



Democratic emancipation in Scandinavian offender rehabilitation

– Between policy discourse and actual practice

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Introduction

This PhD project balances an interest in social work and its prospects for delivering emancipation or relief from stigma, etc. through motivational agency, on the one hand, with an attentiveness to recent developments in Scandinavian criminal policy, on the other. In my attempts at »bridging« these interests I have come to focus on offender rehabilitation. In this short paper I shall present the main ideas behind, motivations for and perspectives of this PhD project by qualifying further some of these conceptual relations.

1. Offender rehabilitation as emancipatory social work

It is well-established in the contemporary criminological discussion that offenders are often socially marginalized well in advance of committing an actual crime and receiving a formal sentence (e.g. Collins, 1992, p. 99). Additionally, classical criminological theory contains considerations as to how *prisonization*, that is, the 'socialization' within the highly regulated and undemocratic 'pecking order' of the prison culture, nothing but intensifies the experience of societal alienation (e.g. Clemmer, 1938, p. 870; 1958, p. 152; Goffman, 2012, pp. 13-33) and ultimately jeopardizes re-integration with the world outside as well as increases the risk of recidivism (Clemmer, 1958, p. 299).

In comparison, today's Scandinavian criminal justice systems and prison regimes may seem exceptionally transparent and lenient (Pratt, 2007). Indeed, it has recently been found that Norwegian prisons are not necessarily dominance hierarchical due to the pervasive nature of Norwegian egalitarian culture (Mjåland and Laursen, 2021). Yet, in spite of the fact that citizens maintain formal rights when serving a sentence in Scandinavia and regardless of the degree to which a prison stay is designed so as to imitate normal life on the outside, a generally degenerated capability for carrying out one's democratic rights and obligations is likely to follow from incarceration (Minke, 2012; Olesen, 2013; Reiter, Sexton, and Sumner, 2018; Smith, 2012). Therefore, release from prison is by no means unproblematic in the Scandinavian context: Somewhat suddenly,



the daily routine, the adaptation to society's explicit as well as implicit rules and the carrying out of personal interests and rights is once again subject to one's own conviction and social abilities.

Now, *The International Association for Social Workers*¹ proposes a standard definition of social work that, aside from linking social work practices to democratic principles such as human rights, collective responsibility, social justice and respect for diversities, frames social work as:

(...) a practice-based profession and an academic discipline that promotes social change and development, social cohesion, and the empowerment and liberation of people. (...). Underpinned by theories of social work, social sciences, humanities and indigenous knowledge, social work engages people and structures to address life challenges and enhance wellbeing.

Later in the text the participatory methodology of social work is elaborated in more detail:

As far as possible social work supports working with rather than for people. (...) From an emancipatory perspective, (...) this definition supports social work strategies [that, AS] are aimed at increasing people's hope, self-esteem and creative potential to confront and challenge oppressive power dynamics and structural sources of injustices, thus incorporating into a coherent whole the micro-macro, personal-political dimension of intervention.

It is this dimension of social work, the inherent aspect of re-forming citizens' (coming from precarious situations) abilities to participate in society that I will explore in my PhD research. This emancipatory feature of social work will be studied in the context of the Scandinavian prison and probation services as the study (among other aspects) investigates the practices and accounts of social workers working with citizens undergoing release from prison.

Considering a two-dimensional classification of social work provided by Stefan Morén (2015, pp. 51-62), one may further specify the »object« of study. He suggests that within the field of social work, which is obscured by many different local traditions and personal convictions, one may *in theory* discern two forms of social work, or more precisely, two fundamentally different types of aid provided by social workers. Whereas *aid type one* denotes the somewhat mechanical problem-solving approach where »[s]ome pre-determined action is placed within the client's life situation«, *aid type two* is an approach where »[a]n opportunity for change is emerging and created in a lived relationship between social workers and those in need of assistance.«² (Morén 2015, p. 51) While it is likely, Morén argues, that social workers at large

1. Cf. <https://www.iassw-aiets.org/global-definition-of-social-work-review-of-the-global-definition/>
2. I have translated into English all of the cited textual sources (and, as in this particular case, academic literature) from the original Nordic language. References, in the form of URLs, for the original texts are included in the footnotes.



idealistically prefer to act in accordance with aid type two, the organizations in which they are employed are often schemed according to aid type one. This, one may plausibly fear, is likely to cause an inherent disintegration of purposes and motivations within the organizations or as Morén puts it:

(...) that the lower model [aid type two, AS] – and not least the task of balancing in the border country between adaptation and transformation – will be systematically invisible and that the social worker will, in important respects, lack a language with which she can relate to the reality she encounters (...). (Morén, 2015, p. 61)

With this PhD project I am looking more closely at this dynamic between organizational and governmental policy and the social work practices that it serves as a guideline for. Consequently, the research will incorporate both document analysis and fieldwork including interviews with social workers and clients and observations of their meetings.

