Table 1. Results of regression analysis, on the likelihood that young people commit crime after completion of schooling, measured in a 2-year observation period.

	β	Sig.	Exp(B)	95 % Interval of Confidence	
				Nedre	Øvre
Eksperimentalgroup	-1,034	,000	0,356	0,207	0,611
Controlgroup	0	,000	1		
Girl	-1,612	,000	,199	,102	,391
Boy	0	,000	1		
Number of charges af sigtelser before[1)]	,122	,001	1,130	1,054	1,210
Constant	,748	,002	2,112	1,320	3,380

1) Both over and under the age of criminal responsibility

The model shows that youngsters that have been enrolled on Christianskolen, has a lower risk of being charge with crime, than the youngster in the control group – the risk is more than half, comparing Christianskolen (0,356) to the control group.

Based on these data, it seems like Christianskolen has a causal effect on young people's crime. In the following, I will look further on that statement.

Discussion of results

Omitted variable bias

According to Meyer (1995:152), in analysis of panel data, there can be events that produce changes as a function of time, for example the economic conjunctures and rates of unemployment. Another function of time that is relevant for this study is age, because that the youngsters becomes older while they are enrolled in the school. Multiple researchers have shown that there is a near cohesion between age and crime, people turn away from crime, as they become older. Age was not significant in the model, but, in the pretest, the age for enrollment, and the length of intervention was not statistical different between the two groups.

Especially historical control groups call for special attention, because of events or period effects that take place during the intervention. This means that there may be alternative explanations for the results and that the control and experimental group perhaps were not operating under same conditions (Meyer 1995:152). In this study, it can be a problem that the general rate of juvenile delinquency in Denmark in general has decreased by 21 pct. from 2001-2011 (Department of Justice 2012).

Another omitted factor is education. There were no access to data on education and employment[1] in the period of observation among the two groups. In

[1] This has not been possible, as education and employment is not in the same way as crime, is recorded in registers, which can be seen how a person was involved in at given dates. In that case, data from the young

Denmark, the number of young people that begin an education after elementary school has increased with 25 pct. from 2001 -2012, and the number of young people that completed an education has increased by 12 pct. (Danmarks statitistik 2013). The fact that many studies prove a near coherence between education and crime, makes a question if education is another omitted variable in the model (Jørgensen et.al. 2012; Nordskovudvalget 2000, Kyvsgaard 1989).

Because that the experimental group were operating in a 'better period', the model is very likely to suffer from upward bias: the estimate of the parameter on the program effect $\beta_{treatment}$ is biased and higher than the true estimate β.

$$\beta_{Christianskolen} > \textit{'the true'}\ \beta$$

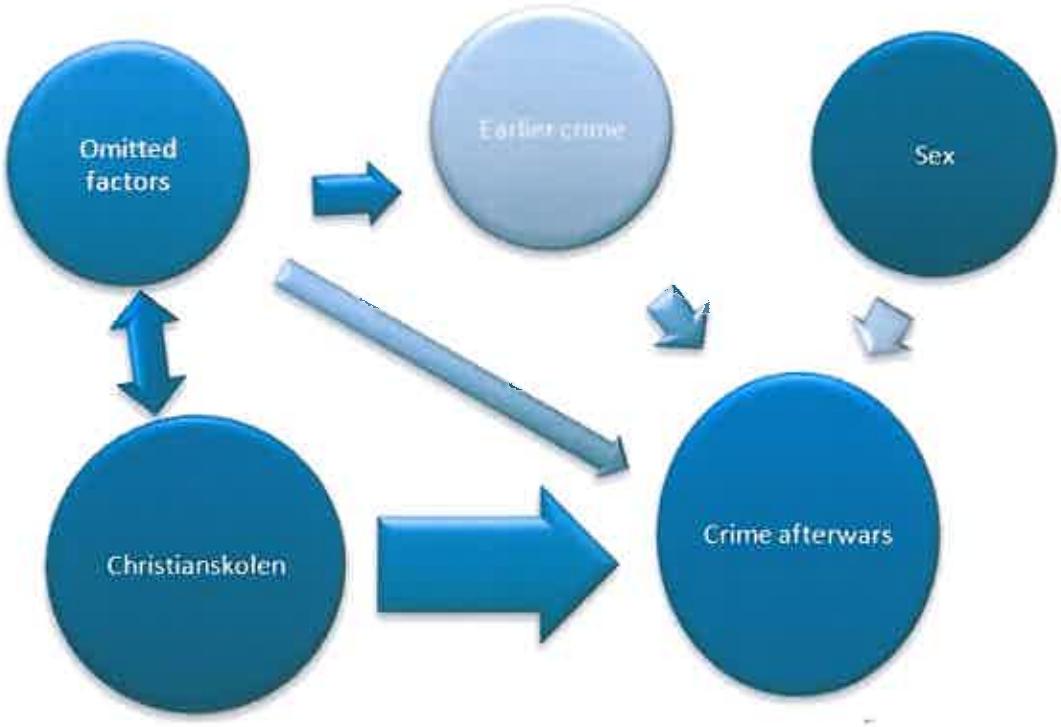
On the other hand, a police and judicial reform was implemented in 2005, and has resulted in more police on the streets. This could mean that the experimental group has more charges than the control group would have had they been "active" in the same time period as the experimental group. This can give a downward bias on the estimate of the parameter β on the program effect.

$$\beta_{Christianskolen} < \textit{'the true'}\ \beta$$

The fundamental problem is, that because of the omitted factors, we cannot isolate the effect of the program, and be sure of there is a causal relationship between the course on Christianskolen and the level of crime afterwards (Meyer 1995:151). That means that we cannot nececarily isolate the effect to the work of Christianskolen, as illustrated in figure 5.

people and their employment situation between the years 2001 and 2010 be extracted on CPR level from Statistics Denmark, which unfortunately has not been the necessary because of financial resources.

Figure 5. The problem of omitted variables in the analysis.



More important, If one of the omitted variables is correlated with one of the parameters (β) in the model, all the parameter estimates ($\hat{\beta}$) will be biased, and the results is no longer valid. I will look closer on that statement in chapter 6.3.

Construction of a new control group through matching

In an attempt to get rid of that bias from time factors, the next step in the study will be to match a contemporary control group among all young people in Denmark that were charged with a crime between 2006 and 2011, with data from the Department of Justice. It would then be possible to construct a control group with the same level of charges and age, and the same gender as the group on from Christianskolen, that were criminal in the same period.

Would we then, get rid of omitted variable bias? If we ask Dunning (2008:289) the answer is no. Even though the researcher demonstrates a perfect empirical balance between the treatment and control group, there is still a strong possibility that unobserved characteristic among the subjects explain some of the difference in outcome between the two groups. In this study, not all factors that influence the level of crime have been possible to identify and take into account, for example, we cannot measure factors such as IQ and parents' social background, or education or employment after.

Selection bias

Not only omitted variable bias is a problem in causal analysis, also selection bias can be a problem.
Referral to the various education programs has been through PPR, and according to PPR, the referral criteria are not changed over time. But there has still been a committee sitting and decided if the youngsters to be referred for the school. Therefore, in principle the systematic differences exist between the two groups which may skew the results.
If we take a look on the model

$$Y_{Crime\ after} = \alpha + \beta_{Christianskolen} + \beta_{Crime\ before} + \beta_{boy} + e_i$$

The error term e_i consist all the unobserved characteristic between the groups. If the data not is perfectly randomized and there is some unobserved characteristic as omitted variables, for example family social background, that affect whether a young person is assigned to treatment or not, there is correlation between the error term e_i and the treatment variable T which mean an *uobservered selection bias*

$$cov\ (T, \varepsilon) \neq 0$$

That is a violation on one of the assumptions for unbiased estimates in ordinary least squares (OLS), namely independence of the regressors from the error term. This correlation between e_i and T will bias the other estimates In the regression, inclusive the estimate of program impact $\beta_{\text{Christianskolen}}$ (Khandker, Koolwal & Samad 2010:26).

Conclusion

In this paper I have presented the study of Christianskolen, and the problems that may arise in causal analysis. It seems like that the model might suffer from omitted variable bias and/or selection bias, which will make all the parameter estimates biased. But, that is a common problem in causal analysis. As Robinson formulate it:

'In a complex social environment there are always going to be unobserved or incalculable variables and undetected relationships and interactions between variables' (Robinson m.fl; 2009:343)

On the other hand, in the pretests on the available variables, there were no significant differences between the two groups before enrollment in the schools. So, regardless of the eventually omitted variables, the difference in the level of crime, after the two year period of observation is still large (330 versus 93 charges), which seems to indicate that there might be an effect.

Another advantage of the study is the mix of different methods applied. Through the qualitative approaches, the interview with the pupils and staff and the ethnographic work at the school strengthens the overall validity of the study. It is then an opportunity to triangulate the explanations from the qualitative data with the quantitative data, and then drawn a holistic picture of the school and its criminal preventive work.

References

Danmarks Statistik 2013: http://www.dst.dk/pukora/epub/Nyt/2013/NR228.pdf.

Department of Justice 2012: Udviklingen i børne-og ungdomskriminalitet 2011. Justistministeriet 2012.

Dunning, T. 2009 : "Improving Causal Inference: Strengths and Limitations of Natural Experiments", Political Research Quarterly, 61: 282-293

Jørgensen et.al. 2012; Jørgensen, T. T.; Kyvsgaard, B.; Boesen Pedersen, A.J. & M. Libak Pedersen: *Risikofaktorer, effektevalueringer og behandlingsprincipper – en forskningsoversigt.* Justitsministeriets Forskningskontor.

Khandker, Koolwal & Samad, 2010: "Handbook on impact evaluation". The World Bank

Kyvsgaard, Britta 1989: ...Og fængslet tager de sidste -Om Kriminalitet, Straf Og Levevilkår. Jurist- og Økonomforbundets Forlag

Morgan, Winship 2010: Counterfactuals and Causal Inference: Methods and Principles for Social Research.

Nordskov-udvalget 2000 : *Placering af indsatte.* Kriminalforsorgen.

Robinson, G.; McNulty, J.E. og Krasno, J.S. 2009 : "Observing the Counterfactual? The Search for Political Experiments in Nature", Political Analysis, 17: 341–357

Wooldridge, J. 2006: "Introductory Econometrics: A Modern Approach"´.

Qualitative interviews and research as narration

Dangerous "others" – on narrative constructions of self

by Linda Gulli

Abstract

In my recent master thesis I argue that the indeterminate sentence of "forvaring" positions its subjects as dangerous prisoners. It is based on interviews with five men who have served a forvaring-sentence, that are now out on parole, or released. In order to qualify for parole from forvaring, the prisoner has to "change" sufficiently to reduce the chance of further crimes endangering other people's lives, health or freedom. As such, the men somehow need to address the position of being dangerous. Lois Presser (2004) argues that a qualitative interview is a situated social setting the narrator can use to position himself as a desirable subject. During the interviews the men told me many stories. The objective of this presentation is not to investigate whether or not the stories they told me were true, but to discuss and highlight the positioning work that took place during those interviews. As I will elaborate, the men's focus on "the others" is one of the narrative strategies made use of – in order to reconstruct themselves as not so dangerous, in relation to those who are.

Introduction

Forvaring is aimed at sane and dangerous offenders. In order to qualify for the sentence the offender must have committed a serious crime endangering other people's lives, health or freedom, there must be a considerable chance of re-offense and ordinary prison cannot be considered sufficient protection of society. Instead of having a set prison time, the sentence operates as a range, such as three to five years, with the possibility of further extensions. The aim is for the offender to change his or her behaviour and adapt to a law-abiding life. The deciding factor for continued detention is whether there still exists a risk of serious crime that qualifies for forvaring.

Following Foucault (1982), forvaring positions its subjects as dangerous prisoners. Words often associated with forvaring are; protection, prevention, treatment, danger, change, risk, security and rehabilitation. Paired with assessments, diagnosis, programs, safety- and control measures, they become a discursive entity the prisoner somehow need to address when constructing his identity.

The interconnectivity between our social surroundings and our identity means that we cannot choose to be anyone we want when we want (Mead 1934; Goffman 2000), but we can make use of various strategies to distance ourselves from the situation we are in.

Prisoners can as such be seen as taking part in a discursive process of trying to recreate and reposition themselves as a particular kind of subject (Ugelvik 2011). In the forvaring context as rational and safe individuals, a kind of subject that is not dangerous.

Methodological backdrop

My thesis is largely based on interviews with five men who have served forvaring that are either out on parole, or thereafter released.[1] All of them had served most of their sentence at Ila fengsel og forvaringsanstalt, a large penitentiary located a few miles west of Oslo built in the years before World War 2. During the war it was made use of as a concentration camp, and after, for those suspected of treason. In the years to follow it served as a national high-security prison, and since 2002 it has been used mainly for forvaring, where approx. 80 % percent of the men serving this sentence in Norway are incarcerated[2].

As I was dependent on, and had established contact with the Correctional Services ("Friomsorgen" – which best translates to something like Correctional Services in Freedom) to get in touch with the men I was also offered the use their offices for the interviews. However, two of the men were reluctant to meet me there, which meant that we ended up making alternative arrangements. Two of the interviews were held at an office belonging to the Correctional Services, one in a housing institution, one at the University and one at the work-place of the man on parole.

I used a semi-structured interview guide, sketching out topics such as their background, views and experiences with parole and how their lives have been after release. I had also written down a few more reflectionary topics relating to forvaring, such as their thoughts on the danger of reoffending, preventive detention and the notion of dangerousness.

The men spoke a lot about their time at Ila. This can possibly be seen in connection with to an idea of what I wanted to hear. As well, preventive detention seemed to be a subject that engaged them, which may be why they wanted to partake in the interviews in the first place. The men also had plenty of time to talk, which resulted in interviews between 2 and 3 hours. Because I wanted to hear what they were interested in, and what they emphasized when asked to talk about their experiences, I often just let them talk without pushing on to complete the interview in a specific, or pre-set, order.

Distorted images?

During the interviews the men told me many stories. Such stories cannot be said to be just talk; instead they play an important role in constructing the world around us. As we talk we make use of our language to reflect on ourselves and to create our own personal representation of reality. Narratives can as such be seen as central to our existence, by telling stories; we continuously recreate ourselves as a specific kind of actor across settings

[1] When I still use the term forvaring prisoner it should be seen in connection to the subject positions discussed. A subject position is considered something else than a role as roles are connected to institutions, subject positions to discourses (Neumann 2001). "Subject positions can therefore also be seen as directly linked to maintaining the discourses, as they do not exist in a world of their own, but within a population that uphold them" (Bruno Latour in Neumann 2001:123, my translation).

[2] Of 181 people sentenced to forvaring between 1.1.2002 and the 3.1.2012, 7 were women. Source: KOMPIS (Berit Johnsen/ Correctional Service of Norway Staff Academy, KRUS).

and time, in doing so, a often rather chaotic mess of experience, is transformed to a far more coherent and culturally legible narrative (Ugelvik 2012).

As Lois Presser (2004) argues a qualitative interview is a situated social setting the narrator can use to position himself as a desirable subject. As such, the interviews can be seen as a tool that can provide valuable insight into the men's construction of self or identity. Through their narrations, the men, reflected on themselves and their situation. The narrations express meaningful events, how they dealt with events leading up to prison, and whilst incarcerated, their connection to those around, their lives after release etc. It enables us to say something about how the men, having served forvaring, construct meaning through their stories. That way we get closer to the content of the discourses and the subject positions available; they provide insight into the similarities and differences between structure and agency.

Analysis based on interviews can be challenging for many reasons. Often there is a distance between language and practice and you cannot be sure if what is said describes the reality. The following is an extract from my thesis.

Well into our conversation Petter looks up and ensures me that what he is saying can be verified, not just that he says it probably should be, because if you don't ten men could just sit here and make up a distorted image that you may end up in the wrong for, believing it is correct, but in reality all you have done is to interview ten idiots who have tried to mislead you, because there can be a lot of manipulators you know... So I don't know how you are intending to secure your sources, he says, but I am a bit concerned with things like that. Yes, I respond, slightly hesitant, unsure how much detail I should go into about methodology. Yes, it's your signature on the paper, he says. Yes, it is, I reply. (Gulli 2012, translated).

Whether Petter's concern with the truthfulness of his and of the other potentially manipulating narrators is a general encouragement or more of a specific one relating to preventive detentionees is unknown. As the quote implies, Petter is concerned with the validity of his statements and how that might affect my work. Hence, he advises me to check and secure my sources, assumingly to make them more general. To me however, the search for truth can be set aside because the focus is to illustrate how the men's narratives reflect an identity, and the dynamics behind these stories (Sandberg 2010).

By seeing identity is seen as a narrative construction influenced by our surroundings one can begin to see the men's stories, not least, as illustrations of ways of dealing with sub cultural expectations that arise from prison specific identity threats (Ugelvik 2011).

Maneuvering cultural moral contrast through narratives

As Goffman(1967) amongst others have argued, prison provides a powerful stigma, a label prisoners often feel compelled to tear off. Along with being a prisoner come the knowledge that society sees you as an outsider, a criminal. Prison has been noted to have many such, often unintended, effects on the individual. As described by Sykes (1958), one of the pains of imprisonment is the ascription of moral otherness. Prison is not just an institution that incarcerates, it also communicates to the world that those imprisoned are different from us, normative and morally (Combessie 2002, Ugelvik 2011). Without this divide, the prison would lose its intended general deterrence. Thus, being a prisoner imply functioning as a cultural contrast agent in the construction of the normal, decent and safe population outside. As well as being dangerous, prison can be said to symbolically position the

forvaring prisoners as a group of "immoral others" (Combessie 2002, Ugelvik 2012). For someone trying to portray themselves in a desirable fashion, the forvaring landscape can thus be a difficult one to maneuver.

Several times during the interviews other well-known forvaringsfanger "showed up" - figuratively speaking - people such as Breivik, that have committed especially violent or murderous acts.

I also believe that there is a group of people that should be held properly in check, no doubt. But society has focused on the wrong individuals at times. And that's what I would like to change. And then you can have stricter terms for those who really are...like that Breivik, who is in serious trouble. (Gulli 2012, translated).

Someone who goes out and kills innocent people on an island, does what he did, you could never trust him, could you. Someone, who has been so cynical, so insane in order to do something like that, there's hardly anyone that would vouch for him... (Gulli 2012, translated).

Foucault (1982) argues that discourses are broader structures of language, determining the possible speech of actors. By distancing oneself from the other, those who need be under control, the men do not oppose the dominant discourse. They are not debating the need to incarcerate someone indefinitely, or saying there aren't dangerous forvaring prisoners, they are just not one of them.

It is the most extraordinary prison. Ila is. Without a doubt the hardest place to serve. You meet all the weirdest kinds in there. I have sat listening to killers who were sat there laughing, thinking it was funny that they had chopped someone's head off, rapped it in plastic and used it as a football afterwards. That was quite scary, you become a bit.. Oh, I thought, but what can you say when you have done something stupid yourself. (Gulli 2012, translated).

When we focus on the stories performative capacity (Presser 2004, 2009; Sandberg 2010), the men's use of the "dangerous others" can be seen as a way of demonstrating one's moral self in a world dominated by the opposite. They can be understood as a way of resisting the symbolic world they inhabit. Foucault (1982) sees power and resistance as mutually constitutive; resistance is as such a part of power and cannot be separated from it. Where there is power there is resistance, he says. Resistance is the component the production of alternative discourses depends on. It creates movement and new patterns. The use of "the other" can be seen in light of this. By distinguishing between myself and the others, those who really should serve forvaring, the men position themselves as someone not so immoral, or not so dangerous. The use of "the other" is therefore maybe not so much a lack of solidarity or some sort of breakage with an inmate code, but a way of distancing oneself from the prison, a narrative way of self-making.

It is therefore both a methodological and substantial point to see the men's stories in light of the specific context they are part out. It illustrates the point of connection between personal and collective experience, and the stories can be understood as a response to being subject to the stigma of a control and power apparatus, even for those no longer incarcerated.

References

Combessie, Philippe (2002): "Marking the carceral boundary: penal stigma in the long shadow of the prison". In: Ethnography. 3 (4), 535-555.

Foucault, Michel (1982): "The subject and power". In: Critical inquiry. 8 (4), 777-795.

Goffman, Erving (1967): Anstalt og menneske: den totale institution socialt set. København: Paludan.

Goffman, Erving (2000): Stigma: om afvigerens sociale identitet. Oslo: Pensumtjenesten.

Gulli, Linda (2012): Å være farlig. Om forvaring, prøveløslatelse og farlighet. Universitetet i Oslo. https://www.duo.uio.no/

Mead, George Herbert (1934): Mind, self, and society: from the standpoint of a social behaviorist. Chicago: University of Chicago Press.

Neumann, Iver B. (2001): Mening, materialitet, makt: en innføring i diskursanalyse. Bergen: Fagbokforl.

Presser, Lois (2004): "Violent Offenders, Moral Selves: Constructing Identities and Accounts in the Research Interview". In: Social Problems. 51 (1), 82-101.

Presser, Lois (2009): "The narratives of offenders". I: Theoretical Criminology. 13 (2), 177-200.

Sandberg, Sveinung (2010): "What can "lies" tell us about life. Notes towards a framework of narrative criminology". In: Journal of Criminal Justice Education. 21 (4), 447- 465

Sykes, Gresham M. (1958): The society of captives: a study of maximum security prison. Princeton, N.J.: Princeton University Press.

Ugelvik, Thomas (2011): Fangenes friheter: makt og motstand i et norsk fengsel. Oslo: Universitetsforl.

Ugelvik, Thomas (2012). Prisoners and their victims: Techniques of neutralization, techniques of the self . Ethnography. ISSN 1466-1381. 13(3), s 259- 277.

Interviewing police officers on the criminal investigation of trafficking in human beings for forced labour

by Karolina Henriksson

Abstract

One of the main problems in combating trafficking in human beings has been how the law enforcement fails to identify it. Another problem that has been found in earlier research is that criminal investigation of trafficking is in itself challenging in many aspects. In order to achieve greater conformity in the investigation of trafficking and corresponding crimes the National Police Board issued guidelines in spring 2012.

The paper is based on my masters thesis (in progress) which covers three main themes: the process of criminal investigations concerning trafficking in human beings for forced labour; the challenges and characteristics encountered in the criminal investigation of trafficking for forced labour and; the effect of the National Police Board's guidelines. The focus of the paper is on the methods used in this research and the impact of my position as a researcher in the police organisation. The main material used is based on interviews with five police officers that have conducted criminal investigations of trafficking for forced labour. The interviews have been carried out as semi-structured qualitative interviews and followed in advance determined themes which had been chosen based on earlier research results on the subject. Reiner describes the possible positions of the researcher in the police organisation as *inside insider*, *outside insiders*, *inside outsiders* and *outside outsiders*. My position is closest to *outside outsider* with some elements of *inside outsider*. In this paper I will elaborate on my position and its impact on the research.

Background

Human trafficking for forced labour is a type of modern day slavery where a person, who due to for instance family circumstances or an employment relationship, is in a dependent position of the trafficker or in a vulnerable state. The trafficker abuses his position of power and controls the victim for instance by restricting his or hers freedom, by threatening or by using mental or physical violence. In addition to forced labour, the purpose of the exploitation may also be sexual abuse, exploitation of a victim to a procuring offence or other demeaning circumstances, such as forced marriage or removal of bodily organs. (See e.g. United Nations 2000 & 2004).

The idea for this master's thesis came when I was a trainee at the National Investigation Bureau for one month. The unit where I was positioned was at the moment investigating a case on trafficking for forced labour. The police officers felt that it was a difficult case to investigate and that more research on trafficking was needed. The difficulties related to identifying victims have also been found in previous research (see e.g. National rapporteur of trafficking in human beings. 2010 & Jokinen, Ollus, Viuhko. 2011). The police have often been criticized for not seeing trafficking victims. Earlier research has furthermore indicated challenges related to the investigation and motivational issues among the police force (see e.g. Jokinen, Ollus, Viuhko. 2011 & Alvesalo, Hakamo,

Jauhiainen, Virta, 2009). In order to achieve greater conformity in the investigation of trafficking and corresponding crimes the National Police Board in Finland issued guidelines in spring 2012.

Research questions and method

The research covers three main themes: the process of criminal investigations of trafficking in human beings for forced labour; the challenges and characteristics encountered in the criminal investigation of trafficking for forced labour and; the National Police Board's guidelines. The research attempts therefore to describe the criminal investigation of trafficking in human beings for forced labour, highlight the challenges and characteristics therein and evaluate the National Police Boards guidelines, which can be seen as a tool to overcome the challenges in the investigation of trafficking.

There are three main research questions:

The first research question relates to the process of criminal investigations of trafficking in human beings for forced labour. How is a criminal investigation of trafficking in human beings conducted? How does investigation begin and what does it comprehend? The research will examine the criminal investigation on a practical level.
The second research question focuses on the challenges and characteristics. What challenges and characteristics are met in the criminal investigation of trafficking in human beings for forced labour?
The third research question examines the National Police Boards guidelines. What do the guidelines encompass? How do the police officers perceive the guidelines?

The main material for this research is interviews with police officers. Five interviews with police officers that have conducted criminal investigations of trafficking for forced labour have been carried out. The aim was to interview so called key experts on criminal investigation of trafficking for forced labour. The interviewed police officers had conducted investigations in cases with strong indicators for trafficking in human beings for forced labour and came from different units and different parts of the country. The investigation of trafficking for forced labour is in Finland not concentrated to any specific units. Therefore, the police officers selected to the interviews were specialised in investigating different types of crimes (e.g. economic crime, organized crime and immigration). The names and contact-information to the interviewees were mainly found in the pre-trial investigation materials that I had access to, but also through snowball sampling.

The interviews were carried out as semi-structured qualitative interviews and followed in advance determined themes, that had been chosen based on earlier research results on the subject. The themes were among others the initial actions of the investigation, the selection of investigating unit, the determination of the offence, the interrogations, the development of trust between the police officer and the victim, the cooperation between the police and other authorities such as the prosecutor and labour inspectorate, the characteristics of an investigation and the National Police Boards guidelines. Some new themes arose during the interviews and were covered in the subsequent interviews. Semi-structured interviews were suitable for the research since the open themes allow the interviewees to bring up issues that are central in their view.

The position as a researcher of the police organisation

Reiner describes the position of a researcher of the police organisation by using the typology of Brown (1996, cited in Reiner 2000). Reiner presents four different positions. The *insider insiders* are police officers conducting research on the police organisation. The *outside insiders* are police officers who conduct research on the police organisation after deciding to leave or actually leaving the police force. The *inside outsiders* are researchers who are non-police officers but who have an official role within the police forces or governmental organisations with responsibilities for policing. The *outside outsiders* are academics or other researchers who are not employed or commissioned by the police or other governmental bodies with responsibilities for policing (Reiner, 2000).

My position as a researcher of the police organisation is that of an *outside outsider*. However, some influences of the *inside outsider* position can as well be found. The starting point of this master's thesis was set out during a trainee period at the National Bureau of Investigation, conducting criminal investigations on trafficking. Even though the trainee period was short, it gave me a contact network as well as access to data and an insight in the police organisation and police work. Typical for the police culture, is that the police officers are unwilling to talk about their work to outsiders (Korander, 2004). The trainee period and the contacts I had gained facilitated to some extent the tackling of this hinder between the interviewees and me as a researcher. I felt that some interviewees had more confidence for me due to my background, which I noticed in their willingness to answer my questions more freely. An *inside outsider* position may also have negative effects on the research. It may lead to a lack of distance from the police organisation, a less critical approach, a lack of objectivity and conflicts of loyalty (Alvesalo, 2003). These possible negative effects I, however, strive to tackle by being aware of them during the research process and by openly discussing them in the research report. Both regarding the positive and negative effects, I have found it important to acknowledge the impact my background in the field of combating trafficking, has on the research.

