

Prisons of Welfare

Incarceration, Social Democracy, and the Sociology of Punishment



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Summary

This dissertation offers a study of the practices and politics of punishment in Norway. It inserts itself into ongoing debates on the notion of *Nordic penal exceptionalism* and develops the Bourdieusian concept of the *carceral field*, with the aim of tracking penal policies, carceral practices, and criminological theorizing at three analytical levels. The dissertation offers two studies per level of analysis for a total of six distinct yet thematically interlinked investigations.

Briefly stated, the dissertation examines legal punishment in Norway by drawing on a wide range of empirical materials – ethnographic field notes, interviews, official documents, and archival sources. It offers a triple-tiered analysis of the politics of punishment in one society, moving between microscopic analyses of confinement practices in one prison and life-course interviews with drug dealers, to a macroscopic study of shifting outcomes in the carceral field, before returning the analytical gaze back onto the scientific field itself. In so doing, the dissertation moves beyond its selected empirical domain to advance ongoing debates about the nexus between political economy and punishment by emphasizing the mediating influence of the carceral field, a concept derived from Bourdieu’s sociology of social space and symbolic power. While Norway may still be said to be embedded in a regime of Nordic penal exceptionalism, a moderate turn toward growing punitiveness and a continuous tension between care and coercion, should drive scholars to refine their analyses of this carceral outlier.

First, it offers a microscopic analysis of punishment at ground level. By drawing on ethnographic fieldwork in one minimum-security prison in Norway as well as semi-structured interviews with inmates residing in the institution, Article 1 maps out novel modes of penal subjectivity under so-called open incarceration. It documents what are termed “pains of freedom,” derived from Sykes’ (1958) notion of “pains of imprisonment” and Crewe’s (2011) “pains of indeterminacy,” to portray new forms of social suffering under modern regimes of incarceration. In a second study, Article 2, the dissertation offers a glimpse into the life-course trajectories of inmates with experience in the illicit drug economy. This part of the dissertation illustrates how ongoing processes of criminalization and penalization of drug use and distribution have generated zero-tolerance legislation and punitive practices in Norway, an apparent deviation from a regime of carcerality that prides itself on relatively lenient sentencing standards and liberal confinement practices. It interrogates the triple-tiered distinction between street-level, mid-level, and high-level (or “professional”) drug

distributors—codified in law through Norway’s Penal Code—by showing evidence of the flux and fluctuation of fortunes within the space of drug distribution

Second, the dissertation moves to the macroscopic level. One study, Article 3, examines the rise to prominence of political agents promising to tilt the carceral field rightwards, offering “tough on crime” rhetoric and “law and order” policy proposals to garner electoral favor and political success. It also documents the moderate yet concerted growth in incarceration, as evidenced by a growing incarceration rate in recent decades. Increasingly heterogeneous populations along socioeconomic and ethnonational lines are discussed as two potential drivers of growing punitiveness. Following Bourdieu’s symbolic-material analytical framework, both forces—ethnonational and socioeconomic differentiation—have tended to undermine the social solidarity underpinning relatively tolerant, non-punitive policies and practices. In its place, a process of dualization has been underway, with “penal welfarism” (Garland 2001) increasingly being reserved for an ethnonational core citizenry, while a form of carceral austerity has come to be assigned to non-citizen “outsiders.”

In Article 4, the dissertation moves back in time to better understand present-day practices. As part of Bourdieu’s epistemological plea for “constructing the empirical object,” effected in part through a process of historicization, the study delves into the archives to understand how the welfare state and the prison were reformed in tandem over the course of the twentieth century and beyond. Between 1900 and 2013, three distinct logics of the welfare state are excavated from relevant archival holdings and secondary historical writings. The logic of the welfare state is shown to vary in concordance with three distinct modes of legal punishment, labeled *penalty as paternalism*, *penalty as treatment*, and *penalty as dualization*, respectively. Norway’s penitentiaries were “prisons of labor”—to allude to the title of the article—in three interrelated senses: first, throughout the twentieth century, prisons were sites of actual, physical labor; second, prisons were shaped by ideas about the importance of rehabilitation and self-improvement, that is, a labor directed at the self; finally, they were fundamentally formed by the ascendancy of social democracy, associated in large part with the Norwegian Labor Party, and the desire of its proponents to ameliorate detrimental societal conditions – and thereby combat crime and preemptively counteract the social demand for punishment in the first place. Like the previous study, Article 4 presents an argument about the value of attending to political economy to understand the shifting landscapes of carcerality, but it does so by redeploying archival research methods to conduct middle-range sociological theorizing.

Third, the dissertation examines the scientific field as it relates to issues of crime and punishment. It offers a critique of the scholastic gaze vis-à-vis criminological knowledge and studies of incarceration. First, Article 5 interrupts ongoing scholarly debates about “penal populism,” offering an anatomy of some of their uninspected premises. It criticizes the assumption that democratic influence on the politics of punishment necessarily results in punitive policies and carceral austerity. The doxic notion of “politicization,” assumed to be something that can and should be surmounted, conceals the fact that practices of punishment are always the result of ongoing symbolic struggles: they are therefore ineluctably political. It offers two illustrative examples of how social elites have been deployed to advance both lenient and harsh punishment. Social elites are not necessarily wedded to moderate sentencing levels and lenient conditions of confinement: their carceral commitments remain contingent and must be the subject of empirical scrutiny. Beyond such pragmatic concerns, a commitment to democratic influence on societal outcomes would seem to require the admissibility of electoral influence on criminal justice policies.

Finally, Article 6 introduces Bourdieu’s theoretical framework to the study of crime and punishment. It develops the concept of the “street field” as a space of competition over dominant positions and scarce resources in the space of illicit practices. Bourdieu’s framework is essential to avoiding the dual traps of dehistoricization and decontextualization. The concept of the field thinks agonistically, relationally, and historically. It also emphasizes the skillful nature of field-bound activities, generating social prestige and subjective self-worth – and thereby locking agents into the field over time. Furthermore, fields exert an invisible social pressure, bending agents to conform with the preferences and dispositions that predominate within such spaces. This essentially Bourdieusian turn in scholarly studies of crime and punishment is further developed in the Introduction of the dissertation. Five pedagogical lessons are extracted from Bourdieu’s writings and applied to criminological research. Chief among these lessons is the importance of *avoiding “state thought,”* that is, breaking with categories of perception that emanate from the state, and *dissecting symbolic categories,* that is, interrogating concepts and taken-for-granted research problematics within the field of scientific production.

Table of contents

I. Introduction	1
II. Theorizing punishment	9
Structural theories of punishment.....	16
Political economy and incarceration.....	22
Beyond resistance	38
III. Methods.....	43
Data.....	43
Description of procedures.....	46
Ethics	54
IV. Toward a Bourdieusian penology	57
Bourdieu's theory of the state.....	60
Carceral habitus	70
Bourdieu's limitations	74
Semiotic plasticity	78
The symbolic addressees of incarceration.....	80
Evaluating goodness	85
V. Bourdieu's five lessons for criminology	89
Lesson one: Always historicize	91
Lesson two: Dissect symbolic categories	96
Lesson three: Produce embodied accounts.....	98
Lesson four: Avoid state thought.....	103
Lesson five: Embrace commitment	105
Integrating criminological approaches	109
VI. Summary of articles	111
VII. References.....	117
VIII. Articles 1-6.....	141

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- Article 2.** Shammas VL, Sandberg S, and Pedersen W (2014) Trajectories to mid- and higher-level drug crimes: Penal misrepresentations of drug dealers in Norway. *British Journal of Criminology* 54(4): 592-612.
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- Article 4.** Shammas VL (2017) Prisons of labor: Social democracy and the triple transformation of the politics of punishment in Norway, 1900-2014. In: Smith PS and Ugelvik T (eds) *Scandinavian Penal History, Culture and Prison Practice: Embraced By the Welfare State?* London: Palgrave Macmillan, 57-80.
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I. Introduction

This dissertation is a case study of the *carceral field* in Norway. This concept—defined and described in greater detail later—draws on Bourdieu’s field-theoretical approach (e.g. Bourdieu 1987) to analyze the practices and politics of punishment as they unfold within a semi-autonomous domain of social action. Two articles—Articles 1 and 2—revolve around the ground-level texture of the carceral field, inspecting the lived realities of inmates in a minimum-security prison as well as trajectories into drug crime by incarcerated offenders. An additional two articles—Articles 3 and 4—consist of a macroscopic appraisal of the carceral field, asking what transformations have taken place at the level of policy prescriptions and practical reforms in the most recent past and over the *longue durée*. Historicizing the object of analysis is one of the preconditions of completing a properly critical inspection of the empirical object. Finally, Articles 5 and 6 inspect the status of scholarly inquiry into crime and punishment. In short, then, the dissertation moves from the microscopic to the macroscopic via a reflexive engagement with a scientific gaze that is itself partly constitutive of the carceral field.

It also contributes to ongoing scholarly discussions of the notion of “Nordic penal exceptionalism” (NPE). This concept originated in Pratt’s (2008a, 2008b) work, was critiqued by Ugelvik and Dullum (2012), and underwent further empirical elucidation in Pratt and Eriksson (2013). More broadly, the dissertation orients itself toward a broader movement within the sociology of punishment concerned with connecting carceral sociology to the tradition of political economy (e.g. Cavadino and Dignan 2006; Garland 2001; Lacey 2008; Wacquant 2009b). Perhaps the dominant fault line in studies of the political economy of punishment has run between those that maintain that it is the neoliberal restructuring of the welfare state that is primarily responsible for causing a rightwards shift in penal policymaking (e.g. Wacquant 2009b), and those stressing the impact of non-economic factors, such as Garland’s (2001) emphasis on the cultural dimensions of “late modernity” and Lacey’s (2008) concern with the formative effects of electoral systems.

This dissertation contributes to these ongoing debates. On the one hand, the study documents a series of aberrations from Pratt’s NPE thesis. First, it demonstrates how apparently permissive, liberal, and humane modes of incarceration found in “open,” minimum-security settings may imbue its inmates with a series of unorthodox pains of

imprisonment. Article 1 investigates how open prisons rely on the capacity of individuals to govern themselves but to do so within a regulated prison context, and it is this circumscribed self-regulation that gives rise to what are termed “pains of freedom.” Second, it shows how the policing and punishment of drugs have remained at the forefront of the penal agenda in Norway: Article 2 demonstrates that the prevalence of “zero-tolerance” rhetoric and practices as well as a prohibitionist regime supported by strict drug sentencing, in some ways constitute deviations from the expectations of penal moderation, lenience, and restraint in the Nordic framework that are generated by the NPE thesis.

On the other hand, the study also engages with wider issues in the political economy of punishment. First, drawing on Wacquant’s (2009b) approach to hyperincarceration and neoliberalism, this study aims to show how an analysis developed under very different societal circumstances can nevertheless be applicable beyond the constraints of its specific empirical provenance. As Article 3 contends, if neoliberalism can be said to entail harsh punishment, social democracy can be said to engender its opposite. To the extent that Nordic social democracy has diminished in strength and undergone a moderate reorientation toward toward neoliberalism in recent decades, however, such changes can in part account for attendant transformations of the carceral field.

Second, the study unpacks the historical underpinnings of the present-day carceral field. This is accomplished by elucidating how carcerality has been transformed over time. Article 4 demonstrates the existence of three distinct logics of punishment between 1900 and the mid-2010s: *penality as paternalism*, *penality as treatment*, and *penality as dualization*. First, *penality as paternalism* betrayed a growing concern with the welfare and well-being of inhabitants of carceral institutions. Second, *penality as treatment* aimed to restore the offender to the societal fold and reintegrate them into the laboring, tax-paying citizenry that constituted the material basis of the universal, generous, and comprehensive welfare state. Third, *penality as dualization* entails a bifurcation of the carceral field, with elements of NPE increasingly being reserved for a symbolically worthy core of national insiders, while carceral austerity comes to be directed toward “foreign” elements held to be undeserving of the generosity of the decommodifying welfare state.

These logics have to some extent coexisted and intermingled within and between the stages of the historical periodization established in the article. Still, they are useful signposts that point to some of the dominant symbolic motifs, institutional tropes, and

political priorities existing around and within the carceral field in each respective period. This, too, is an argument for the importance of a political-economy approach: it is shown how the Norwegian state underwent a process of triple transformation, from proto-welfarist liberalism through expansive social-democratic decommodification to a moderate neoliberal transformation of social democracy. Each of these phases have in turn tended to generate a particular underlying carceral logic.

Finally, the study trains its gaze onto academe, interrogating the symbolic composition and structural defects of the scholarly gaze as it has come to partly constitute and been directed at the carceral field. This argument is further developed in this Introduction under the heading “Bourdieu’s five lessons for criminology.” First, the dissertation offers a critical appraisal of the conceptual defects of the sociology of punishment by critiquing its emphasis on the outworn trope of “penal populism.” Article 5 contends that a normative commitment to penal moderation among leading figures working in the subdiscipline of the sociology of punishment has tended to generate correlative commitments to technocratic elitism, valorizing bureaucratic insularity against the perceived noxious influence of democratic politics. These scholars would see the carceral field taken off the table of democratic contestation. According to them, the politics of punishment should not be recognized as a political issue so much as a technical question, best left to the (allegedly) value-free symbolic operations of experts, scholars, judges, and bureaucrats. This conceptual move ignores the fact that experts have themselves been committed at various times to a policy of penal expansionism. There are no inherently good reasons why penal policymaking should be treated as an exceptional political domain to be made exempt from democratic contestation.

Furthermore, the concept of the field allows us to avoid a series of singular theoretical mistakes. As Article 6 shows, Bourdieu’s field-theoretical approach can be applied to studies of crime and punishment with great utility. While developing the notion of the “street field” to study the street-level trajectories into and out of criminal offending, Article 6 explicates the five central dimensions of fields: they are *agonistic*, emphasizing the role of contestation; *domination* is one of the primary purposes of agents occupying a field; the value of *contextualization* allows one to see how a semi-autonomous space such as the field is shaped by co-constitutive forces beyond its boundaries; actions are *skillful* and come to generate social prestige and self-worth to those agents pursuing them; and the field produces *transformative effects* on agents by inculcating them with bodily dispositions allowing them to navigate the expectations inherent in the field. In short, the

concept of the field thinks relationally, agonistically, historically, and contextually. It is deployed continuously throughout this dissertation: Article 3 emphasizes the effects of the political field on the carceral field, Article 4 historically situates the present-day operations of the carceral field that are described in Articles 1-3, and Article 2 provides a snapshot of the trajectories into and out of the field of street-level criminal offending—the “street field”—by emphasizing the near-magnetic force of field-specific prestige in capturing and keeping agents within a field’s sphere of influence.

While further details are provided in the next section and in the articles, a few words of empirical contextualization are in order. Norway has a relatively moderate-sized prison system in comparison with the remainder of the postindustrialized world. Its prison population stood at 3,874 individuals in mid-2016, and the country had a prison population rate of 74 inmates per 100,000 inhabitants (World Prison Brief 2017). To give some sense of Norway’s relatively modest prison system in terms of international comparison, its rate of incarceration was around two-third of that of France’s, one-half of that found in England and Wales, and around one-tenth of the per capita rate of incarceration in the United States. The country has a relatively small population of slightly more than 5 million inhabitants, a population which has historically been considered ethnationally homogeneous. Starting in the 1960s, however, a significant influx of migrants from lower-income nations changed the sociodemographic landscape of the country; today, around ten percent of the population is considered the offspring of immigrants. This ethnonational heterogenization of the national population has also been reflected in the nation’s prison population: in 2015, 32.3 percent of the inmate population consisted of non-Norwegian citizens (Norwegian Correctional Services 2016: 6), also known as “foreign inmates,” a near doubling from 2005 when 17.7 percent of all inmates were foreign citizens (Norwegian Correctional Services 2011: 6). The country is also considered relatively egalitarian: its socioeconomic distribution of wealth and income has been relatively evenly distributed in comparison with other advanced, market-based societies. In 2014, Norway’s income distribution, as measured by the Gini coefficient, was the second-most egalitarian, beaten only by Iceland, in an overview of 37 advanced societies (OECD 2017b): its Gini coefficient stood at 0.252, compared with 0.358 in the United Kingdom and 0.349 in the United States, to take but two comparative examples. Here, too, there is a relative transformation over time within the society: both income and wealth distributions have grown less evenly distributed. With the resurgence of center-right politics, the country has seen the formation of a rentier class at the top 1 percent of

the wealth distribution, with extremely restricted access from lower strata of the social order (Hansen 2014).

The carceral field of Norway underwent a modest yet not insignificant expansion and turn toward more punitive outcomes over the first decade-and-a-half of the twenty-first century, a point elaborated in greater detail in Article 3 and Section II of the Introduction. The average prison population rate increased from 57 inmates per 100,000 inhabitants in 2000 to 72 inmates per 100,000 inhabitants in 2014 (World Prison Brief 2017). Sentencing lengths increased over the 2000s: in 2005, the average nominal sentence length was 205 days per inmate (Norwegian Correctional Services 2006: 20). In 2015, the average length had increased to 294 days per inmate (Norwegian Correctional Services 2016: 36). In reality, these sentences would normally be completed in a shorter space of time, owing to the existence of a rule whereby inmates would typically be released after completing two-thirds of their sentence. Still, as Pakes and Holt (2017) show, the average *completed* sentence length increased from 2.6 months in 2000 to 4.0 months in 2012 – a significant relative increase in sentence lengths. Between 2011 and 2015, the capacity in closed prisons increased by 11.9 percent, while there was a correlative decline in the number of beds in open prisons by 2.1 percent (Kristoffersen 2016: 43). In the space of half a decade, then, there was a slight but appreciable shift away from the use of (more exceptional) open incarceration in favor of (less exceptional) closed prisons.¹ Prisons remain small: despite the relatively small prison population, inmates are spread across dozens of prisons across the country. The relative diminutiveness of Norwegian prisons has been found to produce more beneficial inmate-officer relations (Johnsen, Granheim, and Helgesen 2011).

Some conceptual clarifications may be in order. *Social democracy* is used to denote that set of ideological positions, institutional prescriptions, and policy stances that have been characteristic of some European left-wing parties at a particular moment in the postwar era, constituting a political movement whose central aim was that of “modifying the play of [...] market forces” through the deployment of a Keynesian welfare state (Przeworski 1985: 37). This is the second phase of the “double movement” identified by Polanyi ([1944] 2001), the countermovement that attempted to counteract the most

¹ These figures take into account the capacity of the so-called Norgerhaven Prison, a penal institution in the Netherlands dedicated to housing prisoners on behalf of the Norwegian Correctional Services and leased by the Norwegian government, itself a highly unusual move, involving the transfer of one of the core functions of modern statecraft—the power to punish—to the sovereign territory of another state.

deleterious effects of market society. On the Polanyian view, decommodification is understood as the protection of individuals from the deterioration of human life effected by unbridled market capitalism, which, left to its own devices, tends to reduce human beings to mere things: capitalism “involves, in effect, no less a transformation than that of the natural and human substance of society into commodities” (Polanyi [1944] 2001: 44). According to Polanyi, trade unions, leftist parties, and the welfare state arise as natural defensive measures established by the laboring segments of the population to bolster their life chances in the face of unfettered market rule.

The *welfare state* is the name given to this series of defensive measures, involving attempts to provide education, healthcare, social security, and other assistive initiatives. Social democracy was premised on full employment, decommodification, universal welfare services, social insurance, social assistance, and generous public institutions capable of providing healthcare, education, and other core services (see Garland 2016). As Esping-Andersen (1990) shows, the welfare state can be understood to exist in continental, liberal, and social-democratic guises, among other types. In Esping-Andersen’s typological scheme, there is an implicit ordering of purity in types: the social-democratic variant approaches most fully the ideal form encapsulated in the basic notion of the welfare state as such.

Finally, *neoliberalism* is understood as an attempt to re-engineer the state to promote the interests of markets and supplant the politics of decommodification. Following a broadly Bourdieusian approach, however, and in tandem with Wacquant’s (2012b) analysis, neoliberalism is understood not as the withering away of the state or establishment of a “slim state” but as the redeployment of the state put to pro-market ends. As Bourdieu notes, the modern state has a fundamentally *ambidextrous* quality (Bourdieu 2000a: 1-10). It has the capacity to shift resources, manpower, and materials—in short, social energy—between its paternalistic, coercive, disciplinary, and punitive “right hand” and its assistive, caring, and protective “left hand” (see Bourdieu 2014: 368; Wacquant 2009b: 290-291). This analytic model simultaneously counteracts one of the fundamental theoretical tropes in the literature on neoliberalism, namely that neoliberalism entails the minimization of the state: on the contrary, Bourdieu’s two-handed model emphasizes that neoliberalism may entail a reallocation of resources within the state, away from the assistive (maternal) left-hand of the state and toward the punitive (paternal) right-hand of the state, while maintaining the overall scale of the state.

In matters of the carceral field, political economy is in part destiny. The central orientation of the state and its attendant policies for the decommodification of social life powerfully shape the contours of politics, policies, and practices of punishment at multiple levels of analysis. Nordic social democracy tends to generate one configuration of carcerality, neoliberalism another. But these static concepts must also be understood to conceal a historical transformation within themselves, so that what is called social democracy at the outset of the twenty-first century, either by agents in the political field or by researchers, is a very different social animal from that of social democracy in the immediate postwar era. Furthermore, they must be understood probabilistically: they tend to generate certain outcomes. A field is always partly autonomous and a mediating instance of those social forces that attempt to determine it from without. The contribution of this dissertation, then, is threefold. First, it demonstrates how a transformation in political economy itself generates differential carceral outcomes. This is the central focus of Articles 3 and 4. Second, it delineates the ways in which generative expectations from political economy are violated due to the refractory operations of the carceral field as a mediating entity, which operates as an intermediary between the structure of the state and ground-level carceral practices. This is the primary focus of Articles 1 and 2. Third, it shows the inadequacies of a contemporary science of crime and punishment in comprehending how these phenomena evolve within mediated spaces of contestation. This part of the argument is advanced in Articles 5 and 6.

This section has offered a snapshot of central empirical trends in the Norwegian carceral field and defined key concepts. Section II contextualizes carcerality by further elucidating the most important empirical tendencies within the field, before providing a summary of the relevant literature and a synthesis of major contributions to the sociology of punishment. Section III summarizes the methods and techniques that have been used in conducting the research and interrogates their strengths and limitations. Section IV presents a theoretical framework for studying crime and punishment that draws on the writings of Pierre Bourdieu to present his theory of the state. Section V offers a synthesizing appraisal of Bourdieu's works to extract five central lessons—pedagogical insights, essentially, that have been condensed and compressed from Bourdieu's dense, multilayered writings—for a reconstructed science of crime and punishment. Section VI provides an expanded summary of the articles that make up this dissertation. Finally, the second half of this dissertation consists of six published articles: the first two articles approach the microscopic dimensions of punishment by examining minimum-security

incarceration and drug prohibitionism; the second pair tackle the macroscopic trajectories of the Norwegian carceral field; and the final pair assess the limitations of the contemporary social-scientific analysis of crime and punishment.

II. Theorizing punishment

In the nineteenth century, the Norwegian theologian and ethnologist Eilert Sundt initiated ground-level studies of abject poverty and social immiseration across Norway (see e.g. Sundt 1858, 1859). While offering valuable insights into the conditions giving rise to crime and the concurrent social demand for governmental regulation of poverty, his accounts of the urban poor and rural vagrants were hampered by the moralizing gaze of a paternalistic social reformer who viewed the social pathologies endured by the impoverished masses as largely springing from their moral vices and personal failings. Closer to the site of the prison and in the modern era, Johan Galtung (1959) initiated a half-century of criminological research in Norway with his quasi-ethnographic study of Oslo Central Men's Prison, an opportunity afforded by the author's term of incarceration for refusing military service. While heavily inflected with the structuralist-functionalism of his Columbia University mentors, including Mertonian concerns with the "social functions" of institutions—the theoretical commonalities with Sykes's (1958) contemporaneous study of a New Jersey men's prison are striking—Galtung's work offers a vivid postwar snapshot of the daily goings-on in this Norwegian maximum-security prison.

In a similar theoretical vein, though with greater depth, detail, and ethnographic immersion, Mathiesen ([1965] 2012) conducted a study of a medium-security prison on the outskirts of Oslo, documenting the "defences of the weak," that is, those strategies of resistance deployed by an inmate collective bound together by the bonds of solidarity. Mathiesen's concept of *ensoriousness* delineated the ways in which inmates deployed the normative framework of the state itself to criticize the agencies and actions of the state: resistance was effected through the redeployment of orthodoxy. Mathiesen also drew attention to the malevolent role of psychiatric science in legitimizing the indeterminate detainment of the criminally insane. Inmates in the prison studied by Mathiesen were liable to be held until deemed "cured" by the prison authorities. Such findings pointed to a nefarious dimension to an apparently innocuous regime of rehabilitationism within the Scandinavian welfare-state model, a point developed further in this dissertation in Articles 1 and 3. Similarly, Bødal's (1982) study of 350 incarcerated drug offenders highlighted the relatively harsh handling of drug offenders by the Norwegian legal system. An empirical precursor to the arguments developed in

Article 2, Bødal demonstrated prevalence of drug addiction and social marginalization among those caught up in the penal prohibitionist campaign against drug use and distribution that gained ground in Norway from the 1960s and onwards. In Article 2, a similar condition of social immiseration and domination is found to be prevalent among individuals captured by relatively strict drug offense laws nearly three decades later.

