is less harmful than criminal law and intervenes citizens rights less than criminal law—or is less coercive. This system should also be morally more acceptable, it should be nearly as effective, and this alternative system should be carried out with moderate costs. The principle could be described as a criminal policy maxim.[71] It has its important role also as it enables the critical evaluation of the whole criminal justice system. When the principle states that the criminal law should be employed only if nothing else works, it could in the end be interpreted to require that the criminal law should be abandoned—that is: the criminal justice system is not required if we always could cope with other means.

The principle of weighing the harms and benefits of criminalisation. — According to the principle of weighing the harms and benefits of criminalisation the benefits achieved through criminalisation should be greater than the harms followed from it. In other words "the total benefits of the criminal regulation should override its total societal costs and other disadvantages".[72] These harms and benefits are mainly premised on criminal policy argumentation and hypothesis—although criminological research has a major role here. The principle is highly important since it widens the perspective concerning the criminal justice system to be "overall societal". The harms and benefits should not be examined only from one perspective—society's, victim's, offender's etc.

The Finnish theory on criminalisation—if one could speak from its existence altogether—has in the 1990's faced new challenges, when criminalisations and criminal law in general have met constitutional law. It has been expressed that criminal legislation needs constitutional justification.[73] Today fundamental rights have a "two-folded" effect on criminal legislation in Finland. On the one hand the State must respect the fundamental rights of individuals: the criminal legislation must be in accordance with the provisions of the Constitution.[74] On the other hand the State is however also obliged to guarantee the observance of basic rights and liberties and human rights.[75] This means also that criminal law

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[69] On the contents of these principles see also Ari-Matti Nuutila, "Crime, Punishment, and Fundamental Rights", Turku Law Journal 2/2000, pp. 1—18.

[70] It could be argued that the definition of interests that must be protected is impossible. I would argue that the comprehensive definition of these interests or the definition of certain features or elements that are common to every crime is not useful. The evaluation that concerns the question should a certain interest be protected through criminal law or not is however extremely useful when trying to formulate something that could be called as rational criminal law or rational criminal policy. This evaluation of interests expresses the subsidiarity of the criminal justice system and it partly enables the proportionate relation between different crimes.

[71] Kimmo Nuotio, Teko, vaara, seuraus: rikosvastuun filosofisista, kriminaalipoliittisista ja lainopillisista perusteista (dissertation) (Helsinki 1998), pp. 515—516.

[72] Ari-Matti Nuutila, "Crime, Punishment, and Fundamental Rights", p. 15.

[73] Ari-Matti Nuutila, "Crime, Punishment, and Fundamental Rights", pp. 1—.

[74] And also in accordance with human rights obligations.

[75] See the Constitution of Finland (731/1999), Section 22.

must sometimes be used to guarantee these rights. It could be noticed that the Finnish theory on criminalisation has faced a new situation when the provisions on fundamental rights and freedoms were revised in 1995 and when the Finnish Constitution was reformed in 1999. The situation in this relation is however not absolutely clear in Finnish criminal law literature or in Finnish legislative process.

The constitutionalisation of the criminal law is not the only challenge to the Finnish criminal law and criminalisation theory. The second challenge is the so-called europeanisation of the criminal law. To illustrate the changed work situation in the field of criminalisation some numerical observations could be made. From the official journal of the European Communities it could be found out that either Commission or a Member State or a group of Member States has proposed 24 framework decisions that have dealt with criminal law in 1999—2003[76]. 15 of those framework decisions have directly concerned issues of substantive criminal law, and one related confiscation. Others dealt primarily criminal procedural law. Seven of the framework decisions that dealt with substantive criminal law have also been adopted and the final texts have been published in the official journal of the Communities.

The adopted Council Framework Decisions in the field of substantive criminal law are:

1. Council Framework Decision on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the Euro.[77]
2. Council Framework Decision on combating fraud and counterfeiting of non-cash means of payment.[78]
3. Council Framework Decision on money laundering, tracing, freezing, seizing and confiscation of the instrumentalities and the proceeds of crime.[79]
4. Council Framework Decision on combating terrorism.[80]
5. Council Framework Decision on combating trafficking in human beings.[81]
6. Council Framework Decision on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence.[82]
7. Council Framework Decision on the protection of the environment through criminal law.[83]

The work of the national actors has also faced changes. To illustrate the changed work situation of the law drafters in Finland criminal law drafting could be used as an example. The criminal legislation proposals are drafted in the Law Drafting Department of the Ministry of Justice. The department has a separate unit on criminal and procedural law. The Ministry of Justice publishes twice a year a catalogue of projects in which the new legislation projects are introduced.[84] In the catalogue published 1 February 2003 eleven of 22 criminal legislation projects had its origin in legal acts of the European Union.

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[76] Situation in August 2003.
[77] OJ L 140, 14.6.2000, pp. 1—3.
[78] OJ L 149, 2.6.2001, pp. 1—4.
[79] OJ L 182, 5.7.2001, pp. 1—2.
[80] OJ L 164, 22.6.2002, pp. 3—7.
[81] OJ L 203, 1.8.2002, pp. 1—4.
[82] OJ L 328, 5.12.2002, pp. 1—3.
[83] OJ L 29, 5.2.2003, pp. 55—58.
[84] The same information is also available in the Internet, unfortunately only in Finnish. See http://www.om.fi/665.htm. The site visited 7.8.2003.

The Principles of Criminalisation and the Europeanisation of the Criminal Law

The europeanisation of the criminal law has during recent years been a widely discussed topic, not without a cause. There is however nothing new in international co-operation in the field of criminal legislation as such. International conventions touching criminal law has been entered for a quite long time—one of the first conventions was entered already in 1929 (on forgery) and the newest may be the international convention for the suppression of the financing of terrorism in 1999. These conventions are in all quite many. Of course all of these conventions does not contain an obligation to criminalise a certain act. But for example the above-mentioned international convention for the suppression of the financing of terrorism contains such an obligation, likewise the nine anti-terrorism conventions listed in the annex of the mentioned treaty.

The European Union's co-operation in the field of criminal law is highly current and significant because of the often-mentioned fact that this co-operation has in recent years been quite dramatic in its intenseness and fastness. This co-operation began after the Treaty of Maastricht and it was intensified along with the Treaty of Amsterdam.[85] A new Union instrument has achieved a very significant role—a framework decision that is mentioned in the Treaty of European Union (TEU) Article 34.

These framework decisions concerning substantive criminal law have a great impact on national criminal law. In practice framework decisions concerning substantive criminal law, which had so far always contained an obligation to criminalise, mean that national legislator must criminalise the act described in the framework decision or ascertain if the act already is punishable in national criminal law. However the question is not this simple. The Council has in April 2002 adopted conclusions on the approach to apply regarding approximation of penalties.[86] After this—and in fact also before this—the framework decisions have contained an article on penalties where requirements on minimum of the maximum level of penalties are laid. Also requirements for example on liability of legal entities and on jurisdictions are laid.

This makes it highly important to examine how the national principles of criminalisation could be applied in the Union-based criminal law when the Member States still have to implement the framework decisions. The implementation is a fact that makes criminal law still very much national on the level of legislation. In this relation it is not clear how the (Finnish) principles of criminalisation will fit the situation where the criminal law legislation derives from the Union. This will be examined in the following section.

The principle of protected interest. — As mentioned above, according to the principle of protected interest it is required that an important societal need requires the use of criminal law and the societal need of that kind—a need that must be protected—should be in the background of every criminalisation. Theoretically this demand or principle is fully feasible when implementing—or to be accurate, when drafting—framework decisions of the Union. The Government or the Parliament may question the (draft) framework decision on grounds that it does not protect any vital interest or that the interest is in no need of protection through criminal justice system. In these situations it might be argued that the interest is not "worth" protecting through criminal justice system.

Basically the situation is however different when criminal legislation derives from the European Union. Merely national societal need is difficult to accept as a justification. Otherwise a situation where just one national need would be a justification for a criminalisation in every Member State would be possible. This couldn't possibly be rational and coherent (Union's) criminal policy. If criminal law framework decision is in preparation attention ought to be paid on the possible strong union wide need, which should either be

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[85] In general see Steve Peers, EU Justice and Home Affairs Law (Essex 2000), pp. 15—62 and 139—187.

[86] Council document 9141/02 DROIPEN 33.

equal or equally societal in all Member States or vital for the Union itself. If a vital Union's interest is to be addressed, as with the fraud against Union's financial interests, it could be argued that the situation is perhaps not so problematic. But when defining crimes on grounds of Union's interest that needs to be protected there may be a danger that the EU-based criminalisations protect some kind of "superrechtsguts" and are regarded as "supercrimes" whereas national crimes are "just ordinary" crimes and protect "just ordinary" interest.[87]

If the protected interest were not the interest of the Union the interest would has to be common to all Member States. Interests of this kind are probably quite rare—if we are not talking about traditional crimes like murder or theft that protect life, property etc. One could search the solution from organised and transnational crime but for example organised crime has not been a great problem in all member states and transnational character of criminality might often be a hypothesis and not a fact.[88] Definitions like "organised crime" and "transnational crime" are also quite broad and inaccurate.

In Union's criminal law documents there are not very many implicit references on protected interests. However slightly criminal policy-like arguments and arguments concerning partly the scope (and the justification) of Union's criminal law can be read mainly from actions plans, Presidency Programmes and from the Conclusions of the European Councils. It could be acclaimed that the main "criminal policy" argument behind the ongoing Union-based criminal law activity is the concern to bring the union closer to people.[89] However the offences or areas of criminality are often listed (the so-called crime lists), for example in Action Plan adopted in Vienna in 1998, in the Conclusions of the Tampere European Council, and in the Treaty of Amsterdam. In addition to these lists two common factors tend to appear in front of the discussion, criminality's organised and transnational character—these two factors are mentioned in the Conclusions of the Tampere European Council, section 40.

National implementation and the rationality of the discussion on the Europeanised criminal law would be more comfortable if the argumentation on the interests that the international or union's criminal legislation should protect would be as thorough as possible and if the real strong need of protection was fully examined. When the Union for example adopted a framework decision on combating terrorism in 2001 the legal foundations of the act was fully recognised. The need of legislative action on suppressing terrorism was stated in the Action Plan of Vienna and in the Treaty of Amsterdam. However, it could be asked how fundamental the analyses concerning the justification of criminalisations that are connected to certain kinds of criminality is when these areas of criminality are added into Union's "crime lists"— e.g. is terrorism always transnational in character, has there been legislation concerning the topic in all Member States before the EU action, etc.

The ultima ratio-principle. — According to the ultima ratio-principle the criminal law should be used only if there is no other means that could be used.

The ultima ratio-principle could theoretically be taken into account almost fully within European criminal law as long as the initiatives are not politically accepted. The initiatives

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[87] See Frank Zieschang, "Europäisierung des Strafrechts", ZStW 2001, pp. 255—270, at p. 266. See also Kimmo Nuotio, "The Emerging European Dimension of Criminal Law", in Flores juris et legum: festskrift till Nils Jareborg (Uppsala 2002), pp. 531—558, at p. 557.
[88] Kimmo Nuotio, "The Emerging European Dimension of Criminal Law", pp. 557—558.
[89] See for example the Action Plan of the Council and the Commission on how to best implement the provisions of the treaty of Amsterdam on an area of freedom, security and justice, para 2. OJ C 19, 23.1.1999, . pp. 1—15, at p. 1.

are usually first discussed in the working party of substantive criminal law.[90] At this stage the use of the ultima ratio-argument is fully possible, but it is however rarely used. The next step is the Article 36-committee, after which the proposal is discussed in Coreper. At these stages it is difficult if not impossible to say that we don't need the approximation of criminal legislation on the matter concerned. The final stage is the Justice and Home Affairs (JHA) Council. Here it might theoretically be also possible to use the argument, but the political consequences could be severe.

What comes to Unions legislation it is quite difficult to find any hint on the restrictive use of the criminal law instruments. It has been expressed that the Union "places great faith in the criminal law".[91] However, one possible argument that could be used here is the argument on necessity in TEU 29. According to article the objective of the Union is to provide citizens the high level of safety within an area of freedom, security and justice is achieved by "preventing and combating crime, organised or otherwise, in particular terrorism, trafficking in persons and offences against children, illicit drug trafficking and illicit arms trafficking, corruption and fraud". This is achieved among others through "approximation, *where necessary*, of rules on criminal matters in the Member States, in accordance with the provisions of Article 31(e)". The reference to Article 31(e) in the first place limits approximation to three fields that are mentioned in Article 31(e): organised crime, terrorism, and illicit drug trafficking.

It is not clear what this "where necessary" means. However it is clear that the explicit reference on a certain kind of "means test" (approximation, where necessary) intends to show that approximation is not always necessary. When the same Article (29) earlier lists certain offences that are to be prevented or combated—and when in Article 31(e) certain fields of crime are also listed—a careful reading shows that also on these fields approximation is not needed when it is not necessary.

The principle of weighing the harms and benefits of the criminalisation. — The principle of weighing the harms and benefits of the criminalisation intends to be a pragmatic tool which obliges to as comprehensive as possible examine all the observable benefits and harms that could possibly appear in connection to a criminalisation. It could be argued that the principle is of highest importance when it presupposes the definition of the objectives of the criminal policy.[92] When the principle does not limit itself to criminal law policy but presupposes the objectives of criminal policy it also anchors the examination concerning a criminalisation to a level that does not cover only criminal legislation. The level is more overall societal.[93]

Nationally it is fully possible to consider all the benefits and harms of the Union-based criminalisation. However the situation might be said to be quite the same as it was with the ultima ratio-principle—the consideration needs to take place before the draft framework decision is (politically) accepted.

In addition, we face a new problem with the current principle. It was mentioned above that the principle of weighing the harms and benefits of a criminalisation presupposes the definition of the objectives of criminal policy. If the criminalisation at issue has its roots in

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[90] On different working parties, committees etc. in the field of justice and home affairs in general see Steve Peers, "Justice and Home Affairs: Decision-making after Amsterdam", E.L.Rev. 2000, pp. 183—191.

[91] G.J.M. Corstens, "Criminal Law in the First Pillar?", p. 138. European Journal of Crime, Criminal Law and Criminal Justice 2003, pp. 131—144.

[92] Cf. Kimmo Nuotio, Teko, vaara, seuraus: rikosvastuun filosofisista, kriminaalipoliittisista ja lainopillisista perusteluista (dissertation) (Helsinki 1998), p. 516. Nuotio sates that the principle is purely a principle of criminal policy.

[93] Ari-Matti Nuutila, Rikosoikeudellinen huolimattomuus (dissertation) (Helsinki 1996), p. 87.

the law drafting of the European Union the criminal policy presupposed should at least partly be the criminal policy of the European Union. It is not very clear if the Union really has a criminal policy or if this possible criminal policy could be described as coherent criminal policy. The question is too large to examine here but I will briefly try to examine few aspects that are possibly found relevant when trying to outline the possible criminal policy of the Union.

Firstly the fundamental objective behind the Union's criminal policy should be defined. If some kind of criminal policy is introduced, the goal of this policy must first be defined. One could argue that the goals of the Union's criminal policy are written into the Treaty of Amsterdam, where the Area of Freedom, Security and Justice was defined. The main objective would then be the *high level of safety guaranteed to the citizens of Europe*.[94] It seems evident that this could be described as the current criminal policy of the Union as the Action Plan adopted by Council in Wien in 1998 and the Conclusions of Tampere seem to confirm the objective. However, in the Conclusions of Tampere (plank 40) it is mentioned that "the high level of safety in the area of freedom, security and justice presupposes an efficient and comprehensive approach in the fight against all forms of crime. A balanced development of unionwide measures against crime should be achieved while protecting the freedom and legal rights of individuals and economic operators". This seems a bit strange. If Union's objective is to guarantee a high level of safety in the area of freedom, security and justice and if this presupposes the fight against all forms of crime, the Union's criminal policy does not comprehensively examine what "crime" really is. It merely states that all forms of crime must be fought—and criminal policy is or at least should be much more than fighting crime. Another problem in defining the possible European criminal policy could be that there possibly is no homogeneous European opinion of what constitutes the right and reasonable criminal policy.[95]

The objective described above is quite different to for example the objectives of the Finnish criminal policy: (1) to regulate/minimize the sum total of the social costs (including human suffering) caused by crime and by society's response to crime, and (2) to distribute these social costs fairly among the involved parties, i.e. offenders, crime victims, tax payers etc.[96] The Finnish objectives are however much more comprehensive than the possible objectives defined by the Union. For example aspects of justice are considered in the Finnish objectives. Of course, the Finnish objectives also take the concept of crime in a way granted. This is why we are in need of a general theory on criminalisation that could operate nationally and internationally.

Conclusion

When criminal law is still very much an issue of the Member States' legislation especially when the framework decisions of the Union must be implemented in the Member States and when the Union's possible criminal policy seems to be somehow inadequate, national criminal policy and criminal law are in state of transition. As described above, this concerns also the national practices that have dealt with the problems concerning criminalisations. However, the europeanisation of the criminal law seems today evident if we look at the amount of the Union's Council Framework Decisions in the field of criminal law.

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[94] On the "citizen's Europe" see for example Kimmo Nuotio, "The Emerging European Dimension of Criminal Law", p. 547.

[95] See Per Ole Träsman, "A good criminal policy is more than just new law", in Heiskanen — Kulovesi (eds.) Function and Future of European Law (Helsinki 1999), pp. 207—221, at p. 212—213.

[96] See Patrik Törnudd, "In Defense of General Prevention", in Facts Values and Visions. Essays in Criminology and Crime Policy (Helsinki 1996), pp. 11—22, at p. 15.

But, the situation has to be faced critically. What is now needed in Europe is political and scientific discussion on what could possibly be common criminal policy in the EU—that is, the fundamental ground where the approximation of the criminal law should be based on. What is also needed here is some fundamental and critical analysis that deals with the criminalisations in the level of the Union. This however presupposes the definition of the possible criminal policy of the Union.

FAMILY VIOLENCE – A HUMAN RIGHTS ISSUE?

Mikkonen, Tanja

In this paper I will present some points from my licentiate work.

I have focused on domestic violence from an international law point of view. The main idea in the research has been to find out what the international requirements are related to the state responsibility in the issue. International law is about the responsibility of the state and it does not directly deal with the responsibility of individuals.

Historically the main idea with the human rights have been that individuals have to be protected from power exercised by the state. The main human right conventions were accepted after the Second World War due to the events that happened during the war. It became then self-evident that individuals had to have an area where they where protected from power exercised by the state. This is called the *vertical effect* of the human rights that deals with the state versus the individual. Due to the protection of the private area of the individuals by the state, violence that has taken place in the private sphere hasn't been considered so much as a state matter.

The human rights conventions demand that the state has to guarantee the enjoyment of the human rights. Nowadays this can also be seen as a lager demand for the state to ensure that individuals are also protected from each other, so that they can enjoy their full human rights. This is called the *horizontal effect* of the human rights, also know as the *drittwirkung* effect. The word *drei* refers to the state and at least two persons. As you can see the state is in the human rights doctrine always the main party.

The state can use the criminal law to protect to individuals. The international human rights treaties require that the state ensure the rights, which doesn't have to be through criminal law, although states use the criminal law specially to protect individuals` integrity and ownership. The horizontal protection of the human rights is something that has been under a rapid development. Domestic violence is a good example of this protection and requirement that demand the state to intervene to ensure that individuals rights are protected. One key issue in the elimination of the elimination of violence against women has been the development made in UN. The UN treaties, declarations and recommendations related to the issue require that states *actively* ensure the human rights and not just passively protect them.

First this can be seen very simple, of course the state has to intervene in violence that occurs in the private sphere! The other questions; when is the state responsible for an act that is made by an individual, is a little more complicated.

When international documents related to violence against women is being discussed we have to go back to year 1979. A significant step was then made towards the recognition of the rights of women when the Convention on the Elimination of All forms of Discrimination Against Women (CEDAW-Convention) was accepted in the UN.[97] In this Convention, the term **"discrimination against women"** was defined as any distinction, exclusion or restriction made on the basis of sex which has **the effect or purpose** of impairing or nullifying the recognition, enjoyment or exercise of human rights.[98] Interesting in this definition was that it also included discrimination that has **an effect** of impairing or nullifying the enjoyment of human rights. Many times the decisions of the authorities are not made on the purpose to discriminate, but the effect of the decision can have a discriminating result.[99]

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[97] The UN Convention on the Elimination of All Forms of Discrimination Against Women (1979).

[98] The UN Convention on the Elimination of All Forms of Discrimination Against Women, article 1 (1979).

[99] Nousianen 2001, p. 237-238.

The CEDAW- Convention requires that the states have to take **all appropriate measures**, including **legislation**, to modify or abolish existing laws, **regulations**, **customs** and **practices** which constitute discrimination against women.[100]

The CEDAW- Convention did not directly deal with violence against women, but later in 1992 the monitoring body of the Convention the CEDAW-committee gave a recommendation (Recommendation nr. 19.) which stated that the definition of discrimination includes **gender-based violence**. [101]

The recommendation nr. 19 was the starting point to see domestic violence and sexual violence as a human right issue and it introduced the concept of **gender-based violence**. Gender-based violence was defined as violence that is *directed against a woman because she is a woman or that affects women disproportionately*. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty.[102] After this recommendation gender-based violence has been used in almost every convention, declaration or recommendation which deal with violence against women. The concept of gender-based violence holds in itself the idea that violence against women, including sexual violence, is a form of discrimination.

The recommendation also argues that certain traditions and customs and practices whereby women are regarded as subordinate or as having stereotyped roles perpetuate various practices, including violence and coercion, and that such prejudices and beliefs may be used to justify gender-based violence as a form of protection or control of women, as a result of which women are deprived of the equal enjoyment of their human rights.[103]

One year later, in 1993, UN adopted the Declaration on the Elimination of Violence against Women[104] and in 1995 the Peking Declaration and the Platform for actions was adopted.[105] Both of these documents demanded that the state has to actively protect women from violence exercised by their partners. These demands where made due to the knowledge from studies that showed that the states did not intervene in the problem as much as was supposed. After the UN documents there has been made recommendations in the Council of Europe and in the EU to eliminate violence against women. In these documents violence against women is defined as in UN documents. Quite an interesting progress was also made in the Inter-American Human Rights system when the Assemble of the Organization of American states approved in 1994 the Inter-American Convention on the Prevention, Punishment and Eradication on Violence against Women (VAW- Convention).[106] This is the first and only **convention** by far that deals explicitly with violence against women. It will be interesting to see will the European Council draw up a similar convention in the future.

The UN Declaration on the Elimination of Violence against Women (1993) distinguished physical, sexual and psychological violence that occurred in the family (private violence) and violence that occurred in the community or was perpetrated or condoned by the

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[100] The UN Convention on the Elimination of All Forms of Discrimination Against Women, article 2 (f) (1979).
[101] CEDAW General recommendation no 19. 11th session 1992. General Comments 6 (1992).
[102] Ibid.
[103] CEDAW General recommendation no 19. 11th session 1992, Comments on the specific articles of the Convention, paragraph 11 (1992).
[104] Declaration on the Elimination of Violence against Women G.A. res. 48/104, 48 U.N. GAOR Supp. (No. 49) at 217, U.N. Doc. A/48/49 (1993).
[105] Beijing Declaration and Platform for Action (1995).
[106] Inter-American Convention on the Prevention, Punishment and Eradication on Violence against Women (1994).

state.[107] The main idea was to make it clear that private violence is an issue that demands active measures from behalf of the state.

The Declaration locates the roots of gender-based violence in "historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of the full advancement of women", recognising that "violence against women is one of the crucial social mechanism by which women are forced into a subordinate position.[108]

When is the state responsible of the violence?

The state is not directly responsible of gender-based violence. The main responsible is the assaulter. The international recommendations and declarations point out that violence against women have to be reported, prosecuted, condemned and remedied. The Declaration on the Elimination of Violence against Women[109] demand states to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons.[110] This is where the state responsibility comes in question. This also shows that violence against women isn't anymore private issue, but a "public" issue and necessities governmental action to protect women. Only if the state fails in this protection it can be held responsible.

The national law defines the crimes and the courts give the sentences to the individuals. Anyway, international law requires that states have to have for example criminal laws where the defendants gets punishments and the victims gets compensation. The declarations and recommendations also require that authorities who deals with these kind of violence cases gets special training. The state is also responsible to arrange health care services and other supporting services to the victims. In Finland the production of the health care services to the victim and offender has been important, sometimes also more important then to take the case to the criminal justice system. Anyway, in the recent years the importance to take the cases to the court has strengthened.[111]

If the state investigates, prosecutes and condemns domestic violence differently than other kind of violence like "barfights", this can be seen as a form of discrimination. For example if the state has a criminal law (which is usually the case) that treats in the reality the women and men differently can this be seen as a violation against the equality between the individuals. Through the CEDAW-convention states have a positive responsibility to change the circumstances and ensure that equality in these kind of criminal cases is achieved. This could also mean that the state could treat through law differently domestic violence cases compared to other violence cases, because the reasons of the domestic violence are quite complex and behind the violence exists a larger structural problem in the societies.

The UN Convention on the Elimination of All Forms of Discrimination Against Women[112] obligates the state to give reports to the CEDAW - Committee every forth year about the implementation of the Convention and also what the state actions have been to

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[107] Declaration on the Elimination of Violence against Women, article 2 (1993).
[108] Declaration on the Elimination of Violence against Women (1993).
[109] Declaration on the Elimination of Violence against Women G.A. res. 48/104, 48 U.N. GAOR Supp. (No. 49) at 217, U.N. Doc. A/48/49 (1993).
[110] Declaration on the Elimination of Violence against Women G.A. res. 48/104, 48 U.N. GAOR Supp. (No. 49) at 217, U.N. Doc. A/48/49, article 4 (c) (1993).
[111] See also Niemi-Kiesiläinen 1999, p. 59
[112] The UN Convention on the Elimination of All Forms of Discrimination Against Women (1979).

better the situation in the society. In the end of year 2000 an Optional Protocol[113] came in the force, which gives the individuals possibility to complain to the CEDAW- Committee about the violations of the Convention. This gives individuals directly the right to complain if the state doesn't take care of its responsibility. The protocol also makes it possible to the Committee to make investigations in the states if there are suspicions that violations occurs in the state. This requires that state has accepted the state has recognised in advance the investigation procedure.

The positive effect of the UN Convention on the Elimination of All Forms of Discrimination Against Women has been that it has also strengthened the discrimination articles in the other Human Rights conventions. It is also of course possible to complain to the European Human Rights Court or the UN´s Civil and Political Rights Committee of the violations of the conventions that belongs to their jurisdiction.

Litterature:

Carlesworth Hilary and Chinkin Christine, The Boundaries of International Law, Juris Publishing, Manchester University Press 2000.

Chinkin, Christine and others, J.P. Gardner (toim): Human Rights as General Norms and a State´s right to opt out, Reservations and Objections to Human right Conventions, The British institute of international and Comparative Law, London 1997.

Clapham, Andrew: Human rights in the private sphere, Oxford Clarendon Press 1998.

Davidson, Scott: The Inter-American Human Rights System, Dartmouth Publishing Company 1996.

Herrlin, Monica: Oikeustieteellisen tiedekunnan tutkielma: "Naisten oikeudet ovat ihmisoikeuksia" – Ihmisoikeusvelvoitteet ja YK:n naisten oikeuksien yleissopimus 2000.

Herrlin, Monica: Naisten ihmisoikeuksien käsikirja, Lakimiesliiton kustannus, Helsinki 1998

Keeler, Laura: Recommendations of the E.U, Experts Meeting on Violence Against Women, 8-10.11.1999, Jyväskylä, Finland, Ministrary of Social Affairs and Health; Report 2000:13.

Niemi-Kiesiläinen: Criminal Law or Social Policy as Protection against Violence in the book Responsible Selves, Women in the Nordic Legal Culture (edit.) Nousiainen, Gunnarsson, Lundström, Niemi-Kiesiläinen, Ashgate, Darthmount Great Britain 2001.

Niemi-Kiesiläinen: Våld mot Kvinnor och mänskliga rättigheter, RETFAERD Nr. 94, 22 Årgång 1999.

Nousiainen Kevät & Anu Pylkkänen: Sukupuoli ja oikeuden yhdenvertaisuus, Forum Iuris, Helsinki 2001.

Pellonpää, Matti: Euroopan ihmisoikeussopimus, Kauppakaari Oy, Lakimiesliiton Kustannus, kolmas uudistettu painos, 2000.

Rehof, Lars Adam, Guide to the *Travaux Préparatoires* of the United Nations Convention on The Elimination of All Forms of Discrimination against Women, Martinus Nijhoff Publishers, Alankomaat, 1993.

Conventions:

Convention on the Elimination of All Forms of Discrimination against Women (1979).

CEDAW -Committee, General Recommendations nr.19. (Eleventh Session, 1992).

Optional Protocol to the Convention on the Elimination of Discrimination against Women (1999).

Declaration on the Elimination of Violence against Women (1993).

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[113] Optional Protocol to the Convention on the Elimination of Discrimination against Women (1999)

Peking Declaration and the Platform for Actions (1995).
Inter-American Convention on the Prevention, Punishment and Eradication on Violence against Women (1994).
Universal Declaration of Human Rights (1948).
Covenant on Civil and Political Rights (1966).
Optional Protocol to the International Covenant on Civil and Political Rights (1966).
European Convention for the Protection of Human Rights and Fundamental Freedoms (1950).

THE MOST DANGEROUS MEN OF GREENLAND

Nyborg Lauritsen, Annemette

The title of this presentation is "The Most Dangerous Men of Greenland". That is to say those persons who are considered to be so dangerous that it is presently impossible to keep them in Greenland.

18 of these men are currently serving their sentences for indefinite periods of time in a closed prison in Denmark called "Anstalten ved Herstedvester" - The Prison in Herstedvester.

While preparing my dissertation, I compiled information through fieldwork, observations and interviews conducted in Greenland and in the prison in Herstedvester. I interviewed persons who presently do their prison time in Denmark and I talked to persons who were sent back after a number of years in Denmark to continue serving their sentences in Greenland. To be able to make a comparison, I also interviewed persons who were convicted of similar crimes, for example homicide or sexual crimes, but were allowed to stay in Greenland. Finally, I interviewed representatives from the police, the judicial system, prison staff in Greenland and Denmark, and psychiatrists and social workers from the Danish prison.

The purpose of this presentation is to describe the consequences for the convicted Greenlanders of being sent to a prison on another continent, and the consequences this has for their return to society in Greenland.

I would like to begin by pointing out some significant aspects of the Criminal Law of Greenland that will help us understand the reasoning behind sending Greenlanders to Denmark to serve criminal sentences. Afterwards I will describe the legal imprisonment arrangements. And finally, I will describe how staying in the Danish prison influences the prisoners who are sent there as well as what happens when they are returned to Greenland.

The Criminal Law of Greenland

The Criminal Law of Greenland was introduced in 1954. The law is humane and progressive in its attempts to take individual considerations into account with regard to the offender's way of life before measures are laid down.

This way the so-called principle of "perpetrator" forms the foundation for the criminal law, wherein an element of treatment is decisive. This principle is the reason behind the fact that two persons who committed similar crimes, can be sentenced entirely different.

Principle applied in sentencing represents the practice that the perpetrator during his sentence has to be able to participate "normally" in the society. In this way, the judicial system is built upon a principle of rehabilitation, whereby perpetrators can be excluded from the general life of the community only in exceptional circumstances.

In 1948, the Danish Government sent an Expedition to Greenland which had the task to write down the contents of the Greenlandic practice within the area of criminal law. At the same time, it was to be investigated whether it would be possible to apply existing Danish rules to the Greenlandic population.

While the law was coming into existence in 1954, argues took point of departure in the perpetrator and rehabilitation was to relate to traditional conflict resolution among Inuit. At the same time, those principles were prevalent in the new thinking in the European sociology of law. In this way, the criminal law was looked upon as a social experiment which was to be followed by scientific research into the area of law reform.

During the 50 years which have passed since the law came into existence, Greenlandic society has gone through a process of modernization which has resulted in residual problems that include a rise in crime. The criminal law has by and large remained unchanged.

The Homerule Government was introduced in 1979, and since then most cases have been returned to Greenland from Denmark. However, the system of justice remains Danish. This means that the Greenlandic system of justice is regulated by Danish legislation. Since

the area of law is a Danish matter, it continues to be the Danish state, who ultimately determine what is better for the Greenlandic population in the area of criminal law.

In 1994 the Danish Ministry of Justice and the Greenlandic Homerule Government appointed "The Greenlandic Judicial Commission". The Commission is assigned to review the Greenlandic system of justice with one of its main tasks being to recommend solutions to the problem regarding the convicted who are passed on for imprisonment in Denmark. In 2002 the Commission held it's last meeting but the final report is still not published. It is expected in the fall of 2003 and it will include a suggestion for constructing a closed prison in Greenland.

Imprisonment in Greenland

In Greenland, a system has been selected which emphasizes rehabilitation and avoiding the damaging effects which imprisonment may cause. The hope is that convicted persons who undergo a successful incarceration will become better functioning citizens. A disadvantage could be, that imprisonment with offers of assistance, lenient treatment and jobs upon release may appear attractive to socially marginalized groups within society.

In the majority of cases, homicide and sexual crimes lead to imprisonment, which usually takes place in an open institution for delinquents in Greenland. Four institutions like this exist in Greenland which altogether have accomodation for 94.

When a person is sentenced to placement in a Greenlandic institution, the intention is to let the person remain a member of the community. This happens in such a way that the convicted has to have work as part of an ordinary life. After working hours the convicted must return to the prison. They have the possibility of having visitors and they are allowed to spend some time in the town, until 9 pm four times per week. Despite the fact that the convicted are imprisoned, they are able to maintain contact with the community.

Due to the fact that the Criminal law of Greenland focuses the perpetrator, he can in particular cases be sentenced according to Law 102. Accordingly, a person can be sentenced to placement in a Danish prison indefinitely. This is possible if the person is assessed unsuited for placement in a Greenlandic institution because of mental abnormality or if said placement provides inadequate security.

The prison in Herstedvester is a closed prison where 18 Greenlanders condemned according to this paragraph (102) presently serve sentences. In the prison, a ward for Greenlanders has been established. The ward has 2 Greenlandic social workers and the intention was to also have two Greenlandic prison officers. The ward also has a psychologist and a psychiatrist, as well as a number of prison officers who speak Danish only.

The inmates have the opportunity to make phonecalls to Greenland once weekly for 10 minutes. When a convicted Greenlander has served three years in Herstedvester, his case is taken up for consideration in the Greenlandic court of justice. With a statement from the Danish psychiatrist, it is possible to let the convicted person continue serving his sentence in Greenland. Such an assessment is reconsidered in court every second year. The persons interviewed have served sentences from 5 to 21 years in the Danish prison.

Here lies the big difference between the two ways of serving sentences. Convicted persons serving sentences in Greenland continue to be part of the community while being imprisonned. They can maintain contact with their social network and they have the opportunity to build a stable everyday life with permanent jobs outside the prison. Those persons sent to prison in Denmark enter a small, independent community, situated far away from the Greenlandic society and separated from the Danish. This community is comprised mainly of a Danish psychiatrist, socialworkers, prison officers and other Danish criminals, a community which prepares them for rehabilitation to the Greenlandic society.

The convicted Greenlanders in Herstedvester

As mentioned, the intention of the criminal law is to avoid the harmful effects which imprisonment may lead to. At the same time, this law represents the possibility of the longest punishment for a human being - imprisonment indefinitely in another country, a punishment

which the 18 men from Greenland are subjected to. These 18 men are all convicted for homicide or sexual crimes. It is important to remember that it is not their acts as such which have sent them to a closed prison in Denmark. And it is possible to find persons convicted for similar crimes in the Greenlandic institutions. The difference is that those 18 men have been assessed according to a criteria of dangerousness whereby they can not be placed in an open Greenlandic institution for delinquents.

The inmates generally had very little knowledge of the Danish prison they were sent to. They had only heard about it from rumours in Greenland.

As their first impression of the Danish prison, the wall, the heat, the bars in front of the windows, different language and culture and emptiness are what they remember. The uncertainty about the length of their sentences made it more difficult. Those interviewed explained how homesickness and a longing for family and the Greenlandic nature has filled their everyday life for five, ten and fifteen years.

They generally have an ambivalent attitude to life in the Greenlandic ward. In a way it feels homelike to be part of a community where they can speak their own language. However they are all filled with homesickness so that their mutual threshold of tolerance is low and arguments and conflicts easily arise. The suffering of one individual seems to cause an intensifying effect on the other inmates level of homesickness. The persons interviewed explain that they sometimes have to ask for transfer to another ward or kick up a row to be sent to a solitary confinement cell.

In the long run it is difficult to keep up the social network in Greenland. Initially, they try to main tain through letters and a weekly telephone call. Several of the convicted persons tell of the emotional pressure which arises from having to reach one's closest ones through a short telephone conversation. They describe reacting physically with breathing difficulties and fighting back tears when they hear the voice in the other end of the phone. That is why many choose not to make use of the opportunity to call Greenland. With time, the contact to relatives in Greenland decreases. In the Danish prison the inmates have the opportunity to follow the Greenlandic public and Greenlandic matters through the Greenlandic newspapers. In only five years time many things have changed and the inmates who have had the opportunity to visit Greenland say they find it difficult to recognize the town and country which they left at that time.

They express bitterness toward their home country. A person interviewed feels degraded from his own society. Another explains that he feels let down. He feels as if he belongs to the last small part of the world from where deportation is still allowed. Although the intention in the Danish prison is to pay respect to the cultural background of the Greenlanders, it often practically turns out to be far from possible. The Greenlandic inmate is indirectly punished and sent to isolation cell because of his Greenlandic behavior. A behavior which is not understood by the Danish prison officers bringing the inmate into a condition of powerlessness whereby he may react violently and will be consequently bound for isolation.

Life in the closed prison is unified and Greenlandic and Danish inmates are all treated equally. Slowly, individual and personal identity is undermined.

The idea behind the Criminal law of Greenland was to avoid the damages imprisonment may cause. It seems like a paradox when the Danish psyciatrist and social workers explain that their resources are mainly directed towards correcting the damages the law has caused to the Greenlandic inmates. More than imprisonment itself causes damage when someone serves an indefinite sentence in another country. The psychiatrist and social workers feel powerless after having seen a repeated pattern among the Greenlandic inmates placed in Denmark. A pattern wherein the inmate initially has hope but after approximately three years, hope erodes. They describe how the Greenlanders over time loose their Greenlandic identity. The psychiatrist tells of several examples of inmates having requested to become stateless. They no longer have a Greenlandic identity and don't feel Danish either. This is why the psychiatrist and social workers say that they have lost their identity.

With time the convicted person become influenced by the standards of behaviour and culture which apply in the closed prison. In addition to this, the consequences of the sentence have such a harmful influence on their personality that they regard themselves as destroyed,

and the psyciatrist and social workers assess them as having lost their identity. Those people who were sent from Greenland are not the same as those who return. They have suffered damage and they need special considerations if a successful rehabilitation is to take place. The institutional system in Greenland is organized differently than it is in Denmark, and it is difficult to provide certain considerations for the returned inmates.

A successful integration process is possible only when the surrounding community takes up an open attitude. We talk about those very serious crimes which caused the persons to be placed in Denmark. For a number of years they have been assessed as too dangerous for Greenland. It is there for understandable when the community is reluctant. Communities in Greenland are small, which means that many people have been effected by the crime of one such person.

Social workers and persons convicted also explain that if you were once in the prison in Herstedvester, you will forever be convicted to carry the hallmark "prisoner of Herstedvester". A previous prisoner of Herstedvester experiences a stigmatization from the Greenlandic community where he now has to live as an outcast.

The intention of staying in Denmark was to prepare the individual for rehabilitation to a Greenlandic community. The question is if anybody can or would want to guarantee that a human being with identity damages, expelled from society, will not commit new crime.

I would like to wind up by quoting one of the persons interviewed. After serving 6 years of sentence in Denmark, he returned to Greenland. He has been reabsorbed into the society and today he lives in his own appartment in Greenland. When questioned about how time in the Danish prison has effected him, he replied:

"You cut a flower from it's roots and put in water with the aim of replacing it. This is not possible. In the meanwhile the flower will die. When you place it back on it's roots, it can not blossom any longer. And it will never be as pretty as all the other flowers. This is the way it is with us Greenlanders from Herstedvester. When we return to Greenland, we will always be different."

ARGUMENTATION IN THE CRIMINAL PROCESS: THE CASE OF ECONOMIC CRIME

Ohisalo, Jussi

"If this is communication, I disconnect"

- Nina Persson, The Cardigans. (Long Gone Before Daylight, 2003)

1. Introduction

This paper deals with legal argumentation as a form of communication in the Finnish criminal process in cases of economic crime. It is primarily based on a small set of interviews conducted by the author in spring/summer of 2003. Because of the preliminary nature of the sample, the following discussion will operate on a very general level. The interviewees (altogether 6 people, 2 from each reference group) were defence lawyers, prosecutors and judges who all had extensive experience in dealing with cases of economic crime. As a fixing point, the interviews dealt mainly with chapter 39 (Offences by the debtor) of the Finnish Penal Code. The empirical evidence of the problems sketched out in the following are not however limited to the interview, but have been documented in the context of the police pre-trial investigation by for example Salminen (Salminen, Velallisen rikos, WSLT, 1998) Alvesalo (Alvesalo, The dynamics of economic crime control, Police College of Finland, 2003) and Vuorinen (Vuorinen, Talousrikosten tutkinta, National Research Institute for Legal Policy, 2002).