References

Alvesalo, Anne (2003): The dynamics of economic crime control. Poliisiammattikorkeakoulun tutkimuksia 14. Helsinki.

Alvesalo, Anne; Hakamo, Terhi; Jauhiainen, Kirsi & Virta Erja (2009): Talousrikokset rikosprosessissa. Poliisiammattikorkeakoulun tutkimuksia. Tampere.

Jokinen, Anniina; Ollus, Natalia & Viuhko, Minna (2011): Ehdoilla millä hyvänsä: Työperäinen ihmiskauppa ja ulkomaalaisten työntekijöiden hyväksikäyttö Suomessa. Helsinki: HEUNI Report Series No 67.

Korander, Timo (2004): Poliisikulttuuri: Poliisiammatin ja -tutkimuksen väline. Oikeus 2004 (33), 4-24.

The Finnish National Rapporteur on Trafficking in Human Beings: Report 2010 – Trafficking in human beings, phenomena related to it, and implementation of the rights of human trafficking victims in Finland. Publication 7. Helsinki.

Reiner, Robert (2000): Police Research. In R. D. King and Emma Wincup (eds.) Doing Research in Crime and Justice. Oxford: Oxford University Press.

United Nations (2000): Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially
Women and Children, supplementing the United Nations Convention against Transnational Organised Crime.

United Nations (2004): Legislative Guides for the Implementation of the United Nations Convention against Transnational Organised Crime and the Protocol thereto.

Institutional Ethnography in Prison Studies: Work Knowledge and Texts as Data

by Marte Rua

How can a sociological exploration of texts and experiences help us map the complex of institutional relations that coordinates people's activities and everyday lives? And in which ways does this contribute to the understandings of meeting places of punishment and welfare in Norwegian prison policy? In this paper I present some aspects of the research design of a planned study of prisoners' return to society in Norway, highly inspired by the method of inquiry institutional ethnography (Smith 2005). Emphasis is put on the implementation of texts as data, and strategies for interviewing informants as experiencers and knowers of the society and the institutional practices they engage in. The concept of work knowledge and a sociological exploration of texts as data will be introduced with examples from a previous institutional ethnography on health work in Norwegian prisons (Rua 2012b).

Norwegian prison policy and the challenges with release

Some central aspects of Norwegian prison policy need to be outlined to provide the background of the study. Norwegian prisons are organized by what can be called the Norwegian import model (Christie1970/1993). Education, church, library and health care services are imported from the municipality or county municipality where the prison is located, and thereby not provided by prison staff. This organization is based on an idea and policy which highlights the importance of maintaining a division of tasks and responsibility: even though the prison and correctional services have a mandate to rehabilitate, their responsibility is first and foremost punishment and security, while the common welfare state services are also responsible for the services offered to prisoners. Through this policy, prisoners are 'hooked up' into the same welfare system as other citizens and not in a parallel system for prisoners. This is a part of the principle of normality in Norwegian prisons (White paper No 37, 2007-2008). The punishment is the restriction of the individuals' liberty; no other rights are withdrawn by the sentencing court (the so-called principle of rights, 'rettighetsprinsippet', Vedeler 1973).

But yet: To lose your freedom, implies losing a lot in life (see e.g. Hammerlin 1994). Prisoners are persons who have committed crime, but in addition we know that many prisoners have lost or lacked a lot in life before – and even more after – imprisonment. Last year, while doing field work in a Norwegian women's prison, I was involved in the process of a 30 year old woman being released from prison. She expressed fear of a repetition of her previous experiences with release:

I was released in June last year, with a plastic bag and 300 kroner [40 EUR]. I felt that they just said that 'now you are going out and getting high'. I went to my home town, and thought: Who do I know here? Only people doing drugs, but I need a place to sleep.

This experience illustrates both the actuality and the core of a central critique of failures in the rehabilitation aspects of imprisonment. Criminology has since the 1950s seen prisons and crime policy in the context of welfare policy, and pointed out that it is the poor who are

imprisoned[1]. This critique however, was recognized by the red-green three-party coalition which came to power in Norway in 2005. In their government declaration, they launched the so-called 'tilbakeføringsgarantien' – 'guarantee of return' (to society) (the Soria Moria declaration 2005). The guarantee was later confirmed and given additional content in the white paper No 37. 2007/2008. The overall perspective is to reduce recidivism by strengthening the prisoners' possibilities to live a law-abiding life. Another key element is cross-sectorial and interdisciplinary cooperation (Dyb and Johansen 2011).The guarantee provides no new legal rights, nor is it a legal guarantee. Rather, it is to be understood as a political and inter-ministerial commitment to the existing prisoners' rights – and their lives after release – as a responsibility for the welfare state as a whole, not the justice sector alone (Fridhov 2009, p. 41-42). The prisoners shall – if relevant – have an offer of employment, education, suitable housing, some type of income, medical services, addiction treatment and debt counselling (The Norwegian Correctional Services 2012). The slogan of the so-called seamless sentences is that 'the prisoner belongs to the municipality before, under and after imprisonment' (KSF 2011).

One goal for the implementation of the guarantee of return to society is that the welfare agencies, united in the Norwegian Labour and Welfare Administration (NAV), are established in the prisons and accessible for the prisoners by 2014 (Fridhov 2013). This represents a fulfilment of the import model, because this is the last service which has been lacking and not been available for prisoners until now. As part of the implementation additionally 25 so-called return coordinators have been employed in the five regions of the Correctional services (JBD 2013).

Studying of the guarantee of return to society

I want to conduct a study of the implementation of this reform. The guarantee represents a new way of thinking about responsibility and handling of prisoners' well-known welfare and health problems. The proposed implementation of the guarantee represents a new way of connecting systems which previously has been 'living separately' – the prison system and the welfare system. I see the guarantee as a meeting place between two 'systems' which have both similar and contradictory objectives and considerations. The guarantee connects these fields politically and institutionally in a new way, and I'm interested in what goes on in the meeting places that arise. Many interesting research questions and findings have grown out from studies of similar (and somehow contradictory) meeting places in Norwegian prisons, such as prison health care (see Rua 2012b) or drug-handling units (Giertsen and Rua, forthcoming).

The main questions of the study are: What happens when the guarantee is put into practice in everyday encounters between control-punishment politics and social policy: does contradictions arise, cooperation or other formations? What consequences will this have for those who work with prisoners' release processes and the prisoners themselves? In this study, I will examine what the implementation of the guaranty means and what it tells us about ruling, understandings and institutional practices of welfare and crime policy, based on the experiences of people who are affected by it.

[1] See e.g. Aubert 1958, Christie 1962, 1974, 2000, Garland 1985, 1990, 2001, Mathiesen 1987, Høigård 1993, 2003, 2011, Wacquant 1999, 2009, Skarðhamar 2002, 2005, Friestad og Hansen 2004, Thorsen 2004, Smith P.S. 2005, Fridhov 2006, Lappi-Seppälä 2008, Giertsen 2012b.

Design: Institutional ethnography

Life in prison can't be investigated merely within the prison walls, isolated from its social context – the prison isn't one entity, the import model especially points this out. Prison practices are connected and coordinated in relation to other huge institutions in society, and prisoners and employees are hooked up to these structures in many different ways and modes. To map this complex of relations which affects and is reproduced in everyday life of prisoners, I have chosen a research design highly inspired by the sociological approach institutional ethnography. This is a theoretical and methodological research program founded by the Canadian sociologist Dorothy E. Smith (see Smith 2005 and 2006).

The core of the method and analysis is exploring institutional relations and what Smith calls ruling relations from the point of view of people who in various ways are related to these relations through the activities they perform (Widerberg 2007, p. 19). Widerberg sums up the perspective in this way: 'It does not aim to understand the institution, organization and so on as such, as in systems theory. It only takes the social activities of the institution as a starting point. Hooking on to activities and relations, both horizontal and hierarchical, the approach is never confined just to the very institution or organization immediately under investigation. The purpose is rather to illuminate the connections between the local and the extra-local, thereby making visible the workings of the wider society as they impinge upon activities in the here and now' (Widerberg 2008, p. 314-315). The aim is thus to unravel how specific activities are coordinated horizontally and vertically, and from this draw a 'map' of social relations, power and ruling which provides answers to 'how things are put together'. And which can serve as a useful extension of everyday knowledge for the people being studied (Widerberg 2007, p. 19, Smith 2005, p. 29).

The study's data collection is planned with the aim of providing an empirical basis for an analysis with a twofold purpose: an ethnographic aim to highlight specific activities (release processes and work with them), and an institutional aim to detect and provide information on how these activities are shaped by and shapes institutional processes and power. The empirical basis for the analysis will consist of oral and written sources, with an emphasis on interviews and texts.

Interviews and work knowledge as data

Smith proposes a sociology where social structure is made visible, but from the standpoint of peoples' everyday life (Smith 1987). The question then is whose lives and experiences should the researcher choose as the starting point – or perspective – for investigating social structures? There is no 'natural' or given place to start. A number of policy documents describe how the guarantee is intended to be implemented, and several proposed measures have already been, or are in the process of being, implemented. These descriptions have implications for the project plan, especially considering who might be potential informants and what kind of activities I want data about. I seek to examine the experiences and work with specific release processes, and will interview prisoners before and some time after release. Different types of employees who work with release processes, both inside and outside the prison, will also be interviewed. By interviewing people who are situated differently and/or in reciprocal positions, the various descriptions and understandings meet, complement and may correct each other (Smith 2005, p. 158-159).
The informants have knowledge of release processes because he or she participates – the informant knows what she does, and she can tell it to me (Rua 2012a, p. 109 and 2012b, p.

26). Interviews will be designed with the goal of capturing both what the informants know about what they do, and the knowledge they use when doing it – and how their activities are implicitly or explicitly coordinated with other activities inside and outside of prison. The data collected by asking for these types of information, is what Smith refers to as work knowledge (Smith 2005). Work knowledge, based in people's experiences and produced as data during the interviews, represents a major source for the institutional ethnographer (Smith 2005, p. 229). The term "work" means work in a broader sense than employment: The things people do that requires time and effort, intentions and planning (Smith 2005, p.151-152, p. 229). Work knowledge questions are made with the intention of making the informant identify and formulate their activities – including activities which are subordinated or made invisible in different discourses. Here lies the source of critical questions: "Why are these activities or experiences not represented in the discourse?" (Rua 2012a, p. 104, 2012b, p. 29).

By examining the experiences and practices excluded or included in the discourse, one cannot only discover something new and get 'behind' the language (the institutional discourse, see below) (Rua 2012b, p. 25). But one can also grasp how discourses rule or coordinate the activities horizontally and vertically. A previous study of health work in prison (Rua 2012b) offers some examples of how this can be done. Prison doctor's experiences in their daily work was the starting point for my investigation of the use of solitary confinement and isolating restrictions in Norwegian prisons – an institutional practice in which prison doctors participate. When asked what they did at work, the doctors I interviewed often talked about their responsibility of 'following up the prisoners'. What does that imply?

This way of talking, which Smith calls an institutional discourse (see e.g. Smith 2005), doesn't explain itself. Such statements rather contribute to cover up what I was looking for (the doctors' work knowledge). To get the work knowledge-data in the interviews, I dug and asked detailed questions of what it meant in practice, until I was sure I understood what such linguistic twists specifically involved – especially when it came to prisoners isolated in different ways: How do you get to know about prisoners' needs and situations? What kind of needs and problems do the prisoners have in accordance to your experiences? What do you do, and where does your influence stop – and why? What happened in actual, concrete situations? And so on. Eventually it turned out that isolated prisoners were a category the doctors had a low level of awareness about. It also became clear that the doctors didn't have any duties that involved attention towards prisoners serving under different types of isolation regimes. In practice the doctors did not perceive, nor had systematic attention towards, isolation damages as part of their own or the health department's responsibility. The isolation was thus not a part of the doctors' talk and understandings of what the medical responsibility in prison ('to follow up the prisoner') involves.

I understood this in the context of findings from the institutional analysis of texts and institutions which govern doctors' work (such as the Norwegian Medical Association and the Directorate of health), and the texts that was resources of knowledge for the doctors in their work. Here, on the top levels of the institutions and in their texts, isolation regimes were completely absent as a topic. The institutional discourse omits some understandings and practices, and this gives visible results in doctors' activities. The doctors' attention is not directed towards isolated prisoners. And they were not aware of or conscious about isolation of prisoners in their work.

The informants' experiences are not the main interest within institutional ethnography, but a starting point for exploration. Based on the informants' experiences as

they tell of them, the researcher starts mapping the relations these experiences or activities are a part of, and texts represent important data for the process of mapping.

Texts as data: A sociological approach

My aim is not studying the texts for themselves, rather I look to texts with an eye for what they make people to do. Smith's main argument for including texts as data material in sociological studies, is that this makes the power or ruling relations ethnographic available, because these are primarily mediated through text in modern society. Texts are essential to how institutions and organizations exist (Smith 2001). In short, I will ask and look for texts which appear when the prisoners and staff talk about their experiences, and from there wind up the guarantee of return to society as a field of ruling.

Texts serve as resources people pull into their everyday work processes (Devault & McCoy 2006:34). I will ask informants, both prisoners and staff, about the texts they relate to, and which appears to be particularly important, for understanding which texts that influence the informants' activities. If key texts in the field are not known or used, this may be interesting in itself (cf. the study of prison doctors). I will ask specifically for texts that instruct or tutor the work with release processes in the Correctional Services and NAV (the Norwegian Labour and Welfare Administration), such as those describing the tasks and roles of the various institutions and professions (job descriptions, contracts, etc.). Such texts may also be understood as expressions of the work of institutions (they produce texts), and the content says something about what the leadership on the higher levels in the institutions see as important and prioritized work in everyday life 'down there' – and how this should be done (Rua 2012a and 2012b).

At the same time texts also coordinate work horizontally in local action sequences (Smith 2005). With this in mind, I will also ask for the procedures, agreements, templates, decisions and forms which govern work in general, or is included as documents in particular prisoners' release processes.

Another important aspect of the texts' social significance is the ways they are used and how they are perceived and interpreted by the informants. As a material object texts are permanent and stable, but they are read, interpreted and translated differently in local practices (Smith 2005). The non-deterministic, dialogic view of text and discourse within institutional ethnography focuses on how institutional practices and discourses are reproduced, maintained or changed by individuals using the texts (Rua 2012a p. 114-115, 2012b p. 45).

Significance for qualitative methods and prison studies

As a material object, text can be read in many situations and places and by many people at once or many different times (Widerberg 2012, p. 127). By this, texts connect us to trans-local social relations (Smith 2005:228). This has a basic theoretical dimension: The texts serve as a link between local activities and the trans-local organization of ruling, and they can be examined as empirical connections between micro activity and large-scale ruling in modern society (Rua 2012b, p. 27). Smith argues not only that this perspective offers a more sociological approach to the text than the countless forms of discourse analysis does, but it also radically expands the possibilities of ethnography (Smith in Widerberg 2004, p. 181). Exploring how texts mediate, regulate and authorize people's activities in modern societies expands the scope of ethnographic method beyond the limits of observation (Smith 2005).

The Norwegian sociologist Karin Widerberg claims that the way power and ruling is understood and explored within institutional ethnography, the approach meets the common critique of qualitative research as less usable, because it only says something about a very limited field (Widerberg 2007). This is a point worth bringing into a discussion of methods in criminological research.

Perspectives on the relationship between crime policies and poverty policies represent classic criminological themes. Criticism from such research is acknowledged politically and institutionally by the guarantee of return to society. Knowledge of this ongoing and overall process should be made important for governments as well as the social sciences and organizations concerned with prison and welfare issues. In addition, the guarantee – and the perspectives it rests on – is unique in the Nordic welfare states (Giertsen 2012b). The guarantee represents a continuation and strengthening of the import model (Christie 1970/1993) and the principle of rights (Vedeler 1973). This study will hopefully open up for new knowledge about how help, control, punishment and welfare interact with and against each other in Norway anno the 2010s.

Litterature

Aubert, Vilhelm (1958): «Legal justice and mental health». In Psychiatry 21 (2), pp. 101-113.

Christie, Nils (1962): «Noen kriminalpolitiske særforholdsreglers sosiologi». In Tidsskrift for samfunnsforskning. No. 3 1962, pp. 28-48. — (1974): «Særuttalelse». In Strafferettslig utilregnelighet og strafferettslige særreaksjoner. NOU 1974:17. Straffelovrådet. 22.10.1973. Oslo: Universitetforlaget.

(1970/1993): «Modeller for fengselsorganisasjon», in Thomas Mathiesen og Arne Heli (red.) (1993): Murer og mennesker. En KROM-bok om fengsel og kriminalpolitikk. Oslo: Pax forlag.

(2000). Kriminalitetskontroll som industri. Mot GULAG, vestlig type. Oslo: Universitetsforlaget.

DeVault, Marjorie L. & Liza McCoy (2006): «Institutional Ethnography: Using Interviews to Investigate Ruling Relations». In Smith, Dorothy E. (ed.): Institutional Ethnography as Practice. Pp. 15-44. Oxford: Rowman & Littlefield Publishers.

Dyb, Evelyn og Katja Johannessen (2011): Tilbakeføring av straffedømte. En kommentert bibliografi. NIBR-rapport 2011:20. Oslo: Norwegian Institute for Urban and Regional Research (Norsk institutt for by- og regionforskning), NIBR.

Fridhov, Inger Marie (2006): «Fanger og fengsel» in Finstad, Liv og Cecilie Høigård (red.): Straff og rett, pp. 96-120. Oslo: Pax forlag.

(2009): «Tilbakeføringsgarantien . 'Et annat liv'», in Anette Storgaard og Rune Ellefsen (red.) Etter løslatelsen. Rapport fra NSfKs 23. kontaktseminar, pp. 40-44. Oslo: Scandinavian Research Council for Criminology/Department of Criminology and Sociology of Law, University of Oslo.

(2013): «Tilbakeføringsgarantien og forvaltningssamarbeid». Forthcoming.
Friestad, Christine og Inger Lise Skog Hansen (2004): «Levekår blant innsatte». Fafo-rapport 429. Oslo: Institute for Labour and Social Research (Fafo).

Garland, David (1985): Punishment and Welfare. Aldershot: Gower.

(1990): Punishment and Modern Society: A Study in Social Theory. Oxford : Clarendon Press.

(2001): The Culture of Control. Chicago: University of Chicago Press.

Giertsen, Hedda (2012b): «Kriminal- og ruspolitikk som kontroll og fattigdomspolitikk. Tre eksempler.» In Materialisten no. 4/2012, pp. 29-48.

Hammerlin, Yngve (1994): «Fangenes tapsliste.» In Yngve Hammerlin, Inger Marie Fridhov og Harald Føsker: Festskrift til Kåre Bødal. Oslo: Correctional Service of Norway Staff Academy (Kriminalomsorgens utdanningssenter, KRUS)/Ministry of Justice and Public Security.

Høigård, Cecilie (1993): «Ditt eget beste: psykiatriens systemfeil». In Materialisten vol. 21, no. 4/1993, pp. 35-75.

(2003): «Kriminalitet – naturalisering av sosiale relasjoner». In Kristian Andenæs og Knut Papendorf (red.): Fortsatt uferdig: festskrift til Thomas Mathiesen, pp. 188-199. Oslo: Pax forlag.

(2011): «Policing the North». In Michael Tonry og Tapio Lappi-Seppälä (ed.): Crime and Justice in Scandinavia. Crime and Justice. A review of research, vol. 40, pp. 265-348. Chicago and London: The University of Chicago Press.

JBD – Ministry of Justice and Public Security (Justis -og beredskapsdepartementet) (2013): «Tilbakeføringsgarantien – tilbake til samfunnet.» Unsigned artticle last updated 08.01.2013, read 03.06.2013 at http://www.regjeringen.no/nb/dep/jd/tema/kriminalomsorg/sub/tilbakeforingsgarantien--tilbake-til-sam.html?id=711650 Oslo: Ministry of Justice and Public Security.

KSF, Norwegian Correctional Services (Kriminalomsorgens sentrale forvaltning) (2011): Tilbakeføringsgarantien. (Smått & Stort nr. 2-2011). Oslo: Ministry of Justice and Public Security.

Lappi-Seppälä, Tapio (2008): «Trust, Welfare, and Political Culture: Explaining Differences in National Penal Policies». In Michael Tonry (ed.): Crime and Justice. A review of Research vol. 37, pp. 313-387. Chicago and London: The University of Chicago Press.

Mathiesen, Thomas (1987): Kan fengsel forsvares? Oslo: Pax forlag.

Rua, Marte (2012a): «Erfaringer fra en fengselsstudie – institusjonell etnografi i praksis». Sosiologisk Årbok, nr. 1/2012, pp. 101-121.

(2012b): Hva gjør fengselsleger? En institusjonell etnografi om isolasjon og helse. Bokserien nr. 1, 2012. Oslo: Department of Criminology and Sociology of Law, University of Oslo.

Skarðhamar,Torbjørn (2002): Levekår og livssituasjon blant innsatte i norske fengsler. K-serien nr.1/2001, Department of Criminology and Sociology of Law. Oslo: University of Oslo.

(2005). Lovbruddskarrierer og levekår. En analyse av fødselskullet 1977. Rapport 9/2005. Oslo: Statistics Norway (Statistisk sentralbyrå, SSB).

Smith, Dorothy E. (1987): The Everyday World as Problematic: A Feminist Sociology. Boston: Northeastern University Press.

(2005): Institutional Ethnography. A Sociology for People. Oxford: Alta Mira Press.
Smith, Dorothy (Ed.) (2006): Institutional Ethnography as practice. Oxford: Rowman & Littlefield Publishers.

Smith, Peter Scharf (2005). «Moralsk forbedring eller moderne disciplinering? Rehabilitering og fængsler igennem de sidste 200 år». In Andersen, Lars, Poul Duedahl, Louise N. Kallestrup og Torben K. Nielsen (red.): De måske udstødte. Historiens marginale eksistenser, pp.159-194. Ålborg: Aalborg Universitetsforlag.

Soria-Maria-erklæringen. Plattform for regjeringssamarbeidet mellom Arbeiderpartiet, Sosialistisk Venstreparti og Senterpartiet 2005-09. Downloaded from http://www.regjeringen.no/nb/dep/smk/dok/rapporter_planer/rapporter/2005/soria-moria-erklaringen.html?id=438515

The Norwegian Correctional Services (Kriminalomsorgen) (2012): «Stortingsmelding nr. 37 – Straff som virker». Unsigned article published 21.05.2012, read 11.02.2013 at http://www.kriminalomsorgen.no/stortingsmelding-nr-37.237910.no.html Oslo: Kriminalomsorgen.

Thorsen, Lotte Rustad (2004): For mye av ingenting ...: straffedes levekår og sosiale bakgrunn. Master thesis (hovedfagsoppgave) in criminology, Department of Criminology and Sociology of Law, the Faculty of Law. Oslo: The University of Oslo

Vedeler, Gerdt Henrik (1973): «Frihetsstraffens innhold – betraktninger om fangers rettigheter og fengslets forpliktelser». In Lov og Rett, pp. 31-46. Oslo: Universitetsforlaget. Also to be found in Thomas Mathiesen og Arne Heli (red.) (1993): Murer og mennesker. En KROM-bok om fengsel og kriminalpolitikk. Oslo: Pax forlag.

Wacquant, Loïc (1999): Fattigdommens fængsler. København: Socialpolitisk Forlag.

(2009). Punishing the poor. The Neo-liberal Government of Social Insecurity. Durham: Duke University Press.

Widerberg, Karin (2004) «Institutional Ethnography – Towards a Productive Sociology», in Sosiologisk tidsskrift 12, pp. 179-184.

(2007): «Institusjonell etnografi – en ny mulighet for kvalitativ forskning?». Sosiologi i dag, no. 3/2007 (37), pp. 7-28.

(2008): "Dorothy E. Smith". In Rob Stones (ed.) Key Sociological Thinkers. Chapter 19, pp. 311-323. London: Palgrave Macmillan.

(2012): «Dorothy E. Smith og institusjonell etnografi». Sosiologisk Årbok, nr. 1/2012, pp. 119-133.

Comparative legal and document analysis

Researching the roles of third sector organizations in criminal policy and in criminal justice:

Methodological issues in a study to victim and offender organizations

by Maija Helminen

Purpose and structure of this paper

This paper discusses about an on-going study to the roles of third sector organizations (TSOs) that work with offenders and victims in Finland, Norway, Sweden, and in Scotland. This study is a part of a doctoral dissertation, which examines the roles of TSOs in general in the area of criminal policy and in criminal justice. The focus of this paper is on explaining the used methods and methodology in the study to victim and offender TSOs and in presenting the encountered methodological challenges during this study. As the study is still in progress, the weight in this paper is on the methods of data collection in particular.

However, before examining the methods and methodological questions, the reader is shortly introduced to the issues and discussions surrounding those TSOs that work with offenders or with victims. The following introduction illustrates that both the offender and victim TSOs have encountered situations in which their traditional roles as complementary actors in criminal justice and in criminal policy are being re-negotiated and that these actors have become more and more important to the criminal justice system from the perspective of the services that they provide, although this development appears to be stronger in the UK than in the Nordic countries. After the introduction, the rest of this paper explains the empirical research process and how this study has begun to examine the current roles of these TSOs empirically.

Introduction into issues around victim and offender organizations

For years different kinds of smaller and bigger, local and national voluntary groups have been working with those, who have become involved in the criminal justice system. They have been, for example, working with victims of crime, witnesses, and with prisoners/ex-prisoners. In addition, there exists a myriad amount of TSOs that participate to crime prevention and lessening of effects of crime in other ways. For instance, TSOs organize projects that focus on social crime prevention with young people, offer alcohol and drug

rehabilitation, accommodation and employment. These TSOs often also lobby for the interests of the groups that they represent and act as experts in decision-making processes.

Yet, there exist very little knowledge about the roles and positions of these actors in relation to the state in the systems of criminal policy and criminal justice – at least in the Nordic context. A large share of the existing research about the work of TSOs in criminal policy and in criminal justice in the Nordic countries is evaluation research about the work of specific TSOs with their clients or about their work in crime prevention[1]. Also, the work of TSOs working with victims of crime has been studied in the context of victim and violence against women movements[2]. Perhaps there has not been very much interest to research these TSOs in criminal policy and in criminal justice, because according to the 'traditional' roles of TSOs in the welfare states, they have been understood as interest groups and as actors, who provide complimentary, thus not core services in relation to the public sector[3].

However, the interest to examine the work the of TSOs as actors in criminal justice is growing[4] and undoubtedly, it stems from the changing relations between the public sector, private sector and the third sector in the welfare states. As the lines between these different sectors are becoming increasingly blurred, some countries have become more eager to utilize the third sector even in the delivery of the core criminal justice services. In England and Wales, for example, TSOs have become part of the 'penal market' as some of them are running prisons in cooperation with private companies[5]. Unsurprisingly, this increasing commissioning and growth of TSOs in the criminal justice system has raised questions and concerns. It is feared, for example, that TSOs, and the smaller ones in particular, will not fare in the competitive commissioning to private companies and that TSOs will lose their identity and autonomy while trying to match the needs set by the funders[6]. It has also rightly been questioned, whether correctional services should be placed on non-governmental actors at all[7]. Nevertheless, particularly the government policy-makers and the 'voluntary sector elites' highlight the advantages of TSOs to criminal justice[8]. For instance, TSOs are seen as less bureaucratic and more flexible and cost-effective ways of meeting the needs of the offenders[9].