More recently, the work of Thomas Ugelvik has contributed greatly to the advancement of prison research in the Nordic countries. In a series of monographs and articles, Ugelvik has drawn on ethnographic field study in Oslo Prison (Ugelvik 2014b), spotlighting strategies of resistance (Ugelvik 2011), reflexive challenges inherent to prison ethnography (Ugelvik 2014b) - and moving beyond Oslo Prison to document the prison-like qualities of a immigration detention center that has been constructed to forcibly evict failed asylum seekers and non-national criminal offenders from the heartland of Scandinavian social democracy (e.g. Ugelvik and Ugelvik 2013). By emphasizing the weight of power relations inside conventional high-security facilities—whether prisons such as that studied in Oslo or de facto prisons such as that labeled “Ultima Thule” in the latter study—one of the signal contributions of Ugelvik’s work is to demonstrate the existence of entirely conventional pains of imprisonment and modes of carcerality lodged within the regime of Scandinavian penalty. Ugelvik’s subtly work undermines Pratt’s (2008a, 2008b) influential thesis by bringing to light those carceral facilities that seem entirely unexceptional because of their very conventionality. Unlike Article 1, which examines exceptional institutions to draw out the unexceptional, Ugelvik examines relatively conventional institutions and discovers their conventionality.

Through a series of influential articles, Pratt (2008a, 2008b) developed the notion of Scandinavian penal exceptionalism, which has later rebranded been “Nordic penal exceptionalism” (Pratt and Eriksson 2013). Pratt emphasized the relatively low rates of incarceration found in the Nordic countries—taken to mean primarily Denmark, Norway, and Sweden, on his account—and the relatively generous conditions of confinement found in these national societies’ prison systems. At a time of growing punitiveness around the world, including the profound expansion of the US penal system (Wacquant 2009b) and a significant turn toward the growing policing of immigrants and foreigners in Europe (Wacquant 1999), the Nordic countries seemed promising objects of scientific inquiry for their capacity to withstand an apparently wider trend toward rising penalty (e.g. Green 2012).

This “return of the prison” has been even more troubling to generations of scholars raised on Foucault’s ([1975] 1995) *Discipline and Punish*, a profoundly influential book on the trajectory of the sociology of punishment since its publication in the 1970s. Foucault’s work largely proclaimed the imminent demise of the prison by claiming that it was an outdated institution, characterized by the disciplinary logic of the nineteenth century. The analytic role of the prison was to serve as an arbitrary, “archaeological” component within Foucault’s broader project of examining power in its manifold guises and in the “various studies of the power of normalization and the formation of knowledge” that took up the remainder of his career (Foucault [1975] 1995: 308). There is throughout Foucault’s ([1975] 1995) book a sense in which the prison system had grown outmoded, due to be replaced by an institutional form more attuned to the demands and sensibilities of modernity. The logic of panopticism might very well spread beyond the prison walls, but the prison itself was due for replacement. Some of this is due to Foucault’s historical method and temporal delimitation, but it is ironic that a book professing to examine “the birth of the prison” should be so funerary in tone and tenor. As Wacquant (2016: 121) observes, Foucault quite simply “erred in spotting the retreat of the penitentiary.” On the contrary, there has been a heightened emphasis on crime, policing, sentencing, punishment, and incarceration across the Western world since Foucault wrote the book.

If the puzzle of exceptional Nordic penalty could be pried apart, perhaps a plan for subverting other nations’ turn to growing punishment could be developed: this was the prize promised to students of these societies, toiling away in the sociology of punishment. Pratt’s NPE thesis has not been without its detractors. Ugelvik and Dullum (2012) brought together an assemblage of scholars, largely heralding from within Scandinavian academe, that expressed profound skepticism of Pratt’s reading of their long-time objects of study. Some of this criticism failed to take seriously the *relativity* of Pratt’s analyses, that is, that Pratt was first and foremost interested in the Scandinavian *relative to* some other set of national trends. Contrasted with the United States or New Zealand, Sweden’s prison system cannot help but seem modest and moderate. In these critics’ writings, however, there was a tendency to emphasis synchronic states of being isolated from international trends, tendencies, and contexts. The critique of Pratt’s NPE thesis can be summarized along three points. First, NPE discounts the trajectory of penalty in these societies, ignoring the acceleration or aggravation of trends and indicators that lead away from a state of relative exceptionalism. Second, NPE uncritically reproduces official

narratives and discourses about penal policies and practices, through its excessive reliance on official statements, interviews with state representatives, cursory visits to multi-layered, dense field sites, and the (uncritical) reproduction of viewpoints found in official archives and reports. Third, in their eagerness to mount on display the excessive aspect of Anglophone carcerality, Pratt and Eriksson (2013) exaggerate the contrastive contours of their comparative foil, namely, the Nordic societies. Comparative analysis thinks contrastively, tending to elevate and emphasize cross-case differences, at the expense of rich, immersive accounts of single cases.

Consider one example of how outside observers have misrecognized the existence of unexceptional modes of legal punishment: in the context of a study of Norwegian inmates, Andersen and Skardhamar (2015) point out that recidivism rates are inherently problematic and subject to scientific and political processes of construction and manipulation. Recidivism rates in Scandinavia are taken by many as weighty indicators of the reality of an exceptionally efficacious penal system: as one reporter for *The Atlantic* asked, “How is it that Nordic prisons that seem so cushy yield recidivism rates one-half to one-third of those in the U.S. (20-30 percent versus 40-70 percent)?” (Larson 2014). But the author fails to recognize that the notion of a “recidivism rate” is far from unitary, a point emphasized by Andersen and Skardhamar (2015): in Norway, at least 36 different versions of the recidivism rate can be calculated, with results varying from 9 percent to 53 percent depending on the definitional criteria applied in calculating the recidivism rate.

Presaging the argument advanced in Article 1, Neumann (2012) proposed that subjective well-being among inmates was only loosely linked to material conditions of confinement. Drawing on a study of a Norwegian open prison, Neumann demonstrated how apparently permissive modes of liberal confinement may contain sui generis prohibitions capable of inducing frustration, suffering, and pain in ways that might elude casual observers of incarceration. Open prisons are the “ultimate version of Foucauldian governmentality,” Neumann (2012: 148) argues, where “inmates would verbalize the extreme stress they experienced by the fact that they had the freedom to potentially leave the prison in the morning never to return.” As Foucault ([1975] 1995: 101) famously noted, modern confinement practices prioritize punishing the soul rather than the body. In this respect, Norwegian prisons are the ultimate Foucauldian sites of confinement: Neumann’s sample of inmates had to “build inner bars,” in the author’s apt phrase, to remind themselves to avoid the temptation of escaping into the world beyond the (oxymoronic) boundary-free perimeter of the minimum-security prison.

While there is much to be said for the criticisms of Pratt and Eriksson (2013), there has undoubtedly been a degree of methodological nationalism evidenced in the penological work of Nordic researchers who have been incapable of reflexively distancing themselves from naturalized objects of sociological inquiry – the essential precondition for bringing to light the peculiarities and properties of empirical objects. In short, there has been a failure to *construct the object* of empirical inquiry (Bourdieu 2004: 45; Bourdieu, Chamboredon, and Passeron 1991: 33-35), which would involve situating the object within a determinate field and a wider social space. Furthermore, in Pratt's defense, a sociology of state and society that thinks dialectically must also accept that a certain one-sidedness in representations can have productive effects on a field of inquiry. While Pratt may have failed to acknowledge the constitutive role of a slow-moving but concerted neoliberalization of social democracy—a long-drawn-out rupture with the Fordism-Keynesianism of the postwar era—the work of this outsider to northern Europe has triggered lines of investigation that would perhaps otherwise not have been pursued.

Throughout the 2000s, agents in the political field sought to extract symbolic and electoral profits from their hardened stance vis-à-vis the carceral field. One of the significant driving forces behind the movement toward raised sentencing levels and a circumscribed turn toward law-and-order politics in Norway, was the growing political clout of the Progress Party. Throughout the 2000s, this party—a populist right-wing party with clear neoliberal and nativist proclivities—mobilized voters through the rhetoric of harsh carcerality. As detailed in Article 3, the Progress Party repeatedly sought throughout the 2000s to energize the electorate and shift the carceral field in its favored direction through reform proposals and symbolic posturing. Even when these proposals were apparently unsuccessful or hampered by unfavorable political conditions, their long-term effect was to subtly tilt the political field rightwards. For example, in 2002, the Progress Party proposed that the Norwegian Parliament (*Stortinget*) should mandate meting out unconditional prison sentences to offenders who employed lethal weapons, such as knives or firearms, during the commission of their crimes (Norwegian Parliament 2002), a form of statutory enhancement associated with the politics of punitiveness (Tonry 1992).

The idea of introducing enhanced penalties for offenders wielding weapons was initially rejected by the parliamentary body responsible for criminal justice issues, the Standing Committee on Justice (*Justiskomiteen*). A majority of the committee's members rejected the use of minimum mandatory penalties, for instance, but still agreed in

principle with the core idea of introducing statutory weapons enhancements. The committee forwarded a formal request to the Ministry of Justice, requesting that sentencing levels for weapons offenses be raised (Norwegian Standing Committee on Justice 2002). The move was justified with the “increasingly heinous and brutal crimes” the committee believed were occurring with greater regularity. Also, individuals who threatened others with the use of a weapon should also be punished more severely, the committee believed, because of potential “lifelong psychological traumas” suffered by the victims of such threats. More clearly favoring crime victims came at the expense of criminal offenders, who could now be locked away for a longer period of time, both in the interests of “general deterrence” and “specific deterrence,” the committee noted (Norwegian Standing Committee on Justice 2002).

Politicians repeatedly returned to the perceived problem of excessively low sentencing levels throughout the 2000s. In their manifesto for the 2009-2013 electoral period, the Progress Party claimed that “today’s sentencing levels in Norway are so low for so many different types of offenses that they do not harmonize with the public’s sense of justice” (Progress Party 2009). Their plea for more punitive measures was anchored in a politics of democratic accountability: it would be undemocratic for the political field to ignore the popular sense of right and wrong. They promised to work for “higher sentencing brackets in general” and mandatory minimum sentences “for some serious crimes,” among other measures. As noted in Article 3, by 2010, the Progress Party had launched a ten-point program for prison reform. “Nobody is frightened by Norwegian prisons,” Per Sandberg, deputy leader of the neoliberal Progress Party, reportedly said at the party’s national conference. “Foreign criminals are a big problem, and mild sentences and high-quality facilities are not helping.”

In 2005, a new penal code (*straffelov*) was passed by the Norwegian Parliament, formally replacing the previous national penal code that had been passed and implemented in 1902. But the new code was not fully implemented for another ten years. Blame was placed on the national police service for their failure to implement sufficiently modern computer systems that would prove capable of handling the reformed sentencing ranges recommended by the new code, even though this explanation was discounted by some politicians and legal commentators, who preferred instead to explain the delay with bureaucratic ineptitude or political sluggishness. Per Sandberg, a politician from the Progress Party, decried the “failure” of the Labor Party’s previous Minister of Justice, Grete Faremo, and her government in implementing the new law. “The consequences are

tremendous,” Sandberg said to one tabloid newspaper. “Many criminals are evading punishment” (Dagbladet 2013). Among the changes emphasized, Sandberg drew attention to the raising of the maximum sentencing limit from 21 years in prison to 30 years. Not until 2015 had the relevant digital infrastructure been adequately updated, in part to reflect the changed (and raised) sentencing ranges laid out in the new penal code, and the code was implemented the same year (Norwegian Ministry of Justice and Public Security 2015). While the new penal code was not unequivocally of an increasingly punitive character, it did raise the sentencing levels of a number of crimes, a point eagerly publicized by the Progress Party’s Minister of Justice: “The sentencing range for domestic violence has been increased, [ranging] from 6 to 15 years. This change is very important,” the minister said in an interview with a leading tabloid newspaper (Verdens Gang 2015).

The tensions, contradictions, and challenges contained within the Norwegian carceral field point to a broader theoretical concern, that of the continuous conflict between nurturing care and coercive control that resides at the core of the welfare state as such. There is evidence to suggest, for instance, that drug-using behavior in Norway is medicalized, that is, perceived within a symbolic framework that construes such behavior as a broadly medical, not criminal, problem (Pedersen 2015; Pedersen, Sandberg, and Copes 2017). On the other hand, as Article 2 demonstrates, the carceral field has simultaneously been mobilized to criminalize and penalize such behaviors. The Foucauldian notion of biopolitics captures the dialectical opposition between coercion and control, referring to the state’s growing concern with the regulation of life itself in the modern age and onwards (e.g. Foucault 2008; Rabinow and Rose 2006). On the one hand, these regulatory interventions can be oppressive and coercive, involving the mapping of populations, registering of groups in censuses and databases, and interference in daily life through such political technologies as public education, healthcare, policing of disorders, municipal ordinances, and construction of public infrastructure. These interventions come to interfere in life by steering its course in a direction that differs from what an individual might select in the absence of such interventions. On the other hand, these interventions may be highly beneficial to particular social groups, ameliorative of a human condition that would otherwise remain “nasty, brutish, and short,” in Hobbes’ ([1651] 1985: 186) phrase. They may serve as buffers against natural risk or the calamities of untrammelled commodification. Despite Foucault’s (2000a: 258) dismissal of Scandinavian social democracy as a political-economic entity that creates an “overmedicalized, protected

society in which all social dangers [are] mitigated in a sense by subtle and clever mechanisms,” the gains to human welfare wrought by the welfare state in these societies are appreciable. Despite the tendencies toward neoliberalism pointed out in Articles 3 and 4, social inequality remains comparatively low and relatively effective in minimizing social pathologies (Wilkinson and Pickett 2009: 174). Five Nordic countries—Norway, Denmark, Iceland, Finland, and Sweden—occupy top-ten positions in one measure of happiness (Helliwell, Layard, and Sachs 2017: 20). The benefits to human welfare produced by social democracy cannot simply be dismissed as yet another instantiation of the oppressive logic of governmentality.

In short, the conflict between these opposing tendencies is one of the constitutive deadlocks of the welfare state. There may not be any way to meaningfully move beyond such tensions. Social reform is little more than the movement between these outer poles, at times emphasizing nurture, at other times coercion. It is this dialectical dynamic that Bourdieu’s two-handed model of the state—discussed above—aspires to capture: the contrapuntal movement between a coercive right hand and an assistive left hand. It is the claim of this dissertation that this analytic device carefully captures important properties in the Norwegian carceral field specifically and the welfare state more generally.

Structural theories of punishment

The relationship between political economy and legal punishment has long been the subject of scholarly interest. The theory of the political economy of punishment, briefly stated, revolves around the idea that there exists a relationship between the broad structures of state governance and the modalities of legal punishment (Cavadino and Dignan 2006). One of the earliest exponents of this relationship was Montesquieu, who established the conceptual foundation for a political-economy approach to punishment in his magnum opus, *The Spirit of the Laws*. Montesquieu argued that punishment was essentially a social artifact: it was an entirely contingent entity. Montesquieu’s view was that there were no necessary attributes that entered into the definition of punishment save for one: punishment is what the law has decided to label as such: “Whatever the law calls a penalty is in effect a penalty,” Montesquieu ([1748] 1989: 82) wrote. This was an important conceptual move away from a theory of natural law and toward a sociological account of punishment. Montesquieu claimed that all actions are potentially punishable and suggests that nearly all actions can be redeployed as forms of punishment.

Following from relativist position, Montesquieu set about elucidating the mechanisms that obtained between political economy and legal outcomes. Montesquieu argued that “despotic” governments tended to impose severe modes of punishment, while “moderate” societies—that is, those societies governed by enlightened republican or monarchical governments—punished less severely. In the latter, social mores hold individuals in check and prevent them from committing crimes, thereby reducing the social obligation to punish: when the supply of crime is reduced, the demand for punishment follows close behind. In such “moderate” societies, patriotic fervor, shame, and the “fear of blame” commingled to “serve as restraints,” Montesquieu claimed. Meanwhile, in despotic societies, individuals had less to lose: citizens were miserable, being “so unhappy that one fears death more than one cherishes life.” Consequently, if punishment were to serve as an effective deterrent, it would have to be severe: the ruder the conditions of life, the harsher the punishments would have to be. Montesquieu poignantly summarized the relationship between political economy and punitiveness: “Severity in penalties suits despotic government, whose principle is terror, better than monarchies and republics, which have honor and virtue for their spring” (Montesquieu [1748] 1989: 82). To Montesquieu—a preeminent thinker of the Enlightenment—punishment was a distasteful business: it was cruel, wasteful, and inefficient. To punish was a mark of the retrograde. Enlightened states should prefer to temper behavior through the imposition of shame, the cultivation of fellow-feeling, and the production of those material conditions of life that would make crime needless and improbable. A “wise legislator” understood that “philosophy, morality, and religion” were the great constraints on human behavior, along with the “enjoyment of a constant happiness and a sweet tranquility” (Montesquieu [1748] 1989: 87). Social solidarity and material beneficence were the necessary hallmarks of a society characterized by a low incidence of crime and punishment.

Following this protosociological approach to punishment, Nietzsche ([1887] 1956) presents a theory of punishment revolving around the notion that punishment is a method for instilling communal norms that ensure a cohesion of the community. Brutality, Nietzsche held, was necessary in those historical epochs where the populace was not apt to adopt those communal norms. Similarly, in the premodern age, punishment constituted an outpouring of emotions: the offender was an *enemy* and violations of law created communal rage, the same sort of rage directed at external enemies under conditions of war. Couched in terms reminiscent of both classical political economy and Christian

theology, Nietzsche argued that criminal offenders were like debtors who not only reneged on the debt they owed to society—they had, after all, been subject to the collective efforts and goodwill of the community—but “who even dares lay hands on his creditor” (Nietzsche [1887] 1956: 203-204), prefiguring Carl Schmitt’s ([1932] 2007) friend-enemy distinction in the sphere of politics, Agamben’s (1998) *Homo sacer* – and, indeed, the militarization of policing and extreme austerity of carceral confinement in some societies during the late-modern era that, as Wacquant (2009b: 81) notes, revolves around the idea of the urban poor constituting a “foreign ‘enemy’ upon whom one wages ‘war.’”

The logic of *modern* punishment, Nietzsche says, protects the individual offender from popular outrage: modern societies are essentially strong and certain – sure of themselves in ways that unstable, premodern social configurations cannot afford to be. “As the commonwealth grew strong,” Nietzsche writes, “it no longer took the infractions of the individual quite so seriously.” The offender, we are told, “was no longer outlawed and exposed to general fury” (Nietzsche [1887] 1956: 204). Like Durkheim ([1893] 1984), Nietzsche demonstrates an interest in the affective underpinnings of punishment and how it comes to be sublimated within modern institutional frameworks: modernity is precisely the rechanneling of primal forces, desires, and affects into a more socially acceptable form, a *Zivilisierung* or taming of violent passions (see Elias [1939] 2000). Finally, Nietzsche asks how punishment can function as the restoration of an imbalance, a disequilibrium produced by the commission of a wrong and allegedly redressed by the infliction of suffering, whether intentional or not. In other words, how can pain constitute payment in kind for the suffering caused by a criminal offender? Punishment can only have this function, Nietzsche writes, if the imposition of pain creates pleasure in the one who imposes pain.

This theory of punishment holds up a mirror to modern societies, reflecting the frightening notion (to some observers) that the apparently pure, objective, and ratiocinative institution of legal punishment hinges on the necessity of deriving pleasure from the imposition of pain or from the vulgar passion of sadism. Nietzsche himself believed that the conceptual possibility of establishing terms of equivalence between pleasure and pain was derived from some of the earliest relationships of commerce and trade, viz. those obtaining between a debtor and creditor: a straight line ran from the foundational notion that a debtor is responsible for their debts and that a creditor holds the right to claim their “pound of flesh,” to the affective foundation of punishment-as-sadism,

that is, the restoration of criminal wrong by the imposition of pain. A full investigation of this issue would go far beyond the confines of the present study, however. Here we can do no more than spotlight the possibility of further investigation of this affective dimension.

Hegel also developed a profoundly sociological theory of the relationship between political economy, social conditions, and punishment. The penal code, Hegel ([1820] 2008: 207) claimed, was mainly a “child of its age and the state of civil society.” A “strong” society had no need to punish harshly, while a “weak” society needed to mete out severe punishment: “If society is still unstable in itself, then an example must be made by inflicting punishments, since punishment is itself an example over against the example of crime” (Hegel [1820] 2008: 208). A society that was “internally strong,” that is, a state that enjoyed widespread legitimacy and relatively settled social antagonisms, had no need to enact harsh punishment because criminal acts could not shake its foundations: the act of crime is “something so feeble” compared with the magnitude, certainty, and solidity of the state, that punishment—the “annulment” of crime, in Hegel’s terms—cannot avoid being proportionate to the “feebleness” that crime represents to the state. This deeply sociological analysis of punishment comprehended that the notion of “justice” arises only out of contingent social relations.

An illustrative example might clarify Hegel’s position. Imagine that a premodern city is under siege and that the city’s granaries are running low. Looters break into the granaries at night and steal whatever food remains. When they are caught, they are dealt with summarily and swiftly: the very survival of the city’s population depends on the prevention of such crimes. On Hegel’s account, this society is weak in the very specific sense that it is ontologically vulnerable. Without food, all will perish. Crime threatens scarce supplies. Harsh punishment is therefore both reasonable and necessary, according to the Hegelian conception. Now, one defect in Hegel’s argument is that the notion of strength can itself be made the subject of a process of symbolic contestation. Strength is not an objective concept that inheres in reality itself. Hegel’s theory of punishment should be interpreted not as if punishment were the response to an objective danger of societal instability but as a response to a contingent and constructed sense of danger. More important than whether a state is “objectively” strong or weak is whether it *perceives* itself as weak or strong. Even a wealthy, prosperous society may undergo social processes whereby popular anxieties are activated, moral panics break out, and the “defense of society,” to use Foucault’s phrase, comes to seem like a pressing political issue. Under

such conditions, heightened policing and severe punishment may be mobilized to shore up a felt societal feebleness or frailty.

Foreshadowing Durkheim's ([1895] 1982: 99-101) analysis of the boundary-drawing functions of crime and punishment, Marx also discussed the place of punishment in relation to the state and economy. Marx recognized that actions construed as criminal could have socially beneficial functions. In one passage of the *Economic Manuscript of 1861-1863*, Marx ([1861-63] 2010: 306) observed,

A philosopher produces ideas, a poet poems, a clergyman sermons, a professor compendia and so on. A criminal produces crimes. [...] The criminal produces not only crimes but also criminal law, and with this also the professor who gives lectures on criminal law and in addition to this the inevitable compendium in which this same professor throws his lectures onto the general market as "commodities."

Marx ([1861-63] 2010: 309) went on to note that criminals "produce" not only crimes but the entirety of the legal apparatus, "the whole of the police and of criminal justice, constables, judges, hangmen, juries." Even torture has, from one vantage point, a certain utility, having spurred human creativity and "given rise to the most ingenious mechanical inventions, and employed many honorable craftsmen in the production of its instruments." As with so many of Marx's writings, what is so often lost in translation and interpretation is the formidable irony Marx couches his argument in – the rhetorically effective usage of "production" when a term not derived from classical political economy would suffice, for instance, or the needless emphasis on the alleged honorability of the craftsmen tasked with manufacturing instruments of torture. Still, Marx's intent is serious enough. The effect of crime, according to Marx, is essentially threefold. First, it acts as a source of employment and spurs on the development of particular techniques and technologies: "Would locks ever have reached their present degree of excellence had there been no thieves?" Second, it removes a section of the "superfluous population" from the labor market, by allowing them to make a living from criminal activities and by isolating them from the labor market under conditions of confinement following their arrest by the authorities. Third, crime reinforces a sense of community. "The criminal produces an impression, partly moral and partly tragic," writes Marx ([1861-63] 2010: 309), "and in this way renders a 'service' by arousing the moral and aesthetic feelings of the public."