The aim of the paper is to assess the significance of two factors. It is my working hypothesis that the communication through legal argumentation in the criminal process is influenced by two principal elements:

1. *The nature of the procedural framework.* The legal science is accustomed to address judicial decision-making or any type of activity concerning the law in an abstract setting. This means that we naturally assume that the law is the law for everyone, regardless of their institutional affiliation. For example, when the investigating policeman interprets the law, his activity can be equated with the work of the decision-maker or the legal scientist. What we are missing is the effect of the underlying aims of having an adversarial criminal procedure in the first place: to separate the person who narrates the crime, constructs the case from the decision-maker. In short, the more division of labor we have concerning the burden of developing the argumentation in the case, the more variety between the tasks of the actors in the process. This makes establishing a common language (in the sense of for example determining the relevant questions and the way they should be addressed) more challenging.
2. *The nature of the substantive criminal law under discussion.* In order to be able to create a flexible criminal law that can adapt to societal change, the legislator has chosen to more and more often use vague and intentionally abstract language. This has been the case in the overall reform of the Finnish Penal Code for example. This means that the expressions used in the articles are distanced from the actions by individuals in observable reality. The move away from casuistic legislation in an effort to better and more flexibly regulate societal activity results in the fact that the material criminal law does not find its counterpart in the level of the factual description of the case as easily. This is accentuated by the fact that economic crime usually occurs in an environment and with modus operandi that are alien to the layman or the lawyer who is not fluent in business practices in a given field, as

opposed to crimes that are easily and intuitively understood as crimes, such as crimes against the person or against sexual integrity.

Taken together, the two aspects mentioned above in my view to some extent account for the possible shortcomings in communication. Why is this a problem? If understood as a context of communication, it is easy to see why an adequate level of communication is necessary in the criminal process. In short, if the prosecution speaks one language, the defence another and the judge(s) yet another, it is difficult to adequately deal with the case in question. The relevant aspects might not be systematically discussed from all sides. This might mean the rejection of charges on grounds that are irrelevant, a conviction on overly weak merits or a complete "surprise decision" where the judgment is not based on the argumentation presented in the trial. Any of these shortcomings go against the fundamental justification of an adversarial procedure. In cases of economic crime, the possibility of a number of different approaches and the propensity of the different actors to shape their narratives of the case from their own point of view poses a real threat to the function of the criminal process, a threat that must be taken seriously and addressed in one way or the other.

2. The system of Finnish criminal process and its systemic effects on case construction

As has been said before, the mode of communication in a criminal trial is the legal argumentation concerning the guilt or innocence of the accused in a given concrete case. In traditional doctrine, however, legal argumentation has been taken to refer to almost exclusively the interpretation of the law, and questions of fact have been almost surgically separated from this discussion to be handled elsewhere. This can be the result of the fundamentally positivistic notion of law that has been and still is dominant, at least in Finnish legal culture. This makes it natural to separate factual elements from purely legal argumentation. This has also facilitated the study of legal argumentation in the abstract, in vacuo. Legal argumentation is legal argumentation, regardless of who does it.

In my view, this unnecessarily limits our understanding of argumentation in practice. The communication in a criminal trial consists of the construction and weighing of competing narratives that include both the facts of the case and the relevant norms. Even though it is generally recognised that legal decision-making for instance proceeds in an hermeneutic circle (or spiral) rather than as a syllogistic activity, this understanding has not really penetrated our understanding of what legal decision-making is all about. The justification of legal decisions or normative statements is what legal argumentation has been taken to include and be limited to.

In order to be able to better understand how the criminal process operates, a broader notion of legal argumentation must be used. In order to be able to understand what it is the police for example does with the law in the beginning stages of the investigation and how this relates to the decision-making process of the judge at the end of the trial, the scope of legally relevant argumentation must be broadened. This can be achieved by studying legal argumentation in its actual context, in this case the criminal process.

In the work of Mc Conville et al (Mc Conville, Sanders & Leng, The Case for the Prosecution, Routledge, 1991), for example, an interesting picture of the systemic features of the work of the police is presented. I read them to argue that it is the context and the functions of the actors in question that to a large extent determines the point of view and the approach of the officials, in their case the police. An interesting question is how does this affect the case construction in so-called hard cases, such as economic criminality usually presents. (In the mentioned study the cases involved rather petty offences.) The problem has been documented by Salminen (Salminen, Velallisen rikos 1998), who takes up as one of the main problems in the criminal process of economic crime, the different "levels of information" of the actors at different stages of the process. Even though he does not expressly

recognise that this is because of the procedural context, I believe this conclusion to be at least among one of the possible.

The significance of the procedural framework is that it assigns to each actor (through the intermediary of the institution they represent) a distinct role as relates to the development of the argumentation in a given case. It thereby assigns a basic point of view, a language that they apply to a case. It is not uncommon that the defence will claim that the police and the prosecution have for example through the selection of certain lines of investigation shaped the picture of the case through the selection and more importantly the omission of certain factual elements or disregarded certain questions of interpretation that the defence sees relevant. This can of course be claimed as a tactical manoeuvre, but if done genuinely it can be seen as a conflict between the narratives of the actors. This is one aspect of the phenomenon that Mc Conville et al. are referring to.

However, I believe the most important thing to note here is that this phenomenon is inherent in the system itself. It is not a result of the deviousness of the police or their questionable motives. In assigning the institutions different tasks, the legislator also assigns them a language to be used for the efficacious handling of their duties. This is something that must figure in the calculus when assessing the appropriateness of the use of that language. Working under the false assumption of a common legal language there is a danger that we are not able to fully grasp the nature of police or prosecution work. And what we can not understand we cannot control. This, in turn, highlights the apparent danger involved in case construction by the police and prosecution: there is a danger that "the official version" is seen as the alpha and omega of the case and conflicting narratives seen as something irrelevant and a waste of the court's time.

In the Finnish procedural system, reformed in 1997 to a full-fledged adversarial setting (albeit not to the same extent as the system in Common Law jurisdictions), the problematique hinted at before poses problems of particular interest. It is my belief that even though the procedural framework is nailed down on the level of black-letter law, the deeper structures of the process have not yet completely adapted to the "new" way of thinking. So there is room for different conceptions as to exactly how adversarial the process should be on the level of action. And the more adversarial the solution one advocates, the more seriously the repercussions on the level of action have to be considered.

3. The features of the substantive criminal law

What has been said before is not automatically relevant. It is only if the features of the substantive criminal law allow for argumentation that the problems begin to emerge. For example, in a regular case of drunken driving the only question relevant (in Finland) is whether A actually drove the car with the required concentration of alcohol in his bloodstream or not. (There can of course be unclarity as to the scope of the concept of "driving a motor vehicle" for example, but these have little more than anecdotal significance.) Two factors which affect the communication concerning the case can be pointed out here:

1. The features of the textual manifestation of the relevant norms. The starting point of any criminal case is the wording of the relevant article of the Penal Code. In continentally influenced legal systems the method used is the interpretation and application of statutes. Therefore, it is relevant what kind of language is used in drafting the articles. If the articles easily find their counterpart in the physical and observable reality such as is the case of drunken driving, there is little room for argumentation as to what are the relevant questions and how they should be addressed. If, on the other hand, the articles (explicitly or implicitly) for example contain references to essentially non-legal normative systems such as acceptable business practice, the question becomes more challenging. It is not at all clear what are the relevant topics to be addressed.

2. *The operative environment of the substantive criminal law.* In the case of drunken driving or offences against the physical integrity of the person, it is not difficult even for the

layman to understand what are the physical acts that are criminalized. We can understand what the other person is referring to when he talks about the act of stabbing or shooting someone or driving a car when he is drunk. In economic criminal law, however, the "operative environment" is different in this regard, because there the criminal law operates in a field of life that is alien to most people. The way to understand the relevance of the acts in question comes from different systems, such as accounting, economics, taxation etc. This results in the fact that the physical acts and consequences that constitute the criminal activity do not take place in the same way as in more "traditional" crimes. The question of "Did A shoot Peter in the head, killing him?" is different from "Did A bring about his insolvency through this loan arrangement?".

4. The criminal process in economic crime

So, when taken together, what can we say about the effect of what has been said before? In previous studies in the area, concerning mainly the work of the police (see the works of Salminen, Vuorinen and Alvesalo mentioned in the beginning of the paper) it has been discovered that the problems encountered are of a qualitatively different nature than in the investigation and case construction of more traditional criminality. For instance, the suspected crimes occur in a "paper reality" in which it is difficult to tell the legal from the criminal and there is a need for a strong working hypothesis during the investigation. The relevant acts also are usually spatially and temporally diffused so that in order to make sense of the case, a strong familiarity with the "typical cases" is needed, in other words expertise gained through specialisation of the investigators. In addition, the guidance of the criminal law as to the questions to be addressed in the investigation is rather weak, because of the high level of abstraction and their unclear connection to the conceptual framework of other fields of law and accounting for example. It can therefore be argued that in these cases the police produce a case that is high in "narrative content". It is the version of the police, as constructed from their particular point of view.

As to the later phases of the process, according to the study at the core of this paper, the same logic can be said to apply. The same features that cause problems in the investigation, are the main reason for the distinct features of the trial in the cases as well. These features reflect differently on the work of the actors involved, simply because their functions in the process are different and the proper execution of those functions is essential for the trial to "work" at all, in the sense of meaningful discussion on the relevant aspects of the case. For the prosecution, this means the formulation and the presentation of a clear and sustainable hypothesis from the material produced by the police. For the defence the active search for alternate, more defence-favorable explanations of the case at hand, and/or the active questioning of the weaker aspects of the prosecution case, depending on the defence strategy. And for the decision-maker, the judge, the challenge lies in managing the conversation effectively so that irrelevant and confusing material is not introduced but on the other hand that relevant topics are not passed by off-handedly.

So it can be said that in this setting the differentiation of the procedural system in the sense of moving to a more adversarial process is highlighted. The active production of different and conflicting narratives requires communication as a corollary, facilitated by an adequate commonality of the languages used. All the interviewees agreed that in these cases an adequate level of communication is harder to achieve than in cases of more traditional crime but on the other hand its achievement is absolutely essential. If not, cases can be decided at random, the implementation of criminal liability can be halted or defence interests compromised, depending on which one of the actors is not up to the job.

What can be done, then? In conclusion, I offer three possible strategies of addressing the problem. The first possible solution might be adjustments in the procedural system. This might mean the elimination of the lay element in the district courts in cases of economic crime, or the introduction of special courts and procedures for these types of cases. This line of action would mean the adjustment of the process to the demands of the material law. The second option would be adjustment in the substantive criminal law. For example, the resort to

civil or administrative remedies through decriminalisation or the elimination of certain problematic elements in the provisions. (This route has by the way been taken in a recent reform of economic criminal law, article 1 of chapter 39 of the Penal Code, Act 61/2003). This means essentially adjusting the material law to the demands of the procedural system.

The third option, which in my view is the most viable one, is a more moderate combination of the two previous lines of action. The material law and the procedural system would be allowed to develop according to their own logic, but there would be attention paid to the demands of communication as well. The criminal justice system has to be seen as a whole, and not something that surgically differentiates between the procedural and the substantive, and puts one in a subordinate position to the other. This requires a turn to the level of action, to the study of argumentation in the criminal process.

CONFIDENCE IN THE COURTS AMONG NORWEGIANS

Olaussen, Leif Petter

1. Introduction

Although it is commonly believed that courts cannot function in a democratic society without enjoying general confidence among citizens we don't know very much about what people think about the courts and the outcomes they produce, neither in civil nor in criminal cases.

Based on surveys regularly conducted twice a year by a Norwegian Survey Institute (MMI) the last decade we do know that Norwegians have a relatively high confidence in the courts. Compared to other public institutions (altogether 25) only the police, The Ombudsman for consumers, The Norwegian Broadcasting, The King, The Military Forces, and Statistics Norway ranked higher than the courts in 2001. Any other public institution which produces services ranks below the courts, and the banks are the only private institution enjoying higher confidence among people than the courts.

But we do also know that all Norwegians do not have the same degree of trust in the courts, see *figure 1* (next page) which is based on a survey conducted in October 2001, personal interview with 858 randomly selected people, 15 years of age or older. 9.8 % answered that they had very high confidence, 51.9 % that their confidence was high, 27 % answered low confidence, and 5.6 % had no confidence in the courts. The degree of trust is varying, and table 1 (next page) makes it clear that a *low* level of confidence in the courts is most frequent among: the youngest and the eldest, who also have the lowest level of education, and (partly) therefore also have low (household-) income. Level of education and level of income is correlated, and both are positively correlated with confidence in the court. Lastly, low confidence in the courts is far most frequently found among those who say that they will give their vote to the Norwegian right-wing liberal party (*Fremskrittspartiet* (FrP)). – I will try to disentangle some mechanism behind this using data from a survey conducted in October 2001.[114]

[114] A more detailed analysis and arguments may be found (in Norwegian) in Olaussen (2003). The Survey institute (MMI) is neither responsible for analysis nor interpretations in this paper.

Figure 1: Would you say that your confidence in the courts is …?

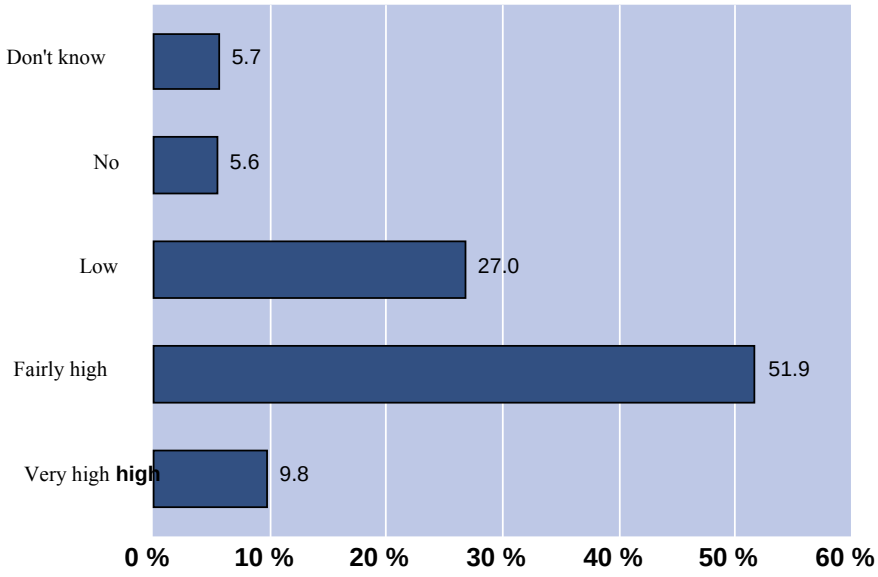


Table 1 : Percent with *high* confidence (very high+high) in the courts.

	Total	62% (N=858)		
Sex:			**Age:**	
	Men	64 %	15-24 ys	61 %
	Women	60 %	25-39 ys	69 %
			40-59 ys	64 %
			60+ ys	52 %
Household income:			**Education:**	
	< 300.000 Nkr	52 %	Low	50 %
	300 – 500.000 Nkr	64 %	Medium	63 %
	Above 500.000 Nkr	74 %	High	75 %
Political sympathy			**Knowledge of lay judges/jury**	
	Political Right	69 %	Yes	65 %
	Political Left	64 %	No	53 %
	Right-wing Liberal	51 %		

Two hypothesis about confidence in the courts

The variations in confidence in the courts among Norwegians may have several different sources which may be grouped in two exclusive groups.

Firstly, the variations may be related to factors *internal* to the court system. I am thinking of different aspects of the court system which people have some knowledge about, through their experiences with the system or through other people's experiences which is

known directly or through the media. Among several possible internal factors which may have an influence on citizen's confidence, I have chosen the *lay judges*. The reason for my choice is that it is very often argued that the main function of lay judges or jury in the court system is to secure and reinforce people's confidence in the courts.

Secondly, variations in confidence in the courts may (also) be connected to factors which are *external* to the court system. I find it hard to believe that confidence in the courts (or any other social institution) only depends on institution *specific* factors, i.e. factors or circumstances specific for that institution. I would suggest that confidence (or lack thereof) in any specific social institution *partly* reflects a *general confidence* (or lack thereof) in social institutions, which is a result of numerous and divergent social relations we are involved in during our lives. In this sense I believe that people's confidence in the courts partly is related to factors external to the court.

2. Lay judges and people's confidence in the courts

An important reason for the reintroduction of lay judges in the Norwegian courts in 1887 was that the courts should be under democratic control, and that court decisions should be influenced by lay people's sense of justice. Leading Norwegian scholar in law generally believe that the most important reason for the use of lay people as judges is that it broadly increases the confidence in the courts (Andenæs 1984, Lødrup 1991 and NOU 2002:11). Contrary to this view Max Weber (1978) saw the lay jury as an irrational element not in line with a formal rational law which he considered as fundamental for legal legitimacy in modern western societies.

The assumed effect of lay judges on citizen's confidence will, however, not take place unless people know that there are lay judges. In spite of the fact that it is more than hundred years since they were reintroduced in the courts, not all Norwegian citizens are aware of their presence. The survey revealed that 70 % had some knowledge of the arrangement, but only 30 % answered the question (if lay people may participate as judges and/or a as members of a jury) correctly.

If the assumption of lay judges as confidence-inspiring agents generally is correct one would expect that people's confidence in the courts is higher among those who know that lay people participate as judges than among those who do not have this knowledge. And indeed so it is – broadly speaking: Among people who have some knowledge about the existence of lay judges 65 % answered that they have high confidence in the courts, while 53.3 % gave the same answer among those without this knowledge (Tau C=.334, P<0.000). And there is a significant difference in confidence between those who know that we have lay judges/jury and those who don't know, on all three levels of education, but is very weak among those with highest education. At least this is an indirect corroboration of the belief that lay judges strengthen people's confidence in the courts.

The respondents who knew about the lay judges were, however, also asked explicitly whether lay judges strengthen or impair their own confidence in the court, or if they do not matter. The answers to this question show that people have different opinions. Half of the respondents, 52.2 %, say that lay judges strengthen their confidence while 28 % say that they do not matter and 11.8 % answer that lay judges impair their confidence. (8 % don't know).

The reasons why people view lay judges so differently are obviously many and complicated. Varying opinions about at least to factors may, however, be part of an answer. *Firstly*, people have different opinions about the *democratic significance* of having lay judges in the courts. Generally, people with high education think that lay judges are more important from a democratic point of view than less educated people think that lay judges are.

Secondly, people have different thoughts about the *instrumental significance* of lay judges' participation in court procedures. - Many, about 20 %, answer that they don't know if lay judges have any effect on court outcome, and about one third, 35 %, believe that lay judges do not matter for the outcomes. I don't think that the last group of respondents underestimates the significance of lay judges. If proofs in criminal court cases are beyond reasonable doubt, lay judges will not normally have any impact on the verdict (besides

controlling the burden of proofs). And if the sentence is measured out according to traditionally established standards which only the jurist judge can be expected to know, the lay judges will not have much to say in a discussion about the sentence. - But 45 % of the respondents believe that lay judges make a difference for both outcomes.

People's beliefs about lay judge's influence on the *verdict* and on the *sentence* were measures by two questions. The question about the verdict asks people to state if they believe that lay judges contribute to an increase or a decrease in the number of innocent people being found guilty. In the question about the sentence people was asked if lay judges contribute to more lenient or more severe punishments. – Surely, people disagree in their beliefs about this, but the belief that lay judges *reduce* the number of miscarriages of justice, and contribute to more *lenient* punishments is more widespread than the contrary views among those who believe that lay judges really influence court outcomes.

Six ideal type roles for lay judges

Connected to people's beliefs about the instrumental effects of lay judges, one may separate six different ideal type roles, which people think are (more or less) typical for lay judges. Two roles are connected to the verdict and I will use *dangerous people* and *rescuing angels* as cues for these ideal type roles:

Dangerous people	Those who believe that lay judges contribute to a *larger* number of miscarriages of justice than would have been the case if all judges had been jurists, consider lay judges as dangerous people. This imagination should have an impairing effect on the confidence.
Rescuing angels	Those thinking that lay judges contribute to a *smaller* number of miscarriages of justice than would have been the case if all judges had been jurists, consider lay judges as rescuing angels. This imagination is expected to *strengthen* people's confidence in the court system.

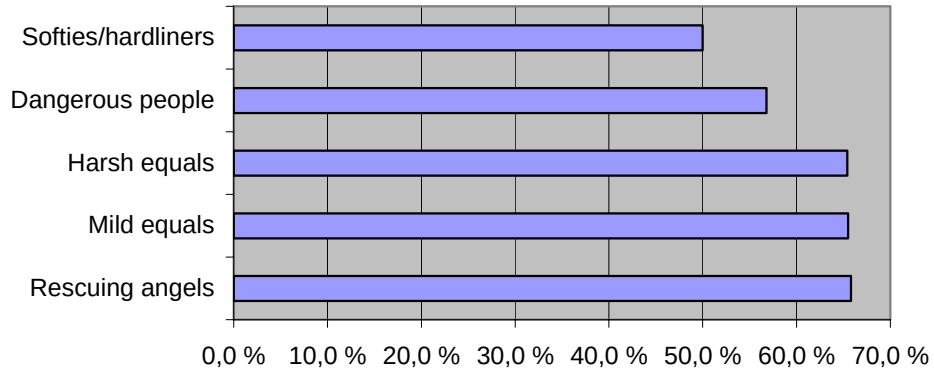
Imaginations of lay judges' influence on the *sentence* can be formulated as four different ideal type roles which lay judges may have. On the one hand these roles are dependent upon whether people believe that lay judges contribute to milder or harsher punishments, on the other hand the roles depend on whether people *prefer* mild or harsh punishments. I will use the following cues for the four roles:

Mild equals	Lay judges are believed to have a *mitigating* influence on punishments and the person having this belief is him-/herself in favour of mild punishments.
Harsh equals	Lay judges are believed to have a *harshening* influence on punishments and the person having this belief is him-/herself in favour of harsh punishments.
Softies	Lay judges are believed to have a *mitigating* influence on punishments and the person having this belief is him-/herself in favour of harsher punishments.
Hardliners	Lay judges are believed to have a *harshening* influence on punishments and the person having this belief is him-/herself in favour of milder punishments.

In other words: Those who consider the lay judges as 'mild equals' or 'hard equals' think that the lay judges influence the choice of sentence in the *preferred* direction, while those who imagine the lay judges as 'softies' or 'hardliners' think that lay judges broadly influence the choice of sentence in a *not-preferred* direction. Imaginations of lay judges as 'mild equals' or 'harsh equals' are conducive to confidence in courts among people holding these images, while imaginations as 'softies' or 'hardliners' are expected to have an impairing effect on peoples confidence in the courts.

Of the two ideal type roles connected to the verdict, *rescuing angels* is supported by 70 % and *dangerous people by* 30 %. The support for ideal type roles connected to the sentence was 48.3 % for *mild equals*, 34.6 % for *harsh equals*, and 17.1 % for *softies* and *hardliners* together. – Beliefs or role images conducive to confidence in courts are the most widely shared among adult Norwegians. Confidence supporting images of lay judges prevail. And peoples' confidence in the courts depends, in the predicted direction, on the role image people have of lay judges, se Figure 2. The role images seem to *modify* peoples' confidence in the courts in the predicted direction. Confidence is lowest among those who believe that lay judges have other preferences for punishment than themselves (softies/hardliners) and those who consider lay judges/jury to be dangerous people.[115] Since images of lay judges conducive to confidence prevail among people, the existence of lay judges/jury broadly seem to strengthen the confidence in the court.

Figure 2: Percent high confidence in courts - dependent on role image of lay judges



3. General social confidence – and confidence in the courts

As mentioned earlier people's confidence in the courts is perhaps not only connected to their knowledge about the courts and what is really going on there. As many as 30 % don't know that there are lay judges and jury in Norwegian courts, and we know from Andersen (1992: 71-80) that people's knowledge about the court system is rudimentary (and positively correlated with educational background). This is due to the fact that people rarely visit the court, the courts have a low information profile, and relatively few have personal experiences with courts. Andersen (1992: 25) found that 41 % of the adult population had him- or herself had contact with a court during the lifetime or had an indirect contact through a person in

[115] Possible explanations of a relatively high level of confidence among people considering lay judges as dangerous people, are discussed in Olaussen 2003.

his/her family. As many as 58 % of persons with such contact mentioned an *administrative* case (documentary registration, wedding, division of inheritance, bankruptcy proceedings, or administration of an estate in connection with divorce) as the reason for the contact. Only 7 % mentioned a criminal case as the reason.

Since courts are *distant* institutions for most people, the answers given on a question about trust in the courts, to some degree may reflect a *basic confidence* in different social institutions or organizations. Faced with a question about a distant social institution (which the majority of people know very little about and only have rudimentary experience with) I guess that people's answer will be generated from their experiences with a variety of social institutions. Through experience and social interaction with other people, media stories etc. we all build up our beliefs about who deserves what level of trust in our surroundings. In this way trust (or distrust) among people accumulates as a "sum" of own and other's experiences, and become part of the social culture in any society, more or less internalized as a kind of *basic* or *general* trust (or distrust). This may be transferred or applied to the courts (or to other institutions or arrangements people don't know very much about) and may constitute the source of the answer given on a question about confidence in the courts. Because courts are *distant* institutions for most people, since courts are *not highly politicized* and they are institutions with a *low information profile*, people are not stimulated to seek information about the courts and to make up their minds about them. This increases the possibility that a more general or basic confidence will be transferred or applied to the courts.

If this hypothesis is correct, people's answers to questions about their degree of trust in different social institutions should be correlated. To explore this hypothesis I made two simple additive indexes, both based on three questions about confidence, and each of the indexes adds up to a scale ranging from 1 (= low confidence) to 10 (= high confidence).

Confidence in political system – based on questions about confidence in the Parliament (Stortinget), the Government and the political parties.

Confidence in private economic institutions – based on questions about confidence in big companies, banks, and insurance companies.

The two indexes are correlated, but not extremely strong (as they should have been if people answered the questions "automatically" without consideration, creating response-set error), Pearson's $r = 0.405$ ($P < 0.001$, two-tailed test, N=807), corroborating the hypothesis about a general, basic trust reflected in both index measures.

An analysis of variance with answers to the question about confidence in the courts as grouping variable, show that both indexes are correlated with confidence in the courts, see Figure 3 and 4 (next page).

Figure 3 : Confidence in political system (1=Low, 10=High) and in the courts (No - Very high)

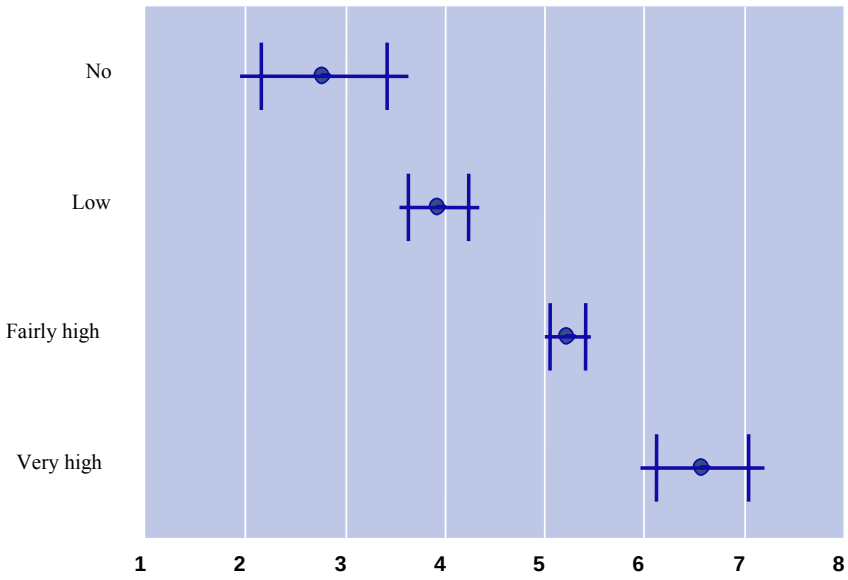
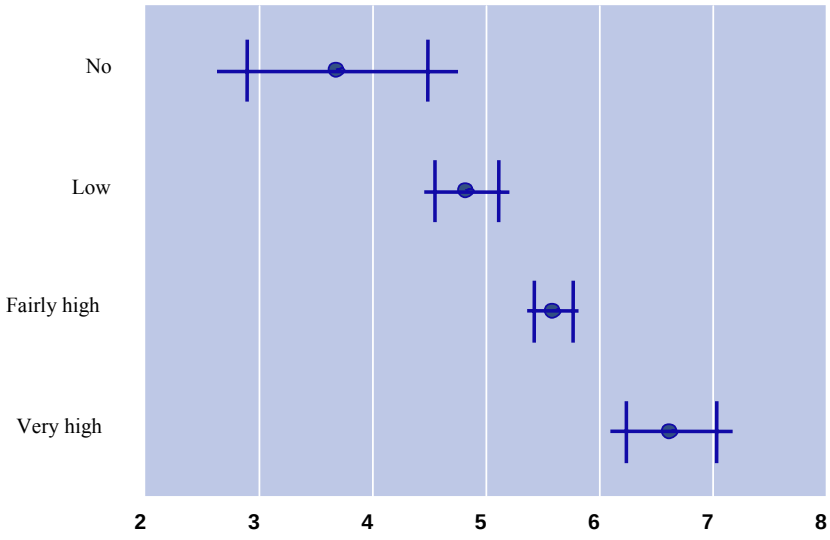


Figure 4 : Confidence in private economic institutions (1=Low, 10=High) and in the courts (No – Very high)



Mean confidence in the political system is 2.72 for those with "no" confidence in the courts, 4.06 for those with "little" confidence, 5.20 for those with "fairly high" confidence, and 6.35 for those who have "very high" confidence in the courts. Similarly the mean confidence in private economic institution is also increasing for each increment in confidence in the courts: from 3.85 to 4.97 to 5.60 and 6.51 in the highest group. The difference between any groups is significant ($P < 001$, using Scheffe's simultaneous test and T-test for unequal variance in the groups). Between-group variance amounts to 18.0 % for the index for

confidence in the political system, and 10.8 % for the index for confidence in big private economic institutions, probably indicating a closer relationship between confidence in courts and confidence in the political system, than between confidence in courts and confidence in private economic institutions. – And again: Both correlations corroborate the hypotheses that *a general or basic trust is reflected in the answers about trust in the courts*. Partially the Norwegian people's confidence (or lack of it) in the courts is probably not formed by specific knowledge of or experience with the courts but is based on general experiences and believes about major social institutions in the Norwegian Society.

4. Concluding remarks

Although Max Weber considered the lay jury (and possibly also lay judges) as irrational elements, lay judges/jury does contribute positively to the legitimacy of the courts. Firstly, a majority of adult Norwegians think that lay judges/jury is an important democratic element within the court system. Secondly, role images of lay judges conducive to confidence prevail among Norwegians, while confidence impairing images are less widespread.

However, people's degree of confidence in the courts also seem to reflect a general or basic social trust (or distrust). Features of the court system (it is distant, has a low information profile and is not highly politicized) increases the possibility for transference or application of a basic social (dis-)trust in the courts.

Low level of confidence is most frequently found among youngsters, the eldest, and among people with low income and with little education. These are the groups with the highest frequency of alienated people. Within these groups the level of confidence in (many) major social institutions, not only the courts, is relatively low. And people with low confidence in the courts and other major social institutions (alienated people) more frequently than those with high confidence in social institutions, tend to give their vote to the Norwegian right-wing liberal party, *Fremskrittspartiet* (FrP). People with low confidence in social institution (like the courts) are alienated people, giving their vote to an alienated party, a party which other parties try to keep at a distance, at least away from governmental positions.

References

Andenæs J. (1984): *Alminnelig strafferett*. Oslo: Universitetsforlaget.

Andersen, B. (1992): *DOMSTOLER OG OPINION - en studie av befolkningens oppfatninger av, kunnskaper om og erfaringer med det norske domstolsapparatet*. Bergen: LOS-Senteret.

NOU 2002: 11: "Dømmes av likemenn". Oslo: Statens forvaltningstjeneste.

Lødrup, P. (1991): "Domstolenes stilling i det norske samfunn." *Lov og rett*, s. 387-409

Weber, M. (1978): *Economy and Society.* Berkley/Los Angeles/London: University of California Press.

STIFTELSEN LIVET ETTER SONING (L.E.S.)
THE FOUNDATION LIFE AFTER SERVING THE SENTENCE[116]

Olsen, Hilgunn

The foundation L.E.S. (Life After Serving the Sentence) is a self-help program for previous inmates from Norwegian prisons. It is an initiative for motivated inmates, who want to quit crimes and drugs. L.E.S. started its activity in Oslo, but hopes to spread to all parts of the country. Visiting prisons started in November 2002, and at present approximately 30 inmates of both sexes has got their own "L.E.S.-contact". The "L.E.S-contact" is a representative from L.E.S., who visits the inmate regularly and tries to motivate and assist him/her in practical matters. All L.E.S.-contacts are former drug addicts and have been to prison themselves. A few of the inmates visited, have been released and handle everyday life without drugs and crimes. There is no similar foundation in Norway.

Main objectives

- Strengthen previous inmates' ability to live a life without drugs and crimes, and make it easier to be integrated into society and working life.
- Help previous inmates to become productive and reliable citizens, through the support from people with the same background.
- Everyone should get a job and a place to live, meaningful spear time and social fellowship.

Foundation of L.E.S.

In 1997 a group of male inmates from Oslo Prison decided that they wanted to make an organisation which could support people that were released from prisons. From own experience they knew there was "a gap in the system". They saw the importance of assistance from people with similar background, after years with "help" from social workers who thought they knew how to help them. They also saw that it could be helpful to get some assistance, at least in the start of the project. The Tyrili Foundation and The Church City Mission were asked for support, and the response was positive. The Tyrili Foundation works with drug rehabilitation and harm reduction, while The Church City Mission has a broader view, supporting the weakest members of our society, regardless of which type of problems they have.

L.E.S. is built on the same idea as the Swedish organisation C.R.I.S. – Criminals' Return Into Society. C.R.I.S. has existed since 1997. Members of the Swedish association are around 4000 former inmates, mostly former addicts who now live drug-free and law-abiding lives. C.R.I.S has gained international attention for their work, and they have spread to Denmark, Finland and Lithuania.

Organization

In January 2002 L.E.S. had its foundation, and statutes were made. The management consists of seven persons: one representative from The Tyrili Foundation, one representative from The Church City Mission, and five members with background from crimes and drugs.

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[116] The article is a field report, based on my engagement as a consultant in the foundation, in the period from August 2002 until June 2003.

In the statutes it was decided that the leader of the management must have prison background. In august 2002 two persons were employed in the project, a leader and a consultant. The leader had background from crimes and drugs. In 2002 and 2003, L.E.S. got it's funding mainly from the Ministry of Justice and a private legacy called Scheiblers Legat. The municipality of Oslo has offered a small fraction of the financial support.

L.E.S. has from its foundation diverged from the Swedish organisation C.R.I.S. in one important way. C.R.I.S. is strictly only for people who have been in prison. In the foundation of L.E.S., people without prison background were asked to be members of the management. The consultant was a criminologist, and some of the volunteers were social workers. They had no experience from prison or drugs, but a genuine interest in the idea of L.E.S.

L.E.S. consists at the moment of three employees, and approximately 15 volunteers. It is situated in Oslo, and has its own meeting place - a small house in the central part of Oslo. The people who are using the L.E.S. - house, function as a social network for released inmates, but newcomers has to contribute to the community in one or another way. When a new person has arrived, the aim is to find out in which way he or she can contribute. L.E.S. thinks that everybody has recourses. Some have computer or sport knowledge, some have success in promoting the idea of L.E.S. to inmates and co-operators, while others welcome visitors and make coffee and lunch. It has been recognized in many types of self help- groups that people profit from their role when they help others (for example Johansen, 1985 and Reissman, 1965), and L.E.S. is built on the same idea.

Development

During the autumn of 2002, the main activity in L.E.S. was spreading information, to future co-operators and inmates in prisons. In the end of 2002 and early 2003, several inmates contacted L.E.S., and wanted their services. From November 2002 until august 2003, approximately 50 inmates have contacted L.E.S. Some have been released without further contact, others are still in prison. The inmates' interests for keeping in touch with L.E.S. after release seem to rely on the quality and length of the contact established beforehand. Some of those who wanted a L.E.S.-contact, were after a few meetings told to think it over one more time, because the motivation for quitting drugs and crimes seemed to be low. One reason for this restriction is that the number of volunteers who works as L.E.S.-contacts is limited and they try to use these resources as effective as possible.

The history of L.E.S. has had both ups and downs. The founder of L.E.S. was the first leader of the management, and in charge of the day-to-day running of the organisation. Before he was formally put into the job, he fell back to drug abuse again. Since the statutes have a very clear rule, saying that drug use can't be combined with membership in the management or a job in the organisation, he had to quit. When also the next leader started to use drugs after a short period in the job, the future seemed to be uncertain for L.E.S. However, at that time L.E.S. had managed to build up a group of volunteers who had been going through an introduction programme. They were running the organisation together with the management and the consultant. On behalf of this, the management decided not to employ a new leader abruptly, but instead to calm down and discuss the situation detailed. Such a method was seen as necessary to maintain co-operators and contributors confidence in the organisation. In July 2003, a new leader was appointed.

Chances for succeeding – without "experts"?

Interference from "professionals" may be a factor that makes L.E.S. less successful that C.R.I.S. In early 2003, about one year after the foundation, the question of running L.E.S. without "experts" came up for the first time. One member of the management released this topic to be discussed, and proposed that it should be decided a certain date when the representatives from The Tyrili Foundation and The Church City Mission should step out of the management, to be replaced by people with prison background. After a thorough discussion it was decided that it was too early for this change, but that the discussion should be repeated at a later stage. The topic of expert-involvement is sensitive in all self-help

organisations. On one side, the existence is based on self-experienced knowledge, but on the other hand, funding from official and private actors take for granted that the association is run according to certain standards. There is a question of which amount of interference L.E.S. in the future will allow from the ones who finance the activities. The conclusion from a study of C.R.I.S., was that the influence from outside forces must be minimized for the concept to last (Geithung et. al., 2002). This is also acknowledged in other studies of self-help groups (For example Johansen, 1985 and Hjemdal et. al., 1998).

The success of C.R.I.S. relies not only on the fact that they have no interference from people without a crime or drug record. Another reason could be that they have found a charismatic leader, who offers all his spare time and energy for the organisation. He has the right background to get respect from the members, and seem to have the ability to share his power with others. We can also think another thought; maybe the concept itself is so successful, that the leader is of less importance? L.E.S. has at the moment its third leader in two years. There has been progress in their work, even if one can say it has been slow. Many of the volunteers have been stable, and new ones are recruited. From my opinion, this shows strong belief in the concept, and independence of the leader's personal qualities or stability. Per Ole Johansen found the same aspect in the self help groups he was studying; the charismatic radiation came from the entire group, not from a single person in the leadership (Johansen, 1985).

Challenges

Lack of housing for released inmates has been the biggest problem during L.E.S.' first year of functioning. According to the Norwegian law, the social welfare is imposed to find fitting places to live for any Norwegian citizen. L.E.S.' experience is that the type of housing which is offered to released convicts, is hospice. Hospice is a house with several small rooms, where the inhabitants share other rooms, such as kitchen, bathroom and living room. The concentration of drug addicts in these houses is high. For a person who wants to stop taking drugs, this type of housing is improper. L.E.S. has spent plenty of time explaining this to representatives from the Social Welfare, who claims it's difficult to find other alternatives. This factor is troublesome for L.E.S., because a positive social network is something people care about after they have fulfilled basic needs, like housing and job.

Another challenge could be the step out of the L.E.S.-community, and into the society. This was a critical point in a study of C.R.I.S. from 2001 (Risum-Nielsen, 2001). It seems to be of big importance that the released inmate for a while is protected against the "ordinary society", to be able to find a new way of living. From a short perspective this can seem to be a success. From a longer perspective, this can prevent the person from being able to live the type of life ordinary citizens do – which is what most of them wish. The idea of C.R.I.S. and L.E.S. is that you are in the community because of your past. There is a possibility that this focus can be too strong, and make it difficult to forget about guilt and shame, and all negative aspects of the person's life history. In a study of self help groups, it was acknowledged that forgetting the mistakes of the past was an important step every person had to go through (Johansen, 1985). Both in C.R.I.S. and L.E.S., members' are encouraged participating in activities that has another focus, and Risum-Nielsen claims that this can be a positive factor in this respect (Risum-Nielsen, 2001).

A question concerning the existence of L.E.S. is also if it really is possible to run self help groups for people with this type of problems. Isn't it a contradiction to earlier ideas of rehabilitation for drug abuse and criminality? The main idea in the rehabilitation system for drug addicts or criminals is that the clients need to build up a new network of people without the same problems. A drug addict, for instance, will normally not be recommended to strengthen ties with friends with the same problems. He or she will rather be encouraged to strengthen bonds to friends and family without this type of problems. Up to now this hasn't been a problem for L.E.S. because the ones, who can't make it without drugs and crimes, have to leave the community. Their existence relies on a clear line concerning this question, and the inner justice has been strict in L.E.S., and also in C.R.I.S.