Many of the offender TSOs studied in this research also provide services that are utilized by the prison or probation services in Finland, Norway, Sweden, and in Scotland. For example, in Scotland Sacro and Apex deliver community sentence programs, which courts can grant as an alternative to custody[10]. The Nordic offender TSOs, however,

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[1] See e.g. Laine 2010; LobLey and Smith 2007; Keisala 2006; Frodlund 2003; Nyqvist 2001.

[2] See e.g. Elman 2003; Pehkonen 2003; Dobash and Dobash 1992.

[3] Lorentz and Selle 2000; Julkunen 2000.

[4] For example, in England the Third Sector Research Centre has studied the involvement of TSOs in offender rehabilitation and the relationships between the TSOs and the prison staff (Gojkovic et al. 2011a; Gojkovic et al. 2011b; Mills et al. 2011; Meek et al. 2010).

[5] In 2008, Secro (public limited company) together with Turning Point and Catch22 (registered charities) won a tendering round to operate private prisons and other charities (Nacro, RAPt) were involved in the bidding contest too (Corcoran 2011). In addition, there are currently plans to open the majority of probation service to commissioning and thus, increase the share of TSOs in probation services (Ministry of Justice 2012).

[6] Corcoran 2011; Neilson 2009.

[7] Maguire 2012.

[8] Corcoran 2001, 31, 36. By 'voluntary sector elites' Corcoran refers, for instance, to the national umbrella organization for the third sector, AVECO.

[9] NOMS 2011.

[10] Apex delivers Supervised Attendance Order and Fiscal Order and Sacro Supervised Bail Service (Apex 2012; Sacro 2013).

offer services that can be used only as a supplement to prison or community sentences, but not as a substitutive to them. For instance, the Finnish KRITS foundation delivers the so-called WOP -program for young male prisoners and the Finnish KRIS association provides a place to carry out unpaid work required as a part of community service or supervised parole[11]. Hence, it appears that TSOs are not yet utilized in the criminal justice system in the same extent in the Nordic countries as in the UK. Nonetheless, there have been calls to increase the responsibility of non-governmental actors in criminal policy and in criminal justice in these countries too[12] and the prison services in Scotland and in Sweden have drafted partnership guidelines and agreements for the co-operation with the third sector[13]. There are plans to intensify the co-operation between the TSOs and the Correctional Services and design similar guidelines in Norway as well[14], however, despite the co-operation with the Criminal Sanctions Agency and TSOs, such guidelines have not been introduced in Finland[15]. In addition, the public sector is an important funder of these TSOs. For instance, besides other public funding, the Swedish Prison and Probation Service (Kriminalvården) as well as the Norwegian Correctional Services (Kriminalomsorgen) allocate grants to voluntary organizations, which work with prisoners and releasing prisoners[16]. However, it is yet difficult to say, what the drafted and planned agreements or certain funding streams mean for the TSOs. They are not necessarily signs of increasing control and instruction by the states to the TSOs. Nevertheless, they can still be understood as signs of growing interest from the states to the activities of the TSOs in the area of criminal justice.

In the case of victim TSOs, the discussions and realities are somewhat different than in the case of offender TSOs. This because, whereas the discussions around offender TSOs are connected to their increasing inclusion of TSOs to such duties that have been a state's responsibility before, victim support services offered by the victim TSOs are such that have never been provided by the states. Yet, under international obligations – such as the recent European directive on minimum standards on the rights of victims of crime[17] – these services have become such that the states are bound to provide. However, this has not meant that the states themselves would be obliged to produce the required services to the victims, but instead, and in line with the EU's general policy[18], the member states are encouraged to deploy the third sector in the delivery of these services. Therefore, in practise, the victim services continue to be provided by the TSOs, while the state provides the funding for these services. For example, in Finland the Victim Support Finland and other specialized victim organizations will produce the required services as the government increases the funding of the Victim Support and other victim TSOs in its budget[19]. Funding from the state to the victim TSOs is not, however, anything new, but the

[11] KRITS 2013; KRIS 2013. I do not yet have information, whether such services are provided by the Swedish KRIS and X-CONS or by the Norwegian WayBack.
[12] See e.g. Ministry of Justice 1999; Justitiedepartementet 1996.
[13] Kriminalvården 2003; Partnership Development Initiative 2010.
[14] Information via email from Seniorrådgivare Betty Ingunn Lind, Kriminalomsorgsavdelningen, Justis- og Beredskapsdepartementet (22.11.2012).
[15] Information via email from Senior Specialist Ulla Knuuti, Criminal Sanctions Agency in Finland (5.12.2012).
[16] Kriminalvården 2006; Regjeringen 2013.
[17] Directive of the European Parliament and of the Council 2012/29/EU of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA.
[18] E.g. Matthies (2007) has discussed about the EU's policies on the third sector.
[19] Ministry of Interior 2012.

public sector has been a significant funder of victim TSOs for a long time. For instance, a considerable share of funding to the Victim Support Centres and women's shelters in Sweden is granted from the basis of applications to the Crime Victim Compensation and Support Authority's Crime Victim Fund and also the Scottish Victim Support and the Scottish Women's Aid Centres are to a great extent funded by the Scottish Government and local authorities[20]. Nevertheless, currently Norway that stands out the most from the other three countries with its large provision of publicly funded victim services[21]. This is due to the recently introduced Crisis Centre Act under which all the local crisis centres for victims of domestic violence, hence mostly TSOs, receive their funding as a whole from the municipalities. The new law has also changed the operation of these crisis centres so that they must now provide services also to men, instead of only women and children, which was the original purpose of these centres.[22]

In this introduction I have aimed to give the reader a brief overview on the issues surrounding the offender and victim TSOs at the moment. In reference to the focus of this paper, which is on methods and methodology, it is not purposeful to tackle to the background of my research questions in more detail in this occasion. However, this introduction should have provided some understanding about why it is important to examine the roles of offender and victim TSOs in the current situation. Is there reason to believe that these TSOs are becoming so-called 'shadow states' as it is feared, for example, in England and Wales or are they still able to hang on to their own aims and activities? What kinds of roles – service providers, advocates or peer groups – these TSOs understand to have in the systems of criminal policy and criminal justice today? The rest of this paper explains how I have begun to solve these questions empirically.

A comparative research into the roles of victim and offender TSOs in Finland, Norway, Sweden, and in Scotland

This study is a comparative research into the roles of the so-called offender and victim TSOs in Finland, Norway, Sweden, and in Scotland. Offender TSOs refer to such TSOs that work with offenders or ex-offenders, for instance, by providing them services or peer support. In this research 'offender' refers to those people, who have been convicted for their offences. As for victim TSOs, they refer to such TSOs that work with victims in similar manners. Hence, this study does not examine such TSOs that are only campaigning TSOs, but TSOs that provide services or other forms of support. The reason for this lies in the issues introduced in the introduction of this paper. Thus, I am interested in examining these TSOs in reference to the recent claims and concerns about TSOs becoming increasingly involved in service production. The research questions of this study are the following:

1. What kinds of roles TSOs that work with victims have in criminal policy and/or in criminal justice in Finland, Norway, Sweden, and in Scotland?
2. What kinds of roles TSOs that work with (ex-)offenders have in criminal policy and/or in criminal justice in Finland, Norway, Sweden, and in Scotland?

I decided to use a comparative approach in my study, because I am interested in looking at, whether there are some differences and/or similarities in the roles of offender and victim

[20] Sigfridsson 2011; Scottish Women's Aid 2012.
[21] Norway also has a state produced victim support service, Rådgivningskontorene for kriminalitetsofre.
[22] Lov om kommunale krisesentertilbod (Lov 44/2009).

TSOs between different countries as, for example, the discussions presented in the introduction suggest. The four countries in this study offer a good base for comparisons, because all of them are Western/Northern European countries and can therefore be understood to a certain degree as similar and sensible to compare to each other. For instance, the three Nordic countries represent welfare states in which the public sector has traditionally been extensive, but which have now, in different degrees, assumed new ways of thinking connected to the new governance and new public management. The influence of these neo-liberal policies occurs, for example, in the area of the third sector.[23] However, I have included also Scotland to my research design, because despite it shares a rather strong welfare ideology too, it has lately been more influenced by neo-liberal policies in the area of the third sector as well as criminal justice[24]. In addition, the history of the third sector is different in Scotland than in the Nordic countries, as the TSOs in the UK have had a stronger service production role for a longer time than the TSOs in the Nordic countries[25]. These differences as well as similarities between the countries may help to understand the factors behind the roles of TSOs in criminal policy and in criminal justice in different countries.

The study is conducted by using qualitative methods and methodology. The main reason for this is the nature of the research questions (how TSOs understand their roles), which is why I felt that it would have been very difficult to answer these questions by using a quantitative research design. Also, conducting similar kind of research with quantitative methods would have been very laborious, as there are no databases available of such TSOs that work with victims or with offenders in these four countries. Hence, I needed to search the TSOs to my study with a sort of 'snowball-sampling' method and after familiarizing with the suggestions that I received, I decided myself, whether they are or are not offender or victim TSOs. Of course, using questionnaires to smaller numbers is always possible, but I decided that it would be more sensible to invest more effort in analysing the roles of smaller group of TSOs more carefully than researching a slightly larger amount of TSOs more superficially. The qualitative methods that I use to study the roles of TSOs are interviews and documentary analysis. However, in the following paragraphs I focus on discussing the sampling process in this study and explaining exactly how I defined, reached and selected the offender and victim TSOs for this study.

Methodological issues in a study to offender and victim TSOs

Definitions: What is a TSO? What are victim TSOs and offender TSOs?

The first methodological challenge that I encountered in this study related to definitions. Firstly, the concepts of 'third sector' and 'third sector organization' are rather vague terms and secondly, so are the terms 'offender TSO' and 'victim TSO'. For instance, there is variation between different countries, which actors are considered to be part of the third sector and which are not. Also, the exact numbers and qualities of various TSOs in a country are usually unknown, because they are not obliged to register themselves in order

[23] Forma et al. 2007; Matthies 2006.
[24] Fyfe et al 2006; Croall 2006.
[25] Taylor 2004.

to operate[26]. The TSOs also have various different kinds of legal forms that they can adopt in different countries, which in turn give them different kinds of rights and responsibilities.

Due to the comparative approach of my study, I decided to use a rather broad definition of a TSO that has been developed particularly for comparative third sector research. Hence, according to the Johns Hopkins Comparative Nonprofit Sector Project - definition, which I use in this study, TSOs basically refer to such organizations that operate between the private households, markets and the state. Secondly, TSOs are specifically organizations, thus, they are required some level of organized activity, for example, in a form of regular meetings or rules, in order to separate them from one-off events. Thirdly, TSOs do not gain financial profit from their work and fourthly, they are independent and not under authority of the state or of any private corporation. Fifthly, their activities include some form of voluntary effort[27]. This definition is, however, not without problems. For example, it is not clear whether Churches and social firms should be included to the third sector. Nevertheless, making distinctions between TSOs and non-TSOs did not cause significant problems in this study.

However, defining offender and victim TSOs was more problematic. This is because, besides those TSOs that work solely with offender or with victims, there are multiple third sector actors that are somehow involved in the work with these groups. For example, various addiction rehabilitation, homelessness, religious TSOs, general crisis and mental health TSOs work with victims and/or with offenders. In order to handle this problem, I adopted a rather broad way of defining the organizations that I was interested in at the beginning of my study and as I became better aware of the qualities and quantities of the TSOs that I were examining during the study, I decided to narrow down my research to such TSOs that worked only with offenders or with victims (or in some cases, with both of these groups). This definition means, however, that many such TSOs that may be important to their members and clients, as well as important partners for the criminal justice officials have been excluded from this study. Therefore, this study cannot give a full picture of the roles of different kinds of TSOs that work with offenders or with victims, but rather a view from those TSOs that have focused solely working with these groups. However, without this narrowing down, examining these TSOs would have become very complicated, as there had not been any clear criteria to that how much a TSO should work with victims or with offenders in order to become understood as a victim or an offender TSO.

Snowball-sampling: How to reach offender and victim TSOs?

After I had decided to focus my research to such TSOs that provide services or other kind of support to victim or to offenders, I needed to find them. It would have been possible to choose certain well-known TSOs from each of these countries directly without gathering information about other possibilities, however, as I was also curious to know what kinds of TSOs besides the large national organizations work with these groups in overall and in what kinds of quantities in the four countries, I conducted an overview to victim and offender TSOs in each of these countries. Unfortunately, at the moment, there does not exist any comprehensive registers or lists of such TSOs that work with victims or with offenders in the countries of my study. Thus, I had to find these TSOs by using the Internet and the TSOs themselves as a source of information. In a way, one could describe my

[26] However, for example in Finland associations are required to register in order to become legal entities.
[27] Helander and Sundback 1998, 17.

method of finding the TSOs as 'snowball-sampling'. This means that my main method of finding offender and victim TSOs was to ask from such TSOs that I knew to work with either victims or with offenders about other such TSOs that worked with these groups. In practise, I first searched relevant TSOs by using the webpages of TSOs that I knew to work in this area in these four countries as well as using applicable search words in Google. After I was not able to find any new TSOs on my own, I listed all these TSOs that I had found and created in total eight listings of the victim and offender TSOs; a list containing all the victim TSOs in Finland, a second list containing all the offender TSOs in Finland, a third list containing all the victim TSOs in Sweden etc. Thus, for each country I had one list with the TSOs that worked with offenders and another list with those TSOs that worked with victims[28]. I then emailed these listings to all of the TSOs that I had found myself and asked them to suggest me other such TSOs that were working on the same area, but that possibly were excluded from the list I had drafted[29]. In addition, I also sent my listings to some of the key criminal justice actors from these countries such as Prison and Probation Service (Kriminalomsorgen) in Norway and Criminal Justice Authorities in Scotland[30].

As a result of this sampling, I received in total about 100 replies from the TSOs and from the authorities together[31]. In some cases, the TSOs did not know any other actors on the field besides the ones that I had already listed. However, the majority of the replies suggested such TSOs into my list that did not only work with victims or with offenders, but they were such that mainly worked with issues such as addictions, homelessness, mental health problems, children in general, life crises or they were congregations[32]. Some of the suggested TSOs had established activities with victims or with offenders too, despite their clientele or membership base was broader than these groups[33] or they mainly worked with relatives of victims or offenders.[34]

After I familiarized with these suggestions using webpages of TSOs as my source, I divided the suggested TSOs and the TSOs that I had already found on my own, into three different groups; The first group included those TSOs that were clearly and only working with victims or with offenders, the second group those that were partly working with these groups and the third group was formed by such TSOs, whose work did not

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[28] As a result, I had 31 victim TSOs and 17 offender TSOs from Finland, 80 victim TSOs and 22 offender TSOs from Norway, 268 victim TSOs and 63 offender TSOs from Sweden and 84 victim TSOs and 38 offender TSOs from Scotland. At this stage, umbrella organizations were not treated as one organization, but all the local members of such organizations were included to the lists too.

[29] All TSOs were approached with their own language.

[30] Criminal Justice Authorities are local authorities that plan, co-ordinate, monitor and report on the delivery of offender services both in the community and within the prison service. They work in partnership, for example, with TSOs. (Management of Offenders etc. (Scotland) Act 2005; Management of Offenders etc. (Scotland) Act 2005 (Designation of Partner Bodies) Order 2006).

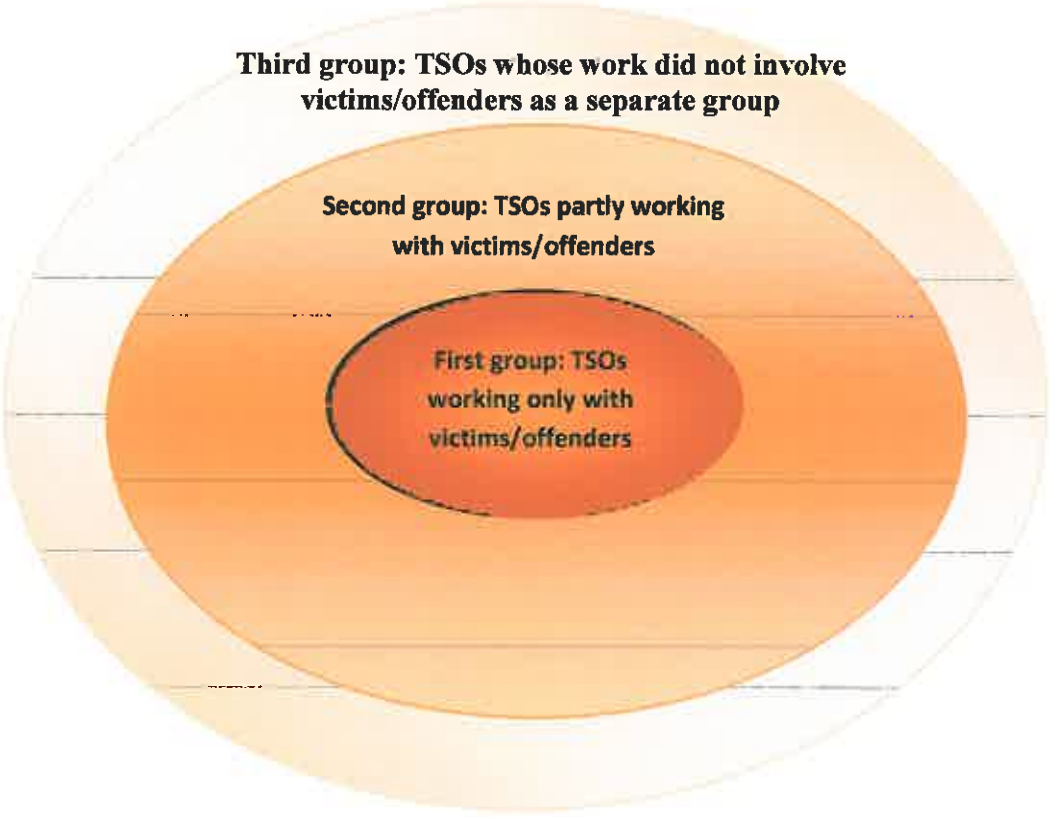
[31] 16 victim TSOs and 9 offender TSOs from Finland, 5 offender TSOs and 17 victim TSOs from Norway, 29 victim TSOs and 7 offender TSOs from Sweden and 10 victim TSOs and 3 offender TSOs from Scotland replied. In addition, three Criminal Justice Authorities from Scotland replied and Norwegian Correctional Services provided a list of TSOs that they had co-operation (such a list was available from Sweden too, but the Finnish Criminal Sanctions Agency did not have this information). In many cases, the umbrella organization replied on behalf of all member organizations.

[32] For instance, these suggestions included Alcoholics/Narcotics Anonymous, Stiftelsen KRAFT, Stiftelsen GUTS, Mental Helse, Kirkens SOS, Alarmtelefonen for barn og unge (from Norway), Stop Huumeille!, Irti Huumeista, Pentecostal congregation, Free Church and Adventist Church (from Finland), IOGT-NTO, Stadsmission, Räddä Barnen and BRIS (from Sweden), Addactions Scotland, Scottish Drugs Forum, Scottish Association for Mental Health, Breathing Space and Childline in Scotland.

[33] For example, Salvation Army and Red Cross.

[34] For example, Families Outside (Scotland), Bryggan (Sweden), For Fangers Pårørende (Norway) and Vankien Omaiset VAO ry. (Finland).

involve working with victims or with offenders as such, but victims or offenders could potentially seek help from these TSOs too. Picture 1 below illustrates these three groups and their proportions to each other.



Picture 1.

The amount of TSOs belonging to each of these three groups can of course vary according to how one understands those TSOs that work with victims or with offenders. In some cases, it was very difficult to make a clear distinction between those TSOs that I grouped to the first category of TSOs and between those that I grouped to the second category of TSOs. Many of those TSOs that I included to the second category of TSOs did, for example, locally significant work with offenders or with victims and they were in that sense, certainly important actors in their area. However, as working with victims or with offenders was not the primary motive of their work, I decided to include them to those TSOs who only worked partly with these groups[35].

[35] Examples of such TSOs are Stiftelsen Alternativ til Vold and Kirkens Sosialtjeneste from Norway, Setlementti Naapuri ry. and ViaDia ry. from Finland, Fryhuset and Rikskriscentrum from Sweden and Barnardo's Scotland and Turning Point from Scotland.

Further sampling: How to define 'key TSOs'?

After grouping the TSOs, I needed to decide, which of the grouped TSOs I would include to those TSOs, whose roles in the criminal policy and in criminal justice should be examined further. As I said, the second group of TSOs included many interesting and important TSOs to victims and offenders, however, as they often worked with some other groups too and their work had some other motives besides helping victims or offenders, I decided not to take these TSOs to further examination in this research. Therefore, I decided to continue my research with those TSOs that I had included to the first category of victim or offender TSOs and selected from these organizations such TSOs that could be considered as 'key TSOs' in their fields. Hence, at this point my sampling can be described as 'strategic' or 'theoretical'[36], since I was particularly interested in examining certain kinds of TSOs. Tables 1 and 2 below list the TSOs that I selected to the first categories of victim and offender TSOs as well as the distinctions that I made between the key victim/offender TSOs and other victim/offender TSOs.

Table 1: Victim TSOs.

Victim TSOs	Finland	Norway	Sweden	Scotland
Key TSOs	• Victim Support Finland •The Federation of Mother and Child Homes and Shelters[37] •Rape Crisis Center Tukinainen	• Norsk krisesenterforbund NOK!/ •Krisesentersekretarietet[38] •FMSO – Felleskap mot seksuelle overgrepp	•Brottsofferjouren •Sveriges Kvinno- och Tjejjourers Riksförbund (SKR)/ •Riksorganisationen för kvinnojourer och tjejjourer i Sverige (ROKS)[39] •HOPP – Riksorganisationer mot sexuella övergrepp	•Victim Support Scotland •Scottish Women's Aid •Rape Crisis Scotland

[36] Mason 2002, 124.

[37] This TSO does not work solely with victims, however, it is the only national shelter organization in Finland and a significant actor on the field of intimate/family violence. Therefore, it was categorized to the first group of TSOs.

[38] At the time of writing this paper, I have not yet made a decision between these two crisis centre TSOs. I will include only one of them to my final research.

[39] At the time of writing this paper, I have not yet made a decision between these two crisis centre TSOs. I will include only one of them to my final research.

Other victim TSOs	•Naisten Linja Suomessa ry. •Delfins ry. •Rajat ry. •Huoma – Henkirikosten uhrien läheiset ry. •Love ry. •Siniset siivet ry.	•Støttesenter mot Incest •Stiftelsen Kirkens Ressurssenter mot vold og seksuelle overgrep •Blålys – Landsforeningen for Voldsofre • Stine Sofies Stifelse	•ATSUB – Föreningen Anhöriga till Sexuellt Utnyttjade Barn •RSCI – Riksföreningen stödcentrum mot incest och andra sexuella övergrepp, •Army of Survivors •Slagfärdiga •Föreningen Storasyster •Utsattman.se	•Open Secret •Rape and Abuse Line •Safe Space •Abused Men in Scotland •Moira Anderson Foundation •Kingdom Abuse Survivor Project KASP •Break the Silence •Say Women •Izzy's Promise •Safe Strong and Free •Shetland Sexual Abuse Survivors •PETAL Support Group •Abused Men in Scotland •Eighteen and under •Roshni

Table 2: Offender TSOs.

Offender TSOs	Finland	Norway	Sweden	Scotland
Key TSOs	•KRITS (Probation Foundation Finland) •KRIS (Kriminellas Revanch i Samhället)	•WayBack	•KRIS (Kriminellas Revanch i Samhället) •X-CONS	•Sacro[40] •Apex

[40] Sacro also has some services for victims of crime.

Other offender TSOs	•Evankeliointi ja vankilalähetys ry. •Prison Fellowship Finland •Vapautuvien tuki ry[41].	•Stiftelsen Kirkens fengselsarbeid •FOKO – Forum for opplæring innenfor friminalomsorgen •Prison Fellowship Norge	•Tjuvgods •De intagnas röst i samhället •Livskraft •IBUS – Individuell Behovsstyrt Uthålligt Stöd	•Hope Scotland •Caring for Ex-offenders Scotland •Integrate •Prison Fellowship Scotland •Prison Phoenix Trust Scotland •Fine Cell Work (English charity, but has activity also in Scotland)

In these tables 'key TSOs' indicate those TSOs that I have selected for further research and 'other victim/offender TSOs' indicate those TSOs that I have excluded from the further analysis. It appears that in my data, there were more victim and slightly more offender TSOs to choose from in Scotland in comparison to the three Nordic countries. I have not made a distinction between small TSOs and large national TSOs in these tables, however, the key TSOs are primarily national and such that have a broader clientele, whereas the other TSOs are local or more specialized TSOs. For example, in the Scottish victim TSOs there are such TSOs that have focused on helping adult survivors of sexual abuse (Break the Silence, Open Secret), victims of rituals such as voodoo (Izzy's Promise), under aged victims of emotional, physical or sexual abuse (Eighteen and under) or relatives of murder victims (PETAL Support Group). Similar victim TSOs exist in the three Nordic countries too, however, perhaps having not as much as variety as in Scotland. This is also the case with offender TSOs. Whereas the majority of the other offender TSOs in the Nordic countries included only religious TSOs (Evankeliointi ja vankilalähetys ry., Vapautuvien tuki ry., Stiftelsen Kirkens fengselsarbeid, Livskraft, IBUS – Individuell Behovsstyrt Uthålligt Stöd, Caring for Ex-offenders Scotland, Integrate and Prison Fellowships in Finland, Norway and in Scotland), Scotland had also such TSOs that aimed to desistance with the aid of handwork (Fine Cell Work) or yoga (Prison Phoenix Trust Scotland).

Of course, it would have been possible to take all of these offender and victim TSOs for further research. However, mostly due to practical reasons and resources available to me, I had to limit the amount of TSOs that I examine in this research. Thus, I chose two to three victim and offender TSOs from each of the four countries that I call as 'key' TSOs. I name these TSOs as key TSOs, because they appeared to be the most significant actors in their fields nationally. For example, they had operations in several locations and they had interaction with the state in the form of service provision. Due to the theoretical background of this study, I am particularly interested in the effect of service provision to these TSOs. In the case of victim TSOs, I also felt that it was important to include one TSO from each country that worked with victims of sexual violence, since

[41] After I had collected these suggestions, Vapautuvien tuki ry. reported on its webpages in spring 2013 that it has closed down its operations.

many of the found TSOs worked with victims of sexual violence in particular. I also aimed to choose such TSOs that would be somehow comparable to each other. However, this was not entirely possible, since the national offender TSOs from the Nordic countries are based on peer support (excluding the Finnish KRITS), whereas the two key TSOs from Scotland are more service-orientated TSOs. Also, it was not possible to choose a general Victim Support TSO from Norway, because such service is provided by the state. However, I felt that I needed to include these TSOs from the other three countries to my study, since they undoubtedly are one of the most important TSOs working with victims nationally.

Of course, it may now look that it could have been possible to choose these key TSOs without the snowball-sampling process. However, had I done my selection without exploring the field of victim and offender TSOs, this selection would have been based on preconceptions rather than systematically gathered knowledge of different kinds of TSOs that are involved in work with victims or with offenders. Therefore, I can now say that my sampling is methodologically better justified than if I had not conducted the snowball-sampling process.

At the time of writing this paper, most of the identified key TSOs have agreed to participate my study. If some of these TSOs refuse, I may have to choose some other TSOs to their place.

Some reflections on the upcoming methodological issues in the study

This study is certainly both methodologically as well as theoretically challenging. In this paper I have only discussed about my methods and methodologies in relation to definitions and sampling, but of course also the use of documents and interviews poses methodological challenges, not to even mention the comparative research strategy. However, I have only now reached the point in my study, where the actual research to the roles of these key TSOs in criminal policy and in criminal justice begins via interview and document material. The document data is collected from various kinds of documents that TSOs have produced such as their Internet home pages, annual reports/reviews, plans of actions, organizations' rules, leaflets and other documents available via the organization. Interviews are conducted with the so-called 'key' people from these TSOs such as executive managers or similar members of the staff, who have a profound knowledge of how their TSO operates.