2. Inherent aspirations for building democratic capacity among parolees

In recent decades there has, in Scandinavia, been a growing focus on designing a coherent social work intervention scheme for citizens leaving prison in order to minimize recidivism. The Scandinavian countries' programs for the practices of resettlement are often presented in documents such as for instance the Swedish *Inclusion – a sketch of an idea [Inslussning – en idéskiss]*³. In the following, I shall, for the sake of illustrating further where my interests lie, present a closer investigation of a small excerpt from this comprehensive document. In *Inslussning*, the work of rehabilitation is described in the following way:

Implementation of a prison sentence is an opportunity for society to take measures to reduce the risk of continued crime. It is important both to *motivate* prisoners not to continue committing crimes and to *strengthen existing motivation* and to *improve the conditions* for those who want to leave a criminal way of life. (p. 9, emphasis added, AS).

As indicated with the emphasis added in the excerpt, the rehabilitation process can be subdivided into three different types of intervention. That is: 1) To *motivate* the client not to commit crime upon release; 2) to *empower* the client to carry out the motivation; 3) to *facilitate* the conditions for the realization of a life without crime. Further, I take it that the interventions ultimately accord to different conditional aspects of the parolee's personal situation in the following sense: 1) Will (motivation); 2) ability (empowerment); 3) possibility (facilitation).

3. Cf. <https://www.regeringen.se/4967a5/contentassets/17b61b3d7b9b4451b3b1bdbba-4ba9bc0/inlussning--en-ideskiss.pdf>



Whereas the first element (will) can be thought of as directed at the offender's own conditions for living a law-abiding life, i.e. the measures to be taken in order to make sure that the imprisoned wants (or at least is open towards) a life without crime, the third element (possibility) is directed at concrete circumstances, i.e. to provide the best possible environment for the actual enactment of such will. The second element (ability) is placed in between these two poles as it has to do with the clients aptitude for translating her or his will into action that is compatible with the concrete circumstances in place. Thus, it would seem that the three provisions, will, ability and possibility adhere to the individual, social and societal sphere, respectively.

In *Inslussning* (pp. 20-28) a variety of critical themes for the specific interventions are projected, i.e. employment, education, housing, debt relief, treatment of drug and alcohol abuse, psychiatry, criminal attitudes, network and control. A quick breakdown of these specific interventions may suggest that many are concerned with *possibility*, i.e. facilitating the actual opportunities for carrying out one's rights and motivations upon release by ensuring some form of occupation, accommodation, sustainable private economy and network. The rest of the themes are less clearly fitting with one of the categories. Nonetheless, I take that one may plausibly argue that projects such as those offering abuse treatment and psychiatric counseling are interventions directed at the individual, whereas the projects working to reform criminal attitudes are based within the realm of the social, since attitudes are *per se* relational, an attitude towards something or someone other.

While it may very well be the case that more resources go into matters of possibility in Swedish (or indeed Scandinavian) social work for resettlement, the argument I wish to make is not that *Inslussning* is myopic. Rather, the purpose of presenting and discussing this document is to gain a context for gauging the scope of this PhD project as well as for presenting one of the main motivating arguments for it.

The argument in question stems from research in access to justice, more precisely from a radical school within this field that promotes what has by one researcher been called »the democratic thesis« (Leitch, 2013). Before getting to the democratic thesis a few words about access to justice research in general is necessary. Access to justice research is a vast field in which scholars from a multitude of different disciplines study citizens' (especially those living under precarious circumstances) access to legal rights. Most of the research is done within the scope of law scholarship where access to justice is treated as an issue of access to court, legal jargon, representation, legal aid etc. This has been called »the practical thesis« (Leitch, 2013). However, some researchers, key among which is the American sociologist of law, Rebecca Sandefur, have been highlighting the more elusive social aspects of access to justice:

Researchers should consider how access to justice is impeded not only by lack of resources, but also by constructed social meanings, such as the stigmatized identity



of rights claimants or the failure to understand a problem as a legal one. (Albiston and Sandefur, 2013, pp. 119-20)

The democratic thesis is based on the contention that access to court by no means equates access to justice. Research shows that large parts of the general public (in this case in Canada) are not having their legal cases tried in court, because they fail to see the legal nature of the problem, are unaware of their rights or simply do not bother (Currie, 2009). Therefore:

(...) researchers should consider not only the demand for legal services, but also the many potential supply-side models for addressing civil legal concerns, *including* nonlegal approaches and service delivery models. (Albiston and Sandefur, 2013, pp. 119-20)

By the same token, I take it that having access to housing, debt relief and all of the other *practical* possibilities highlighted in a program such as *Inslussning* by no means entails that the parolee has *real* access to them. I take it that *the ability to participate* in these possibilities is integral to the constitution of them as possibilities in the first place. Therefore, this research project will be concerned with these much more elusive issues of offender rehabilitation that has to do with supporting the parolee in translating a genuinely voluntary will to desist into a social ability to carry out such. In other words, the attention will be on how social workers tackle the facilitation of a transformation from so-called antisocial to social attitudes, how they gear the (re-)building of democratic awareness (i.e. not just how they inform about democratic rights), how they install within the parolee the motivation to take on a participatory citizenship, etc.

3. In the face of a managerial and a punitive turn in the Scandinavian criminal policy discourse

As in Sweden and Norway, the Prison and Probation Service of Denmark is obliged to work out an action plan for the imprisonment and parole in collaboration with the sentenced citizen (cf. Law on the Execution of Punishment §31, 2). Accompanying this rule, the Danish Ministry of Justice sets forth guidelines for how to make such action plans. In June 2017 these guidelines were revised and a radical reformulation of the purpose of the action plan illustrates an interesting shift in the policy discourse on rehabilitation. The now historic guidelines stated that:

Action plans are an important tool in ensuring that the convicted are able to live a crime-free life as well as give the convicted co-responsibility for the sentence / the supervision period and their existence in general. The action plan will therefore guide the contact between the convicted and the Prison and Probation Service.⁴

4. VEJ nr 9399 of 26/07/2013



This passage was in 2017 exchanged with the following:

The action plan is the central and guiding tool for the contact between the client and the Prison and Probation Service to ensure systematics and continuity in the handling of cases. The preparation of the action plan is done with a view to ensuring goals and direction for interventions during the course of the Prison and Probation Service and for the time after the release.⁵

Both statements maintain that this document guides the working relationship between client and authority, however, in fundamentally different ways. Whereas the historic guideline stresses a need for an active involvement of the convicted in the devising of his or her own action plan, the current guideline presents a different set of purposes such as systematics, continuity and efficacy.

Another example adds a dimension of increased consequence and control to the discourse of the Danish Prison and Probation Service. In 1998 the Danish Prison and Probation Service developed and published a document comprising a set of core-principles in order to secure organizational coherence and ethics as well as a more holistic intervention scheme. The code of principles argues that the purpose of the Danish Prison and Probation Service is conditioned by basic humanist values such as the sanctity of the individual, human rights, the societal sense of justice and key democratic principles such as transparency towards inmate relatives, responsible administration and security for all involved parties (incl. the offender). This means, according to the concluding statement of the document, that, in the effort to minimize crime, the controlling and supervising measures of the Danish Prison and Probation Service should be carefully balanced with support and motivation. This ideal is reflected in the 2017 issue of the annual executive strategy for the Danish Prison and Probation Service »Plan for Aims and Results for the Danish Prison and Probation Service« [«Mål- og resultatplan for kriminalforsorgen«].

Punishment is executed by carrying out the control necessary to enforce the punishment and by supporting and motivating the convicted to live a life without crime. (...) *The basic value of the Prison and Probation Service: »the art of balancing the hard and the soft« reflects this dual main task that the Prison and Probation Service employees have to deal with in their daily lives.*⁶ (pp. 2-3, emphasis added, AS)

However, whereas the first sentence has endured in succeeding editions, the second and last part of the excerpt (cf. emphasized part above), where the importance of *striking and maintaining a balance* between support and control is clearly pronounced, has been edited out. Such revision, one may argue, formally legitimizes a prioritization of the managerial and punitive »leg« in the prison and probation service which, I would argue, may too be traced

5. VEJ nr 9555 of 19/06/2017

6. <https://www.kriminalforsorgen.dk/wp-content/uploads/2018/11/kriminalforsorgen-maal-ogresultatplanfor2017.pdf>



elsewhere in Scandinavian criminal policy documents (that will be treated in great detail in the coming thesis).