We have seen that self-help groups for released inmates are a promising idea. In Sweden the activity has been going on for six years, and the number of members is rising. It is too early to say if L.E.S. will be able to copy these results. L.E.S. has in its first year managed to survive severe interne problems. This strengthens the belief in the concept as unique, and gives high hopes for future success. It will be interesting to follow them in their further development.

References

Geithung, Bråthen, Tresland, Andersen, Svennevig, Sørensen, Aune, Østby og Rotmo (2002): *K.R.I.S.*. Prosjektoppgave ved Høgskolen i Oslo, avdeling for Økonomi-, Kommunal- og Sosialfag. Høst 2002.

Hjemdal, Ole K., Nilsen, Sigrun and Seim, Sissel (1998): *Selvhjelp – kunsten å løfte seg selv etter håret.* Oslo: Cappelen Akademisk Forlag.

Johansen, Per Ole (1985): *Frivillig sosialt arbeid.* Nordisk tidsskrift for Kriminalvidenskap, Nr. 2. De nordiske kriminallistforeninger.

Reissman, Frank (1965): *The helper therapy principle.* Social work, Vol. 10.

Risum Nielsen, Kirsten: *K.R.I.S. Organisationen*. Mellomfagsavhandling i kriminologi. Institutt for kriminologi og rettssosiologi. Høst 2001.

THE MEN OF FREEDOM

The efforts to fight organized, transnational crime in the European Union and some men convicted of smuggling of alcohol and tobacco

Pettersson, Lotta

According to statistics from the Swedish customs, seizures of alcohol and tobacco have increased since the middle of the 1990's. It has been claimed that this increase is actual, possibly as a result of structural changes (for instance reduced control at the borders) due to Sweden's membership in the European Union. For individual's who engage in the road haulage industry, the changes in their ordinary work-life were noticeable in terms of the reduced time spent at the border controls. However, at times when the large scale alcohol- and tobacco smuggling is revealed, a lorry is often involved as a means for the transportation. Smuggling of this sort of goods is, for different reasons, at times associated with so called organized criminality. The smuggling phenomenon is in it self nothing new. The liveliness of the related (political) discussion, on the other hand, may well be. The paper is based on interviews with individuals convicted for smuggling made within a collaboration-project between Norway and Sweden, aiming to explore economic crimes, from an actor-perspective within the industry. The interviewees' therefore had a work-related role in the road haulage industry.

Background

In year 2000 a research project was initiated with the purpose to analyze economical crime within the transnational road haulage industry. The project was qualitative and during a two year long period I conducted in-depth interviews with 20 individuals who worked in the trucking industry. The economical crimes varied in terms of types and seriousness. The informants own experiences of committing crimes also varied: some had very limited experiences of committing crimes whereas others had committed crimes. Besides the interviews with people with a work-relation in the industry, I interviewed ten persons who in their work were connected to the industry (for instance policemen, customs, accountants and representatives from the trade union and so on). I also participated in some field-work. I spent for instance time in environments associated with the industry, like the harbor where drivers take their rest and I also joined two drivers at work for shorter periods.

The article

In the article I am presently working on, I explore a particular group of the interviewees who were sentenced to prison for smuggling of alcohol and tobacco. In this paper I will outline some reflections on the issue of organized crime from two perspectives. First, the "crime-policy" context and the efforts made to combat the crime-problem it is associated with. I concentrate on the parallel development in Sweden and the European Union in terms of universal and transnational solutions on the transnational crime-problem.

Thereafter, the "criminal actor" perspective will be presented, where the context and a viewpoint from the convicted individuals in relation to the smuggling are explored. The analysis will focus on the informants' background and situation. In other words, the smuggling will be connected to a broader occupational context and the conditions surrounding the transnational, international trucking industry.

The haulage industry, smuggling and organized crime

There are links between the trucking industry and smuggling of alcohol and cigarettes, and the latter often is associated with so called organized crime. Therefore, one might claim that the political issues of organized crime affect individuals within the haulage industry since smuggling of alcohol and tobacco in the Swedish discussion often is mentioned as an example of the activities conducted by organized crime. The haulage business in turn has for different reasons a central position for smuggling of these kinds of goods. Most often, when the customs or police detects smuggling, the driver is caught and convicted for the crime, since lorries often are used as means for the smuggling. This is not to say that the actors within the industry are particular criminal or that the industry is problematic. It is rather a matter of structural conditions:

1) The industry is characterized by international and transnational activities.
2) The long-distance lorries have a large capacity to carry goods in comparison to other vehicles.
3) The borders are opened within the European Union – the control is reduced.

The crime-policy perspective

We start with the first perspective, which can be considered as the official and crime-political. Two main issues will be shortly discussed: the development of measures against organized crime and the problems of clarifying what kind of phenomenon organized crime is considered to "be".

The political discussion on the international, cross-border criminality has since the 1990's been vivid (ref). It is claimed that since 1995 the seizure statistics of alcohol and cigarettes have increased remarkably and that the increasing levels are actual. This kind of criminality can be regarded an obstacle and threat against the principles of the Union. It can also be considered as a problem for the government: for instance loss of taxes, as with the case of smuggling. It has been estimated that a lorry loaded with cigarettes means 15 million Swedish kronor in lost taxes.

Even though it's stated in official documents that the organized crime still has a low impact on the Swedish society, Sweden is part of an adjustment process towards more universal and common solutions to defeat the problem of organized crime. In other words, a new international and cross-boarder criminality should be defeated with international and cross-boarder measures. From a Swedish point of view, this means for instance changes in the organizational structures in the justice administration, the law and operative work.

Measures - against what?

It seems to be an agreement within the European Union and Sweden that new measures are needed, but the question remains - against what? According to the different forms of adjustment towards a common policy for the union, most countries are working from a common criterion-list to decide whether a criminal action should be considered an organized crime or not. This list consists of 11 criterion and four of them are necessary (1, 3, 5, and 11). Two more additional categories have to be localized in a criminal act to be defined as organized crime.

1. **Collaboration of two or more people**
2. Each with own appointed tasks
3. **For a prolonged or indefinite period of time**
4. Using some form of discipline and control
5. **Suspected of the commission of serious criminal offences**
6. Operating on an international level
7. Using violence or other means suitable for intimidation
8. Using commercial or businesslike structures

9. Engage in money laundering
10. Exerting influence on politics, the media, public administration, judicial authorities or economy
11. **Determined by the pursuit of profit and/ or power**

Similar to the concept of economic crime, the concept of organized crime is capturing a somewhat diffuse phenomenon. For example, the variety of criminal activities that is described as examples of organized crime indicate a lack of: smuggling of alcohol and cigarettes of course, trafficking, murder, theft and so forth. Despite these problems the list is probably an important tool for political activities. For instance as a guideline to decide what kind of crimes, who and what groups should be controlled and defeated *as* organized crime.

I have now outlined a very broad picture of what can be considered as tendencies in the crime policy agenda in the European Union. The first perspective can also be seen as the crime-policy context in which the informants worked in before the sentence, but also during their time in prison. I have focused on the political issue of organized crime and pointed out that one important idea is that international, and cross border crime problems should be defeated by international co-operation on several levels. A step toward this is the usage of the criterion-list. The list has an operative and essential function. It's likely that it serves as a framework for both knowledge and political decisions. Despite the diffusion of what to act against, there is a clear ambition to act united and with common strategies against organized crime. Whether or not this in practice is to be considered adequate measures actions against smuggling and organized crime remains an open question.

The crime-actors perspective

I will now focus on the empirical material from two aspects. The first is to give a picture of the haulage industry and describe some of the difficulties from a structural level. Thereafter I will describe motives to smuggle from a strain-perspective.

None of the interviewees had entered the industry with intentions to commit crimes or smuggling. The crimes had not been committed during the ordinary occupational duty, rather on side of the legal business. An important note is that even though the informants were in prison, convicted for smuggling, it doesn't necessarily mean that they were guilty of the crime. Some informants claimed they were either innocent or sentenced unfair.

Small-scale companies, with one or a few vehicles, dominate the road haulage industry and several of the informants described it as an occupation that has stayed in the family for generations. Most of the informants had small-scale companies and a prominent feature of the material is the situation of financial difficulties they described. Most of them meant that Sweden's entrance in the European Union had positive sides, but they also described the competition between many countries as hard. They meant this depended on different cost- and price levels. Sweden, they said was more expensive in different aspects, than other countries, and therefore also in a worse position to get haulage. All of the informants discussed the strained financial situation they worked from. Even small expenses could lead to major difficulties. They also described a sense of lack of self- determination and not being able to control or handle their everyday work-life.

These are some factors that the informants meant affected their everyday work, and that they somehow have to cope with. A strained financial situation is a common problem among the informants, especially those with small companies. In conclusion, all informants had experienced some sort of strain in relation to their occupation.

The smuggling procedure in itself is no different from ordinary and legal transport. Alcohol and cigarettes are legal goods in society and is transported on a legal basis. Shortly, there is a "normality-dimension" to alcohol and tobacco in contrast to narcotics. All informants distance themselves from smuggling of narcotics. None of the informants said they were "out in the cold" or stigmatized among their colleagues because of the smuggling. They could, if they wanted, get back into the industry after prison.

"Well, it wasn't for the excitement" as I was told when I asked an informant about the motives to smuggle. The informants descriptions reflects a financial dimension to the smuggling. Some of them had, after a longer period of financial strain committed crime to remain in the business. Some of them also smuggled since they meant hard work wasn't enough. A few of them had already experienced bankruptcy. Most informants express a sincere will to remain in the business.

The smuggling is, on basis of this, interpreted as a strategy to solve financial problems. Another aspect of the financial motives was to smuggle to get money for a new vehicle, a vacation or something else that could be considered something extra. They meant the ordinary work hadn't provided those possibilities. The interviews indicate a financial dimension on the motive to smuggle. From my viewpoint it was in most cases a strategy to cope with financial strain, rather than "greed".

Final remarks

So far, I have concluded that there is a connection between the haulage industry, smuggling and organized crime. Crime political issues, and more specific the organized crime problem, can be analyzed from different points of departure and in the ongoing article I have chosen to relate the political discourse to an actors' perspective. In other words, two perspectives on the *meaning* of organized crime will be connected to each other. First, the political perspective was reflecting the development towards common definitions and measures within the union. Second, the actor perspective including descriptions of structurally related difficulties in the industry and motives to commit crime.

From a political perspective smuggling included as a form of organized crime means some form of obstacle and threat. On the other hand, from an actor's perspective, the empirical material indicates that smuggling means something else. According to the interviews, the motives appear more complex. For instance it's not possible to understand the crimes as simple economical profit.

If we take the informants descriptions seriously new options occur from a crime-policy perspective. A majority of the individuals have experienced different forms of strain in their everyday work and some of this strain partly was a consequence from the situation at the European market. Alternative and distinctive political measures are from this point available. For instance, to work for better structural conditions for people who wish to work in the road haulage industry.

CONCEPTIONS OF GIRLS AND BOYS AS PERPETRATORS OF ACTS OF VIOLENCE

Pettersson, Tove

> There's such a fuss when girls have got in a fight because it doesn't happen very often, but if boys have been fighting, then maybe they talk to them and then its okay, sort of thing. Or they don't even have to talk to them (laughter).

The quote cited above is taken from a focus group interview in which five girls participated. The girl being quoted obviously feels that there are substantial differences between girls and boys when it comes to whether or not they get into fights. She is not alone in this. Her perception was shared by all the youngsters that were interviewed during the course of this study, and no doubt by many others besides. The quote also shows that attitudes about girls getting into fights differ from attitudes about boys doing the same. It is this latter factor that constitutes the focus of this study.

Objectives

On the basis of a gender-theoretical perspective, this study provides an interpretation of how young people in groups construct their understanding of girls and boys as the perpetrators of violent acts. The objective is to examine whether the youngsters' descriptions of perpetrators may be interpreted as indicating that violence constitutes a resource for the construction of gender, and if so in what ways. The objective further includes using the youths' descriptions to attempt to work out the way they themselves construct gender.

Gender-theoretical points of departure

The study are based on a constructionist perspective. Within the field of feminist research, scholars have long discussed the distinction between (biological/essential) sex and (social/constructed) gender. More recently, questions have been raised about the dichotomisation of sex–gender and essence–construction, by amongst others Moi (1997), Danius (1995), Dahlerup (2001) and Carlsson (2001). For the purposes of the studies presented below, however, there is no need to address this issue in more detail, since the research focuses on social processes and the analysis takes a constructionist perspective as its point of departure.

Something must be said, however, both about my points of departure within the field of gender theory and about some of the concepts I shall be making use of. West & Zimmerman (1987:127) employ three different concepts: sex, sex category and gender. Sex is "…a determination made through the application of socially agreed upon biological criteria for classifying persons as females or males". Sex category relates to how a person achieves being classified as belonging to one sex or the other. This category is thus based on sex, but "… in everyday life, categorization is established and sustained by the socially required identificatory displays that proclaim one's membership in one or the other category". Finally, gender is:

> "… the activity of managing situated conduct in light of normative conceptions of attitudes and activities appropriate for one's sex category" (p. 127)
> "… an accomplishment, an achieved property of situated conduct" (p. 126)
> "… not a set of traits, nor a variable, nor a role, but the product of social doings of some sort." (p. 129)

The focus for the construction of gender is not individual in the first instance, but rather interactional. Doing gender is primarily a question of doing difference between girls and boys, and between women and men, and this is done in a social context. At the same time, this gender activity reproduces and reinforces the structures within which individuals act. In an article from 1995, West & Fenstermaker point out that social class and ethnicity also constitute central elements in the social process of doing difference. Witch means that for example people from different social classes construct different masculinities and femininities.

This continuous gender activity takes place within systems of relations and also within a structural context. Central to these systems and structures is the *differentiation* between what is regarded as masculine and feminine (West & Zimmerman 1987; West & Fenstermaker 1995; Hirdamn 2001; Connell 1995; Segal 1997; Johansson 2000; Lalander & Johansson 2002) and the *subordination* of the feminine (Hirdman 2001; Connell 1995; Segal 1997). At the same time, there are of course exceptions and deviations, in the form of opposition to these structures, for example. However, there are some disputes about if the question of subordination should be a part of the definition of doing gender. My standpoint in this question is that the subordination of the feminine should not be a part of the definition as such, but are at the same time a central issue in a gender theoretical analysis. How this is done and presented varies between different groups and contexts. The context of structural subordination in which the systems of relations (the young people's discussions) under study are built up should not however be interpreted to mean that the girls participating will necessarily be subordinate to boys at the *individual* level, either in mixed interview groups or in relation to boys at school or within their circle of friends and acquaintances. Here it is essential to differentiate between individual and structural levels.

The group's significance for the construction of gender

High adolescence, which falls at the age of fourteen to sixteen years, has been described as a time when friends constitute an important part of the lives of both girls and boys (Fitger 1991; Johansson 1995). Patterns of socialisation are to a large extent homosocial, with girls socialising with other girls and boys with other boys. Fitger (1991:35) states that this phase is characterised by a strong polarisation between the sexes and that stereotypical conceptions about men and women are powerful. This does not however mean that the opposite sex has no significance for or influence upon young people at this time; in fact the opposite may be true. A further point that is often made in relation to the social patterns of girls and boys at this stage of development is that boys tend to socialise in hierarchical groups whereas girls tend to organise themselves in friendship dyads. Lalander and Johanson (2002:127-129) contend however that one should be somewhat critical of this polarised picture of the social patterns of young girls and boys. The picture has in part been generated by research which has primarily focused on the study of boys and which has further been based on preconceptions of boys as active participants in groups and girls (to the extent that they are even present) as being more passive. This criticism of the sex-stereotype picture of girls' and boys' social patterns has also been presented by a number of criminological researchers who have studied criminal youth groups, including Giordano (1978), Hagedorn & DeVitt (1999), Campbell (1984), Pettersson (2002b) and Chesney-Lind & Hagedorn (1999).

Certain scholars suggest that descriptions of women and men as opposites are often stronger in homosocial contexts (e.g. Connell 1995; Johansson 2000; Lalander & Johanson 2002; Hirdman 2001). Lalander & Johanson contend, *inter alia*, that groups of boys may devote themselves to disparaging women in order to strengthen their own and the group's identity. This group identity is intensified through the disparagement of distinct out-groups, of which women/girls may constitute one type. Homogenous girl groups may also be presumed to maintain a clear difference between girls and boys in certain cases. If this is the case, we may assume that the descriptions of girls and boys as perpetrators and victims will

be more polarised in those interviews where the participants were exclusively comprised of girls or boys respectively, by comparison with those from mixed-sex interview groups.

Gender and violence

In terms of gender theory, it is primarily masculinities that are associated with violent behaviour. Within the field of masculinity research, several scholars have focused on the issue of masculinities and violence, including Connell (1995), Segal (1997) and Kimmel (1994). Kimmel sees violence, or above all the will or desire to fight, as the most palpable demarcation of masculinity. First and foremost, violence is about emphasising what one is *not* (see also West & Zimmerman 1987; West & Fenstermaker 1995). One is not cowardly, weak, feminine or homosexual. In order to prove this, one must always be prepared to stand up and fight if necessary, in order to ensure that nobody gets the "wrong" impression. In this way, an attitude is created whereby one is prepared to use violence *when necessary* in order to maintain one's maleness.

Segal (1997) and Connell (1995) suggest that the higher levels of violence among men may be observed to have their causes in structurally unequal power relations between the sexes. The fact that masculinity in our (western) society is defined through power and dominance means that men make use of physical aggression, against both women and other men, to a greater extent than women. Johansson (2000:39-51) also suggests that the conception of "hegemonic masculinity"[117], and the aspiration to achieve it via its demand for dominance, gives rise to violence. Thus the structural inequality in the power of men and women is of significance not only for violence between the sexes but also for that which takes place among persons of the same sex. Brod & Kaufman (1994:4), Connell (1999) and Segal (1997:123) have formulated this such that gender is viewed as a power system. Given that there are different types of masculinities and femininities, these involve different types of power, and there is also a power imbalance among them. Messerschmidt (1993:63) argues that the capacity to exercise power is always determined by a person's position in social relations. The possibilities men have of exercising power over women, and also over other men, vary. Heterosexuals have more power than homosexuals, the middle class has more power than the working class and white men have more power than non-white men.[118] Thus power becomes something which organises social interactions both between and within sex classes. These different degrees of power among individuals of the same sex have a significant impact on the varieties of masculinities and femininities that people construct.

Violence may thus be understood as a "tool" used to accentuate or maintain one's position in a social context. But it is also important to problematise whether we can assume that violence will always be exercised by individuals in a position of greater power against persons with less power than themselves. Violence may also be a means to attempt to bring about a shift in one's own or the victim's position by means of attacking/harassing someone in a more powerful position than one's own. Messerschmidt (2000), Hearn & Collison (1994:140f) and Kimmel (1994:128) argue, for example, that in the case of bullying, it is the bully who is most insecure about his masculinity and who is trying to prove his manhood by

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[117] Robert Connell (1995:100-104) employs the concepts hegemonic, subordinate, marginalized and participatory masculinity. Hegemonic masculinity is defined as that form of masculinity which is dominant and superior to other forms of masculinity (and femininity) at a certain time and in a certain cultural environment. Thus hegemonic masculinity is changeable and constitutes a collective image, or conception, of dominance. Since hegemonic masculinity involves dominance, this approach also involves the existence of groups that are dominated. According to Connell, what these groups have in common is the fact that it is femininity that constitutes the grounds for their exclusion.

[118] Note once again the risk of making sweeping generalisations as well as the risk of drawing conclusions about individuals on the basis of observations made at the structural level.

attacking others. Segal (1997:115) supports this notion, when he contends that "tough" boys need the "weaklings" as victims in order to prove that they are not like them. One might ask whether "tough" boys really have so much power, or whether they are rather acting out of a sense of powerlessness.

Within the field of criminological study, Messerschmidt (1993, 1997, 1999, 2000a, 2000b) has focused a substantial amount of research on the question of gender – primarily masculinities – and crime (including crimes of violence).[119] Messerschmidt has developed what he himself calls "structured action theory". He contends that the individual and the social structure affect one another by means of a process of interaction (Messerschmidt 1993); social structures (such as unequal power relations between men and women, for example) affect the way individuals behave, and the way individuals behave in turn reproduces these structural conditions.[120] The focus of Messerschmidt's work is directed at the division of labour and power between genders, classes and ethnic groups and on how these affect the construction of masculinities and femininities. Crime may constitute an opportunity to produce (construct) gender, i.e. to do difference between women and men, when other opportunities are unavailable such as those offered by a career or education (Messerschmidt 1993:182). Thus committing crime may constitute a means of maintaining and confirming a person's masculinity. Further, Messerchmidt sees the construction of different masculinities as explaining why men from the middle classes who engage in crime, commit *different types* of crime from those of men from the lower classes who do so. Messerschmidt (1993:71) also argues that (men's) power not only provides them with more legitimate opportunities but also with more illegitimate opportunities (by comparison with women).

In a resent study Messerschmidt (2000a) interviewed nine boys aged fifteen to eighteen, who had grown up in a white working class environment in the USA. Three of these nine had committed sex crimes against younger persons with whom they were closely acquainted, and three had committed violent offences of a non-sexual character against strangers and persons they were acquainted with. Three of the interviewed boys had not committed any form of violent crime. Messerschmidt shows how these nine boys constructed different forms of masculinity. The masculinity of the six who had committed different forms of violent crime contained clear elements of hegemonic masculinity that focused on power over women and other men as defining what it was to be a "real man". Common to the three boys who had *not* committed violent offences was that they produced a masculinity where violence was not regarded as manly. At home they had been encouraged to turn their backs if provoked, bullied or attacked by another. As distinct from the other six boys, reacting to provocation with violence was not portrayed as masculine, nor as an acceptable way to respond to such provocation.

Besides the constructions of parents and/or other intimates as to what is regarded as masculine, Messerschmidt (2000a) also identifies both being bullied and bullying as important factors in the way these boys produce their masculinity. The perception of hegemonic masculinity as involving superiority, physical strength and heterosexuality is of substantial importance in this context. All those interviewed identified a number of groupings in the school environment, including for example the lads who were "tough" and "cool", the

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[119] On the basis of a constructionist perspective, it should of course be pointed out that not only gender, but also what is taken to constitute a crime, is a construction. Those acts that are regarded as (violent) crimes are not given, but are rather dependent on inter alia the historical and social context in which these acts take place (see, for example Chambliss & Seidelman 1982).

[120] Messerschmidt bases a great deal of his own argument on the production of gender on the work of Connell (1995) and West & Fenstermaker (1995).

"athletes" and the "nerds". Bullying was strongly focused on attributes such as being chicken, a weakling, or gay. These concepts overlapped in the sense that a gay was considered cowardly and weak; being weak was itself a sign that a person was gay, and so on. Against the backdrop of Messerschmidt's interviews, the school environment may be assumed to constitute an important arena where youths construct gender, particularly in interaction with other pupils.

From a gender theoretical perspective, then, the violence of men and boys has primarily been described in terms of dominance and superiority in relation to women and other men, and as a way of showing that one is a "real man" (in the sense that one is non-feminine). How then should women's physical violence be understood? When all is said and done, violent behaviour is not something that is exclusive to men. Within the field of criminological research, a debate is currently being conducted as to whether the violence of girls and women should be interpreted in terms of their using such behaviour to construct masculinity (Hood-Williams 2001) or femininity (Messerschmidt 1997). Hood-Williams (2001) writes that if girls can only do femininity and boys masculinity, then the usefulness of the concepts collapses and they may just as well be replaced by biological sex. One must therefore allow the opportunity for girls to construct masculinity and boys femininity if the concept of gender is to have a different content from that of biological sex. One might counter by contending that the gender concept is still different since its use has introduced a pluralistic approach towards men and women (masculinit*ies* and femininit*ies*), by contrast with the sex-role theory that was previously commonly employed (for a critique of this see Zimmerman & West 1987 and Messerschmidt 1993, for example) and the similarly dichotomous division into two biological sexes. It is precisely because gender *is not* constituted of distinct categories where one is either masculine *or* feminine, that girls/women and boys/men have to struggle to present themselves as masculine or feminine. Furthermore, the view that violent women are doing masculinity lies very close to the long criticised conception of (criminally) deviant women as "masculine" (see Smart 1977, for example, for a critique of this view). One example of a different point of view is to be found in a study by Lander (2003). Lander followed eight drug users, all of whom were women, over a period of on average 12 months. She describes how these women constantly conducted themselves in line with a "normative femininity", a concept that refers to the expectations that exist regarding what being a woman ought to entail. The women strove to pass as "good women", to be feminine in the *right* way, and attempts to present themselves as masculine were conspicuous by their absence.

Although I agree with the position ascribed above to Hood-Williams (2001), that women may also construct masculinity, I would contend that violence as a phenomenon must be problematised if we are to avoid becoming stuck in stereotypical conceptions whereby acts of violence, when viewed from the perspective of gender theory, are always seen as a resource for constructing masculinity. In an earlier study of registered crimes of violence committed by girls (see Pettersson 2002a), it is suggested that certain of these violent offences may be interpreted in terms of the enactment of femininity. One of these interpretations relates to structural factors. Here, the fact that the violent offences perpetrated by girls primarily victimise other girls, as was shown in another study of violent offences committed by young people (Pettersson 2002b), is interpreted as a manifestation of the use of violence by girls to reproduce their own subordination. Another interpretation is that certain of the crimes of violence may be seen as a means of demarcating heterosexual behaviour.

Choice of method and the conduct of the interviews

Focus group interviews as a research method

Morgan (1996:130) defines the use of focus groups as "… a research technique that collects data through group interaction on a topic determined by the researcher". The researcher can use focus group interviews to study social interactions, strategies for reaching consensus, or how conflicts arise and are dealt with. In addition to studying opinions and values one can examine the processes that lead to the construction of different contexts of

meaning (Wibeck 2000:21). Wibeck (ibid:42) writes that when focus groups are employed, the interest lies "…more in *how participants in a certain group together reflect on a phenomenon* than in what individuals think themselves. Thus in a focus group study, interest is directed at commonly held, culturally rooted conceptions and attitudes" (italics in original). Given this background, the focus group research method seems to be highly suited to studying how young people construct and conceptualise gender in connection with the use of violence.

The conduct of the interviews

Four focus group interviews were conducted with youths aged between fifteen and sixteen. The number of participants in the focus groups varied between three and six. The interview subjects were recruited through two secondary schools in a local authority bordering the city of Stockholm. The interviews took place during school hours in rooms made available for the purpose by the schools. All interviews were recorded on audio-tape. The transcript of the interviews noted not only what was said but also words that were emphasised, laughter, occasions where two or more interview participants spoke simultaneously and pauses.

The focus groups consisted in part of homogenous girl and boy groups, and in part of mixed groups.[121] The division of the groups into boys and girls should not be seen as indicating that I regard all boys and all girls as sharing an identical perspective as a result of their biological sex. The division was instead a consequence of my view of gender as something produced in relations with others. Given this view, it becomes interesting to ask how boys and girls discuss an issue in groups comprised of individuals of the same biological sex, and in groups comprising representatives of both biological sexes, respectively. People define themselves and other using the categories "woman" and "man" and this has an effect on the way we think and act. Employing a gender perspective involves taking into consideration both the way these definitions of ourselves as belonging to the one category or the other affects us, and how these definitions may vary. One example of this is the way we almost always ask about the sex of a new born baby. We do this because these two categories, man and woman, are central to the way be construct our lives, and we have different ways of relating to them.

The interviews were conducted in the following way. The moderator read aloud a description of a hypothetical violent incident, presented below. Thereafter, the interview subjects were asked to discuss their opinions regarding the behaviour of the various persons involved as well as what they thought would happen immediately afterwards. In a number of cases, they were also asked what they thought would happen the next time the persons involved in the incident met one another. The interview was concluded with general questions on the subject of what they thought of girls who fought and boys who did the same, and of girls and boys who became the victims of violence.

The incidents described aloud were formulated in such a way that the sex of the victim and the perpetrator varied from case to case. In order to reduce the effects of conceptions of ethnicity, all the persons involved in the incidents were given names that are associated with membership of the same ethnic group (Swedes). This is not to suggest that the interview subjects conceived the ethnicity of the persons described as being neutral, but rather only that such conceptions ought to have been the same across all the cases described. The incidents, their follow up questions and the concluding questions are presented in Appendix.

The study is not based on a representative sample of young persons, nor is the number of youths included sufficiently large (even if the sample had been representative) to provide a

[121] Of the four focus groups, two had the same sex composition (i.e. all boys, all girls or mixed boys and girls). As a means of preserving the anonymity of the participants, however, information on which type of group there were two of is withheld in the present context.

sound basis for any more general conclusions as to how gender is constructed in groups of young people. The objective is instead to provide examples of how gender *may be* constructed in such groups.

The goal is not to provide a description of the "*this is how it is*" kind. When several of the interview groups discuss the way that girls speak badly of each other behind one another's backs more than boys, for example, this is interpreted as indicating that the youths interviewed perceive that this is the case. This does not of course mean that it is *in fact* the case.[122] The interest when analysing the interviews is not in attempting to ascertain what girls and boys *do*, but rather what girls and boys *think* girls and boys do, and what they *opinions* they have about it, at least what they think when sitting in a group and discussing the topic. Thus the analysis is based on a constructionist approach.

In the light of the gender theoretical points of departure, also ethnicity and social class are important in the construction of gender (West & Fenstermaker 1995). However, since I haven't got any information about neither the ethnicity nor the social class of the interviewees, I cannot discuss these aspects in the analysis.

A word should also be added about ourselves as interviewers and our own part in the production of knowledge. Focus groups are regarded as a good tool when the objective is to reduce the guiding role of the interviewer and instead to focus attention on how the participants in a certain group think about a given phenomenon (Wibeck 2000:42). Even if we can assume that the guiding role of the researcher is lessened when this method is employed, however, other factors that may have affected the interviews ought still to be taken into account. I will shortly discuss two of these aspects.

The first thing that comes to mind is the age factor. We interviewers were between just over fifteen and a little under twenty years older than the interview participants. Clearly having adults present may have affected the discussions. Having said this, however, the conversations flowed rather well and the interviews were in general characterised by the youths engaging one another in discussion, which is the goal of a focus group interview. This does not necessarily mean that our presence as adults didn't have some effect on the discussion, however.

The second factor is the question of sex. The two of us conducting the interviews are women, and it is possible, and perhaps highly likely, that this affected the interview situation. What is more difficult to know is *how* the interview situation was affected by this factor. It can be assumed, based on the flow of the discussions, that it had a somewhat restrictive effect on the boys who participated as compared to the girls. This assumption must however be regarded as a little shaky.

The reader should also bear in mind that the interviews focused specifically on gender and violence. This means that discussions about gender are probably more prominent in the interviews than they would be in the youngsters' everyday conversations. This may have had an effect both through the fact that they knew in advance that the study was about gender and violence, and that the questions at the interviews were focused on this type of issue.

Analytical strategies

In this study I employ the concepts *reproduction* and *opposition*. The term *reproduction* refers to descriptions that reproduce conceptions of differences between what is considered feminine and masculine, and (in some cases) subordination/disparagement of the feminine. The term *active opposition* on the other hand relates to the adoption of positions that are expressly opposed to conceptions of the kind just described.[123] The term *opposition*

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[122] Which in turn is not to say that it cannot be the case.

[123] Lees (see Lalander & Johansson 2002:153) makes use of this concept in order to describe one of several reactions to sexual oppression. Lees use of the term is focused however on

refers to descriptions that contradict the above described conceptions of difference and subordination, but where the statement in question does not involve an express articulation of opposition *against* these conceptions.[124] The following hypothetical examples may serve to clarify these concepts.

Descriptions that would be defined as:

Reproduction: Girls are worse at fighting than boys because they just scratch and pull hair whereas boys fight for real.

Active opposition: The idea that girls are worse at fighting than boys is just something certain people say because they don't take girls seriously and want to ridicule them.

Opposition: Girls and boys are equally good at fighting.

The category *opposition* also includes statements that there are no differences between girls and boys, since reproduction involves ascribing differences to the two. Whether statements on similarities between girls and boys are then classified as *active opposition* or *opposition* depends on whether they are spoken in protest against differentiating between girls and boys or merely as assertions that no difference exists in a certain respect.

The category *active opposition* also includes positive statements about individuals who act in breach of the way they are expected to behave on the basis of the gender order, and the category *reproduction* includes negative statements relating to behaviour of this kind. For a statement to be interpreted as relating to a breach of gender related behavioural expectations, this must be articulated by the interviewee.

In Figure 1 (next page) is a schematic description of the analysis of the data material, from construction of interview guide to final analysis. In the model the connections to the theoretical perspective aren't pointed out, since the theoretical perspective have permeated all the steps of the analysis. I also kept short field notes about the main impression of each of the interviews.

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sexual oppression directed at women's sexuality. Also Foucault uses the concepts of reproduction and opposition in his analysis of power (Hörnqvist 1996).

[124] Sometimes, when removed from their context, the statements may not clearly reflect whether they are indicative of similarities or differences, although this is clear given the original context. The violence of girls might be described first, for example, followed by a description of boys' violence, with these descriptions differing from one another, even if none of the interviewees articulated this difference expressly. In this case, the descriptions of both the girls' and the boys' violence would be coded as reproduction.

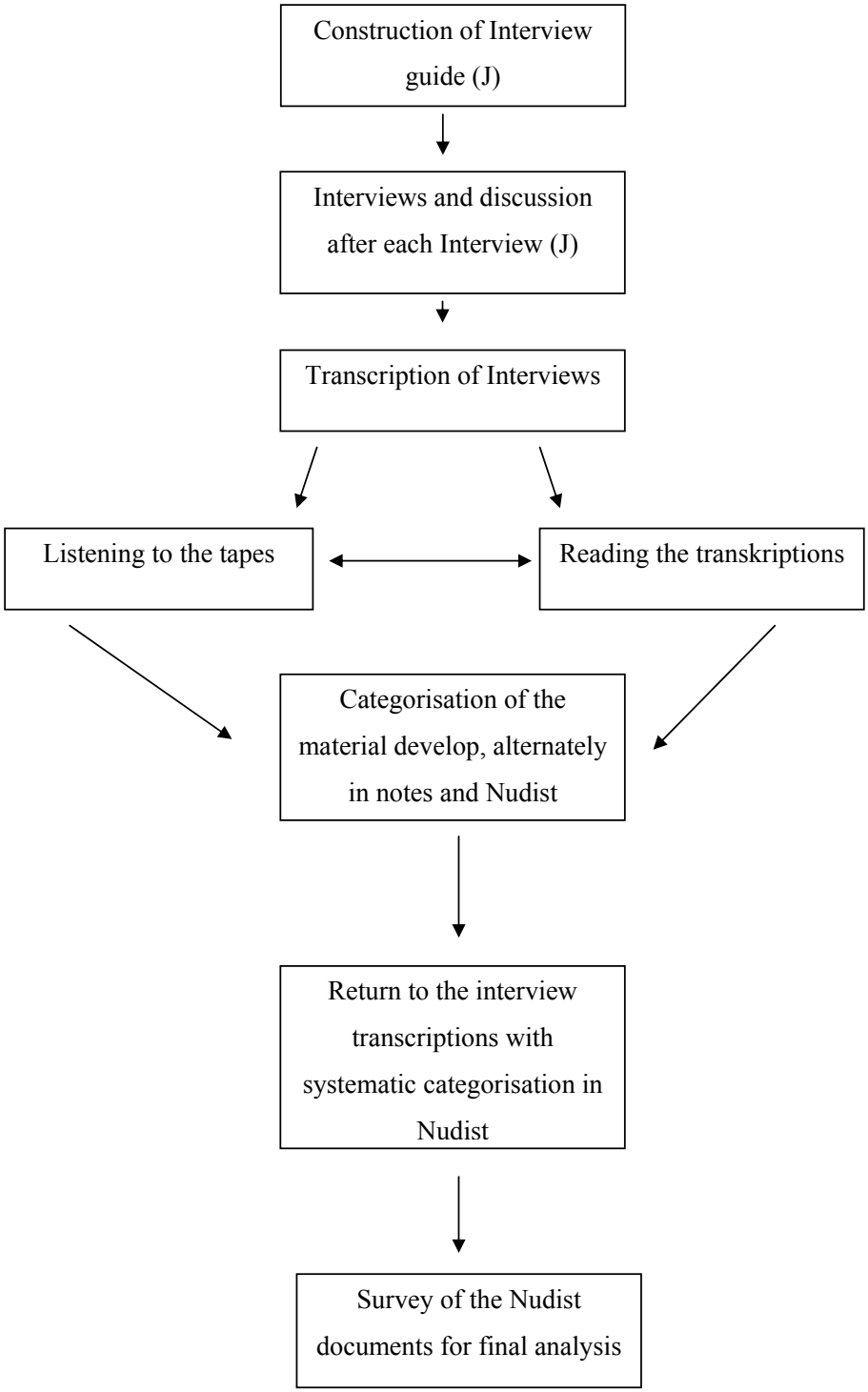

Figure 1. Model over the analysis. A (J) points out that the step in the analysis was conducted in collaboration with Jenny Karlsson.

The analysis started already by the construction of the interview guide. Alternately listening to the tapes and reading the written transcript conducted the main part of the analysis of the interviews. Out of this re-reading and re-listening the concepts of *reproduction, opposition* and *active opposition* have grown. Thereafter, the material has been reanalysed, using these categories as the point of departure. The material has also been categorised in line with a number of other sets of criteria.[125] I make use of these additional categorisations in part in connection with the general descriptions of how the young people regard girls and boys as perpetrators. I feel however that *reproduction*, *opposition* and *active opposition* are the most fruitful categories when it comes to describing the construction of gender that takes place in the interviews in a more systematic fashion. The analysis also employed the computer program Nudist, which has been developed as a means of structuring analyses of qualitative data. In the structuring in Nudist the material were coded by if it was a girl or a boy who did the statement and if the interview group was heterogeneous or homogeneous according to sex.

In order to further clarify the study's points of departure and its scientific approach to the phenomenon, the analytical approach may be described as that of examining the discourses employed by the young people in their discussions of gender and violence. The term discourse here refers to "social patterns of consolidations of meaning that stand in an unstable relation to one another" (Winther, Jörgensen & Phillips 2000:136). I have chosen to focus on the struggle between two of these, reproduction and opposition (which is in turn divided into two forms of opposition). Winther Jörgensen & Phillips (2000:100) contend that it is common for the same individuals and/or groups to shift between expressions of different, mutually contradictory, positions. This relates to the fact that the meaning of a phenomenon is not fixed, but is rather constructed in the spoken acts that ascribe meaning to it. Contradictory statements relating to a given phenomenon may therefore be interpreted as a struggle for definitional precedence between different discourses within the field of discourse being studied. In the present context, the field of discourse is that of conceptions among girls and boys of violent acts perpetrated by girls and boys, and the discourses being examined are those which reproduce the difference between girls and boys, subordinating the feminine, and which oppose this difference and subordination. In terms of the discussion of discourse analysis presented by Winther Jörgensen & Phillips (2000:25-28), this study views discourses as contributing both to the formulation and reformulation of social structures *and* as reflecting such social structures. The focus of the study comprises a form of everyday discourse, looking at how young people talk to one another in (more or less) everyday forms. Winther Jörgensen & Phillips (p. 118) write that focus group interviews constitute a particularly suitable source of material for the conduct of discourse analyses.

Findings

Introduction

This presentation of findings begins with a look at the general descriptions of girls and boys as perpetrators expressed by the young persons at interview. The main tendency is one of similarity in the descriptions between the different groups, although there are a number of departures from this tendency, as this presentation will show. An additional, striking factor is that the basic tone in all the interviews was one of aversion to violence. The descriptions and quotations should thus be viewed against a general background of anti-violence, although this does not mean that there were no statements expressing understanding for those who turn to

[125] Such as what the interview participants answered first (i.e. most spontaneously), having had read descriptions of the incidents read to them, whether they conducted discussions in terms of the victim hitting back and so forth.

violence or statements expressing a belief that an individual might him- or herself have done so in a certain situation. At times such statements were combined with the additional point that *strictly speaking* the use of violence is of course wrong. Following the introductory, general description, the presentation moves on to the concepts of reproduction and opposition. In this section, quotations from the interviews are given more space than in connection with the more general description.

Before I move on to the more general descriptions, I will briefly describe how the quotations are to be presented below. In connection with each of the quotes, the text states whether it is a girl or a boy being quoted. The text also indicates whether the quote comes from a sexually homogenous group (H) or a mixed group (M). When there are a number of individuals making statements in the same quotation, the different individuals are numbered so that the reader can follow the exchange of opinions. The numbering is only coupled with a specific exchange, however. Thus girl 1 in one exchange is not necessarily the same girl 1 in another.[126] On a number of occasions, a number of different quotations and exchanges are presented one after another. In these cases they are separated by an empty line in the text. These quotes may thus be taken from different interviews, or from the same interview but at different times.[127]

And finally, for this English version, the quotations have had to be translated from the original Swedish, something which of course involves a number of problems of its own.