This account of crime and punishment is so far removed from the class-instrumentalist view long associated with the Marxian vision of the prison, emblemized by the classic study of Rusche and Kirchheimer (1939), which argued that the logic of punishment in any given society arose out of its economic foundations. The (in)famous “Rusche and Kirchheimer hypothesis” contended that there was a close correlation between the unemployment rate of a given society and its rate of incarceration (Melossi 2003: 249-250), an orthodox and economistic argument typical of a particular form of *marxisant* analysis. Marx himself, on the other hand, betrays a sensitivity to the symbolic import of the offender and their role in constructing and redrawing symbolic boundaries: a communal spirit is reinvigorated by the existence of deviant others. This view predates and prefigures Durkheim’s emphasis on the symbolic functions of punishment. Just as the inmates of a jail may cover themselves in tattoos to affirm a “communion of minds,” as Durkheim ([1912] 2001: 177) notes, so too can the portrayal and punishment of the criminal Other affirm social solidarity in the social collective (Durkheim [1893] 1984: 83-84). The effect of punishment is not to rehabilitate offenders or act as a deterrent—functions which it only performs ineffectively, if at all—but rather to “maintain inviolate the cohesion of society” by “sustaining the common consciousness in all its vigor” (Durkheim [1893] 1984: 83), in short, to produce collective adhesion.

A more sophisticated Marxist approach to the instrumentality of law and punishment is found in the works of historians such as E. P. Thompson and Douglas Hay. Thompson (1975) argued that the extensive application of the death penalty in eighteenth-century England was an instrument of class rule, being used to discipline and constrain unruly elements in the lower reaches of the social order. The Black Act, an act of the British Parliament passed in 1723, imposed the death penalty for more than three dozen crimes, many of them petty offenses typically committed by poor, rural populations and disproportionately targeting the property of the nobility, including fishing in private ponds or hunting deer. As Thompson shows, the instrumental deployment of the instruments of criminal justice by the landed gentry against the rural poor simultaneously bolstered support for the political regime at the time. Grounded in a microhistorical concern with the concrete details of *Alltagsgeschichte* as well as the macroscopic effects of trends and cycles over the *longue durée*, Thompson’s (1975) analysis wedded French and German historiographical concerns with a Marxist orientation to produce a vivid portrait of the instrumentality of law and punishment. This class-instrumentalist view essentially emanated from a wider Marxist concern with the ways in which punishment

was overtaken and modulated by class. Another example of this line of reasoning is Hay's (1980) analysis of the practice of transportation—banishment of convicts to the colonies and the New World—which Hay understood as emanating from anxieties in the nascent middle class: this class was greatly concerned with the prospect of convicts roaming about in the towns and cities after release from confinement. With transportation, however, the problem of convicts was eviscerated by removing them from the social body altogether. Thus, Hay (1980: 57) notes, the end of transportation by the mid-nineteenth-century “alarmed the middle class” because it understood that “all criminals would eventually be released in England. And a press campaign not only attacked the idea of rehabilitation but probably created waves of arrests and convictions by generating public alarm and increased police activity.” Hay argued that anxieties in the middle class were instrumental in producing the conditions needed to pass harsh legislation.

This approach was also borne out in an earlier work by Hay (1975) that contended that the heightened application of the death penalty in England in the eighteenth century had turned capital punishment into an instrument of the dominant classes to protect private property from the unruliness of the lower orders. This was a “society with a bloody penal code, an astute ruling class who manipulated it to their advantage, and a people schooled in the lessons of Justice, Terror and Mercy,” in Hay's (1975: 62-63) terms. The central problem with this Marxist approach is not so much the argument raised by Langbein (1983) in a critical review of Hay's work, that is, a tendency toward conspiratorial instrumentalism, but rather a failure to delineate the field-like properties of law, that is, to demonstrate how law constitutes itself as a semi-autonomous space that is not reducible to the balance of power between class elements in broader social space – what Habermas (1996) terms the *autopoietic* quality of law, i.e. the ways in which law comes to form a partly enclosed domain of semi-autochthonous action and interaction. The intellectual lineage of the denial of autonomy in Marxist state theorizing, transmitted through an excessive emphasis on the (class) instrumentalism of the state, harks back to Marx and Engels' ([1848] 2010: 486) pointed claim that the “executive of the modern State is but a committee for managing the common affairs of the whole bourgeoisie.” It is this excessively instrumentalist position Bourdieu (1987) tries to counteract with the concept of the field.

Political economy and incarceration

Modern sociological conceptions of the relationship between political economy and punishment are found in the works of Loïc Wacquant, Jonathan Simon, David Garland, Nicola Lacey, and others. Simon (2007) argued that the United States had established a system of “governing through crime.” The title of this work establishes a misnomer at the very outset. What Simon substantively argues is that the political field in the United States has come to be dominated by the denigration of criminal offenders, elevating the victims of crime to a position of prestigious prominence, imposing carceral austerity, promoting law and order, and enacting policies of “zero tolerance.” This is not governing through crime, strictly speaking, but rather governing through the symbolic construction of the importance of crime-and-punishment. (Admittedly, this phrase does not have quite the same ring to it.) Simon’s thesis is exaggerated, a point the author partially recognizes: “The title claim—that the American elite are ‘governing through crime’—is polemical, and perhaps overstated,” Simon (2007: 4) writes. To claim that crime-and-punishment is central to the project of American statecraft is a strong version of the penological concern with political economy. The weak version of this project would be to claim that a particular brand of statecraft, such as American neoliberalism in the post-Reagan era, has been a formative influence on punishment; a far stronger version upholds, as Simon does, that “governing through crime” is itself integral to neoliberalism. Simon’s book is punctuated by a pathos-filled plea for voluntarist action: “If [the book’s] interpretation of American institutions, communities, and lives resonates with your experiences, please start a discussion among your friends and colleagues about governing through crime and its consequences” (Simon 2007: 283). But if Simon’s thesis is correct—that structuring forces determine the production of a particular brand of the politics of crime-and-punishment and that these politics are integral to statecraft—then surely such pleas must go unheeded or remain ineffective. The false buoyancy of those who produce structuring accounts necessarily leads to glaring contradictions in matters of political strategy, the desire to cap off a politically paralyzing account with a false optimism of the will that is undermined by preceding analysis.

Garland’s (2001) concept of a “culture of control” attempts to delineate and define the cultural bases of punishment. Garland investigates how punishment in the United States and the United Kingdom has been shaped by the contours of “late modernity” and market-oriented politics (Garland 2001: x). The argument is complex, dense, and defies easy encapsulation – while at times seeming uncertain about purported causative factors,

and, indeed, what sort of argument is really being advanced: Garland's intention is "certainly not to produce a comparative study" (Garland 2001: viii), in the author's own words. Simultaneously, however, the book clearly tries to draw conclusions about the condition of structurally equivalent social fields in two national societies and to diagnose a hypostatized entity termed "late modernity," said to have exercised a formative influence on penal policies across broad swathes of the Western world. Such criticism aside, Garland views the disappearance of "penal welfarism," said to have reigned supreme from the 1890s until the 1970s, as dual effects of the advent of late modernity and market society. Crime and punishment have increasingly become emotive, sensationalized objects of public and state interest. State actors manipulate crime and punishment for the purposes of staging sovereignty in a post-Reagan era characterized by an absence of statist instruments for significant economic interventions. Victims, not offenders, are the objects of public pity and enthusiastic backing. Correctional and sociological experts have withdrawn from the arena of crime control, or been forcibly supplanted by other actors, and politicians have both activated public anxieties as well as responded to public fears in sharpening sentencing levels, deploying populist rhetoric, and expanding the carceral archipelago. Underlying the rise if not return of "policing, penalty, and prevention" is an argument that holds much in common with Beck's (1992) notion of risk society: the "desire for security, orderliness, and control, for the management of risk" has become an increasingly important topos in late-modern society, Garland (2001: 194) contends, even as the economy is increasingly subject to (selective) deregulation and a hands-off approach.

Building on the "varieties of capitalism" approach developed by Hall and Soskice (2001), Lacey (2008) claims that there exists an intimate connection between production regimes, political systems, and carceral outcomes. Liberal market economies (LMEs) with first-past-the-post, winner-takes-all electoral systems punish more than coordinated market economies (CMEs) governed on the basis of electoral systems characterized by proportional representation (PR). Lacey embarks on an ambitious program, seeking to explain not only the interconnections between political economy and punishment, but also the very foundations of political economy itself, an ambition that borders on a hubristic scientism, characterized by an excessively mechanistic view of social reality. This project must be characterized by a certain degree of ambiguity: as Lacey (2008: 87) is forced to admit midway through this delicate tangle of abstract forces and institutions, "The precise causal mechanisms here are not very clear." The broader limitations of

institutionalism as such are brought to the fore. The institutionalist approach reduces differentiated entities to nominally homogeneous categories—one LME is held to be much the same as another LME, despite unique political, economic, and cultural arrangements, not to mention historical trajectories—and fails to take heed of eventual contingencies. To put it in Derridean terms (see Derrida 1990), institutionalism can be faulted for only taking heed of a mechanistic future without fully appreciating a contingent *Becoming of l'avenir*.²

Still, Lacey (2008) usefully summarizes the fundamental contours in the research on political economy and punishment. CMEs, such as Norway, Sweden, Denmark, and the Netherlands, have avoided the extremes of hyperpunitiveness and been “able to resist the powerfully excluding and stigmatising aspects of punishment,” while LMEs, such as the United States and the United Kingdom, have “turned inexorably to punishment as a means of managing a population consistently excluded from the post-Fordist economy” (Lacey 2008: 109). For all practical purposes, then, despite a heightened emphasis on political institutions and electoral systems, Lacey reproduces the fundamental distinction between neoliberal and social-democratic polities in the domain of penality: the neoliberal, “disorganised, [and] individualistic” societies of the Anglophone sphere have been “particularly vulnerable to the hold of ‘penal populism,’” while the universalistic, decommodifying welfare states of northern Europe have been “better placed to resist pressures for penal expansion” (Lacey 2008: 115-116).

Deleuze’s (1992) notion of a “society of control” captures an essential aspect of contemporary societies. Tracking Foucault’s idea of the rise of disciplinarity, Deleuze argues that discipline is being supplanted by control. Prisons, army barracks, factories: those institutional forms subjected to Foucault’s gaze—we might add Goffman’s (1962) “total institutions”—are outmoded remnants of a dying age, Deleuze holds, because they constitute “spaces of enclosure” (Deleuze 1992: 4) that are no longer appropriate in an age of deterritorialization. While the old institutions of discipline attempted to capture bodies and fix them in space, the new institutions of control attempt to render bodies anew: “Enclosures are *molds*, distinct castings, but controls are a *modulation*.” With the

² Derrida delineates a distinction between the future (*futur*) and *l'avenir* as the contrast between the mechanistic determination of prospective trajectories and the spontaneous contingencies of eventual possibilities: “The future is that which—tomorrow, later, next century—will be. There’s a future that is predictable, programmed, scheduled, foreseeable. But there is a future, *l'avenir* (to come), which refers to someone who comes whose arrival is totally unexpected” (cited in Dick and Kofman 2005: 53).

advent of telecommuting, broadband connections, smartphones, social media networks, and (so-called) sharing economy platforms, work is spilling out from the relatively bounded temporal limits of the eight-hour working day as well as the spatial limitations of the workplace: work is now increasingly omnipresent. Closed-circuit television cameras, biometric databases, and social media networks, to name but a few relevant innovations, have increased opportunities for being subjected to surveillance – what Mathiesen (2013) terms the advent of a *surveillant society*. In the realm of punishment, electronic monitoring of offenders could potentially expand the “penal dragnet” as the propensity to avoid punishment comes to be reduced in tandem with its growing innocence. Many of these changes are pithily synthesized in Deleuze’s (1992) concept of a society of control.

Still, if it is intended as an accurate empirical diagnosis of contemporaneity, Deleuze’s concept veers into hyperbole. To rigorously process the vast amounts of data generated daily by the inhabitants of modern societies would require inputs—energy, money, and labor—far exceeding what any state could muster. The reason is straightforward: the energy required to comprehend the sum of information produced in a modern society would exceed the energy available to that modern society, for it would mean engaging in energy-costly processes to capture all those bits generated by that society and subjecting them to further energy-costly processes of analysis. The problem with a reflexive analysis of any social system is that it would require capturing the totality of information produced by that system *and* a surplus component (to cover the “cost” of analysis, in the widest sense of that term). But where is this surplus component to come from? If it is not part of the system, it cannot be said to truly exist, and if it is part of that system, it must be included in the original stock of matter to be subjected to reflexive analysis. In so far as the notion of a society of control is intended literally, this gives rise to an irresolvable paradox. Usually, however, one is content to capture, analyze, and deploy control in strategically selective ways. But then the thesis must be refined to show the ways in which control is deployed selectively.

It is the work of the sociologist Loïc Wacquant that has done most to promulgate the idea that neoliberalism and punitiveness are interlinked. At the outset of Wacquant’s work on penalty, a mechanistic link between the two entities was promulgated, such that punitiveness was seen to causally emanate from neoliberalism. This was the view advanced in an earlier work (Wacquant 2009a), a view that could be subjected to critique for the crudity of its mechanistic suppositions of complex practices as effects of a

hypostatized entity known as neoliberalism. In a more recent restatement of the original thesis, Wacquant (2014b) argues that growing punitiveness is not so much an effect of neoliberalism as an integrated *component* of neoliberalism. The distinction is an important one: the former view considers punitiveness as a causal effect produced by the neoliberal project of social, political, economic, and cultural transformation—it is what happens *after* neoliberalism has been established on the ground—while the latter rendition of the relationship between the two conceptualizes punitiveness as an integrated dimension of neoliberal statecraft. Against a “thin” view of neoliberalism specified from the vantage point of armchair theoreticians, Wacquant (2014b) offers a “thick” definition of neoliberalism along four dimensions, derived from ethnographic studies at ground level in Europe and North America along with a precise anatomization of the political economy of the state in France and the United States. Neoliberalism, Wacquant (2014b: 83) argues, is premised on a growing commodification of social relations, rising importance of workfare policies, increasingly proactive penal state, and elevated prominence of the moralizing trope of “individual responsibility” in both public discourse and state practices.

Wacquant’s (2012b) Bourdieusian reading of neoliberalism is simultaneously an attack on two dominant conceptions of neoliberalism. According to Wacquant (2012b), neoliberalism has been conceptualized differently in two dominant camps. First, the Marxist conception of neoliberalism tends toward a lack of institutionalist analysis, accepting the official, orthodox “discourse of neoliberalism at face value,” and portrays the state as being engaged in a “zero-sum” struggle with (autonomous and monolithic) “markets.” Second, the Foucauldian-inspired governmentality approach to neoliberalism is overly broad, seeing neoliberalism in everything and at all times. In these accounts, emphasis is placed on Foucault’s (2000b: 341) concept of governmentality as the “conduct of conducts” and the role played by various technologies of governance. As Wacquant notes, however, it is not at all clear how such technologies are inherently neoliberal: actuarial instruments, audit benchmarks, and performance indicators are really techniques of state bureaucracies as such, evident across a range of political economies, spanning from eighteenth-century France to the Soviet Union of the twentieth century: owing to their generalized distribution over time, there is simply no reason why we should make the prominent use of such techniques of conduct an integral part of our very definition of neoliberalism. While the Marxist conception of neoliberalism is economically reductive, erasing institutions from analysis and viewing the state as a

tool for the reproduction of markets, the broadly Foucauldian approach, with its emphasis on “contingency, specificity, multiplicity, [and] complexity” (Wacquant 2012b: 70), views neoliberalism as an omnipresent entity, thereby tending toward a paradoxical analytic framework: one that sees neoliberalism as homogeneously distributed, a grey mass blanketing all corners of the planet, while simultaneously underscoring its local specificities. Wacquant (2012b) offers a way beyond these antinomial oppositions by conceptualizing neoliberalism as an ideology that appropriates and restructures the state, markets, and citizenship. In brief, neoliberalism harnesses the power of the state to impose the stamp of markets on citizenship, in Wacquant’s (2012b: 71) arresting image.

Three corollaries would seem to follow from this account. First, neoliberalism is not first and foremost an economic project but a political undertaking. Neoliberalism is statecraft, involving the retooling of the state put to definite ideological ends. Second, neoliberalism yields a “centaur state”—recall that the centaur is a Greek mythological creature that is half-human and half-beast—characterized by *liberal paternalism*: it is liberal and permissive toward those located in the upper reaches of social space, while it is disciplinary and paternalistic toward those residing at its lower levels. The centaur state mobilizes a policy of *laissez faire et laissez passer*—live and let live, essentially—for dominant social groups, while implementing intrusive discipline against groups that are socially, culturally, and politically dominated. Third, the penal state, or the “right hand” of the state, is mobilized and turned into an essential element of neoliberal statecraft under postindustrialism. The notion of a minimal or “slim” state, propounded by neoliberals since the 1980s, is a rhetorical device that conceals the acceleration of state activities, not in the guise of the social state, but via its disciplinarian, corrective wing.

According to Wacquant (2012b: 74-76), punishment comes to be disconnected from crime: the growth in the rate of incarceration is just one “crude, surface manifestation” of the rise of the penal state. Equally important is the aggressive deployment of police surveillance in marginalized neighborhoods, the application of courts to handle unruly behavior or minor offenses, a widening of the penal dragnet through “alternative sanctions” and “post-custodial schemes of control,” the proliferation of digital criminal justice databases, the construction of administrative detention facilities for asylum seekers, an excessive production of new legislation, and a veritable boom in (hardened) media representations of criminal offenders. The emotive manipulation of the perceived problem of crime and disorder comes at the cost of disregarding scientific expertise, on this account.

The Norwegian carceral field can also be approached from a Wacquantian perspective. The past two decades of rising punitiveness in the Scandinavian societies bespeaks a broader transformation of a historically unique configuration of state power. There was a moment in Western history known as Scandinavian social democracy that had the effect of reining in market capitalism and generating decommodifying policies and structures. The accomplishment of this Polanyian “double movement” was its capacity to produce an equitable, stable, and economically productive regime of state capitalism, delivering high levels of popular satisfaction and relatively egalitarian distributions of social power. This era has drawn to a close in recent decades. Since the 1980s, the social-democratic movement has lost its distinguishing features: its base in a stable manufacturing working class is withering away, capital has become increasingly flexible and fluid, and competitive pressures from peripheral zones of global capitalism are straining the comparative advantages of the Scandinavian economies. This process was accelerated by the Conservative government that took power in 1981 and ruled until 1986 – what Mjøset (1987: 412) describes as the “blue wave” that pushed the Nordic Model in a neoliberal direction in the era of Reagan and Thatcher. This was readily observed by Fagerberg et al. (1990), who at an early stage presaged the weakening of “social-democratic state capitalism” in Norway. With growing population heterogeneity, along ethnonational and socioeconomic lines, the psychic underpinnings of social democracy have withered away: bereft of a homogeneous population socialized into the social mores and conventions that support and sustain an equitable welfarist regime, Scandinavian social democracy is confronted with a crisis of reproduction. The neoliberal consensus was readily accepted as a necessary solution to perceived inadequacies in the postwar model of the historical Fordist-Keynesian compromise between labor, capital, and the state, and it was most readily accepted by the political parties traditionally associated with the rise of social democracy at the mid-point of the twentieth century.

How did the Norwegian welfare state come to turn toward a moderate neoliberalization? Its quasi-neoliberal aspect springs directly from social democracy: it is the pendulum swinging away from decommodification to commodification again. Each stage follows from that which precedes it. This process of segmented evolution is, to deploy Hegel’s arresting image, “as with a corpse, which in itself is dead, yet contains the life of the worms” (Hegel [1983] 1995: 312). Elements of the postwar social-democratic social compact had outspent their material drive and were consequently susceptible to destabilization and decline. There were three primary sources of change. First, a certain

embourgeoisement of the national community took place. Norway's gross national income (GNI) increased more than sixfold between 1980 and 2015, measured in US dollars per capita, in large part due to an expansive oil and natural gas sector that generated large export revenues (OECD 2017a). A growing middle class increasingly sought to increase private consumption at the expense of public consumption, and with this shifting preference came to desire reduced taxation. Second, the class coalitions needed to secure democratic majorities that underpinned postwar social democracy were inherently unstable and fragmentary (Przeworski 1985). This worsened the life chances of social-democratic governments: over time, it grew increasingly likely that these uncertain coalitions would falter and become susceptible to poaching from new agents distributed along the political spectrum from left to right. Third, the postwar *Trente Glorieuses* of expansive manufacturing economies and relatively harmonious union-capital relations were an aberration: the years from 1945 until the mid-1970s were an exceptionally fortuitous period for economic growth and near-full employment, but these conditions did not and do not obtain beyond this period of time (Levinson 2016). The evidence for the semi-neoliberal transformation of the Norwegian welfare state is presented at greater length in Articles 3 and 4. What is crucial to note is that the static notion of social democracy did not remain static throughout the second-half of the twentieth century and into the new millennium, but was itself susceptible to change. This change in turn generated differential outcomes in the carceral field.

Social democracy entailed the ability to generate high levels of productivity, equitable distributions of the gains of economic productivity, and taxation policies that maintained a compact structure of wage distribution. In the legal sphere, it permitted the establishment of a *restricted rehabilitationist regime* that viewed state coercion in the form of a penal apparatus as a necessary evil whose use was to be limited as far as seemed reasonable. Thus, prison populations remained low, sentencing levels remained low, spending on policing and punishment remained low, and the material content of incarceration was informed by liberal, humanitarian sentiments of social correction and subjective improvement, albeit tinged with a distinctly social-democratic ethos that emphasized the importance of rehabilitative labor and re-enfoldment into the community of productive citizens capable of participating in the labor market and generating taxable revenues for the state. The prevailing sentiment among state elites was that the production of an assistive and decommodifying regime of state capitalism—delivering low levels of unemployment, high rates of labor force participation, extensive public housing, universal

healthcare, and free public education (including higher education)—would generate social conditions detrimental to the flourishing of social pathologies. In a socially hygienic environment where basic human needs were met and subjective life capacities could spring forth, there would exist only a limited social demand for the directly coercive capacities of the state.

The act of *staging sovereignty* (see Wacquant 2014a: 285) refers to those actions undertaken by the bureaucratic and political fields in demonstrating willpower and a capacity for direct action in the lifeworld of ordinary citizens. To put it in Foucault's (2008: 4) terms, it is tantamount to governing "according to the principle of *raison d'État*," that is, "to arrange things so that the state becomes sturdy and permanent" and ensure that the state "becomes strong in the face of everything that may destroy it." Staging sovereignty can take a myriad of different forms, both material and symbolic, from large-scale public works constructions to activations of anxieties through the mobilization of particular cultural tropes and engaging in the petty politics of symbolism. Crime and punishment have been favored topics of those political operators eager to engage in the staging of sovereignty: as Garland (2001: 29) notes, the capacity to guarantee "law and order" has long been a "key feature of sovereign power." One example of staging sovereignty would be the turn to "broken windows"-style policing in New York City in the 1990s, critically anatomized by Harcourt (2004), Wacquant contends that the act of staging sovereignty is likely to be redirected away from the material to the symbolic sphere with the declining capacity of a post-Keynesian welfare state in a post-Fordist era to intervene in the sphere of economy and improve.

One of the major shortcomings of Wacquant's theory of neoliberal penalty is that it fails to account for the transformative changes having taken place in the (multiple and dispersed) carceral fields of the United States since the early 2010s. Wacquant offers a convincing account of the trajectory of hyperincarceration from the mid-1970s until the late 2000s, but the theory does not allow for the sorts of contingencies that appear to have weakened the previously tight interconnections between neoliberalism and hypercarcerality: Wacquant's systemic and systematizing gaze presents an exaggeratedly logical, mechanistic interface between political economy and punitiveness. Without becoming pronouncedly less neoliberal, various state-level jurisdictions—California being perhaps the most prominent example—and federal agencies have moved toward a modest form of decarceration. As Streeck (2014: 1), steeped in the Hegelian spirit of the Frankfurt School, rightly observes, social change "seems to involve time-consuming

detours which theoretically should not occur, and which can therefore be explained, if at all, only post hoc and ad hoc.” These detours in the onward march of Spirit are only appreciable to a social observer equipped with what one might term an *evental theory* of contingency. An evental theory, which can operate as a supplement to and not a replacement for Wacquant’s theory of neoliberal penalty, must appreciate the myriad ways in which unpredictable occurrences, time-bound instantiations, and spontaneous crises arise out of the chaotic fabric of social reality to shift the orienting logics of social fields.

Barker (2014) offers an incisive account of Swedish penalty that simultaneously operates as an implicit critique of Pratt’s NPE thesis. Mimicking Wacquant’s (2009b: 312) analysis of a “Janus-faced Leviathan”—recall that the “centaur state” found in the United States is premised on *liberal paternalism*, on Wacquant’s (2009b) account, that is, deploying liberal practices towards those situated in the upper reaches of social space and paternalistic actions directed at agents situated at the bottom of social space—Barker notes that the Swedish penal state is itself “Janus-faced” because it is “mild and harsh simultaneously.” What is lost in translation, however, is that Wacquant’s concept was developed to make sense of the particularities of US hyperincarceration: it was not designed as a universal concept suited to explaining state action around the (postindustrialized) world, nor did it lay claim to such universality.

