



Mapping a Shadow Carceral Welfare State:

The case of coercive care of children in Sweden

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Introduction

I first came in contact with coercive care and the National Board on Institutional Care (NBIC), the public authority in charge of locked coercive care, in 2015. I had just returned from a master's program in Spain and was looking for work. I was exhausted from the masters. Unsure what I wanted to do. What I did know was that I wanted to be somewhere where I could make a difference. I applied for a position as a treatment assistant at NBIC, at a home for young women with drug misuse and was given a temporary position. I entered full of naïve hope and resigned six months later, as angry as I had ever been before. The problem was not the girls, the problem was the lack of education among staff, including me. Few of us had the tools to treat these girls. And the ones who did quit. I have never felt as helpless as I did during those months. How was I to meet anxiety, suicide attempts, self-harm, abstinence, without being trained to do so? I had worked with imprisoned youths before within the Swedish Prison and Probation Service, but this was something different. Why did they employ me, I thought? The only thing I could do was to just to be there, take the girls out for walks, play games, watch movies, talk. However, the lack of staff made it almost impossible to do those things, as I could never leave the phone, or was too busy doing administrative stuff. I was not alone in this feeling of hopelessness; I could feel it among the staff as well as among the girls. The treatment we offered was close to none and often it was cancelled due to lack of educated staff. It was just storage of these girls. A way of keeping them alive. Artificial respiration. I remember one of my colleges telling me which of the girls who would most certainly return after being released – and which ones who wouldn't. Those who wouldn't, that was not because we had helped them on to the right track, it was because they would commit suicide, my college said. They wouldn't cope any more. I can see it in her and her, he told me. Soon after that I decided that I could not work at a place where I could not defend even to myself what I was doing.

When I applied for a PhD position my topic was obvious. Coercive Care. Coercion and Care. Together creating this official term we call 'protection'. In other countries you talk about residential care, out of home care. But in Sweden we talk about coercive care, *tvångsvård*. Brutally honest in a way.



Completely dishonest in another. It is a coercive intervention, a protective intervention, a welfare intervention, and a social right.

Today's organisation of locked coercive care was founded in 1993. The same year the government published a governmental report, supported by all political parties, stating that »there is enough knowledge that speaks of negative, or an absence of, treatment effects to not place any hope in this type of interventions«(Government, 1993, p. 79). It was emphasized that »*Severely scepticism should be directed ... towards coercive care of criminally active youths*«(Government, 1993, p. 79, emphasis in original). We knew, over 30 years ago, that the empirical and theoretical support for coercive care was weak, especially for older youths. We knew that there was no research evaluating coercive care that had shown any positive treatment effects. We knew that it could not be excluded that coercive care had harmful effects on an individual level. We had a governmental report stating, that even if coercive care would have a positive effect on general crime prevention, it could not justify coercive care as treatment. That there were severe practical difficulties to perform coercive care in a consequent and professional matter. That the legitimacy for practicing coercive care was weak, both from the perspective of those being treated, from the public and even from some of those who were practicing it.

But we carried on.

The vast number of studies conducted on the subject during the past 30 something years has not told us anything different.

And we still carry on.

We place an increasing number of children in locked institutions with no 'expiration date'. Why do we do it? What function(s) does the coercive care have in our society, if we know that it will do no good? In the beginning I was drawn to the relationship between coercion and care, the practice of formal control that may be call punishment in all but name within a benevolent welfare state. However, as I entered the field (academically), so did the UN Convention on the Rights of the Child (CRC) which became Swedish law on 1 January 2020. The overall question for my thesis then became what the perspective of the rights of the child *does with* the traditional coercion-care conflict, and how these tensions affect the orientation(s) and function(s) of coercive care of children.

1. Blurred lines

What began with feelings of helplessness, shame and anger has turned into a more generative process of critically examining an institution that – which the headline of this essay suggests – might very well be viewed as a part of what Katherine Beckett and Naomi Murakawa (2012) has termed 'the shadow carceral state'. A 'state' that operates beyond criminal law and formal punitive practices to expand penal power through administrative pathways to incarce-



ration. The concept of the shadow carceral state invites us to think of the state's penal power from a broader perspective that challenges traditional views of what counts as punishment. It allows us to move beyond legal definitions and into more submerged forms of interventions that may be called punishment in all but name. Within the criminological field, 'crimmigration'-scholars such as Vanessa Barker, Katja Franko Aas and May-Len Skilbrei, just to name a few, have shed light on such processes within the Nordic context. However, when it comes to problematising welfare interventions criminological scholars have, for some reasons been more reluctant. Perhaps the reason is that welfare interventions is just that, welfare interventions. The framework of the shadow carceral state with its focus on administrative (and civil) pathways to incarceration invites us to blur the lines between welfare, rights and punishment. *Now you might want to remind me that Nordic scholars have criticized the idea of Nordic welfare states as exceptionally humane for years.* That is true. But still, I think it's necessary for us to spend a little time talking about the welfare state.