Girls as perpetrators

Girl H: It's more common for girls to shout at people and girls say nasty things and do things behind people's backs

Girl 1 H: Like this, pull their hair ooh (laughter)
Girl 2 H: Prefer to strike psychologically rather than physically.
Girl 3 H: Yeah, not physically but more with words sort of thing
Girl 4 H: But girls can really wound each other

Boy 1 H: Girls mostly have hysterical fights **just (1)** standing and like yelling. Scratching and stuff like that.
Boy 2 H: Aah (1)…. Scratching and pinching and stuff.

The above quotations illustrate the most common theme in the descriptions of girls who fight, that they do their fighting with words, and *if* they engage in physical fighting then the fights are not particularly serious.

Another theme that came up now and again, particularly when the incidents described for discussion involved girls as perpetrators, involved their behaviour being regarded as "sick" and peculiar, as well as the idea that there must be something seriously wrong with the girl in question. Expressions such as "It's totally sick", "Seems completely unbalanced", "Certainly isn't what you'd call normal behaviour", "…totally crazy" and "mental" were

[126] I have chosen this additional level of anonymity (as against giving the reader the opportunity to trace several statements back to the same individual) as a result of the small number of participants in combination with the fact that it is not the positions assumed by individuals that are of interest.

[127] I also want to ad a few notes on how the quotations should be read. Where the quotes are made up of statements by several individuals, the use of bold face lettering and the number in parentheses indicate that these individuals are talking at the same time. Words in italics mean that these were difficult to hear, and that the written transcript is therefore somewhat uncertain. In certain instances, the text indicates that a certain passage was inaudible. If nothing is specified, then the passage of inaudibility is no longer than a word or two.

used. Several of the descriptions of this kind were related to an incident where a group of four persons stop and tease a girl, and then one of the girls in the group eventually hits and kicks the girl who has been stopped.[128] It should also be pointed out that this is not the only incident where female perpetrators are described as sick and strange; such comments were made in connection with all four of the girls who appear as perpetrators in the incidents described to the interview groups.[129]

At one interview (girls H), girls who fight were described by one of the participants as being more masculine. To begin with, such girls were described as more *manly*, but after a short discussion on the concepts *manly* and *masculine* the group decided that the term masculine best described what was meant. The youths appeared to link the term manly more to physique than masculinity, which was instead associated more with how a person behaves. At the same time, the interview participants also described girls that fight as being insecure.

A point that was brought up in a number of the interviews was that the girl in incident number 3, who attacks a boy who had previously participated in a bullying incident in which the girl had been the victim, was regarded as brave (even if retaliation is *actually* to be regarded as a bit cowardly). She was regarded as brave first and foremost because she went for a boy, but also because she went for him when several of his friends were present. There were also descriptions of girls who fight as "tough", "trendy" and as attempting to be "cool", but these were not particularly common.

When describing girls who fight, comments were often made comparing what they did with what boys do, which, put more clearly, means the ways in which they were *unlike boys*, something which wasn't as noticeable in relation to the descriptions of boys who fight.[130]

Even if, in general, it was described as unusual for girls to fight, the sense of the interviews was that such fights did take place nonetheless, as this next quotation shows.

Girl H: But there are girls who fight in spite of everything, they do exist.

The quotation is taken from a concluding general discussion around girls that fight, and followed a lengthy discussion about the fact that girls fight with words and are extremely unkind to one another.

Boys as perpetrators

Girl M: Most boys sort of like to fight, and if there's someone who kinda starts messing them around, then most boys start in and just, its time to have a fight like.

Girl H: They like starting fights, rows

Girl 1 H: Loads of boys that fight
Girl 2 H: mm
Girl 1 H: A step on the way to becoming a mature adult, I think, yeah, or like if the immaturity process that hasn't finished yet. It's just, so bloody unnecessary.
Girl 2 H: Nothing (inaudible) reason
Girls3 H: Boys' habit, **boys' habit**. ***You know*** **when you kinda (1)**

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[128] It is possible that the expressions are linked to the specific incident rather than to the fact that it is a girl doing the hitting.
[129] As compared with the fact that only one of the interviewees (boy H) described one of the male perpetrators as sick, or to be specific, he described the boy's behaviour as sick.
[130] Although this does of course happen, since we are looking at two sides of the same coin. A description of what girls do as compared with boys is of course necessarily a description of what boys do differently from girls. The difference lies in the fact that boys that fight are more often described without mention being made of what girls do.

Girl 1 H: That's what I think it is a bit (1) a bit like that girls should be as thin as rakes and all that, boys should fight, like, boys fight; that's the way they are sort of thing.

The quote and the exchange presented above are drawn form different interviews. Both come from the concluding, more general discussion about how the interview participants regard girls and boys who fight. The first quote reflects a theme that occurred repeatedly in the interviews, namely that boys like to fight, that a lot of boys fight, and that they do so often.

A further description that occurred repeatedly was that boys fight until someone has been really badly hurt. Boys' fights are described as much more violent than those involving girls, and several of those interviewed said that boys are unable to stop fighting once they've started. One of the interviewees (girl H) described it as boys becoming entranced and just hitting, and hitting, and hitting, something that she had never seen a girl do. She reported that the boys she knows were afraid of starting to fight because once they'd started, they didn't know whether they would be able to stop. In addition, several of those interviewed were of the opinion that boys start to argue over little things, which may then in turn lead to serious fights. This is linked to the fact that boys are regarded as being unable to stop themselves once they have started fighting. The opposite opinion was also expressed, however, (boy H) i.e. that it takes *more* for boys to start fighting than for girls to do so. This was also motivated as being the result of the fact that fights between boys become so serious that boys are somewhat afraid of starting them.

The general sense of the descriptions is that the boys who fight are those that are, or who are trying to be tough and cool, although several of the participants at interview objected that they are actually probably insecure and that fighting might be a consequence of their fear. Thus boys are regarded as fighting in order to gain status. Here too there were examples of interview participants linking this factor with the observation that boys do not stop fighting once they've started. If the objective is to gain status, you can't just give in at the first opportunity.

Two other themes, that will only be touched upon in brief here, relate to retaliation and it being cowardly of a boy to attack a girl. Several of those interviewed were of the opinion that boys fight back if they are attacked. Some felt that this depends on what the boy in question is like and on the situation (girls H), while others described it as both natural and expected for boys to retaliate (boys H). Of the two incidents described involving boys as perpetrators, the one involves a boy as the victim and the other a girl. A recurrent difference between these cases was that the boy who hits a girl is *described* as a coward, or alternatively, interview participants stated that it *is* cowardly to strike a girl. Later on, however, we shall see that there are signs of a certain resistance against this viewpoint among girls participating in the interviews. The subject of cowardice was not touched upon in the discussions about the boy who hits another boy.

Perhaps one of the most striking quotations relating to boys and violence reads as follows:

Girl H: But there might be some who (inaudible) who don't fight. There are some.

This statement came in connection with the discussion of the first incident, in which a boy strikes another boy in the dinner queue. The discussion was about whether the boy who had been struck would retaliate or not (most were of the opinion that he would do so). Even if the quote is about boys who *don't* fight, it is nonetheless striking for the way it indicates just how strong the association is between boys and violence. Compare also the concluding quotation presented in connection with the description of girls as perpetrators.

Reproduction and opposition

An examination of the interviews using the categories reproduction, opposition and active opposition, indicates that reproduction constitutes the most commonly occurring category of descriptions. There were however a number of interesting examples of active opposition. Examples of opposition, on the other hand, were more or less completely absent. This means that the descriptions of perpetrators are characterised either by a differentiation between girls and boys, often followed by an subordination of girls, *or* by resistance to this differentiation and subordination. The discussions may therefore be said to have been characterised by thoughts on differences, even if the individuals interviewed sometimes opposed such differences.

In addition, there were a greater number of instances of reproduction and opposition in the homogenous interview groups. As regards reproduction, this was to be expected given findings from previous research that same-sex groups reinforce stereotypical conceptions of differences between girls and boys. On the other hand, opposition might be expected to be more prominent in mixed groups, since such groups are supposed to be less stereotyped. My interpretation is that expressions of active opposition, and perhaps also expressions of reproduction, came in the homogenous groups as a result of the fact that the discussions were livelier in these groups. Such interpretations must be regarded with caution, however, given the small number of interviews conducted. It is also possible that the gender balance in the mixed groups, considering mentor and assistant also being girls, made the boys more quiet.

The general descriptions of girls and boys as perpetrators presented above naturally contain examples of both reproduction and active opposition. I will now move on to a more in depth analysis on the basis of these two concepts, beginning with a look at the most commonly occurring phenomenon, namely the reproduction of differences between girls and boys and the subordination of girls.

Reproduction

In the interviews girls' violent acts is made light of by comparison with that of boys, and in part they are about the reception girls are felt to receive from others in their environment, precisely because it is so unusual for girls to fight. The above descriptions presenting boys as being cowards if they attack a girl, and stating that it *is* cowardly to attack girls constitute a way of both emphasising the existence of differences between girls and boys and of subordinating girls. I will be presenting examples of this kind in the section on opposition. For the moment, it is noted only that the differentiation consists in the fact that a boy attacking a girl is described as being qualitatively different. The aspect of subordination is present in the attitude that such behaviour is cowardly, which is of course based on a conception of boys as being better at fighting than girls.

Another way in which girls were presented as subordinate to boys in the interviews was by means of their acts of violence being either ridiculed or portrayed as insignificant. Acts of violence committed by girls are not the real thing. They are described in a condescending way, and examples of this are found among the descriptions presented by both girls and boys. This is reflected in a number of the quotations presented in relation to the general description of girls as perpetrators. There follow a number of additional examples.

> **Boy 1 H:** They usually shout more, or girls shout straight away. That's what they start with, innit, talking, or because girls usually talk crap behind people's backs and stuff like that and then they get pissed off about it because it gets out and so they start shouting and it turns into like a fight and, or er, slapping.
> **Moderator:** Slapping…
> **Boy 1 H:** Yeah with an open hand like this. Boys use a fist more, a clenched hand.
> **Boy 2 H:** Just kinda wrestling on the ground (dismissive tutting sound)
> **Boy 1 H:** Yeah

Boy H: Erm, it's not often that they go for a boy…Then they probably do so mostly to assert themselves if they're in a group or a gang or something, to show that they're cool. Because they know they'll get protection from someone else because they couldn't do anything on their own.

Moderator: If you take this dinner queue incident and change it, if it was two girls, what do you think would happen then, I mean straight afterwards.
Boy 1 H: Start yelling straight away.
Boy 2 H: Mm maybe one of them would hit the other on the head with a handbag or something.
(Laughter while boy 2 is talking)

Boy H: yeah, but, I'm not too bothered about them [girls who fight with one another], as long as it doesn't hurt anybody else and they don't injure themselves or like really injure each other. Sure if they just get a few bruises. But if they start bleeding or if they break a bone or something, then that's more…then you have to try and break it up and protect them if you see them, or you think they should kinda calm down a bit. Then of course it always depends on what happened first, what the reason is that they're fighting.

In the first quotation, boy 1 appears to want to take back what he said about it ending up in a fight. The fact that it has to do with what he refers to as slapping means that it is not actually a real fight. The second quotation shows how girls, if they should attack a boy in spite of everything, have to get protection from others, because they would not be capable of protecting themselves. The boy who brings up the subject of fighting with handbags in this context can safely be assumed not to regard it as real fighting, particularly since he made a joke of it in the interview. The final quotation contains clear indications that what girls do is uninteresting, let them carry on is what the interviewee seems to be saying. The tone of voice of the boy who is talking indicates that it's not particularly serious even if they break each other's bones. But in that case you (as a boy?) have to step in and, note the choice of words, *protect* them.

All the above quotations come from homogenous boy groups. This is interesting in light of the theoretical assumption that girls constitute an out-group used by boys as a means of strengthening their own identity. One reasonable interpretation is that these boys are doing gender by distancing themselves *as boys* from the violence of girls.

Opposition

As was mentioned earlier, the majority of examples of opposition found in the interviews involved active opposition. Such utterances involve both contradicting reproductive statements as well as presenting girls who act in breach of expectations in positive terms. The following quotations provide examples of this:

Girl 1 H: I think it involved a great deal of humiliation for the boy who was kicked because it happened in front of his friends.
Girl 2 H: mm yeah, by a girl as well.
Girl 3 H: Yeah, exactly.
Girl 1 H: Yeah but girls are so delicate according to boys. So …
Girl 3 H: It just isn't on (laughter)
Girl 2 H: Neh

Moderator: Mmhmm …. Okay, girls, you mean they don't fight to hurt anyone.
Boy 1 H: No, they fight more just because their pissed off.
Boy 2 H: Yeah but of course you always fight so that the other person will get hurt. (Laughter)

Girl 1 H: The only thing they [boys] think about is getting revenge. Because it's (inaudible) precisely in a situation where **you have a row (1)**
Girl 2 H: It's like being involved in (1) a discussion, like the last word the last punch, it's all about prestige
Girl 3 H: But it's not always like that either. Some boys they don't say anything. What can they do, like, if they don't have any mates and these boys have just seen him as a victim, are going to beat him up and are a real threat to him, then like what can you say. You have to take the beating then…who knows…it's horrible

Girl 1 H: But anyway if boys like fight a bit because they think that girls think it's cool and stuff. You know, they think they're (inaudible) just because they fight
Girl 2 H: Show that you're strong, kind of thing
Girl 3 H: (inaudible)
Girl 1 H: But it's fun having a boyfriend who's got scars everywhere just because he's been fighting (spoken with clear sarcasm)

In the first quotation, the active opposition is constituted by the girl's sarcastic approach to the way boys regard them as being so weak. There were several descriptions of this kind, where the image boys (were assumed to) have of girls as inferior was treated with sarcasm or contradicted. The second quotation shows how boy 2 objects to the idea that girls should have different objectives from boys when fighting, specifically that girls don't want to hurt anyone when they fight. In the third quotation, girls 1 and 2 first reproduce the image that boys always fight back, want revenge and don't give in for reasons of prestige. Girl 3 then interjects and contradicts this image by expressing the opinion that it is by no means all boys that act in this way, which in this quotation constitutes the active opposition. In the final quotation, girl 1 treats with sarcasm the idea that boys fight because they think it will make girls more interested in them. The active opposition is found in the way the girls (several concurred as the discussion continued) indicate that they are not in the least bit interested in boys who fight and want to assert themselves (at least in this particular way).

The following quotation serves as an example of how girls who act in breach of behavioural expectations were described in positive terms:

Girl 1 H: But I thought first that it was like that she was being bullied, now it seems more like, that was quite brave of her, like with her being a girl as well.
(diverse mmmms during this statement by girl 1)
Girl 2 H: Yeah, exactly.
Girl 1 H: And giving as good as she got to a boy.

Girl 1 H: A bit unwise having a go herself, like that or yea.
Moderator: Unwise?
Girl 1 H: Or not unwise but or brave at least, I mean that she dared have a go herself.
Girl 2 H: That there were like three of them, all boys
(…)
Girl 3 H: That she dared
Girl 4 H: That she dared to have a go.

Both these quotations show a certain admiration (among girls, which should not be forgotten) for a girl who dares to have a go at a boy. This may be compared with the way boys who have a go at girls are considered cowards. The quotations may of course also be interpreted as a form of reproduction, since they presuppose that there is a difference between girls and boys. Otherwise it would not be brave of a girl to dare to have a go at someone who

was specifically a boy. But since those interviewed assert that it's positive and goes against the behaviour that would be expected of a girl, I interpret it as an example of active opposition. It should however be remembered that the girls who were perpetrators in the incidents discussed were also described as sick and peculiar, and that this tendency was much stronger than the tendency to describe such girls in positive terms.

Concluding remarks

I will conclude by discussing the results presented above in relation to the objectives of the study and the theoretical framework employed. The questions to be discussed are the following; How do the youngsters construct their understanding of boys and girls as perpetrators of acts of violence? Do they see acts of violence as a resource for doing gender, and if so in what ways? And finally, how do they themselves construct gender in this situation? Before I begin the discussion I just want to point out that these are *my* interpretations of the youngsters discussions. The youngsters themselves did not use expressions like *doing gender*, *violence as resource for doing gender* and so forth.

The descriptions show that there is a high degree of agreement among the young people interviewed, that girls and boys are different as regards whether or not they fight, and that attitudes are significantly more tolerant towards violent acts committed of boys. Boys are described such that fighting constitutes a part of what it is to be a boy, they are described as retaliating, which in some cases was even described as something that occurred as a matter of course and that was quite natural, and they are described as using violence to show that they are tough and as a means of acquiring status. Girls who fight are instead described as sick, peculiar and mad. Their fights are not regarded as serious, nobody gets hurt, they mostly just slap, scratch, pinch and shout at one another. This might be interpreted such that violence is regarded as a (more) accepted behaviour for boys, and as a way of *being a boy*; that's what boys are like. For girls on the other hand, violence is not regarded as a way of *being a girl*. Instead being mean and fighting with words seems to be a way of *being a girl*. It should however be pointed out that the interviews did not involve individuals who had themselves committed violent acts, at least not as far as we know, and this wasn't something that was discussed. Thus no conclusions can be drawn as to how perpetrators themselves regard their acts of violence. As regards the boys, these findings confirm those presented in previous research conducted by Messerschmidt among others.

It is also clear that the interviewees' concepts of girls and boys who commit violent acts strongly correspond with gender theoretical statements about the existence of a strong association between violence and masculinity (Kimmel 1994; Segal 1997; Connell 1995). This leads us over to the second question to be discussed, namely whether violent acts may be regarded as a resource for doing gender? It is obvious that in the eyes of these youngsters, violent acts may in some ways constitute a relatively "normal" way of doing masculinity. In this sense, violence can be seen as a resource for doing masculinity. For girls, the opposite is true. Since girls who commit violent acts are regarded as sick and mentally ill, violence cannot be regarded as a *resource* for girls doing femininity. But what is it then that violent girls are to be considered as doing? Masculinity? In one of the interview groups, girls who fought were deemed to be somewhat masculine. But in general this didn't seem to be an issue in the interviews. My interpretation is that they simply weren't regarded as normal girls, which leads us to the idea of "normative femininity". An interesting comparison can be drawn with the eight drug using women studied by Lander (2003). The material presented above isn't about how girls who commit violent acts regard them selves, or how *they* do gender. But from the discussions in these interviews it seems quite reasonable to draw the conclusion that they have to strive hard to present themselves as "good girls", just like the women in Lander's study.[131] In one interview a girl actually suggested that one of the girls fighting in the ticket queue (incident 4) might be a drug addict. The interviews suggest the

[131] Although it is important to note that these women weren't particularly violent.

existence of an interesting link between doing gender in the "right" way and being considered sane.

Constructions of gender also show themselves in the way that boys primarily fight and compete for status with other boys, a factor that has been identified by several masculinity scholars as playing a part in the construction of masculinities (Connell 1995; Segal 1997; Johansson 2000; Messerschmidt 1993, 1997, 2000). One thing that becomes clear in these interviews is that there is a strong link between boys looking for high status, looking to be tough and so on, and the place occupied by the use of violence in the youngsters' conceptualisations. There are striking similarities here with Messerschmidt's (2000a) discussions concerning which type of masculinity was being constructed by the boys who had committed violent offences. At the same time, there is an additional aspect; whether or not they are successful. Among the interviewed girls in particular, there were indications that they didn't think it was at all tough or desirable. At the same time, these statements have to be problematised. It is possible that to some extent, like the general attitude that violence is something bad, they merely constitute the payment of lip service to a generally prevalent norm. Certain statements from the interviews lend support to this interpretation, *inter alia* the attitude described above relating to the way boys fight so much. This was rarely described with any great indignation or disapproval, and in fact the reverse was rather the case at times (although there were exceptions).

Finally, how did these youngsters construct gender in their discussions? It is clear that their gender activity *in this setting* to a large extent reproduced both differences between girls and boys and the subordination of women, even though some of the youngsters (mostly girls) objected to this subordination. It seems as though the idea of differences between girls and boys is strongly rooted in these interviewees' conceptions, at least with regard to violence. Another way gender is constructed in these interviews is by means of the marked presence of heteronormativity. One aspect of normative femininity and masculinity, i.e. general conceptions of how women and men respectively are expected to be, is that heterosexuality constitutes the norm (Connell 1995; Segal 1997; Lander 2003; Karlsson 2002). All the interviews were characterised by heteronormativity. This was seen *inter alia* in the way girls were conceived of as fighting because their boyfriends looked at another girl. Furthermore, boys were conceived of by some as competing with other boys for the attention of girls. Whenever some form of sexuality was conjured up in the subject under discussion, it was, without reflection, of a heterosexual nature. The only time homosexuality was mentioned was when a boy (H) stated that there would be a fight if someone called somebody else gay (using the word as an insult). Thus the conception that heterosexuality constitutes the norm is deeply rooted in these young people, and this is in turn linked to a normative femininity and masculinity. Girls and boys are assumed to take a sexual interest in members of the opposite sex.

What then is the significance of this finding if we move away from a theoretical perspective and take a more practical one? Winther Jörgensen & Phillips (2000: 138-139) write that it is precisely in the interplay between different discourses that social consequences are most clearly manifested. It is in the analysis of such struggles that the constitutive effects of discourses can be made visible. One possible conclusion is therefore that since young people primarily make use of the reproductive discourse, this is the discourse that has the greatest effect on their perceptions of other people and on their own identities. The dominant discourse reproduces both differences between boys and girls and feminine subordination, which in turn leads boys and girls to look at themselves in light of this discourse to an even greater degree. Over time, this may lead to a situation where differences between boys and girls as regards their participation in acts of violence may even become intensified. At the same time, the discourse of active opposition should not be completely forgotten. No comparison has been conducted between this and earlier discourses related to the violent acts of girls and boys respectively, but it is possible that this discourse has become stronger as Swedish society in general has intensified its focus on equality between men and women (see for example Gemzöe 2002). At the very least, there are areas of contention between the reproductive and the oppositional discourses, which may also in the end have some

significance for the violent behaviour of girls and boys. Perhaps the fact that the oppositional discourse was for the most part expressed in terms of *active* opposition may be seen as a manifestation of the existence of a definitional struggle among the young people. If opposition, which involves having assumed a standpoint that there is no difference between girls and boys, were to be dominant, perhaps the struggle over the discourse would in some ways already have been decided.

References

Brod, Harry & Kaufman, Michael. (Eds.) (1994). *Theorizing Masculinities.* Thousand Oaks: Sage Publications, Inc.

Campbell, Anne (1984) *The Girls in the Gang. A Report from New York City.* New York & Oxford: Basil Blackwell Publisher.

Carlsson, Åsa (2001) *Kön, kropp och konstruktion. En undersökning av den filosofiska grunden för distinktionen mellan kön och genus.* Stockholm: Symposium.

Chambliss, William & Seidman, Robert. B. (1982) *Law, Order, & Power* 2nd ed. Reading, Menlo Park, London, Amsterdam, Don Mills, Sydney: Addison-Wesley Publishing.

Chesney-Lind, Meada & Hagedorn, John (1999) "Introduction. Boys' Theories and Girls' Lives." In Chesney-Lind, Meada & Hagedorn, John (Eds.) *Female Gangs in America. Essays on girls, gangs and gender.* Chicago: Lake View Press.

Connell, Robert W. (1995) *Maskuliniteter.* Göteborg: Daidalos.

Dahlerup, Drude. (2001) "Ambivalens och strategiska val. Om problem kring begreppen särart och jämlikhet i kvinnorörelsen och i feministisk teori." *Kvinnovetenskaplig tidskrift* No. 1, pp. 17-40.

Danius, Sara (1995) "Själen är kroppens fängelse: om den vanskliga distinktionen mellan kön och genus." In Lindén, Claudia & Milles, Ulrika (Eds.) *Feministisk bruksanvisning.* Stockholm: Nordstedts Förlag.

Fitger, Maria (1991) "Tonårstjejer och den Psykologiska utvecklingen." In Ganetz, Hillevi & Lövgren, Karin (Eds.) *Om unga kvinnor*, Lund: Studentlitteratur.

Gemzöe, Lena (2002) *Feminism* Stockholm: Bilda förlag.

Giordano, Peggy (1978) "Girls, Guys and Gangs: The Changing Social Context of Female Delinquency." In Chesney-Lind, Meada & Hagedorn, John (Eds.) *Female Gangs in America. Essays on girls, gangs and gender.* Chicago: Lake View Press.

Hagedorn, John M. & DeVitt, Mary L. (1999) "Fighting Female: The Social Construction of Female Gangs." In Chesney-Lind, Meada & Hagedorn, John (Eds.) *Female Gangs in America. Essays on girls, gangs and gender.* Chicago: Lake View Press.

Hearn, Jeff & Collinson, David. (1994) "Theorizing unities and differences between men and between masculinities." In Brod, H. Kaufman, M. *Theorizing Masculinities.* Thousand Oaks. Sage Publications, Inc.

Hirdman, Yvonne (2001) Genus – om det stabilas föränderliga former. Malmö: Liber.

Hood-Williams, John (2001) "Gender, masculinities and crime: From structures to psyches" *Theoretical Criminology* Vol. 5 No. 1, pp. 37-60.

Hörnqvist, M. (1996): *Foucaults maktanalys.* Stockholm: Carlssons.

Johansson, Thomas (1995) "Det stora äventyret. Tonårspojkar och psykologisk utveckling" In Bolin, Göran & Lövgren, Karin (Eds.) *Om unga män.* Lund: Studentlitteratur.

Johansson, Thomas (2000) *Det första könet? Mansforskning som reflexivt projekt.* Lund: Studentlitteratur.

Karlsson, Jenny (2002) "Sexuella eller sexistiska trakasserier?" In Lander, Ingrid & Pettersson, Tove & Tiby, Eva (Eds.) *Genus och brott.* Department of Criminology, University of Stockholm.

Kimmel, Michel S. (1994) “Masculinity as Homophobia: Fear, Shame, and Silence in the Construction of Gender Identity” In Brod, H. & Kaufman, M. (Eds.) *Theorizing Masculinities.* Thousand Oaks, London & New Delhi: SAGE.
Lalander, Philip & Johansson, Thomas (2002) *Ungdomsgrupper i teori och praktik* Lund: Studentlitteratur
Lander, Ingrid (2003) *Den flygande maran* Akademisk avhandling. Stockholms universitet: Kriminologiska institutionen.
Messerschmidt, James W. (1993) *Masculinities and Crime. Critique and Reconceptualization of Theory*. Lanham: Rowman & Littlefield
Messerschmidt, James W. (1997) *Crime as Structured Action. Gender, Race, Class, and Crime in the Making*. Thousand Oaks: SAGE
Messerschmidt, James W. (1999) “Becoming ‘Real Men’. Adolescent Masculinity Challenges and Sexual Violence.” *Men and Masculinities* Vol. 2 No. 3, pp. 286-307
Messerschmidt, James W. (2000a) *Nine Lives. Adolescent Masculinities, the Body, and Violence.* Colorado & Oxford: Westview Press
Messerschmidt, James W. (2000b) “Making bodies matter: Adolescent masculinities, the body, and varieties of violence.” *Theoretical Criminology* Vol. 3 No. 2, pp. 197-220
Moi, Toril (1997) “Vad är en kvinna? Kön och genus i feministisk teori” *Res Publica* No. 35/36, pp. 71-158
Morgan, David L. (1996) “Focus Groups.” *Annual Review of Sociology* Vol. 22, pp. 129-152
Pettersson, Tove (2002a) “Våld som iscensättelse av femininitet” In Lander, Ingrid & Pettersson, Tove & Tiby, Eva (Eds.) *Genus och brott.* Department of Criminology, University of Stockholm
Pettersson, Tove (2002b) *Tre aspekter på brottsliga nätverk. Supporterbråk, etnicitet och genus.* Department of Criminology, University of Stockholm
Segal, Lynne. (1997) *Slow Motion. Changing Masculinities Changing Men.* London: Virago Press
West, Candice & Fenstermaker, Sarah. (1995) “Doing difference.” *Gender & Society* Vol. 9 No. 1, pp. 8-37
West, Candice & Zimmerman, Don H. (1987) “Doing gender.” *Gender & Society* Vol. 1 No. 2, pp. 125-151
Wibeck, Victoria (2000) *Fokusgruppsintervjuer. Om fokuserade gruppintervjuer som undersökningsmetod.* Lund: Studentlitteratur
Winther Jörgensen, Marianne & Phillips, Louise (2000) *Diskursanalys som teori och metod.* Lund: Studentlitteratur

Appendix

Incident 1

Stefan and Peter are standing in the queue in the school canteen. Peter accidentally pushes Stefan, so that he drops his dinner tray and gets food on his clothes. Stefan becomes angry and hits Peter, giving him a nosebleed.

Incident 2

Sara is on her way to a lesson, walking in the school corridor. Anders, Elin, Patrik and Helena turn up. They block Sara's way and call her names, including saying she is ugly and a wimp. After a few minutes, Helena takes hold of Sara and shakes her around, and kicks her several times in the legs and the stomach. Then they leave. Sara is left lying on the ground and cannot catch her breath because of the kicks in the stomach.

Incident 3

A few days after Sara was kicked by Helena, she meets Anders, who was also present at the incident. Anders is standing with his back to Sara together with two other boys outside a cafe. Sara runs up to Anders and kicks him in the backside. When Anders turns round, Sara kicks him so hard on the legs that he falls over. None of the others present do anything and Sara then walks away. Anders is in pain both from his backside and his legs following the incident and the kicks have caused bruises.

Incident 4

Lisa pushes in front of Hanna in a ticket queue. The two of them have never met before. Hanna becomes angry and pushes Lisa out of the queue which results in Lisa hitting Hanna. The two start to fight. Both of them both hit and punch the other. After a while, two security officers come to get the two girls to calm down. Both Lisa and Hanna received cuts and bruises during the course of this incident.

Incident 5

Tina and Maria are playing pool at the youth centre. Whilst taking a shot, Tina accidentally hits Thomas, who is sitting with his back to the pool table, on the head with her cue. Thomas becomes angry and starts yelling at Tina, and hits her in the stomach so that she can't catch her breath.

DOMESTIC VIOLENCE – VIOLENCE AGAINST WOMEN

PRELIMINARY RESULTS FROM THE ANALYSES OF POLICE REPORTS FROM GREENLAND 2001

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Abstract

This paper is a part of my PhD-project *Domestic violence – violence against women by men*, funded by the NorFA – program on gender and violence.
The paper presents preliminary results from my analyses of cases, where men have been sentenced for violence against women in 2001, in Greenland. The number of reports to the police concerning the Criminal Law in 2001 amounted to 5.575 of which 772 were related to violence (the total population is 56.500). This was until then the highest number of incidents reported in a single year. In 2001 23 men were accused of and convicted for domestic violence - violence against women. I have had the opportunity to do a population study of all 23 assaulters.
In 2000 the head of the prosecution initiated a special investigation into violence. The impact of the investigations was that three categories of level of sanctions were initiated:

1.Serious violence or brutal violence with injuries, maltreatment, violence against children, accidental street violence imposes an imprisonment order.
2.Violence at restaurants, domestic violence, and violence at work and accidental violence related to conflicts: the level of sanctions has been raised to rehabilitation judgement or a suspended sentence and fine.
3.In case of extenuating circumstances and in case of less severe violence a fine of first offence was imposed.

The prosecution has further had the aim to shorten the time of preparing the cases within 30 days.

This article will present the Greenlandic Criminal Code of 1954 contain preliminary results from the analyses of the 23 men, which has convicted for violence against women.

Introduction

The aims and objectives of the research – *Domestic violence – violence against women by men* is to describe and analyse men´s violence against women and masculine practices related to violence, social conditions, social relations, understandings and concepts of violence against women, the societal reactions to as well as attitudes and actions for the prevention of violence against women.

The description and analyses will focus on three distinct periods in the history of Greenland: the pre-colonial period (before 1721), the colonial period (1721-1953) and the postcolonial period (after 1953). The purpose of the research is to gain knowledge and create understanding of conditions of relevance to men's violence against women in the different periods. It is further the purpose to investigate possible causal relations between these conditions before, during and after colonisation and to learn about prevention of violence against women to be able to recommend initiatives and actions for the prevention of violence against women.

Interpretations and causes of men's violence against women within the family have varied in the different periods and will be viewed in the light of these periods' economic and social structures, cultural background and power relations. Violence is related to social changes (Larsen 1990,1991) and power relations (Sørensen 1994) and to gender (Nikolic-

Ristanovic 2002). Gender and violence is often analysed from the women's perspective. In this project the focus is on men, masculinity, and men's power and practices (Connell 1995, Haywood 2003).

The method used in gathering information on men´s violence and maskulinities is qualitative analyses of the following sources:

- Collection of drumsongs (Thalbitzer 1911, Rosing 1970, Hauser/Petersen 1985, Petrussen 1989).
- Collection of narratives (Thisted 1999)
- Police reports (reports on domestic violence in 2001).

as well as quantitative analyses of police reports.

In this article I will present the Greenlandic Criminal Code of 1954 and some results from the quantitative analyses of the Police reports on men convicted for violence in 2001, the circumstances and the sentences.

Post-colonial Greenland period (after 1953)

In 1953 Greenland became a part of Denmark, and got Home Rule Government in 1979, but still today the Greenlandic administration of justice, including the court system and the police force is under the authority of the Danish Ministry of Justice.

The present Administration of Justice Act was introduced in 1951, *and has been changed and amended several times since, but the basic rules for the organisation of courts and their authority have remained unchanged* (Brøndsted 1996).

The Greenlandic Criminal Code of 1954

The Greenlandic Criminal Code of 1954 rests on previous Greenlandic practices and customary law as described by the three Danish jurists, Agnete Weis Bentzon, Verner Goldschmidt and Per Lindegaard for the Greenland Committee. It is characteristic of the law that the court is given a free hand in choice of sanctions. The law contains no maximum or minimum penalties within which to mete out the sentence. Instead the law enumerates different measures, which the courts can apply to make the offender refrain from repeated criminal behaviour, taking into consideration their knowledge of him or her and the social background. *The law rests on the principles of prevention and resocialisation* (Brøndsted 1996).

The criminal code of 1954 is based on the "principle of the offender" and not on the "principle of the act". The “principle of the offender” implies that any legal decision made and any sanction taken towards an offender is aiming at ensuring that this specific offender does not relapse into new crime. The resocialization of the offender is a primary goal. On the other hand, offenders that are considered to be dangerous to other people can be sentenced to imprisonment in Denmark.

The organisation of courts

Magistrates´courts are courts of first instance. The presiding judge is the magistrate who is assisted by two lay assessors. Decisions made by the magistrates´courts can be appealed to the High Court whose presiding judge is legal judge. In court two lay assessors assist him. Decisions made by the High Court can, with the permission of the Ministry of Justice, be carried to the Supreme Court in Denmark.

The High Court judge appoints the local magistrates for a 4-year period. Lay assessors to the magistrates´court are appointed by the local municipal council for a 4-year period while lay assessors to the High Court are appointed by the Greenlandic Parliament also for 4 year period. When appointing lay assessors the aim is that they should be representative of the population in terms of gender, age, occupation etc. (Brøndsted 1996).

Tightening the level of sanctions in cases of violence.

Until 2000 the legal usage of violating § 60 of the Criminal code were:

- Fine – also in case of a subsequent offence.
- Sentence to institution for delinquents, only in very serious cases
- Sentence to re-establishment services, if the offender has had a need for the implementation of support or control measures.
- Suspended sentences, if there has not been a demand for re-establishment services.

Generally there does not seem to be convictions to fine at the same time as sentences to re-establishment services or suspended sentences. Sentence to short residence in an institution for delinquents was rarely used too. (Circular no. 69, 2001).

In 2000 the head of the prosecution initiated a special investigation into violence.

The impact of the investigations was that three categories of level of sanctions were initiated:

1. Serious violence or brutal violence with injuries, maltreatment, violence against children, accidental street violence imposes a sentence to institution for delinquents.
2. To violence at restaurants, domestic violence, violence at work and accidental violence related to conflicts, the level of sanctions has been raised to sentence to re-establishment services or a suspended sentence and sentence to fine.
3. In case of extenuating circumstances and in case of less severe violence sentence to fine of first offence was imposed (Circular no. 69, 2001).

The prosecution has further had the aim to shorten the time of preparing the cases within 30 days.

Since January 1, 2000 a number of appropriate actions for assault have been submitted from the magisterial courts as trial cases. Some of these cases have been brought in before and tried by the High Court of Greenland.

Although the cases have been influenced by many individual elements and an often long time for processing the case, it is possible to conclude a few guidelines to mete out the measures. Generally it is worth noting the courts – at least as far as selecting among the measures is concerned – as a starting point has followed the claims of the prosecution (Circular no. 69, 2001).

Guidelines to fix the level of sanctions in actions for assault

As provided by section 86 of the Criminal Code:

1. *Upon a finding of guilty the court shall indicate which one or ones of the above sanctions shall be imposed. The court may abstain from imposing any sanction.*
2. *The decision shall give proper consideration to the nature of the crime and society's interest in counteracting such actions. Special regard shall be given to the personality of the criminal and to what is deemed necessary to prevent him from committing further crimes* (The Greenland Criminal Code[132])

The Chief of Police laid down guidelines on sanctions. These guidelines took effect as from May 1. 2001.

At **serious violence** (1) and **violence** (2) sanctions can be increased, if one or more aggravating circumstances are present, or decreased, if one or more extenuating circumstances are present.

[132] Translated at The Center for Studies in Criminal Justice University of Chicago Law School with an Introduction by Dr. Verner Goldscmidt)

By category 2, domestic violence is understood as violence against a wife, a common-law wife, a girl friend or a person the offender earlier has had similar relations to and now has gone to see (Circular no. 69, 2001).

Starting point: Sentence to re-establishment services in combination with a fine or a suspended sentence combined with a fine – dependent on the need for re-establishment services.

The length of time of probation is fixed according to the brutality and character of the violence, including the proportions of injuries. The same applies to the number of weeks of wage that are fined.

Modification 1: *Sentence to institution for delinquents* if one the following circumstances exist.

- Injuries that heavily demand treatment
- The offender initiated the act of violence
- Weapons or other dangerous objects were used
- Acts of violence committed jointly by several people
- Unmotivated/pointless serious/brutal acts of violence
- Unprovoked violence
- Recidivist having committed a similar criminal act (formerly sentenced for acts of violence)

Modification 2: Suspended sentence/ sentence to re-establishment services without a fine or only a fine, if one or more extenuating circumstances are present:

- Provoked violence
- Young age
- Good personal conditions
- Specific personal conditions
- Late report to the police
- Minor injury

Method and materiel

It is my intention to describe and analyse social conditions, social relations, understandings and concepts of violence against women, the societal reactions to as well as attitudes and actions for the prevention of violence against women.

A number of characteristics to the frequency and the circumstances of domestic violence against women by men indicate a relationship to certain social and structural societal relations.

To get more information on the personal background, the actual situation of and the measure taken towards the persons charged with domestic violence, it was decided that the police in 2001 made interviews (extended police reports) with this group of offenders.

I have read all the reports and made some "reverse engineering" and worked out a questionnaire with both closed and open-ended questions.

This questionnaire includes all the information that was contained in the extended police reports.

The total data set consists of variables within the following categories:

Demographic variables:

- age
- marital status

Socio-economic variables

- educational background:
- primary school
- vocational training
- occupation
- income

- occupation of spouse/partner
- children in custody
- housing situation
- (permanent address/non permanent address)
- (owner/tenant/lodger)

Health

- physically disabled
- suffers from chronic disease(s)
- been in hospital
- in contact with psychologist/psychiatrist
- Alcohol and drug use
  - Alcohol
  - Cannabis/hash
  - Use of other drugs
  - Earlier use of drugs

Childhood/adolescence

Sanction(s)

Circumstances concerning the victim and the act of violence

- Victim
- Person/institution who reported to the police
- Intoxicated by alcohol when using violence

Recent changes in living conditions

Some preliminary results

Table 1. Persons convicted for violence against women in 2001 and the total male population 20 and older, born in Greenland - Distribution by age

	Men convicted for violence 2001		**Male population > 20; born in Greenland, Jan. 1. 2002 ***	
	Frequency	Percent	Frequency	Percent
20-24	2	8.6	1.770	10.8
25-29	2	8.6	1.415	8.6
30-34	7	30.6	1.847	11.2
35-39	3	13.0	2.757	16.7
40-44	8	34.9	2.404	14.6
45-49	0	0	1.806	11.0
50-54	0	0	1.332	8.1
55-59	1	4.3	1.049	6.4
60 +	0	0	2.081	12.6
Total	23	100	16.461	100

* Source: Statistics Greenland

Comments:

As mentioned earlier the survey among the 23 convicted for violence against women is a population survey. The only way of having the group extended is to include other data sources.

Comparing the age distribution for the convicted and the whole adult male population, it is especially striking that there is an over representation in the age groups: 30-34 and 40-44 among the convicted, while there is no convicted at all in the age groups: 45-49, 50-54 and 60 and above.

Apart from striving to get further data on not convicted offenders and eventually include police reports for more year the last observation might lead to questions and hypotheses on the reasons why men born in the late 1950'ties and the late 1960'ties are overrepesented.

Table 2. Unemployment among persons convicted for violence against women in 2001 and the total male population 15 - 62, born in Greenland.