Using these data types, both the document and interview data is not unproblematic either. Firstly, the documents have not been produced for a research purpose, but in each organization they have had a purpose of their own. For example, the Internet home pages are written for existing and potential clients, members or supporters and the information that different TSOs share on their Internet homepages can vary a great deal. Consequently, the documents may not always tell the 'truth' about what is going on in that particular TSO in practise. However, the documents should not be analysed only on the basis of what they tell about 'reality', but also about what image they convey about a particular TSO to the world. This is because, the image that these TSOs convey about themselves to the world is also a part their roles. They may want to, for example, portray themselves as professionals, experts or equals to their members. Another aspect of the roles of these TSOs is then what they do in practise and when examining these actual practises, the interviews may be more helpful than the documents. Nonetheless, the interviews also pose challenges. They are always perceptions of certain people and these

people may want to share some issues, whilst disclose others. In my study this may be a particular challenge, because I cannot conduct my study anonymously. However, the issues and problems connected to documents and interviews will be discussed in another occasion after the study has proceeded further.

References

Apex (2013) Community sentences. Available at:
http://www.apexscotland.org.uk/community-sentences (Accessed 2.6.2013)

Croall, H. (2006) 'Criminal justice in post-devolutionary Scotland', Critical Social Policy, 26(3): 587–607.

Dobash, R. E. and Dobash, R. P. (1992) Women, Violence and Social Change. Chantham: Routledge.

Elman, A. R. (2003) Refuge in reconfigured states: shelter movements in the United States, Britain, and Sweden, pp. 94–114 in Banaszak, L. A., Beckwith, K. and Rucht, D. (eds.) Women's Movements Facing the Reconfigured State. New York: Cambridge University Press.

Forma, P., Kuivalainen, S., Niemelä, M. and Saarinen, A. (2007) Kuinka hyvinvointivaltio kesytetään? Julkisen sektorin uudistaminen ja hyvinvointipalvelujen muutos Pohjoismaissa.
Turun yliopiston sosiaalipolitiikan laitoksen julkaisuja B:32/2007. Turku.

Frodlund, A. (2003) KRIS. En kartläggning av föreningen Kriminellas Revanch I Samhället. RAPPORT 2003:7. Stockholm: Brå.

Fyfe, N., Timbrell, H. and Smith, F. M. (2006) 'The third sector in a devolved Scotland: From policy to evidence', Critical Social Policy, 26(3): 630–641.

Gojkovic, D., Mills, A. and Meek, R. (2011a) Scoping the involvement of third sector organisations in the seven resettlement pathways for offenders. Working Paper 57. Third Sector Research Centre.

Gojkovic, D., Mills, A. and Meek, R. (2011b) Offender engagement with third sector organisations: a national prison-based survey. Working paper 61. Third Sector Research Centre.

Helander, V. and Sundback, S. (1998) Defining the Nonprofit Sector: Finland. Working Papers of the Johns Hopkins Comparative Nonprofit Sector Project, no. 34 edited by Lester
M. Salamon and Helmut K. Anheier. Baltimore: The Johns Hopkins Institute for Policy

Studies

Julkunen, R. (2000) 'Social Background of the Rise of the Third Sector – The Finnish Welfare Reform in the 1990s', pp. 52–70 in Siisiäinen, M., Kinnunen, P. and Hietanen, E. (eds.) The Third Sector in Finland. Review to Research of The Finnish Third Sector. Helsinki: Hakapaino.

Justitiedepartementet (1996) Allas vårt ansvar - ett nationellt brottsförebyggande program. Depar-tementsserien 1996:59. Available at: http://www.regeringen.se/sb/d/390/a/2805 (Accessed 2.12.2011)

Keisala, H. (2006) Parisuhdeväkivalta moniammattilaisen työn kohteena. Arviointitutkimus Espoon yhteistyöverkoston ja Lyömättömän Linjan toiminnasta parisuhdeväkivallan lopettamiseksi. Oikeuspoliittisen tutkimuslaitoksen tutkimustiedonantoja 68. Helsinki: Oikeuspoliittinen tutkimuslaitos.

Kriminalvården (2006) Kriminalvårdens föreskrifter om statsbidrag till vissa organisationer inom kriminalvårdens område. KVFS 2006:12.

Kriminalvården (2003) Samarbete med ideella sektorn. Riktlinjer för kriminalvårdens samarbete med ideella sektorn. Kriminalvårdsstyrelsens riktlinjer 2003:2.

KRIS (2013) Vankilatyö. Available at: http://www.kris.fi/mika-kris (Accessed 2.6.2013)

KRITS (2013) WOP-kuntoutus Keravan vankilassa. Available at: http://www.krits.fi/fin/palvelut/wop-kuntoutus/ (Accessed 2.6.2013)

Laine, T. (2010) Lähisuhde- ja perheväkivallan uhreille tarjottavat turvakotipalvelut. Selvityshenkilöraportti. Sosiaali- ja terveysministeriön selvityksiä 2010:1. Sosiaali- ja terveysministeriö.

LobLey, D. and Smith, D. (2007) Persistent Young Offenders: An Evaluation of Two Projects. Aldershot: Ashgate Publishing.

Lorentz, H. and Selle, P. (2000) Norway: Defining the Voluntary Sector. Report 2000:14. Oslo: Institute of Social Research.

Maguire, M. (2012) 'Response 1: Big Society, the voluntary sector and the marketization of criminal justice', Criminology and Criminal Justice, 12(5), 483–494.

Mason, J. (2002) Qualitative Researching. Trowbridge: Sage.

Matthies, A. (2007) 'Toisenlainen kolmas sektori. Pohjoismaiden sosiaali- ja terveysjärjestöt tutkimuksen valossa', Yhteiskuntapolitiikka, 72(1): 57–72.

Matthies, A. (2006) Nordic civic society organisations and future of welfare services. A model for Europe? Copenhagen: TemaNord.

Meek, R., Gojkovic, D. and Mills, A. (2010) The role of the third sector in work with offenders: the perceptions of criminal justice and third sector stakeholders. Working Paper 34. Third Sector Research Centre.

Mills, A., Meek, R. and Gojkovic, D. (2011) 'Exploring the relationship between the voluntary sector and the state in criminal justice', Voluntary Sector Review, 2(2): 195-213.

Ministry of Interior (2012) Turvallisempi huominen. Sisäisen turvallisuuden ohjelma. Helsinki.

Ministry of Justice (2012) Punishment and Reform: Effective Probation Services. Consultation Paper CP7/2012. London: Ministry of Justice

Ministry of Justice (1999) Working Together for a Safe Society. The National Crime Prevention Program. Available at: http://www.om.fi/3975.htm (Accessed 29.11.2011)

Neilson, A. (2009) 'A Crisis of Identity: Nacro's Bid to Run a Prison and What it Means for the Voluntary Sector', Howard Journal of Criminal Justice, 48(4); 401–410.

NOMS (National Offender Management Service) (2011) Working with the third sector to reduce re-offending. Securing Effective Partnerships. London: NOMS.

Nyqvist, L. (2001) Väkivaltainen parisuhde, asiakkuus ja muutos. Prosessinarviointi parisuhdeväkivallasta ja turvakotien selviytymistä tukevasta asiakastyöstä. Helsinki: Ensi- ja turvakotien liitto ry. [English summary: A violent relationship, clientdom and change]

Partnership Development Initiative (2010) Towards a Model Framework for Third Sector Criminal Justice Services. Edinburgh: Partnership Development Initiative.

Pehkonen, P. (2003) Naisen puolesta, ei miestä vastaan. Suomalainen naisliike väkivaltaa vastustamassa. Sosiologian raportteja 2. Joensuu: Joensuun yliopisto. [For woman, not against man. Finnish women's movement against violence. Reports in sociology 2. Joensuu: University of Joensuu]

Regjeringen (2013) Regelverk for tilskuddsordning for Kriminalomsorgens sentrale forvaltning. Available at: http://www.regjeringen.no/nb/dep/jd/dep/tilskudd/regelverk-for-tilskuddsordning-for-kri-2.html?id=712118 (Accessed 2.6.2013)

Sacro (2013) Direct Service Provision, Criminal Justice. Available at: http://www.sacro.org.uk/html/criminal_justice_services.html (Accessed 2.6.2013)

Scottish Women's Aid (2012) Measuring the impact of funding cuts on domestic abuse services for women and children in Scotland. Scottish Women's Aid survey of funding for Women's Aid services 2011-12. Edinburgh: Scottish Women's Aid.

Sigfridsson, A. (2011) 'The Crime Victim Fund in Sweden, funding for victim projects', pp. 55–61, in Kinnunen, A. (ed.) The position of victims of crime in the Nordic countries. NSfK's 25th Contact Seminar. Reykjavik: The Scandinavian Research Council for Criminology.

Taylor, M. (2004) 'The welfare mix in the United Kingdom', pp. 122–144 in Evers, A. and Laville, J. (eds.) The Third Sector in Europe. Cheltenham: Edward Elgar.

Mentally ill offenders in the Nordic countries – Methodological considerations in the design of a comparative study

by Simon Kamber

This paper is based on a presentation at the 55th research seminar arranged by the Scandinavian Research Council for Criminology. It presents my ph.d.-project at Aarhus University aiming at doing a comparative legal study of the rules regarding mentally ill offenders in the Nordic countries, focusing specifically on Sweden, Norway and Denmark.

The aim of this paper is to present my methodological considerations with regard to the design of the comparative study. Before delving further into the subject of methodology, however, I would like to give a short description of the ph.d.-project and some preliminary conclusions.

Accordingly, this paper will be split up into two main parts. The first part will present the ph.d. project and describe some preliminary thoughts and conclusions. The second part of the paper will outline some methodological considerations and describe more specifically the choice of method in the project.

The ph.d. project: Mentally ill offenders in the Nordic countries

The goal of my ph.d.-project is to analyse the rules regarding mentally ill offenders in Nordic criminal law from a comparative perspective.

Firstly, I examine which criteria are applied when the legal systems of each of the three countries decide whether or not to impose punishment or alternative reactions on a mentally ill offender. In all three countries, a distinction is made between legal rules specifying when a persons mental state precludes, or at least gives a presumption against, punishment and when the person is subject to alternative reactions in the form of compulsory treatment or supervision.

Secondly, I examine the reasoning behind the rules on this area. Which goals were stated when the rules were formulated, and which considerations lead to the specific choice of wording in the criminal law statutes?

Finally, I aim to study the effect of these rules in practice. In this context, the project aims to look not only at the legal practice usually studied in legal science, but also the application of the rules in psychiatry, and forensic psychiatry in particular.

The core questions raised by the project operate on three levels. At the most basic level, the project studies the actual application of criteria. Which reasons are given, or not given, when the courts and/or forensic psychiatry make recommendations or choices of specific reactions or punishments?

However, the intention when submitting this area to a comparative legal study was also to study the rules on a somewhat deeper level. Which role, I aim to ask, do the legal statutes themselves play in this process? Which influence does the specific wording of a section of the criminal code have on the process of imposing sanctions or reactions on a

specific criminal offender? On an even deeper level, I hope the project will be able to contribute to the more general discussion of the role of statutes in the legal system: To what extent can the formulation of legal statutes influence the functioning of the legal system?

Preliminary results

My work so far has mainly been focused on gaining an overview of the diverse fields of criminal law and, in particular, forensic psychiatry in the three countries. As part of my efforts, I have been fortunate enough to be invited to stay at the universities of Bergen and Örebro in autumn 2012 and spring 2013 respectively. Much of my current insight has been gained through discussions with legal scholars and forensic psychiatrists in Denmark, Norway and Sweden. No formal interviews have been conducted, since at the time of the first stay I lacked the depth of understanding of the subject necessary to design methodologically sound interview research.

The legal systems and institutions of the three countries differ on a number of areas on the subject of mentally ill offenders. In the following, I will give a brief description of each of the three systems, focusing in particular on the legal structure of the rules, and on the structure (or lack thereof) of forensic psychiatry as an institution.

Denmark

The Danish rules regarding mentally ill offenders are based on a so-called mixed criterion for culpability. Section 16 of the Danish criminal code states that a subject that was, at the time of the offense, unculpable because of insanity or a similar disorder, is not to be punished.

This implies two distinct criteria that must be fulfilled for a subject to be free from punishment. First, the subject must have suffered from insanity or a similar disorder. The term 'insanity' refers to the class of disorders commonly referred to as psychoses. Despite some recent changes in the diagnostic contents of the term psychosis[1], this criterion remains relatively uncomplicated as far as the legal implications are concerned. Second, the subject must have been disculpable because of the disorder. The precise contents of this criterion have been deliberately left vague in order to enable the judge to rely on his 'natural understanding' of culpability.[2]

If the subject is free from punishment because of section 16, the rule in section 68 of the criminal code allows the court to impose an alternative reaction if this is deemed 'expedient in order to prevent further crime'. The court is given a wide variety of possible reactions, ranging from supervision by the correctional service, to forced admittance to a mental institution with release requiring a court decision.

This set of rules is accompanied by a significant forensic sector in Danish psychiatry. Several mental institutions have departments specializing in the treatment of forensic patients, specialist assistance during court cases or both.

In contrast to the flexibility of treatment sentences, the rules regarding forced admittance in civil psychiatry leave quite a narrow range of options. If forced treatment is deemed necessary, either because of a pressing need for treatment or because the patient is a danger to himself or others, the forced treatment must be in the form of admittance to a mental institution. Treatment without admittance is only possible under very specific circumstances, and only in connection with release from a forced admittance.

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1 For an overview, see Brandt-Christensen and Bertelsen 2010

2 Straffelovskommissionen 1923, p. 63.

The Danish courts issue roughly 600 treatment sentences every year.[3]

Norway

Like the Danish criminal code, the Norwegian criminal code operates with a criterion for disculpability. Unlike the Danish, however, the Norwegian system is based on a purely medical criterion. According to section 44 of the Norwegian criminal code, the subject is free from punishment if he was, at the time of the offense, "psychotic or without awareness".

Thus, the question of culpability in the Norwegian system rests solely on the medical question of whether the subject was suffering from a disorder that could be described as psychotic or without awareness. No judgment is made of whether or not this disorder should, in the specific case, lead to disculpability.

If a subject is free from punishment according to section 44, the Norwegian courts also have the option of imposing an alternative reaction. The conditions, however, are considerably stricter than in the Danish system. In order to qualify for a sentence to treatment according to the Norwegian criminal code section 39, the offense in question must meet a strict standard of seriousness. Only serious violence, sexual crime, arson or similar crime enables a treatment sentence, and even so, a treatment sentence can only be issued if it is considered necessary in order to protect society. If a treatment sentence is issued, it is served under the authority of the psychiatric sector, leaving the courts little room to specify the reaction.

There is no separate forensic psychiatric sector in Norwegian psychiatry. In court cases where the question of inculpability because of mental illness is relevant, the court appoints special council directly, and if sentenced, offenders are admitted to the same institution as civil psychiatric patients.

Conversely, the Norwegian rules for forced admittance in civil psychiatry are much more flexible than in the Danish system. Forced treatment without admittance is available if it is considered the most expedient solution, and admittance to a mental institution is only available if considered necessary.
The Norwegian courts issue roughly 10-15 treatment sentences per year.[4]

Sweden

The Swedish rules differ from both the Norwegian and the Danish rules in that rather than defining standards of inculpability, the rules are technically a question of determination of sanction. Thus, the rules regarding mental illness become relevant only when the subject's guilt has already been established.

According to the Swedish criminal code, section 30:6, a subject who has committed a crime under the influence of a serious mental disorder may only be sentenced to prison if special circumstances warrant it. If the subject was, because of the disorder, unable to recognize the nature of his action or to act on that knowledge, he may not be sentenced to prison regardless of circumstances.

If a person suffering from a serious mental disorder is sentenced to punishment more serious than fines, section 31:3 of the criminal code allow the courts to sentence him to

3 Justitsministeriets Forskningskontor 2012, p. 3
4 Mæland-utvalget 2008, p. 132

treatment. This does not require the person to be affected by section 30:6. A treatment sentence consists of forced admittance to a mental institution, with or without the requirement of a court decision before release.

Swedish forensic psychiatry is separated into two levels. During court cases, the courts are assisted by a nationwide forensic psychiatry responsible for specialist assistance to the courts. If sentenced to treatment, the subject is admitted to a forensic psychiatric treatment institution run on a regional level.
Swedish courts issue roughly 300 treatment sentences per year.[5]

Tentative conclusions

While the project is still underway, I find it worth mentioning a few interesting patterns and relations I have noticed so far.[6]

First, when looked at from the dogmatic perspective of criminal law, the legal systems of Denmark and Norway appear to be built on a very similar structure, with only technical differences, while the Swedish system is built on a completely different paradigm. In practice, a significant difference between Denmark and Norway is apparent simply by looking at the numbers. Treatment sentences in Denmark are much more widely used, while the Norwegian sentence to treatment is very much an exception to the rule. By comparison, the Swedish system is much closer to the Danish system.

My impression, which I aim to investigate further during the rest of the project, is that the difference goes deeper than that. The concept of disculpability plays more of a practical role in the Norwegian system, whereas considerations of the fundamental principles of the rules are rarely seen in Denmark or Sweden.

Second, the significant role that forensic psychiatry plays in Denmark and Sweden, but not in Norway, is remarkable. Both Denmark and Sweden have separate institutions (or at least departments) for treatment, and established institutions providing assistance to court cases. Psychiatrists in both countries have mentioned that the forensic psychiatric system can occasionally provide a stability of treatment that the civil rules for forced treatment are not able to provide. This leads to situations where patients do not receive long-term treatment unless they have been sentenced to do so.

Finally, it is notable that there is, in Denmark and Sweden, a gap between the principles suggested by the rules, and the way they are applied today. In Sweden, the rules were based on the abandonment of the notion of disculpability. Even so, in 2008, a rule was introduced that restricted the obligatory ban on prison sentence to cases where the subject was "unable to recognize the nature of the action or to act on that knowledge". This is a criterion that closely mimics traditional notions of culpability. On the other hand, the Danish section 16 is worded in terms of disculpability, but it is not uncommon for the terminology of crime and culpability to enter the conversation when the rule is discussed.

Methodological considerations

Like the main questions listed above, the methods of the project operate on three levels. At the first level, the question of which criteria are applied in each of the three legal systems will be approached through methods common to legal dogmatic research.

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5 Jareborg 2010, p. 166
6 It bears repeating that these are only tentative conclusions, and should be considered as such. In particular, several impressions are only based on informal conversations.

Legal dogmatic research differs from other social sciences mainly by the fact that legal research operates within the paradigm of legal authority. In other words, the legal dogmatic scholar approaches law not as an external observer attempting to gain insight into the way the law is determined in the specific case, but as internal observers trying to determine the law.

As such, the methods and sources of legal dogmatic research resemble those of practical legal work: The sources used are those of legal statutes, the background documents behind legal statutes, court decisions and previous scholarly discourse. The method is based on systematization of legal rules and concepts, and on clarifying the 'proper' interpretation of the law with an eye to practical applicability.

When it comes to the deeper issue of determining the role legal rules play in the process of imposing reactions on mentally ill offenders, however, it becomes necessary to leave the framework of legal dogmatism. The same advantages that makes legal dogmatism practical in the application of law make it unfit for the external observation of the workings of law. Instead, the more in-depth analysis of the three legal systems, as well as the comparative analysis, will find its foundation in comparative legal method, more specifically in functionalist comparative legal method.

Before going deeper into the issue of functionalist comparative law and its implications for this project, I will first present some comments on the nature of the legal system:

The legal system and the design of rules

When it comes to specific cases, court decisions in criminal cases where there is a question of mental illness are based on input from a wide range of actors.This system of rules and institutions has been established based on diverse considerations. There is, of course, a significant element of tradition and history, as well as more or less apparent political considerations. However, just as often, specific events or single persons play a central role in determining which factors become influential on the design of the criminal system. Finally, the goals of the criminal justice system (explicit or latent) play a central role in the discourse when rules or institutions are changed.

In the specific case, the considerations of the judge may, or may not, reflect the goals of the criminal justice system as established. In other words, when analyzing the daily workings of the system, it is necessary to distinguish between the implementation and design of a system of rules and institutions, and the actual functional implications of the system.

This distinction provides the line between the two central questions of this project: What goes into the design of a legal rule? And which role does that rule and its purpose serve on the functional level?

Functionalist comparative law

As a research tool, comparative law can serve as a way to approach the legal system from an external perspective. Rather than a comparison of legal systems at the dogmatic level, comparative law becomes a way to analyze the legal systems with some measure of disconnection from the dogmatic preconceptions of each of the legal systems.

In this specific project, the opportunity for comparison arises from the ability to compare three different approaches to mentally ill offenders in legal systems that have otherwise similar roots in the Nordic criminal law tradition.

This separation of legal institutions from legal dogmatism is apparent in the functional approach to comparative law[7]. The basic concept of functional criminal law is the characterization of legal institutions not by their dogmatic structures, but by the function they serve in society. This concept of function serves both as a way to choose points of comparison between the legal systems, and as a way to understand the law on a level separate from the legal dogmatic view.

Focusing on function presents a change in perspective when it comes to the choice of which legal rules and institutions to compare. While the natural point of comparison from a dogmatic point of view would be the area covered by similar sections of the criminal codes, functionalist comparative law prompts another question: The question of whether the central sections of the criminal codes actually serve the same function in relation to the mentally ill in all three countries. Is the group of offenders the same or do the countries have other institutions in place that deal with mentally ill persons who pose a risk to society? Is there a difference in which offenses are carried through to the courts?

But in addition to the focus on points of comparison, functionalism also presents a different view on the structure of criminal law as such. If we consider criminal law not in terms of legislation and institutions, but in terms of the functions it fulfills in society, our study of criminal law gains a different perspective.

Such a perspective immediately prompts the question: What is the function of criminal law? An overview of criminal law and criminological literature reveals a wide variety of often conflicting perceptions of the primary purpose of criminal law. This necessity to define the function to assign to criminal law is going to be an interesting part of the project.

It seems clear that restricting our understanding of criminal law to only a single function, be it crime prevention, restoration or justice, will risk imposing a singular understanding of criminal law on the analysis. A more open-ended approach would be to outline the different functions that criminal law can serve, or is expected to serve, and keep these different approaches in mind during the analysis. Such an approach, if successful, would abandon the pure functionalism to offer a more nuanced look at the different faces of criminal law.

Methods of the project

As described above, the goal of the project is to use a modified functionalist approach to study and analyze the criminal justice systems dealing with mentally ill offenders in Denmark, Norway and Sweden. The intention is to outline a set of different possible functions of criminal law, and use these different perspectives to offer an understanding of the choice of reactions towards mentally ill offenders in the three countries. The aproach to methods will be divided into two steps: An attempt to identify and categorize the stated functions of criminal law, and the comparative analysis itself.

7 While functionalism in comparative law is based on the functionalist school of sociology and legal sociology, there are certain differences in approach that justify considering functionalist comparative law a separate field of methodology. For a more in-depth analysis, see Michaels 2006.

The first step: Stated functions of criminal law

The first step is to outline the different functions that criminal justice can serve. On this level, I have decided to focus on functions that are afforded legitimacy by being included in the legislative process. Much has been written, particularly within the functionalist school of legal sociology, about the latent functions of criminal law. Naturally, these dynamics are an important aspect to be aware of, but in this study, where the goal is to look at the way criminal justice seeks to serve its goals, using the stated goals as the main lens of observation seems justified. Unintended (or unstated) functions will, in this light, be viewed as obstructions to the intended function.[8]

In more specific terms, in the first part of the project, I will take a closer look at the different reasons used to justify punishment and other reactions to offenses. I will then study how these reasons affect the design of legislation. Finally, I will consider how these main lines of reasoning would, from an idealized viewpoint, approach the question of mentally ill offenders.

Second step: Comparative analysis

The second step is an analysis of the legal system in the three countries. I will consider legislation and institutions in each of the three countries. How is the legal system designed, and how would it be analyzed from a legal dogmatic viewpoint? What is the background behind the legislation, and to what extent can it be said to be founded in the different intended functions of criminal law outlined above? How did these reasons affect the design of the legislation (if at all)?

Following that, I will conduct a comparative analysis of the three legal systems from a functionalist perspective. How do they achieve their functions, and how does this view change with the different functionalist lenses? Is there a connection between the stated goals of the legislators and the functions in practice?

In order to ensure the comparability of the analyses, I aim to follow a set model in the study of the three systems, covering the following areas in parallel:

1) Overview of the rules and institutions.

Apart from the criminal law, what other rules and institutions have significance for the group in question? What is the structure of psychiatric and forensic psychiatric institutions? What options exist in civil psychiatry to serve purposes that might be parallel to the purposes of criminal law?

2) Legal dogmatic analysis of the rules

What is the background behind the rules? Which core principles are the rules based on? What is written in academic literature about the rules and the institutions?

8 This is indeed one of the main points at which functionalist comparative law departs from functionalism in legal sociology. While the latter is most closely occupied with the study of latent functions, the former cautiously accepts the premise that law is a system built to serve a stated purpose.

3) Functional-level analysis of forensic psychiatric criteria

Which parts of the criteria for special treatment are described using psychiatric terminology? Who makes the decisions as to whether these criteria are fulfilled? What role do these criteria play in the final decision? Are decisions based on a treatment- or punishment-based paradigm?

4) Functional-level analysis of criminal law criteria

Which parts of the criteria for special treatment are described using legal or responsibility-based terminology? Who makes decisions as to whether these criteria are fulfilled? Which reasons are given for these decisions? What is the relationship to forensic psychiatry? How consistently are principles in legislation applied?

Summary

This paper has outlined the current state of a ph.d. project studying the rules regarding mentally ill offenders in Nordic criminal law. The paper has focused in particular on the methodological considerations that the project has given rise to.

The criminal justice systems in Denmark, Norway and Sweden are built on similar foundations. Even so, the rules regarding mentally ill offenders are based on different principles, with the Norwegian system assigning disculpability to the concept of psychosis, Denmark adding the additional criterion of disculpability and Sweden detaching the question of mental illness entirely from the question of guilt.

The paper has presented the preliminary conclusion that regardless of what the rules regarding mentally ill offenders may imply, the legal systems of Norway and Denmark are much less alike in this matter than generally assumed. On the other hand, the Swedish rules appear closer to Denmark than initially thought, due in part perhaps to the large forensic psychiatric sector in both Denmark and Sweden.

In the second part, the paper has presented some considerations on methodology, laying the foundation for a comparative method based on the idea of functionality. The functional method of comparative law has been briefly presented, and the idea that criminal law can be studied through different lenses of function depending on perceived purpose has been presented.

Finally, the paper has outlined some specific methods for study of both these functions and the specific legal systems of Sweden, Norway and Denmark.