To be clear, by drawing attention to these developments in the discourse, I am not here suggesting that the rehabilitative ideal has left practice all together or that all regard for the democratic personhood of the convicted citizen has evaporated. Also, I am not arguing that Danish policy is harsher than Swedish and Norwegian. Rather, one may take these examples to denote an intensification of the control, security and consequence discourses in Denmark somewhat similar to that which researchers have identified in Sweden (e.g. Svensson 2016) and in Norway (e.g. Todd-Kvam 2019). In fact, a discussion as to the reality of a punitive turn in Scandinavia was invigorated in this journal in the recent feature issue on penal welfarism in the Nordic countries (Tham, 2019; Andersson, 2019)

Thus, when it comes to rationales for punishment and how we treat offenders, Scandinavia may not now be as exceptionally humane as once posited (Pratt, 2007). Whereas the upsurge of the systematicity, continuity and efficacy discourses may substantiate the idea that Scandinavian prison and probation services have since the 1980's underwent a *managerial turn* (Svensson, 2016), the occasional surfacing of a harsher consequence and control discourse and the destabilization of the support discourse may indicate an underlying and forthwith intensifying *punitive turn*.

Allogether, I take it that these aspects of complexity motivate a comprehensive study that compares the situation in the Scandinavian countries in more than one dimension, that is a study that not merely compares internationally but also intra-nationally with regard to the relationship between policy discourse and actual practice in order to understand how the still more pungent discourses may impact rehabilitative reasoning and practices; the prospects of democratic emancipation in particular.

Kontaktoplysninger

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Literature

- Albiston, Catherine R., and Rebecca L. Sandefur. 2013. 'Expanding the empirical study of access to justice', *Wisconsin Law Review*, 2013: 101.
- Andersson, Robert. 2019. 'Från behandling till hårdare tag? En kritisk analys av högervågsargumentet inom svensk kriminalpolitik', *Nordisk Tidsskrift for Kriminalvidenskab*, 106: 19-36.
- Clemmer, Donald. 1938. 'Leadership Phenomena in a Prison Community', *Journal of Criminal Law and Criminology*, 28: 861-72.
- . 1958. *The Prison Community* (Holt, Reinhardt and Winston: New York).
- Collins, Randall. 1992. *Sociological Insight: An Introduction to Non-Obvious Sociology* (Oxford University Press: New York City, USA).
- Currie, Ab. 2009. 'The legal problems of everyday life.' in Rebecca Sandefur (ed.), *Access to Justice* (Emerald: Bingley, UK).



- Goffman, Erving. 2012. *Anstalt og menneske: Den totale institution socialt set* (Jørgen Paludans Forlag: Danmark).
- Leitch, Jennifer A. 2013. 'Looking for quality: The empirical debate in access to justice research', *The Windsor Yearbook of Access to Justice*, 31: 229-55.
- Minke, Linda Kjær. 2012. *Fængslets indre liv* (Jurist- og Økonomforbundets Forlag: København).
- Mjåland, Kristian, and Julie Laursen. 2021. 'Pragmatic and Permeable Egalitarianism: Exploring Social Life in Norwegian Prisons', *Nordisk Tidsskrift for Kriminalvidenskab*, 108: 175-95.
- Morén, Stefan. 2015. *Undran inför socialt arbete* (Studentlitteratur AB: Lund, Sweden).
- Olesen, Annette. 2013. *Løsladt og gældsæt* (Jurist- og Økonomforbundets Forlag: København).
- Pratt, John. 2007. 'Scandinavian Exceptionalism in an Era of Penal Excess: Part I: The Nature and Roots of Scandinavian Exceptionalism', *British Journal of Criminology*, 48: 119-37.
- Reiter, Keramet, Lori Sexton, and Jennifer Sumner. 2018. 'Theoretical and empirical limits of Scandinavian Exceptionalism: Isolation and normalization in Danish prisons', *Punishment & Society*, 20: 92-112.
- Smith, Peter Scharff. 2012. 'A critical look at Scandinavian exceptionalism. Welfare state theories, penal populism, and prison conditions in Denmark and Scandinavia.' in Thomas Ugelvik and Jane Dullum (eds.), *Penal Exceptionalism? Nordic Prison Policy and Practice* (Routledge: London, UK).
- Svensson, Kerstin. 2016. 'Philanthropy, welfare state and managerial treatment: Three phases of community punishment in Sweden.' in Gwen Robinson and Fergus McNeill (eds.), *Community Punishment: European Perspectives* (Routledge: New York City, etc.).
- Tham, Henrik. 2019. 'Straff-välfärdsstaten och kontrollkultur i svensk kriminalpolitik', *Nordisk Tidsskrift for Kriminalvidenskab*, 106: 6-18.
- Todd-Kvam, John. 2019. 'Bordered penal populism: When populism and Scandinavian exceptionalism meet', *Punishment & Society*, 21: 295-314.