	Men convicted for violence 2001		**Male population 2001 ***	
	Frequency	Percent	Frequency	Percent
Employed	15	65.2	**	
Unemployed	8	34.8		6.7
Total	23	100,0		

* Source: Unemployment statistics 2001, Statistics Greenland
** Note: There are no corresponding data on the total labour force.

Comments:

There is an ongoing registration of the unemployment whereas the number of persons employed is not systematically registered. Despite this lack of actual registration it seems obvious that the unemployment rate among the offenders is considerably higher than that among the workforce in general.

Table 3. Men convicted for violence against women in 2001 and the total male population 18 and older, born in Greenland in the labour force - Distribution by vocational training

		Men convicted for violence 2001		**Male population in labour force, 1994 ***	
		Frequency	Percent	Frequency	Percent
Valid	No information	4	17,4		0
	Vocational training	2	8,7		42.6
	No vocational training	17	73,9		57.4
	Total	23	100,0	333	100,0

* Source: Statistics Greenland: Living Conditions Survey 1994.

Table 4. Men convicted for violence against women in 2001 and the total male population 18 and older, born in Greenland. - Distribution by primary school attendance (highest level)

	Men convicted for violence 2001		Male population 1994	
	Frequency	Percent	Frequency	Percent
Valid No information	4	17.4		4.4
< 7 years	10	43.5		24.5
> 7 years	9	39.1		71.1
Total	23	100,0	404	100,0

* Source: Statistics Greenland: Living Conditions Survey 1994.

Comments to tables 3 and 4:

There is a significant difference between the educational profile that concerns school attendance. Even though the Living conditions data gives a picture of the 1994-situation the proportion of the general male population having attended school more than 7 years is considerably larger than that of the persons convicted for violence in 2001.

Though the Living Conditions data from 1994 concerns the male labour force and the 2001-offenders are characterised by a higher degree of unemployment it seems reasonable to suggest a lower level of vocational training among the group of offenders.

Other significant characteristics to the men convicted for violence against women in 2001, the circumstances and the sentences

- Only 2 of the offenders has completed a full vocational study course
- 6 offenders report that they have recently lost a job – (whereof 4 had got sacked)

- 15 of the victims were intoxicated
- 18 offenders were intoxicated
- 5 smokes hash on a regular basis

- 4 describes one or both parents as alcoholics
- The offenders that had committed the most serious acts of violence seem more often to have been neglected as child than the rest of the offenders
- 10 out the 23 offenders refer to social problems
- 22 out of 23 report about problems in living together with their spouse/partner
- 3 used some kinds of weapon, whereas the rest used fists or feet to beat/kick the victim
- In 16 out of 23 cases the victim reported the violence to the police, in 3 cases the reports were made by family to the victim, and in 4 cases the reporting was made by a physician

- In 13 cases the offender has been sentenced to a fine
- In 9 cases the offender has got a suspended sentence
- In 3 cases the offender has been sentenced to reestablishment
- In 6 cases the offender has been sentenced to delinquency

Concluding remarks

Some preliminary concluding remarks (and hypotheses to further research) on the basis of the first findings from the 2001-police reports on men convicted for violence, the circumstances and the sentences:

- The group of offenders has an overrepresentation of younger men (born in late 1950´ties and late 1960´ties) and uneven distributed compared to the general male population.
- The group seems to be underprivileged according to school education and employment.
- The offenders have a number of problems apart from the mentioned to a higher degree than comparable groups.
- Alcohol is involved in most cases of violence.

References

Bourdieu, Pierre: *Af praktiske grunde*. *Omkring teorien om menneskelig handlen.* Hans Reitzels Forlag. 1997.

Goldscmidt, Verner: *Retlig adfærd. En analyse af retsmyndighedernes adfærd med eksempler særlig fra den kriminelle retspleje i Grønland*. Meddelelser om Grønland, Bd. 90 - nr. 3 og 4, 1957.

Kriminalloven og de Vestgrønlandske Samfund II. Udvalg for Samfundsforskning i Grønland 2. København 1962.

Hauser, Michael and Petersen H.C: *Meddelser om Grønland*. Man & Society 7. 1985.

Larsen, Finn Breinholt: *Vold i Grønland. Nogle teoretiske og praktiske overvejelser*, 1990:

Larsen, Finn Breinholt: Interpersonal Violence among Greenlandic Inuit: Causes and Remidies.

Papers presented at the Northern Justice Society, 5th Northern Conference, Sitka, Alaska, 1991

Lynge, Finn: *Conflict treatment, old and new from Sinngajik to EEC and Greenpeace.* Paper.

Nikolic-Ristanovic, Vesna: *Social change, Gender and Violence*. Kluwer Academic Publishers 2002.

Petersen H.C: *Det grønlandske, Inuit´s hemmelige samfundssystem.* Paper.

Rosing, Jens: *Kimilik*. *Digte fra Angmagssalik*. Gyldendal 1970.

Sørensen, Bo Wagner: *Magt eller Afmagt ?*. Akademisk Forlag, 1994.

Thisted, Kirsten. *Således skriver jeg, Aron. Samlede fortællinger og illustrationer af Aron fra Kangeq.* Atuakkiorfik 1999.

HER MISTRESS' VOICE

Renland, Astrid

In this paper I will describe the establishing of sexworkers interest organizations in the Nordic countries.[133] Traditionally, giving the role either as deviant or the ultimate victim of patriarchal society, women in prostitution have been excluded from the public discourse. On the basis of this description the paper will focus on how the formation of the sexworkers interest organizations have to be understood as a response to a progressively worse and more repressive regulation of prostitution in the Western Societies, but also as a mean to increase empowerment and work against the marginalization.

The strained sisterhood

In 1975, 100-150 prostitutes occupied one of the main churches in Lyon, France. The organized action of strike was a protest against the repression and brutality of the police, the violence of the customers and the system of fining which often ended in prison sentences because the women could not keep up with the payments of the daily fines, and the lack of civil rights (Roberts 1992). The prostitution movement spread, and within a short time churches were occupied in several cities in France. Despite the public sympathy the authorities answered the manifestation with a brutal police operation. The women were beaten and arrested.

In the beginning of the 1980s, prostitutes' rights organizations were established in USA, France, England, Netherlands, Italy, Canada and Australia. More ignored is the phenomena of the establishing of prostitutes' right organizations during the 1980s and the 1990s among prostitutes in the Third world and other non-western countries. Prostitutes in countries in Asia, Latin America and Africa have organized demonstrations against injustices, harassment and brutality they face, and demanding human, civil, political and social rights (Doezema 1998).

The women in prostitution were not totally included in the great sisterhood of feminism of the 70s, but the real gap between the women liberation movement and prostitutes' movement came into being with the mainstream feminists war against sex in the beginning of the 1980s (Roberts 1992). With the feminist analysis of sexual oppression, the women in the sex industry had to face a new role: Now as a victim of and symbol for the sexual exploitation and discrimination of women in society (Nagel 1997). Those who denied being a victim of sexual exploitation were explained either as suffering from false consciousness, or lobbying for themselves or the sex industry.

From the mid 1980s the framework of the mainstream feminism were challenged both political and theoretical (Smart 1995). Women within many marginalized groups began to contribute with their perspectives and questioned the feminist paradigm of a true and unitary womanhood. Theoretically critical approaches within feminism to Marxism as a master narrative questioned the mainstream feminism practice and knowledge. These elements and also the work for strengthening the human rights of women and the designation of prostitution as a special human rights issue, reopened a space for building alliances between feminists and sex workers' movements (Bindman 1998).[134]

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[133] My data is based on public statements from the organizations.

[134] Since the beginning of 1990 the transnational prostitution and prevention of trafficking in women have divided the feminist position into two ideological positions on international level. The Coalition against trafficking in Women (CATW), founded by Kathleen Barry, represents the mainstream feminist abolitionist. While Global alliance against trafficking in

The political organization of sexworkers in the Nordic countries

In 1990 two prostitutes established the Norwegian prostitutes' interest organization, PION. The motivation was the need to challenge the stereotyping of prostitutes as drug-addicted who trade sex to support their habits; drug related prostitution is only 20 % of the total market, but also the need for establishing social, health and juridical services for women working in the indoor market of prostitution; to fight the marginalization; questioning the double standards in the public regulation of prostitution; supporting self-help groups among prostitutes; requiring civil rights and better protection for women working in prostitution. [135]

Compared to other Western countries it took a long time before the Norwegian prostitutes established an organization, but PION had to wait more than one decade before their colleagues in the other Nordic countries were organizing themselves. Since 2002 women working in the sex industry in Finland, Denmark and Sweden have established sex workers' interest organizations.

The November 17, 2002, a group of nine persons working in the sex industry in Finland founded an organization, SALLI – united sex professionals of Finland.[136] According to the press release the foundation was motivated by the governmental propose of adopting the Swedish model and the Alien act of 1999 which criminalised foreign sex workers in Finland.[137] According to the declaration, SALLI demands that central human rights of sexual autonomy and freedom of occupation be extended to include sex workers, too; that the current public debate have to include the perspectives of people working within the field; promoting ethical and safe sex business; campaigning against the demands criminalizing the buyers of sexual services.

In October 8, 2002, Danish female sex workers founded a forum called Brancheforeningen DEA for debating and information (BDEA) on Internet.[138] Like SALLI, the BDEA was founded as a response to the proposal of criminalising the purchaser of sexual services, and the silencing of the sex workers voice in the public debate. According to the Newsletter BDEA wants to use the webpage as a place where sex workers can participate in the public debate; represent sex workers in public; establishing a network among sex workers; establishing social and health services as well as a self-help group.

Surprisingly, the Swedish national union for workers in the sex and erotic branch, ROSEA, didn't appear before springtime 2003.[139] It is surprising because, beside PION, the proposal for a more repressive regulation of prostitution has been the decisive factors for founding organizations in Finland and Denmark. Anyway, according to the presentation, ROSEA will fight for bettering the conditions for people working in the Swedish sex industry and in the longer run for a decriminalising of prostitution. The union focusing on the negative consequences of the legislation and says the law has not reduced anything except street prostitution; made other forms of prostitution even more invisible; increased the harassment and violence against women within prostitution. [140] According to ROSEA the law hit the most vulnerable like the women within drug related prostitution.

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women (GAATW), is representing the position of sex workers rights organizations (Kempadoo 1998).

[135] According to the presentation giving on the second page of PIONs periodical named Albertine.

[136] http://www.salli.org/english.html

[137] The Alien act of 1999 says that if a foreign person is suspected of selling sex services in Finland, he or she can be deported from the country.

[138] http://www.bdea.dk/hvad.htm

[139] The organization was presented at the conference of European network for male prostitution held in Stockholm, Sweden, Mai 23 and 24, 2003. The web address is, however, http://www.rosea.se/

[140] Se also http://www.geocities.com/butte4ever/present.htm

From a marginalized position to integrated civil rights?

The establishment of sex workers interest organizations in Scandinavia is quite a novelty. Specially compared to most other western and non-western, as well as third world countries where the sex workers have been working politically for more than two decades.

On one hand the difference can be explained by the public regulation of prostitution, or to quote SALLI "(…) *previously there were no sex workers' organizations in Finland. One basic reason for this has been the lack of a common big problem that would have united us and motivated us to organize. Selling and buying sex services is not against the law; only pimping has been criminalized. Therefore sex workers have been able to work rather freely. The biggest problem has been the social stigma* (…)."

According to this view the establishment of PION can be seen as a result of the polarizing over pornography and prostitution within the women movements. The Norwegian women movement was strongly influenced by the American feminist anti-pornography and prostitution movement (Renland 2001). As pointed out by Harriet Bjerrum Nielsen (1998) neither the puritans nor the anti-pornography and prostitution movement had a strong position within the Danish women movement. Also in Sweden the radical feminist perspective didn't became a main position within the women movement and public opinions before in the 1990s (Gould 2002).

In contrast to Denmark and Sweden the claiming of criminalizing the purchaser of sexual services were raised in the beginning of the 1980s, and during the 80s the women movement was mobilizing heavily. Even if the women movement didn't managed to extend the penal code regulating prostitution, the definition of prostitution as sexual violence against women were adopted by the authorities as well as the public opinion. PION can therefore be seen as a counterpoint to the paternalizing of the women within prostitution.

One key element has, in other words, been the authorities approach to prostitution. In the Nordic countries the laws regulating prostitution has not been actively used against women in prostitution, but is what one can call sleeping laws.[141] However the women working in the sex industry in the Nordic countries are now facing a change in the authorities approach to prostitution. Since the end of the 1990s ideas about trafficking and transnational organized crime combined with a restrictive migration and refugee politics in the western world has put prostitution in a central place in the political agenda (Doezema 1998). Unfortunately the authorities have reduced trafficking to a question about transnational prostitution which is legitimating a more repressive prostitution politics. The underlying factors of implementing the Swedish model, proposed or debating in the other Nordic countries can not only be understood in context to gender equality but also as a means for migration politics and control.

According to the statement made by the sex workers interest organization another key element is the excluding of the women working in the sex industry voices in the development of feminist approach to prostitution. This has raised a counterpoint where identity, rights, working conditions, decriminalization and normalization have been a central issue collectively addressed by women working in the sex industry (Kempadoo 1998).

As mention above the unions are fighting the stereotyping of and labouring for better conditions for the women working within the sex industry. However, the adoption and the use of the concept sex workers illustrate the political struggle to normalize and defining the trade as occupation. The concept of sex worker emerged in the 1970s through the prostitutes' right movements in the USA and Western Europe to conceptualized prostitution as sexual labour (Kempadoo 1998, Skilbrei 1998). As the Danish branch union point out the idea of clients buying the bodies and not specific sexual services is a part of the stereotyping of

[141] Compare to other western countries the population in the Nordic countries are small, and therefore the social stigma could of course also play an important role in repressing the voice of women within prostitution.

women working in the sex industry.[142] The using of the term sex workers instead of whore or prostitute is also a means to move beyond the universalistic moralizing position of the former concepts and by this empowering the vendor. As well, one could say, making us able to understand how women define and experience their sexual acts in commercial transactions.

Beside these two key elements there are of course a lot of other factors affecting the establishment of sex workers rights organizations in the Nordic countries. This paper has only given a brief introduction of the statements made by the organization. In regard to the invisible position to and the lack of knowledge of the perspectives and the knowledge of sex workers, a research on the organizations and their references to both the local and global society, and to each other would be very interesting.

However, like other marginalized groups, for example, the prison population and the drug population, the perspectives of people working within the sex industry has to be taking into consideration when debating regulation of prostitution and other parts of the sex industry. Especially when the regulation is affecting the conditions the sex worker has to live under in a negative and harmful way.

Sources:

Bindman, Jo (1998): An international perspective on slavery in the sex industry. Kempadoo, Kamala and Jo Doezema (Ed): Global sex workers. Right, resistance, and redefinition. New York and London: Routledge

Doezema, Jo (1998): Forced to choose beyond the voluntary v. forced prostitution Dichotomy. Kempadoo, Kamala and Jo Doezema (Ed): Global sex workers. Right, resistance, and redefinition. New York and London: Routledge

Gould, Arthur (2002): Sweden's law on prostitution: Feminism, drugs and the Foreign Threat. Thorbek, Susanne and Bandana Pattanaik (Ed): Transnational prostitution Changing Patterns in a global context

Kempadoo, Kamala (1998): Introduction Kempadoo, Kamala and Jo Doezema (Ed): Global sex workers. Right, resistance, and redefinition. New York and London: Routledge

Nagel, Jill (1997): Introduction. Nagel (Ed): Whores and other feminists. New York and London: Routledge

Nielsen Bjerrum, Harriet (1998): Feminister og pornografi Nytt Norsk Tidsskrift Nr. 2 (Feminists and pornography)

Renland, Astrid (2001): Penger for sex. Et kritisk blikk på nyabolisjonismen Hovedoppgave i Kriminologi, Institutt for krimonologi og rettsosiologi, Universitetet i Oslo (Money for sex. A critical analysis of the new abolishonists)

Roberts, Nick (1992): Whores in the history. Prostitution in the Western Society Harper Collins Publishers

Skilbrei, May-Len (1998): Når sex er arbeid. En sosiologisk analyse av prostitusjon på massasjeinstitutt. Oslo: Pax Forlag A/S (When sex becomes labour. A sociological analysis on prostitution within massage parlours

Smart, Carol (1995): Feminist approaches to criminology or postmodern woman meets atavistic man. Gelsthorpe, Loraine and Allison Morris (Ed): Feminist perspectives in criminology. Milton Keynes Philadelphia: Open University Press

[142] http://www.bdea.dk/prostitution.htm

A COMPARISON BETWEEN OFFENDERS SERVING COMMUNITY SERVICE DEPENDING ON TYPE OF SENTENCE

Saemundsdottir, Margret

Introduction

The community service as an alternative to imprisonment was first implemented in Iceland in the year of 1995 as a pilot experiment valid until the 31st of December 1997. The act sanctioned community service if the sentence for an offence was not higher than 3 months of unconditional imprisonment. In the beginning of the year of 1998 this act was handled permanently in accordance to the main act of prisons, act no. 48/1988 with amends which allow offenders with up to 6 months unconditional imprisonment to serve community service instead of 3 months.

Unlike many other countries decisions for community service in Iceland is handled by the Prison and Probation Administration –PPA not as a court decision. Accordingly, PPA is authorized to change unconditional imprisonment received from the courts into community service if an offender is suitable to serve community service, has applied within defined period and the offender/offence does not work against general interest. The highest proportion of those who have been granted community service are serving for traffic offences or up to 80% of all offenders. Others offences are small forgeries, drugs and etc. With 6 months maximum prison sentence(s) all serious offences are excluded from the service. The length of the service could vary from minimum 2 months (40 hours) to maximum 7 months (240 hours), depending on the length of the prison sentence. To be granted the offender is obliged to accept conditions, including not being accused for a new crime, not use alcohol/drug and the service plan and schedule must be complied with meticulously. For a serious breach of service condition, PPA may convert the remained of the service into imprisonment.

The community service in Iceland like in many other countries has become perceptible form of punishment, accepted within the society and many organisations have been willing to cooperate to make this service available. Consequently the community service saves cost and prison cells.

In the beginning of the year of 2000 a new paragraph was legislated in the act and implemented. Those who are sentences to pay fine(s) are now allowed to apply for community service as an alternative to imprisonment if the commissioners have approved that offenders do not have properties available to attaches. In this context, this new paragraph was remarked to give those who are punished lenient with fine sentences to serve community service if they are not affluent to pay their fine(s) as well as those who have a severer sentence like unconditional prison term. There is no limited amount of fine or days in prison which could be changed into community service. The maximum fine sentences according to the law is one year and minimum 2 days. Therefore, offender is allowed to apply with 2 days imprisonment as an alternative to pay a fine with same condition as offender with one year imprisonment. The length of the service could vary minimum from 2 months (20 hours) to maximum 14 months (480 hours), depending on the length of the prison sentence modified with the amount of the fine. Offender with fine sentence is obliged to follow the same conditions as those with unconditional prison term.

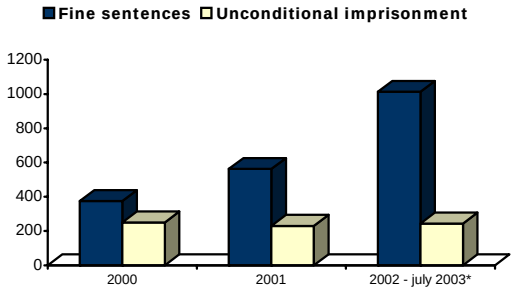
In this paper, I will introduce my current research concerning the offenders who have served community service in Iceland. My work is based on empirical study and focused on the period after the community service as an alternative of fine sentence was first implemented. In my study I seek to answer why we are, for example, experiencing increased number of applications for community service from those who have been sentenced to pay fine(s) and how they experience this form as a remedy to enforce their punishment. I will also

compare them with those who have served community service as an alternative to unconditional imprisonment to examine if they experience community service differently.

The development of the community service in Iceland

Since the community service was first implemented in 1995, 854 offenders have started to serve community service. This number includes 359 offenders with fine sentences although the sanction to change fine sentences into community service has only been practised for 2 and half years. Figure 1 shows the trends in requests for prison placements received from commissioners and number of received unconditional imprisonments (6 months and less) from courts in the period of 2000 to July 2003.[143]

Figure 1

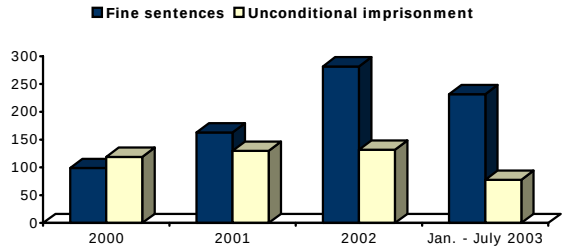


* The large part of the year of 2002, PPA was not able to approve requests from commissioners. The first 6 months of the year of 2003 was correction from 2002.

The first year of the implementation of the community service as an alternative to pay fine(s), PPA approved 375 requests and received 230 unconditional prison terms (6 months and less). The requests for prison placements has increased from commissioners from 2000 - July 2003 but the numbers of unconditional prison terms (6 months and less) has more or less been constant in the same period. It should be notified that numbers of fines received from the courts increased heavily between 2001-2002 or by 30% but fine agreements has mostly been steady the same period. Figure 2 shows however, the total numbers of applications received by PPA in the same period.

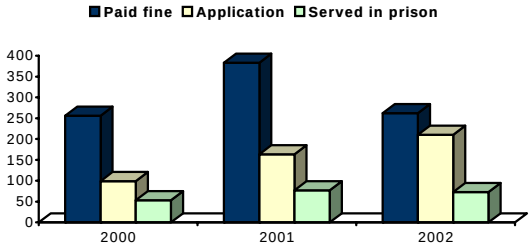
[143] According to the act of prisons the commissioners request for prison placements to PPA if the offenders refused to pay their fine(s) and it is approved that they have no properties to attaches. PPA receives unconditional imprisonment from the courts and PPA is responsible for enforcing the penalties.

Figure 2



Naturally, most of those who have unconditional sentence applied for community service or above 80% and the numbers of applications are in a line with numbers of enforced unconditional imprisonment. The number of applications from offenders who have fine sentences has increased significantly. In figure 3 the results of fine sentences after PPA has approved requests for prison placements from the commissioners is displayed.

Figure 3



The figure shows that fewer offenders have paid their fines after being informed of starting the prison sentence but larger numbers have applied for community service. In the year of 2000, PPA received 16% applications from approved requests but this number has risen up to 42% in 2002/July 2003.

It is difficult to asserts if this pattern will continue to increase in the next years since this new paragraph has only been performed in two and half years. However, it is important that we start to examine and review the outcomes. Regardless to the fact that community service has become one of the main form of remedy to enforce punishment in our modern society with tendencies to be extended in the future. In the context of being punished with fine, we know that most of us pay our fines before operation from the commissioners /PPA starts or in statistics above 80% of all fines in Iceland for example, are paid before further operation is carried out.[144] However, the number of offenders who refuse to pay a fine whatever reason lies behind are visible numbers and should be considered. Accordingly, the first thought is; if community service is perceived as a severer punishment than paying a fine, offenders with fine sentence must have such a poor financial status that they do not have other option than applying or be imprisoned. In contrast, if community service is experienced as a lenient form of punishment than paying a fine then offenders with fine sentence are as likely to choose this form instead of paying a fine. If that is true, consequently, it can be consider as a dilemma since the definition of community service is severer form than fine sentences.

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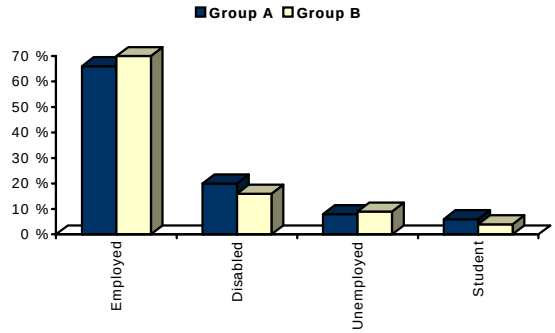
[144] The National Commissioner in Iceland, statistics 2000-2002.

Data:

To try to answer the above mentioned questions a questionnaire was handed out among all of those whose applications were accepted before end of 2002 and served community service in the period of February to July 2003. The numbers of participants in the data was 92 offenders, split up into 2 groups. Group A, N=50, served community service instead of paying a fine and Group B, N=42 served community service instead of prison term. Total 90 offenders agreed to answer the questionnaire or 98%. It should be noticed that the number of the participants is not high evaluated with total number of offenders which has served community service. Therefore, it is not possible to convert the answers to all of those who have served community service. While, it gives indication of how the offenders in the data perceive and experience this form of remedy that enforced their punishment. The average of age in both groups is 34 years and 97% are male.[145] The highest proportion in both groups are serving community service for traffic offences or 80% of all participants.[146] The highest proportion in both groups are working or around 70% of all participants. The figure 4 shows the distribution of employment status for both groups.

Figure 5

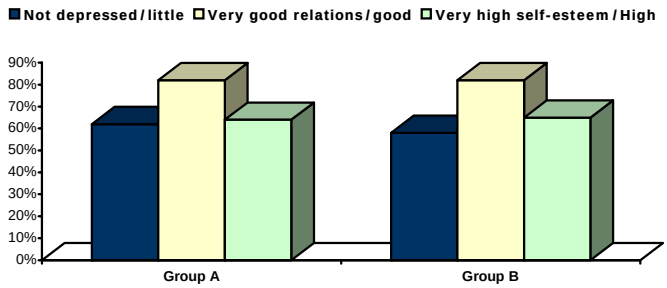


While, both groups have rather low education or 64% in Group A have only elementary education and 58% in Group B. In group A, 60% are labour workers and 30% are apprenticers with low or rather low incomes. Similar distribution is in Group B.

When both groups were asked about their psychical condition, the answers from both groups are quite similar. They are not seriously depressed or 62% in Group A and 58% in Group B reported that they did not feel depressed. Both groups are in good relations with other people or 82% and higher proportion in both groups reported rather high self-esteem on the scale from very low to very high. The figure 6 shows in detail how the answers split up between these two groups.

[145] The data is well suited to the PPA statistics sine the average of the age is about the same for all of those who have served community service.
[146] The statistics from PPA is the same for all of those who have served community services.

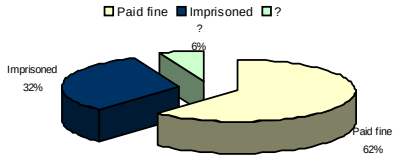
Figure 6



Accordingly, we have a similar distribution of individuals in both groups and therefore, is suited for comparison which will be analysed later in this paper.

To examine Group A further they were asked additional questions about why they decided to apply for community service instead of paying their fine(s). If we look first at the statistical facts from PPA (figure 7) then 62% of those who were rejected to serve community service in the period of 2000-2002 finally paid their fine(s) instead of serving the sentences in prison, 32% served their sentences in prisons but 19% of them were finishing serving unconditional prison term and continued to serve the fine sentences and 6% is unknown due to the fact that they have not received the rejection or not been arrested.

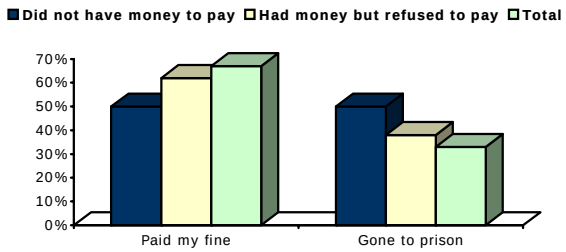
Figure 7



The answers in my data shows that 64% of those who were granted community service said they did not have money to pay their fine(s) and 34% said they had money but refused to pay their fine(s).[147] Nevertheless, when same group was asked what they would have done if their application had been rejected. Figure 8 shows that 62% of those who refused to pay would finally pay their fine(s) instead of serving the sentence in prison and 50% of those who said they did not have money to pay their fine(s) would also finally pay. It indicates that up to 70% of those who served community service in this period chose to pay for their misdeed with community service. In other words the results gives that this groups believes that they will undergo more financial loss by paying a fine than do unpaid work and complete the conditions. They were also asked if they would apply for community service again with a new fine, 45% said they would, 22% said no and the rest said they could not make up their minds whether they would apply or not.

[147] The most common answers for refusing to pay a fine was they were not satisfied being sentenced because they did not felt they had done anything wrong or/and wanted to do something else than paying the fine(s). 4% did not answered this questions (missing).

Figure 8

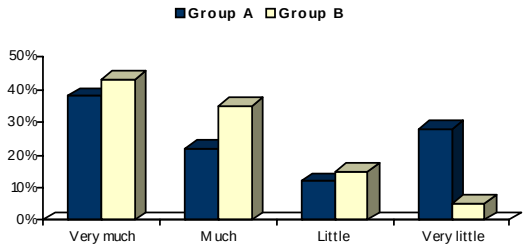


In aspects of employment status it was measured if those who are working are more likely to pay their fine(s), based on possible higher and regular incomes but there was no significant differences, T-test=p>0,05. Those who are working were as likely to not pay their fine(s) as those who are disable[148] or unemployed. The age did neither affect the outcome. Those who were older are as likely to not pay their fine(s) as the younger. In this context, it is presumed that offender who is granted community service is as likely to choose to apply for community service as well as to pay his fine(s) since he believes he suffers more by undergoing the financial loss than showing up in the service and completing unpaid work. If we look at the amount of the fines serving in community service, 70% of the offenders had fines between 600 euro - 6.000 euro, the average is approx. 2.500 euro. The amount is reasonable to be paid but in this study the highest proportion of those who were granted community service have rather low or low incomes which might affect the outcomes.

The comparison between the groups

It could be practical to compare how Group A perceived the community service compared with Group B. Indeed, and it is assumed that if the former group is as likely to choose to apply for community service then they are also likely to perceive the community service as a lenient form of punishment. To measure how both groups endured the community service, they were asked if they felt anxiety when they were told to start their prison sentence. Also, if they found it difficult to begin serving the community service. The figure 9 demonstrates that there is a significant difference how they felt. Group A reported less anxiety than Group B, T-test = p<0,05.

Figure 9



They were also more likely to find it easier to begin serving community service, T-test=p<0,05. When both groups were asked if they found it difficult to complete the

[148] Disable could means those who receives temporary benefits after alcohol-and drugs rehabilitations or not capable to work full-time due to physiological- or psychological reasons.

conditions, the higher proportion in both groups reported that they did not experience difficulty. In this aspects, it must be noticed that both groups were finishing the community service, knowing they had passed, and probably found it not difficult afterwards. When both groups were asked how they felt at the time they served the community service on the scale from very well to very bad, they felt in general well. While, higher proportion in Group A or 71% felt well and 54% in Group B said the same. The largest part of the Group A or 86% did not experience discrimination where they served the community service and 49% were interested in what they were doing, 36% did not make any comments about the service and only 3% said they were humiliated and 3% said it was boring.[149] Group B was not as satisfied as Group A, although it gives low percentage. In Group B, 12% of them said the service was humiliating and 6% were bored but 38% were interested in the work. The answers appeared differently between the groups. Group A is more likely to be less concerned about starting the service and do the work. However, it is important to consider that Group B is more imposed than Group A since the latter group has always the possibility to pay the remains of the fine(s) - out of the service. In perspective of Group A, they might experience the service more as an option not as compulsion. In other hand, Group B could experience the service reverse.

The groups were also asked how seriously they took the conditions they were obligated to follow. Relatively high proportion in both groups seems to take it seriously or 64% in Group A and 72% in Group B. In this context, the service can be well monitored and both groups accept the rules but they are less concerned about it because they do not experience they are under such a stiffened conditions or enforcement that they want to give it away. Indeed, and despite the statistics from PPA shows that the average of breaches in the period of 2000 to 2002 was 18% in Group A and 14% in Group B which is not critically high.

Conclusion

This paper has focused on the offenders who have served community service in Iceland. The main study was and is still going on to examine empirically why increased number apply for community service instead of paying a fine. Although the results in this paper could not reflects answers from all of those who have served community service, it tells us however how offenders in the data experiences this form of remedy to enforce the punishment.

The first indication of the study is that offenders are as likely to choose to apply for community service instead of paying a fine but those who apply are more likely to have low or rather low incomes. Based on this argument, it is reasonable to conclude that they experience more suffers by undergoing financial loss than do unpaid work and complete the conditions but would rather pay their fine if they do not have any other option than be imprisoned. Moreover, they are not likely to experience the community service as "compulsion" concept because it is "their decision" to pay for their misdeed in this way. Hence, the definition of the punishment can becomes diminished or in contradiction since the same enforcement is used on those who have severer punishment or unconditional imprisonment. However, it seems that both groups did not experience for example, indisposition after they had started serving or experience trouble completing the service. Accordingly, it could be problematic if the service has little meaning for the offenders. Perhaps, the solution would be by stiffen the conditions and/or increase the hours and months modified with the days in prisons. Furthermore, by limited the amount for serving community. Hence, we probably will receive fewer applications from fine offenders, more payments and at the same time they might experience more suffer. But the point is also what we wants to achieve and gain by using this remedy to enforce punishments.

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[149] The groups were asked to put on scale what first comes up in their mind about the service from 1 in first place and 5 in last place.

NEW START IN WORKING LIFE

- STRATEGIES FOR INCLUSION –

Skarðhamar, Torbjørn

New Start in Working Life

- Joint venture between Prison and Probation Department and Directorate of Labour
- Four pilot projects started in 1999 in Oslo, Stavanger, Bergen and Trondheim
- 9 supervisors and 9 local employment officers have been working full-time providing services to prisoners

Objectives

Result-objective:	*Process-objectives:*
Obtain employment for prisoners on release into the community	Developing models for cooperation Developing and implementing routines that make labour market services more available for the prison population in general. Developing new methods of vocational training

Different elements of the project

- Cognitive skills training inside prison
- Ordinary employment services inside prison
- Access to other labour marked initiatives and services
- Supported employment

Supported Employment

- Personal assistance given at a job-site granted to the employer or employee

In contrast to sheltered employment:

- Employment in a segregated environment, be it in a special workshop, social firm, or a protected job in the open labour market.

”Place then train”

- Not only focus on the persons disabilities
- What adaptions are necessary in the workplace?
- What kind of training is needed in this particular job?
- How can natural support be organized?

Methods in SE

- Scope: to get *and keep* a job
- Each participant has his/her own supervisor
- Duration up to 3 years, (and 3½ year for inmates)

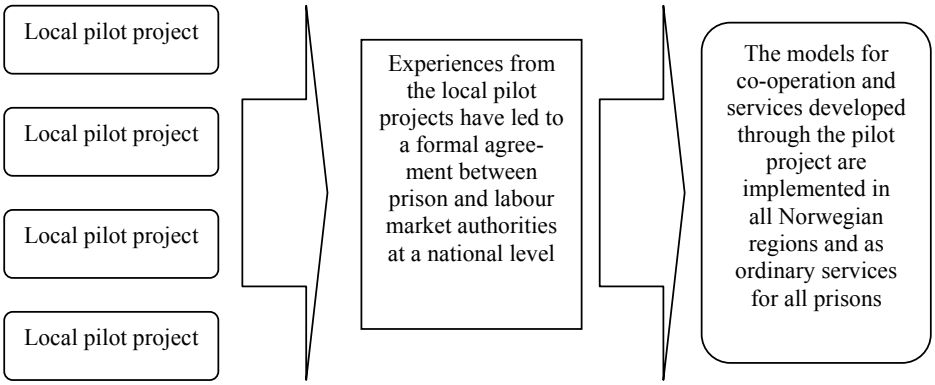
Supervisors' tasks

- Assessing skills, support needs and resources in relation to the requirements of working life
- Arranging aid and assistance from other agencies
- Providing guidance and training, covering both social and occupational situations
- Contacting employers/ find suitable employment
- Testing and assessing work conditions
- Offering advice, guidance and follow-up at the workplace for employees and employers

Common obstacles for ex-prisoners to get and keep a job

- Stigmatisation due to a criminal record
- Poor skills (lack of education and work experience)
- Drug addiction
- Mental health problems
- No decent housing
- No money

Implementation at a national level



NORDIC[150] PROSTITUTION CONTROL

Skilbrei, May-Len

Earlier this year I started up a project called "Nordic prostitution control- a comparison". The aim of the project is to understand more about the links between changes in the way prostitution takes place and how prostitution is perceived and dealt with as a social phenomenon. To do this I analyse debates on prostitution control in Denmark, Norway and Sweden.

These countries make a very good comparison indeed, as they have much in common culturally and economically. But at least politically, the differences are big on the area of prostitution. Few years ago the legal situation regarding prostitution was much the same in Denmark, Norway and Sweden. Buying and selling sex was in reality legal, but pimping and procuring was illegal. In 1999 it became a criminal offence to buy sex, or attempting to do so, in Sweden. In Denmark a paragraph on soliciting that could be used on prostitution was removed the same year. These legal changes can be viewed as a consequence of already existing differences in how the phenomenon of prostitution is dealt with by the different Nordic countries. Norway has not made equal changes in its laws regarding prostitution.

With this as a starting point, I'm interested in changing prostitution policies and changing debates on prostitution. I am also interested in the links between academic research and prostitution policies in these countries. During the 1980's, several research projects took place in the Nordic countries, especially Norway and Sweden, that would make up what is understood as Nordic or Scandinavian prostitution research. This research is linked to the documentation of the consequences of prostitution for the women involved, which were previously not as visible. The knowledge from this research laid the ground for prostitution debates for many years to follow. "Sexualized violence" is thus an important concept in Norwegian and Swedish debates on prostitution. Sweden is at the moment the most important example of this concept as a starting point for politics. An official statement on the Swedish stand on prostitution reads: "In Sweden, prostitution is regarded as a part of men's violence against women and children. There is an official acknowledgement of the fact that prostitution is a form of exploitation of women and children, and a serious societal problem that inflicts serious damage, both on individuals and society".

At any given time, there are central politicians in Norway contemplating criminalizing the buying of sex. Even though this doesn't end in concrete suggestions, this goes to show that prostitution policies are continually debated in Norway, both internally in the political parties, and in the media. Even though there was an attempt to follow Sweden earlier this year in Denmark, penalizing clients of prostitutes wasn't at any point a realistic outcome. In Denmark prostitution doesn't seem equated with violence to the same extent as in Norway and Sweden. The minister for equality in Sweden clearly includes prostitution generally among important issues, while her Danish counterpart makes no mentions of prostitution unless it involves trafficking.

Studying the debates on prostitution control in Denmark, Norway and Sweden, I've been interested in the relationship between what is being said about it, and what is actually going on in the area of prostitution in the different countries. Even though we see rather large differences between e. g. Swedish and Danish debates on prostitution, the similarities in the

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[150] The Nordic countries seem to be a better word of the area than the more diffuse Scandinavia, as it both refers to the Scandinavian Peninsula and the countries Norway, Sweden, Denmark and sometimes Finland (Bergquist 1999:3). The Nordic countries count Denmark (including the Faeroe Islands, and Greenland), Finland, Iceland, Norway and Sweden.

real politics are striking. Both countries first and foremost meet prostitution with social outreach programs, local protests and police clean-ups. The use of criminal law, especially the use of the laws on pimping and procuring, are quite modest in comparison. This is in line with a study I did several years ago on the development of massage parlour prostitution in Oslo, where local official and private efforts had more controlling effects on the phenomenon than criminal law.

And important development in recent years in all three countries is the growth in and debates on trafficking for the purpose of prostitution. There are interesting differences between the Nordic countries when it comes to the relationship between prostitution generally and trafficking for prostitution purposes in debates. In Sweden, prostitution generally is a relevant social issue, especially linked to worries about gender inequality. In Denmark, most of the public interest in prostitution as an issue for politicians is directed at women travel across borders for the purpose of prostitution. Norway is somewhat in between Denmark and Sweden, with an increasing amount of attention being directed towards trafficking. When media and politicians are drawing attention to prostitution issues these days, the prostitutes are from Eastern-European countries more often than not. But we still lack research about the trafficking of women for prostitution purposes in Denmark, Norway and Sweden. We know little about which the women are, what their lives are like, and we don't really know how many women are involved in this form of prostitution. We have to ask ourselves why so much attention is directed towards this kind of prostitution, and if this development has been a relief for politicians who where having problems arguing for stricter prostitution control when Norwegian prostitutes were in focus in the late 1990's.

MALE DRUG USERS

Skrinjar, Monica

Introduction

This paper deals with issues about gender expectations and the possible implications for the identity work that male interviewees may do during qualitative interviews, where the interviewer is female. The paper is a summary of a book chapter in the recently published anthology on Gender perspectives within Swedish Criminology (see Lander, Pettersson, Tiby 2003).

> "If you read this, Monica. If.. Then I wonder if you understand what a success you've made in my world. Then I dared to send you this shit. Probably I'll go hoping for a while, until the glow fades. Or do you dare to light fires? If you just want to be my friend, just say so. Or not. It depends on how you see it. You are warming me despite the degree."

This is a quotation from letter that I received from an interviewee, which I call Elias. It was a very personal letter and it placed me, and my colleague, in a difficult situation since the letter contained a declaration of love to me. Or – to be precise – to the *picture* of me, that Elias had made of me during an interview, which I made with him, together with my colleague, Anita Rönneling.