Sources

Brandt-Christensen, Mette and Bertelsen, Aksel: Sindssygdomsbegrebet i straffelov og psykiatrilov, Ugeskrift for læger 2010, 1274-1276 (Brandt-Christensen and Bertelsen 2010)

Straffelovskommissionen: Betænkning afgiven af Straffelovskommissionen af 9. november 1917, J. H. Schultz 1923 (Straffelovskommissionen 1923)

Justitsministeriets Forskningskontor: Nye Foranstaltningsdomme i 2011 samt forløbet af domme afsagt i 2006, Justitsministeriet 2012 (Justitsministeriets Forskningskontor 2012)

Utredningsgruppe oppnevnt av Justis- og politidepartementet 18. maj 2006: Etterkontroll av reglene om strafferettslig utilregnelighet, strafferettslige særreaksjoner og forvaring, Justis- og politidepartementet 2008 (Mæland-utvalget 2008)

Jareborg, Niels and Zila, Josef: Straffrättens påföljdslära, Nordstedts Juridik 2010 (Jareborg, 2010)

Michaels, Ralf: The Functional Method of Comparative Law, in The Oxford Handbook of Comparative Law, Oxford University Press 2006 (Michaels 2006)

The emergence of trafficking for forced labour as a contemporary social problem

by Natalia Ollus

This paper is based on on-going work with my doctoral thesis, in which I explore the emergence of trafficking in human beings for the purpose of forced labour as a contemporary social problem. This paper is more specifically based on a draft article focusing on the evolution of the concept of trafficking for forced labour, aiming to uncover the junctures where the concepts of forced labour and trafficking in human beings meet and merge. This short paper outlines the methodological aspects of my research, and presents some of its substantive contents and some findings.

The evolution of international treaties for the control of human trafficking

For the past decade, the phenomenon of trafficking in human beings has received increased attention internationally, regionally and nationally and has been the focus of a growing body of research (e.g. Kelly & Regan 2000; Askola 2001; Lehti 2003; Lee 2007; Aronowitz 2009; Shelley 2010; Roth 2010; Rijken 2011).

A large part of the research on trafficking in persons has tended to focus on trafficking for sexual exploitation, while research on trafficking for labour exploitation has received less attention. There are several detailed studies on the history of the abolition of slavery (Miers 2003; Bush 2000) and how slavery relates to contemporary forms of exploitation, including trafficking in human beings (Quirk 2011; Bales et al 2009; Picarelli 2007). There are also historical studies on the "invention" of international crime (Knepper 2010; 2011) and the development of the international law on human trafficking, specifically from the perspective of sexual exploitation (e.g. Gallagher 2010; Askola 2007: Roth 2010). The issue of trafficking in human beings for the purpose of forced labour is touched upon in many of these studies, but few have specifically focused on how the international definition and understanding of trafficking in human beings came to encompass forced labour.

The first comprehensive international treaty on trafficking in human beings was adopted in 2000 when the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime was opened for signatories. Until the development of the Protocol, the term trafficking had mostly been associated with sexual exploitation and prostitution (Morcom & Schloenhardt 2011). Trafficking in women and girls for the purpose of sexual exploitation was the focus of several early international treaties already in the early 20th century.[1]

[1] These include the 1904 International Agreement for the Suppression of the White Slave Traffic; the 1910 International Convention for the Suppression of the White Slave Trade; the 1921 International Convention for the Suppression of the Traffic in Women and Children; the 1933 International Convention for the

The Protocol incorporates a broad definition of trafficking in human beings.[2] The Protocol, by including "forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs" (Art. 3a) thus broadened the understanding and agreement of what constitutes trafficking. The Protocol does not offer a definition of forced labour or services but instead refers to the 1930 ILO Convention on Forced Labour.

It was this 1930 ILO Convention that first regulated forced labour. The issue of forced labour had been raised internationally also in conjunction with the elaboration of the 1926 Convention to Suppress the Slave Trade and Slavery of the League of Nations. As Miers (2003) shows, at that time the phenomenon of forced labour was considered controversial and was thus left outside of the scope of the slavery convention. The newly established International Labour Organisation was instead tasked with the development of a separate convention on forced labour.

The resulting 1930 ILO Convention on Forced Labour was drafted for a specific purpose in a certain historical setting, more specifically to regulate the exploitative labour practices used by colonial powers and local chiefs in the colonies and overseas territories to exact labour from their subjects. Trafficking was not discussed in conjunction with forced labour at the time.

The 1930 ILO Convention contained a definition of forced labour,[3] and it is this definition that remains the only international definition still in use.[4] When the concept was incorporated 70 years later into an international instrument dealing with trafficking in human beings, the result was that it was applied to a completely different purpose in a completely different historical setting. Perhaps as a result of this, it seems to be difficult in contemporary European societies to recognize, grasp and define trafficking for forced labour (Jokinen, Ollus & Viuhko 2011a; 2011b). More widely, in different parts of the world, courts have struggled especially with the definition of forced labour (ILO 2009). The problems seem to relate particularly to the understanding and definition of what constitutes forced labour in a trafficking context.

Research questions and methodology

In order to understand the contemporary discussion, challenges and portrayal of trafficking for forced labour, it is necessary to understand the past discussions on forced labour. The key research questions are thus the following: how was the need to regulate forced labour framed, argued and contextualised in the 1930 ILO Convention and in the

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Suppression of the Traffic in Women of the Full Age; and the 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of Others.

[2] "'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 a position 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." (Art. 3a).

[3] "For the purposes of this Convention the term forced or compulsory labour shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily" (Art. 2).

[4] In 1957 forced labour again became the focus of an international treaty, when forced labour as a form of political coercion was prohibited with the adoption of the Abolition of Forced Labour Convention. However, this 1957 Convention did not seek to provide any new definition of the concept.

2000 Protocol, and is this definition of forced labour (still) relevant for our understanding of forced labour in the contemporary context of trafficking in human beings?

The texts of international conventions, explanatory reports, meeting memoranda and reports from working groups of various international conventions and agreements are used in order to explore the historical development of the concept of trafficking for forced labour. The core documents include ILO Conventions No. 29 and No. 105 on forced labour as well as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. The total amount of text examined is about 1000 pages. The documents are available online at the ILO web-library and UNODC websites.

The methodological choices in research are always highly personal and the researcher's own position or view is key to the analysis. Liebling (2012) argues that the researcher is the research instrument, who should do the research slowly and carefully, rigorously, appreciatively, and in conceptual dialogue with others. The criminologist's most important ethical consideration should be to engage in careful and authentic representation, with authentic description, understanding and explanation of social phenomena as the aim of research (Liebling 2012).

In any research, the key is systematic documentation and explanation of the choices and restrictions made. How has the researcher decided to limit the data, what is the systematic system of data analysis, and how have the conclusions been reached? In this research, the methodology is a close reading of the selected documents, identification of themes/discourses, and typification, with a focus on the rhetoric and argumentation of the discussions around the definitions (in 1930, 1957 and 2000). As such, the research combines criminology with methods of discourse analysis and historical research. All documents were read through, and key sections were summarised in chronological order. After this, the themes that emerged from the documents were reviewed and grouped in chronological and thematic order. This grouping forms the basis of the analysis.

Trafficking for forced labour as a social problem

The emergence of the crime of trafficking in human beings is a prime example of the formulation of a social problem. Blumer (1971) argues that social problems are the product of a process of collective definition. Like any social problem, the understanding of trafficking in human beings is at the centre of differing interests and positions, controversy and redefinition. A historical analysis of the emergence of the concepts of forced labour assists in understanding and interpreting the current challenges in implementing the concept of trafficking for forced labour.

The analysis of the documents shows specific rationales for regulating forced labour and ultimately trafficking for forced labour. In 1930, forced labour became defined and regulated, while still allowing certain forms to exist. There was an aim to protect the rights of the "native peoples" from exploitation, while at the same time safeguarding the rights of workers in the developed world. In 1957 there were attempts to broaden the understanding of forced labour to encompass also the economic dependence of employees, which makes them vulnerable to exploitation, but the time was not yet ripe to acknowledge these elements of forced labour. The rationale of regulation in 2000 was based on the perceived threat of transnational organised crime, and the need to ensure state sovereignty, strengthen law enforcement measures while protecting vulnerable victims of trafficking, especially women and children.

Since the adoption of the first international definition of trafficking in human beings, trafficked persons and potential victims have become the focus of increased interventions and also contention. From a victim-centred perspective, they are vulnerable bodies deprived of their own political agency and thus the target of humanitarian interventions and pity, but as migrants, trafficked persons are considered a risk and a threat to the security and integrity of states (Aradau 2004; Ollus & Alvesalo-Kuusi 2012).

This dichotomy of the vulnerability of the victim on the one hand, and the threat to the integrity of states on the other, colours much of the current discussion on trafficking (see e.g. Chou 2008; Roth 2010). This is particularly the case in trafficking for forced labour and labour exploitation, which takes place right at the centre of global labour migration. The number of international migrants in the world has grown over recent years and is expected yet to increase in the near future (IOM 2010). The labour force is rapidly growing in less developed countries while the demand for migrant labour is likely to increase in the developed world (ibid.). Not all migrants are treated equally: there is in Europe an ongoing separation of needed and wanted immigrants versus immigrants considered risky and thus not welcome (Albrecht 2002; Chou 2008; Hansen 2010). The migrant may thus be both a risk and at risk (see Aradau 2004). The more vulnerable the migrant, the more risk there is for exploitation and, ultimately, for human trafficking (Andrees 2008, 11).

An additional contention is caused by the fact that many of those labelled as victims of trafficking have migrated voluntarily. The division between "deserving victims" and illegal or unwanted migrants becomes increasingly blurred because of this expansion in labour migration. As a result, restricting migration becomes an anti-slavery and anti-trafficking measure (O'Connell Davidson 2010).

In implementing the Protocol of 2000 as well as national legislation that closely follows the Protocol, challenges still remain with regard to the definition of forced labour and what it means today. Is trafficking for forced labour useful in defining contemporary forms of labour exploitation, or do we need more nuanced views that recognise the different forms of exploitation that (migrant) workers encounter in contemporary Europe? The forthcoming article aims at answering these questions.

References

Albrecht, Hans-Jörg (2002). Fortress Europe? Controlling Illegal Immigration. European Journal of Crime, Criminal Law and Criminal Justice. Vol. 10, No.1, pp. 1-22.

Andrees, Beate (2008): Forced Labour and Trafficking in Europe: How people are trapped in, live through and come out. Working Paper. Special Action Program to Combat Forced Labour. Geneva: International Labour Organization.

Aradau, Claudia (2004). The Perverse Politics of Four-Letter Words: Risk and Pity in the Securitisation of Human Trafficking. Millennium: Journal of International Studies. Vol. 33, No. 2, pp. 251-277.

Aronowitz, Alexis (2009). Human Trafficking, Human Misery. The Global Trade in Human Beings. Westport: Praeger Publishers.

Askola, Heli (2001). Trafficking in Women in the Baltic States: Legal Aspects. In Trafficking in Women and Prostitution in the Baltic States: Social and Legal Aspects. Helsinki: International Organisation for Migration.

Bales, Kevin, Trodd, Zoe & Williamson, Alex Kent (2009): Modern Slavery. The Secret World of 27 Million People. Oxford: Oneworld.

Blumer, Herbert (1971). Social Problems as Collective Behaviour. Social Problems. Vol. 18,. No. 3, pp. 298-306.

Bush, M. L. (2000). Servitude in Modern Times. Cambridge: Polity Press.

Chou, Meng-Hsuan (2008). The European Union and the Fight Against Human Trafficking: Comprehensive or Contradicting? STAIR (St Anthony's International Review) Vol. 4, No. 1, pp. 79-95.

Gallagher, Anne T. (2010). The International Law of Human Trafficking. Cambridge: Cambridge University Press.

Hansen, Peo (2010). More Barbwire or More Immigration, or Both? EU Migration Policy in the Nexus of Border Security Management and Neoliberal Economic Growth. The Whitehead Journal of Diplomacy and International Relations. Winter/Spring 2010, pp. 89-101. www.journalofdiplomacy.org

IOM (2010). World Migration report 2010. The Future of Migration: Building Capacities for Change. Geneva: International Organization for Migration.

Jokinen, Anniina, Ollus, Natalia & Viuhko, Minna (2011a). Ehdoilla millä hyvänsä. Työperäinen ihmiskauppa ja ulkomaalaisten työntekijöiden hyväksikäyttö Suomessa. HEUNI Publication Series 67. Helsinki: HEUNI.

Jokinen, Anniina, Ollus, Natalia & Viuhko, Minna (2011b). Work on Any Terms: Trafficking for Forced Labour and Exploitation of Migrant Workers in Finland. In Jokinen,

Anniina, Ollus, Natalia & Aromaa, Kauko (eds): Trafficking for Forced Labour and Labour Exploitation in Finland, Poland and Estonia. Publication series 68. Helsinki: HEUNI, pp. 31-164.

Kelly, Liz & Regan, Linda (2000). Stopping Traffic: Exploring the extent of, and responses to, trafficking in women for sexual exploitation in the UK. Policing and Reducing Crime Unit: Police Research Series Paper 125.

Knepper, Paul (2011). International Crime in the 20th Century. The League of Nations Era, 1919-1939. Basingstoke & New York: Palgrave McMillan.

Knepper, Paul (2012). Measuring the Threat of Global Crime: Insights from Research by the League of Nations into the Traffic in Women. Criminology, Vol. 50, No. 3, pp. 777-809.

Lee, Maggy (2007). Human Trafficking. Uffculme: Willan Publishing.

Lehti, Martti (2003). Trafficking in women and children in Europe. HEUNI Papers No. 18. Helsinki: HEUNI.

Liebling, Alison (2012). Being a Criminologist: Investigation as a Lifestyle and Living. In Bosworth, Mary & Hoyle, Carolyn (eds.). What is Criminology? Oxford: Oxford University Press, pp. 518-529.

Miers, Suzanne (2003). Slavery in the Twentieth Century. The Evolution of a Global Problem. Walnut Creek: Altamira Press.

Morcom, Corin & Schloenhardt, Andreas (2011). All About Sex?! The Evolution of Trafficking in Persons in International Law. Research Paper March 2011. The University of Queensland Human Trafficking Working Group.

O'Connel Davidson, Julia (2010). New slavery, old binaries: human trafficking and the borders of freedom. Global Networks, Vol. 10, No. 2, pp. 244–261.

Ollus, Natalia & Alvesalo-Kuusi, Anne (2012). From cherry-picking to control: migrant labour and its exploitation in Finnish governmental policies. Nordisk Tidsskrift for Kriminalvidenskab, Vol. 99, No. 3, pp. 376-398.

Picarelli, John T. (2007). Historical approaches to the trade in human beings. In Lee, Maggy (ed.). Human Trafficking. Portland: Willan Publishing.

Quirk, Joel (2011). The Anti-Slavery Project. From the Slave Trade to Human Trafficking. Philadelphia: University of Pennsylvania Press.

Rijken, Conny (2011, editor). Combating Trafficking in Human Beings for Labour Exploitation. Nijmegen: Wolf Legal Publishers.

Roth, Venla (2010): Defining Human Trafficking, Identifying its Victims. A Study on the Impact and Future Challenges of the International, European and Finnish Legal Responses to Prostitution-related Trafficking in Human Beings. Turku: Turun yliopisto

Shelley, Louise (2010). Human Trafficking. A Global Perspective. Cambridge: Cambridge University Press.

Methods of quantitative research

Randomized controlled trials in criminological research – results from the Danish OPUS Study

by Hanne Stevens

Præsentationen var baseret på en undersøgelse der tidligere på året blev publiceret i *Journal of Clinical Psychiatry*. Hovedtrækkene præsenteres i det følgende, og der henvises til originalartiklen for yderligere informationer.

Baggrund

Det har længe været kendt at der blandt personer, der lider af skizofreni er en forøget forekomst af vold og anden kriminalitet i forhold til befolkningen. Imidlertid har det været debatteret, hvorvidt dette skulle tilskrives aktive psykotiske symptomer, sideløbende misbrugsproblematikker, eller om der var en forøget forekomst af forhold, som også ellers er kendt for at medføre risiko for kriminalitet (dårlige socioøkonomiske og psykosociale forhold etc.).

Følgende en periode i 1980'erne og 90'erne hvor psykiatriske sengepladser blev nedlagt til fordel for distriktpsykiatriske tilbud og beskyttede botilbud, blev der i slutningen af 90'erne i Danmark gennemført et randomiseret forsøg, OPUS, der skulle undersøge om man kunne forbedre den ambulante behandling af førstegangsskizofrene patienter. Forsøget er interessant i en kriminologisk sammenhæng, fordi den eksperimentelle behandling viste sig signifikant bedre end standard behandlingen til at reducere psykotiske symptomer og komorbidt misbrug – faktorer som er påvist at have en sammenhæng med kriminalitetsrisikoen. Eftersom behandlingen var rettet mod kliniske outcomes, og altså ikke havde til formål at nedbringe kriminalitet, er det forskningsspørgsmål, som her adresseres, hvorvidt forbedrede behandlingsmuligheder i sig selv er tilstrækkelige til at nedbringe kriminaliteten blandt psykisk syge.

Materialer og metode

I perioden fra januar 1998 til december 2000 blev i alt 547 patienter med en diagnose i skizofrenispektret (ICD10: F2) inkluderet i OPUS forsøget, og blev randomiseret til enten standardbehandling eller assertiv specialiseret behandling. Patienterne blev henvist fra egen læge, distriktpsykiatrien eller via behandling (indlæggelser eller ambulant) på de psykiatriske hospitaler i Aarhus og København. Foruden at patienten skulle være i sin

første psykotiske sygdomsperiode, var inklusionskriterierne: alder 18-45 år; fravær af mental retardering eller organisk psykiatrisk lidelse; tale og forstå dansk; psykosen skulle ikke alene kunne tilskrives akut rustilstand eller abstinensreaktioner. Et aktivt stof- eller alkoholmisbrug gav ikke ellers grundlag for eksklusion fra forsøget.

Den eksperimentelle behandling havde en varighed på 2 år, hvorefter patienterne overgik til standardbehandling. I begge grupper blev patienterne ordineret antipsykotisk medicin i overensstemmelse med de nationale retningslinier. Behandlingsindholdet er skematiseret i Tabel 1.

Tabel 1: Behandlingsindhold i OPUS og standardbehandling

OPUS behandling	Standard behandling
Assertiv opsøgende behandling	Kontakt med distriktpsykiatrisk center
Familie involvering	Caseload gennemsnit 1:25
Social færdighedstræning	Mindre hyppige møder
Caseload 1:10	Intet systematisk tilbud om andre behandlingselementer
Som regel ugentlige møder, ofte i patientens eget hjem og med en fast tilknyttet behandler	

Efter 2 års behandling blev det undersøgt hvilke kliniske forskelle der var mellem de to grupper. Her fandt man, at patienter, der havde været i OPUS gruppen klarede sig signifikant bedre mht. psykotiske og negative symptomer, sekundære misbrugsproblematikker, behandlingsadhærens, og succes med lavere dosis af antipsykotisk medicin. Efter 5 år (hvor forsøgsgruppen havde modtaget standardbehandling de sidste 3 år), havde forskellene mellem grupperne udlignet sig, men OPUS patienterne klarede sig stadig bedre mht. sengedagsforbrug og evne til at klare sig i egen bolig.

Til denne sekundære analyse blev baselinedata fra OPUS forsøget kombineret med registerdata fra Kriminalregisteret (gerningsdatoer og oplysninger om domme), CPR-registeret (oplysninger om emigration og død) samt det Psykiatriske forskningsregister (oplysninger om indlæggelsesdatoer). Patienterne blev fulgt prospektivt fra inklusion i forsøget indtil kriminalitet (vold eller i det hele taget), dødsfald/emigration, eller slut på follow-up, og relative risikoer blev udregnet i en Cox's proportionale hazards regression.

Resultater

Der var ingen signifikante forskelle mellem de to grupper med hensyn til kriminalitet i det hele taget eller voldskriminalitet. Efter 2 år havde 12% i begge grupper en dom, og 3% i begge grupper var dømt for vold. Heller ikke i en multivariat model var det muligt at påvise forskelle mellem behandlingsgrupperne (HR= 1,06, CI: 0,72-1,56). Her fandtes dog kendte risikofaktorer at have betydning for kriminalitetsrisikoen: mandligt køn, ung alder, misbrug ved baseline, og tidligere kriminalitet. Ligeledes fandtes det ikke at behandlingseffekten skulle variere afhængigt af om patienten tidligere havde begået kriminalitet (p=0,65-0,95), ligesom der heller ikke var forskel mellem grupperne med

hensyn til omfanget af kriminalitet (antal domme) efter inklusion i forsøget. Omkring 75% af de patienter der begik kriminalitet efter inklusion i studiet var tidligere straffede.

Kriminalitet begået før inklusion i forsøget var temmelig udbredt, idet ca. en tredjedel af patienterne var tidligere straffede, og da data indeholdt oplysninger om psykosens onset, var det derfor muligt at undersøge dennes tidsmæssige sammenhæng med den kriminelle debut. Her fandtes det, at langt hovedparten af kriminaliteten blev begået før den psykotiske lidelse tog sin begyndelse, men at der var en svag tendens til forøget kriminalitetsrisiko efter sygdoms onset (HR=1,29, CI: 0,82-2,02), når man tog tid under risiko med i betragtning.

Diskussion og perspektiver

Undersøgelsens resultater viser at forebyggelse af kriminalitet blandt psykotiske patienter fortrinsvis er et spørgsmål om at forebygge recidivkriminalitet. De viser også, at der ikke er de store kriminalpræventive gevister ved en universelt udbredt forbedring af de behandlingsmæssige indsatser – heller ikke selv om disse dokumenteret har en positiv effekt på sygdomsfaktorer, som er korreleret med en forøget kriminalitetsrisiko. For en bedre effekt kan man overveje en tidligere intervention, en mere specifik intervention (vredeshåndtering, social problemløsning etc.), eller intervention rettet mod en mere snæver (høj risiko) patientgruppe.

Overvejelser knyttet til etik og retssikkerhed gør det svært at designe randomiserede forsøg vedrørende kriminologiske problemstillinger, men vi kan som forskere drage nytte af forsøg, som er gennemført i andre sammenhænge. Herigennem kan vi blive klogere omkring mulige årsagsforhold, ligesom resultaterne kan være retningsanvisende for både ny forskning og samfundsmæssige tiltag.

Studiet i sin fulde længde:

Stevens H, Agerbo E, Dean K, Mortensen PB & Nordentoft M. "Reduction of Crime in First-Onset Psychosis: A Secondary Analysis of the OPUS Randomized Trial". *Journal of Clinical Psychiatry*.. 2013, 74(5): e439-e444. doi: 10.4088/JCP.12m08156

Har gerningspersonens køn eller nationalitet indflydelse på islændinges holdning til straf?

by Helgi Gunnlaugsson

English summary:

Public attitudes towards punishment: Does gender or nationality of offenders have an impact?

Citizen attitudes toward the courts and the criminal justice system are vital to modern democratic nations. Many scholars believe it to be important that court sentencing decisions adequately reflect the public´s sense of justice. Court decisions, in stark contrast to the public´s general sense of justice and morality, can easily undermine the legitimacy of the whole court system. Therefore, it is important to study the public view as closely as possible. The majority of Icelanders has repeatedly shown in public attitude surveys that they believe court sentencing too lenient and calls for tougher criminal policies are often justified by citing this public stand.

A Nordic study sponsored by the *Scandinavian Research Council for Criminology* has however shown that it is far from being certain that the public necessarily is more punitive than the criminal courts. When public attitudes toward crime and punishment were examined and compared to local judge panel decisions on the same matter the public tended to underestimate the actual level of punishment and chose punishment types which in many cases were more lenient than the judge decision.

Moreover, court decisions are typically supposed to be based on crime severity and prior convictions of offenders – gender and nationality should not affect court sentencing. In the Nordic project on public attitudes toward punishment different characteristics of offenders were randomly distributed to the sample with the offender either being a female or a male; a foreign born immigrant or a native born citizen, while everything else was the same.

The question to be addressed in this presentation concerns whether gender or nationality of offenders have an impact on public attitudes toward punishment – based on data from the mail survey of the Nordic study on public attitudes toward punishment conducted in Iceland.

Indledning

Borgernes holdning til domstolene og retssystemet er af afgørende betydning i det moderne demokratiske samfund. Ifølge mange forskere er det vigtigt at domsafsigelser genspejler borgernes retfærdighedsopfattelse. Opinionsundersøgelser har vist at et flertal i Island finder domstolenes afsigelser for milde, og ofte begrundes skærpede straffe med henvisninger til den offentlige mening (Gunnlaugsson og Árnason, 2010). Domsafsigelser der strider imod borgernes moral og retfærdighedsfornemmelse kan undergrave tilliden til retsstaten, og det er derfor vigtigt at analysere dette emne med omhu. I en undersøgelse som Nordisk samarbejdsråd for kriminologi for nylig lod udføre viste det sig imidlertid at

det ikke er en selvfølge at borgerne vil se strengere straffe end domstolene afsiger (Balvig, Gunnlaugsson, Jerre, Olaussen og Tham, 2010). Deltagerne i undersøgelsen blev bedt om at dømme i seks forskellige kriminalsager på grundlag af beskrivelser af sagens omstændigheder hvori der blev givet oplysninger om forbrydelsens forudgående begivenheder og beskrivelser af sagens parter. Det viste sig at borgerne havde en tendens til at undervurdere domstolenes strafudmåling og tildelte straffe der som regel var mildere end dommerne havde udmålt. Endvidere viste det sig, at de deltagere, der ville tildele ubetingede fængselsstraffe, var tilbøjelige til at foreslå kortere forvaringstid i fængslet end dommerne.

Ved udmåling af straf går domstolene primært ud fra forbrydelsens alvorlighed og vedkommendes eventuelt tidligere begåede forbrydelser. Køn og nationalitet bør derimod ikke have nogen indflydelse på dommens udfald. I den nordiske undersøgelse fordelte man systematisk forskellige oplysninger om gerningspersonen til deltagerne, således at det skiftevis drejede sig om en kvinde og en mand, og ligeledes skiftevis om en islænding og en udlænding. Spørgsmålet, der ønskes belyst i denne undersøgelse er hvorvidt køn eller nationalitet har indflydelse på deltagernes holdning til straf. Vælger borgerne en mildere straf hvis gerningspersonen er en kvinde eller en islænding?

Forbrydelser og straf i Island

Belastningen af fængselssystemet i Island er tiltaget betydeligt gennem de seneste år. Man ser et stigende antal domme og den samlede forvaringstid er længere, således at landets fængsler nu er overfyldte. Ventelisterne for fængselsplads er lange, og de dømte personer kan endda blive udsat for at måtte vente flere år på at komme i fængsel. Situationen er uacceptabel, og de islandske myndigheder står tydeligvis over for en vanskelig opgave. Planer om et nyt fængsel på hovedstadsområdet er under udarbejdelse, og afsoning af straffe uden for fængslerne er nu et realistisk alternativ efter introduktion af elektronisk opsyn og udvidelse af hjemlen til at afsone straffe med samfundstjeneste. Men dette er ikke tilstrækkeligt. Den vanskelige situation har imidlertid flere årsager.

Øgningen i antallet af forbrydelser i samfundet forklarer kun en lille del af det stigende antal straffe (Þórisdóttir og Árnason, 2012). Flere personer bliver nu idømt fængselsstraffe for overtrædelse af narkotikaloven og for voldsforbrydelser og da især seksualforbrydelser (Gunnlaugsson, 2012). Øgningen i antallet af idømte fængselsstraffe kan derfor ligge i en ændret straffepolitik. Der har været en markant kritik af domstolene for milde domme i volds- og seksualsager (Gunnlaugsson, 2011), og sandsynligvis har kravene fra offentligheden, græsrodsbevægelser og den offentlige debat haft indvirkning på denne udvikling. Flere ting antyder netop at der nu idømmes længere fængselsstraffe i volds- og seksualforbrydelser (Bragadóttir, 2009; og Magnússon og Ólafsdóttir, 2003).