Additionally, Barker’s analysis is premised on an exceedingly suspicious stance toward the decommodifying, protective functions of the welfare state: like Foucault (2000a: 258; see also Zamora and Behrent 2016), Barker perceives the Scandinavian welfare state as an intrusive entity that overturns “individual rights,” as when, for instance, the state decides to collect various biomedical samples from suspected drug users in prison. This critical view is premised on a classical, liberal conception of negative freedom as the capacity of an individual to exercise will freed from state coercion. What it fails to consider is first, the macrostructural implications of a political economy on the scale and scope of penalty, and, second, the expanded notion of freedom—found in thinkers like Hegel’s writings—that conceives of freedom as a capacity that is positively coproduced by all entities in social space, including the state, and whose limitations must be viewed in conjunction with the enabling conditions established by a particular regime. While Barker’s contribution valuably draws attention to malpractices within the Swedish welfare state, the systemic limitations of nation-bounded social democracy in a global market economy, and the ethnonational lines of

demarcation that create a national population of “insiders” set apart from a foreign cluster of “outsiders,” Barker fails to recognize that one of the only viable alternatives to decommodifying “welfare nationalism” on the world scene at present may result in levels of social intrusion, state coercion, and limitations on (positive) freedom far in excess of their current levels. Given the choice between the only two viable alternatives in political economy currently on offer—full-board neoliberalism and diluted social democracy—critics of social democracy should still prefer the latter option, owing to reasons that are immanent to the critique they raise against the latter. On the terms of their own critique, critics of social democracy should prefer this regime, if only they would import the really-existing dynamics of the contemporary political field into their analytic abstractions.

This critique of the Swedish “People’s Home” is undermined by two central points: first, in failing to acknowledge that the necessary price paid for a decommodifying welfare state that operates within the parameters of global market society is precisely the imposition of certain symbolic boundaries, which maintain the stability and survivability of welfare ordinances and provisions, and, second, in de-emphasizing the downwards pressure on the incarceration rate exerted by a social-democratic political economy, because of the decommodifying lifeworld it tends to produce. Low unemployment, a strong social safety net, and relatively generous welfare provisions counteract the formation of an extensive penal state by diminishing social pathologies—of which crime is but a subtype—and, by extension, the social demand for punishment. It may of course be an excessively pragmatic position to claim that no political alternatives exist beyond Anglo-American neoliberalism and Scandinavian or continental European social democracy; still, critics often fail to discuss whether the price of admission to a decommodifying welfare state is not precisely the policing of symbolic boundaries.

More broadly, the negative conception of liberty fails to account for the productive dimension of freedom. Typical of the negative view is Hobbes’ understanding of liberty in *De Cive* as freedom from external impediments, that is, “*the absence of obstacles to motion*” (Hobbes [1642] 1998: 111; emphasis in original). Hobbes likens human liberty to the flow of liquids: one might say that “water contained in a vessel is not *free*,” Hobbes writes, “because the vessel is an obstacle to its flowing away.” Hobbes’ metaphor unfortunately obscures much of what it means to be a human agent: to be human is to be more than a base series of physical particles flowing within and between social entities. Hobbes simply cannot think the broad range of constraining *and*

productive forms of freedom because his conception of liberty is limited to external constraints. Prefiguring Foucault's notion of governmentality, Hobbes ([1642] 1998: 111) does recognize that there exists a productive dimension of subjectivity, but this too is rendered in the form of constraint: human agents may be limited in their range of actions by "threats of punishment," for instance, but this is wholly legitimate, Hobbes says, because this is the very precondition for the subject's being "governed and maintained." Thus, even as he broaches the notion of the manufacturing of subjectivity, this is limited to a subjectivity forged in negativity and constraint.

This view has been remarkably pervasive among critics of the decommodifying welfare state. Habermas (1998) argued that while welfare states are generous, comprehensive, and supportive, they also impose constraints on individuals through processes of normalization. The welfare state, Habermas (1998: 17) admits, "provides services and apportions life opportunities by guaranteeing social security, health care, housing, income provisions; education, leisure, and the natural bases of life, it grants each person the material basis for a humanly dignified existence." But, Habermas (1998: 17) warns, a comprehensive and universal welfare state also forces individuals into "supposedly 'normal' patterns of behavior." This normalization simultaneously undermines the possibility of autonomous action and self-reliant subjectivities, the very things welfare states were said to promote in the first place and held aloft as one of their primary rationales. What Habermas faults the welfare state for is a paternalistic imposition of normative structures that produce a circumscribed mode of subjectivity, even though it promised to produce the "factual conditions" (in Habermas' phrase) that would nourish independent, free-standing subjectivities.

The problem with Habermas' argument is that it fails to consider plausible alternatives. Every social configuration involves opportunity costs. Every choice is an act of closure against alternatives that could have been selected in its place; every choice is therefore the imposition of constraints on the self. What Habermas ignores, perhaps only momentarily, is that market rule is itself extremely normalizing, involving (in recent decades) the imposition of the vulnerable wage labor, credit-driven growth, and ecologically unsustainable consumption patterns as normal elements of life under markets. In part, Habermas shares this orientation with his fellow Frankfurt School theoretician Axel Honneth (1995), whose purpose is partly to show how subjects can become *self-realized*. By this, Honneth means individuals' capacity to realize self-selected goals, freed from the intrusive coercion of external constraint and psychological

internalization. In this way, Honneth (1995)—like Habermas—posits the possibility of a “pure” subject, unfettered by needless, detrimental social entanglements.

But is such a subject even conceivable? While the welfare state has at times produced normalizing features and pathologizing procedures—both suitable targets of criticism—it is worth asking whether these are not features of all human sociability. A “pure” being, liberated from the heteronomous strictures of exterior agents, remains a conceptual impossibility because, as both Foucault and Deleuze recognized, all subjectivities are nodal points shaped by exterior forces and flows of power. All societies are premised on distinct regimes of truth (Foucault 1984: 56-59) or modes of desire (Deleuze and Guattari 1983). Normalization is a universal feature of all symbolic orders.

This insight was grasped by Hegel ([1820] 2008). Hegel’s position, which is only apparently paradoxical, is that freedom arises out of external determination. The name given to this external determination by Hegel is *Sittlichkeit*, or “ethical life,” involving the production and spreading of a thick fabric of communal norms, customs, and social mores (*Sitte*). To Hegel, *Sittlichkeit* is the “Idea of freedom,” that is, the concept of freedom developed into a state of self-conscious awareness. This notion of freedom is “actual only as *the state*” (Hegel [1820] 2008: 71). In other words, only the state has the capacity to stand as the guarantor of conditions conducive to the pursuit of a vision of human happiness that is *more* self-selected than whatever alternatives to the state may be on offer. “The *right of individuals* to be *subjectively determined* as free is fulfilled when they belong to an actual ethical order,” Hegel ([1820] 2008: 160) writes, “because their certainty of their freedom finds its truth in such an objective order, and it is in an ethical order that they are actually in possession of their *own* essence or their own inner universality.”

Hegel illustrates this state-centric vision of human autonomy by way of an anecdote from antiquity. A philosopher is asked to provide some avuncular advice on how best to raise a child. To this the philosopher replies that the best course of action would be to ensure that the child become a citizen of an admirable political state: “Make him a citizen of a state with good laws,” Hegel’s ([1820] 2008: 160) imagined philosopher says. Hegel contends that we are free only in so far as we allow ourselves to be determined by a political state; and since we cannot help but be a product of our times—in an arresting phrase in the Preface to the *Philosophy of Right*, Hegel ([1820] 2008: 15) notes that an individual cannot “jump over Rhodes,” that is, elude their own contemporaneity or “overleap [their] own age”—the best one can hope for is to ensure

that those external determinations are of the very best sort: since we are destined to become products of an external ethical order, let us make sure it is a *decent* ethical order, Hegel suggests. As Fritzman (2014) points out, Hegel's view in some ways approximates that of Isaiah Berlin's concept of "positive freedom," which can be summarized as the view that "freedom in its fullest sense is not primarily the freedom of caprice," that is, "individuals' freedom to do as they please," but rather the ability to exercise preferences that could be considered rational and within a rational legal framework (Fritzman 2014: 120). The idea that freedom is the "ability to do what we please" is worthy of ridicule, writes Hegel ([1820] 2008: 38), "an idea [that] can only be taken to reveal an utter immaturity of thought," because it fails to consider how individual inclinations are tempered by the "ethical substance," that is, the invisible symbolic fabric of the state.

Social democracy is by its very definition a nationally bounded form of welfare capitalism, a diluted form of "socialism in one country." Yet Barker (2014) writes, "Sweden currently exhibits tendencies toward welfare-nationalism, a place where the welfare state must be preserved and made sustainable for those on the inside by limiting access from the outside." This can hardly be characterized as a recent development: the very point and premise of Scandinavian social democracy since the mid-twentieth century is its national demarcation, relying on the production of a strong, protective welfare state in opposition to the fluidity, flux, and global reach of capital; this aspect is only becoming more apparent with the growing mobility of populations and capital itself. If anything, these tendencies herald the probability of social democracy's decline in the future: the elevated emphasis on the policing of boundaries and borders—often literally so—is the very swansong of social democracy, a last reflexive attempt to reassert the nation-state in an age marked by the transnational flows of bodies and capital. To reject Swedish social democracy as inherently "Janus-faced," fails to appreciate the positive, productive view of freedom as being linked to capacities rather than a negative view emphasizing the state's restraining or circumscribing efforts. Furthermore, it fails to recognize that human lives unfold within a configurational space produced by the state, that this space simultaneously structures the incidence of crime and punishment, and that boundary-drawing may be the price of admission to produce one such macroscopically benevolent configurational space.

One of the core features of neoliberalism is the elevation of the notion of individual responsibility to a position of prime symbolic importance. However, critics of responsibilization often fail to specify what exactly is problematic about this concept. In a

limited sense, of course, human existence is unavoidably structured in such a way that individuals are the personal agents of their own life-course *sensu stricto*. Everyone must necessarily live out their life from the vantagepoint of their own subjectivity; no-one can live out another's life on their behalf: as Hegel ([1817] 1991: 57) observes, "One cannot think for someone else, any more than one can eat or drink for him." However, this view fails to consider that the concept of individual responsibility fails to account for the *negation of the individual* when individuals are considered at the aggregate level, that is, when one macroscopically considers a broader moral economy. At the individual level, personal vices, crimes, and virtues appear evident enough when viewed through a legal, procedural framework. Elevated above the minutiae of individual human affairs, however, things grow more tangled, a point well understood by Nietzsche. "One might quickly enough, with the usual myopia from five steps away, divide one's neighbors into useful and harmful, good and evil," Nietzsche ([1882] 2001: 27) argued, "but on a large-scale assessment, upon further reflection on the whole, one grows suspicious of this tidying and separating and finally abandons it." The problem with considering individual persons as bearers of good or evil, utility or disutility, and righteousness or criminality, is that the act of aggregating individuals tends to cancel individual difference, Nietzsche argued: "Even the most harmful person may actually be the most useful when it comes to the preservation of the species" (Nietzsche [1882] 2001: 27). One should avoid an egregious misreading of these statements. On the contrary, Nietzsche recognized that the social order, conceived as a space of intertwined social forces, caused all particles within that order to become interrelated and coproduced: societies always move with synchronicity, a result of the activities of all entities in that social space, inching forwards one step at a time, not necessarily toward some definite *telos*, but always because of the collective actions of all particles in that space. On this view, it is impossible to determinately attribute to individuals their appropriate "useful and harmful, good and evil" properties. The causes and outcomes of individual actions are too tightly interwoven. Kant's third antinomy—that between spontaneity and causal determinism (Kant [1781] 1998: 484-485)—emphasizes that an unimpeachable case can be made for both a mechanistic and spontaneist view of reality. As a result, Kant contends, this antinomy requires that we forsake attempts to determine the nature of effective causes. The outcomes of actions are chaotically intertwined, our actions entering a swirling pool of social energy, where their part in the forward motion of human destiny commingles with all other actions.

For practical reasons, of course, the field of law cannot allow this chaos-ridden, agnostic vision of social reality to prevent the practical operations of a system of criminal justice. To deny individual responsibility entirely would mean a moral disaster. Kant's view was that morality was a practical system that was not reducible to a science of causal attribution. Notions such as right, wrong, risk, and responsibility must be clearly definable and assignable in a practical system of justice and punishment. One of the defining problems for practitioners in the legal field, however, is the fact that clear-cut distinctions and definitions remain arbitrary. In these matters, objectivity is unattainable. Decisions are in part a social conceit, that is, an imposition of a subjective will on a domain of reality that remains elusive. And yet the legal field must operate *as if* decisions are made on non-arbitrary grounds. The exercise of discretionary power is constantly dogged by the troublesome nature of social reality itself, loaded down with entanglements, complexities, and the antinomy of determined action and volitional behavior.

Beyond resistance

Prison culture has undergone a process of severe individualization. This seems to hold true for a remarkable range of institutions across a variety of custodial regimes and political economies. This process of individualized atomization should be interpreted in light of the social relation borne by the inmate vis-à-vis their legal sentence, a situation that cannot help but reduce the social relationships of the inmate to other inmates to a relationship with the sentence itself. Importantly, this situation is analogous to that of the laborer to the commodity. Writing on the notion of commodity fetishism, Marx describes the relationship between the worker and the commodity as a process of almost theological proportions, one characterized by the enigma of immateriality. To the worker, the commodity is "mysterious" because it reflects the products of individual labor back onto workers in an objective guise (Marx [1867] 1976: 164). The laborer manipulates external materials and produces an inanimate entity that carries in it some aspect of the social being of the laborer. This cannot help but produce all manner of symbolic associations with the concrete object. Social relations between workers are reduced to relationship between commodities. Marx notes that the commodity can at once be contemplated as a simple and mystical entity, one that is "abounding in metaphysical subtleties and theological niceties," in a memorable phrase (Marx [1867] 1976: 163).

So, too, with the legal sentence, and more specifically, the custodial sentence. On the face of it, the custodial sentence is also an “extremely obvious, trivial thing”: so-and-so many days, weeks, months, or years to be spent in close confinement. However, this objectification of a social act—the commission of a crime—comes to gain all the “mysterious” qualities of a commodity as well as a range of “metaphysical subtleties and theological niceties,” to use Marx’s phraseology. The process described by Marx as the fetishism of commodities can be said to hold true in analogous ways in the custodial sentence also: it, too, under goes a transformative process of fetishism, coming to supplant social relations and stand for them in their stead. The inmate is reduced to their custodial sentence and their life-force comes to be regulated and redirected by the sentence. All their actions, social relations, and their state of being comes to be suffused with the overwhelming material-symbolic force of the sentence. Perspicaciously, one Norwegian inmate, interviewed as part of the research that formed the basis of Article 1, observed, “It’s you against your sentence.” He viewed himself as a being pitted against the abstract entity of the custodial sentence made real and vivid, a nearly live foe. Just as the commodity is an externalization of something internal to the laborer and that internal force gains an *objective character* when it is externalized and made concrete, so too does the custodial sentence objectify the criminal “labor” of the inmate and come to gain an objective sway over their entire life-course, determining the range of possibilities available to them.

Nowhere is this more evident than in various sentencing guidelines, which represent an attempt to transfer social power away from judges and concentrate them in the hands of commissions composed of experts and public representatives who are typically under the sway of the political field. Sentencing guidelines ordinarily emphasize criminal records as sources of information on risk, that is, as a turn away from the individualizing gaze of discriminating judges and toward deindividualizing aggregation according to group characteristics (e.g. Simon and Feeley 1992). This account holds that when judges are forced to mete out punishment based on past criminal history, sentencing takes place not against the background of individual characteristics but based on collective risks. This supposed “actuarial turn” in sentencing has been reinterpreted and denied by multiple scholars (Harcourt 2007; Lynch and Bertenthal 2016). The emphasis on criminal records and the privileging of this dimension against a multiplicity of other potential factors, which could have formed the basis for determining seriousness in most sentencing guidelines, demonstrated by Harcourt (2007), could instead be construed as a

turn toward individualization, not actuarialism, with the individual increasingly being construed against the backdrop of their criminal record. As Lynch and Bertenthal (2016) demonstrate, the supposed turn to actuarialism involves making use of the “criminal past” of the defendant to construct a particular representation of the offender or defendant as a “juridical subject” – even though any number of other relevant individual-level variables, such as ethnoracial background, socioeconomic class, spatial location, neighborhood belong, or familial disadvantage, could have been selected and prioritized in its place. Legal sentences construct a vision of what is to be considered relevant in the life-history of the defendant and solidify arbitrary representations of the defendant based on the objectifying actions of the legal field.

An outpouring of scholarly effort has been concentrated on developing the trope of “resistance” among inmates (e.g. Bosworth and Carrabine 2001; Crewe 2007; Rhodes 2004; Ugelvik 2011). In recent years, there has arisen a veritable cottage industry of social-scientific research devoted to this notion, typically understood as the capacity of inmates to prevent penal power from operating smoothly, or more strongly, the ability of inmates to construct political, social, and cultural alternatives to the order suggested by wielders of authority in prison. Crewe (2007: 272) argues that inmates in an English prison only appear outwardly as well-behaved, docile inhabitants of the custodial institution while simultaneously promoting “backstage resistance of various forms, including illicit activity invested with anti-institutional meaning (e.g. drug dealing, stealing from kitchens and workshops) and active subversion (e.g. setting off fire alarms).” Ugelvik (2011) argues that inmates in a Norwegian men’s prison engage in a form of gastronomic opposition to the dull dietary regime of the institution, with their covert preparation of minority-cultural foods and illicit smuggling of rarefied ingredients representing what is termed “mealtime resistance.” While there very clearly are resistance strategies at work in many custodial institutions, the central problem with sections of this literature is that it is premised on a form of utopianism: it projects a fantasy of political emancipation, even transcendental radicalism, that speaks more to the preferences, concerns, and interests of researchers than to the objects or subjects studied. Bosworth and Carrabine (2001) deploy a more restrained usage of the concept of resistance by demonstrating an awareness of the overriding power of sociobiographical properties such as gender, race, and sexuality – class, however, is conspicuously absent, a feature typical of the post-Marxist (unconscious) disavowal or denial of the validity of class analysis. Rhodes (2004), too, repeatedly returns to the notion of resistance: when inmates fling

excrements about their cells—acts born of frustration if not despair—these acts are, almost absurdly, portrayed as a “particularly satisfying form of resistance” (Rhodes 2004: 44). When officers and inmates are embroiled in a downward spiral of violent, retaliatory acts, this turn of events is labeled a “cycle of resistance” (Rhodes 2004: 50). When an inmate has his thumb cut off in a violent confrontation with prison officers, this is understood (in almost comically postmodernist terms) as the “performance of an autonomy that both resists the domination of the prison and fiercely engages its terms” (Rhodes 2004: 68). Under conditions of excessively expansive semantic usage, the concept of resistance has come to lose most of its substantive meaning.

Indeed, resistance is seemingly everywhere today, if not in actual reality, then even more so in scholarly discourse. Perhaps nowhere else has the concept of resistance gained more traction than in the sociology of punishment. Against the backdrop of US hyperincarceration and a Western European punitive turn, scholars of the prison have sought to resuscitate “agency” and curtail “structure” in micro-level accounts of criminal correction. However, as Rubin (2015: 24) usefully notes, the concept of resistance has now become “overused (and misused)” in the microsociology of punishment. A more apt label to describe what inmates engage in when (allegedly) offering “resistance” to custodial authority, is *friction*: their actions are rarely intentional attempts suited to altering the political economy of the state or the foundational parameters of the configurational space of carcerality, that is, the carceral field as such (Rubin 2015). To criticize this utopian tendency in scholarly studies of prisoner resistance, however, is to risk falling into the opposite trap, viz. that of *sociologism*. As Bourdieu (1998a) points out in an essay on the German philosopher Ernst Bloch, one must attempt to transcend the apparent antinomy between sociologism, understood as a blind obedience to social laws, and utopianism, comprehended as a resistance to law-like regularities that are destined to fail because they are confronting actual regularities that really are law-like: Bloch’s notion of “rational utopianism,” writes Bourdieu (1998a: 128), was opposed to both the “wishful thinking” of utopianism and the “philistine platitudes” of sociologism. A rational utopianism would possess few illusions concerning the overwhelming weight of force possessed by wielders of authority, while simultaneously recognizing the cracks in the façade of power that do allow for ameliorative efforts.

This amounts to a realistic appreciation of the severe constraints imposed by the carceral field on the life chances and autonomous operations of the inhabitants of that field, which is one of the axiomatic parameters of carcerality – for even when autonomy

is devolved to inmates, as in the Norwegian carceral field, it is always carefully circumscribed and delimited by proscriptions, ordinances, and orthodox sanctions. To “resist” would mean engaging in concerted actions to transform the political economy of the state, and, by implication, the entirety of the carceral field. Such actions, however, are nearly impossible to engage in from within the carceral field itself. They must instead rely on alliances with agents from wider social space. These linkages, however, face a challenge of statistical improbability due to the relative opacity and impermeability of the carceral field. Its smooth, polished exterior does not easily admit of scrutiny or the free flow of information, much less the undertaking of transformative actions.

III. Methods

All research risks straining under the influence of received preconceptions, which Durkheim ([1895] 1982: 63) calls “prenotions,” and which are little more than taken-for-granted categories of perception may be the sanctified common sense of the scientific field in disguise, hindering the proper construction and construal of the empirical object. Prisons are sites where the active construction of preconceptions seems particularly apt. Despite their relative opacity, they sit at the intersection between the symbolic operations of a whole host of fields: media producers, politicians, correctional officers, state bureaucrats, criminal justice experts, and so on. In a scintillating note on research methods, Malinowski ([1922] 2014) describes how dominant, non-native (or rather *allochthonous*) agents in the field—missionaries, administrators, traders, and so on—were among the most formidable obstacles to grasping the local point of view. These dominant agents were imbued with the “habit of treating with a self-satisfied frivolity what is really serious to the ethnographer,” Malinowski ([1922] 2014: 5) wrote, “the cheap rating of what is to him a scientific treasure, that is to say, the native’s cultural and mental peculiarities and independence.” These habits represent real distractions, potential derailments of the spirit of boundless inquiry—what Bourdieu (1995: 172) calls the *libido sciendi*—that must always be sharply trained on its object and left unrestrained by the complacency of orthodoxy, often borne by dominant agents who feel they have grasped the totality of social realms of which they may have only the most cursory knowledge amounting to little more than professional prejudices. To comprehend the object requires an “epistemological break” (Bourdieu, Chamboredon, and Passeron 1991: 23) with the common sense of professionals and the public alike: both the clergy and the laity present serious obstacles to the proper understanding of the object. This section offers an overview of the methods employed in the studies that follow. It describes the different sources used and the procedures followed in the analysis of these materials. Ethical concerns are described and the procedures pursued to remedy these concerns are also noted.

Data

This dissertation draws on a wide range of data sources and materials. That is both a strength and a limitation. It is a limitation in so far as its engagement with each source of

data must necessarily be more circumscribed than were the study to focus solely on one or the other source. It is a strength in so far as it allows one to approach the carceral field from a multiplicity of angles and positions that can render more fully the logic of the carceral field. Indeed, if the price of this diversified approach is worth paying, it is precisely because central elements of the logic of the carceral field are made evident in the pursuit of multiple approach paths: in brief, the tensions and deprivations inherent in minimum-security incarceration (Article 1), the aberrant status of drug legislation within an exceptional regime (Article 2), and the role of transformative shifts in political economy vis-à-vis the carceral field (Articles 3 and 4).

The first source of data is derived from an ethnographic field study of a minimum-security prison in Norway, described as Prison Island. The author conducted fieldwork in the prison over a period of three months and conducted semi-structured interviews with 15 inmates. Field notes were generated and interviews were recorded and transcribed. This material was gathered in the course of preparing the author's Master's degree in Sociology. One follow-up visit after the fieldwork and Master's thesis were completed were carried out, and a further two interviews with inmates were conducted. For the purposes of preparing Article 1 in this dissertation, interview transcripts were coded using HyperResearch, a software package used to analyze qualitative data, for central themes and topics covered in interviews. These codes were developed inductively from a close acquaintance with the data as well as a knowledge of relevant theoretical themes from the secondary literature. In the doctoral phase of analysis of this previously gathered material, novel categories of analysis were developed to analyze the self-reported "pains of freedom" experienced by the inmates in the study: (1) confusion; (2) anxiety and boundlessness; (3) ambiguity; (4) relative deprivation; and (5) individual responsibility. This first source of data is used in Article 1.