We have been working together in a qualitative interview study in which we have interviewed 22 drug users about their current life situations, and their views of drug use and abuse. The overall aim with the study is to illuminate what meanings drug use can have for people living in different life situations. The informants consist of eight women and 14 men and they form a heterogeneous group both in relation to drug use and life situation. Some were homeless and defined themselves as drug addicts while others were "socially integrated" persons with a recreational drug use, not known to the social authorities or the police.

We have conducted repeated interviews with most of our informants. The first interview was an explorative, informal conversational interview with the purpose of getting a picture of the informant, his/her life-situation and drug use. The interviews were recorded, transcribed and preliminary analysed before Anita and I made the follow-up interview. This was usually made a couple of months after the first one. In the follow-up interviews we had a guide built up by questions that derived from the preliminary analysis of the first interview.

The epistemological point of departure is that knowledge is constructed in *interaction* between interview participants. Interviewers are not viewed as neutral receivers of information, nor are interviewees regarded as reporters of information. Interviewers are viewed as active participants in the production of knowledge and meaning, and interviewees as narrators who construct their histories and negotiate their identities in collaboration with the interviewers (Holstein & Gubrium 1995, Järvinen 2001).

The Interview as Threat and Opportunity

The sociologists Michael Schwalbe and Michelle Wolkomir have described interviews with men as both threats and opportunities (Schwalbe & Wolkomir 2001). They argue that the interview is an opportunity for men to signifying masculinity since they can portray themselves as powerful, in control, autonomous, and rational. The interview is also a threat because it is primarily the interviewer who controls the interaction, and asks questions that can put the man's presentation of self into doubt. It is therefore, according to Schwalbes' and Wolkomirs' experience, not uncommon that men try to exert compensatory control over interviews. "Given the normality of sexualized interactions between women and men, it might be hard to see sexualizing as a problem", they write. But they also point out that:

> ”Inappropriate sexualizing is a way that some heterosexual men try to reassert control when being interviewed by women. This can take the forms of flirting, sexual innuendo, touching, and remarks on appearance. While some of this behaviour might be constructed as innocent and harmless, it can also be seen as aimed at diminishing a woman’s legitimacy and power as an interrogator, thus preserving a man’s control of the situation. (Schwalbe & Wolkomir 2001:94).

In the literature about qualitative interviews it is often pointed out how important it is that interviewees feel safe and secure during an interview, and that it is the interviewers’ task and responsibility to create such an atmosphere (e.g. Kvale 1997, Thomsson 2002). What is often being pointed out as central for establishing a good rapport is that the interviewer listens carefully and attentively, that the interviewer shows interest, understanding, empathy and respect towards the interviewee. If the interviewer is a young female and the interviewee is a heterosexual man there is a risk that the interviewers’ professional interest could be misinterpreted, as the quotation in the beginning implies. Unfortunately this is something that is very seldom discussed in handbooks about qualitative interviews, probably because the literature most often is written in a gender-neutral language.

Deborah Lee, who has studied sexual harassment by interviewing men, points to the important fact that “…the boundaries between a woman as a ‘scientific observer’, confidant, and sexual being are sometimes finely negotiated and often conflated” (Lee 1997:556). I agree with her.

Elias is namely not the only male interviewee who has *not* perceived me as a researcher first and foremost (see Skrinjar 2003). I have interviewed other men who primarily have perceived me as a potential girlfriend and/or sexual being/object. Maybe there is a greater risk to be perceived as a potential girlfriend if the interviews are open and informal, and deals with “forbidden subjects” (which is often the case in qualitative, criminological research) and the interviewees are “socially marginalized” men? If a man is used to – or afraid of – being labelled and stigmatised as “a drug addict” and/or “a criminal” and if he often are subjected to negative discrimination by people in general, because of his social position, then the interview can be perceived as especially enriching. There is thus a risk for misinterpretation if the (female) interviewer shows respect, interest and understanding.

Gender expectations and social desirability as data

The fact that Anita and I are women and that Elias felt attracted to me have implications for the content and quality of the interview with him. The Danish psychologist, Steinar Kvale, points out that the mutual influence that interviewers and interviewees have on each other - both cognitive and emotional – should be taken into account and viewed as the strength of the qualitative interview. Rather than trying to reduce the importance of this interplay one should acknowledge and take advantage of the insights it gives rise to (Kvale 1997), and Schwalbe & Wolkomir write:

> …it would be a loss, we think, to treat the identity work that men do in interviews as noise that must be filtered out to get the real data. Instead, we suggest that this identity work be treated as data – the first step being to see it, in the form of how and when men try to signify masculinity in interviews (Schwalbe & Wolkomir 2001:92).

They argue that acts of signifying masculinity, whatever form these acts take – before, during, or after an interview – could be seen as important data for understanding who and what men are and how they experience their lives. This is in line with Margareta Järvinens’ argument that life histories can be read, not as representations of interviewees’ actions, but as presentations of interviewees’ preferred interpretations of actions. “Thus, biographical

narratives probably tell us more about who our interviewees want to be than about who they 'have been becoming" (Järvinen 2001:281).

Some concluding remarks about ethical and methodological implications

The incident with Elias awakes ethical questions. It raises questions about what can happen in an interview situation, what feelings we, as female researchers can awake and how we should handle these.

Ethical aspects also apply to researchers. One is about the extent to which we are willing to be confined to gender roles and/or treated as sexual objects in the pursuit of information (Warren 1988:37). Schwalbe & Wolkomir point out that male interviewees' sexualising of female researchers probably occur more often than male researchers realize, but they also note that sexualising like any other masculinity-signifying behaviour in an interview is data.

This was evident in Deborah Lees' research about sexual harassment. The interplay between her and her male informants gave her important insights into different expressions of sexual harassment. This in turn points to how important it is that women interview men. I would like to end by a citing Carrol Warren. She writes:

> "Since gender is a key organizing device in all cultures, male and female researchers will always be treated differently by those they study and thus they will come to know different aspects of the cultures they investigate." (Warren 1988:5).

Therefore it is crucial to pay attention to what implications gender expectations can have for our research. This applies of course both to male and female researchers.

References:

Holstein, J. & J. Gubrium (1995): *The Active Interview*, Qualitative Research Methods Vol. 37, Thousand Oaks: SAGE Publications.

Järvinen, M. (2001): Accounting for Trouble: Identity Negotiations in Qualitative Interviews with Alcoholics, *Symbolic Interaction*, Vol. 24, N.o. 3, p. 263-284.

Kvale, S. (1997): *Den kvalitativa forskningsintervjun*, Lund: Studentlitteratur.

Lander, I., Pettersson, T. & E. Tiby (2003): *Femininiteter, maskuliniteter och kriminalitet. Genusperspektiv inom svensk kriminologi,* Lund: Studentlitteratur.

Lee, D. (1997): Interviewing men: Vulnerabilities and Dilemmas. *Women's Studies International Forum*, Vol.20, No 4 p.553-64.

Schwalbe, M. & M. Wolkomir (2001): The Masculine Self as a Problem and Resource in Interview Studies of Men, *Men and Masculinities*, Vol.4 No.1, July 2001, p. 90-103.

Skrinjar, M. (2003): Forskare eller "babe"? Om genuskonstruktioner i intervjusituationer, I Lander, I., Pettersson, T. & E. Tiby (Ed): *Femininiteter, maskuliniteter och kriminalitet. Genusperspektiv inom svensk kriminologi,* Lund: Studentlitteratur.

Warren, C (1988): *Gender Issues in Fieldresearch,* Qualitative Research Methods Vol. 9, Newsbury Park: SAGE Publications.

Thomsson, H. (2002): *Reflexiva Intervjuer,* Lund: Studentlitteratur.

CRIME IN THE MEDIA AND FEAR OF CRIME

Smolej, Mirka

While the risk of violent victimisation has remained stable in Finland during the last twenty years (Aromaa & Heiskanen 2000), at the same time fear of crime has drastically increased (Niemi 2000). Why are we getting more anxious and fearful all the time while the actual crime risks haven't changed, and why are our fears often misplaced? In this article I'll try to trace down some of the central arguments that have been utilised in the discussion explaining fear of crime and its relationship to crime reporting in the media.

It has been suggested that the correlation between rising media crime reporting that has taken place in many western countries (Glassner 1999; Altheide 2002; Surette 1998; Åkerström 1998; Pollack 2001; Kivivuori & al. 2002) has a causal impact on people's fears (Korander 1994; Williams & Dickinson 1993; Chiricos & al. 2000). Still the media can hardly be considered as the *only* cause for fear of crime. A drastic increase in violent content in television might explain individual changes in feelings of fear but cannot thoroughly clarify the reactions on a social level.

Social transformation

One reason why today's insecurity has created an intense consciousness of risk has probably to do with the changing relationship between individual and society. Changing economic conditions have created an insecure labour market, while the transformation of service provision has increasingly shifted responsibility from the state to the individual. Economic change has been paralleled by the transformation of institutions and relationships throughout society. The relative weakness of institutions which link the individual to other people in society contributes to an intensification of isolation. People have less and less knowledge about other people, which combined with the pluralism of the modern society has led to the fact that behaviour is more difficult to predict. The process of individuation enhances the feeling of vulnerability and insecurity, which according to Frank Furedi (1998) has led to a *culture of fear*, where everyday life is haunted by constant monitoring of various kind of risks.

Hanns von Hofer (2000) has suggested that the long-term process of increasing environmental control has involved a parallel reduction in levels of tolerance towards disruption. Certain 'sensitisation' to adversities that previously were considered normal facts of life is one probable factor effecting anxieties and fears. The various forms of intolerance to deviations from the norm have promoted an atmosphere where crime and violence have gained increasingly prominent positions as social problems, despite the fact that expressions of violence were much more common during earlier periods of history than nowadays.

Structural changes in the Finnish society can explain at least partly the rising levels of fear. Economic depression that took place in Finland in the early 1990's has possibly effected feelings of security which may have also been expressed as fear of crime. Geographical mobility and urbanisation have increased the amount of single households, which has promoted individualistic culture and diminished the significance of social communities. In rural areas fear is less common and criminal threats are not so intensively present in every-day life, whereas in cities it might be more difficult to outline the general view of criminality.

The increase in fixed-term employment and shift labour has broken up leisure time and led to radical changes in the service sector. We live more and more in 24-hour society in which for example restaurants and night clubs have extended their opening hours. The social acceptance to spend time in restaurants that are licensed to serve alcohol also on working days has become socially more acceptable, and the shift of alcohol consumption from weekends to working days may also have increased the amount of situations that are defined as threatening.

Media representations and effects

American sociologist David Altheide (2002) has claimed that mass media news formats have created a specific 'problem frame' which evokes fears and promotes expectations that danger and risk are a central features of our lives. At the same time the boundary between information and entertainment is blurring and new forms of media products that mix fact and fiction, such as television reality programmes have been introduced. Most people have little or no personal experience with violent crime or even know anyone who has. That is why it is probable that the information and perceptions concerning crime are largely based on media images. In a way we depend on 'pictures in our heads', many of them delivered by the news media to tell us about the world. Our decisions about how to behave and how to construct our society are based on those pictures, because the world is too vast to experience personally.

Based on the findings of a study in which the violent content of Finnish tabloid press was examined (Kivivuori & al. 2002; for further information see Kemppi's article in this publication), it seems probable that the rising attention given to violence by the tabloids have enhanced outlooks on life that are characterised by suspicion and distrust. On the other hand, it's also possible that by intensifying crime reporting the tabloids are in fact reflecting the anxieties expressed by the audience.

Although the causal relationship between crime media and fear of crime is ambiguous according to research findings, and among other things dependent on situational and individual factors, the media's role in defining contemporary social problems can not be neglected. People don't depend on single media products in order to gain information of crime, but it is probable that if broadsheet newspapers, tabloids, television news and other media sources present crime in a similar way people's perceptions concerning crime start to follow these images.

A large difference exists between what people are likely to experience in reality and what they are likely to see in the media. This might not be a concern if the portrayals of crime and justice in the media were balanced in other aspects and presented various competing constructions of the world. That, however is not the case. In term of crimes, the offences that are most likely to be emphasised in the media are least likely to occur in real life, with property crime underrepresented and violent crime overrepresented. The victimisation rates of persons shown in the media in fact correlate more with peoples' fear of crime than peoples' actual victimisation risk.

It's fair to say that homicide is a far more serious crime than theft or robbery and therefore deserves serious attention from the media. It's appropriate to report more intensely on murders and manslaughter than for example vandalism. Yet the continued focus on the most serious crimes leaves the public with an incomplete picture. Additionally, whether it is more newsworthy or not, reporting more frequently on a category of crime that is declining is likely to lead the public to form erroneous beliefs about crime trends. Furthermore, if the most unusual homicides get the only news attention, audiences might assume those are the typical homicides, or that they are more prevalent than they actually are.

The repetition of the unusual has consequences for how audiences interpret crime. The steady diet of violent crime, coupled with the absence of non-violent crime and general context, means that the rare crime looks like the normal crime. The problem is not the inaccuracy of individual stories, but that the cumulative choices of what is included (or not included) in the news presents the public with a false picture of higher frequency and severity of crime than is actually the case.

Concluding remarks

There are practical reasons why crime reporting looks as it does. One is that crime news is easy news: everyone knows what it looks like, how to gather it, and how to report it. Some journalists also argue that the audience wants news about violence, though at least most polls that have been conducted in the United States dispute that argument. Another reason is

that news is business, and reporters, producers and editors have learned to choose the news they believe will draw the most attractive audience for advertisers.

Although the levels of fear are rising in Finland people still don't express particularly high feelings of insecurity when compared with other western countries. Still discussions about national and personal security, fear of crime and safety are constantly in the centre of attention both in the media and in political agendas and are widely recognised as social problems. It has been suggested that politicians and policy-makers particularly like the concept of fear because fear is easier to reduce and manipulate than actual crime rates (Ditton & al. 2002). We are told over and over again to protect ourselves and our families from different kinds of threats including risks of criminal victimisation. At the same time 'acceptable levels' of fear are completely missing from the public discussion and the rhetoric is emphasising the reduction or even total elimination of fear, even though a hundred percent 'fear-free' society is nothing but an utopian scenario.

In order to explore the dynamics of media representations of crime and audiences' perceptions in more detail, future research should aim to combine the insights on fear within criminology and media research. At the moment there appears to be two extensive but separate literatures on fear of crime, one of which mentions the role of the media only incidentally and another that scarcely mentions anything else.

References

Altheide, D. (2002): *Creating Fear. News and the Construction of Crisis*. Aldine de Gruyter, New York.

Aromaa, K. & Heiskanen, M. (2000): Väkivalta ja uhkailu. *In*: Heiskanen, M. & Aromaa, K. & Niemi, H. & Sirén, R.: *Tapaturmat, väkivalta, rikollisuuden pelko. Väestöhaastatteluiden tuloksia vuosilta 1980-1997.* Tilastokeskus. Oikeus 2000:1. Oikeuspoliittisen tutkimuslaitoksen julkaisuja 171, Helsinki.

Chiricos, T. & Padgett, K. & Gertz, M. (2000): Fears, Tv News, and the Reality of Crime. *Criminology* 38:3, 755-785.

Ditton, J. with Farrall, S. & Bannister, J. & Gilchrist, E. (2002): Crime Surveys and the Measurement Problem: Fear of Crime. *In:* Jupp, V. & Davies, P. & Francis, P. (ed.): *Doing Criminological Research.* Sage, London, 142-156.

Glassner, B. (1999): *The Culture of Fear. Why Americans Are Afraid of the Wrong Things?* Basic Books, New York.

Furedi, F. (1998): *Culture of Fear. Risk-taking and the Morality of Low Expectation.* Cassell, London.

Hofer, H. von (2000): Criminal Violence and Youth in Sweden: a Long-term Perspective. *Journal of Scandinavian Studies in Criminology and Crime Prevention* 1:1, 56-72.

Korander, T. (1994): Suomalaisten turvallisuuden kokeminen ja suhtautuminen poliisiin 1993. Sisäasiainministeriön poliisiosaston julkaisusarja 10/1994, Helsinki.

Niemi, H. (2000): Rikoksen pelko ja varotoimet. *In*: Heiskanen, M. & Aromaa, K. & Niemi, H. & Sirén, R.: *Tapaturmat, väkivalta, rikollisuuden pelko. Väestöhaastatteluiden tuloksia vuosilta 1980-1997*. Tilastokeskus. Oikeus 2000:1. Oikeuspoliittisen tutkimuslaitoksen julkaisuja 171, Helsinki.

Kivivuori, J. & Kemppi, S. & Smolej, M. (2002): Etusivujen väkivalta. Väkivalta iltapäivälehtien etusivuilla, todellisuudessa ja ihmisten peloissa. Oikeuspoliittisen tutkimuslaitoksen tutkimuksia 196, Helsinki.

Pollack, E. (2001): *En studie i medier och brott.* Institutionen för journalistik, medier och kommunikation, Stockholm Universitet.

Surette, R. (1998): *Media, Crime and Criminal Justice. Images and Realities*. 2nd edition. Wadsworth, California.

Williams, P.& Dickinson, J. (1993): Fear of Crime: Read All About It? The Relationship between Newspaper Crime Reporting and Fear of Crime. *British Journal of Criminology* 1:1993, 33-56.

Åkerström, M. (1998): The Moral Crusade on Violence in Sweden. *In*: Ruggiero, V. & South, N. & Taylor, I. (ed.): *The New European Criminology. Crime and Social Order in Europe.* Routledge. London.

DO ANTI-VICTIMIZATION PROGRAMS GENERALIZE ACROSS BORDERS? PROSPECTS FOR A DANISH EXPERIMENT IN BURGLARY REDUCTION

Sorensen, David W.M.

Abstract

Research concerning the proportion of overall crime attributable to repeat victimization suggests that cost-effective prevention can be accomplished through a focus on prior victims. This approach has become an integral part of crime prevention in the UK, where a handful of well-conducted evaluations suggest its effectiveness. Nonetheless, it remains unclear whether repeat victimization is a generic, global phenomenon, or one that varies significantly across nations. The current paper focuses on prospects for a Danish experiment in burglary reduction via repeat victimization approaches.

Introduction

While rates of violent victimization are relatively low in Denmark, rates of property crime are surprisingly high. Residential burglary is of particular concern to Danish authorities due the frequency with which it is committed and to the financial and emotional costs it incurs to society. The Danish Ministry of Justice is therefore interested in employing a burglary reduction experiment in Denmark with the hope that it will both reduce burglary and the fear of burglary among citizens. Before doing so, however, they solicited and received an evaluation of the English-language literature on burglary reduction in an effort to see "what works" (Sorensen, forthcoming). The Ministry was particularly interested in the experiences of other countries with rigorously-designed burglary reduction experiments – those utilizing both pre-test and post-test measures, as well as target and control groups. This investigation, conducted during the spring of 2003, resulted in three major conclusions: First, that we really know very little about what works to reduce burglary, since very few burglary reduction programs have been evaluated under rigorous experimental circumstances. Second, that existing research indicates that some of the most intuitive and popular reduction techniques – such as neighborhood watch - appear to have little effect on burglary levels. And third, that the choice of just where and with whom to intervene may be at least as important as that of which substantive interventions to use. This last point stems from the relatively recent research on "repeat victimization" – an accumulating body of knowledge that has added a whole new dimension to the crime prevention literature.

Repeat victimization (also referred to as multiple victimization, re-victimization or simply RV) refers to the "recurrence of crime at the same places and/or among the same people" within a specified period of time (Pease, 1998, 1). Research from around the world indicates that a very high proportion of all criminal victimization is repeat victimization. Furthermore, when crime recurs, it tends to do so quickly – often within days or weeks of an initial victimization. Information on the overall proportion of repeat burglary and the time within which it recurs is outlined in the pages to come. For now, suffice it to say that, in theory, knowledge of where and when burglaries have occurred in the past would seem to go a long way towards predicting when and where burglaries will occur in the future. And this suggests the possibility of a very rational approach to cost-effective, burglary reduction resource allocation.

Given this, the Danish Ministry of Justice may be well advised to focus their burglary reduction program on prior burglary victims. Before doing so, however, it is important to measure the extent of repeat burglary victimization in Denmark – especially since there is some evidence that the prevalence of repeat victimization may be lower in Denmark than in other Western countries.

Should the level of repeat burglary victimization appear to justify a primary focus on prior victims, the next question would be just how to treat those prior victims or places in order to reduce their risk of future victimization. Popular burglary reduction strategies include target hardening, neighborhood watch, property marking, and environmental modification (e.g., CPTED). Yet research evidence concerning their effectiveness has been mixed, and has suffered not only from poor experimental designs, but also from very low subject compliance. Despite a convincing substantive approach, a number of experiments focused on the reduction of repeat burglary victimization have failed due – at least in part – to a miserably low level of victim compliance. The question thus becomes not only one of what to do in terms of the substantive intervention, but also how to get prior victims to comply with the intervention techniques offered. An alternative strategy would be to employ interventions that do not require victim compliance – such as those centered on proactive policing strategies.

The remainder of this paper provides evidence and further discussion of the basic ideas set forth above. It begins by providing some evidence for why Denmark is and should be concerned with its current level of residential burglary. It then moves on to describe the international research on repeat victimization – a body of knowledge that strongly suggests the merits of a burglary reduction program focused on prior victims. Statistics concerning the comparative prevalence of repeat victimization in Denmark and the rest of Europe are then considered in an effort to decide whether a repeat victimization strategy makes sense in the Danish context. Finally, a sample of unsuccessful repeat victimization experiments from the UK and Australia are mentioned briefly in an effort to consider how such failure might be avoided in Denmark.

Residential burglary in Denmark

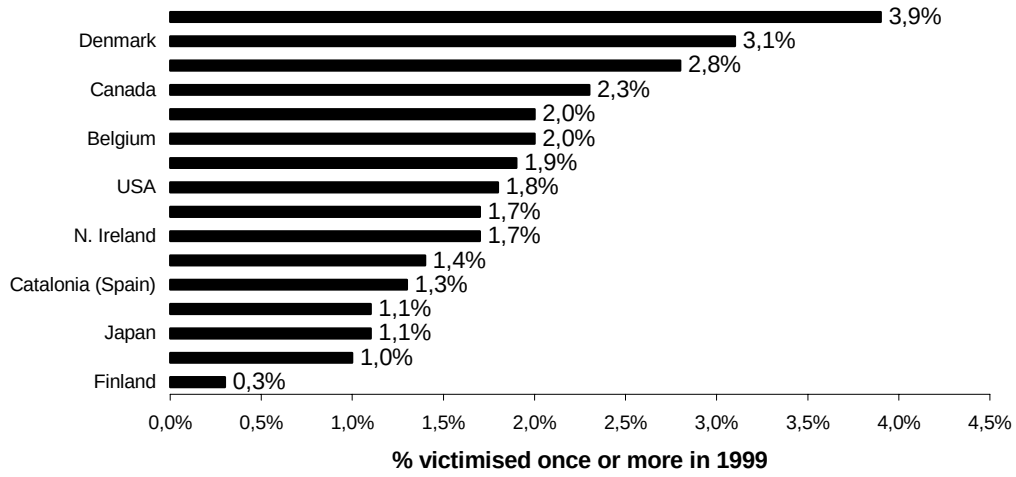
In 2002, Danish residents experienced 28,540 burglaries (including attempts) against villas (single-family houses), 7,017 against flats/rooms, 10,255 against garages/cellars, 7,322 against summerhouses, and 638 against "other" residential properties. These 53,772 residential burglaries accounted for 11% of the 491,026 penal code violations registered by Danish police that year (Rigspolitiet, 2003) – one of the highest percentages for any single crime category.

The same story emerges when one considers the proportion of overall crime constituted by burglary in victimization survey data. During the latest wave of the International Crime Victims Survey (ICVS; 1999), residential burglary (including attempts) of villas, flats and/or cellars/lofts accounted for 13% of all victimizations reported by Danish respondents to the ICVS (Kesteren et al., 2000, 190).[151]

The level of Danish burglary is also surprisingly high when viewed in an international perspective. Figure 1 illustrates data from the 1999 ICVS which shows that Denmark's prevalence of victim-reported burglary (including attempts) was second only to Australia's when viewed in comparison to identical surveys conducted in 17 industrialized, Western nations (Kesteren et al., 2000, 178).

[151] The ICVS applies a standardized survey instrument to randomly selected national probability samples in an effort to obtain comparable, cross-national data on victimization experiences. The project began in 1989 with 14 nation-participants. Since then, three follow-up surveys have been conducted (in 1992, 1996 and 2000) and many new countries have joined the project. Denmark joined the ICVS during the fourth and most recent wave of data collection. The Danish sample of 3,007 adult participants is one of the largest per capita samples used in the ICVS effort. Data for the current paper are drawn from Kesteren et al. (2000), which utilizes only 17 of the ICVS nation-participants.

Figure 1: Prevalence of Residential burglary Victimization in 17 Industrialized Countries



Source: Kesteren et al. (2000, 178-179). Includes attempts.

Since the vast majority of Danish households are insured against burglary and other household calamities, the financial consequences to individual victims are minimal. Yet residential burglary affects society financially both in terms of increased insurance premiums and tax money spent on law enforcement. Furthermore, despite the relative rarity of violent encounters (or any encounters for that matter), the emotional consequences of burglary can be intense (Hough and Mayhew, 1985) – especially in the case of repeat victimization (Shaw, 2001). Given the prevalence of burglary in Denmark and its financial and emotional consequences, it is no wonder that Danish authorities are searching for means to reduce it.

The promise of applied repeat victimization research

The fact that criminal victimization is concentrated geographically, demographically and temporally is nothing new to criminology. Nor is the fact that prior victims are at increased risk for future victimization. What is new, however, is the realization of just how important repeat victimization is to the total crime picture and just how quickly crime against the same people and/or places recurs. This revelation has, in fact, been described by the renowned American criminologist, Wesley Skogan, as "probably the most important criminological insight of the 1990s" (National Institute of Justice, 1996, 3). The repeat victimization research agenda has been pioneered and most prominently pursued by the British Home Office, though its influence is now clearly apparent in Australia, the Netherlands, Sweden, and the United States. The reason behind this growing enthusiasm is clear when one considers the contents of Table 1.

Table 1 shows the percentage of property and personal offenses that are repeat offenses in the UK – as calculated by Pease (1998, 3) on the basis of British Crime Survey (BCS) data averaged across a ten-year period.[152] Beginning with property offenses, one can see that

[152] The British Crime Survey (BCS) collects interview data on victimization, socio-demographic characteristics, and attitudes toward crime and the justice system. Beginning in 1982, the most recent wave of data collection (2002) covered a representative sample of 40,0000 residents of England and Wales age 16 or older. The BCS is administered by the British Home Office. Response rates run on the order of 80% (Budd, 1999, 88).

while only six percent (3% + 1% + 2%) of BCS respondents reported two or more property crime victimizations during a given one-year period, the events they experienced accounted for 68% of all property crime victimizations reported. This heavy concentration of victimization is even more apparent among victims of personal crime – where just 3% of all BCS respondents accounted for 75% of the personal crime victimizations reported.

Table 1: Percentage of Property (excluding vehicle) and Personal Offenses by Number of Victimizations: BCS 1982-1992.

Number of **Victimizations**	**OFFENSE TYPE**			
	Property		**Personal**	
	Proportion of Respondents (%)	Proportion of Events (%)	Proportion of Respondents (%)	Proportion of Events (%)
0	84	0	92	0
1	10	32	5	25
2	3	17	1	12
3	1	10	1	7
4+	2	41	1	59

Source: Reproduced directly from Pease (1998, 3).

Table 2 indicates that this same pattern is clearly evident in BCS data on residential burglary, and that the statistics obtained are extremely stable across survey waves. The Table shows that in both 1995 and 1997, less than two percent of BCS respondents accounted for 38 to 40% of all burglary victimizations reported to the BCS staff.

Table 2: Percentage of Burglary Victimizations by Number of Victimizations: BCS 1995 and 1997

Number of Victimizations	**Proportion of Respondents (%)**		**Proportion of Events (%)**	
	1995	1997	1995	1997
0	94	94	0	0
1	5	5	61	60
2	1	1	18	19
3+	<1	<1	20	21
TOTAL	100	100	100	100
Unweighted N	16,348	14,947	1,467	1,195

Source: Reproduced from Budd (1999, 17).
Based on 1996 and 1998 BCS data. Includes attempts.

Table 3 contains data taken from the Scottish Crime Survey (SCS) indicating the same pattern: just over 1% of all victims accounted for 34% of the burglary victimizations reported.

Table 3: Percentage of Burglary Victimizations by Number of Victimizations: SCS 1996

Number of Victimizations	Proportion of Respondents (%)	Proportion of Events (%)
0	97	0
1	4	66
2	1	17
3+	0.2	17

Source: Shaw and Pease (Ch 3, Table 3.11)
Sample n=20,156 respondents.

The concentration of burglary among prior victims is also apparent in official police statistics – though far less so than in the victimization survey data described above. This is because official police statistics lack "dark figures" on crimes unreported to the police – a fact especially relevant to the measurement of repeat victimization since there is some evidence that people are less likely to report repeat victimizations to the police than first-time victimizations (van Dijk, 2001, 31-33). Nonetheless, police-reported burglaries in three Scottish police districts over a 1½-year period (May 1997-March 1998) indicate that 23% of the (n=3,675) burglaries (including attempts) occurred at 13% of burgled addresses (based on numbers from Shaw and Pease, 2000, Table 4.4). A study of burglary calls for service in Beenleigh, Queensland, Australia, over a 1½-year period (June 1995-November 1996) concluded that 32% of the (n=1,219) burglary reports came from 16% of burgled addresses (Townsley et al., 2000, 45). And Kleemans (2001, 58-59) found that 25% of (n=6,266) burglaries registered during a six-year period (1987-1992) in Enchede, the Netherlands occurred at 13% of burgled residences.

Two explanations of repeat victimization

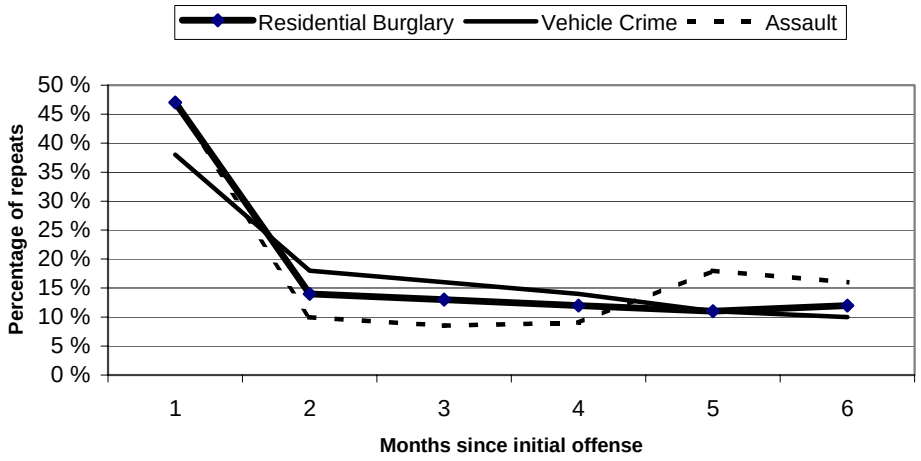
Repeat victimization can be explained via two causal processes – though these processes need not be mutually exclusive. The first is termed "risk heterogeneity," and refers to the fact that some of the characteristics of a person or place that make them attractive to a burglar in the first place are relatively stable and will thus continue to make them attractive to future burglars. For instance, wealthy-looking houses situated in poor neighborhoods and occupied by residents who are often away will consistently attract the attention of opportunistic burglars.

The second explanation is termed "event dependence," and implies that the occurrence of an initial burglary will increase the probability of a subsequent burglary. Qualitative research supports this explanation, since burglars often report returning to the same households due to their familiarity with their layouts, contents and/or residents' occupancy patterns (Ericsson, 1995, as cited by Pease, 1998, 10). It is, however, quite plausible that both risk heterogeneity and event dependence contribute to the repeat victimization phenomenon.

The time course of recurrence

The speed with which repeat victimization occurs, however, adds evidence to the importance of the event dependence hypothesis. In a pioneering piece of research based on official police data from Saskatoon, Canada, Polvi et al. (1990; 1991) noted that previously burgled households were approximately 12 times more likely to experience a subsequent burglary within the same year than similar households that had not been burgled, and that 50% of those repeat burglaries occurred within just one month of the initial victimization. Even more impressive, half of those burglaries that occurred within the first month (or 25% of all repeats) occurred within just seven days of the initial offense (Polvi et al., 1991, 412). This same pattern been demonstrated numerous times using burglary data from around the world – for example, in the UK (Andersen et al., 1995, 12), the US (Robinson, 1998, 78), the Netherlands (Kleemans, 2001, 60), Australia (Morgan, 2001, 100-109), Sweden (Carslstedt, 2001b, 9), and Scotland (Shaw and Pease, 2000, Figure 4.7). The last study mentioned examined the time course of three forms of crime using registry data from three Scottish police districts, and is reproduced in Figure 2. Note that about 47% of both repeat residential burglaries and assaults occurred within just one month of the initial offense. These data support similar findings by Farrell and Pease (1993, 8-12) indicating that the basic time course of repeat victimization is inherent to a variety of crime types.

Figure 2: Time Course of Repeated Offences, by Type of Offence



Source: Reproduced by hand from Shaw and Pease (2000, Chapter 4, Figure 4.7).

This time course of recurrence has two critical implications – one for theory and one for crime prevention policy. In terms of theory, it adds credence to the notion that event dependence – specifically the return of the same burglar – is the primary explanation of the repeat victimization phenomenon. This is because there would be no reason to expect a change in risk over time based on the risk heterogeneity hypothesis – since that hypothesis posits relative stability in the degree of risk over time.

In terms of crime prevention policy, the time course of recurrence tells us a lot about where and when burglary prevention efforts should be focused – namely, among prior victims during a four to eight-week period immediately following an initial victimization.

What proportion of Danish burglary is repeat burglary?

This brings us to the heart of the matter, since the adoption of a repeat victimization approach to burglary reduction in Denmark would only make sense if local patterns mimic those found in the international literature. There are, however, two indications that they may not. The first of these stems from a study by Malena Carlstedt (2001a; 2001b), of the University of Stockholm, which to my knowledge is the only study of repeat victimization as yet conducted in Scandinavia. Carlstedt examined 30,000 crimes reported to Swedish police in two medium-to-large sized cities during the period 1997-1999. Focusing on six crime categories, she measured the proportion of victimization comprised of repeat victimization, the results of which are reproduced in Table 4. Of the crimes examined, residential burglary had the lowest proportion of repeats, since only 5% of all burglary reports were repeat reports. It should be noted, however, that Carstedt (2001b, 9) found precisely the same time course for burglary recurrence as that found in the international literature – since nearly half of the reported repeat burglaries occurred during the first month subsequent to an initial victimization.

Table 4: Proportion of Reported Crime During One Year that is Repeat Victimization

CRIME TYPE	% RV
Assault and threats against women, known assailant	30%
Assault and threats against men and women, unknown assailant	13%
Car-related crime *	13%
Burglary in schools **	86%
Burglary in stores **	32%
Residential burglary **	5%

Source: Carlstedt (2001b, 3).
* Car theft, attempted car theft, theft from car, vandalism of car.
** Includes attempts.

The second indication that repeat burglary may be less prevalent in Denmark than elsewhere stems from the ICVS. Kesteren et al. (2000, 178-181) provide cross-national data on the prevalence and incidence of residential burglary for 17 industrialized nations that participated in the most recent (1999) wave of the ICVS. When the prevalence (percentage of respondents victimized) and incidence (number of victimizations per 1,000 respondents) are known, the "concentration," or proportion of crimes that are repeat crimes, can be calculated. Table 5 shows ICVS-based estimates of the concentration of completed and attempted burglaries for the 17 countries analyzed. According to these data, the concentration of residential burglary in Denmark – at six percent - is three times less that found on average for the 17 nations as a whole. If the decision regarding whether to launch a repeat victimization-based burglary reduction program was to be made on the basis of these data, it is far from clear that such a program would be deemed feasible.

Table 5: ICVS Estimates of the Prevalence, Incidence, and Concentration of Burglary in 1999, by Country

Country	National Population	ICVS Sample Size	Burglary With Entry		Burglary Attempts		CONCENTRATION (Incid-Prev)/Incid	
			Prev	Incid	Prev	Incid	Burglary With Entry	Burglary Attempts
Australia	19,338,000	2,005	3.9	4.8	3.3	4.0	18.8%	17.5%
Belgium	10,263,000	2,402	2.0	2.4	2.8	3.7	16.7%	24.3%
Canada	31,014,000	2,078	2.3	2.9	2.3	2.7	20.7%	14.8%
Catalonia (Spain)	6,361,000	2,909	1.3	1.3	0.6	0.7	0.0%	14.3%
Denmark	5,332,000	3,007	3.1	3.3	1.5	1.6	6.1%	6.3%
England & Wales	52,042,000	1,947	2.8	3.4	2.8	3.8	17.6%	26.3%
Finland	5,177,000	1,783	0.3	0.5	1.0	1.3	40.0%	23.1%
France	59,452,000	1,000	1.0	1.0	1.3	1.9	0.0%	31.6%
Japan	127,334,000	2,211	1.1	1.7	0.8	1.2	35.3%	33.3%
Netherlands	15,929,000	2,001	1.9	2.3	2.7	3.0	17.4%	10.0%
N. Ireland	1,685,000	1,565	1.7	1.7	0.9	0.9	0.0%	0.0%
Poland	38,576,000	5,276	2.0	2.5	1.3	1.8	20.0%	27.8%
Portugal	10,032,000	2,000	1.4	1.8	1.2	1.7	22.2%	29.4%
Scotland	5,062,000	2,040	1.5	1.5	1.9	2.2	0.0%	13.6%
Sweden	8,832,000	2,000	1.7	2.3	0.7	0.9	26.1%	22.2%
Switzerland	7,169,000	4,234	1.1	1.2	1.8	2.0	8.3%	10.0%
USA	285,925,000	1,000	1.8	3.3	2.7	3.3	45.5%	18.2%
All 17 Countries	689,523,000	39,458	1.8	2.3	1.8	2.2	21.7%	18.2%

Source: Prevalence and incidence are from Kesteren et al. (2000, 178-181); National population data from the World Health Organization (2003).

Despite this, more than one colleague has cautioned me not to base my decision on these data alone given *potential* biases in the ICVS. Supporting this notion - though not reproduced in this article - I have noted that longitudinal patterns among some of the nations participating in the ICVS at multiple waves (which does not include Denmark) demonstrate radical oscillation in within-nation rates of burglary concentration over the ten-year period of measurement (1989; 1992; 1996; 2000). This seems counter-intuitive, since it is my experience that national crime trends tend to rise or fall gradually, but are relatively stable across time and do not oscillate. Furthermore, the ICVS data presented do not jive with Carlstedt's (2001b, 3) findings of a 5% concentration in Swedish residential burglary – even when one accounts for the fact that victimization surveys should detect higher levels of concentration than official record studies. In short, before writing off repeat victimization approaches as a viable alternative in Denmark, I shall examine the concentration and time course of Danish residential burglary using police registry data.

On the one hand, given the non-reporting bias inherent to registry data, I may find even lower levels of concentration than that detected using the ICVS. On the other hand, a detailed, large-scale study of Danish burglary patterns may solicit surprises. Furthermore, note that the decision as to whether a repeat victimization approach makes sense *should* be based on burglary concentrations apparent in registry - as opposed to victim survey - data, since registry data is, in the end, the only viable means by which a burglary reduction program could identify victims for intervention. Results from this study of repeat victimization in Danish police registries should be available by early 2004.

Assuming a victim-centered approach, what kinds of interventions might be used?

Any crime reduction program requires answers to two basic questions: Whom to treat and how to treat them. The research on repeat victimization suggests that a focus on prior victims may be a cost-effective method for deciding whom to treat, yet it says nothing inherent about how such persons or places should be treated. The choice of what specific interventions to apply to these persons or places is an entirely separate issue.

Sorensen (Sections 3 and 5, forthcoming) provides a detailed review of burglary prevention approaches, including a process and outcome evaluation of (an arguably representative sample of) five experiments conducted in the UK and Australia that used a repeat victimization approach. All five of these experiments applied situational crime prevention techniques (i.e., target hardening, property-marking, etc.) in an effort to make crime appear more difficult, more risky, or less rewarding in the eyes of potential offenders. Three of the five experiments applied proactive policing strategies – including the increased use of fingerprint teams, informant checks, checks of stolen goods outlets, and repeat offender units – in additional to situational crime prevention approaches. Only two of the five experiments could be described as a success based on the criteria that they reduced burglary and re-burglary in their target area(s) while those rates remained stable in designated control area(s). The reason behind these failures remains unclear, though one thing is certain: victim compliance was miserably low. Despite all efforts to apprise prior burglary victims of their risk of repeat victimization, and to offer them techniques for reducing that risk, the number of victim participants remained minimal.

The next step in burglary reduction may therefore be not so much focused on "what to do," but rather on how to get victims to comply with the risk-reducing options made available to them. Alternatively, burglary reduction strategies that do not require the active involvement of victims might be further investigated and evaluated.

References

Anderson, David, Sylvia Chenery, and Ken Pease. 1995. *Biting Back: Tackling Repeat Burglary and Car Crime*. Crime Detection and Prevention Paper 58. London: Home Office.