I lyset af ovennævnte udvikling og stigningen i antallet af fanger og længere fængselsstraffe bliver spørgsmålet om offentlighedens holdning nu mere aktuel. Meningsmålinger om strafpolitik har gang på gang vist, at deltagerne finder straffene for milde når der spørges om holdningen til straf generelt (Helgi Gunnlaugsson, 2008). Man har i undersøgelserne i mindre grad spurgt om specifikke sager eller oplyst deltagerne om forbrydelsens detaljer før de er blevet bedt om deres mening. Hvor denne metode har været anvendt er der meget der peger på at offentlighedens holdning er mildere end meningsmålingerne pr. telefon har tilkendegivet (Balvig, 2006). I den nordiske undersøgelse af offentlighedens holdning til straf ville et flertal af deltagerne i seks kriminelle sager idømme mildere straffe end en dommergruppe tidligere var nået frem til (Balvig, Gunnlaugsson, Jerre, Olaussen og

Tham,2010). Flere former for strafafsoning og grundige oplysninger om sagerne synes således at have den indvirkning at mange deltagere er tilbøjelige til at idømme andre og mildere strafformer end fængselsforvaring. Yderligere viste undersøgelsen at de deltagere, der ville idømme gerningspersonen fængselsforvaring, var tilbøjelige til at vælge kortere fængselsstraffe end dommergruppen. Resultaterne antyder at man i øget grad kan anvende andre strafformer end fængselsforvaring, så som bøde, erstatning til ofret, samfundstjeneste eller forskellige behandlingsalternativer. Det står klart at anvendelse af sådanne strafformer ville sænke statens omkostninger og forkorte ventelisterne efter fængselsafsoning og derigennem lette belastningen af det islandske fængselssystem.

Videnskabelig tilgang og undersøgelsens spørgsmål

Ved udmåling af straf er gerningspersonens unge alder til tider angivet som grund til afkortning af straffen og eventuelle tidligere forbrydelser til forlængelse. Andre faktorer så som gerningspersonens køn, race eller nationalitet bør ikke på nogen måde påvirke strafudmålingen. Retfærdigheden skal være blind, hvilket betyder at der ikke skal tages hensyn til den kriminelles køn eller nationalitet men først og fremmest forbrydelsens alvorlighed og gerningspersonens eventuelt tidligere begåede forbrydelser for så vidt personen er tilregnelig. Ifølge de grundlæggende regler i et godt retssystem er alle lige for loven. Spørgsmålet der melder sig er hvorvidt gerningsmandens personlige kendetegn på den ene eller den anden måde kan have indflydelse på offentlighedens og dommernes holdning til straf. Er det muligt at gerningspersonens sociale kendetegn har indflydelse på offentlighedens holdning til udmåling af straf?

Resultater fra forskellige undersøgelser tyder på at straffeloven ikke altid bliver anvendt således at alle er lige for loven. Forskere, der anvender stemplingsteorien (e. social reaction theory), vil påstå at personlige og sociale kendetegn ofte har indflydelse på, hvem der bliver arresteret og endda på straffens tyngde (Schur, 1972). Sandsynligheden for at blive arresteret afhænger af faktorer så som personens race og køn og hans/hendes sociale og respektmæssige position (Visher, 1983). Der er større sandsynlighed for at politiet arresterer unge mænd fra lavere sociale lag end ældre personer, der er bedre etableret i samfundet. Minoriteter og mindrebemidlede personer vil ligeledes være mere sandsynlige kandidater til at blive anklaget og få strengere domme end andre (Zatz, 1984).

Undersøgelser af denne type er ikke tidligere blevet udført i Island, og vi ved derfor ikke om sociale faktorer af denne art har nogen indflydelse på lovens håndhævelse i Island. Samfundet i Island er på mange måder mere homogent end de samfund, hvor undersøgelser har påvist denne slags indvirkning. Muligvis er indvirkningen mindre i et samfund hvor forskellen mellem de sociale lag er relativ lille og hvor minoritetsgrupper ikke gør sig gældende. Sociale forskelle viser sig dog alligevel på forskellig vis i det islandske samfund, ikke mindst mellem kønnene. Forventninger til kønnene er forskellige ligesom deres sociale status generelt ikke er den samme. I løbet af de senere år har man i Island set en øget tilflytning af udenlandske statsborgere, hvilket har mindsket samfundets homogenitet. Spørgsmålet er nu, hvorvidt sådanne faktorer har indvirkning på offentlighedens holdning til straf. Er det mere sandsynligt at en mand bliver idømt fængselsstraf end en kvinde for den samme forbrydelse? Er det mere sandsynligt at en immigrant bliver fængslet end en islænding for den samme forbrydelse? Og hvad med straffens længde? Bliver mænd og immigranter idømt længere fængselsophold end kvinder og islændinge? Hvad med anvendelse af mildere strafformer end fængselsafsoning? Har mænd og immigranter dårligere muligheder for at blive idømt denne form for straf end kvinder og islændinge?

Data og metoder

Indsamling af data for denne undersøgelse foregik i efteråret 2009 i samarbejde med Instituttet for samfundsvidenskab ved Islands Universitet, og bearbejdelsen påbegyndtes året efter (Gunnlaugsson og Árnason, 2010). Første skridt var udsendelse af et spørgeskema til 3000 personer, der var udvalgt som et vilkårligt udsnit af den islandske befolkning i alderen 18-74 år. Spørgeskemaet indeholdt beskrivelser af seks alvorlige forbrydelser, hvori der var en beskrivelse på en halv til en hel side af hver forbrydelse. En gruppe islandske dommere havde forinden fået tilsendt listen og afsagt domme, som de fiktive forbrydere efter dommernes skøn ville have modtaget ved islandske domstole. Sagerne drejede sig om vold i hjemmet, narkotikasmugling, butiksrøveri, overfald på åben gade, voldtægt og underslæb i en bank. Oplysningerne om gerningspersonernes baggrund var af meget forskellig art. En del havde strafferegister, en del ikke, mens nogle sloges med problemer af forskellig art og andre ikke. Derudover var nogle af gerningspersonerne mænd, andre kvinder, en del var immigranter og andre islændinge. Spørgsmålet, der bliver aktuelt, er hvorvidt de forskellige baggrundsoplysninger vil have indflydelse på deltagernes og dommernes strafudmåling. Vi vil her især fokusere på hvilken indflydelse gerningspersonens køn har på offentlighedens holdning til straf, og hvilken indvirkning det har, hvis gerningspersonen er udlænding og ikke islænding. De fiktive forbrydelser som deltagerne må tage stilling til, bl.a. på baggrund af ovennævnte oplysninger, er følgende: vold i hjemmet, narkotikasmugling og voldtægt. I første omgang sorterer vi spørgeskemaerne ud fra hvor mange deltagere vil idømme gerningspersonen fængselsstraf og derefter ud fra længden af den tildelte fængselsstraf.

For hver sag udfyldte deltagerne et bestemt spørgeskema, hvor de på en liste kunne sætte kryds ved forskellige strafmuligheder. Udover at markere hvilken straf deltageren selv fandt relevant i hver sag vurderede han/hun også hvilken dom gerningsmanden sandsynligvis ville få ved en islandsk domstol. Deltagerne kunne sætte kryds ved to forskellige strafformer men ét kryds var dog tilstrækkeligt. Svarene, hvori deltagerne havde sat kryds ved flere forskellige strafmuligheder, kunne ikke anvendes i denne undersøgelse. Svarene hvor deltagerne havde valgt ubetinget fængsel blev derimod sorteret efter strafudmålingens længde. På spørgeskemaet fik deltagerne korte oplysninger om, hvad de forskellige strafformer indebar, således at man kunne basere sine svar på et vist kendskab til straffene.

Indsamlingen af oplysninger varede i tre måneder, og i alt 1300 personer indsendte besvarede skemaer. Svarprocenten var således ikke videre høj eller omkring 40% men ligger erfaringsvis lavere i postale undersøgelser end i telefonundersøgelser. Svarene genspejlede dog forskellige samfundsgrupper rimelig godt, og hvad angår oplysninger om køn eller nationalitet fik vi tilstrækkeligt mange svar til at kunne skelne indvirkningen på tilfredsstillende måde.

I det følgende vil straffene blive delt op efter hvorvidt de indebærer fængsling eller en ikke-frihedsberøvende strafform. Der anvendes i dag et voksende antal alternative strafformer så som betinget straf, bøder og erstatning til ofret. Forligsmægling har ligeledes været anvendt i sager omkring unge kriminelle og blev derfor taget med i undersøgelsen. Personer, der har begået forbrydelser, bliver sædvanligvis ikke dømt til at undergå behandling, selv om dette til tider anbefales i domsafsigelserne. Elektronisk opsyn som en del af afsoningen blev en mulighed i Island i marts 2012 og blev i denne undersøgelse nævnt som en valgmulighed.

Hovedspørgsmålet her er imidlertid hvorvidt gerningspersonens køn eller nationalitet har nogen indflydelse ved udmåling af straf for en bestemt forbrydelse. En af de aktuelle sager drejede sig om vold i hjemmet, hvor gerningspersonen på nogle skemaer blev beskrevet som islænding og på andre som østeuropæer. Alle andre oplysninger om sagen var nøjagtigt de samme. En anden sag drejede sig om narkotikasmugling, hvor gerningspersonen på nogle skemaer var beskrevet som kvinde og på andre som mand, mens alle andre oplysninger om sagen var de samme. Den tredje sag vedrørte voldtægt på et hotel under en arbejdsrejse, hvor gerningspersonen var enten tyrker eller islænding men hvor sagens øvrige omstændigheder var identiske. Svarene blev sorteret efter hvorvidt deltagerne valgte at tildele gerningspersonerne fængselsstraf eller ej og efter hvorvidt gerningspersonens personlige kendetegn havde nogen indvirkning på dette valg. Er det mere sandsynligt at mænd bliver idømt fængselsstraf end kvinder? Og er det mere sandsynligt at udlændinge bliver fængslet end islændinge? Hvis deltagerne idømmer begge personerne fængselsstraf, d.v.s. både kvinden og manden og både udlændingen og islændingen, er der da forskel på fængselsstraffens længde? Er fængslingsperioden kortere for kvinder end for mænd? Og er fængslingsperioden kortere for islændingen end for den udenlandske statsborger? Hvis ingen eller kun lille forskel findes på svarene mellem de forskellige kategorier af gerningspersoner, vil undersøgelsens resultat være i direkte modsætning til stemplingsteoriens hovedregel. Som beskrevet tidligere er en af grundpillerne under stemplingsteorien netop at gerningspersonens kendetegn har stor indflydelse på om vedkommende bliver arresteret og på domstolens strafudmåling. Her vil vi se, om de islandske deltagere vil følge stemplingsteoriens regler.

Resultater og diagrammer

Deltagerne i undersøgelsen blev spurgt hvad de selv syntes, straffen burde være for vold i hjemmet, smugling og voldtægt. Deltagerne havde modtaget en beskrivelse på en halv til én side af hver sag. I alt tog ca. 1100 personer stilling til hvert spørgsmål. I sagen om vold i hjemmet fik ca. halvdelen af deltagerne den udgave af sagen hvor gerningspersonen var islænding og den anden halvdel udgaven hvor det drejede sig om en østeuropæer. Som det fremgår af diagram 1 ville godt 34% af deltagerne, der fik udgaven med islændingen, idømme gerningspersonen ubetinget fængsel. En anelse flere, eller knap 36%, af deltagerne der fik udgaven med østeuropæeren, fandt det passende at tildele gerningspersonen ubetinget fængsel. Angående andelen af deltagere, der valgte mildere straffe end fængsling, ville nogle få flere idømme islændingen betinget fængsel, samfundstjeneste, forligsmægling eller elektronisk opsyn, men forskellen er minimal.

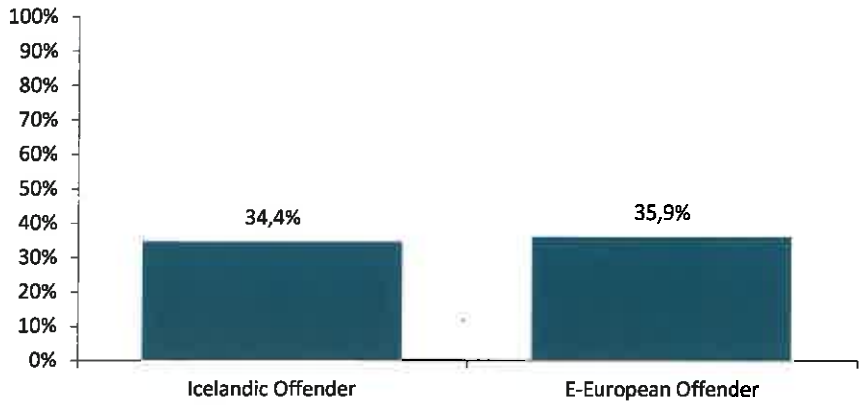

Diagram 1. Procentdel af deltagerne i den postale undersøgelse der valgte ubetinget fængsel for vold i hjemmet, fordelt efter gerningspersonens nationalitet.

Ser man nærmere på valget hos de deltagere der valgte fængsling for gerningspersonen i sagen om vold i hjemmet, er der ikke nogen afgørende forskel på strafudmålingen mellem den islandske og den østeuropæiske gerningsperson, således som det ses på diagram 2. Dog vælger en del flere at dømme østeuropæeren til mindst 5 års fængsel, ligesom også flere ville idømme østeuropæeren 2 til 3 års fængsel. Derimod er der forsvindende forskel på antallet af deltagere der vælger at idømme henholdsvis østeuropæeren og islændingen 3 til 5 års fængsel, mens en del flere vælger at tildele østeuropæeren den korteste fængselsstraf på mindre end 2 måneder. I helhed viser undersøgelsen ikke nogen afgørende forskel mellem deltagernes svar i relation til gerningsmandens nationalitet.

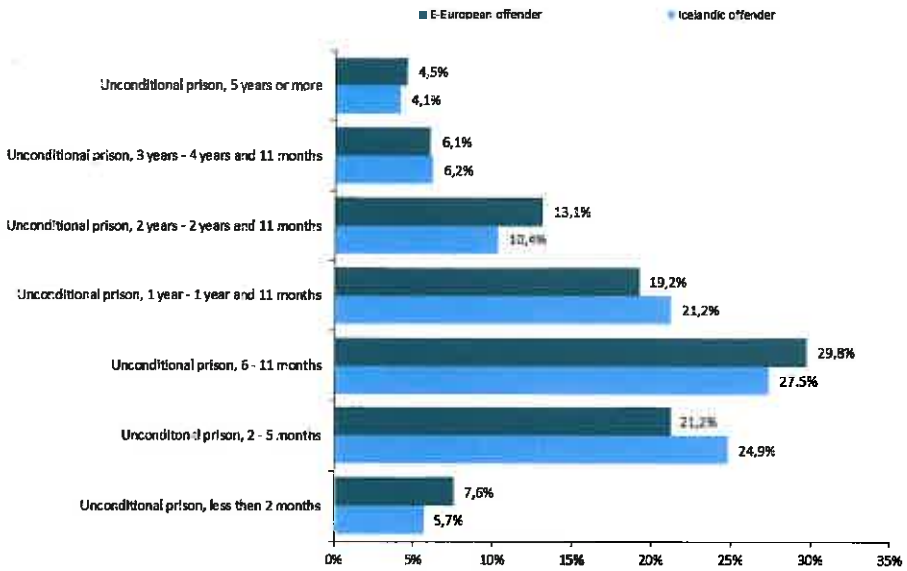

Diagram 2. Procentvis fordeling af deltagernes valg af længden af ubetinget fængselsdom for vold i hjemmet efter gerningspersonens nationalitet.

Analyseres svarene efter deltagernes køn, viser det sig at kvinder er mere tilbøjelige end mænd til at vælge ubetinget fængsel hvis gerningspersonen er østeuropæer og ikke islænding. Det modsatte gør sig gældende i mandlige deltageres tilfælde, idet de er mere tilbøjelige til at idømme den islandske
gerningsperson fængselsstraf. Den yngste aldersgruppe blandt deltagerne var den eneste, der var mere tilbøjelig til at idømme islændingen fængselsstraf end udlændingen. Andre aldersgrupper dømte i flere tilfælde østeuropæeren til fængselsforvaring. Deltagere fra hovedstadsområdet havde større tendens til at idømme østeuropæeren fængselsstraf end islændingen. Tendensen var præcis modsat hos deltagere fra resten af landet. I helhed viser undersøgelsen således ikke nogen afgørende forskel på deltagernes holdning til vold i hjemmet med hensyn til om gerningspersonen er islandsk eller østeuropæisk.

I sagen om smugling fik ca. halvdelen af deltagerne udgaven hvori gerningspersonen var en mand og den anden halvdel udgaven hvor gerningspersonen var en kvinde. Som der fremgår af diagram 3 fandt knap 69% af deltagerne, som fik historien hvor gerningspersonen var en mand, at ubetinget fængsel ville være en passende straf. En smule færre, eller knap 66% af de deltagere, der fik udgaven med kvinde, fandt det korrekt at idømme ubetinget fængsel.

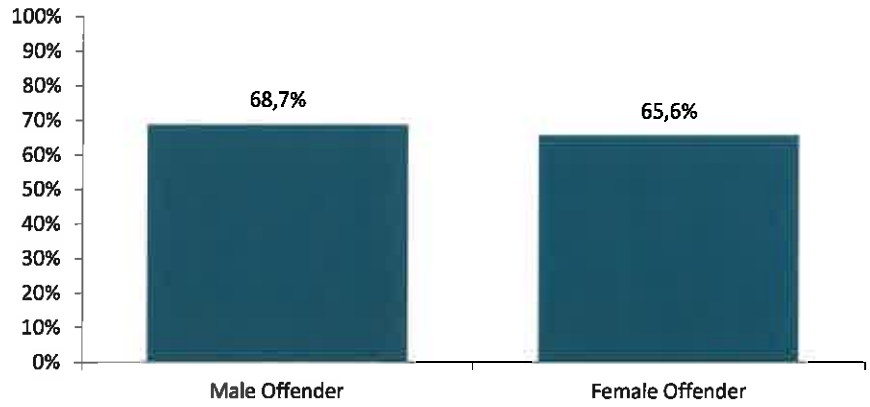

Diagram 3. Procentdel af deltagerne i den postale undersøgelse der valgte ubetinget fængsel for narkotikasmugling, fordelt efter gerningspersonens køn.

Hvordan fordeles så svarene når vi ser på fængselsdommens længde? Der viser sig en ret tydelig tendens hos deltagerne til at idømme manden længere fængselsstraf en kvinden, således som diagram 4 viser. Knap 24% valgte at idømme manden en fængselsstraf på 5 år eller længere, mens betydeligt færre, eller godt 17%, fandt denne strafferamme passende for kvinden. 19% af deltagerne fandt at manden burde idømmes 3 til 5 års fængsel, mens godt 13% fandt det passende for kvinden. En større procentdel af deltagerne var således af den mening at kvinden burde få kortere fængselsstraf end manden. 15% ville tildele kvinden 6 til 11 måneders fængsel, mens 9,5% valgte denne længde for manden. Undersøgelsen viste således en markant forskel på svarene angående fængselsstraffens længde afhængig af om gerningspersonen var en kvinde eller en mand. Deltagerne var tilbøjelige til at idømme manden længere fængselsstraf end kvinden.

Diagram 4. Procentvis fordeling af deltagernes valg af længden af ubetinget fængselsdom for narkotikasmugling efter gerningspersonens køn.

Deltagernes sociale kendetegn har ikke nogen afgørende betydning angående deres holdning til gerningspersonens køn i smuglersagen. Både mænd og kvinder er mere tilbøjelige til at idømme manden fængselsstraf og det samme gør sig gældende angående deltagernes aldersgruppe og geografiske tilhørsforhold.

I sagen om voldtægt fik ca. halvdelen af deltagerne udgaven, hvor gerningspersonen var islænding og den anden halvdel udgaven hvor gerningsmanden var tyrker. Som diagram 5 viser ville en del flere idømme tyrkeren ubetinget fængsel end islændingen, eller knap 80% mod ca. 75%.

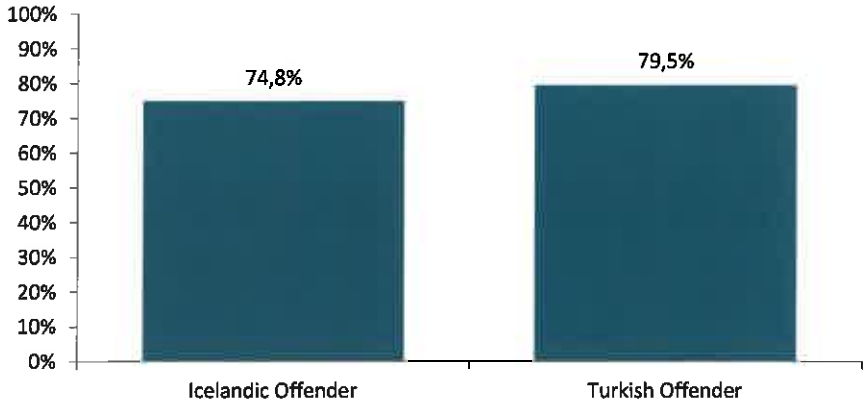

Diagram 5. Procentdel af deltagerne i den postale undersøgelse der valgte ubetinget fængsel for voldtægt, fordelt efter gerningspersonens nationalitet.

Når vi ser på fængselsstraffens længde er forskellen imidlertid ubetydelig, således som diagram 6 viser. En smule flere ville dog idømme tyrkeren mindst 5 års fængselsstraf end islændingen. Yderligere ville flere idømme tyrkeren fængselsstraf fra 1 til 3 år, mens flere ville dømme islændingen til fængsling i 6 til 11 måneder. I helhed er forskellen på fængselsstraffenes længde dog ubetydelig og er ikke statistisk markant.

I voldtægtssagen var både kvinder og mænd mere tilbøjelig til at idømme tyrkeren fængselsstraf en islændingen. Det samme gjorde sig gældende for deltagergruppen yngre end 35 år og gruppen mellem 56 og 65 år gammel men ikke andre. Der var ikke stor forskel mellem svarene fra deltagere på hovedstadsområdet og fra resten af landet, men de sidstnævnte var dog mere tilbøjelige til at tildele tyrkeren fængselsdom end islændingen.

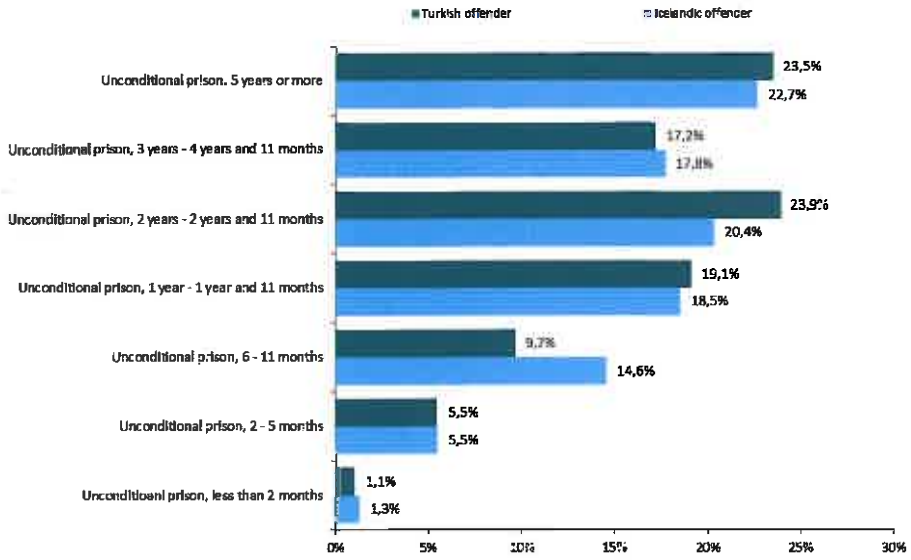

Diagram 6. Procentvis fordeling af deltagernes valg af længden af ubetinget fængselsdom for voldtægt efter gerningspersonens nationalitet.

Sammenfatning og konklusion

Det er kendetegnende for et godt retssystem at alle er lige for loven, uanset køn og nationalitet. Flere forskellige undersøgelser og kriminologiske teorier tyder dog på at andre faktorer end forbrydelsens alvorlighed nogle gange har indflydelse på, hvor streng dommen bliver. Det har vist sig at gerningspersonens køn har en vis indflydelse, således at det er mere sandsynligt at mænd bliver arresteret end kvinder, og at mænd af og til idømmes længere straffe end kvinder. Den samme tendens har vist sig vedrørende udlændinge, der som regel bliver dårligere behandlet af retssystemet og offentligheden end de indfødte.

I nærværende undersøgelse har vi kigget på, hvorvidt den islandske befolknings holdning til straf på nogen måde er afhængig af, om gerningspersonen er en kvinde eller en mand og om det drejer sig om en udlænding eller en islænding. Som materiale anvendtes tre sager om henholdsvis vold i hjemmet, narkotikasmugling og voldtægt. Gerningspersonen var i de fiktive sager enten en kvinde eller en mand og enten islænding eller udlænding mens andre faktorer i sagen var identiske. Analysen er en del af en større undersøgelse arrangeret af Nordisk samarbejdsråd for kriminologi, og undersøgelsesmaterialet blev indsamlet i en postal undersøgelse i efteråret 2009.

Som nævnt viste undersøgelsen ikke nogen nævneværdig forskel mellem de tilfælde hvor vold i hjemmet blev begået af en islænding og hvor den blev begået af en østeuropæer. En anelse flere ville fængsle udlændingen end islændingen men forvaringsperioden var omtrent den samme, og forskellen er ikke statistisk markant. Det samme gjorde sig

gældende i sagen om voldtægt. Dog ville en lidt større gruppe se tyrkeren fængslet en islændingen, eller 80% mod 75% af deltagerne. Strafperiodens længde var derimod næsten den samme i islændingens og tyrkerens tilfælde.

Gerningspersonens køn syntes at have større betydning end nationalitet. En lidt større gruppe ville idømme manden fængselsstraf for smugling end kvinden, eller 69% i stedet for 66%. Hovedforskellen viste sig dog i længden af den straf, som deltagerne ville idømme henholdsvis kvinden og manden. Knap en fjerdedel af deltagerne ville idømme manden en straf på mindst 5 års fængsel, mens godt 17% fandt denne strafferamme passende for kvinden. Ligeledes ville knap en femtedel tildele manden en fængselsstraf på 3 til 5 år mens godt 13% gav kvinden denne strafudmåling.

I helhed synes undersøgelsen således ikke at påvise nogen stærk forbindelse mellem gerningspersonens sociale kendetegn og islandske borgeres holdning til straf. Deltagerne synes at lægge mere vægt på forbrydelsens alvorlighed mens gerningspersonens kendetegn har begrænset indflydelse. I tilfælde hvor gerningspersonen tidligere havde begået forbrydelser bevirkede dette imidlertid en forlængelse af straffen og havde betydelig mere indflydelse end gerningspersonens forskellige sociale kendetegn. Gerningspersonens køn synes derimod at have indflydelse, således som smuglingssagen viser. Deltagerne syntes der at have mere medlidenhed med kvinden end med manden. En del flere deltagere ville idømme manden fængselsstraf end kvinden, og da til længere fængselsforvaring. Hvad det præcis er, der her spiller ind, er svært at sige. Der er ikke tale om nogen afgørende forskel, men den kommer dog frem hos både kvinder og mænd og hos forskellige aldersgrupper. Muligvis er flere deltagere tilbøjelige til at se kvinden som et offer i smuglingssagen end manden og vægrer sig derfor ved at dømme hende til længere fængselsforvaring.