The second source of data is a set of 60 life-course interviews with persons incarcerated in Norwegian prisons and who had self-reported experience with distributing drugs. This material was gathered as part of a larger research project, funded in part by the Norwegian Research Council, and carried out under the auspices of Professor Willy Pedersen and Professor Sveinung Sandberg. Interviewees were between 20 and 50 years old. Out of the 60 interviewees, 32 individuals were male and 28 individuals were female. All interviews with female inmates were carried out by a doctoral researcher in sociology, Heidi Grundetjern; the remainder of the interviews were carried out by five trained sociologists, including the author. (The demographic properties of the sample are

described in Article 2, Table 1.) The author personally conducted 15 interviews out of the entire dataset for this study. Two of these interviews were excluded from the dataset, as it became apparent that the two interviewees lacked experience with the distribution of drugs; however, they contributed to developing the author's background knowledge of incarceration practices and policies. Interviews were coded using HyperResearch, and the coding scheme was developed in conjunction with two senior sociological researchers, drawing on inductive experience with the material and a close knowledge of relevant topics from the theoretical literature. This second source of data is deployed primarily in Article 2.

The coding scheme was developed within HyperResearch, a powerful software tool for coding qualitative materials. The coding procedure was developed in accordance with standard qualitative research methods (Kvale and Brinkmann 2008). Based on theoretically informed preconceptions of relevant life-course stages and factors as well as relevant practices in the illicit drug economy, codes were developed concerning childhood, adolescence, familial relations, contacts with police and the criminal justice system, and discussions of drug distribution techniques and practices. One of the advantages of coding textual materials is that it allows one to grasp what might otherwise remain dispersed, ungainly quantities of text. One of the disadvantages is that it renders coherent interview situations in fragmentary form. Codes atomize continuous speech. This disadvantage was negated by the fact that I personally undertook the coding of the entire qualitative dataset. This afforded the opportunity to closely read the material multiple times in addition to working through printouts of individual coded text fragments. Close reading combined with coding allows one to access the benefits of both techniques: an attention to coherence and an understanding of analytic segmentation.

The third source of data is largely documentary and textual in nature. The dissertation draws on a wide range of reports, official statistics, and archival material, largely derived from the Norwegian Ministry of Justice, Norwegian Correctional Services, and Statistics Norway, including some materials the archival holdings of the Norwegian Ministry of Justice held at the Norwegian National Archives (*Riksarkivet*) in Oslo. Archival materials and historical sources have been used in Articles 4 and 5, while official reports and other government-produced secondary materials have been deployed chiefly in Articles 3-5. Clearly, there are limitations to the possibility of developing methodologies for selecting documentary materials for inclusion prior to the initiation of the study. Archival studies rely on the professional judgment of the historian or social scientist. The importance of

employing a tacit, situated, skillful form of scientific craftsmanship in selecting, reading, recording, transcribing, summarizing, and evaluating source materials is inherent to any analysis of qualitative materials. Article 4 draws on archival material and secondary sources to explore transformations in the logic of punishment. In Articles 3-5, more contemporary sources have been selected on the basis of availability and apparent relevance in conjunction with knowledge of the relevant research literature.

Description of procedures

This dissertation is a case study revolving around a single case, that of the carceral field in Norway. Within this field, the dissertation examines multiple analytic levels, but one of the central postulates of Bourdieu's field theory is that all those entities that enter into constituting a field may be viewed as a unified case. Bearing this in mind, the logic of case selection that underpins the study should be clarified. Following Flyvbjerg's (2001) overview of information-oriented (i.e. non-random) selection strategies, the case in question falls under the categories of an *extreme case* and a *critical case*. An extreme or deviant case is usually chosen to demonstrate unusual properties in a dramatic fashion but whose properties nevertheless point to important features in some broader universe of more typical cases; a critical case is usually studied to produce deductions of the "most likely" or "least likely" type (Flyvbjerg 2001: 78-79). First, it fits the extreme case logic because it studies a society that exists at the extreme outer point of the punitiveness continuum, that is, at its lowest end. It dramatically reveals the possibility of deploying non-punitive policies and practices at a time when other states in the Western world, such as the United States and Great Britain, are engaged in high-punitive experiments that have partly become naturalized and universalized. The mere existence of an extreme counterpoint to these cases is itself capable of telling a dramatic story about the possibilities of resistance to severe punishment. Second, this dissertation fits the critical case criterion because it allows one to pronounce upon a broader universe of more punitive societies: if a society that has been widely recognized as belonging to a geographic cluster of nations that have been moderate users of punitive policies is nevertheless shown to have turned toward moderately heightened levels of punishment in recent years, this suggests that even a "least likely" case is not immune to the attractions of the politics of "law and order." Elements of Articles 3-5 pursue this logic of case selection by engaging in what essentially constitutes *process tracing* (Bennett and Checkel 2015), pursuing the intermediate steps between an original point and an outcome

to understand how those outcomes are produced, ideally allowing one to demonstrate “how that process took place and whether and how it generated the outcome of interest” (Bennett and Checkel 2015: 6).

In conducting the fieldwork that made up the empirical basis for Article 1, an initial meeting with the deputy warden was arranged. I visited the prison and agreed that I would present my study to two groups of inmates, who were assembled in various communal spaces in the prison at a given time most evenings. The inmates were relatively free to move around and the prison environment had many traits in common with transitional housing, psychiatric hospitals, or other coercive state institutions. I returned at a later date, spent time getting to know the officers on duty while hanging out in their break room, following them on their nightly rounds around the prison on several occasions, and finally presented the project to two groups of several dozen inmates. A few of them expressed interest in being interviewed. I interviewed all of those who were interested and able to take time out of their schedules to meet with me. Some were expressly uninterested in participating in any study, and I thank them for their attention and refrained from asking any further questions of them unless I sensed that they were willing to speak with me. From those interested inmates, however, I developed links with further inmates.

In this way, snowball sampling was used to recruit interviewees. One group—inmates who played music together in a separate house—had a particular affinity for my presence in the prison, it would seem, and they allowed me to spend time in their house and engage in more informal conversations over a period of several months. I even visited another prison with them as they “went on tour”—they had formed a prison band—and attended one of their shows in downtown Oslo, and thus was able to observe their behavior outside one single prison setting. There is no doubt that there were some groups of inmates that were excluded because of this sampling strategy, a combination of snowball sampling and those fortuitous coincidences that are characteristic of most ethnographic field studies. Officers were not studied systematically. A longer period of immersion may have revealed patterns that remained undisclosed after three months. Clearly, there would be much to be gained from returning for a further 3-9 months of ethnographic observation. For instance, since observations took place in the fall and winter, it may be that the visible painfulness of incarceration was deepened owing to seasonal rhythms, chiefly, the absence of light at this northern latitude and the cold weather requiring a great deal of time to be passed indoors. Perhaps this perspective

would not have been so forcefully imprinted on me were I to have observed the inmates at the height of summer, or were I to return and conduct additional observations in such a season. Still, immersion in the field did allow me to gain a clearer understanding of some of the modalities of social suffering experienced by inmates and get a sense of how minimum-security incarceration in Norway operated at ground level. Also, it is inherently difficult to conduct fieldwork in prison—one is, quite simply, “matter out of place,” to use Douglas’ ([1966] 2002) phrase, perhaps more so than in other social or institutional settings frequented by ethnographers—and the multiplication of the duration of one’s period of immersion is not without its challenges, both individual and bureaucratic.

Life-course interviews are useful for gaining insight into the sociobiographical properties and life experiences of interviewees: that is the very *raison d’être* of this methodological approach. But they are not without their challenges. First, they presume that a coherent life story is possible to produce that is in some sense factual, that is, pointing toward some really-existing set of events in the past. But individuals may instead—either spontaneously or in patterned ways—produce representational accounts that are situational attempts to create a self-interested portrayal of the self. This challenge is particularly noteworthy in a prison context where inmates are stigmatized, marginalized, and subjected to the negative representational efforts of the state; it may be heightened in interactions with scientific researchers, who may carry with them the aura of social prestige emanating from the academic field. Second, activities and events may be subject to the prismatic effects of recollection. To counteract these effects, researchers must attempt to triangulate recollections by way of additional sources, angles, and approaches. For life-story incidences, however, this is not always possible. It proved largely impossible in the material generated for Article 2. As Sandberg (2010) notes, even those “lies” told by informants may possess utility if the researcher’s interest lies primarily with representations of the self rather than accounts of external reality. However, in Article 2, we were not so much interested in self-narratives as we were concerned to uncover what, in some sense, actually occurred in the individuals’ lives. These limitations must consequently be borne in mind and the conclusions hedged with the necessary qualifications concerning the limitations of deploying interview research for the purposes of objectivizing events in the past.

Archival materials were culled from the holdings of the Norwegian Ministry of Justice held at the National Archives of Norway in Oslo. Emphasis was placed on examining documents originating from 1900 until 1940, supplemented by secondary

materials and official reports for the second half of the twentieth century, because the secondary literature was richer for this time period. The National Archives' collections from the Ministry of Justice are vast, and historical sociologists must always enter such archives with certain theoretical preconceptions, so that they may make sense of the material and prioritize information of greater or lesser relevance. However, a historical researcher must also be able to adapt their theoretical optic to the materials discovered. The dialectical movement between theoretical prenotions and grounded discoveries, drives such studies forward. I entered the archives with an understanding of the ethnographic realities of contemporary punishment in Norway, knowledge of what little had been published in the secondary literature on Scandinavian prison history, and a political-economic orientation toward issues of penalty. Many initial hunches were borne out by documents discovered in the archives. As Article 4 documents, a periodization developed on the basis of a state-centered approach is supported by the evidentiary record in the archives and other secondary documents. However, it may be that further historical studies in this relatively untilled field will give rise to a differently conceived periodization. The theoretically posited relationship between the carceral field and the structure of the state—from liberal proto-welfarism through postwar social democracy to quasi-neoliberal transformation—allows for the possibility, at the level of theory, of greater or lesser relative autonomy in the carceral field. One can never entirely discount the idea that the archives may yet yield some essential piece of evidence that undermines this posited relationship.

Article 4 is a work of sociological history. In the archives, I began by exploring folders and boxes of documents from the Norwegian Ministry of Justice dating back to the 1870s. But I wanted to understand how carceral practitioners and bureaucrats thought about punishment in the era immediately prior to and following the ascent of social democracy: was there such a thing as social-democratic penalty? I moved forward to documents from the 1920s and 1930s with the aim of exploring the logic of carcerality found around the time of social democracy's ascent in Norway. I supplemented archival readings with the extensive information available in the Central Bureau of Statistics' (now Statistics Norway) reports and statistical overviews, most of which have been digitized and made accessible online. I amassed notes from the various historical sources used, reading extensively in the archives while taking care to note down the locations and contents of certain key documents, while photographing others so that digital copies might be studied more carefully away from the archives. This constant movement

between reading in the archives, taking notes, securing a digital copy of source materials, and returning to the library to read secondary materials, constitutes the continuous dialectic of working on primary sources, critical reflection, and theorizing in the notes that is the hallmark of historical research.

Archival research methods have remained relatively non-formalized (L'Eplattenier 2009). There is an ineluctably tacit dimensions to the craft of the (sociological) historian, premised on a form of corporeal knowledge, or bodily reason, that is not readily described in formalized, procedural terms. Archival research is "necessarily provisional" and hinges on an "iterative essence," claims Hill (1993: 6), because of the continuous, circular (or dialectical) exchange between fortuitous discoveries in the archival holdings, the categories of perception of the researcher that allow one to make sense of those discoveries, and the mutually interrelated effects of the former on the latter, and vice versa. Little wonder, then, that textbook overviews of archival research methods emphasize the importance of pursuing "hunches," willfully forcing oneself to view the material afresh, and "keeping a beginner's mind," in one historian's terms (see Ramsey et al. 2010: 42-50).

As noted, Article 4 is a work of historically-informed social science. This imposes some limitations. Bourdieu's (2014) discussion of the relationship between the disciplines of history and sociology, found in *On the State* (see e.g. Bourdieu 2014: 71-72), offers a useful starting position to explore the methodological issues involved in creating an account in the spirit of sociological history or historical sociology. Historical sociologists or sociologists of history are sometimes accused of imposing theoretical models on empirical reality, effectively allowing them to construct ad-hoc accounts with what Bourdieu (2014: 42) calls "ex post lucidity." Historians are typically more interested in amassing evidence to produce a coherent narrative and place less emphasis on theoretical structures or concepts. In the trade-off between pursuing theoretical goals and excavating empirical evidence, historians tend to err on the side of the latter. For a sociologist, however, having typically been trained in social philosophy and social theory, the production of texts is constantly geared toward producing accounts that are explicitly suffused with theory. A historian might, on the other hand, be content to leave their theoretical concepts or generalized models concealed, theorizing in an implicit or latent manner. This is why sociological historians are frequently accused of a certain philosophical idealism or even a form of rationalist corruption. As Bourdieu (2014: 78) writes, "Historians of straightforward history raise the same type of questions [...] but

this is more hidden because the models are less obvious.” The benefits of establishing an explicit model, as is the case in Article 4, positing a clear link between political economy and penal outcomes, is that future iterations of the work can clearly build on, criticize, or revise this explicit theoretical model. Such benefits do not accrue to more inchoate narratives produced with the interests of literary readability or aesthetic sensibility in mind. While it may be an exaggerated generalization to say that historians are “extremely irritated by theorization,” as Bourdieu (2014: 90) states, Article 4 emanates from a mode of historical sociologizing that tries to gain purchase on extensive empirical materials by parsing them through a manifest and transparent theoretical model, while simultaneously developing concepts that can have wider currency beyond the particularities of its specific empirical domain, viz. the Norwegian carceral field.

Article 5 draws on a broad reading of secondary literature and extant theorizing to construct its argument concerning penal populism. It is first and foremost a theoretical essay and its selection of illustrative examples is strategic: the brief detours via sentencing guidelines and postwar trials are first and foremost intended as an exercise in excavating supportive examples rather than giving exhaustive accounts. Thus, for instance, the limitations of a journal article do not permit engagement in comprehensive discussion of the postwar trials against Nazi collaborators in Norway of the kind produced by Andenæs (1998). Such strategic deployments of historical examples can, however, be useful exercises in theoretical production. The article challenges Andenæs’ (1998) influential argument that the postwar proceedings were modest and moderate – in short, that they were “carried out in a way that we [Norwegians] can stand by” (Andenæs 1998: 285). Clearly, to do such arguments full justice would require a book-length examination of the proceedings; for the purposes of building theory, however, it is permissible and advantageous to draw on competing accounts, such as that of Andenæs (1998) and Dahl (2006) – what the historical sociologist Michael Mann calls “looting and pillaging raid[s]” in secondary history that aim to generate theory (Lawson 2005: 483). Moving even farther in this direction is Article 6, which includes brief allusions to illustrative examples that are strategically deployed for the purposes of building theory. The primarily theoretical focus of Article 6 is also the reason why it will not be the subject of further discussion or explication in this section, devoted as it is to strictly methodological concerns.

It is always somewhat difficult to obtain the necessary access to study prisons. The carceral field is likely to enshroud itself in partial mystery and inscrutability by

deploying strategies suited to avoiding external detection and inspection. As Rhodes (2004: 3) observes, “The ‘box’ of the prison presents a smooth surface to the outside world,” and this exterior polish seems instrumental in allowing the prison to continue operating as a “place of disappearance.” One useful rule of thumb for researchers confronted with this opaque object is that the importance of maintaining inscrutability is proportionate to the degree of social suffering ongoing within the institutional perimeter: as a rule, the rule of law does not fear transparency. In this regard, the Norwegian Correctional Services have proven extremely willing to facilitate research, with staff members and higher-level officials sharing generously of their time and energies. On one occasion, visiting a small rural prison in the dead of winter, the prison warden sent a member of staff to collect the author by car and drive them to the prison, which lay about twenty minutes’ drive from the nearest bus stop. That is not to say that there have not been hindrances as well. During fieldwork in the minimum-security prison, officers gradually attempted to circumscribe my freedom of movement, which had originally been guaranteed and underwritten by the prison’s deputy warden, as part of the research agreement between myself, the university, and the institution. However, the officers cited security concerns, stating that they needed to know my location at all times. I had started building the sorts of close bonds to members of the field that are the prize of any ethnographic inquiry, bonds that were perhaps viewed with suspicion by the officers, who did not like elements to be out of their natural place or favor a disturbance to the relatively harmonious internal order that prevailed on the island. In addition, seeking research clearance could at times be a time-consuming process.

Drawing on multiple angles, sources, approaches, and vectors of social power is necessary if one is to grasp the totality of a social phenomenon. One methodological lodestar is Peck and Theodore’s (2015) study of the diffusion of political technologies, where the authors adopt a heterodox approach to pursue policies across linguistic and national boundaries, municipal and regional terrains, allowing the process of fieldwork and interviewing to unfold in conjunction with their growing comprehension of the empirical object. They are heterodox not for heterodoxy’s sake but because the empirical objects they are pursuing are themselves contradictory, weaving and wending across multiple cities, countries, and continents. An ethnographer’s view is partial, a discourse analyst’s view is partial, and a statistician’s view is partial; indeed, *every* scientific viewpoint is necessarily partial, but in trying to transcend methodical boundaries, Peck and Theodore attempt to mimetically replicate the mutability of the empirical objects

under scrutiny: “Rather than an orderly and predictable diffusion path, both are marked by complex and splintering trajectories, neither of which could have been predicted at the outset” (Peck and Theodore 2015: xx). If reality is tumultuous, the approach we take to comprehending it must also necessarily be marked by this tumult. Discoveries in the social sciences emerge through the pursuit of some idea, entity, object, or phenomenon wherever it might take the inquisitor or discoverer, a process that is liable to seem chaotic or slapdash in the moment but which retroactively may emerge as a reasonable, structured process. Methods emerge only in their fullness with hindsight.

The need to examine an empirical object from an abundance of angles and approaches is mandated by the internal differentiation of the object itself. “From a distance a town is a town, and countryside, but as you get closer there are houses, trees, tiles, leaves, grass, ants’ legs, to infinity,” Pascal ([1670] 1995: 25-26) noted in his *Pensées*. “They are all included in the word ‘countryside.’” In studies of penality, it is all too easy to speak in absolutes, universals, or generic concepts – to speak of “the prison system” or “the penal state,” for instance, or of inmates and custodians. However, behind these labels resides an almost infinitely complex array of persons, institutions, events, and objects that together make up a tangled totality. That is not to say that these totalities are not structured. One of the central claims of this dissertation is that there are generative structures of political economy that forge a particular politics of punishment. But, as Kierkegaard understood, a certain arbitrariness is needed when tracking a reality that is itself arbitrary. Consequently, “the eye with which one sees actuality must be changed continually,” as Kierkegaard ([1843] 2008: 300) noted. Theories of punishment must take heed of contingency, unpredictability, and complexity. It is precisely these properties that suffer from a process of erasure by the imposition of excessively static concepts and notions, such as totalizing concepts like “social democracy” and “neoliberalism.” Here one must simply remain vigilant and avoid the misapplication of overly broad concepts to fit each and every case.

The very notion of “data” is itself deeply problematic (Wacquant and Akçaoğlu 2017: 41). A cursory glance at its genealogical-etymological structure reveals multiple defects that carry over into scientific practice. From the Latin *datum*, meaning “that which is given,” the term connotes an external reality that is passively received and internalized by the researcher. In the context of archaeological theorizing, Chippindale (2000: 605) asks whether one might not do better with another term for the entities that scientists occupy themselves with, precisely because data means the “things that are

‘given,’ but archaeological observations and facts are never given at all.” Instead, researchers cause external reality to be mediated—to use a Hegelian term of art—through particular instruments, concepts, questions, and research programs. In other words, Chippindale argues, scientists capture external reality and so should speak of *producing capta* (from the Latin *captum*, meaning “that which is captured”) rather than collecting data. At first glance, this term would appear to be wholly in Bourdieu’s spirit, emphasizing the necessity of constructing the empirical object before setting out to comprehend it scientifically (Bourdieu, Chamboredon, and Passeron 1991: 33-56). Sociologists constantly run the risk of taking the transmitted reality of their empirical objects for granted. However, while the notion of *capta* corrects one of the flaws inherent in the notion of data, viz. the alleged passivity of the scientist, it still signifies the idea of an external reality that is amenable to immediate apprehension, that is, a given reality that is quite simply there and readily available for study. But the deeper lesson of Bourdieu’s radical epistemological program is that external realities are never given or immediate. It may require the expenditure of enormous effort to comprehend the existence of a submerged object that fails to surrender itself to capture without resistance. Given the absence of a proper terminological alternative, however, it may be more pragmatic to adopt the commonly held notion of “data,” tacitly presuming for all practical purposes the reader’s knowledge of those hedges and qualifications that acknowledge its conceptual shortcomings.

Ethics

Studying incarcerated individuals poses certain ethical challenges. While all the persons interviewed and directly observed in this study provided informed consent, the asymmetries of power obtaining between potentially vulnerable members of a marginalized population and a scientific researcher means that consent may be tainted by extra-scientific concerns or interests. For instance, inmates may hope to present themselves favorably to staff members by accepting requests to participate in research. In the interviews that formed part of the data material used in Article 1, interviewees were approached directly by the author and relations of trust were built up in such a way that engagement with the author seemed natural, spontaneous, and apparently free from such intrusive obstacles. Interviewees recruited by a wider research team and which were used to develop the arguments in Article 2, however, were recruited indirectly, on the basis of researcher requests, which were relayed by staff members to inmates in individual cell

blocks. The inmates' interest was gauged indirectly, and through this mediated relationship, in which staff members played the part of a relay point between researchers and inmates, it is possible, though not perhaps very likely, that extra-scientific considerations—such as the desire to appear prosocial or cooperative—entered into inmates' calculus of consent; it is unlikely that this posed a serious problem because these prison environments were by and large not characterized by overt hostilities or openly antagonistic inmate-officer relationships. In one Drug Rehabilitation Unit (*rusmestningsenhet*) in a maximum-security prison, for instance, I observed relationships of mutual trust and apparent openness between inmates, counselors, and prison officers. For all the caveats and all the limitations adhering to these sorts of relationships within a carceral environment, it did not seem likely that inmates' participation in the study was shaped by concerns or interests extending beyond the desire to share their accumulated experience and personal knowledge with interested outsiders. Research on marginalized populations must in general remain mindful of the imbalances of power between researcher and researched and the vulnerability of the subjects of such research (Gobo 2008: 135-144).

All research on human subjects was reported to and approved by the relevant authorities and Institutional Review Boards; in this instance, the appropriate authority was the Norwegian Centre for Research Data (NSD). I followed the guidelines laid out by the Norwegian National Committee for Research Ethics in the Social Sciences and the Humanities (NESH). The guidelines cover items such as following relevant norms for carrying out research on human subjects, including a respect for individuals, groups, and institutions (NESH 2016). Only Articles 1 and 2 make use of sensitive research materials—field notes and interview recordings and transcripts—concerning individual human subjects. During both the fieldwork and interviews that made up the empirical base of Article 1 and the interviews that were carried out for Article 2, human dignity was protected by avoiding mention of compromising or embarrassing situations observed by or recounted to the author. Privacy was maintained by recording interviews and storing field notes in secure locations; digital recordings and typed field notes were stored in encrypted form. Research participants were informed of the purpose of the research project and were provided with the right to consent to participation as well as withdrawal from the study at any time.

One ethical concern that is often overlooked in discussions of research on marginalized populations is that of allowing powerful entities such as the state to

determine research trajectories. Sociology must always struggle with the state. If the state is sociology's master, it is also its ablest foe, seeking to subvert whatever residuum of autonomy is left to social science. Hegel once noted that "orthodoxy is not to be shaken as long as the profession of it is bound up with worldly advantage and interwoven with the totality of a state" (cited in Pinkard 2000: 55). In other words, dominant agents, and in particular the state, may, consciously or not, corrupt the pursuit of research. The state, to follow Bourdieu (2014: 28), is the "viewpoint on viewpoints" that must simultaneously pretend that it does not itself form a viewpoint on reality. It is the state that apportions resources, generates social prestige, and determines the horizon of meaning. This also applies to those tasked with scientific analysis under the modern division of labor. In a fractal-like repetition of patterns, just as the subjects of research may be made vulnerable by the presence of dominant agents from the scientific field, so too scientists may themselves be a vulnerable population vis-à-vis the state. We still lack a method for exploring and challenging this relationship of asymmetry.