Having examined current problematisations on the relationship between coercion and care within the realm of the welfare state I have found drug policy to be one of the primary areas in which this has been carried out. This is not surprising as drug policy development has been said to mirror a broader criminalization of social problems (c.f., Kolind et. al. 2013). For instance, it has been argued that the relationship between welfare and punishment within Nordic prisons is most visible when it comes to drug treatment programs, which are to deliver a welfare service to imprisoned citizens (Kolind, 2017). According to Kolind (2017, p. 205) it is »... difficult to disentangle what is in fact a part of the welfare service (drug treatment) and a part of punishment and the related disciplinary sanctions«. In the above reasoning by Kolind, although not explicit, there is the underlying assumption of a dichotomous relationship between welfare and punishment. Between good and evil. This is also found in the reasoning of Bruhn et al (2017, p. 181) who sees the cult of NPM tearing the welfare state apart, 'forcing' welfare-ish interventions into the realms of prison as there are increasingly less space for such in the outside prison world. It is seen in the way Smith and Ugelvik (2017, p. 528) describes the mixing of punishment and welfare as »... trying to mix oil and water« – it works, but it is difficult. However, acknowledging that the social democratic welfare state is not simply universal and inclusive, Smith and Ugelvik notes how the exceptionalism literature tend to divide and separate welfare and penal practices as either punitive or not. They acknowledge the need for a more complex analysis to get away from the one-dimensional question of measuring how much, or how little punitiveness something withholds. This nuanced discussion is concluded with the following statement: »The best Scandinavian prison practices are good examples of what is possible when you have the ideas, the resources, the values and the will to create *truly* welfare-oriented regimes«(Smith & Ugelvik 2017, p. 528, my emphasis).



What then is a truly welfare-oriented regime? I believe one obstacle with the way 'welfare state' is used within criminological research is the view of the term as a rather static concept, which, from my understanding, contribute to the dichotomization of the relationship between welfare (good) and punishment (bad). If we look at the historical use of the term 'welfare state' the fluidity of the concept becomes clear. In his work on the changing meanings of the welfare state, Nils Edling (2019) show how the term has had at least four different but overlapping meanings since its birth in the mid-late 17th century Germany until the 1940s. For me, a view of the welfare state as fluid rather than static, forces us to position ourselves as well as our research subject(s). This includes contextualising our understanding of the welfare state in relation to its historical and cultural meaning. It means that we cannot simply place the welfare state in opposition to the punishment without defining it, and to do such a thing, we must turn to its historical and cultural roots.

However, before doing that, I would like you to consider following description of the welfare state:

The Swedish welfare state is fairly affluent and very generous and quite frankly a major accomplishment, if you belong to it. If you do not belong to it, Sweden can be a place made miserable by variegated social marginalization in core areas of social life (Barker, 2012, p. 17)

On the one hand I completely agree with this statement, on the other hand, I think it's about time to problematize what we might call the 'inclusionary' welfare state. It is now time to turn to history. Klas Åmark (2005) show how the inclusionary and exclusionary features of the Swedish welfare state can be traced back the country's relation to the so-called 'safety problem' during the second half of the 19th century. The problem of safety, Åmark argues, was not something new. What was new however, was the response to the safety problem created by the industrialisation which left workers vulnerable to changes on a growing capitalist market. The solution is known as 'the line of work'. The goal was not to make workers independent of the market, but to make their position stronger within the market. The social insurance system that started to develop during this time is often referred to as universal and as a right of citizens. However, these systems were not primary directed to decrease poverty, but to protect the good wage-earners from the threats of poverty. Hence, large groups with no or weak attachment to work were long excluded from these reforms. Universalism cannot be said to have been the leading principle. For instance, healthcare insurances presented during the 1950's was said to include all citizens. However, by financing parts of the insurance with fees, some groups were excluded. Others were not seen as in need of health insurance as they were considered 'already cared for' or already included. These were women, men and children placed within different institutions. This last point is interesting and of great relevance for the position of coercive care within the welfare system today. It problematizes, not



the exclusionary welfare state but the inclusionary. Those considered cared for. Belonging but with limited access to social rights. What I suggest is that the 'universal' and 'inclusionary' or 'exclusionary' welfare state as analytical concepts does not have enough potential to problematise the welfare state and its punitive features. Rather, such terms may contribute to upholding the dichotomy of welfare and punishment. Of being in or being out. My point being: it is not as simple as being in or out. What I set out to do in my thesis is to go beyond the dichotomy of the inclusionary and exclusionary parts of the Swedish welfare state through the case of state driven coercive care of children. A place – or space – included in the welfare system and torn between coercion and care.