Den konklusion at det ikke har nogen stor betydning om gerningspersonen er islænding eller udlænding kommer måske som en overraskelse. Offentlighedens opmærksomhed er i flere tilfælde blevet rettet mod specifikke forbrydelser, hvor udenlandske statsborgere har været indblandet (avisartiklen "Rolex ræningi úrskurðaður í gæsluvarðhald til 21. mars" (Rolex-røveren varetægtsfængslet til 21. marts), 2012), og spørgsmålet er om sager af denne slags automatisk får borgeren til at forbinde udlændinge mere end islændinge med forbrydelser. Dette synes dog kun i meget begrænset grad at være tilfældet. Selv om en lidt større andel af deltagerne i de to sager, hvor udlændinge er indblandet, idømmer udlændingen fængselsstraf end islændingen, så idømmer de dog ikke udlændingen længere fængselsstraf end islændingen.

Denne undersøgelse støtter således ikke stemplingsteorien på afgørende måde. Det synes ikke at have nogen videre betydning om forbryderen er udlænding eller ikke, men derimod synes kønnet at have en mærkbar indflydelse. Der synes at herske mindre straffeiver hos deltagerne når gerningspersonen er en kvinde, og selv om forskellen ikke er videre stor så ses den dog hos flere forskellige deltagergrupper. Muligvis kan vi tolke resultaterne derhen at fordomme over for udlændinge ikke er særligt udbredte i Island. For at kunne besvare spørgsmål omkring stemplingsteorien på afgørende måde, d.v.s. hvorvidt gerningspersonens sociale kendetegn har mere indflydelse end forbrydelsens alvorlighed på den islandske befolknings holdning, må man dog udføre dyberegående undersøgelser end vi her har gjort.

Kilder

Balvig, F. (2006). *Danskernes syn på straf.* København: Advokatsamfundet.

Balvig, F., Gunnlaugsson, H., Jerre, K., Olaussen, L.P. og Tham, H. (2010). Den nordiske retsbevidsthedsundersögelse. Nordisk Tidsskrift for Kriminalvidenskab. 97. årg. Nr. 3: 232-250, 2010.

Bragadóttir, R. (2009). *Kynferðisbrot: dómabók* (Seksuel brott: dombog). Reykjavik: Codex.

Gunnlaugsson, H. (2008). *Afbrot á Íslandi* (Kriminalitet i Island). Reykjavik: Háskólaútgáfan.

Gunnlaugsson, H. (2011). Vilja Íslendingar harðari refsingar en dómarar fyrir efnahagsbrot og kynferðisbrot gegn börnum? (Vil den islandske befolkning se strengere straffe end dommerne for økonomisk kriminalitet og seksuelle forbrydelser mod børn?). Í *Rannsóknir í félagsvísindum XII,* red: Guðnýjar Ásgeirsdóttur, Helgu Björnsdóttur og Helgu Ólafs, 2011: 271-279.

Gunnlaugsson, H. (2012). No room at the inn: Punitive developments and economic turbulence in Iceland in the 2000´s. Í Per Ole Johansen og Helgi Gunnlaugsson (red.) *When the Unforeseen is Seen: NSfK Workshop in Reykjavík 2009 & 2011*, pp. 25-36. Reykjavik Nordisk samarbejdsråd for kriminologi

Gunnlaugsson, H. og Snorri Örn Árnason. (2010). Afbrot og refsingar: Íslendingar í dómarasæti. I *Rannsóknir í félagsvísindum XI* í ritstjórn Gunnars Þórs Jóhannessonar og Helgu Björnsdóttur (red.), 2010: 87-95. Hented 1. september 2011 af http://skemman.is/stream/get/1946/6784/18438/3/86-95_Helgi_Gunnlaugs_og_Snorri_Örn_FELMANbok.pdf.

Magnússon, S. T. og Hildigunnur Ólafsdóttir. (2003). *Ákvörðun refsingar.* Reykjavik: Bókaútgáfa Orators.

Rolex ræningi úrskurðaður í gæsluvarðhald til 21. mars (Rolex-røver varetægtsfængslet til 21. marts). (13. mars 2012). Visir.is. Hentet 30. august 2012 af: http://www.visir.is/rolex-raeningi-urskurdadur-i-gaesluvardhald-til-21.-mars/article/2012120319542

Schur, E. M. (1972). *Labeling Deviant Behavior.* New York: Harper & Row.

Visher, C. (1983). „Gender, police arrest decision, and notions of chivalry". *Criminology,* 21, 5-28.

Zatz, M. (1984). „Race, ethnicity and determinate sentencing". *Criminology,* 22, 147-171.

Þórisdóttir, R. og Árnason, S. Ö., (2012). Crime in Iceland (before) and after the banking crisis. I Per Ole Johansen og Helgi Gunnlaugsson (red.) *When the Unforeseen is Seen: NSfK Workshop in Reykjavik 2009 & 2011, pp.* 25-36. Reykjavik Nordisk samarbejdsråd for kriminologi

A sequential mixed method analysis of electoral donations

by Nubia Evertsson

Abstract

In this article I analyze how regulations that allow private funding of election campaigns have created opportunities for crime. I adopted a nested analysis that brings together the strengths of both regression analysis and case study research. The main conclusion offered here is that electoral financing is used as a form of legal bribery by private corporations. The legal character of this political instrument is perverted when undue compensation is delivered to donors. However, donors are protected by electoral law, because the money delivered as corrupt incentive is classified as legal. This perspective points to the manipulative use of electoral law, or creative compliance, as the term is used by McBarnet (2006).

Introduction

Money matters in politics. Money is needed to administer political parties and to fund electoral campaigns. There is a belief that money should not buy the decisions of incumbents (Green & Ward, 2004; Friedrichs, 2004; Nelken & Levi, 1996; Shichor & Geis, 2007), though this does occur in practice. Studies report that electoral donors have obtained favorable legislation, unjustified contracts and subsidies, and unmerited job appointments.[1] It seems as though electoral donations do exert undue influence on policy outcomes.

To deal with this problem, regulatory frameworks have been introduced worldwide. Electoral regulations include donation thresholds, donation and donor identity disclosure, campaign expenditure ceilings, campaign expenditure disclosure, and sanctions against those who transgress the law.[2] However, serious concerns regarding the scope of these regulations make them appear futile, because it is believed that some countries have left certain issues unattended to facilitate the delivery of undue benefits to donors. The Group of States against Corruption (2012) has criticized countries such as Sweden, for example, where the protection of privacy is used as an argument to avoid the disclosure of donor identity. In Denmark, the names and addresses of donors are reported but not the amounts given. In Finland, electoral regulations do not impose any kind of sanctions on those who transgress them. In Norway, there are no limits on the size and periodicity of private donations or membership fees. In Iceland, electoral law regulates only parliamentary and municipal elections, not presidential elections.

[1] See Smith (1995) and Stratmann (2005) for reviews of the literature on the issue.

[2] The disclosure of donor identity is mandatory in 70 countries, the disclosure of campaign expenses is required in 99 countries, and ceilings on donations and election expenditures are applied in 64 and 74 countries, respectively. Data from International IDEA (2012) based on a review of electoral legislation in 219 countries.

Thus, the problems are that (a) money used for funding electoral campaigns seems to become an instrument of crime,[3] and (b) electoral laws fail to deter corporations from seeking/obtaining undue benefits.[4] It has been argued that electoral law creates opportunities for crime by opening the possibility to give interested money to public officials/political candidates to influence policy outcomes, while claiming that money is used to strengthen/support democracy (Green & Ward, 2004; Friedrichs, 2004; Shichor & Geis, 2007). Lessing (2001, p. 100) quoted Senator Chuck Hagel, who put it thus: "There's no shame anymore. We've blown the past ethical standards; we now play on the legal standards."

To conduct this inquire I designed and implemented a nested analysis, which brings together the strengths of both regression analysis and case study research. In terms of methods, I first conducted a cross-national comparison of 78 countries; then, I applied a survey of 302 private companies; and finally, I documented one case that describes how campaign contributions affect the political decision-making process. The results of each individual stage were reported in three self-contained articles that have been published in peer-reviewed journals. The purpose of this article is to offer an integrated overview of the entire research process.

Theoretical framework and definitional issues

McBarnet (2004, 2006, 2007) introduced the term creative compliance—for greater brevity—to indicate how private corporations comply with the letter of the law while violating its spirit. This indicates that business leaders interpret or use the law manipulatively to obtain maximum benefits for their companies, without being involved in illegal actions. The core of the concept of creative compliance is formalism, which is used to avoid legal control. McBarnet (2004, p. 260) argued that formalism could be used either to denote generalizations by means of the broad use of the rule as reference or to attain individual preferences in situations where the case-by-case treatment becomes the norm. In these cases, the emphasis on the legal form and literalism facilitates the manipulative use of the law to circumvent the purpose of the regulation.

This problem emerges because the letter of the law does not always accord with the spirit of the law. The disruption can be caused by omissions or loopholes in the rules that undermine their effectiveness, or by the presence of outdated laws that are no longer relevant. Thus, creative compliance is not a problem of enforcement. Creative compliance is embedded in formal obedience, until the prosecution reveals the contrary. However, McBarnet (2004) claimed that this usually does not occur, simply because creative compliance is not usually contested. Behind the legal technicality and the innovative use of the law, McBarnet also identified a problem of attitude. In this regard, she pointed out that

[c]reative compliance, however, does not arise deterministically from the nature of law. It also requires a particular attitude to law, an attitude which, far from seeing law as an authoritative and legitimate policy to be implemented, sees it as a material to be worked on, to be tailored, regardless of the policy behind it, to one's own or one's client's interests. (McBarnet 2004, p. 286)

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[3] Engdahl (2008, p. 154) has noted that money is an instrument of crime that facilitates exchange and prevents criminalization because of its anonymous character.

[4] Simpson (2002) has pointed out that criminal and civil law—of which the electoral law is part—do not deter corporations from becoming involved in crime.

Since "regulation is not a panacea itself" (McBarnet, 2007, p. 48), no more legal control is required to deal with creative compliers, because it is evident that new forms of creative compliance will promptly accommodate to the new regulations. However, it is common to find that governments deploy more rules to cope with this issue, turning this into a problem without solution, a road without a way out, or a spiral that never ends.[5]

In the next section I define the term legal bribe, which was introduced by Friedrichs (2004) to illustrate how corporate donors interpret the electoral legislation to deliver money to political leaders to obtain undue benefits for their companies. This corresponds to a particular form of creative compliance applied in the case of electoral donations.

Legal bribe

Before defining the term legal bribe, it is pertinent to address what a bribe is. Bribery is an offense that has been defined as [t]he promise, offering or giving, to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties. (Art. 15 (a), United Nations Convention Against Corruption [UNCAC])

This definition denotes that in a bribery case two parties take action: the briber (bribe-giver) and the bribee (bribe-taker). Although this classification is today obvious, in the past only bribe-takers were convicted for this offence (Green, 2010). In terms of the exchange, bribe-takers deviate/cease their decisions/actions from official duties to give undue advantages to bribe-givers. Bribees act with disloyalty, breaking trust and breaching positional duty, while bribers attain undue benefits. I want to highlight that the term undue benefits does not have any specific qualification of the reciprocity received. According to the UNCAC, any undue benefit, disregarding its condition or value, is enough to manifest bribery.

Moving on to the term legal bribe, I should start by saying that although something legal cannot be simultaneously illegal, it is possible to use this term, because it indicates that legality can in some circumstances coexist with illegality.[6] Friedrichs (2004) introduced the term legalized bribe to name specifically the electoral contributions to political campaigns as constituting an inconsequential regulation in which donors are immune to investigation and prosecution. Friedrichs (2004, p. 134) stated that electoral donations are legal bribes, because they are used "to propose, endorse, or push policies and programs that despite questionable value still benefit special interests and constituents." Furthermore, he argued that electoral donations can bring about undue influence over decisions and regulations that affect the activities of corporations, but this is not considered illegal. In this regard, Friedrichs stated that the line between a "bribe" (an illegal payoff for an explicit vote) and a "contribution" (a legal donation with an implicit understanding) is exceptionally thin, and to date no member of Congress has ever been indicted simply for accepting PAC money. (2004, p. 136)

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[5] To deal with creative compliers, scholars have suggested the adoption of corporate social responsibility schemas, which are based on the provision that this is an ethical rather than a technical legal concern. This discussion can be followed in Garsten and Hernes (2009), McBarnet, Voiculescu, and Campbell (2007), and Parker and Nielsen (2011).

[66] This was earlier stated by Becker (1968) and developed by Murphy and Robinson (2008) under the adaptation mode known as the maximizer. The maximizer extends Merton's Strain Theory and illustrates how corporations can be simultaneously law-abiders and law-breakers, with the purpose of pursuing wealth.

Along with Friedrichs (2004), Harstad and Svensson (2011) suggested that the use of private campaign financing mechanisms promotes corruption.[7] In particular, Harstad and Svensson claimed that electoral donations correspond to a kind of bribe, because they are given to political candidates with the intention of having permanent changes in rules and regulations. It has been argued that the set of laws on campaign contributions is intended to give the impression that there is no deal between donors and incumbents other than ideological support, when in reality electoral law is used to divert criminal responsibilities of donors and incumbents that collude in favor of their own interests (Noonan, 1984). This reinforces the idea that bribes and contributions are one and the same. On this issue, Noonan said, "These can be masked as one another; but the masks are removable.... Campaign contributions can be bribes, as successful prosecutions have established" (Noonan, 1984, p. 698).

Previous research and research questions

Campaign financing has attracted considerable research attention. A number of studies have approached the benefits accruing to donors, while others have centered on corporations' strategic delivery of electoral donations. The available studies use both cross-sectional and descriptive data. The review presented here attempts to provide a comprehensive rather than an exhaustive overview of the "state of the art" of the issue.

I first turn to the literature treating the benefits accruing to corporate donors. Scholars have reported that firms aim to advance specific interests when making their electoral contributions. Contracts with state agencies, less governmental oversight, and favorable legislation are the most frequent kinds of compensation sought. For example, Hart (2001) reported that firms in the technology sector that made electoral contributions in various US electoral cycles between 1977 and 1996 received more contracts from governmental institutions than did firms that invested resources solely in research and development. Fellowes and Wolf (2004) revealed that members of the 105th House of Representatives who relied heavily on business contributions gave more support to pro-business tax and regulatory policies than did other members. Gordon and Hafer (2005) found that inspections of nuclear plants in the USA varied considerably, according to the size of the contributions made by the firms running them, that is, every USD 1000 increase in electoral contributions meant a seven-hour decrease in inspections.

Scholars have also reported that donors use various strategies to deliver their financial support, to increase the chances of influencing policy outcomes. Issues such as the visibility of the voting process, the sensitivity of the topic in the media, the ideological character of the issue, and proximity to the final moment of decision are crucial in timing electoral donations. Taylor (2003) studied the effect of electoral contributions when dealing with sensitive regulatory issues, specifically examining tobacco and alcohol bills[8]

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[7] This approach coincides with Kaufmann & Vicente (2011), who explored legal and illegal patterns of corruption in different countries. Based on survey data on the level of the firm collected by the World Economic Forum, they found that illegal corruption (bribes) occurs where there is a low likelihood of social unrest, because the elites do not enforce regulations against corruption, to be able to pursue illegal corruption without concerns. However, if the likelihood of social unrest is high, elites get involved in practices of legal corruption (electoral financing and trading on influence with members of the executive and judicial branches) that bring them special benefits.

[8] Such bills affecting the tobacco industry favored increasing taxes and strengthening mandatory warning labels, while in the case of the alcohol industry, they attempted to raise the minimum drinking age, lower blood-alcohol limits, introduce warning labels, and increase taxes.

and found that, between 1975 and 2000, US Representatives belonging to the majority party and its leadership received more donations from the tobacco industry. Because the media were exposing the collateral effects of tobacco consumption, electoral donors could only exert influence when the issue was discussed in plenary sessions in which decisions were made by majority. In the case of alcohol, the issue was less visible, so Congress relied on committees to make relevant decisions. Accordingly, the alcohol industry made more contributions to committee members and chairs: their decisions were considered final, because they were adopted with little or no modification in plenary discussions. Witko (2006) analyzed the influence that PAC[9] contributions can bring to bear on ideological versus non-ideological issues. He examined 20 issues, 10 ideological and 10 non-ideological, during the 103rd and 104th House sessions. The results revealed that PAC contributions had more influence on non-ideological bills in 8 out of 10 of these votes and in 9 out of 14 instances of congressional voting; the reverse held for ideological issues. Witko claimed that "PACs cannot force or convince members to take action against their core interests but can subtly alter the member's decision making when there is uncertainty or weakly held preferences" (2006, p. 292).

Donors need to know how much to donate, when, and to whom. Stratmann (1998) explored the use of timing as an inexpensive mechanism to influence congressional votes. He claimed that, according to conventional wisdom, one would expect donations to be made during campaigning, when money is needed to reach the electorate. However, his results indicated that donors make their contributions in periods of low electoral activity but close to legislative voting periods in Congress to prevent the potential reneging of undecided legislators. This suggests that the rationale of electoral donors is strategic, because giving electoral support is not just an act of giving and receiving but of guaranteeing that donor expectations are fulfilled. Hersch and McDougall (2000) observed the "price of influence" or the amounts given as electoral donations to legislators. Based on their study of donations of the "Big Three" US automakers—General Motors, Chrysler, and Ford— they found that a lower price indicates that the legislator is already aligned with the interest group, meaning that those in opposition receive more electoral support. They also noticed that the presence of a corporate rival in a given legislator's district also induced competitors to make donations to that legislator. Snyder (1992), who studied the long-term impact of electoral donations, revealed that younger representatives from small states received more long-term contributions than did their older counterparts, indicating that, for donors, the long-term impact of their investment is more important than seniority. Similar results were reported by Stratmann (1992), who tested the relationship between constituency interests and legislator tendency to vote for special interests attached to their districts. Results indicated that PACs from the farm sector donate more funds to legislators who are less likely to support these contributors' interests. Consistent with this result, it was observed that donors contributed less to members of the House Agriculture Committee than to non-Committee members. In terms of impact, legislators representing districts with the largest populations of farmers were more likely to receive the largest contributions than those from smaller constituencies. These results indicate that donors buy undecided legislators and those who can represent large numbers of citizens.

In other studies, scholars have reported that donor characteristics can affect the delivery of electoral support to political parties and candidates. Apollonio and La Raja (2004), who compared the behavior of firms, labor unions, and advocacy groups, found

[9] PACs (political action committees) are private groups created to represent special interests. PACs can receive and raise money from their relevant constituents and then make donations to political campaigns.

that old firms and wealthy organizations were less likely to contribute to political parties, but that when they did so, their contributions were larger than those made by other organizations. In the case of younger organizations, the reverse was the case: young organizations contribute less to political parties, but do so more often. Apollonio and La Raja (2004) claimed that, while younger firms use this mechanism to quickly obtain access to and legitimacy among politicians, older and wealthier firms prefer to contribute directly to candidates with whom they have established relationships. In the case of labor unions and advocacy groups, the results were different: these donors made more contributions to political parties than did firms, but the contributions were not necessarily larger. In addition, labor unions and advocacy groups gave more often to one single party, while

Summing up, electoral donors seek influence when making their contributions to political leaders. Previous research indicates that incumbents face no constraints when advancing the interests of their supporters; for example, undue contracts, less governmental control, and favorable legislation are often given as means of compensation. Scholars have argued that the strategy used when making electoral donations has its own rationality. Corporations prefer to give larger donations to young, unreliable, and undecided incumbents at times when decisions are about to be made, when the issues of interest have low media profiles, or when the issue is non-ideological. Small companies give more frequent, smaller donations to those who require them than do larger corporations, which give sporadic, bigger donations to candidates with whom they have established relations. Additionally, scholars have revealed that corporations seek to neutralize the impact of competitors' donations by giving electoral contributions to the same candidates as supported by their competition. In other cases political leaders who act as business politicians extract rents from their positions of authority, by demanding electoral donations to private corporations.

This aggregated picture suggests that corporate donors put forward their own interests when delivering electoral donations and they use this mechanism in a strategic way to guarantee and maximize the revenue of their "investment." The problem, as it is viewed by most scholars, is that private electoral funding alters the actions of political leaders in favor of the interests of powerful donors. Here, I put it differently. I consider that corporations use electoral law in an unintended way to avoid being involved in criminal offences, or catalogued as bribers. I study this particular issue by addressing three specific questions, as follows:

1. Do electoral donations increase political corruption?
2. Why do companies give electoral donations?
3. How are electoral donors compensated?

Research methods and data used in the analysis

I used a mixed method for the data collection and analysis. Mixed methods research is broadly defined as

research in which the investigator collects and analyses data, integrates the findings and draws inferences using both qualitative and quantitative approaches or methods in a single study or program of enquiry. (Tashakkori & Creswell, 2007, p. 4)

The mixed method implemented here allows the aggregation of data collected through different qualitative and quantitative methods. While I am aware that "the idea of combining qualitative and quantitative work has an aura of the exotic and even forbidden among criminologists today" (Maruna, 2010, p. 124), this research attempted to break down this "methodological paradigm" by designing and implementing a mixed research

program of enquiry. It must be noted that criminological studies that use mixed data "very often only refer to qualitative studies that incorporate statistical analysis ... which does not render much more validity to the findings" (Yu, 2012, p. 375). Bryman pointed out that the lack of integration of the collected data occurs when the design adopted "was not conceptualized in a sufficiently integrated way" (Bryman, 2007, p. 14). Therefore, the term mixed research should not be used after collecting qualitative and quantitative data, but when the research is designed in such a way that qualitative and quantitative data contribute to the validation of the results (Bryman, 2007; Greene et al., 1989; Yu, 2012). I addressed this issue by adopting a research design that combines mixed research methods.

The research design adopted here uses a sequential method, so-called nested analysis.[10] This sequential, mixed method offers the possibility of integrating qualitative textual evidence with quantitative numeric data (Hessen-Biber, 2010). Introduced by Lieberman (2005), nested analysis is a mixed method that aims to gain the maximum analytical leverage by combining large-n approaches (LNAs) and small-n approaches (SNAs). Nested analysis brings together the strengths of both regression analysis and case study research (Rohlfing, 2007), while conducting a validity check—triangulation[11]—by convergence of results via different methods.

The nested analysis begins with a quantitative analysis and a baseline theory. The prerequisite is the availability of a quantitative dataset containing a large number of observations.[12] The purpose of the preliminary LNA is "to explore as many appropriate, testable hypotheses as is possible with available theory and data" (Lieberman, 2005, p. 438). This implies that, beyond the analysis of the hypothesis and the control variables, the LNA provides grounds to believe that the initial theoretical model is relevant for approaching the problem under observation. The second step considers the intensive analysis of the hypothesis as applied in one or more countries. The purpose of this step is "to answer those questions left open by the LNA—either because there were insufficient data to assess statistical relationships or because the nature of causal order could not be confidently inferred" (Lieberman, 2005, p. 440). The SNA demands the study of heterogeneous sets of materials and observations that provide important information about the problem under investigation. The SNA does not use only qualitative methods, but permits the incorporation of quantitative methods at various levels of analysis. The nested analysis concludes when the SNA corroborates the results of the LNA. If the SNA cannot validate the findings of the LNA, a new model should be built and be corroborated again.

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[10] Creswell (2003) identified two different forms for conducting fieldwork in research that uses mixed methods, that is, sequential and concurrent. In sequential research qualitative and quantitative data are collected in separate stages, in contrast to the concurrent approach in which both types of data are collected simultaneously, although priority is given to one form of data over the other.

[11] At its origins, triangulation was conceptualized as a mix of different quantitative methods that later incorporated qualitative designs as well (Campbell & Fisk, 1959; Campbell, 1984). Denzi (1970) suggested four forms of triangulation: data triangulation, theoretical triangulation, methodological triangulation, and investigator triangulation. In this research I used the first three methods mentioned by Denzi and describe them in the remaining parts of this subsection. It was not possible to implement the last method, because I am the only researcher conducting this inquiry.

[12] The size of the dataset is not specified: cross-national studies commonly include a minimum of 12 observations, though larger samples are preferable. Studies of corruption use average samples of 40; here, I used data from 78 countries.

Nested analysis implemented

The nested analysis employed here started with examining the impact of different electoral financing mechanisms on corruption, by carrying out a cross-national analysis with data from 78 countries. In the LNA I tested three particular hypotheses, as follows:
H1: The impact of campaign contributions increases political corruption.
H2: The private electoral funding system increases political corruption.
H3: Electoral regulations reduce political corruption.
To perform the analysis, I gathered data available from various sources and aggregated them into a database. Data on corruption were provided by Political Risk Services, which produces annual information on political corruption, based on the opinions of business leaders. Data on electoral financing were taken from the ACE database, which collects information directly from national laws and regulations. Control variables were also included. In Appendix 1, I described the variables used in the analysis with their respective scales and sources. Methodological details regarding how the data were aggregated and the analysis performed are described in Evertsson (2013a).

In the intranational step, I first conducted a quantitative analysis through surveys (which I denote as the SNA survey) and then a qualitative analysis in the form of a case study (denoted as the SNA case study). For the selection of the country of study, I faced one restriction. SIDA, the main funder of this research, established that the resources allocated should be used to conduct research in a developing country recipient of international aid from the Swedish government. This implied that developed nations were automatically excluded from the analysis. After reviewing the list of countries that receive Swedish aid,[13] I realized that Colombia was a good choice. According to the World Economic Forum (2006) and Nassmacher (2003), Colombia is a country where campaign funding is one of the most obscure areas of electoral activity.

The purpose of the SNA survey was to understand why companies give electoral donations in Colombia. The results of the survey have been published elsewhere (Evertsson, 2009). Here, my interest was to verify the findings of the LNA. In particular, I tested whether electoral donations are seen as a legal bribe (Friedrichs, 2004; Harstad & Svensson, 2011) and whether the characterization of bribery applies in this case (Lambsdorff, 2008). These are theoretical arguments that have not been corroborated empirically.

In the SNA survey I collected a unique dataset on electoral financing and political corruption, based on 302 personal interviews with CEOs of private corporations in Colombia, of which half were donors and half non-donors. It was necessary to interview high-level executives, because they are legally responsible for deciding whether or not their companies deliver electoral funding to political candidates. Data used in the analysis are described in Appendix 2. For the data collection, I used a structured questionnaire (see Evertsson, 2013c), because it let me include control questions to identify reticent respondents, which enhanced the reliability of the results (Azfar & Murrell, 2009). Methodological considerations of sample size, sample characteristics, informant profiles,

[13] A total of 47 countries receive direct aid from the Swedish government. Four of those countries are located in Latin America, 11 in Europe, 11 in Asia, and 19 in Africa. The list of countries eligible for Swedish international cooperation is available on line at www.sida.se/ Svenska/Lander--regioner/ (accessed 7 August 2012).

the scales used to collect the information, and the reliability of the information collected were particularly addressed to guarantee the validity of the results (see Evertsson, 2012).

At this stage the remaining task was to deal with the last of the research questions: how are electoral donors compensated? As mentioned previously, I conducted a case study. The purpose of the SNA case study was to describe how the exchange of reciprocities takes place when delivering electoral donations to political candidates. I used here the AIS[14] case, which describes how benefits were delivered to palm oil growers after they gave electoral donations to the 2002 and 2006 electoral campaigns of Colombian President Alvaro Uribe (see Evertsson, 2013b). I selected this case, because the influence that electoral donors have on the head of government has been marginally studied. Most of the scholarly studies have been done at the congressional level, as I described in the literature review. To describe this case, I used various materials, such as court cases, official documents, political speeches, newspapers, and personal interviews.

The SNA case study was reconstructed by using the narrative method. This method "provides satisfying answers to research questions about the experience studied and insightful statements about types of phenomena of scientific or practical interest" (Barzelay et al., 2003, p. 21). In contrast to case study research, the narrative method presents the case as a composition of various pieces of evidence chronologically ordered and connected through a core episode. The information that the case presents is ordered in a narrative structure that constitutes the central tool of the method. The narrative structure consists of an episode corresponding to the central event that directly answers the research question, prior events that occur before the episode and are the causal sources of various aspects of the episode, contemporary events that are coincident with the episode and affect its development, related events that take place in parallel or serial order and give context to the episode, and later events that explore facts of historical relevance to the episode. The narrative structure provides the researcher with a research map that can be developed to produce a coherent and structured case. In Appendix 3 I present the narrative structure used for the reconstruction of the SNA case study.