IV. Toward a Bourdieusian penology

Bourdieu's theory of fields has the capacity to think agonistically, transformatively, and historically, all within a single conceptual framework. A field is a relatively autonomous space composed of agents locked in agonistic struggle over the right to claim prizes relevant to that space. It has a series of relevant properties. First, agents are locked in *agonistic*, rather than antagonistic, struggles, because their competitive actions take the worthiness and existential right of the field as a given; the very premise for their struggles is that the field is worthy of preservation even as they struggle to impose their domination over the field – and perhaps even fundamentally transform its parameters and contours. As Mouffe (2000) argues, agonism refers to struggles between adversaries whose right to exist within a space of struggles is taken as a precondition for competition; antagonism, on the other hand, relies on a Schmittian friend-enemy distinction (see Schmitt [1932] 2007), where the enemy's right to a continued existence in the space of struggle is one of the primary stakes in the struggle itself. Paralleling Mouffe's conceptual distinction, Bourdieu's theory of fields is premised on the notion that agonisms obtain *within* fields, while agonisms *and* (potential) antagonisms obtain *between* fields.³ Second, fields transform agents that pass through them, sometimes imperceptibly so. Bourdieu offers the metaphor of a "magnetic field," a space of invisible forces, undetectable to the naked eye and only made evident in their effects (Bourdieu and Wacquant 1992: 17). Priorities and preferences shift as agents come to reside within their respective subfields. Third, fields possess a certain degree of autonomy. They are self-enclosed and reproduce themselves, at least to a certain extent: "In the manner of a prism, [a field] refracts external forces according to its internal structure" (Bourdieu and Wacquant 1992): 17). This theoretical point prevents reductionist or instrumentalist readings of various domains of social

³ For instance, sociologists of a respectively Bourdieusian and analytic persuasion may be caught up in agonistic struggles over the right to determine the future trajectory of an academic department. However, they likely do not deny that the others have the right to call themselves sociologists, a right existing independently of the outcomes of such struggles. To the extent that one group *does* challenge the right of the other to describe themselves in these terms, the two groups cease to partake of the same field and can be said to exist in two separate (sub)fields: they are now antagonists, not agonists. This example bears some resemblance to Bourdieu's (1991b) discussion of Heidegger's work in the context of a series of struggles over the German philosopher's legacy and support of Nazism. These struggles in the postwar philosophical field in Europe threatened to shift from agonism to antagonism (see e.g. Bourdieu 1991b: 40-42).

action. The academic field is not reducible to a heteronomous space subverted and overtaken by exterior agencies, such as corporations or the state; the political field is not reducible to the interests and preferences of a particular class stratum; the bureaucratic field (Bourdieu 1994) contains a certain degree of autonomy that is not equivalent to the priorities of certain segments of social space. Fourth, fields are historical entities, that is, they are the products of struggles waged over time that result in directional configurations or path dependencies. Every struggle in a field at t_n is the result of a process of struggles waged at t_1, t_2, \dots, t_{n-1} . Bourdieu offers a contrast with the notion of an “apparatus”—as in Althusser’s (1971) notion of the “Ideological State Apparatus”—which, to Bourdieu, lacks emphasis on “struggles, and thus historicity” (Bourdieu and Wacquant 1992: 102).

Bourdieu’s field-theoretical approach was never meant to be a standalone conceptual framework or *Weltanschauung* suspended in theoretical abstraction: it is a working concept whose utility must be demonstrated through its capacity to resolve problems and advance scientific research agendas. Importing complex conceptual vocabularies and convoluted theoretical frameworks is only defensible in so far as they help carry out work that would otherwise not be carried out: they must bring something to the table of analytic labor. As Harvey (1999) points out, it is comparatively easy to produce “magisterial readings” of thinkers like Foucault; it is quite another for the social sciences to perform analytic labor with those readings and avoid the production of “banal and traditional” social-scientific analysis that “could just as easily be done” without these thinkers (Harvey 1999: 561). Specialized vocabularies raise the cost of coding and decoding for both producers and consumers of intellectual products. The move toward esotericism and specialization must always be justified, and the gains must be shown to outweigh the costs (Shapiro 2002: 596). However, just quite how one is to demonstrate this calculus of costs and benefits in a manner impervious to doubt is far from clear. Scholars may rail against a mode of theorizing they consider too dense, multi-layered, speculative or metaphysical, and yet they may themselves be producers of textual products subject to such criticisms by other scholars: because the primary mode of scientific production is the textual product, and because texts are always subjected to *readings*, and because readings are always the actions of reading subjects, actively decoding and recoding materials in accordance with their unique neural networks and categories of perception, an ineluctably subjectivist dimension always intrudes on scientific research held to be “pure” by its self-professed realist producers. Bourdieu’s repeated attacks on “theoretical theory” is a case in point. There is a fine irony in the fact

that Bourdieu himself was subjected to such criticisms by orthodox sociologists, a criticism to which Bourdieu happily subjected heterodox members of the French academic field. Academic struggles over appropriate modes and modalities of theorizing seem destined to remain fractal-like, with dominant poles attacking dominated poles in a replicating structure that remains non-identical yet homologous across variegated social fields and differentiated resolutions of analytic magnification. The apparent realism of the calculus of empiricist anti-theoreticism collapses upon closer inspection because the evaluative categories of judgment used in adjudicating between (apparently neutral) “costs” and “benefits” are shot through with subjectivism and axiomatic beliefs that are themselves not amenable to further proof or demonstration.

Bourdieu’s field-theoretical approach has been adopted by sociologists of punishment. In a study of a California prison guards’ union, Page (2011) wrote of the “penal field” in that state, but his usage failed to situate the penal field in relation to the broader field of power (see also Goodman, Page, and Phelps 2015), violating one of the core tenets of the practical application of Bourdieu’s theory of fields; notably, Bourdieu emphasized that “one must analyze the position of the field vis-a-vis the field of power” (Bourdieu and Wacquant 1992: 104). In this sense, the application of the concept lay closer to the approach established by Fligstein and McAdam’s (2012) notion of “strategic action fields,” which de-emphasized the importance of agonistic struggle, social domination, and social power, skewing field theory away from a corporeal vision of embodied social action toward a rational-strategic conception of individual behavior.

There are numerous alternatives to the concept of the field, but they are all marred by defects that are corrected by this concept. In contrast to its three leading competitors—*system*, *assemblage*, and *apparatus*—the concept of the field is adequately (and not excessively or insufficiently) agonistic, historicist, and relational. A brief comparison with its leading theoretical alternatives may serve to clarify this point. First, the concept of *system* tends to operate in an exceedingly hermetic manner. A system is essentially closed onto itself: on Luhmann’s (2004) usage, a system is defined by its “operative closure” or autopoietic qualities. Autopoiesis can be understood as the ability of a system to reproduce and maintain itself and to do so by defining boundaries between itself and other social systems. In a cogent critique, Schinkel (2015: 230) points out that “for Luhmann, a central space that orders other social fields is an impossibility given the autopoietic, self-organizing character of social systems.” The definitive defect of an autopoietic conception of reality, which remains embedded in systems theory, is that it

precludes the possibility of a central organizing entity that arranges, orders, and partly determines the contents or trajectories of systems. Second, the notion of *assemblage* commits the opposite theoretical error. Here the chief defect is that all is mutable, fusible, fluid, and in flux. Nothing is hierarchized: the very idea of hierarchy is inimical to the “non-arboreal” vision of “rhizomatic” reality contained in Deleuze and Guattari’s vitalist philosophy of spontaneous antifoundationalism (see DeLanda 2016). The refusal to prioritize, order, and determine the value, strength, or power contained in various entities subsumed under the notion of assemblage, results in a vision of social reality that fails to account for social domination. Third, the idea of *apparatus* as it has come to be expressed in the Marxian theorization of Althusser (1971) fixes history, postulates the cessation of conflict, and the uncontested and incontestable domination of legal institutions: the police, courts, jails, prisons, and so on. These institutions, labeled the “Repressive State Apparatus” by Althusser, may of course support the interests of particular classes or other sectional interests, but this is not a fixed fact about these institutions that is immutable for all time. It is rather a contingent outcome of social struggles that may produce other outcomes across time and space. In sum, then, the leading competitors to the concept of field contain inadequacies that the notion of field corrects.

Bourdieu’s theory of the state

Following the translation into English and publication of Bourdieu’s (2014) lectures on state theory, it is now possible for a wider Anglophone audience to assess the French sociologist’s views on the state, this ambiguous entity, “an X (to be determined)” (Bourdieu 1994: 3). On Bourdieu’s account, the state fundamentally orders and organizes social life. Briefly stated, Bourdieu offers a synthetic account of the state that fuses neo-Marxist, Weberian, Durkheimian, pluralist and “state-centered” accounts of the state, breaking down apparent antinomies and engaging in a labor of theoretical unification, showing how a theory of the state can be used to further an empirical research program of, within, and beyond the state. Problematically, however, Bourdieu’s political sociology lacks a coherent notion of *consent* that would allow political sociology to move the critical study of the state from a *reactive* moment to a *constructive* phase. Furthermore, Bourdieu’s appropriation of the Weberian notion of legitimacy leads to a collapse in the distinction between the licit application of symbolic power and the transhistorically illicit exercise of symbolic violence. Without wedding Bourdieu’s theory of the state to a coherent, explicit theory of democracy and justice, Bourdieu’s political sociology risks

“bending the stick too far,” to use Bourdieu’s description of one favored epistemic strategy (e.g. Bourdieu 2014: 167-169, 270), in the opposite direction from competing accounts of the state.

For Bourdieu (1998b: 36), “When it comes to the state, one never doubts enough.” Bourdieu extends Weber’s classical definition of the state as an entity that possesses a monopoly on “*legitimate physical violence*” (Weber [1919] 1994: 311; emphasis in the original) to include a monopoly on *symbolic violence* (Bourdieu 2014: 4). This definitional move is premised on two points. First, Bourdieu viewed symbolic power as foundational, forming the basis on which the monopoly over legitimate physical violence was exercised. Without the former, the latter could not be realized. Second, inspired by Norbert Elias’ ([1939] 2000) notion of a “civilizing process,” Bourdieu viewed differentiated societies as largely pacified, characterized by the preponderance of symbolic domination over physical force. For Bourdieu, the head teacher’s grade book and the public bureaucrat’s rubber stamp are far weightier and worthier objects of study than the police officer’s truncheon or the soldier’s rifle. While political philosophy had obsessed over the problem of legitimacy, Bourdieu repeatedly underscored that in practical life, political authority was only called into question under the most exceptional of circumstances.

Bourdieu’s theory of the state represents a synthesis of several key contending theories of the state—from Weberian legitimacy through Marxist instrumentalism, pluralist accounts of multiplicity, and Foucault’s emphasis on the ineluctability of power, to the “state-centered” approach—combined and recast in an unmistakably Bourdieusian form with the aid of the concept of the field. From Weber, Bourdieu adopts the axiomatic definition of the state as the bearer of a monopoly on legitimate physical violence, to which is added the notion that the state is also the prime instrument of legitimate *symbolic* violence, producing and inculcating dominant representations, categories of thought, and “principles of vision and division.” From Marxism, Bourdieu appropriates the fundamentally agonistic view of the state as liable to being dominated by powerful social groups. The perceived limitations of Marxism, to Bourdieu, are its emphasis on “class instrumentalism” (the idea that the ruling class unavoidably comes to dominate and appropriate the state, using it to promote its “interests”) and the view of the state as the key guarantor of the reproduction of capitalist relations of ownership, leading Bourdieu to move beyond the leading Marxist approaches to the state. From liberal pluralism, Bourdieu appropriates the idea that the state is a site of mediated action where the

outcome of struggles over the state are to some degree indeterminate, contingent, and “fuzzy”—because a multiplicity of agents struggle over the right to determine state actions, and social class is only one of many variables that can give rise to groups that engage in struggles over the state—while rejecting the potentially implicit naïveté of such an approach that would risk discounting the very real power asymmetries that proffer a greater statistical probability of success to particular groups in steering and shaping the state to their ends. From the state-centered approach of Skocpol and others, Bourdieu borrows the idea that the state is not reducible to “social structure” or the properties of “society” at large, instead being powerfully shaped by ongoing struggles *within* the state, particularly among agents *of* the state, including leading figures of the various and fragmented bureaucratic agencies. Along this view, Bourdieu develops the notion of the ambidextrous state: the state can be thought of as having a “left” hand (the assistive, “feminine,” and social state, including protective agencies like healthcare, education, and public housing) and a “right” hand (the intrusive, “masculine,” and paternalistic state, including agencies like the police, courts, prisons, and military, and, crucially, the exchequer, ministry of finance, or similar). Meanwhile, from Foucault, Bourdieu adopts the notion that nothing exists beyond the horizon of power (see e.g. Shapiro 2012: 313-316). Rather, power in both its material and symbolic forms infuses all social relations, and this makes Bourdieu wary of the notion of democratic *consent*. To Bourdieu, a true and transhistorical legitimacy that would ground the actions of the state in some “objective” sense of right is impossible because every procedure that could grant power a constructive role that is not itself infused with domination is liable to be undermined by novel operations of power. Like Foucault, Bourdieu does not place much credence in the possibility of existing *outside* power, making “true,” unfettered democracy a practical impossibility – or at least *improbability*. Finally, Bourdieu grounds his theory of the state in a theory of fields: the state, we are told, is a “meta-field” that stands raised above all social relations, constructing and constraining them, acting as a “geometral on all perspectives,” a manufacturer of social space, that is itself not perceived as a particular “viewpoint” on social reality.

Bourdieu’s theory of the state is premised on five central properties. First, the state is a monopolist on “legitimate physical and symbolic violence” (Bourdieu 2014: 3). Bourdieu notes that this is an extension of Weber’s famous formula into the realm of the symbolic, while qualifying this “provisional definition” (Bourdieu 2014: 3) by noting that, on the one hand, it is little more than a “mnemonic technique” (Bourdieu 2014: 125),

a pedagogical device that serves the propaedeutic function of drawing attention to the symbolic, culturalist or ideational aspect of state power, and, on the other hand, that Weber's original formula already contains within it the notion of the symbolic: "The word 'legitimate', if you take it quite seriously, is enough to evoke the symbolic dimension of this violence, since the idea of legitimacy includes the idea of recognition" (Bourdieu 2014: 128). Weber's emphasis on *legitimate* physical violence already encapsulates the notion that the physically coercive force of the state is to some degree accepted. However, this did not prevent Weber from skirting the issue, according to Bourdieu, and Weber "did not develop this aspect of the state in his theory very strongly" (Bourdieu 2014: 128). Violence of the physical kind, that of either the "military or police," is only one part of the story, and in modern societies, only a rather unimportant part of it, Bourdieu suggests. What remains to be done, then, suggests Bourdieu, is to make explicit that which remains implicit in Weber's view of the state and to take the symbolic dimension of the authority of the state seriously.

Second, the state is a field. It is an arena for struggle that is *internally fragmented* (between competing bureaucratic agencies and official agents) and the site of *external contestation* (by social classes, cultural producers, political parties interest groups, and so on). Bourdieu emphasizes that the state is an *agency of mediation*. This theoretical orientation was born of a deep dissatisfaction with Marxist and functionalist approaches to the state, which Bourdieu at one point lumps together, noting the commonalities between Marxist approaches that view the state either as an instrument of the "ruling classes" or as an agent that "secures" the reproduction of capitalist means of production, or a "pessimistic functionalism," and the Parsonian accentuation of the harmonizing or ordering effects of the state, which Bourdieu calls an "optimistic functionalism."

Third, the state privileges certain groups over other groups. While eager to distance himself from the reductionism of neo-Marxist instrumentalism of either the class-relational or capitalism-reproducing variant—instrumentalism understood either as the state being overtaken by one particular class for its own ends or as the state being redirected for the benefit of capitalist accumulationism but without a definite class identity—Bourdieu also refuses to accept pluralist accounts of the impartiality of the state. The state is partial to the degree that it privileges certain groups who are able to mobilize a species of capital peculiar to the bureaucratic field, and in this struggle all groups are not made equal: some are more equal than others.

Fourth, the state is a leading producer of symbolic categories, mental representations, cognitive schemata, and “principles of vision and division” (Bourdieu 2014: 348). As Bourdieu remarks elsewhere, “The state, as I see it, must be conceived as a producer of principles of classification, that is, of structuring structures” (Bourdieu 2014: 165). The state acts as a viewpoint on all viewpoints, Bourdieu remarks, citing Leibniz’s notion of a “geometral on all antagonistic perspectives.” The state is the ultimate arbiter in social conflicts and produces the notion of “the universal” through its actions. It stands above the fleeting contingencies and mere particularities of diverse populations to enforce a vision of what is to count as the universal. One of the central ways in which it does this, says Bourdieu, is through the inculcation of legitimate culture through the educational system.

Fifth, Bourdieu argues that the triangulated vision of modern society in conventional thought—the state, the market, and civil society—is really a fiction: the state *constructs* the basis for civil life and economic exchange alike. On the hand, a domain of marketized exchange, such as the housing market, turns out to be more a creature of state activism than a product of atomistic interactions between apparently free-floating economic agents (Bourdieu 2014: 14; see also Bourdieu 2005). Markets are in effect constructed by the state through legislation, regulations, ordinances, subsidies, provision of public infrastructure, guarantees of property rights, and so on. On the other hand, the state-civil society dualism is itself “simply the transposition into concept” of a two-pronged understanding of the state as it appears in most standard definitions of the state: as either a territory in which are grouped a cluster of persons who share common properties or as a set of governing institutions that have some legal basis for their exercise of power (Bourdieu 2014: 32). This dualism serves the purpose of producing a “democratic” basis for the modern state—one which is, incidentally “completely false” (Bourdieu 2014: 32) due to the operations of symbolic domination—that is, that the latter (the instruments of governance) derives their legitimacy from the former (the people).

Sixth, the state is arbitrary. It could be replaced with something else. But what is this alternate possibility? Bourdieu leaves this nagging issue unresolved and makes little attempt to even broach it. Arguably, this lacuna is due to Bourdieu’s lack of a theory of consent and political legitimation. Bourdieu simply cannot imagine procedures of democratic participation that would not themselves be subject to the constraints and subversions of symbolic violence. If every social arena inevitably skews toward social domination in the form of an unequal exercise of symbolic violence or power—the two

terms are used interchangeably in Bourdieu's works—it stands to reason that no transhistorically legitimate political order could ever be established.

One of the most striking points to arise out of a close reading of Bourdieu's (2014) lectures on the state at the Collège de France is his fundamental ambivalence about the very notion of "the state." Bourdieu goes so far as to say that when he speaks of "the state," he attempts to syntactically structure his sentences in such a way that "the state" does not occupy the place of the grammatical subject in a sentence. Elsewhere, Bourdieu (1994: 3) speaks of the state as an "X" that is "to be determined." One might think that this pervasive sense of ambiguity expresses a mere idiosyncrasy of syntactic preference or, more uncharitably, an appetite for obfuscation. However, Bourdieu's qualifications about the ease with which many use the term are an attempt to move beyond traditional conceptions of the state as an "it"—a Leviathan, organ, instrument, body, entity, organization, monolith, behemoth, or any of the other myriad synonyms that have surfaced in the polysemous lexicon of political philosophers and social scientists who have attempted to speak on "the state"—and the attendant impulse to define "the state" (henceforth without quotation marks) through a catalogue of its functions, agencies, and resources. With Bourdieu, one certainly can in an *analytical* sense think of the state in these ways, but the state is not first and foremost defined by its topology or functions.

If we were to take Bourdieu's qualifications seriously, speaking of the state might seem all but impossible. However, Bourdieu's analysis is not a council of despair. On the one hand, Bourdieu suggests that it *should* be difficult to speak of the state, and that at present, because we are all unwitting creatures of the state, it is done with too great a sense of ease: we are unknowingly awash in the sea of the state, so that one continuously risks "projecting onto the object [...] one's own thinking about the object, which is precisely the product of the object itself" (Bourdieu 2014: 106). If we reflect on the alluring ease with which much discourse on the state is produced and instead consciously attempt to make things difficult for ourselves, Bourdieu suggests, then all the better: we have just increased our stock of reflexive knowledge, which is the first step toward producing a rupture with "state thought" – a necessary precondition for producing valid scientific knowledge.

On the other hand, in practical terms, Bourdieu frequently ends up bracketing such conceptual worries, returning at irregular intervals to express his worry that we are not doing justice to the reality of "the state of the state" (Bourdieu 2014: 23, 70) by speaking of the state in a way that risks reproducing the "spontaneous sociology" inherent in our

all-too-natural (but in fact state-made) linguistic repertoire.

Like Steinberger's (2004: 13) view of the state as a "structure of intelligibility," wherein are congealed a series of propositions about reality that united to form a collective worldview, Bourdieu sees the state as a producer of our key "principles of vision and division," that is, the symbolic categories and representations that are overlaid the world and gain a material force by shaping actions and allocating resource distributions. Inspired by Leibniz, on Bourdieu's account, the state is a "viewpoint on viewpoints" (Bourdieu 2014: 28). Broadly speaking, this means that the state is both the most significant agency in society that manufactures and enacts categories and representations of reality, and it raises itself above the domain of contingent knowledge to present itself with a force of necessity. It is a viewpoint that is expressly not a "point" at all because to be a "point" on the coordinate plane of knowledge—the Cartesian metaphor is worth noting—is to be subjected to scrutiny and doubt. If the state is so difficult to think or talk of, it is because it has become naturalized in a manner that is unparalleled by few, if any, other social phenomena. More crucially, talking of "it," paradoxically, is to obscure the all-pervasiveness of its ontological nature by falsely portraying a nominal and neatly bounded existence within a singular entity. The state is a "meta-field," raised above all other domains of social action, not orchestrating the social realm in the manner of a puppeteer working their marionettes, but by infusing itself and making all other realms what they are. Perhaps one way of thinking about the state in this sense is to think not in terms of a noun but an adjective: *state-ness*, or, if linguistic elegance has any worth, *stateliness*. The world is infused with stateliness, the quality of being *be-stated*. Bourdieu's concern is to "unstate" the "be-stated" quality of social reality.

Let us take another illustrative example of the social category in action to see with greater precision what is at stake when Bourdieu talks of the symbolic dimensions of state power. As noted in Article 2, over the past half-century, most modern states have enacted some form of comprehensive criminal legislation that prohibits the use, possession, and distribution of various forms of intoxicating substances. At the center of drug legislation is typically some way of grading the "seriousness" of various *types of drugs*, typically through a "schedule," that is, a series of groups into which various drugs are slotted. Article 2 presents the Norwegian invariant of this logic of criminalization and penalization: a triple-tiered "drug section" in the Norwegian Penal Code that attempts to distinguish between low-level, mid-level, and higher-level drug offenses. One might also

consider the UK Misuse of Drugs Act of 1971, which established Class A, B, and C drugs, where Class A drugs, such as cocaine and heroin, are deemed the most dangerous and Class C drugs, including various benzodiazepines and stimulants, are considered less so. The legislation also typically attempts to grade the seriousness of various *acts* surrounding illicit drugs. A common distinction is between “use” and “distribution”, a distinction that is usually drawn on the basis of gauging the quantity of drugs that apprehended persons possess (and perhaps in combination with an evaluation of the pragmatic situation: selling on a street corner, crossing a border, or remaining within the privacy of one’s own home, for instance, each giving rise to a vision of the “seriousness” of the contextual surroundings of the person being apprehended). From this use-category springs two ready-made person-categories: “drug users” and “drug dealers.” If the police arrest a person carrying one marijuana cigarette, for instance, that person is likely to be categorized as a user. If the police arrest a person with a carload full of marijuana bricks, on the other hand, they are likely to be categorized as a marijuana distributor.

Problematically, however, these state categories represent a particularized, arbitrary vision of a social universe of practices that are expressly not derived from necessary grounds. A reasonable question might be to ask to what degree a *synchronic snapshot* of a social agent’s actions at a given point in time can be said to justify the imposition of a categorical role that comes to define the entirety of their social being. Studies of the drug economy suggest that the basis for state categorization do not rest on the firm ground of objectivity: first, because of the fluidity and extreme mobility within the hierarchy of the drug economy, so that a “street-level dealer” may sell minuscule amounts of drugs at one moment, but, owing to the flux and malleability of opportunity structures, be offered the chance to traffic relatively large quantities of drugs at another time. Second, because many “drug users” are themselves distributors of drugs—primarily because it is a convenient way of financing a drug habit and because opportunities for such economic gains are readily available due to the cultural particularities of the drug economy that provide a select access to certain kinds of social networks—many “users” would in fact seem to be engaging in both forms of activity that drug legislation tries to neatly separate and establish once and for all. Third, many “drug dealers” are themselves users of drugs, so that they too are addicted or dependent on continued access to the intoxicating effects of the products they are said to proffer. In all these ways, then, the state—through the operation of its juridical and penal institutions—attempts to impose a clear-cut representation of a section of the social world through its categories and

attendant administrative and punitive reactions, even as these categories may not provide an apt fit with the “objectivity” of social reality. This is the argument proposed in Article 2 as viewed through the lens of Bourdieu’s theory of symbolic categorization.

Broadly speaking, there are two ways to think about how the technical categories of the penal state come to be legitimated through a democratic process. On one account, these categories might be considered democratically validated because the elected representatives in the legislature have permitted their continued operation and failed to impose an alternative set of categories. This is the classical vision of legal power in parliamentary democracy. On another account, such categories might be viewed as unacceptable impositions of state coercion because the production of symbolic categories as such is per definition arbitrary and illegitimate. This second position is roughly equivalent to Bourdieu’s view. On a third account, the categories are unacceptable because they have not been validated by sufficiently democratic processes of collective deliberation but rather through top-down processes in legislatures and insulated decision-making in technocratic bureaucracies.