Budd, Tracey. 1999. *Burglary of Domestic Dwellings: Findings from the British Crime Survey*. Home Office Statistical Bulletin 4/99. London: Home Office.

Carlstedt, Malena. 2001a. *Upprepad Utsatthet för Brott* (Repeated Criminal Victimization). Report No. 2001:3. Stockholm: National Council for Crime Prevention (BRÅ).

Carlstedt, Malena. 2001b. *Offer Igen…?* As excerpted and summarized by the (Danish) Crime Prevention Council. Report No. DKR 01-052-0517. Copenhagen: Det Kriminalpræventiv Råd.

Danmarks Statistik. 2002. *Kriminalitet 2001*. Copenhagen: Danmarks Statistik.

Ericsson, U. 1995. Straight from the horse's mouth. *Forensic Update* 43: 23-25.

Farrell, Graham, and Ken Pease. 1993. *Once Bitten, Twice Bitten: Repeat Victimisation and its Implications for Crime Prevention*. Crime Prevention Unit Series Paper 46. London: Home Office.

Hough, Michael and Pat Mayhew. 1985. Taking account of crime: *Key Findings from the 1984 British Crime Survey*. Home Office Research Study 85. London: Home Office.

Kesteren, John van, Pat Mayhew, and Paul Nieuwbeerta. 2000. *Criminal Victimisation in Seventeen Industrialised Countries: Key-findings from the 2000 International Crime Victims Survey*. Ministry of Justice: Den Hague.

Kleemans, Edward R. 2001. Repeat burglary victimization: Results of empirical research in the Netherlands. In Graham Farrell and Ken Pease (eds.), *Repeat Victimization*, *Crime Prevention Studies Vol. 12*. Monsey, NY: Criminal Justice Press.

Morgan, Frank. 2001. Repeat burglary in a Perth suburb: Indicator of short-term or long-term risk? In Graham Farrell and Ken Pease (eds.), *Repeat Victimization*, *Crime Prevention Studies Vol. 12*. Monsey, NY: Criminal Justice Press.

National Institute of Justice. 1996. *Measuring What Matters*. Part One: Measures of Crime, Fear and Disorder, A Report from the Policing Research Institute. Washington DC: US Department of Justice, US Printing Service.

Pease, Ken. 1998. *Repeat Victimization: Taking Stock*. Crime Detection and Prevention Series Paper 90. London: Home Office.

Polvi, Natalie, Terah Looman, Charlie Humphries, and Ken Pease. 1990. Repeat break and enter victimisation: Time-course and crime prevention opportunity. *Journal of Police Science and Administratio*n 17(1): 8–11.

Polvi, Natalie, Terah Looman, Charlie Humphries, and Ken Pease. 1991. The time-course of repeat burglary victimisation. *British Journal of Criminology* 31(4): 411–414.

Rigspolitiet, 2003. Unpublished data obtained from Rigspolititet (The National Danish Police) through Dr. Britta Kyvsgaard, Chief of Research, Ministry of Justice, Denmark.

Robinson, Matthew B. 1998. Burglary revictimization: The time period of heightened risk. *British Journal of Criminology* 38(1): 78-87.

Shaw, Mandy. 2001. Time heals all wounds? In Graham Farrell and Ken Pease (eds.), *Repeat Victimization*, *Crime Prevention Studies Vol. 12*. Monsey, NY: Criminal Justice Press.

Shaw, Mandy, and Ken Pease. 2000. *Research on Repeat Victimisation in Scotland: Final Report*. Scottish Executive Central Research Unit March 2000.

Sorensen, David W.M. *The Nature and Prevention of Residential Burglary: A Review of the International Literature with an Eye Toward Prevention in Denmark*. Copenhagen: The Crime Prevention Council. Forthcoming.

Townsely, Michael, Ross Homel, and Janet Chaseling. 2000. Repeat burglary victimisation: spatial and temporal patterns. *Australian and New Zealand Journal of Criminology* 33(1): 37-63.

Van Dijk, Jan J.M. 2001. Attitudes of victims and repeat victims toward the police: Results of the International Crime Victims Survey. In Graham Farrell and Ken Pease (eds.), *Repeat Victimization*, *Crime Prevention Studies Vol. 12*. Monsey, NY: Criminal Justice Press.

World Health Organization. 2003. Online population statistics at: www.who.int/country/en/

COMPUTER CRIME – IS IT A PROBLEM?

Stecher, Jesper

When we think about crimes made by the use of information technology, the idea is that there is a massive threat, but not only that. Most of us also believe that the amount of crime in this field is very high.

In the following this will be questioned by some examples. It can only be by examples, since there are no public databases or statistical bodies that in detail shows how much information technology crime or its opposite - dark figures - there is. So in the end this presentation is in fact rather speculative.

Narrowing the field a little bit

I don't use the term computer crime. I rather prefer the term IT-crime, since this broadens the range of what we are talking about. When thinking of IT or information technology we don't talk only about computers in the sense of laptops, desktops or PDA's. Here we also look at cell-phones, digital telephones and lines, digital tv's, cards with magnetic stripes and/or chips, storage media's etc. In short all the technologies that in some way or another work together or can work together in a network of applications.

To make this not too overwhelming I use the internet as base for the argumentation, but since we are talking about interconnectivity, the principles are the same for all the various technologies under the term of information technology.

How does the Internet work?

Most people today take the Internet for granted. It's somewhat strange considering the big public didn't begin it's skyrocketing until the mid 1990th. Netscape or Mozilla was the web browser that spurred the development. Most people in the industrialized world know how to use the technology, but does not really know the technology that lies behind the massive possibilities of the information technology.

Before the revolution of information technology could become so worldwide used, computers and other types of hardware had to be household property. Already in the beginning the computers had to have a type of base-program that could make the machines etc. work. For computers DOS[153] and OS[154] for Macs paved the way with easy handling programs that made personal computers (PC's) so popular and fairly cheap compared to the already existing mainframe computers sold for years before by giants like IBM.

The operating systems had right from the start built-in interconnectivity not only between the hardware of the specific computer but also networking facilities. This meant i.e. that one PC could become a 'master' of a whole line of other computers, from which all the others could be administered and handled at administrator level. This facility is still there in all later operating systems. Not at least in the most widespread operating system Windows from Microsoft. This operation system is dominant not only when we talk about PC's but also when we talk about web and database servers.

In order to understand how IT crime can occur one has to understand the technology. PC's or terminals are the entry and exit points of the Internet or the web. The web and database servers are the knots in this web, from where many can access and go through and do their stuff.

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[153] DOS: Disk Operating System
[154] OS: Operating System

The most used web server is the Apaché server. The main reason is it runs with most operation systems or platforms known. Next to that comes database servers like IIS - the Internet Info Server from Microsoft and the SQL server - Sequence Query Line Data Base.

The programs that run on these servers and databases are all using a small range of program languages. The main computer languages are: C+, C++, Java, CGI, ASP, ColdFusion, PHP, Perl, and various forms of more or less advanced HTML.[155]

The different servers use ports to let information go in and out. These ports are preset in all the various applications.

A person who wants to commit a crime has in principle only find out what type of server or operating system he or she is dealing with, know what ports are associated with this and then know what ports to try to access and know about the base programs on the server or the computer in order to penetrate and gain control.

The way this can be achieved is in principle with the following methods:

- Social Engineering
- System Hacking
- Software Hacking
- Web Hacking

A detailed explanation of what these methods consist of will be too much, but in short social engineering is cracking techniques that rely on weaknesses in wetware (people) rather than software, system hacking is when one is able to for instance use backdoors as a trojan horse to enter a machine or system from an actual dos-prompt,[156] software hacking is when a person enters the code in actual programs and web hacking is when a person enters a system or computer directly via the net.

Servers are normally protected by firewalls that only let through "traffic" or data that are allowed to go in and out. However since the programs laying on the servers are standard products, and they all use standard ports for this traffic, and have standard settings for data validation and the setup of the validations are entirely up to the system administrators to redefine. They are, if not redefined, too easy to go right through. This means, that with the proper knowledge it is possible to penetrate directly through the firewall in order to do various harm or simply collect data or just look around. The systems are in other words far from secure.

A small example will show this from web hacking:

A man Peter meets a woman Mary in an online chat room. They come to know each other and finally he invites her out to a restaurant. She shows up, but he never does. What has happened?

Mary works in a company where another man Jack works as the security administrator. He has for some time wanted to invite Mary out. From a co-worker Jack learns, that Mary is going to meet with Peter whom she has met in a chat room. Instantly Jack decides to stop her seeing the chat room friend. The security administrator Jack knew Mary used a webmail account to send and receive private emails.

First Jack creates four web mail accounts with various username and password for different emails, and logs on to each of them. Using a program, that can be downloaded from: http://www.kburra.com, called 'Cookie Pal' he looks at the different cookie strings that by each log-on are stored on his computer. After a short analysis he sees that the four cookie strings amount of hexadecimal "bytes" are equal to the number of characters of his email

[155] HTML - hyper text markup language.
[156] Entering a system via the DOS-prompt using IP-numbers or Internet Protocol-Numbers .

addresses. Probably the woman uses her first name followed by an "@" followed by the web mail address. After this Jack deletes his own cookies and generates a new cookie with Marys first name. Logging on to the webmail with Mary cookie he enters her mailbox. Now he can see all her mail correspondence and send a mail to the chat room man Peter and tell him the dinner is cancelled.

Another very relatively simple way is to ping another computer on the web. If one knows the IP-address of the machine one wishes to target one can either use the dos-prompt or simply write the IP-address in the command line in a web browser. Since servers, databases, PC's etc. that are connected to a network have to have addresses that identify them. This identifier is the IP-address consisting of four sets of numbers divided by dots. Since the operating systems and a long range of connected programs are built for exchanging data they will have to reply to a request from any terminal that tries to ping it. Firewall or no firewall. By examining error messages etc. one can determine what type of server, what type of programs etc. that are running on the computer. By knowing the ports and the computer programs stored on the targeted computer one can finally by writing additional code bypass a firewall, install a trojan and in the end gain control over the computer, data etc.

In short, it can be pretty easy to hack ones way into another system. All it takes are skills and knowledge.

On the Internet there are several sites that tell and show how to do this and also how to prevent this. One of the best sources for almost anything is to be found on the address: http://www.astalavista.box.sk/. Actual books on penetrating computer systems are hard to come by, but there is a variety of literature on how to prevent unauthorized access. If the information is inversed, one can figure out quite a lot. Finally there is only one way to learn more; study computer science.

Now knowing that with knowledge and skills it is possible to penetrate almost any network based system one should also assume, that the amount of IT-crimes should be enormously high, not at least in Denmark, since so large an amount of the populations owns and uses the new technology.

Some considerations on IT in Denmark:

According to Statistics Denmark in the first half of 2003 nearly 80 pct. of the population has access to the Internet either from their home or from their job. 64% use the net weekly and 42 pct. use it daily.

More and more people can access the Internet from their home. 39 pct. has fast ADSL or cable access, 58 pct. uses telephone modems, ISDN or analog connection. The rest has various other types of connections.

Within the last 12 month 28 pct. were exposed to computer virus, 11 pct. experienced loss of data and 3 pct. claims to have experienced unlawful billings.

The tables below shows the increase in goods that all can be used for or be exposed to information technology crimes.

Families possessions of certain longterm goods

	2000	2001	2002	2003	2000	2001	2002	2003*
	1.000				*Pct.*			
Amount of families	2.269	2302	2318	2232	100	100	100	100
Video camera	461	517	498	529	20	22	21	24
Cell phone	1534	1680	1956	1888	68	73	84	85
Computer	1469	1539	1679	1759	65	67	72	79
Modem	996	993	982	868	44	43	42	39
ADSL	57	65	128	371	3	3	6	17
Other (Cable)	…	48	266	241	…	2	11	11

** 1st half of 2003*

Source: Statistic Denmark http://www.dst.dk

Today more people owns cellular phones than an ordinary phone. Text messages sent via cellular is growing almost exponentially.

Possessions of telecomunication							
	1996	1997	1998	1999	2000	2001	2002
Ordinary phone lines in 1000	3109	3104	3086	2934	2833	2763	2679
Cellular phones in 1000	1317 25% of pop	1444 27% of pop	1931 36% of pop	2629 49% of pop	3364 63% of pop	3954 74% of pop	4478 83% of pop
Send SMS in mio.	-	-	-	-	750	1350	2015

Source: IT- og Telestyrelsen, http://www.itst.dk

About 23 pct. traded on the net during the last month of the second quarter of 2003. Trade on the Internet is still in its beginning - between two and five pct. of the total Danish trade. However the increase in transactions is more than 100% per year. Last year the total trade was 25 billions DKK. 78 pct. was between institutions and businesses while 22 pct. was with private consumers.

When looking at money transactions using terminals, the increase in the use of credit cards is also substantial:

Mio. transaktioner	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Dankort-terminals	86	110	139	171	207	240	278	317	348	375	412	452
Dankort-notas	26	31	34	37	34	34	27	23	23	25	28	25
Dankort-transactions total	111	141	172	208	241	274	305	340	371	400	440	477
Kredittransaktions via money institutions	12	15	25	30	69	76	85	90	94	97	99	105

Source: PBS og Finansrådet http://www.finansraadet.dk

(ultimo)	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
Amount of terminals	1085	1238	1521	1701	2033	2209	2387	2549	2641	2701	2763	2822

Source: PBS og Finansrådet http://www.finansraadet.dk

Home and office banking is also increasing.

Home and office banking accounts established for								
	1st of Jul 1999	1st of Jan 2000	1st of Jul 2000	1st of Jan 2001	1st of Jul 2001	1st of Jan 2002	1st of Jul 2002	1st of Jan 2003
Privates	441.449	542.378	720.851	866.669	1.282.115	1.460.708	1.609.223	1.656.513
Firms	61.151	82.992	100.129	110.304	116.840	157.377	155.331	174.294
Total	502.600	625.370	820.980	976.973	1.398.955	1.618.085	1.764.554	1.830.807

Source: PBS og Finansrådet http://www.finansraadet.dk

The same goes for credit card transactions over the Internet.

Credit card transactions over the Internet				
1999	2000	2001	2002	1st half of 2003
102459	501552	1433779	3577861	3355594

Source: PBS og Finansrådet http://www.finansraadet.dk

The question that arises, is the increase in use and facilities anywhere close to the amount of crime using this technology?

From a report made by the 'Ministry of Science, Technology and Innovation' based on self reported damaging occurrences the numbers of serious and catastrophic incidents of what figures under the term of information technology crimes during 2002 the numbers are relatively low, and close to zero in the worst category.

How much these occurrences have cost the firms is however not reported.

Nonetheless the occurrences are relatively few in numbers considering the opportunities - as sketched above - for committing these occurrences.

List of occurred damages based on replies to questionnaires from 304 representative companies						
		% of all	Total incidents	Bothering incidents	Serious incidents	Catastrophic incidents
1	Virus attacks	50,3%	153	115	9	1
2	E-mails	25,7%	78	59	17	0
3	Unauthorized access	15,5	47	28	1	1
4	IT misuse	3,9%	12	8	1	0
5	Sabotage	2%	6	5	0	0
6	Industrial Espionage	1,3	4	2	2	0
7	Threats against data or software	0,3	1	0	0	1

Source: Datasikkerheden i Danmark år 2002 – hændelser, Ministeriet for videnskab, teknologi og udvikling - http://www.videnskabsministeriet.dk

However this report says nothing about dark figures. There might be much more occurrences than reported.

A look at official crime statistics might reveal some of this.

The Danish Criminal Act[157] includes most of the paragraphs that cover some sort of computer related crime:

- § 193 - Hacking 1 - causing public damage.
- § 222 - Sexual offences against children under 12 years.
- § 235 - Child pornography.
- § 263 - Hacking 2 - illegal entry.
- § 265 - Harassment.
- § 266 - Threats.
- § 266b - Racism.
- § 267 - Violation of personal honor.
- § 276 - Theft.
- § 279 - Fraud.
- § 279a - Data Fraud.
- § 291 - Malicious damage to property.

[157] LBK nr. 779 af 16/09/2002

Other paragraphs that cover the field are:

- 'Copyright' acts, and
- Industrial espionage found in "Markedsføringsloven"[158] act 10.

It is however almost impossible to deduct anything solid from Statistics Denmark on these paragraphs. The main reasons are:

- Most of the IT-crimes are not coded specifically but are just filed under the general type of crime that regards the specific type of crime, which makes them almost impossible to identify.
- What is coded specifically is to some extend what is reported by the police. However the police[159] have no proper overview of what is reported, but still report what they have to Statistics Denmark.
- Reported crime seems to be the only substantial data. Convictions are almost non-existing, which is the reason why they are not referred below.

Even though figures on IT-crime are hard to get by, some figures can be retrieved from Statistics Denmark. The statistics below show for a few of the paragraphs retrieved how big an amount of the total amount of "normal" crimes that is IT-crime:

Reported types of IT-crime							
	1996	1997	1998	1999	2000	2001	2002
Data Fraud	12	31	49	67	113	250	884
Total	9586	10558	8935	7949	8040	7155	7533
Pct	0,1	0,3	0,5	0,8	1,4	3,5	11,7
Industrial espionage	1	-	3	-	1	1	-
Total	37	72	56	51	45	53	50
Pct	2,7	-	5,3	-	2,2	1,8	-
Hacking 2	5	22	15	71	73	68	51
Total	32	39	48	92	179	160	235
Pct	15,6	56,4	31,3	77,2	40,8	42,5	21,7
Malicious damage to property	4	3	6	5	12	15	11
Total	35057	37275	35698	37804	39857	37165	36904
Pct	0,01	0,01	0,02	0,01	0,03	0,04	0,03
Sex under 12 years	47	47	49	93	57	85	80
Total	321	367	397	466	365	380	346
Pct	14,6	12,8	12,3	20,0	15,6	22,4	23,1
Threats	1710	1818	1821	1944	1912	2234	2567
Total	1860	1908	1915	2131	2030	2347	2675
Pct	91,9	95,3	95,1	91,2	94,2	95,2	96,0

Source: Statistics Denmark

[158] LBK nr. 699 af 17/07/2000

[159] All incidents are registered and stored only in the precincts, and only reported in when asked for by the IT-section of the Police Commissioner.

Without going into detail on the specific types of crime, the statistic show that - what normally is considered "real" IT-crime - namely 'Industrial Espionage' and 'Malicious Damage to Property' - seemingly is decreasing and the proportion of all reported cases are almost none. This seems to confirm the data from the report on self reported occurrences made by the 'Ministry of Science, Technology and Innovation'.

As for "unlawful entry" or 'Hacking 2" there is no clear trend in either increase or decrease.

What might be concluded is, that what is easy to register is where the attention of the police can be found, namely in the area of threats.

Conclusion

It is impossible to find any figures or data on losses in regard to IT-crime in Denmark.

It is impossible to say anything about actual occurrences on IT-crime based on scientific research.

It is impossible to say anything on dark figures based on scientific research. However companies that deal with security like CERT (http://www.cert.dk) and COMMENDO (http://www.commendo.dk) release reports on the fly that show a massive increase in various IT-threats.

IT-crime seems not to have been 'discovered' by the criminological society in Scandinavia.

To answer the question - is computer crime or IT-crime a problem - it is impossible to say anything solid. The area is too big, too undefined, and the registering of occurrences is too inexact. However it seems that if the opportunity to commit IT-crime is compared with what is reported it seems that the "problem" is not really that big.

EVALUATION OF YOUTH CONTRACTS

Stevens, Hanne

This spring I conducted an evaluation of a new Danish sanction concerning young offenders, the socalled Youth Contracts. The main aim of the study has been to determine whether, and possibly to what extent, youth contracts have lead to a lower recidivism rate compared to the type of sanction they replace. In the following, I will describe, first, what youth contracts are, and why this program was implemented. Second, I will discuss the type of data and methods used in the evaluation. And, finally, I will conclude by presenting and discussing some of the main findings of the study.

Youth contracts – what and why

Youth contracts were introduced on an experimental basis in 1993 and became permanent in the middle of 1998. They are a new type of condition attached to a withdrawal of charge.

Withdrawal of charge, which was introduced in the beginning of the previous century in order to minimize young offenders' contact with the penal system, is not, formally speaking, a sanction as it is decided by the public prosecutor and not by a court. It must, however, be regarded as a penal disposition; a withdrawal of charge to which conditions are attached functions in many ways like a suspended sentence or, as it is called in many countries, probation.

If the offender has made an unqualified confession, one that can be confirmed from the evidence, the public prosecutor may withdraw the charge on certain conditions. In general, withdrawal of charge is conditional upon the offender not committing a punishable act for a period of up to (normally) three years. If the offender does not comply with this condition, the case can be reopened and a punishment can then be imposed. The same goes for noncompliance with other conditions such as contact with an adult personal advisor, school attendance or work, and/or participation in certain leisure activities.

The main difference between youth contracts and regular withdrawals of charges lies in the form. As the name indicates, it is a contract, which the young offender and his or her parents must sign. Also, the youth supposedly has a greater say in the contents of the contract as compared to regular conditions.

At the beginning of the 1990'es, when the decision to implement youth contracts was made, there was a general impression amongst politicians that many young offenders were given consecutive withdrawals of charges or conditional prison sentences, and hence did not feel that their criminal actions had consequences. As an aside, it can be said, that this impression has no grounds in reality – very few young offenders receive more than one conditional withdrawal of charge, now as well as prior to the implementation of youth contracts.

It was believed that the contractual form of the youth contracts would have a more obligating effect on the young offenders, and therefore result in lower recidivism rates. Also there was a broad criticism of the prior withdrawals of charge for taking too long to process, whereby part of the effect of the sanction was believed to be lost, because the sanction was not immediately felt. And, finally, it was said that there was a lack of cooperation between social authorities and the police, so that non-compliance with the social conditions were not met by any sanctions.

Common for the youth contracts and the regular conditional withdrawals of charges is an age-criteria, specifying that the person must be less than 18 years of age at the time of the crime. But with regards to the extent of the person's previous history of crime and the type of crime committed, the criteria are more restrictive for the youth contracts than for the regular withdrawals of charges. Youth contracts – as well as regular withdrawals of charges – are used mainly in connection with property crimes.

Data and methods

The data used consists of full criminal records for persons who have received a conditional withdrawal of charge in the period from 1996 to 2000, both years included. Since the data consists of full criminal records, information about crimes committed before or after this period is also included. The quality of the data is estimated to be quite high.

The experimental group consists of all persons given a youth contract during the period from the implementation of the sanction in July 1998 until the end of December 2000, the end date allows for a minimum of two years for measuring recidivism. The controls are taken from persons given a withdrawal of charge between 1996 and the end of June 1998, the period immediately preceding the implementation of youth contracts. Because the conditions for a regular withdrawal of charge are less restrictive than for the youth contract, some of these persons have been excluded from the control group – either because of the type of crime committed or because of a long criminal record.

The methods used are standard statistical tests in combination with survival analysis. I will discuss methodological problems in the context of the results where they are relevant. Prior to the main analysis it has been determined that the time lapse between the controls and the experimental group does not affect the recidivism rates.

Main findings

In the analysis I have used three measures of recidivism. First, defined as *any* law violations. Second, only those violations that lead to a sanction that is more severe than a fine. And, third, only violations of the criminal code.

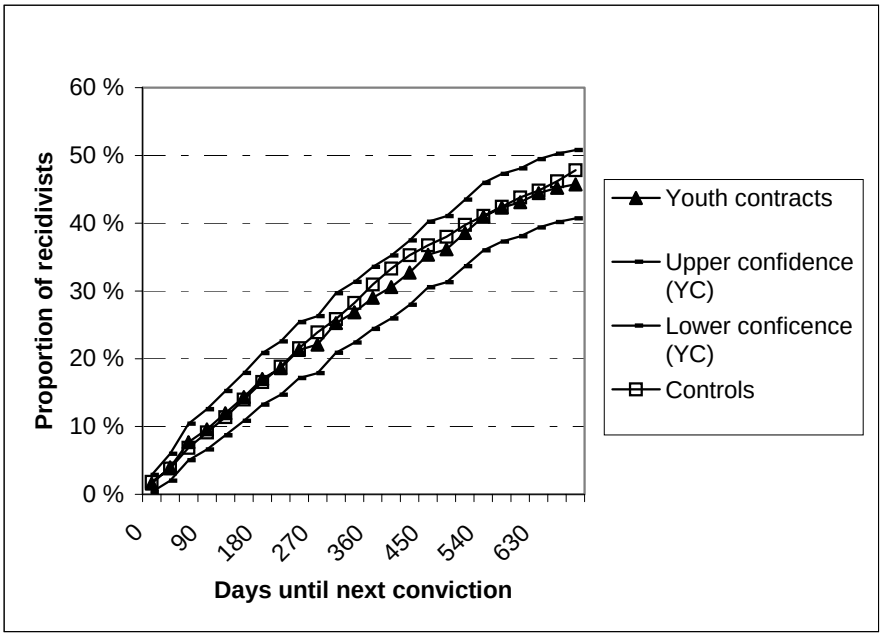
Table 1. Recidivism rates (pct.)

Type of recidivism	**Youth contracts**	**Controls**
Any recidivism	47	48
Recidivism to sanction more severe than a fine	22	24
Recidivism to new violation of the criminal code	34	38
N	*376*	*1424*

Table 1 shows that the rates of recidivism depend on the measuring criteria, but apart from the levels being different, the results for these different criteria are quite similar. The following presentation is therefore based on the first criteria only.

The speed of recidivism in the two groups is shown in figure 1 (next page).

Figure 1. Speed of recidivism



As can be seen from figure 1, slightly less than 50% in each group relapses into new crime, corresponding to the proportions shown in the previous table (47% of the youth contracts and 48% of the controls). It can also be seen that the rate of increase in the proportion of recidivists is approximately the same in both groups and close to constant during the two-year measuring period, but with a slight tendency to flatten towards the end. This indicates, first, that the (lack of) difference observed after two years, would also be found, had the follow-up period instead been, for example, one year, and, second, that a significant increase in the proportion of recidivists should not be expected, had the follow-up period been longer. I have left out the confidence intervals for the controls. Since this group is almost 4 times the size of the experimental group, the confidence intervals are much narrower.

Turning next to the frequency of recidivism (table 2), you will see that there are no differences with regard to the proportions of non-recidivists and persons who relapse into new crime only once, but a slight difference with regard to 2-3 new convictions and more than 3 new convictions. The differences between the two latter categories are large enough for the chi-square test for the whole table to be significant at the 0,05 level.

Table 2. Frequency of recidivism (pct)

Frequency of recidivism	Youth contracts	Controls
No recidivism	53	52
Once	23	23
2-3 times	20	18
More than 3 times	4	7
N	*376*	*1424*

When measuring the seriousness of recidivism by the maximum possible sentence specified in the penal code, there is also a difference between the controls and the experimental group (table 3). This table is based on recidivists only, and as you can see, there is a tendency that the controls relapse to more serious crimes than the youth contracts. When including non-recidivists, there are no statistically significant differences, but when looking at

recidivists only, the difference is significant at the 0,05 level. It is, however, interesting to note, that there are no statistically significant differences with regard to the actual sanctions given for the new crimes.

Table 3. Seriousness of recidivism (pct)

Seriousness of recidivism	**Youth contracts**	**Controls**
Level 1	34	23
Level 2	22	27
Level 3	34	38
Level 4	11	13
N	*176*	*687*

Note, maximum sentences: Level 1: Fine; level 2: Prison up to one year; level 3: Prison up to two years; level 4: Prison longer than two years.

Unfortunately the data does not contain information on socio-economic status, but background variables in the form of age, gender, and previous history of crime are available. The influence of these on the risk of recidivism has been studied using a Cox's regression model. Cox's regression is in some respects similar to the logistic regression, in that the model specifies the relative risks, or in this terminology, the hazard ratio, of persons with certain characteristics. It does not, however, specify the "baseline risk". That is, from the model you can see, for example, the risk of females as compared to the risk of males, but not how high the risk of males is. Comparing, again, with logistic regression, the advantage to using Cox's regression is, that the time factor is explicitly taken into account when testing the model assumptions. For the regression to be accurate, the relative risk between the groups studied must be approximately constant over time.

Table 4. Relative risk of (any) recidivism

Any recidivism	**Complete model**		**Final model**	
	Hazard ratio	P-value	Hazard ratio	P-value
Control group	**1**	--	**1**	--
Youth contract	0,93	0,389		
Male	**1**	--	**1**	--
Female	0,36	<0,001	0,32	<0,001
Female with youth contract	0,47	0,159		
16 years	**1**	--	**1**	--
15 years	1,19	0,102		
17 years	0,98	0,792		
18 years	0,67	0,002	0,67	0,001
No previous history of crime	**1**	--	**1**	--
1-3 previous fines, not criminal code	1,91	<0,001	1,84	<0,001
1-3 previous sanctions, of which at least 1 is a violation of the criminal code	1,99	<0,001	1,94	<0,001
2-3 previous sanctions, of which at least 2 are violations of the criminal code	3,24	<0,001	3,19	<0,001
Less serious property crimes	**1**	--	**1**	--
More serious property crimes	1,08	0,295		
Violent crimes	1,05	0,837		
Other crimes	0,65	0,261		

You can see from table 4, that the hazard ratio of the youth contracts is almost identical to that of the controls, and that there is no statistical significance. All in all, the results are not surprising. Females have a much lower risk of recidivism than males, as have persons of at least 18 years of age at the time of sentencing as compared to younger persons, while the risk of recidivism increases with the number of previous criminal convictions. You will, however, note, that it does not seem to be of importance how severe a previous sanction has been.

Conclusion

There appears to be some marginal differences in the frequency and seriousness of recidivism between the control- and experimental groups. But looking strictly at the proportions of recidivists in the two groups in the regression models, it is only in connection with relapse to a new violation of the criminal code that the youth contracts have a lower risk of recidivism as compared to the controls (table 5).

Table 5. Relative risk of recidivism to new violation of the criminal code

Recidivism to violation of criminal code	Complete model		Final model	
	Hazard rate	*P-value*	*Hazard rate*	*P-value*
Control group	*1*	--	*1*	--
Youth contract	0,84	0,074	0,81	0,036
Male	*1*	--	*1*	--
Female	0,41	<0,001	0,36	<0,001
Female with youth contract	0,45	0,199		
16 years	*1*	--	*1*	--
15 years	1,24	0,064	1,35	0,006
17 years	0,86	0,091		
18 years	0,54	<0,001	0,59	<0,001
No previous history of crime	*1*	--	*1*	--
1-3 previous fines, not criminal code	1,48	0,022	1,46	0,029
1-3 previous sanctions, of which at least 1 is a violation of the criminal code	2,13	<0,001	2,13	<0,001
2-3 previous sanctions, of which at least 2 is a violation of the criminal code	3,89	<0,001	3,85	<0,001
Less serious property crimes	*1*	--	*1*	--
More serious property crimes	1,08	0,339		
Violent crimes	1,15	0,551		
Other crimes	0,43	0,091		

The results are hardly surprising, as one cannot expect a large difference when comparing two sanctions that are as similar as the ones here examined. But the difference *is* there, and could possibly indicate, that the youth contracts do actually lead to lower recidivism rates; at least when recidivism is measures as violations of the criminal code. But it is equally, if not more, likely that the differences are due to selection factors. Although youth contracts should ideally replace the regular conditional withdrawals of charges, the fact is, that it has taken some time to implement the new sanction and regular withdrawals of charge has been used throughout the period. A large part of the conditional withdrawals of charge given after the implementation of youth contracts are probably due to a lack of implementation, but there is also a distinct possibility that a selection process has taken place, so that a person who, to begin with has a better prognosis of not re-offending is more likely to receive a youth contract than his counterpart with a worse prognosis. The problem here is, that when youth contracts were first introduced on an experimental basis, it was not done in a way that allows a systematic evaluation of the effects.

TREATMENT OF DRUG ADDICTION IN PRISONS

Storgaard, Anette

Introduction

With regard to the area of drug addiction the penal system has developed very much in the latest decade. This may have multiple reasons but which ever reason is stressed and which ever definition is used to describe a real addict, there seems to be no doubt that the number of people in the Danish penal institutions who use drugs has gone up. Depending on how you count a third or a fifth of all inmates are drug addicts.

The development within the penal system is both quantative and qualitative. More institutions pay more attention (man power and money) to the group and the way they pay attention is taking new forms.

Systematic treatment of drug addiction is a social welfare task in Denmark not a penal system task and not a traditional health care system task. Up through the1990'ies (till 1997) the Prison Department was convinced that it would be of no good to introduce what was called "parallel treatment", i.e treatment in the penal system parallel to the treatment in the social security system in the society outside prisons. The point was that with a total prison population of 3.500 inmates out of which maybe (still depending on who and how is counted) 600 are real addicts it would neither be realistic nor rationel to introduce treatment. Or rather it would not be possible to offer the same number of different concepts which are offered in the society as a whole So prisoners in need of treatment could either (1) (most obvious) serve their sentences and hope to have the opportunity to go to a treatment facility afterwards, (2) if they had the luck to be sentenced in one of the three geographic areas where treatment as an alternative to imprisonment was a possibility for some (non violent) convicted persons they might have one of the places there. There were 35 places in total per year and the project is now closed down. (3) try to get to serve part of the sentence in a special drug-free prison ward - a so called contract block or (4) hope to be moved to an institution during the prison-time.

Allmost all 24hour institutions for drug addicts are on private hands. Like other businesses they are competing on market conditions.

In 1997 the Prison Department, for the first time, broke the stategi of "no parellel treatment" and started a cooperation with a private treatment institution. This led to an arrangement where the institution takes responsibility for the treatment of first 15 now 30 inmates in a prison in Copenhagen. Treatment staff is appointed by the private institution and treatment concept chosen and fullfilled by the institution. But the treatment takes place behind bars in a high-security prison and the prisoners are now at the same time prisoners and clients in a treatment institution practising on the basis of the Minnesota ideas.

A simular program is at the moment being introduced in af less secure instituion. This second prison has chosen another private instituion building on the same treatment concept but charged by other persons.

It is not possible to describe all details about this concept - called the import-model and the place where it is practiced is called the import-block - the concept is now 5 years old and no longer seen as an experiment but an integrated element.

In the following I'll highlight the items mentioned in my abstract. Knowing that it is not possible to go into details with any of them, I'll focus on some more principal questions and problems. It is important to mention that - though it may sound simple and though it can easily be argued that it was urgently needed - the introduction has entailed difficulties of as well ideological as structural and sociological character.

How to convince traditional prison-staff that they have to accept new colleagues ?

As you may know according to the Minnesota concept addicts are the best treaters of other addicts. Shortly described: Once an addict always an addict but an addict may be either

active or passive. When a person has been passive for some time and has passed through the 12 steps he may be trained for treating. As you also may know some heavy drug addicts sometimes go to prison.

So when the Prison Department made a contract with the private institution some of the treaters who were sent by the institution to work in the prison were former inmates in precisely the same prison. Some members of the prison staff recognised them and not only was it very hard for them to accept the former prisoners as colleagues it was also hard to accept that some other staff members wanted to take part in the experiment and of their own free will asked for a job in this specific unit.

The first couple of years this caused daily troubles: the prison staff could not accept that the treatment-group were given keys. Consequently the latter could not leave the unit, which for instance meant that they were not able to take a prisoner to the doctor, to go inside for the volleyball when first having left the unit to accompany the prisoners on their daily exercice in the prison yard or to go on their own hand from the main entrance to the unit in the morning or return in the evening. When some of the treaters who were former prisoners in the prison wanted to go home in the evening their exit sometimes were denied till they were extra searched because the guard recognised them as inmates.

The members of the prison staff who accepted or even wanted to cooperate with the treaters were looked at with suspection by the colleagues in other units in the same prison. It was said about them that they were weak, that they loved the prisoners etc. When they left the unit their colleagues shouted at them: "Are you having a nice time together with the inmates?" and things like that.

The inmates are solely men but the prison staff counts both men and women. And especially members of the female staff had big problems because they didn't want to use the same toilet as the prisoners, like the male part of the staff preferred, in stead of going into the central parts of the prison. The female staff preferred to use the lady's in the cellar. But to go there they had to leave the unit, which was very uncomfortable, so they always waited for each other to be able to go in small groups.

Although all this was the daily reality for the colleagues and dominant factors the first couple of years, it is not impossible to count these matters in in a quantitative research.

How to cooperate with private treatment institutions ?

Prisons are of obvious reasons closed and not transparant institutions. It seems to be very easy for prisons to develop their own ways of doing things, their own culture so to say. From a constitutional state (retsstats) point of view and very briefly explained that is the main reason why it is very important to have general rules to protect a minimum of rights and possibilities for prisoners.

Some thirty years ago Denmark left the treatment-ideology behind due to a new consensus saying that penalty (which is to be measured out by the judge proportionate to the gravity of the crime) and treatment (which cannot be measured out beforehand but has to take the time each individual needs) should be separated. Mixing the two led to different lengths of imprisonment for equal crimes. This was not acceptable.

The new import of treatment is not meant to be a return to the treatment-ideology. At least the maximum length of the prisontime cannot be influenced by the degree of success in treatment during the prisontime. But I find it relevant to raise the question if - in spite of the intentions - we at least to some degree are wittnessing a revitalization of this ideology.

To profit optimally from the expertises of the treatment-institution the prison has to listen to and act according to the advices from the treaters. Of course it is not possible for the treaters to extend the sentence. But the treatment-programme demands that even if a man has already had several temporary leaves with regular intervals (which is commen after having served a certain period), his regular leaves must be cancelled till it may be advisable again from a treatment point of view. Likewise a successfull treatment behind bars and a positive attitude to the question of continuing treatment after being released are most relevant questions when deciding about parole or not. These parameters can only be taken into

account in connection with the very few prisoners serving their sentence in the import-block and the decision is formally made by prison-staff but in reality it is the treaters that make the decision. The result is that we now again - by automatically combining using drugs and being a criminal - accept individual progress in treatment of dependency to influence on how long time a person spend behind bars. Compared with the period of the treatment ideology the difference is that now the maximum length defined by the judge is respected, before the judge sometimes did not fix a maximum. But still it is a fact in Denmark that temporary release and parole are to be considered and the reasons for denying are the same for everybody except those who are serving their sentence in the import block. Here the treaters decide. What makes this acceptable from the Prison Department point of view is that the prisoner accepts this before he is taken in and he can never be forced to serve his sentence there. But as the prisoners say in interviews: There is nowhere else to go if you need treatment for your dependency.

The necessary principal considerations about this seems not to be fullfilled.

How to cooperate with the public social welfare system when the prisoners come out ?

The Prison Department is a very centralized organisation and all prisons in Denmark are state prisons. Opposite to this the Social Welfare System is much decentralized concerning economy and concerning competence. As I mentioned the whole problematic about drug addicts belongs under SWS. That means that being in prison - apart from a short period of maybe the first week in prison - with substitute treatment there is no admittance to treatment while serving the sentence under ordinary circumstances. Sometimes the prison tries to establish some contact to the treatment system when a person is released. But it is a matter of the decentralized possibilities, and judgement if a person is taken in and into which kind of treatment. Places in 24 hour institutions are very expensive and the local politics (and economical possibilities) differs in relation to which kind of concept is taken into use and how often.

Normally the prison looses contact with the person when he leaves the prison and more or less he has to find his own way to and through the Social Welfare system.

But the institution which carries out the treatment in the import-unit runs an institution in the society as well and it seems reasonable to presume that those prisoners (almost them all) who are not totally “cured” when they leave the prison should continue the treatment after they have been released. But this has caused a lot of troubles because the counties and the communes (who already have some difficulties in cooperating in this field) are not likely to give their competence to the prison. From the local point of view there may be other drug addicts who need treatment more than the person who comes out of prison. And if there are several persons with the need for treatment but money for a few of them why then spend the money on a person who is not so well known (because he was in prison for some time) and who is furthermore a criminal?

This structural problem is - for the time being - not to solve from above. The ways of communication, cooperation and sharing of competence are simply too far apart. That leaves a tremendous challenge for every public servant involved. The more each one wants to create an optimistic departure from prison for somebody the more difficulties and adversity his job prepares for him. This is a very unfortunate situation.

Does it work ?

One needs only a few minutes in the block to realise that this is a different prison block. Green plants, an aquarium, common eating facilities and TV-room, staff and treaters being present and visible are all factors which are not to be seen in any other prison block (except for some of the well functioning contract-blocks which are not the item here and where there are no treaters).

In interviews the inmates without exception prefer to serve their sentence here. Not because it is more comfortable, for even if there may be a nicer atmosphere the demands on each prisoner are harsher than anywhere else. Treatment groups two times a day, lectures about dependency once a day, cleaning up the cell and other facilities each day, individual work with personal development through the principle of the 12 steps and no possibility of spending one single moment alone in the cell during the whole day from 7 am to 10 pm.

In a lot of different ways there is no doubt it works. People are well functioning, having a constructive time together without taking drugs and without breaking the law. Besides they learn a lot about themselves and about others. They learn to understand their dependency of the drugs in the same way the treatment concept understands it. They recover physically and mentally.

There exists no authoritative definition of the intention behind the import-block. But immediately below the surface we always find the question: Do they stop taking drugs and breaking the law after a time in the import unit. And this is not an easy question to answer.