Results

The results of the LNA are shown in Table 1 (the entire analysis is available in Evertsson (2013a)). The regression analysis did not confirm all the hypotheses initially outlined. H1 was accepted, which means that there is more corruption in countries where legal campaign financing exerts a major influence on policy outcomes. Regarding H2, I was expecting that private financing would increase political corruption, but the result obtained indicated the opposite. Regulatory measures did not appear significant in the statistical model, as posited in H3. I want to focus first on explaining the results obtained for the variables that were significant in the model, and then discuss possible reasons why the other variables were not significant.

[14] AIS originally stood for Agro Ingreso Seguro/Secure Agroindustry Income.

Table 1. LNA: Ordinary least square regression results

Independent variables	Final model
GDP	*-0.183 (0.106)
Democracy	**-0.820 (0.296)
Impact of contributions	***0.729 (0.135)
Private financing	**-0.995 (0.329)
Public financing	0.288 (0.347)
Disclosure of contributors	0.043 (0.365)
Disclosure of expenditures	-0.023 (0.325)
Ceilings on contributions	-0.241 (0.286)
Ceilings on expenditures	0.033 (0.325)
Constant	**2.353 (0.908)
R^2 adjusted	0.652
F	***17.049
N	78

Note: The complete statistical analysis is available in Author (2013a).
*p < 0.10; **p < 0.05; ***p < 0.01
Dependent variable: Corruption by PRS

The contradictory results of the significant variables indicate the controversial character of electoral donations. While electoral contributions do result in undue benefits to corporate donors, the delivery of this form of political support does not increase political corruption in the eyes of corporations, because giving electoral donations is a legal practice. This illustrates nothing other than the tension existing between the illegal benefits obtained from electoral donations and the legal status quo of this practice. This evidence reflects the characterization previously described of electoral donations as legal bribes. Friedrichs (2004) and Harstad and Svensson (2011) argued that electoral donations should be considered legal bribes, because they are used to promote particular interests, although they should not.

Regarding H3, I believe there are two possible reasons to explain why the evidence collected did not provide substantial evidence to analyze the role of electoral regulations. On the one hand, Nassmacher (2003) has mentioned that electoral regulations have only been endorsed in a small number of countries (see note 2). On the other hand, Doublet (2012) has reported that electoral regulations have not been properly enforced in those nations where they have been adopted. These possible explanations may indicate a lack of political will on the part of those responsible to adopt and enforce these measures, as well as the limited ability of electoral regulations to control the emergence of corruption; these, however, are issues that need further study.

The overall results of the LNA indicate that electoral donations bring about benefits to those who deliver them, but this does not increase corruption. This seems to suggest that electoral donations can be equated to legal bribes, as Friedrichs (2004) and Harstad and Svensson (2011) have argued; nonetheless, this assumption needs to be verified. Thus, in the SNA survey I was interested in evaluating whether donor corporations see their contributions to political candidates as legal bribes. The results of the logistic regression are shown in Table 2 (the entire analysis is available in Evertsson (2012)).

Table 2. SNA survey: Logistic regression results

Independent variables	Final model[a]
Age of the company	**0.030 (0.010)
Medium-sized company	**1.122 (0.362)
Legal bribe	***1.160 (0.349)
Expected reciprocity	*0.804 (0.463)
Previous relationships	*0.626 (0.370)
Regulatory quality	*-0.580 (0.328)
Constant	*-60.651 (20.548)
Model likelihood	229.102
Nagelkerke R^2	0.279
Overall % correct	69.8%
N	199

Note: The complete statistical analysis is available in Author (2012).
*p < 0.10; **p < 0.05; ***p < 0.01
Dependent variable: Status as donor/non-donor

In Table 2 it can be observed that the variables evaluated entered in the final model with the expected signal, which confirms, on the one hand, that firms consider their electoral donations to be legal bribes and, on the other hand, that the reasons Lambsdorff (2008) identified for paying bribes (pre-existing relationship between bribers and incumbents, clear expectations of reciprocity, and weak perception of regulations) apply also in the case of electoral donations. That a firm should openly accept that donating money to support electoral campaigns amounts to paying a legal bribe indicates that it has decided to deliver electoral support based on anticipated benefits and on certain conditions that facilitate their participation without violating the law.

This result had significant implications for the entire research process. I was able to verify the concluding assumption that emerged from the LNA. However, alongside the relevance of the SNA survey, I must note that it did not provide enough information to understand how the undue compensations take place, since on its design the survey did not attempt to answer this question. To explore this issue, it was necessary to verify a particular experience by means of the study of individual case. While I am aware that the use of SNA case study imposes limitations regarding the generalization of the results, it provides more precision when exploring the undue benefits delivered by incumbents and how the exchanged was configured. In the SNA case study I documented how President Uribe and members of his cabinet granted various legal benefits to palm oil growers over his terms of office (2002–2010).

This case was unveiled by the media while I was conducting the first stages of this research, so I decided to follow its development. On 23 September 2009 the weekly newspaper Cambio disclosed the irregular subsidies delivered to a number of wealthy palm oil firms that had donated to President Uribe's electoral campaigns in 2002 and 2006. I considered it relevant to investigate this revelation made by journalists and to follow up the legal actions undertaken by watchdog agencies. It is rare that this kind of case is publicly disclosed, so it was an opportunity for the research team to collect novel, relevant, and updated information on this topic.

The SNA case revealed that palm oil firms were interested in re-establishing and consolidating their market position in the local market. To this purpose, these firms delivered electoral donations to all candidates competing for the presidential seat in 2002. It was possible to verify that palm oil firms were interested in recovering the benefits that were removed in 1990 when the government adopted a neoliberal model in this country. The delivery of electoral donations was the mechanism that facilitated this dialog. In fact two months after Uribe took office, palm oil firms presented to the government a draft of a regulation to recover some of these benefits. The recommendations were received by the minister of agriculture, who used this input to introduce Law 919/2004. However, these were not the only benefits granted. New regulations were also introduced after the re-election of the president in 2006. On this occasion, palm oil firms doubled the amount of donations given in 2002, which produced an immediate reaction by President Uribe. One week after his re-election, Uribe promised to palm oil growers during the 34th congress of palm oil growers, held 7–9 June 2006 in Villavicencio, that tax concessions, free-trade zones, and subsidies would be delivered to the sector. In fact, at the end of his term in office, Uribe signed special regulations that addressed these issues. Decree 2629/2007 guaranteed a domestic market for biodiesel fuel obtained from processing palm oil. Decree 4051/2007 created free-trade-zone areas for single operators, in which preferential taxes were granted (three out of seven such areas were allocated to palm oil producers), and Law 1133/2007 created the AIS program, which was introduced to grant preferential credits and direct subsidies to peasants such as palm oil growers. These measures were incorporated into the new regulatory framework, known as the Conpes[15] palmero (Conpes 3377/2007), which guaranteed the permanence of the mechanisms adopted.

Based on the irregularities disclosed by Cambio, watchdog agencies initiated an investigation of the subsidy program. Investigations conducted by the Inspector General and the National Attorney established that subsidies had indeed been allocated irregularly. The case studied shown that donors gave electoral donations because they wanted to put forward their interests. Demands were openly expressed and compensated by incumbents. That disciplinary and penal sanctions were imposed in this case, strengthens the argument previously established in the SNA survey that electoral donations are indeed legal bribes.

Conclusions

In this research process I analyzed and triangulated various data and methods to explore the problem at issue. This brought dynamism to this study and enriched the analysis. By anticipating the use of a mixed method, I gained explanatory power and validity of the aggregated results. Thus, the findings obtained at the different stages reinforced the central argument of this research: electoral donations are legal bribes. The legal character of this political instrument is perverted when undue compensations are delivered to donors. This is not a crime with a single perpetrator; rather, donors and incumbents are equally involved. However, donors are protected by electoral law, because the money delivered as corrupt incentive is classified as legal. This suggests that the law is being used as a mechanism that neutralizes donors as perpetrators. This perspective points to the manipulative use of electoral law, or creative compliance, as the term is used by McBarnet (2006).

[15] Conpes is a policy document for a specific economic sector.

Electoral law creates opportunities for crime, because it legalizes the entrance of interested money into politics, disqualifies donors as perpetrators, and introduces regulations with null or limited deterrent effect on the delivery of undue reciprocities. These characteristics highlight the abject failure of electoral law. First, the criminal character of money given as electoral donations is eliminated, because the law specifies that giving this money is legal. This distinction, however, does not correspond to the opinion of private corporations, which see electoral donations as legal bribes. Second, donors are not considered perpetrators, because they are not involved in criminal actions when they give electoral donations. This is true, but donors should not be so easily disqualified as lawbreakers, as receiving undue benefits after giving electoral donations represents an active form of bribery. In fact, donors should not receive compensation for the money delivered (UNCAC, Art. 7(c)). Third, although there is an electoral law and authorities responsible for enforcing the electoral process, legislators have not designated an authority responsible for enforcing and investigating electoral law violations. In Colombia, the country of study here, neither the National Electoral Council nor the National Register Office has this power.[16] As it is now, the reciprocation of donors is not investigated at all. This makes the electoral law a single declaration of "good intentions" that does not have any legal consequence for those who trespass it.

The challenges that emerge from this analysis cannot be ignored. Is corruption the price democracy must pay to run electoral campaigns that are funded by private money? Certainly not. This is a complex problem, because we are dealing with law-abiding organizations that destroy the essence of democracy. We need electoral financial systems that strengthen democracy, not those that undermine its essentials, because this harms the confidence of society with surely devastating effects on legitimacy and governability of the political system. It is imperative to remove legal prescriptions that maintain the status quo of crimes within the law. Politicians can no longer play with citizens who believe that democracy exists when they vote in elections. In democracies politicians should represent people's needs, not corporations' needs.

[16] These are the only two institutions responsible for the entire administration of the electoral processes in Colombia.

References

Administration and Cost of Elections (ACE). (2006). Comparative data: Parties and candidates. The Electoral Knowledge Network. Retrieved from http://aceproject.org/epic-en/pc

Apollonio, D. E., & La Raja, R. J. (2004). Who gave soft money? The effect of interest group resources on political contributions. Journal of Politics, 66, 1134–1154.

Azfar, O., & Murrell, P. (2009). Identifying reticent respondents: Assessing the quality of survey data on corruption and values. Economic Development and Cultural Change, 57, 387–411.

Barzelay, M., Gaetani, F., Cortázar, J. C., & Cejudo, G. (2003). Research on public management policy change in the Latin America region: A conceptual framework and methodological guide. International Public Management Journal, 4, 20–41.

Becker, G. S. (1968). Crime and punishment: An economic approach. Journal of Political Economy, 76, 169–217.

Bryman, A. (2007). Barriers to integrating quantitative and qualitative research. Journal of Mixed Methods Research, 1, 8–22.

Campbell, D. T., & Fiske, D. W. (1959). Convergent and discriminant validation by the multitrait-multimethod matrix. Psychological Bulletin, 56, 81–105.

Campbell, D. T. (1984). Foreword. In R. K. Yin (Ed.), Case study research: Design and methods (pp. ix–xi). Thousand Oaks, CA: Sage.

Creswell, J. W. (2003). Research design: Qualitative, quantitative, and mixed methods approaches. Thousand Oaks, CA: Sage.

Denzin, N. K. (1970). The research act in sociology: A theoretical introduction to sociological methods. Chicago, IL: Aldine.

Doublet, Y. M. (2012). Political financing: GRECO's first 22 evaluations. Strasbourg, France: Council of Europe.

Engdahl, O. (2008). The role of money in economic crime. British Journal of Criminology, 48, 154–170.

Evertsson, N. (2013a). Political corruption and electoral financing: A cross-national analysis. International Criminal Justice Review, 23, 75-94.

(2013b). Corporate donations to electoral campaigns: A case study of white-collar crime. State Crime, 2, 52-71.

(2013c). Legal bribes. An analysis of corporate donations to electoral campaigns. Stockholm, Sweden: US-AB.

(2012). Electoral donations as legal bribes: Evidence from a survey of private corporations. International Journal of Criminology and Sociology, 1, 162-175.

(2009). 'Encuesta sobre la financiación de las campañas electorales y la corrupción política en Colombia'. Department of Criminology. Bogota, Colombia: Proceditor.

Fellowes, M. C., & Wolf, P. J. (2004). Funding mechanisms and policy instruments: How business campaign contributions influence congressional votes. Political Research Quarterly, 57, 315–324.

Friedrichs, D. O. (2004). Trusted criminals: White-collar crime in contemporary society. Belmont, CA: Wadsworth/Thomson Learning.

Garsten, C., & Hernes, T. (2009). Ethical dilemmas in management. London, England: Routledge.

Group of States against Corruption. (2012). Lessons learnt from the three evaluation rounds (2000–2010). Strasbourg, France: Council of Europe.

Green, S. P. (2010). Lying, cheating and stealing. Oxford, England: Oxford University Press.

Green, P., & Ward, T. (2004). State crime: Governments, violence and corruption. London, England: Pluto Press.

Greene, J. C., Caracelli, V. J., & Graham, W. F. (1989). Toward a conceptual framework for mixed-method evaluation designs. Educational Evaluation and Policy Analysis, 11, 255–274.

Gordon, S. C., & Hafer, C. (2005). Flexing muscle: Corporate political expenditures as signals to the bureaucracy. American Political Science Review, 99, 245–261.

Harstad, B., & Svensson, J. (2011). Bribes, lobbying and development. American Political Science Review, 105, 46–63.

Hart, D. M. (2001). Why do some firms give? Why do some give a lot? High-tech PACs, 1977–1996. Journal of Politics, 63, 1230–1249.

Hersch, P. L., & McDougall, G. S. (2000). Determinants of automobile PAC contributions to House incumbents: Own versus rival effects. Public Choice, 104, 329–343.

Hessen-Biber, S. (2010). Qualitative approaches to mixed methods practice. Qualitative Inquiry, 16, 455–468.

International IDEA. (2012). Comparative data: Parties and candidates. Retrieved from http://aceproject.org/epic-en/pc.

Kaufmann, D. & Vicente, P. C. (2011). Legal corruption. Economics & Politics, 23, 195-219.

Lambsdorff, J. G. (2008). The institutional economics of corruption and reform. Theory, evidence and policy. Cambridge, England: Cambridge University Press.

La Porta, R., Lopez-De-Silanes, F., Shleifer, A., & Vishny, R. (1999). The quality of government. Journal of Law, Economics and Organization, 15, 222–279.

Lessing, L. (2001). Republic, lost. How money corrupts Congress—And a plan to stop it. New York, NY: Twelve.

Lieberman, E. S. (2005). Nested analysis as mixed-method strategy for comparative research. American Political Science Review, 99, 435–452.

Maruna, S. (2010). Mixed method research in criminology: Why not go both ways? In A. Piquero & D. Weisburd (Eds.), Handbook of Quantitative Criminology (pp. 123–140). New York, NY: Springer.

McBarnet, D. (2004). Crime, Compliance and Control. Burlington, VA: Ashgate.

McBarnet, D. (2006). After Enron will "Whiter than white collar crime" still wash? British Journal of Criminology, 46, 1091–1109.

McBarnet, D. (2007). Corporate social responsibility beyond the law, through law, for law: The new corporate accountability. In D. McBarnet, A. Voiculescu, & T. Campbell (Eds.), The New Corporate Accountability (pp. 9–56). Cambridge, England: Cambridge University Press.

McBarnet, D., Voiculescu, A., & Campbell, T. (Eds.). (2007). The New Corporate Accountability. Cambridge, England: Cambridge University Press.

Murphy, D. S., & Robinson, M. B. (2008). The Maximizer: Clarifying Merton's theories of anomie and strain. Theoretical Criminology, 12, 501–521.

Nassmacher, K.-H. (2003). Political parties, funding and democracy. In A. Reginald & M. Tjerbström (Eds.), Funding political parties and election campaigns (pp. 1–20). Stockholm, Sweden: Trydells Tryckeri.

Nelken, D., & Levi, M. (1996). The corruption of politics and the politics of corruption. In D. Nelken & M. Levi (Eds.), The corruption of politics and the politics of corruption (pp. 1–17). Oxford, England: Blackwell.

Noonan, J. T. (1984). Bribes. Berkeley, CA: University of California Press.

Parker, C., & Nielsen, V. L. (2011). Explaining compliance. Business responses to regulation. Cheltenham, England: Edward Elgar.

PRS. (2006). Political risk services. Methodology. Retrieved from http://www.prsgroup.com/ PRS.aspx

Rohlfing, I. (2007). What you see and what you get: Pitfalls and principles of nested analysis in comparative research. Comparative Political Studies, 41, 1492–1514.

Shichor, D., & Geis, G. (2007). The itching palm: The crimes of bribery and extortion. In H. N. Pontell & G. Geis (Eds.), International handbook of white-collar and corporate crime (pp. 405–423). New York, NY: Springer.

Simpson, S. S. (2002). Corporate crime, law and social control. New York, NY: Cambridge University Press.

Smith, R. A. (1995). Interest group influence in the US Congress. Legislative Studies Quarterly, 20, 89–139.

Snyder, J. M. (1992). Long-term investing in politicians: Or, give early, give often. Journal of Law and Economics, 35, 15–43.

Stratmann, T. (1992). Are contributors rational? Untangling strategies of political action committees. Journal of Political Economy, 100, 647–664.

Stratmann, T. (1998). The market for congressional votes: Is timing of contribution everything? Journal of Law and Economics, 41, 85–113.

Stratmann, T. (2005). Some talk: Money in politics. A (partial) review of the literature. Public Choice, 124, 135–156.

Tashakkori, A., & Creswell, J. W. (2007). The new era of mixed methods. Journal of Mixed Methods Research, 1, 3–7.

Taylor, A. J. (2003). Conditional party government and campaign contributions: Insights from the tobacco and alcohol beverage industries. American Journal of Political Science, 47, 293–304.

Treisman, D. (2000). The causes of corruption: A cross-national study. Journal of Public Economics, 76, 399–457.

Witko, C. (2006). PACs, issue context, and congressional decision-making. Political Research Quarterly, 59, 283–295.

World Economic Forum. (2006). The global competitiveness report 2006–2007. New York, NY: Oxford University Press.

Yu, S. (2012). College students' justification for digital piracy: A mixed method study. Journal of Mixed Methods Research, 6, 364-378.

Appendix 1. List of variables used in the LNA

Variable name, definition, scale, and source
Corruption: Scale 0–6,[a] higher values indicate less political corruption. Source: PRS (2006)
Impact of contributions: Scale 1–7,[a] higher values indicate less influence on policy outcomes. Source: World Economic Forum (2006)
Private financing: Political parties receive private funding. Scale: 1 = Yes; 0 = No. Source: ACE (2006)
Public financing: Political parties receive public funding. Scale: 1 = Yes; 0 = No. Source: ACE (2006)
Disclosure of contributions: Is there public disclosure of party/candidate contributions? Scale: 1 = Yes; 0 = No. Source: ACE (2006)
Disclosure of expenditures: Is there public disclosure of party/candidate campaign expenditures? Scale: 1 = Yes; 0 = No. Source: ACE (2006)
Ceilings on contributions: Are there ceilings on how much money a party/candidate can raise? Scale: 1 = Yes; 0 = No. Source: ACE (2006)
Ceilings on expenditures: Are there ceilings on party/candidate election expenses? Scale: 1 = Yes; 0 = No. Source: ACE (2006)
GDP: (ln) Real GDP per capita averaged 1970–1995. Source: La Porta et al. (1999)
Democracy: Democracy for more than 46 years. Scale: 1 = Yes; 0 = No. Source: Treisman (2000)

[a]In the model the scale was inverted, multiplying by -1 to facilitate readability.

Appendix 2. List of variables used in the SNA survey

Variable name, definition, and scale
Status: Has the company made donations to political campaigns in the last election period (2006–2007)? Scale: 1 = Donor, 0 = Non-donor
Age of the company: In what year did this company begin to operate?
Small-sized company: 1 = 1–49 employees; 0 = Otherwise
Medium-sized company: 1 = 50–249 employees; 0 = Otherwise
Large-sized company: 1 ≥ 250 employees; 0 = Otherwise
Legal bribe: Agreement with the following statement: "Donations to political campaigns are a form of bribery." Scale: 0 = Strongly disagree, disagree, or undecided; 1 = Agree or strongly agree
Expected reciprocity: Agreement with the following statement: "Donations to political campaigns are used by private companies to obtain particular benefits." Scale: 0 = Strongly disagree, disagree, or undecided; 1 = Agree or strongly agree
Previous relationships: Has the head of the company previously worked in the public sector or been part of an ad hoc government group, or has the company head contributed financially to the election campaign of relatives or candidates with the same political ideology? Scale: 1 = Yes, 0 = Otherwise
Regulatory quality: Perception of the quality of "financing of electoral campaigns." Scale: 0 = Very low, low, or acceptable quality; 1 = High or very high quality

Program and list of participants

Program for NSFK's 55th research seminar

Mustion Linna / Svartå Slott
Finland

13-15 May, 2013

Monday 13 May, 2013

Arrival of participants at Helsinki-Vantaa airport by 12 o'clock noon at the latest

12:30-13.30	Departure of bus to Mustion Linna / Svartå Slott
13:30-15:30	Lunch and check in
15:30-15:45	Welcome and introductions, Anette Storgaard
15:45-16:30	Plenary I, Chair: Anette Storgaard
	Janne Kivivuori (FI): Methodological research in the development of Finnish Crime Survey instruments
16:30-17:00	Coffee break
17:00-18:30	Workshop session I:
Workshop 1:	Mixed methods and research ethics Chair: Helgi Gunlaugsson (IS) Mirka Smolej (FI): Gathering data on repeat victimisation: linking register-based information with online sources Katariina Mertanen (FI): Analysing power in female inmate's education by using Foucault-inspired discourse analysis and Derrida's framework of deconstruction

Workshop 2:	Quantitative and register-based studies of imprisonment Chair: Susanne Clausen (DK) Mikko Aaltonen (FI): Employment after imprisonment Linda Kjær Minke (DK): Aspekter af prisonisering
18:30-	Possibility to use the sauna
18:45-19:30	Board meeting and fringe meetings
19:30	Dinner
21:00-	Possibility to use the sauna

Tuesday 14 May, 2013

8:00-9:30	Breakfast
9:30-11:00	Plenary II, Chair: Kolbrun Benediktsdottir
	Hedda Giertsen (NO): Methods are not on their own. Examples from a project on prison-based drug measures
	Snorri Örn Árnason (IS): Theoretical and methodological approaches to sucessful economic crime prosecution
11:00-11:30	Coffee break
11:30-13:00	Workshop session II:
Workshop 3:	Methodological challenges of measurement and definition Chair: Anne-Julie Boesen Pedersen (DK) Anniina Jokinen & Minna Viuhko (FI): Challenges of data collection on trafficking in persons Ida Nafstad (NO): Kriminalitetskontroll ute av statens hender; social kontroll på Vestbredden Emma Holkeri (FI): Conceptualizing online hate
Workshop 4:	Evaluation and assessment research Chair: Aarne Kinnunen (FI) Maria Libak Pedersen (DK): Gang desistance: an evaluation of exit programs Snjólaug Birgisdóttir and Íris Eik Ólafsdóttir (IS): Social Integration in Icelandic prisons: from incarceration to effective community integration Mette Foss Andersen (DK): Christianskolen - a study on a prevent effect on crime

Workshop 5:	Qualitative interviews and research as narration Chair: Hedda Giertsen (NO) Linda Gulli (NO): Dangerous "others" Karolina Henriksson (FI): Researching the criminal investigation of trafficking in human beings for forced labour Marte Rua (NO); Institutional ethnography in prison studies
13:00-14:00	Lunch
14:00-16:00	Workshop session III:
Workshop 6:	Comparative legal and document analysis Chair: Per Ole Johansen (NO) Maija Helminen (FI): Methodological issues in a study on third sector organisations in criminal policy and criminal justice Simon Engell Kamber (DK): Mentally ill offenders, a comparative legal analysis Natalia Ollus (FI): Historical analysis of forced labour in international legal documents and the emergence of trafficking for forced labour Per Ole Johansen (NO): Litteraturstudie som metode. Eksemplet Zygmunt Bauman.
Workshop 7:	Methods of quantitative research Chair: Janne Kivivuori Mika Sutela & Olli Lehtonen (FI): Geospatial analysis and its possibilities in criminological research – example of geographically weighted regression Hanne Stevens (DK): Randomized controlled trials in criminological research – results from the Danish OPUS study Helgi Gunlaugsson (IS): Does gender or ethnicity of offenders have an impact on public attitudes towards punishment? Nubia Evertsson (SE): A nested analysis of electoral donations
16:00-16:30	Coffee break
16:30-18:30	Plenary III, Chair: Anne Alvesalo-Kuusi Ingrid Lander (SE): Kunskapsproduktion inom den kvalitativa forskningen Dave Whyte (UK): Researching the Crimes of the Powerful: towards a new research ethic. Commentary by Anne Alvesalo-Kuusi (FI)
19:30	"Festmiddag" and entertainment

Wednesday 15 May, 2013

8:00-9:00	Breakfast
9:00-10:15	Panel: Feedback from workshops and discussion, Chair: Natalia Ollus
10:15-10:45	Coffee break and check out
10:45-12:15	Plenary IV and closing of the seminar, Chair: Aarne Kinnunen
	Päivi Honkatukia (FI): Studying violence at the intersection of criminology and youth studies: the art of understanding meaning
12:15-13:00	Lunch
13:00	Departure by bus to Helsinki-Vantaa airport (expected arrival at around 14.15)

Note to plenary speakers:
Each plenary speech should last 30 minutes, after which there is time for a 15 minute discussion and questions.

Note to workshop presenters and workshop chairs:
Each workshop presentation is scheduled to take 15 minutes followed by a 15 minute discussion and questions.

Each designated workshop chair is kindly asked to take note of 1-3 key methodological findings or themes that emerge during the workshop presentations and discussions. Each chair should prepare a 5 minute oral presentation on these findings/themes and present them in the plenary panel on Wednesday 15 May at 9.30-11.00. The presentations will be followed by a discussion.

List of participants

Keynote speakers:

David Whyte, UK
Hedda Giertsen, NO
Janne Kivivuori, FI
Päivi Honkatukia, FI
Ingrid Lander, SE
Anne Alvesalo-Kuusi, FI

Participants from Denmark:

Susanne Clausen
Linda Kjær Minke
Mette Foss Andersen
Simon Engel Kamber
Dorthe Eriksen
Anne-Julie Boesen Pedersen
Maria Libak Pedersen
Anette Storgaard
Hanne Stevens
Mette Tønder

Participants from Finland:

Mikko Aaltonen
Maija Helminen
Karolina Henriksson
Regina Järg
Natalia Ollus
Olli Lehtonen
Mirka Smolej
Minna Viuhko
Anniina Jokinen
Emma Holkeri
Katariina Mertanen
Aarne Kinnunen
Saija Sambou
Mika Sutela

Participants from iceland:

Snorri Örn Arnason
Kolbrun Benedikstdottir
Snjolaug Birgisdottir
Eik Olafsdottir
Helgi Gunlaugsson

Participants from Norway:

Per Jørgen Ystehede
Per Ole Johansen
Marte Rua
Linda Gulli
Ida Nafstad
Peder Andre Skoglund
Therese Tverrå Johnsen
OkKyong Park-Bhasin

Participant from Sweden:

Nubia Evertsson