Bourdieu is eager to depart from contractarianism for its alleged failure to see the state as an instrument that shapes social agents’ representations and life chances at the most fundamental level, observing that “in certain classical theories such as those of Hobbes and Locke, the state [is] [...] an institution designed to serve the common good, the government serving the good of the people” (Bourdieu 2014: 5). In so doing, however, Bourdieu excludes the possibility of a theory of consent that could determine when such power was acceptably exercised. The contractarians could supply such a theory, even if it was not a wholly satisfying one, but Bourdieu seems unwilling to allow for such a distinction at all: all acts of the state are fundamentally violent, if only in symbolic form. The concepts of domination, violence, and conformity essentially merge. Bourdieu (2014: 7) notes that the state organizes our sense of time through calendars, which determine public holidays, religious celebrations, the school year, and so on, and they are an expression of the “hidden, invisible principles [...] of both physical and symbolic domination, likewise of physical and symbolic violence.” But a theory of the state that views, say, the duration and demarcation of the school summer holidays as instantiations of “symbolic violence” seems to debase the concept of violence and the gravity we attach to it. It also neglects the possibility that state actions may be a willed expression of popular consent – a pragmatic, effective method for organizing individual

preferences via a political collective, understood by Jessop (2008: 9) as little more than a set of “collectively binding decisions.”

What plagues Bourdieu’s theory of the state, then, is the impossibility of administering and organizing complex social orders without wielding symbolic power. On Steinberger’s (2004: 13) account, this is all that the state amounts to: a “structure of intelligibility” that congeals a series of propositions into a collective worldview.⁴ Given the necessity of the symbolic operations of the state, however, analysts need some method for sorting between acceptable symbolic power and unacceptable symbolic violence. But Bourdieu’s writings contain few criteria by which nefarious symbolic violence could be distinguished from innocuous symbolic power. For Bourdieu, every category and representation emanating from the state would seem to be a wrongdoing.

Central to Bourdieu’s understanding of the violent (and therefore normatively deplorable) dimension of symbolic power is the concept of *misrecognition*, that is, of not seeing the reality behind the symbolic actions of the state. Bourdieu understands symbolic violence as a form of coercion that can “only be implemented with the active complicity [...] of those who submit to it” and that determines individuals “only in so far as they deprive themselves of the possibility of a freedom founded on the awakening of consciousness” (Bourdieu 1996: 4). This attempt at a definition reverberates with the Marxist notion of false consciousness, understood as a set of false beliefs that do not match with an objective reality that is fully understood by a privileged observer or critic. The problem with Bourdieu’s view is that it presupposes a form of “consciousness” that is “awakened,” that is, a true or correct consciousness, as opposed to a false consciousness. This only raises the question of which criteria one are to be applied in deducing the state of true reality and thereby arrive at a correct or true form of consciousness.

Problematically, Bourdieu speaks of legitimacy in two quite different ways. On the one hand, Bourdieu operates with what might be called a weak, descriptive concept of legitimacy. In this conception of the term, legitimacy is that which is stamped onto the population by powerful agents in social space. Legitimacy in this sense is deployed with a

⁴ Crucially, however, Steinberger (2004) views the state as a passive and unmediated expression of an “organic,” collective vision of social reality, which commits the same error as Durkheim, viz. the absence of a systematizing analytic of power and domination. The strength of Steinberger’s account, on the other hand, is that it pivots away from the delineation of institutional boundaries or cataloging of functional processes to emphasize the centrality of symbolic action.

certain ironic detachment, the usage of the term essentially being predicated on the aphorism that “might makes right.” A notion is legitimate in this sense because it comes to attain the status of an representation, category, or concept. On the other hand, Bourdieu implicitly operates with a strong, normative sense of legitimacy, according to which these same representations, categories, and concepts are to be judged by a transhistorical observer who is tasked with critiquing transgressions of power. For instance, Bourdieu (1996: 5) takes the educational system to task for reproducing the false promises held forth by the ideals of meritocracy. The educational system is little more than an arena for the reproduction of social inequality in the guise of symbolic notions such as “effort” and “ability,” according to Bourdieu’s view, and it acts as an instrument for the “legitimation of domination,” which is really no more than a “legitimizing illusion.”

Bourdieu’s concept of *legitimate symbolic violence* (Bourdieu 1996: 117) perhaps best captures the tension inherent to this second, strong, normative conception of legitimacy, a term that prima facie is oxymoronic. Upon closer inspection, however, it seems likely that the term “legitimate” is here used mainly for ironic effect. On this usage, the legitimacy of the system is expressly *not* the legitimacy of the disinterested observer, who, from a position of privileged information, is said to be capable of seeing through the “misrecognition” pressed on the populace by the state, which is what is implied by labeling the actions of the educational system as an instantiation of “symbolic violence” – a term that per definition lacks legitimacy in the strong sense.

The trouble is that Bourdieu leaves us with precious few criteria with which we might differentiate between descriptively illegitimate symbolic violence and normatively legitimate symbolic power. Even the most radical skeptics of state authority should find this state of affairs intolerable, precisely because of the necessity of symbolic power in the ordering of complex societies – and therefore the necessity of developing a theory of the legitimation of symbolic power. Bourdieu’s sociology contains a potential stasis of despair because of its very inability to discriminate between the illicit and licit exercise of symbolic power. To suspend analytic paralysis and move beyond this impasse would require a set of criteria capable of identifying and distinguishing between the legitimate symbolic operations of the state. No such criteria, however, are forthcoming from Bourdieu’s own political sociology.

Carceral habitus

One of the primary aims of a sociology of punishment is to excavate forms of penal subjectivity, a circumscribed mode of being-in-the-world resulting from (extended) residence in carceral institutions. Framed in Bourdieusian terms, agents passing through the carceral field are stamped with a particular carceral habitus (see Caputo-Levine 2012) owing to the operations of the field.

The concept of the carceral habitus refers to the dispositions that are valorized and implanted by the carceral field. The carceral habitus is *not* those dispositional features needed in navigating the spaces that have been semi-autonomously constructed by inmates but rather to traverse and escape the field of carcerality as it has been established by the bureaucratic field. This is a crucial distinguishing mark between this concept and similar notions found in studies of what might broadly be termed “prison culture,” which tend to emphasize those (oppositional) personal traits produced and inscribed by a (recalcitrant) society of captives. Against the approach taken by those scholars, the accent here is placed on the operations of the state: a carceral habitus must always be in alignment with a carceral field, that is, the instruments and institutions of punishment that in part emanate from the bureaucratic field.

Ever since Wacquant’s (2002) diagnosis of a “curious eclipse of prison ethnography” at a time of resurgent penalty, it has become something of a commonplace to lament the relative scarcity of accounts that make sense of the everyday experience of legal punishment. Indeed, in the wake of Wacquant’s plea for greater engagement with the concrete particularities of incarceration, a steady stream of prison ethnographies have been undertaken (e.g. Crewe 2009; Gilmore 2007; Phillips 2012). However, the theoretical mandate of these ethnographic incursions is not always entirely clear. Are they premised on an antiquarian delight in cataloguing the operations of carceral power, the austerity of confinement, and the modes resistance and reactive adaptations developed by ever-evolving prisoner collectives? No doubt prisons and penitentiaries can operate as sites of research inquiry that raise questions of a theoretical nature extending far beyond the penal system. But prison ethnography should first and foremost draw its strength and nourishment, I claim, from the patient prying apart of the black box of penal subjectivity, that is, the *sense of being punished*. Penal subjectivity—not as a discursive-representational game of narrativity, but as an objective rendering of lived realities, that is, as an objectified subjectivity—is a necessary dimension in these studies, for if courts, boards, judges, and commissioners are meting out a quantity of punishment, they are also

handing down a *quality* of punishment. If the legal field takes so little interest in the subjective qualities of punishment, it is because taking this dimension seriously would simultaneously undermine the validity of the claims to universality on which legal sanctioning rests.

Drawing on the ethnographic material that formed the basis of Article 1, one might consider the case of John, a middle-aged inmate residing in the minimum-security prison that is the subject of the article. This remote island prison was widely renowned for its exceptional standards, absence of locked gates or cells, abundance of autonomy, and dearth of traditional measures of control. During repeated visits, I spoke at length with John about his life in this apparently unusual prison, an institution where inmates lived in wooden chalets and were provided wide latitude in steering their personal lives. Over the course of these conversations, John repeatedly returned to what one might term the *inherently subjective texture of legal punishment*. Smoking cigarettes in his prison room, a practice strictly forbidden by the warden but which John defiantly continued engaging in, he described how he had successfully started a music band in the prison. The prison administration took to his idea, even going so far as to allow the members of the band to live together in one of the prison's small cooperative houses. The group met with some success. They played concerts for the other prisoners, invited a well-known radio presenter over to the prison to record them playing for a special broadcast on national radio, and were even let out (under escort) to play concerts in a nearby town and in another prison. Allowing this collective to form within the closely regulated space of the prison, however, also led to a great deal of friction with the authorities. The band was constantly trying to push the bounds of permissibility outwards, trying to grab concessions where they could, concessions that were entirely necessary for them to function effectively as a music group. They needed an e-mail account to keep up a correspondence with various venues and recording partners, but they were not strictly speaking allowed to use e-mail (several Internet-connected computers were available to the prisoners). Various subterfuges were needed to pull off this oppositional trick, techniques that were constantly in danger of being discovered and thereby harming their future life chances.

From this, John gained a deeper understanding of how punishment effectively operated, far removed from the high-flown discourse of legal theory or moral philosophy. Prisons have “to an extreme extent far greater authority to mete out sanctions than judges have,” he said, “because what judges do is they sentence you to a certain number of years

in prison, a loss of liberty, but then you're confronted by [Correctional Services], and *they* can really discipline you, they can destroy your life, just completely ruin it, and if you don't dance to their tune, they can make your life a living hell." If you were an unruly prisoner, as John was sometimes considered to be, then "you've got a problem." In those cases, "they have to punish you a little extra, put you in your place." On the other hand, if you were a docile prisoner, the guards would largely leave you alone, but then you would miss out on the rewards of participating in an oppositional fellowship.

Documenting and detailing penal subjectivity should be the very essence of the sociology of punishment. The quantitative manifestation of legal punishment is premised on a systematically disavowed experiential dimension. Legal sentences are typically measured in a certain duration of time—days, weeks, months, and years—and officialdom tends to consider this duration to be linear, one-dimensional, and fungible: intervals on the temporal scale are evenly spaced (so that one year counts as much as the next year), the sole unit of differentiation between sentences is time (rather than, say, qualitative differences between institutions), and time constitutes the universal currency with which punishment is produced and consumed (regardless of the individual, subjective appropriation of time). Punishment is considered in these terms—as scalable, interchangeable, and comparable—by being transmitted in the form of a numeric proscription thought to obey all the properties of natural numbers: the distance between two points is equal (so that 6 is twice as much as 3), the value carried by two equal numbers is equivalent (the numbers 3 and 3 are the same). But when this universalist arithmetic of custodial sanctions is viewed from the vantage point of the experiential lifeworld of inmates, these assumptions begin to strain and perhaps even collapse.

Custodial sentences necessarily entail a subjective, experiential appropriation of those sanctions by situated individuals. They are borne by definite bodies, discharged in definite institutions, and enmeshed in definite political economies. Time skips, leaps, slows down, and accelerates: one year may pass quickly, while another may move slowly; a month can feel like a day, three weeks like a year. Individuals respond differently to their environs: some mobilize external resources and capacities, others wither away and suffer a sort of spiritual death. Inmates are differentially equipped with various forms of capital. Some are enmeshed in thick fabrics of sociality, possessing large stocks of social capital, or can draw on abundant economic capital to lighten the burden of confinement. Institutions vary: some prisons are austere, others abundant; some staff members are disciplinarians, others experimental rehabilitationists. Their temperaments may ebb and

flow according to the vicissitudes of exterior life that have little to do with institutional parameters as such. States differ: some have established thick webs of social protection, others are happy to “lock ‘em up and throw away the key,” to use Alford’s (2000) phrase. These are just a few of the sources of the ineluctably subjectivist appropriation of penalty, a subjectivism that is disavowed by a falsely universalizing state. The phenomenology of legal punishment is transmitted through a lived experience that must always lead a subterranean existence in the representations, categories, and concepts of official legality, because to take seriously penal subjectivity would require the legitimacy of law to be seriously reconsidered. To acknowledge that every legal sentence is a “sentence-in-the-world,” to speak in Heideggerian terms, challenges the foundational triad of linearity, one-dimensionality, and fungibility, which constitute the core assumptions on which all custodial sanctioning rests.

Bourdieu’s limitations

There are four central limitations to Bourdieu’s overall scientific-philosophical project. First, Bourdieu’s political sociology invites political passivity. It cannot properly think alterity: Bourdieu fails to explore possible alternatives beyond the present-day deadlock between decommodifying welfare capitalism and neoliberal marketization. The arc of Bourdieu’s sociological career, which can be considered in the light of three distinct stages, bears witness to this deadlock. First, Bourdieu offered a critique of European colonialism in the form of a series of studies of Algerian society, the aftermath of the French occupation of Algeria, and the travails of postcolonial modernization policies in that country, with a particular emphasis on the plight of the Kabyle people (Bourdieu 1961, 1979). Second, Bourdieu produced numerous studies examining and criticizing the limitations of social democracy’s apparent “universalism”—one of Bourdieu’s favorite terms—that together suggested the merely palliative effects and limited scope of the welfare state in minimizing the iniquities of market society (Bourdieu 1996; Bourdieu and Passeron 1977). Third, a decade-and-a-half of criticism directed at the “tyranny of markets” followed, which critically appraised the wave of neoliberal market revolutions washing over the Western world since the early 1980s and their associated efforts to curtail the protective dimension of the welfare state (Bourdieu 2000a, 2003; Bourdieu et al. 1999).

Perhaps the most significant break in Bourdieu’s career is that of the second to the third phase, involving transitioning away from a criticism of social democracy and toward

a critique of neoliberalism: Bourdieu shifted his considerable scientific and political energies to engage in a systematic attack on the debasement of social democracy. But this reversal raises the question of whether a return to defending social democracy—for all of its limitations and flaws, many of which Bourdieu himself documented over the course of several decades—is desirable and possible: the ferocity and sustained nature of his criticisms in the second phase of his career suggests not.

Consequently, there is an at the center of Bourdieu's critical sociology when viewed in its broadly practical sense: either to engage in circumscribed criticisms of state institutions, while assuming some form of welfare capitalism as the deep Background to this critical labor; or to launch a wholesale criticisms of the "tyranny" of markets. But where can this project of critique possibly end? The absence of a millenarian impulse in Bourdieu's work necessarily results in a bleak vision of the future. If we are to follow Bourdieu's account, there seems to be no escaping social domination. Bourdieu's vision is in this sense truly Hobbesian: like the author of *De Cive*, Bourdieu views struggles over symbolic capital—a term that occupies a similar position to "honor" in Hobbes' terminology—as the fundamental engine of human sociability. To Hobbes, honor is the very generative principle that breeds discord and antagonism between individuals, but it also drives positive, agonistic struggles that lead individuals to develop their talents and produce great works. Still, struggles over honor must result in the permanently abyssal condition of the human animal, destined to remain separate from its fellow beings forever, owing to mutually exclusive attempts to dominate each other. "By nature, then, we are not looking for friends but for honor or advantage from them," Hobbes ([1642] 1998: 22) writes, and while Bourdieu's humanistic commitments prevent him from producing such an blunt appraisal, it remains the essential premise of *Distinction* that human beings are locked into struggles to separate themselves from one another, to speak paradoxically, that is, to build lives that are honorable, worthy, and *apart*.⁵ After all, the social game is constituted by the "struggle to impose the legitimate (i.e., dominant) principle of domination," in Bourdieu's (1984: 291) words.

⁵ The tension between being *locked into* struggles to *separate oneself* from one's fellow beings gives Bourdieu's work an unmistakably Hegelian cast. This view might be read as a sociological instantiation of Hegel's ([1807] 1977: 111-119) master-slave dialectic. For an elucidation of the ways in which one might read Bourdieu as a sociological inheritor of certain Hegelian ideas—in his emphasis on the historicity of knowledge, for instance, or the centrality of the state—see Redding's (2005) close reading of the influences of German idealism and neo-Kantianism on Bourdieu.

Second, Bourdieu's conception of the notion of capital is undermined by failing to include an emphasis on the *materiality* and *dynamism* of the entities being conceptualized. Bourdieu understands capital as a resource that can be used to obtain advantage in social space in general or in a particular social field (Bourdieu 1986). However, it remains a static entity: capital is conceptualized as an inert, lifeless entity, gaining efficacy solely from the relations into which it is embedded. This is problematic for two reasons. On the one hand, capital has a materiality, in the sense that the actual matter out of which capital is made may have a constitutive efficacy of its own. To take but one example: there is a profound difference between having one's economic capital tied up in gold nuggets, shares on the New York Stock Exchange, liquid cash held in a high-interest rate bank account, or extensive real estate. Each of these modes of physically transmitting economic capital invites a distinctive outlook on reality, or a particular spontaneous attitude. Yet Bourdieu's conception treats each of these moments as equivalent: they are interchangeable in so far as they are expressible in equivalent money terms. This clearly holds analytic utility, but it also impairs understanding of the living force of the concrete form of capital. Examples are legion in the domain of cultural capital as well, particularly as regards its objectified form: the very physical form of eighteenth-century painting introduces a distinctive symbolic dimension that, say, abstract digital video art does not; or a physically voluminous record collection as opposed to a digital audio library. The materiality of capital—the concrete form that capital assumes—bears upon the relationship of the bearers of capital to the lifeworld. Materiality is not arbitrary.

On the other hand, capital has a dynamism. Again, without straying too far afield, it is a truism that the particular analytic force that Marx brings to bear on the problem of capital in its manifold guises stems from his ability to cognize capital as a dynamic, moving entity. A central argument in Marx's ([1867] 1976) *Capital* is the notion that capital presents complex analytical challenges precisely because it obeys a dynamic logic of Becoming rather than a static logic of Being. If we are to understand the Becoming of capital, it is quite simply insufficient to contemplate it as a fixed object – even as the history of Western reason contains a profound bias in favor of Being-oriented reasoning over the study of processes of Becoming. To take one example, Harvey (2014) convincingly argues that understanding the 2007-2008 financial crisis requires viewing it in the light of surplus capital, that is, the need to find a suitable outlet for flows of capital unable to find a useful outlet: rampant credit growth among low- and middle-income

residents of the United States since the early 2000s was a consequence of surplus capital seeking viable pockets into which it might flow. As Harvey (2015: 97) succinctly asks, “Where else can overaccumulating surplus capital go?” Similarly, Harvey has argued, following a time-honored line of reasoning in Marxian political economy that military expenditures are a necessary means for removing surplus capital from the global economy (see Harvey 2006: 442-445). Whether one agrees with these positions or not, what remains uncontroversial is that a significant dimension of the dynamic of global market economies is attenuated when one conceives of capital as a static entity. Bourdieu almost completely ignores it, perhaps because of his orientation toward a nationally bounded mode of sociological reasoning, a form of methodological nationalism, that is, a mode of analysis that takes the nation-state as its natural object of scientific reason.

Third, Bourdieu fetishizes science. Ironically, in his very embrace of scientificity, Bourdieu was himself insufficiently Bourdieusian. He failed to appreciate that staking out a separate domain for science, said to contain a distinctly *scientific* mode of reason and uniquely *scientific* form of knowledge, means denying the fact that scientific production is shot through with symbolic power. Applying Bourdieu’s own method of deducing scientific positions from one’s origins in and movement through social space, it is possible that Bourdieu’s own social origins—a lower-middle class upbringing in rural southern France and a parvenu to the Parisian mandarin class (see Bourdieu 2008: 101-102)—prevented him from upholding the validity of theorizing that was not legitimated by semi-traditional science, inculcated an impatience with poststructuralist thought, and imposed a near-malevolent disposition toward what he derisively labeled “theoretical theory” (Bourdieu, Chamboredon, and Passeron 1991: 257). If we follow Bourdieu in accepting that there is no horizon beyond symbolic power, science must be considered little more than a prestigious social game, propelled forward by agonism, constituting so many attempts to construct and maintain a semi-autonomous field against exterior influence. Even as his critique of power seems to commit him to a mode of radical antifoundationalism, however, Bourdieu falls back on the notion of science as a discrete mode of reasoning, capable (somehow or other) of eluding symbolic power and social domination. Strangely, nearly everything in Bourdieu’s theoretical work militates against

the adoption of such a position.⁶ One prominent strand in his thought would seem to force us to admit the extreme relativism of a radical epistemology: science is merely symbolic power by another name. The contradiction between orthodox scientism and iconoclastic antifoundationalism was never resolved in Bourdieu's work. Still, critical remarks such as these are not in themselves sufficient grounds for rejecting Bourdieu's work tout court, nor should they keep us from the task of developing ways to apply their lessons to concrete research. On the contrary, these criticisms signal the need to move beyond Bourdieu *with* Bourdieu.

Semiotic plasticity

One problem with popular slogans and catchphrases circulating within the carceral field—"tough on crime," "zero tolerance," "law and order"—is that they are empty signifiers, liable to be filled with almost any content whatsoever. Naturally, the doctrine of punitive common sense has filled them with a definite content, which many, if not most, sociologists of punishment attempt to counteract in their work. But it is misguided to take such sloganeering in itself as a problem. More problematic are the symbolic associations derived from and practical lessons implanted into these slogans by proponents of punitive orthodoxy. Their practical interpretations are determinately one-sided, serving to mask the open-endedness of such phrases. Take the example of "tough on crime." To be tough on crime need not by necessity be deplorable. Who, after all, would want to live in a high-crime society (or, more probably, a high-crime *spatial zone* within a particular society)? A tough-on-crime stance need not necessarily entail higher sentencing levels, expanded prison populations, aggressive prison construction programs, and austere conditions of confinement: a sociological analysis that understands crime to be enmeshed in and driven by an entirely different set of factors than those maintained by penal orthodoxy might very well suggest that it is important to be tough on crime – and yet take that to entail an entirely different program of practical action. Similarly, "zero

⁶ The antifoundationalist moment in Bourdieu's thought—inconsistently developed and applied, admittedly—is what lends his theoretical output its dialectical character. As Adorno ([1958] 2017: 15) points out, dialectical thought is first and foremost defined by the fact that it "does not hunt after some absolute first ground or principle." Instead, dialectical thought is willing to accept, apparently paradoxically, a groundless ground, an instable foundational property all the way down, so to speak, to constitute the foundation of their ontology: *difference* in the works of Deleuze, and *agonism* in Bourdieu's case (albeit with varying consistency), to take but two examples.

tolerance” is not necessarily something to be spurned. Most would agree that it is good to have a zero-tolerance stance against slavery and genocidal policies. These terms are inherently vacuous. Their significance arises out of semiotic attribution.

The question is, as ever, what the adherents of such slogans are proposing to inject into the political field when they use phrases such as “zero tolerance” and invoke the need to get “tough on crime.” Wacquant (2012a: 8) observes that the very concept of “zero tolerance” could be inverted: brandishing this phrase could also be used to declare an aggressive stance on prison overcrowding or dilapidated social housing, say, instead of petty crime or illegal immigration. Consider also the example of “law and order.” Prima facie there is nothing inherently distasteful about the notion of maintaining “law and order.” Few would opt to live in disorderly cities characterized by the consistent flaunting of law by many or most of its members – not even hardened scofflaws want this, for to make a living in crime means exploiting the gaps and cracks of an otherwise smoothly functioning social order. The language that codifies a particular politics of surveillant policing and punitive punishment is not in itself the problem. Rather, it is the *practical closure* imposed on the carceral field by *particular interpretations* of a codified language that is problematic. The appropriate terrain of struggle is therefore not purely linguistic in nature but belongs to the realm of the political.

A similar degree of semiotic plasticity can be found in notions such as “risk” and “security.” Security, usually taken to be the obverse side of risk, can also be inverted. As Luhmann (1993) points out, the terms of the risk/security equation can be reversed. Avoiding the *risk of global warming* and thereby heightening *ecological security* by shutting down hydrocarbon-fueled power plants, for instance, can be reframed as increasing the risk of destitution stemming from widespread unemployment and a concerted economic downturn, thereby diminishing the security of the public. One person’s sense of security is another person’s source of risk. Similarly, parole hearings can be viewed as linguistic games containing a trade-off between Type I and Type II errors, their “risk aversion” really being an aversion against false positives and an acceptance of false negatives; to parole commissioners, it is often considered more sensible to lock up one too many (risky, i.e. recidivism-prone) offenders than one too few. On a parole board’s calculus, it is better to protect the public against the risk of a false negative, i.e. a person who appeared risk-free to the board but who actually ended up committing another offense. Their vulnerability vis-à-vis the media and political fields tends to promote risk aversion: the media will, probabilistically speaking, potentially

generate politically-charged situations in the event of a false negative (releasing a re-offending inmate), but they will rarely do so in the case of false positives (continuing the incarceration of non-dangerous inmate). Security is granted higher priority than risk. But one might consider the continued incarceration of a non-dangerous offender to involve a number of risks: the risk of exposing the inmate to ontological insecurity, psychological deterioration, and worsened life chances; or, conversely, one might contemplate the risk of incurring continued high costs on a state already devoting a significant proportion of its budgets to jails and penitentiaries. Releasing offenders could therefore be reframed as securing the state's capacity to devote its budgetary powers to assistive social institutions, such as schools and hospitals.