What should a relatively small group consisting of people chosen from a bigger group because of their suitability and motivation for exactly this treatment programme be compared to ? And without comparison it is impossible to know if a specific number who stop or don't stop are many or few.

Finishing this short presentation I'll present some descriptive figures about the population I have been studying.

Studying af project which has existed for 5 years and which has had 15 cells for 2 years and 30 cells for 3 years the population can impossibly be numerous.

167 persons have finished 1, 2 or 3 periods in the import block.

The major group is 144 who have finished 1 period. 88 (61 %) of them have finished the period successfully while 56 (39 %) were expelled, mainly because of diciplinary reasons.

63 persons have been followed for 2 years and out of these 41 (65 %) were sentenced to imprisonment (10 % conditional) within the first 2 years after their release. These are the most comparable figures because most recidiv research has 2 years as the follow up period.

If we look at the group which has been followed 1 year - to have a bigger group - 67 (63 %) out of 107 fell back into new criminality and imprisonment. Out of the same group 61 persons went into further treatment for their drug dependency after the release. And 38 persons returned to as well treatment as criminality. 29 of them (76 %) went to treatment before they were sentenced. This might be interesting in the testing of a hypothesis of drug dependency being a criminogen factor. But the registration of the treatment data is not too convincing. Almost everybody leaving the import-unit continued in some kind of treatment. And as far as it was possible to follow sometimes this treatment was registret as "new" treatment after release and sometimes it was not.

Compared to other - but older - research in Denmark with a follow up after 2 years, average recidiv for people having served under secure conditions was 67 % (both addicts and not addicts) and for the addicts placed in a relevant institution to serve the sentence it was 53 % (this group is given the opportunity because of the optimistic prognoses). The really "heavy" group, namely those who were denied to leave the prison on parole had a recidiv on 83 % (addicts and not addicts).

3 factors have a significant relation to recidivism after release:

1) the less number of sentences before the one which takes you to the import-unit the less recidivism

2) the older you are when you arrive to the import-block the less recidivism

3) if you fullfill the stay the first time you are in the import-block you are more likely *not* to be sentenced again.

WHO NEEDS VICTIM SUPPORT?

Svensson, Kerstin

In my presentation I will present some outlines of an ongoing research project on Victim support in Sweden. The main ideas in my presentation could be transferred to the ideas of victim support even in other countries.

My research concerns the ideas that Victim Support is based on, how the volunteers are organised and how the support is carried out. In this project, the idea of need is central. Since Victim Support is a rather new phenomenon there is a lot of talk about the importance of the organisation and of the work done. This makes the stories about need central. To be in need or to manage is a question open for negotiation. The concept of need is depending on the interpretation of the one who defines it. When a person is a victim of crime, her needs' can be defined from many different perspectives. In the same way the societal needs of an organisation for Victim Support can be described in different ways.

I will present to you how these needs occur in stories about victim support and then discuss how it could be a practise so loved by everyone and what consequences it may have. First, I have to tell you about my study and something about Victim Support and the role of the organisation in the Swedish welfare state. Then I will present some interpretations of stories told by persons involved and finally conclude with a description of who it is that benefits from this practise and answer my question – who needs victim support.

Empirical base

My presentation is based on this research project that is financed by The National Crime Victim Compensation and Support Authority in Sweden. The material is collected and consists of: A survey based on interviews by phone to all victim support organisations in Sweden about how the work is organised. 105 organisations participated. Interviews about how the support to victims is carried out. 28 persons where interviewed: thirteen volunteers, four employed, six supported victims and five partners (from the social service, the police and the women's support service). Further there is a vignette study where 33 volunteers judges 32 cases.

My work in this project is ongoing, for the moment I am working with the material and unfortunately I haven't yet had the time to analyse these vignettes, so my presentation will be based on the survey and the interviews.

In these interviews persons have told their stories about victim support, what they do and what they think about it. Charles Tilly (1999) has stated that stories reveals relations and if we listen to stories told about a practise, we can find out how the relations are formed in this practice. Therefore, the interviews are based on stories about what they do and how they do when they practise victim support. Before I go into these stories, I will give you a picture of how the work is organised, nationally and locally.

Victim Support in Sweden

Victim Support in Sweden started in two cities in the mid 80's and is now organised throughout the country. The support is given through Non Governmental Organisations who are connected in a national organisation, which gives guidelines for practice and education of volunteers.

In Sweden, with a history of a strong welfare state, this arrangement with a wide spread voluntary organisation taking care of questions connected to the Criminal Justice System, is a new way of organising social work. Last year, the Social Service Act was changed and there was added a section that says that the Social Services should care for the victims of crime, especially for women and children. Though, in practice, it is still the NGO's, that are doing it.

There are a bit more than 100 victim support organisations. It is not easy to tell an exact number, because there are a lot of changes in these organisations. Some small local organisations go together and form bigger units, some large organisations divide themselves into smaller and in some places in the countryside the local organisation has no activity, at least not any activity aimed at victims of crime.

As a whole about 8 000 persons and companies are members in local victim support organisations. A bit more than 1 000 persons are engaged as volunteers. In each local organisation there can be between 3 and 25 volunteers, most often about 10. Half of the organisations have an employed coordinator; the others coordinate their work through either an unpaid coordinator or through continuous meetings in the group of volunteers. The employee is sometimes skilled social worker, sometimes administrator, and there are also a lot of other competencies represented among the employees. The volunteers is most often retired, it is only six organisations that do not have any person over 65 in their group of volunteers.

The volunteers have their background in a wide variety of professions; there are psychologists, skilled social workers, lawyers, teachers and headmasters, clergymen, doctors, nurses, and policemen. All of them are professions that have met victims in their work. But there is also people who work, or have worked, in almost every other area: construction workers, farmers, industrial workers, hairdressers, accountants, clerks, chauffeurs, house-wives, designers, air hostess', students, unemployed and so on. Even if there is a wide variety, there is a core of profession from social work and health care. After that persons with professional experience from the justice system and from schools also are very frequent as volunteers in victim support. These volunteers share the same interest in helping victims. No matter what they have had as a profession, the ideals for the supporting work are transferred from the social work.

The contact between victim and supporter

The most common way to deal with a victim in victim support starts with a note from the police. When Victim Support has got the name of a victim, they contact them to see if they need help. The volunteer phones and presents her or himself by first name and that she phones from Victim Support. Then they tell the person that she had heard about the crime from the police and that she can offer help. After this first contact by phone, three forms of contact can occur.

1. The once-only contact

In this first and often only contact, the volunteer presents herself and tells what the Victim Support can offer. They support through listening, but they can also advise the victims where to turn in a lot of questions. The know how the justice system works and can give information about it, they can give advise concerning compensation and other legal questions and they can recommend the victims to contact the right organisation or authority in a lot of other questions.

In this first contact they inform the victim about this, and they talk with the victim about what happened and how he feels about it. Most commonly, the victim that has been phoned decline help and says that he can manage. Then the volunteer tells him that he may phone back if he wants to talk and that he then shall ask for the person he now is talking to. The first conversation, or the once-only contact, mainly has the character of *information.*

2. The repeated contact

Some of the victims phone back and some want some specific help. There are also volunteers that ask, in the first conversation, if they may phone back. They do it because they think that the victims' problem might be bigger than the person himself considers it at the moment. This repeated contact most often concern practical matters. A victim can ask about the criminal justice system, or need help to fill in an application form for compensation, or just wants to talk to someone. This repeated contact usually happens two to four times and is

finished when the case has been in court. This repeated contact has the character of *counselling*.

3. The continuous contact

In many local victim support organisations volunteers have continuous contact with some victims. In my survey I was told about many contacts that lasted for several years, without new incidents. It can be cases where the offender is not found, or other reasons that there won't be any trial. It can also be cases where the victim is very worried. When the volunteers talks about the continuous contact, they describe it in terms of the need of the victims. But it also happens that this long lasting relationship is described as need of the volunteers. The continuous contact is described as a *relationship*.

The persons that turns into victims in need of the continuous contact are most often the ones who fits the description of the "The ideal victim" that the Nils Christie (1986) has described. By an ideal victim Christie means a person (or category of individuals) who, when hit by crime, are most readily given the complete and legitimate status of being a victim. The status of an "ideal victim" is determined by means of at least five attributes:

* The victim is weak. Sick, old or very young people are particularly well suited as ideal victims.
* The victim was carrying out a respectable project, as caring for her sister.
* She was where she could not possibly be blamed for being, as in the street during daytime.
* The offender was big and bad.
* The offender was unknown and in no personal relationship to her. (Christie 1986, p 19)

A strong person will not be a victim in need of a continuous contact, neither will the person who were part of the crime and in the wrong place when it was committed.

Another way to regard this could be through the concept of "sympathy". Clark (1987) has discussed how victims are understood by the two concepts "sympathy margins" and "sympathy etiquette". A sympathy margin is the amount of leeway an individual has for which he or she can be granted sympathy and not blamed. Ideal victims have broad sympathy margins, but in order to gain respect they also have to consider the sympathy etiquette that says that you may not claim too much sympathy. Neither can you claim too much sympathy and the sympathy has to be claimed under appropriate circumstances. And finally, when you get sympathy, you are supposed to regard it as a gift and reciprocate to others.

An ideal victim with broad sympathy margins

I will present an example from one of the victims I talked to. It is a man in his late 20's. He is an immigrant, living by himself and had recently got a good job. He has no criminal record and no "social record". His first victimisation was when he was assaulted by unknown men, because of unknown reasons. He had a lot of medical care after the assault, and when he was just recovering, he became victimised a second time.

He was on his way home after work an early Friday night and stopped by his brother's shop. The brother was sitting eating in the room behind the shop, so he said that he could take care of business so that the brother would get a break. Then the shop was robbed by unknown and armed men and he was shot.

When I met him one and a half year after this second victimisation, he was still in medical care. He had spent a long period in hospital and he had long lasting physical wounds. He was also still in a state of shock. He was not angry; he was merely confused and sad. He did not believe in other people and he did not expect help. Therefore he was very grateful to all people that had shown him sympathy, his newly found friends from the work place he had not really had the time to get acquainted to, his family and his contact in victim support.

The story of this man shows us the picture of the ideal victim. He is weak in society because of his status as immigrant and because of the fact that he has not yet found his place in the labour force. He is respectable because of taking care of his brother's shop, so that the brother would get a break. He could not possibly be blamed for being in the shop on the time of the robbery. The offenders were big and bad because they were armed and further, they were unknown to him.

This victims sympathy margins are broad and he regards the sympathy etiquette. He has no record of criminality or social problems. He is a good worker. He is a good brother. He does not claim or expect sympathy and when he gets sympathy, he is grateful. This victim is really a person in need of support; he is an ideal victim with broad margins of sympathy. No one can say that he does not need or deserve help and support. But all victims are not so well fitting into the picture of appropriate needs.

Prioritized categories

In Sweden the national organisation for victim support this year talks about certain categories that should be given special attention. These categories are women, young persons, disables, immigrants and homosexuals. That means that the category that they should not pay so much attention to is a Swedish, middle aged, heterosexual man who has no handicap, not physically, not culturally and not socially. This man is the normal man in society, and he can not be regarded as a victim in need.

In this idea of the ideal victim and the need of the victims the ideas of traditional social work is transferred. Traditionally social work has aimed towards individuals and groups that are socially excluded in one way or another. It is the poor, drinkers and drug misusers, maltreated children, criminals and so on. When the Victim Support strives to be an organisation in the field of social work, they have to create the victim as a person in need. This need is constructed as need from an underprivileged group, a weak category.

Persons that do not fit in the picture of an ideal victim because they have a strong position in the community, when they are victimised, the victim support acts differently. One volunteer told me that a well known, influential politician in the city had been a victim of burglary. When the message came from the police, the volunteer was quite sure that this was not a person in need of help, but anyway, she phoned him, informed him about victim support and asked if she could be of any help. Of course he said that he could manage by himself, but he also said that he was very happy to hear that there is help to get for the ones who need it. This was the main thing for the volunteer. Since she knew that he did not match the distinguishing feature for a needy victim, the phone-call was made just to point out that the organisation did a good job and to show this man with influence that they did a good work. He was not seen as a needy victim – his sympathy margins are broad, it is true, but he could not possibly be seen as an ideal victim. He has a powerful position in society and his social status is perhaps even higher than the victim supporters, therefore he could not be ascribed to the category of weak, underprivileged. And when the victim is not weak, it is harder to regard the offender as big and strong. Finally, this man is a representative for the category that victim support should not pay so much attention: he is a man, he is Swedish, he is middle-aged, he has no disability and he is heterosexual.

What a victim may need

The victim shouldn't just be ideal; it is also supposed to have acceptable needs. As a victim worthy of support you have to express the right problem and you have to be interested in the right solution.

The accepted need of a victim is primarily to talk or to ask for help with arrangement in the criminal process. The need of revenge is not an accepted need; ideas about revenge are rewritten as a result of the violation connected to the crime. The victimisation is described as occurring in relation to the offender, but in order to fit into the help given, the victim has to fit into the ideas of the victim that exists within the victim support.

Winkel and Vrij (1998) have stated that the most appropriate need of a victim to regard is his or her wellbeing prior to the victimisation. They describe a model where the police could assess the prior well-being by the simple question: How are you generally doing in life? If the police officer could ask the victim to grade his or her general well-being on a ten-point scale it would be possible to judge if help is needed. Winkel and Vrij says that persons that grade their general well-being as 8 to 10 on such a scale probably can manage by them self. On the other hand, people that grade their general well-being as 0 to 3 might have to severe problems for the victim support to deal with, they need professional care. Therefore, it is persons that put their well-being as 4-7 that should be referred to victim support.

This simple selection instrument could be helpful for the police in their judgement on who they are going to refer where. But in the stories told in my interviews, it is clear that victimisation is made not only by the crime. In the stories about the needs of the victim, it is very common that they describe an unexpected obstacle in the welfare state. The victims need support by the Victim support because the authorities they turned to did not act as the victim expected.

In the stories told, my informants often describe unexpected obstacles in the welfare state as the main problem. They describe their need of help in terms of malfunctioning authorities. Often they start by describing the crime, then they say "… but that wasn't the worst, the worst was when I contacted ...". And then they tell stories about the way the police acted, how the hospital received them, how they where receive by the insurance company, if they where respected by the court or by any other organisation where they tried to get help and thought that they could get help. When they do not get the expected help, they are taken by surprise and the disappointment that follows this surprise is often told as the worst victimisation. They did believe in the welfare state, they thought that there would be help if they needed, and now they do not get that help. That is often regarded as a bigger problem than the crime it self, because they were aware of the possibility of being a victim of crime. In that way, the expectations affect the experience of being a victim in need of help.

The expectations of the welfare state are not unanimous to the reality of Sweden today. The withdrawal of the welfare state leads to surprises among the citizens. When the expectations are based on a form of welfare system that does not exist any more, the individual is not received as expected. The withdrawal of the welfare state is the base for the organisation of victim support. The volunteers have created their task in this niche that revealed when the welfare state was rearranged. In that way, the changes in the welfare state are the prerequisite for the victim support organisation (cf. Tilly 1999).

A victim career

It is possible to talk about a victim career. You have the first victimisation when the crime is committed, the second when you meet the justice system and seek help in the welfare state. As a third step, when you get in contact with the victim support, you have to fit in their picture of a needy victim. The person that matches this picture belongs, as I told earlier, primarily the weak category, perhaps they are slightly marginalised too. They have a few real friends, they have a loose connection in the community, weak knowledge of their rights and they do not know how to navigate in the organisational landscape. But, they do not beg for help and they do not claim sympathy. They accept the possibility to pronounce the right need and they are grateful for the help given, they consider the help as a gift.

Some of the volunteers even describe the situation when the grateful victim, maybe the old, kind, lonely women, comes to victim support with a cake as a way to say thank you for your gift, your help. This is how many of the volunteers describe the reward in their task. This is one way of understanding the relationship between the supporter and the victim, but there are a wide variety of ideas on how to arrange practical victim support. All of the ideas derive from social work, but even social work is a multi-faceted practise.

Depending on the main ideas of the local victim support and of the specific volunteer, the relationship between the helper and the helped turns out differently. We can regard social

work as built on four forms of relationship, each one of them with different foci, based on different ideas and with different roles for both the helper and the helped (Svensson 2002).

Form	Focus	Idea	The role of the helper	The role of the person in need
Self help group	the problem	to be there	participant	participant
Treatment	the method	to be useful	expert	applicant
Philanthropy	the helper	to be good	giver	receiver
Bureaucracy	the organisation	to be right	employee	citizen

In victim support in Sweden there are some attempts to develop self-help groups and to establish victim treatment, but mainly the practise is described as based on philanthropic or bureaucratic ideas. Stories about the organisation and the work done are often based on the bureaucratic form, while stories of the actual work carry the form of philanthropy. In this relationship, the helper and the helped form an unequal unity. This inequality is imported with the model from social work and by transferring it to victim support it becomes part in conserving inequality (Tilly 1999). As Goffman (1959), among others, has pointed out, when persons act in their roles, they develop their identities and their self-esteem. Here, the volunteer can develop his or her picture of being a strong and good person by giving help to the needy victim. The victim, on the other hand, can develop a picture of him- or herself as an inferior person in need of help and in need of being taken care of.

This way, the volunteer's need of doing well and being good becomes a forth step in a victim career. Kennedy (2002) has discussed the victim career in comparison to the ideas of a criminal career and labelling process and concludes that the mechanisms are the same. In both cases the social reaction to the status influences the development of how one understand ones identity.

This victim career only concerns a small part of all victims, though. As I told earlier, only a few persons go in to continuous contact in victim support. Most Victim support organisations are aware of the fact that it is not only a good thing to connect closely to victims. They strive for people to get appropriate help in other organisations, and then as persons, not as victims. That means that there are a lot of volunteers that act in the niche the welfare state left in order to recreate the function of the same welfare state, the same function that has made it possible for them selves to get a role as a good and helping person. Nevertheless, there are always individuals among the volunteers that ties the victims close so that the volunteer has someone to care for. Because the volunteer needs victim support. The volunteer is a person in need of being needed, which is why he or she got engaged in the first place.

Conclusion – who needs victim support?

In the meeting between the helper and the helped two persons interact in a niche created where the welfare state left space. Victim support developed in an arena where the welfare state used to act. Therefore the need of victim support has many sources. If we look at it from the individual perspective, both victims and volunteers need victim support. If we look at it from a structural perspective, both the social welfare system and the criminal justice system need victim support.

Victims of crime that are in a weak position in society have broad sympathy margins and fit the description of an ideal victim can get help and they need the help. Volunteers that are healthy and strong persons in need of a task and feed-back through doing something for others get a task in victim support. The criminal justice system, that need victims that can tell their stories in the courts and give their witness need supporters to encourage victims to believe in justice and to dare to tell their stories. The social service need the victim support organisation to handle of this new category, "victims", that they are legally responsible for,

but do not have any resource or knowledge to care for. The conclusion of this is that victim support is needed by all the welfare system.

In that way, you can say that everyone, both in an individual perspective and in a structural perspective benefit from this organisation. But is there really a win-win-situation? Can everyone win? Isn't it necessary to have a looser when there is a winner?

We can turn the picture and look at it from the other side: As long as there are weak persons in society there is a niche for helpers. As long as there are strong healthy persons that feel that they can not contribute enough to society, there is persons who can act as helpers. When the welfare state withdraws, there is room for voluntary organisations complementing the governmental organisation. And when the volunteers create their organisation and fulfil their task they get a role themselves, they give a role to the weak person and they legitimises the withdrawal of the Welfare State

Depending on what perspective we put on this, we answer the question differently. It is a question of how we regard the idea of the relations between individuals and between individuals and society.

References:

Christie, N (1986) The Ideal Victim, in Fattah, Ezzat A. (ed) *From crime policy to victim policy : Reorientering the Justice System,* pp. 17-30

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

Goffman, E (1959) *The presentation of self in everyday life.* New York: Doubleday

Kennedy, J.S (2002) Victims of crime and labelling theory: a parallel process?, in *Deviant Behavior: An Interdisciplinary Journal*, 23, pp 235-265.

Svensson, K (2002) Brottsoffer och stödpersoner. En kartläggning av Brottsofferjourerna i Sverige 2002. Meddelanden från Socialhögskolan. Lund: Lunds universitet.

[Victims of crime and volunteers. A Survey on the Swedish Victim Support Organisation 2002.]

Charles Tilly (1999) *Durable inequality*. Berkeley, Calif. ; London : University of California Press

Winkel, F.W. and Vrij, A. (1998) Who is in need of victim support?: The issue of accountable, empirically validated selection and victim referral, in *Expert Evidence* 6, pp. 23-41.

PERCEPTION OF SAFETY AND CRIME IN THE NEIGHBORHOOD

Thorisdottír, Rannveig

Fear of crime has been defined as an emotional response of dread and anxiety to crime or symbols that a person associates with crime (Ferraro, 1995). Fear is then not necessarily associated with likelihood of victimization but rather perceived vulnerability towards crime as many more people are fearful than are actually victimized (Evans and Fletcher, 2000). Research has for example shown that women and the elderly are more likely to report fear of crime than men and those who are younger. This has been related to feeling of self-perceived vulnerability to victimization and its more serious outcome. That is if they are for example attacked, the physical threat is often greater for women than men and those who are younger (Skogan, 2000b).

The link between individual victimization and fear of crime appears to make sense but results from empirical studies have been mixed. Rountree (1998) has for example pointed out that individuals who have been victims in the past will estimate a greater risk of becoming a victim again and will as a result feel a greater fear of crime. This linkage has been identified in some studies (Rountree, 1998; Skogan, 2000b) but others have shown little or no connection between fear of crime and victimization (Helgi Gunnlaugsson, 2000).

Social vulnerability has as well been linked to fear of crime (Taylor and Hale, 2000) but this linkage has proven to be weak and might as well be related to the fact that those who are socially vulnerable are more likely to live in dangerous neighborhoods (Ross and Jang, 2000).

This refers to the linkage between fear of crime and the context of the neighborhood. According to Taylor and Hale (2000) theory on perceived disorder implies that socioeconomic status is associated in several ways with fear. Lower socioeconomic status is believed to have an indirect effect on fear through impact of perceived problems. For example, living in less stable areas with co-residents who may be less likely to observe the norms of public order than residents of higher socioeconomic living in more stable areas. Limited police protection or diversity of residential areas can as well have a direct affect on the vulnerability of residents of lower status areas and thus they may be more fearful.

The theory on social disorder also assumes that level of crime can contribute directly to increased fear but as well indirectly through increased perception of problems. That is higher crime rates may be accompanied by higher rates of other disorderly behaviors (Taylor and Hale, 2000). Research on relation between levels of crime and fear has thus indicated that people who live in crime-ridden areas are more fearful then those living in low crime areas (Rountree, 1998).

Earlier research on fear of crime in Iceland has indicated that women and the elderly are more likely to report fear of crime than men and those who are younger (Helgi Gunnlaugsson, 2000; Margrét Lilja Guðmundsóttir and Rannveig Þórisdóttir, 2001). Research has also shown that people living in the Reykjavik area are more likely than others to report fear of crime (Gunnlaugsson and Thorisdottir, 1999) but (a) connection between fear and victimization has not been established. Prior research on fear of crime has not yet examined the effect of neighborhood context on fear of crime, probably because the Reykjavik area is rather homogeneous and a visible difference between neighborhoods is not obvious.

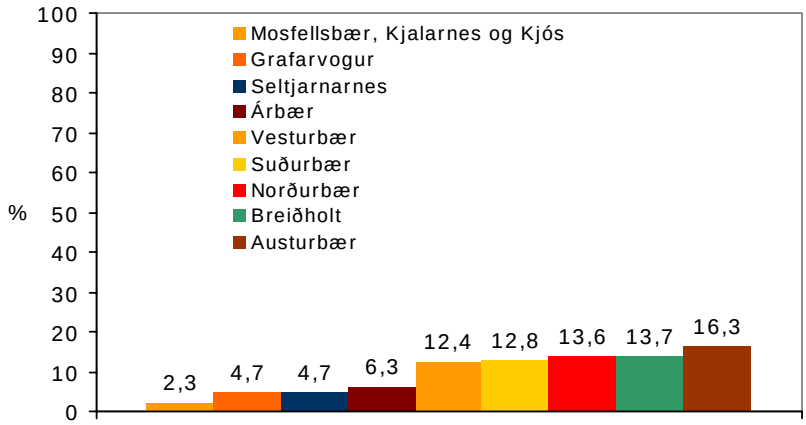
In this regard it is interesting to examine if the level of reported crime in different neighborhoods affects fear of crime in the Reykjavik area. Here I look at the correlation between fear of crime and factors that have been related to perceived vulnerability and fear and crime level.

Data and Method

This study is based on a telephone survey conducted in the summer of 2001. 1.729 individuals living in the district of the Reykjavik police aged 18 to 80 took part in the study. A stratified disproportional sample was drawn from nine neighborhoods so the data is weighted here. Fear of crime was measured on a five level scale where people were asked how safe or unsafe they felt walking alone at night in their own neighborhood. Measurement of perceived vulnerability is based on gender, age, family income, education and number of people in the household. Level of crime is based on the official number of registered offences against the penal code divided into nine neighborhoods based on the official division.

Results

On the whole around 10% of participants said they felt somewhat or very unsafe walking alone after midnight in their own neighborhood. Graph 1 shows the distribution between neighborhoods. As shown, the difference is rather large, level of fear ranging from 2,3% up to 16,3%. In general people living in neighborhoods that could be described as suburbs were less likely to report fear than those living closer to the Reykjavik center.



Graph 1. Somewhat or very unsafe by neighborhood.

Table 1 shows how individual factors are related to fear of walking alone after midnight in the neighborhood. Similar to prior research age and gender are significantly related to fear with women being more likely to report fear than men and those who are older, though fear does not increase very much with each year. Social vulnerability, measured here as income and education controlling for number of people in the household is not significantly related to fear of crime according to this model. Number of people in the household is on the other hand related to fear, the negative direction indicating that fear is associated with living alone. Victimization in the last 12 months is as well positively related to fear, indicating that experience in the last 12 months intensifies fear.

Table 1.

	b	**SE**
Constant	2,240	0,133
Age	0,0063***	0,002
Gender (Male=1)	-0,714***	0,054
Education	-0,0218	0,022
Income	-0,0430	0,032
Number of people in the household	-0,505*	0,022
Victimization	0,159**	0,062

R2= ,148 SEEst=0,962 *p<,05 **p<,01 ***p<,001

To add some measurement of neighborhood context, the number of registered crime in the neighborhood is added here into the model, controlling for the number of inhabitants in the neighborhood. Relation between fear and factors measuring vulnerability does not change much due to this change. Still, level of crime in the neighborhood is significantly related to fear of crime though crime rates seem to have to increase quite a lot to change the level of fear. Number of inhabitants in the neighborhood does not seem to have any relation to fear, since other factors such as number of inhabitant's pr square feet and numbers of households have shown stronger relation to fear.

Table 2.

	b	SE
Intercept	1,901	0,163
Age	0,0067***	0,002
Gender (male=1)	-0,715***	0,053
Education	-0,0286	0,022
Income	-0,0423	0,029
Number of people in household	-0,0318	0,23
Victimization	0,142*	0,062
Registered crime	0,000144***	0,000
Number of inhabitants	0,00000577	0,000

R2= ,161 SEEst=0,955 *p<,05 **p<,01 ***p<,001

Discussion

Based on the results we can see that the fear of crime in Reykjavík fits the general theory and previous research on fear in many ways. Women and those who are older are more likely to report fear and similar to Rountree´s (1998) theory, those who had been victims of crime in the last 12 months were more likely to report fear of crime. This constitutes that victimization influences fear, but as this study only measures a single point in time it is very difficult to assume that victims become more afraid after victimization because other factors can explain higher levels of fear among victims (Schneider, 2000). Factors related to social vulnerability are not significantly related to fear, which is not surprising due to the homogeneity of Icelandic society and limited connection found between education and income has made use of economic measurements difficult in Icelandic studies.

Number of registered crimes in the neighborhood was used here to measure if the neighborhood context has any relation to fear of crime. As was shown, the level of crime is significantly related to fear, supporting the notion that the neighborhood context counts in evaluation of fear of crime in one´s neighborhood. This is very important for further research in Iceland where as until now the focus has mostly been on individual factors.

References

Evans, J., E, and Fletcher, M. (2000). Fear of crime: testing alternative hypotheses. *Applied Geography, 20,* 395-411.

Ferraro, K., F. (1995). *Fear of crime. Interpreting victimization risk*. Albany: State University of New York Press.

Gunnlaugsson, H. and Thorisdottir, R. (1999). Kriminalitet & tryghedsfølelse i Island. Grønland − på vej mod et nyt straffesystem? *Rapport fra NSfK´s 41. forskerseminar Illulisat, Grønland 1999.*

Helgi Gunnlaugsson. (2000). *Afbrot og Íslendingar.* Reykjavík: Háskólaútgáfan.

Margrét Lilja Guðmundsdóttir og Rannveig Þórisdóttir. (2001). *Afbrot og öryggi: Viðhorf íbúa umdæmis lögreglustjórans í Reykjavík.* Reykjavík: Lögreglustjórinn í Reykjavík og Borgafræðasetur.

Ross, C., E. and Jang, S., J. (2000). Neighborhood Disorder, Ear, And Mistrust: The buffering Role of Social Ties with Neighboors. *American Journal of Community Psychology, 28(4),* 401-420.

Rountree, P.W. (1998). A reexamination of the crime-fear linkage. *Journal of Research in Crime and Delinquency, 35(3),* 341-372.

Schneider, A. L. (2000). Methodological Problems in Victim Surveys and their Implications for Research in Victimology. In J. Ditton and S. Farall, *The Fear of Crime*. Aldershot: Ashgate.

Skogan, W. (2000a). Fear of Crime and Neighborhood Change. In A. J. Reiss, Jr., and M. Tonry, *Communities and Crime*. Chicago: The University of Chicago Press.

Skogan, W. (2000b).The Impact of Victimization on Fear. In J. Ditton and S. Farall, *The Fear of Crime*. Aldershot: Ashgate.

Taylor, R., B. and Hale, M. (2000). Testing Alternative Models of Fear of Crime. In A. J. Reiss, Jr., and M. Tonry, *Communities and Crime*. Chicago: The University of Chicago Press.

DRUG-FREE UNITS IN THE TREATMENT OF DRUG ABUSE AS EXPERIENCED BY PRISON INMATES

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Abstract

Background: The aim of the study was to examine drug-free units (DFUs) as experienced by inmates in Finnish prisons. Methods: Design of the study was a survey, presented to the inmates as an anonymous, self-administered questionnaire. Results: The results suggested that DFUs may offer a supportive environment for those wishing to abstain from drug use. The results showed that the inmates preferred action-based programmes, consisting of practical activities such physical training and food preparing. In particular, positive experiences were related to the 12 Step Program. However, some prison inmates regarded the composition of treatment and departmental groups as well as drug testing procedures unsuitable.

1. Introduction

The present study deals with the role of drug-free units (DFUs) in Finnish prisons, as experienced by prison inmates. In Finland nearly all of the 17 closed prisons, in which inmates serve their sentences without parole, include a drug-free unit. At drug-free units, a variety of drug treatment and rehabilitation courses are run, based mostly on cognitive behaviour theory, group therapies and community-based models. In 2002, about 2000 inmates took part in drug treatment and rehabilitation, out of which about 10% at drug-free units.

Experience from Finland and abroad shows that prison culture often counteracts drug treatment efforts in prison. Thus, while offering a possibility to serve one's sentence without committing a crime related to drug use, drug-free units suit the aims of the prison (Stöver 2001). In some cases, DFUs may offer an inmate a treatment contact that may otherwise be missing in the prison environment (Turnbull & McSweeney 2000).

Typically, a rehabilitation cource at a DFU lasts 4 to 6 months, consisting of group activities, life skills training, sports, food preparing and work as well as AA and NA groups. Inmates at DFUs are expected to refrain from drugs, alcohol, and medicines without a doctor's prescription and crime. Other requirements are a successfull drug treatment program in prison and at least a three-month abstinence period without drugs and medicines such as sleeping pills and tranquillizers as well as substitution treatments.

The results of earlier studies seem to indicate that successful substance abuse programmes in the prison setting include a theory-based, and empirically tested treatment programme, a focus on criminal behaviour among inmates, and drug counsellors, who are able to deal with the problems of inmates. Finally, a follow-up of inmates after the release is needed to document the effectiveness of the substance abuse programme (Stöver 2001).

However, since drug treatment programs are often heavily context-bound, i.e. they reflect prison and treatment practices, the transfer of programs to another culture does not necessarily bring the same results. Even structured programs may vary according to local factors and the motivation of the participants. Finally, it needs to be noted that all DFUs do not necessarily include drug treatment programmes but be more oriented on practical help with daily problems and in preparing for discharge (finance, work, housing) than on treatment.

2. Method and Subjects of the Study

For the purpose of the study, an anonymous questionnaire was designed, consisting of both open and closed questions on the following areas: drug use before and during

imprisonment (this included the drugs used, the ways and frequency of use), the experiences of drug treatment before and at the present drug-free unit and the effect and potential of different drug treatments upon drug use. In Finnish prisons, non-accepted substances include alcohol, illegal drugs, solvents, gases, and medicines used without a doctor's prescription. Permission to the study was given by the Criminal Sanctions Agency.

The questionnaires were distributed and collected by prison drug counsellors, whose role thus was to qualify the intent and purpose of the study, and to encourage the responses. Out of the 40 questionnaires distributed all but one was returned. As a whole the proportion of unanswered questions was low among the respondents, indicating the respondents' willingness to take part in the study.

Reliability, which is a necessary condition for validity, is the extent to which repeated measurements used under the same conditions produce the same result. The validity of answers in surveys about substance use is dependent on the respondents' trusting that their admitting such behaviours would not result in negative consequences. In the present study no other sources such as prison health records were used to check the respondents' answers because of the confidentiality required.

The aim of the study was to obtain a sample of the prison population at the drug-free units in Finland. The sample did not intend to be representative of the prison population in Finland. Inmates at the sampled prison were all DFU prisoners and it is not apparent that the drug use of such a population would be generally representative of the prison population as a whole.

3. Results of the Study

The respondents (n=39) were all Finnish men, with an average age of 31,7 years. Most had attended basic education and were unemployed before imprisonment. Most were imprisoned for the second or third time.

Concerning the types and ways of drugs used during the year before the present imprisonment, the most frequently used drug before imprisonment were cannabis products, i.e. marihuana or hashish, followed by cannabis and alcohol used together, amphetamine, ecstasy, heroin, and tranquillisers. Use of barbiturates, cocaine, LSD, gamma, glues and aerosols was also common, while use of Subutex and solvents was less frequent. In particular, amphetamine, heroin, and barbiturates were used intravenously.

All of the respondents except two had been polydrug users, mostly using alcohol and cannabis together. Cannabis users had used more often other drugs: out of those who had used cannabis, 86% had used amphetamine and 61% cocaine. On the other hand, all those who had not used cannabis, had abstained from using amphetamine or cocaine. Thus, cannabis products seem to be significant in hard drug socialization.

The small number of those who used alcohol as an only substance (n=1) reflects the changing preferences of substances among inmates. On the other hand, the nature of the drug problems before the imprisonment may also be due to the selection of inmates to the drug-free units.

Experiences of drug treatment before the present DFU

Drug treatment before the present DFU had most often taken place in an AA or NA group (21,4%), in a drug-free unit (14,3%), and at the University Central Hospital (9,7%).

According to the respondents, the best drug treatment before the present DFU had been received at the University Central Hospital, and at AA and NA groups. Below one-tenth of the respondents reported that they had managed to stop using a substance before coming to the present DFU.

Staying drug-free at the DFU

The majority of prisoners stayed at the DFU without using drugs. As some respondents put it, the DFU had opened a way to drug-free life, distancing them from the prison drug market and giving them space for dealing with drug problems. Not only did the range of

drugs come to an end but also the availability of drugs diminished. Most respondents (92,9%) reported that the commitment required – to refrain from drugs – was easy to make, which is of significance since most inmates in DFUs had been polydrug users, with a lot of imprisonments, and unsuccessful treatment efforts behind them.

Experiences of Drug Treatment at the DFU

The experiences of the respondents at the drug-free unit were positive as the following accounts show: *'Everyone should have the possibility to carry out his sentence at the drug-free unit'; 'The activities such as preparing own meals and of course different physical activities have been the best'; 'The unit supports and strengthens the decision made to change future life'*; and, '*Drug counsellors are competent'*. Other comments concerned the possibility to see drug problems in a new light: *'The DFU has made me think about my drug problem and life from a wider perspective, namely from the Christian point of view'.*

Positive treatment experiences were mostly related to the 12 Step programme, which was reported to be helpful not only in dealing with the drug problem, but also in creating treatment motivation, enhancing self-sufficiency, and composing the support group. Thus, the 12 Step Programme seems to have avoided labelling prisoners as 'dangerous' and 'desperate', instead the behaviour of the prisoners is used to formulate drug prevention strategies.

Negative experiences at the DFUs were related to drug testing and to the composition of treatment and departmental groups. According to one respondent drug testing could be carried out in a more humane way. Nevertheless, the considerable low number of those dismissed (n=6) from the six DFUs included in the present study due to failures in abstinence during a year indicates that the model of DFUs works in cases when inmates are themselves motivated to refrain from drugs, in particular. On the other hand, some respondents expressed that supervising wards and students should not attend treatment meetings.

Concerning health information, nearly half felt that the program had offered rather little new health information on the effects of drugs, and about one-fifth (21,4%) that this kind of information was not delivered at all. Nevertheless, nearly one-third (32,1%) though that new health information was delivered rather much at the DFU.

In particular, information was reported to be needed on drug abstinence and substitute treatments. Areas of information needed are reflected in the fact that over one-tenth of the respondents (14,3%) had felt abstinence symptoms or illness after quitting drug use. Similarly one-tenth had health problems such as insomnia, hepatis, convulsions, or bleeding due to the previous use of drugs.

4. Discussion

The present study focused on the experiences of in-prisoners on drug-free living in prison. The data (n=39) was collected by self-reported questionnaires, what has been found out to produce reliable data on substance abuse also in the prison setting (Hser, Maglione & Boyle 1999). However, using a diary or an interview as the method of data collection may have increased the reliability of the results.

The results indicated that most in-prisoners felt that to stay drug free in prison was very or quite easy, drug treatment was well organized and the DFU had offered them the possibility to keep away from drugs.The results are of significance, since it is often typical for those in-prisoners who have used drugs to have many health problems, imprisonments and treatment efforts behind them. On the other hand, also those in-prisoners, whose willingness to refrain from drugs is low, need to be offered health education in order to avoid possible damages that may not be repaired afterwards. In particular, in-prisoners with a long history of drug abuse and a high level of criminal activity may find a usual prison department as a better solution for them. Furthermore, immigrant in-prisoners may face many barriers to take part in drug prevention and treatment programmes. These obstacles may include a lack of cultural sensitivity by the prison system, communication problems because of language,

and the failure of prison drug services to organize prevention and treatment for immigrants due to a lack of human or material resources.

Many previous studies have pointed out the missing knowledge – both of inmates and staff – about the effects of unsafe drug use and sex and transmission of HIV and hepatitis. Clearly besides leaflets and other written material about health risks etc. well-structured efforts such as inside/outside collaboration and audiovisual materials are needed to inform inmates about health issues of drug use. The present study indicated that health education messages need to focus on issues related to abstinence and concomitant health problems due to the drug abuse before coming to the DFU.

However, most prisoners seem to need more than just information on health risks. They need practise not to start using drugs again, many need social networks and some interventions in order to deal with social problems such as unemployment and emotional problems. In the present study, the respondents preferred action-based drug prevention, consisting of outdoor activities and food preparing. Thus, the results seem to indicate that the prison environment may well discourage drug abuse, if social support and coping strategies such as leisure activities are afforded.

References

Garzon Otamendi, E. & Silvosa, G. Spanish Report. In R. Muscat (ed.) *Drug Use in Prison*. 30th Meeting of the Group of Experts in Epidemiology of Drug Problems. Strasbourg, 22-23 May, 2000.

Ginsburg, J.I., Weekes, J.R., Boer, Douglas, P. Correctional Service of Canada & Carleton University. *Assessing Treatment Motivation in Alcohol Abusing Offenders Following a Motivational Interview*. Presentation at the 61st Annual Convention of the Canadian Psychological Association, June 30, 2000.

Hser, Y., Maglione, M. & Boyle, K. (1999). Validity of Self-report of Drug Use among STD Patients, ER Patients, and Arrestees. American Journal of Drug and Alcohol Abuse, 25, 81-91.

Stöver, H. *An Overview Study: Assistance to Drug Users in European Union Prisons*. EMCDDA Scientific Report. Cranstoun Drug Services Publishing, 2001

Trabut, Ch. French Report. In R. Muscat (ed.*) Drug Use in Prison*. 30th Meeting of the Group of Experts in Epidemiology of Drug Problems. Strasbourg, 22-23 May, 2000.

Turnbull, P.J. & McSweeney, T. Drug Treatment in Prison and Aftercare: A Literature Review and Results of a Survey of European Countries. In Council of Europe. *Drug-Misusing Offenders in Prison and After Release*. Strasbourg, 41-59, 2000.

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