It might surprise you (*or not*) that the two current grounds for placing a child in coercive care has remained more or less the same since the beginning of the last century. Although the legislative grounds for placement as well as the organisation of the coercive care has changed, the two categories of children which the 1902 child welfare legislation targeted is the same: the environmental case and the behavioural case (Lundström, 1993). In the first case children are placed in coercive care due to environmental circumstances. The 1902 legislation defined this as parental mistreatment, albeit not abuse but rather lack of morally good upbringing. The second case has to do with children's own behaviour such as criminal behaviour, neglect of school, vagrancy and general socially destructive way of living. In 1902 it was the protection of the society and social order that was of primary interest, not the protection of the children themselves. This changed in 1924 when a new childcare legislation came in place, one that is commonly referred to as 'the birth' of modern child welfare (Lundström, 1993). One of the most important changes was the addition of the need to protect children from bad and insufficient parenting.

Does this seem familiar to you in any way? Consider this. In an interview the current Minister of Justice, Morgan Johansson, comment on the journalists question on what to do with young children engaged in, or at risk of being engaged in criminal activity:

These are children growing up in criminal environments, sometimes it is the family that has been pervaded by crime. At this point we must be very clear. Children's rights and children's growth must always be prior to parents' rights and claims. It's not only about preventing crime, but about preventing children from entering criminal activity. We know that these children, during their childhood, are exposed to a very large number of crimes, it can be violent crimes, it can be oppression. That's why the social services and the justice system need more muscles to intervene. That is why we subsidise coercive care (...)

(Sandberg et. Al., 2020, my translation)

The root of evil is still 'the problem of safety'. A problem that is no longer related to industrialism and work, but to the modern problem of safety: the idea of crime haunting our society. Still, it is (some) parents' inability to raise



their children that is considered to be one of the primary problems. The solution is the same – muscling up the state’s ability to intervene through an increased number of placements in coercive care.

2. A new ‘complication’

What is different however is the reference to the rights of the child. Rights. It is a word that can make the claim of being the zeitgeist of our times. Many agree upon the principles of rights, but less so on how and when they should be applied (c.f., Banakar, 2010). Within welfare theories children are, if even present, mainly viewed as passive objects rather than subjects with their own rights (Heimer & Palme, 2016). This mirrors the traditional view of child welfare in Sweden with its focus on protection (from harm) and provision (right to health etc). The CRC challenges this with its equal focus on what is usually summarized as the three P’s: Protection, Provision and Participation. This latter P sets the child as an actor and legal subject on the agenda in a way that complicates the already toxic relationship between coercion and care. In a way this project can be said to examine how this new ‘complication’ is handled.

In my first article within this project, I studied the tensions and contradictions between the child’s rights perspective and the collectivistic discourse on state protection in the transformation of state-driven coercive care in accordance with CRC taking place between 2015 and 2018 (Rennerskog, 2020). What I found was that emphasis on children’s rights to protection actually triggered and enforced the shadow carceral state. I found that emphasis on the child’s right to protection was used, not to strengthen the role of the child towards the state, but to legitimise a strengthened position of the state towards the child, decorated in the terminology of a child’s rights perspective. In fact, the transformation of the legislation resulted in a partly more repressive legislation for children placed following the behavioural case. This was possible through an emphasis on protection that is hardly in line with CRC.

Just about the same time as the CRC was made Swedish law in January 2020 the death of a three-year-old girl previously placed in coercive care chock the country. The media soon named her Little heart who’s tragic death has been described a failure of society to ensure children in coercive care the protection and support that they have right to. Following the death of Little heart, political parties have rushed new legislative proposals to strengthen the rights of children apprehended by the state. While this is all well, these changes have focused primary on children included in the narrative of Little heart – apprehended through the environmental case. In my second, and ongoing study I set out to examine how the implementation of the CRC post January 2020 affect children in coercive care excluded from the narrative of Little heart (i.e. apprehended through the behavioural case). More precisely, I aim to understand how the recognition of children’s agency has been twofold:



It has not only been used to strengthen participatory rights of children, but also to enhance their culpability.

3. Going forward

However, things are happening also for these children, although not in within the Swedish government but within civil society. Two NGO's that has been especially visible within the last year are Barnrättsbyrå and Childhood Sweden. The former reported the management team at NBIC to the police for mismanages of responsibilities and the latter has recently taken the initiative to gather civil society and researchers to join forces to work for a change of Swedish coercive care of children. These initiatives show a side of the rights of the child as politically potent. It shows how the CRC may have a gathering effect from below, starting with the voices of children, bringing researchers, individual public servants and civil society together in a way that challenges current political order. I am a part of these 'joined forces' and I must say that these are exciting times.

Kontaktuplysninger

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