As Luhmann points out, security cannot operate as a natural counterpoint to risk because the risk/security pair is suffused with the results of political struggles. To reframe this issue in Bourdieu's terms, the conceptual couple is loaded with veiled symbolic power. Luhmann offers the example of speeding motorists: anyone driving a car who chooses to not overtake other drives in a "blind curve" thereby "runs the risk of not getting along as fast as he could if there were no oncoming traffic," Luhmann (1993: 28) writes. We do not as a rule tend to think of things in that way, of course, but that is merely because the terms of "risk" and "security" are posited and "presupposed" to be "self-evident" (Luhmann 1993: 24) – or, to put it in Bourdieu's terms, these terms are burdened with invisible forms of *doxa*, that is, the "things people accept without knowing" them (Bourdieu and Eagleton 1992: 114). Inverting naturalized categories of thought may be the first step toward undermining them –and thereby overcoming them.

The symbolic addressees of incarceration

An inmate *serves* a sentence. But who are they serving? A waiter serves dining guests, and a deacon serves their church. The peculiarity in saying that an inmate serves their sentence lies in the lack of a determinate recipient. Victims' rights activists might contend that the inmate serves their *victims* by atoning for their injuries through the passage of time. Rehabilitationists might claim that inmates serve *themselves* by being improved by therapeutic interventions. For Hegel, the inmate serves the *state*, and since the state is the universal embodiment in institutional form of a community, the inmate in reality serves *everyone*, including themselves. By accepting the legitimate imposition of punishment, they begin to negate the negativity that was the criminal act, and so prepare themselves for a return to the social fold. Through undergoing punishment, they restore a disordered

condition to its previously favorable condition. “Crime is only genuinely brought to naught through punishment, both for others and for criminals themselves, for whom punishment makes the crime as though it had not happened,” Hegel ([1983] 1995: 102) claims.

How does Hegel arrive at this position? Hegel considers crime to be a type of action unto itself, possessing a particular theoretical significance, in contrast to the broader domain of human behavior, as it involves a denial of the rights of others. Committing a violent act means arrogating to oneself the right to deny others their rights. In the *Philosophy of Right*, crime is defined as a form of coercion that denies victims their freedom and rights, an “exercise of force which infringes the existence of freedom in its concrete sense, [which] infringes right as right” (Hegel [1820] 2008: 98). Crimes are therefore deserving of particular sanctioning in ways that other behavior is not. In more technical terms, Hegel’s conceptual universe posits that to have committed a crime against another person is for the offender to have directed a “negatively infinite judgment” at the victim: *negative* because the offender denies the victim something or someone, and *infinite* because in its concrete instantiation it nevertheless seems to represent a denial of the very right of the victim to have or maintain a relationship with something or someone (Hegel [1820] 2008: 96-97; see also Stillman 1976).

For instance, a pickpocket who steals a wallet from a tourist is not only removing the tourist’s incidental possessions—their cash, driver’s license, credit cards, and so on—but also affirms the invalidity of their very right to possess property as such. As one of the Additions, or *Zusätze*, to the so-called Lesser Logic emphasizes, “Someone who commits a crime [...] denies the rights of that person completely, and therefore he is not merely obliged to return the thing that he stole, but is punished as well, because he has violated right as such, i.e., right in general” (Hegel [1817] 1991: 251).⁷ Similarly, a murderer not only kills a determinate or specific human being, but is also denying the sanctity of human life as such.

In more abstract terms, the negatively infinite judgment is a proposition in which the relationship between subject and predicate breaks down (Hegel [1817] 1991: 251). One of the illustrative examples offered by Hegel to unpack this point is that of a simple

⁷ Admittedly, the Additions must be treated with care because they were usually not written by Hegel himself but by his students and editors. Still, these passages offer important insights into Hegel’s thought, usually drawing on verbal embellishments during lectures and extracted from his students’ lecture notes; as a result, they have largely been considered an integral part of the Hegelian canon (see Magee 2010: 11).

declarative statement. To say that “this flower is not red,” Hegel points out, is to present a simple (or finite) negation of the subject by the predicate (Hegel [1817] 1991: 251). The flower may not be red, but it does possess some other color. The statement is not a negation of the quality of color as such. A negatively infinite judgment would deny that the flower possessed the quality of color as such. On the Hegelian view, a crime is precisely not a finite proposition; crime is not a finite negation. Instead, committing a criminal offense means declaring, “This person is not a law-abiding citizen,” with the negation of law-abidingness as such serving as the negation of the quality of citizenship as such. The connection between subject (person) and predicate (law-abidingness) is broken, and it is the criminal act that effects this break.

This might seem to hold dangerous implications for a justificatory theory of punishment. If offenders are seen to be bereft of an essential human quality—as being the *opposite* of citizens—a potentially limitless form of punishment might seem justified, clearing the way for excessive suffering and torment. Agamben’s (1998) *Homo sacer* is one of those beings who can be punished endlessly and by anyone, and this animal-like existence would seem to spring from the punished being’s condition of civic death, which involves banishment, castigation, and general disenfranchisement. However, Hegel’s aim is quite the opposite. Hegel thinks that viewing crime as a negatively infinite judgment—that is, a *sui generis* behavior deserving of devoted attention by a social institution that (temporarily) suspends the actor’s civic status—and punishment as a societal negation of the individual negation (that is, a social counterreaction to an individual’s criminal offense), is the only way to guarantee the essential humanity of the criminal offender. Only his own approach, Hegel proposes, guarantees the offender’s humanity: it is all those other liberal reforms and high-minded humanitarians, pleading for rehabilitative policies, who ultimately denigrate the offender.

For what is rehabilitation? On Hegel’s view, it is an admission of the view that human beings are conditioned, a claim that this conditioning has somehow misfired, and an assertion that society can set this state of affairs aright by reconditioning the offender, ensuring that they are conditioned better, or, to speak anachronistically, in a “prosocial” manner (Magee 2010: 190-191). Hegel dismisses rehabilitationism for two primary reasons: one cannot in advance determine whether an individual will successfully be corrected, and one cannot sufficiently judge *after the fact* whether rehabilitation has actually taken place (Hegel [1983] 1995: 102). Rehabilitation is quite simply dogged by a fundamental epistemological problem. We cannot determine what is inside another

person: the contents of their soul must at least partly remain shrouded in obscurity. This causes insurmountable problems prior to, during, and after the process of (alleged) rehabilitation. It is this unattainable truth-condition to which all parole boards, psychological evaluators, and risk-assessing actuaries aspire – inevitably without genuine success.

Hegel's dismissal of rehabilitation, on the grounds that it is antipathetic to human reason and freedom, is reminiscent of Foucault's aversion to "alternatives to the prison" or "new model prisons."⁸ As noted earlier, Foucault excoriated the Swedish model of "open" prisons in the mid-1970s. Writing dismissively of such prisons, Foucault ([1976] 2009: 15) observed that "they are not so much alternatives as quite simply attempts to ensure through different kinds of mechanisms and set-ups the functions that up to then have been those of prisons themselves." In other words, such prisons amount to little more than carceral window dressing, concealing modern punishment in an apparently counterpunitive disguise. On the Foucauldian view, rehabilitation contains the possibility of an even deeper form of legal punishment because it promises to remold subjectivity against the will of the subject. On Hegel's view, rehabilitation is a not-so-subtle proclamation that the individual should not be free to select the conditions of their own determination: they must be remade and raised anew, like animals, the rehabilitationists are implicitly saying, according to Hegel.

Clearly, Hegel's is a retributive theory of punishment in the strict sense of the term: Hegel's justification for punishment is that it is a "recompense" for a demerit or disservice. However, this does not necessarily make it a conceptual justification for severe sentencing or carceral austerity, that is, a movement toward harsh punishment. Sociologists of punishment have been prone to some measure of conceptual slippage in this area, describing retributivism as if it were equivalent to penal severity. For instance, when describing the shift to the "warehousing" of inmates as a downgrading of punishment to "retribution and neutralization," Wacquant (2009b: 292) seems to imply

⁸ Foucault's relationship with Hegel was complex, and conventional interpreters have emphasized the distance between their modes of thought by juxtaposing Foucault's nominalist skepticism and Hegel's totalizing metaphysics of the system (Muldoon 2014). However, even as Foucault sought to escape from Hegel's grasp, he recognized the German idealist's enduring influence on critical thought. In his inaugural lecture at the Collège de France, Foucault famously quipped, "We have to determine the extent to which our anti-Hegelianism is possibly one of [Hegel's] tricks directed against us, at the end of which he stands, motionless, waiting for us" (cited in Gutting 2005: 73n42).

that retribution necessarily entails carceral severity. As noted below, the scale of responses to crime are not determinately established in opting for a retributivist logic of punishment. Societal reaction could remain modest, moderate, and mild, even under a logic of retributivism.

In clear opposition to the modern tradition of normative theorizing of legal punishment, Hegel does not believe that a given modality or quantity of punishment can be derived from armchair speculation alone. Punishment is a “positive” practice, that is, a social product of negotiation and contestation (Hegel [1820] 2008: 100). This is so because the subjective appropriation of crime—how we view crime—is only partly explicable by way of reference to the act itself. To understand why some crimes are viewed as more serious than others and why these perceptions fluctuate between societies and over time, we must engage in a social anatomy of the society in which the act occurred: we need to move beyond the act itself. The seriousness we accord crimes springs only in part from the thing-in-itself, the action in its own bare, universal existence – as noted above, its status as a particular sort of action that involves the negation of others’ rights. It also, crucially, arises out of a complex series of social negotiation and productive contextual factors. While Hegel thinks we can develop conceptual distinctions that allow us to definitively say that robbery is qualitatively more serious than theft (Hegel [1820] 2008: 99), he recognizes that many of the “qualitative characteristics” we accord types of criminal acts, only arise out of contingent social relations. Perceptions of criminal dangerousness, for instance, are epiphenomena of wider societal relations, instead of being the product of the pure “concept” of the act itself.

In this respect, Hegel’s approach allows us to view the dynamic of crime and punishment as taking place within a mediated space. To reframe the issue in Bourdieusian terms, these phenomena are embedded in and mediated through social fields. At a conceptual level, robbery may always be more serious than theft (because robbery involves a form of direct “personal violence” that theft does not), Hegel ([1820] 2008: 99) suggests, and murder is always more serious than robbery (because it is the negation of life, which is inherently more valuable than property, due to its capacity to embody *Geist*). In other words, we can develop a graduated scale to qualitatively differentiate between criminal acts, and we can do so with basis in the “concept” of crime and each sort of crime. However, what we cannot do is conceptually determine the boundary markers demarcating the scale of severity at the minimum and maximum points, nor can we theoretically establish the distance between the intervals on this scale. How much

more serious murder is than robbery, for instance, is not a conceptual question but a contingent, “positive” (in the sense of being *posited*) function of social contestation. It is a product of the conflictual dynamic of social fields over time. The problem for a sociology of crime and punishment, then, is to study the internal motion of such fields, with the aim of comprehending the ebb and flow of the perceptions of and reactions to acts considered criminal.

Additionally, however, the crucial dialectical, Hegelian inversion is to recognize that, while social designations given to such actions and the reactions they produce are not totally arbitrary, the acts do possess a “concept,” imbued with a particular materiality, that is itself an agent capable of exerting force in the carceral field.

The purpose of all theorizing, as Deleuze and Guattari (1994) note, is to forge new concepts. On that test, Hegel’s conceptualization succeeds, for it allows us to unpack one of the truly central insights in the science of crime and punishment: the relative, but not total, disconnection between crime and punishment (Clear and Frost 2014: 7-8; Garland 2013: 12-13; Zimring 2007), that is, their relatively free-floating status, allowing each term to vary relatively independently from each other – what Wacquant (2009b: 61) calls the crime-and-punishment “disconnect.” Crucially, Hegel allows us to think the notion of *carceral salience*, viz. that a given amount or type of crime is not in itself sufficient as an explanation of high-punitive or low-punitive outcomes. The notion of carceral salience foregrounds the societal *appropriation* of criminal events or crime trends and the *modulation of responses* to such occurrence by the state. Certain institutional, cultural, and socioeconomic arrangements produce resistance to salience. But it remains widely manipulable. Carceral salience is to some extent a free-floating space of social signification.

Evaluating goodness

The carceral field is being filled with seemingly novel techniques of control and supervision, from open prisons to electronic monitoring, allowing inmates to live at home rather than reside in prison. This latter innovation in criminal justice supervision, almost universally lauded by prison-averse elites for offering a “better solution than jail time” (see e.g. West 2015), causes disciplinary power to seep out from the cracks in the walls of prison’s legitimacy and circulate throughout the body politic, where it has gained unprecedented currency for its capacity to supplant the apparently outmoded disciplinary technology that is the prison. What would Foucault make of such a technology? The

French philosopher might agree with the assessment that this apparently ameliorating technology provides little more than the comforting sheen of post-carceral carcerality.

After all, Foucault was one of the thinkers of the twentieth century who went farthest in denying the validity of such comparative exercises. In a lecture on “alternatives to the prison,” Foucault ([1976] 2009) asserted that the experimental or “model” prisons that came into vogue by the mid-1970s—the sorts of small-sized, labor-oriented, and relatively permeable prisons launched by Swedish authorities, for instance—represented nothing more than the *dissemination, not the decline*, of discipline. Foucault offered a triple critique of (Swedish) open prisons: first, they established labor as the primary means for redeeming and rehabilitating the offender; second, they were premised on “refamilialization,” the idea that the family constituted a forceful bulwark against delinquency and crime; third, they offered participatory programs, such as inmates’ councils, that effectively forced inmates to accept the legitimacy of their custodial sentence. In short, model prisons valorized wage-labor, aggrandized the family, and manufactured docile bodies – and they performed all these functions even more effectively by adopting the guise of an unorthodox, daring, and defiant alternative to the staid, vengeful, and austere penalty of past centuries. By disavowing the punitiveness of their disciplinary regimes, these prisons could discipline all the better: “These are the old carceral functions that are at work still, and even more emphatically, in establishments that no longer resemble the prison and are labelled as alternative” (Foucault [1976] 2009: 16). Similarly, one of Foucault’s admirers, Gilles Deleuze (1992: 4), also denies the possibility of determining “which is the toughest or most tolerable regime” of control in modern societies, claiming that all institutional modalities contain the possibility of equivalent degrees of liberation and domination. In a critique of the anti-psychiatry movement to close state hospitals, Deleuze asserts that alternatives to hospitalization, such as community clinics and hospices, “could at first express new freedom, but they could participate as well in mechanisms of control that are equal to the harshest of confinements” (Deleuze 1992: 4). Such criticisms inject a note of sober realism into otherwise giddy accounts of post-carceral innovation and reform. But they go too far in the direction of evaluative agnosticism.

What should trouble us is that Foucault’s account is marred by a certain *myopic cynicism*, the sort of cynicism so resoundingly rejected in Sloterdijk’s ([1983] 2005) magisterial work on the proliferation of cynical reason. It is *cynical* because Foucault remained excessively doubtful of the sincerity (or possibility) of attempts to improve

lives that really are in some instances marked and mutilated by hardship and domination. As Shapiro (2012) forcefully demonstrates, Foucault remains immune to the notion that power can contain a constructive positivity. Foucault's argument hinges on power's constructive negativity, with the process of subjectification, that is, the capacity to establish and reproduce subjectivities, read in terms of negativity. "Foucault's work fails to differentiate among illicit uses of power," Shapiro (2012: 314) observes. "In his terms, he does nothing to help us distinguish among more and less malevolent forms of domination." Some rehabilitative programs, counseling interventions, and therapeutic systems really do promise improvements to the human condition, a view that Foucault could never accept owing to his axiomatic aversion to the humanist ethic, a trait he shared with the wider French philosophical field of the 1960s (see Ferry and Renaut 1990). It is *myopic* because Foucault's analytic gaze is trained on the micro-level institutional parameters of prison life to the exclusion of elements of a broader configurational space of penal intervention, that is, a properly *political economy* of punishment.

Ground-level modalities of punishment are always enmeshed in a wider fabric of discipline; it is peculiar that Foucault, the preeminent theoretician of capillary power, should betray ignorance on this point in his critical lecture on alternative penalty: open prisons, such as those found in Scandinavia, were part and parcel of a wider penal system that remained modest in scale and scope, as shown by circumscribed rates of incarceration, largely owing to a protective and generous welfare state (largely rejected by Foucault as mere instruments of biopolitical power), a consequent absence of extreme commodification of the lifeworld, and reticent sentencing practices arising out of a tolerant penal culture. Perhaps the central problem with Foucault's account is that he runs roughshod over the experiences of inmates themselves, a curious position for a scholar who long enjoyed the symbolic profits attached to his work for the *Groupe d'information sur les prisons* (see Welch 2011), the organic intellectual deigning to participate in prisoner-run activism: what if the inhabitants of these model prisons really did find them to be an improvement over life behind bars in more conventional institutions? While recognizing that there can exist no objective, transhistorical, and universally valid point from which to evaluative differing institutional practices, one should be cautious in taking the road of evaluative agnosticism. Reducing all institutional forms to equivalence because no such transhistorical point of evaluation is forthcoming leads to untenable social consequences. If all subjects are cast in the mold of power, that is still no reason to avoid a critical labor in pursuit of the minimization of domination by standards immanent

to a social space. But neither does it mean that those given standards should be taken for granted or accepted in their transmitted form. They can be subjected to critique also. Both programs are possible: the critique of domination – and the critique of the critique of domination. This movement—a movement characterized by infinite regress and the absence of logical closure—is no more than the struggle over the right to wield symbolic power. In other words: politics.

V. Bourdieu's five lessons for criminology

Bourdieu did not write extensively on those empirical issues that vex criminologists and take up their research efforts. On occasion, his writings did touch on topics directly relevant to professional students of crime and punishment. For the most part, however, Bourdieu was preoccupied by social phenomena only circuitously related to the immediate concerns of criminology – inequality, the state, embodiment, and social domination, to name but a few themes in Bourdieu's sprawling oeuvre. One exception to this tendency was the collaborative volume, *The Weight of the World*, published to public acclaim in France in 1993, which tackled such issues as urban malaise, street crime, and policing strategies (Bourdieu et al. 1999). It was inspired by Bourdieu's desire to portray suffering in all its depth and richness – this “naively ethical feeling” (Bourdieu and Wacquant 1992: 202) that the state's withdrawal from the duty of decommodification was embroiled in the production of social misery, connected Bourdieu's critical investigations of education, culture, and consumption to a broader theoretical framework for counteracting social domination through a systematic exposition of social suffering (*souffrance sociale*).

This conceptual move was presaged by Bourdieu's turn to political activism in a post-Reaganite-Thatcherite era of heightened neoliberalism. Abandoning the ideal of “pure” science for a committed sociology of practice, Bourdieu formed links with social movements, such as trade unions opposed to the flexibilization of the labor market, and José Bové's agricultural workers' movement that opposed the tenets of the Washington Consensus. Through such actions, Bourdieu increasingly attacked the diffusion of neoliberal policies, including notions such as “zero tolerance,” which was included in a critique of neoliberal rhetoric, which Bourdieu believed amounted to nothing less than a “new planetary vulgate” (Bourdieu and Wacquant 2001: 2). In short, Bourdieu attempted to counteract the establishment of a novel political economy premised on a deregulated state and the accelerating commodification of daily life in place of a protective and generous (Keynesian) welfare state. Bourdieu also attempted to construct a more participatory and democratic social order—as in Bourdieu's support of the heterodox political movement of Coluche, a professional clown who ran for office in the 1980s in defiance of an increasingly insular class of political operatives in France—that aimed to forge a space where ordinary citizens could overtake the instruments of decision-making.

Even if Bourdieu did not write about crime and punishment *directly*, his state-centered analyses (e.g. Bourdieu 2014) were always *indirectly* related to various social pathologies – and therefore, tangentially, revolved around the possibility of crime and delinquency broadly conceived. With the neoliberal retooling of the state, for instance, Bourdieu thought violence and crime would become more probable: “You have to read the very realistic descriptions that Loïc Wacquant and Philippe Bourgois have given of daily life in Chicago and Harlem,” Bourdieu (2008a: 202) said in an interview, “to discover what are the concrete consequences of a total retreat of the state.” A “minimal state,” Bourdieu said, was a state of dangerousness, a lack of limitation on violence, “a war of all against all, such as previously existed only in the imagination of Hobbes” (Bourdieu 2008a: 202-203).

Bourdieu’s notion of social suffering should be understood as those harms, injuries, and travails so often ignored in the cost-benefit analyses of the post-universalist regime of welfare capitalism. It became important to Bourdieu to elevate social suffering to the central orienting device of his sociological investigations in the 1990s because it promised to provide a more complete account of social life: “If our technocrats took up the habit of bringing suffering in all its forms—economic and otherwise—into the national accounts, they would discover that the saving they thought they were achieving was often a very bad calculation” (Bourdieu 2008a: 204). This, then, was the unifying signifier that synthesized half a century of epistemic interventions, critical inquiries, and political actions: social suffering, a primary marker of social domination, was the common thread that unified politics and science, journalism and sociology, that brought together the various social-scientific subdisciplines into a symphonic unity.

If Bourdieu’s multifaceted body of work is worth dwelling on, it is because it offers a series of instruments and concepts that, when used properly, prevent the commission of multiple fallacies and errors of thought in research practice – errors and fallacies, moreover, that abound in the contemporary production of criminological knowledge. Briefly, then, the central lessons Bourdieu can offer criminologists are as follows: (1) Always historicize. (2) Dissect symbolic categories. (3) Produce embodied accounts. (4) Avoid state thought. (5) Embrace commitment.⁹ Below, these densely-

⁹ I hasten to add that these are not the *only* criminologically oriented lessons that one might extract from Bourdieu’s works. Others may uncover other lessons that are additionally productive for conducting

worded lessons are expounded upon, with theoretical implications and illustrative examples offered.

Lesson one: Always historicize

First, criminologists should *always historicize* their objects of study. Only by showing how phenomena are situated in a historical context—how they are shot through with the accumulation of historic events—can one initiate the long and painstaking process of denaturalizing the socially given, uncovering the layers of contingency and construction that coalesce to produce pre-fabricated, ready-made objects that social-scientific analysts are liable to accept in their given state.

The attempt to “historiciz[e] reason” (Bourdieu and Wacquant 1992: 94) was a central theme in Bourdieu’s work. Bourdieu’s position is a broadly Hegelian one (see Redding 2005). Stated simply, for Hegel, “a thing is the thing that it is” because of the “set of relations in which that thing is positioned,” in Fritzman’s (2014: 12) words. This relationalist view accords well with Bourdieu’s position. On Bourdieu’s view, the human sciences have failed to historicize reason thoroughly and consistently. Philosophers, in their readings of the canonical masters, often effect a “dehistoricization through eternalization” by engaging in “atemporal” readings of key works (Bourdieu and Wacquant 1992: 153). Economists often fail to analyze how key notions, such as preferences and rationality, come to be historically produced (Bourdieu 2000b: 159-160). For example, economists may dismiss practices as irrational, all the while failing to recognize how these practices arise naturally within the contours of their practical reality. Literary writers are only comprehensible when their practices are situated in a particular field—that is, a semi-autonomous space of agents competing to capture profits specific to that space and who are simultaneously transformed by living out their lives in that space (Hilgers and Mangez 2015)—a concept that in itself thinks historically (Bourdieu 1995). Social scientists, too, are historical creatures, inculcated with specific practices and acting as bearers of knowledge that is structured and situated in a specific time and place (Bourdieu 2004). Ironically, historians are among the foremost group of scholars to be censured for their “ahistorical” writings and their “dehistoricized usage of the concepts they use to think of the past” (Bourdieu and Wacquant 1992: 94). For instance, writing

research. Great thinkers offer manifold lines of flight, and the greatest of them resist all efforts at canonical interpretation and the formation of staid orthodoxies.

the history of a single nation over the long-run is problematic in so far as it has undergone such profound changes that its point of origin and destination are widely divergent. One might ask, for instance, how one could write a history of the United States of America from 1776 until the present day, when over this time period its population has increased more than hundredfold and its territorial sweep has expanded from thirteen colonies to a geographic expanse stretching between the Atlantic and Pacific coasts and beyond. Historians often fall prey to ahistoricism by failing to interrogate the fragmentation of their objects over time, which they instead posit as unitary.

In the realm of social science, Bourdieu's "radical historicization" (Bourdieu and Wacquant 1992: 189) was premised on two insights. First, reason itself is only exercised in a historical condition, thereby becoming ineluctably embedded in a particular condition of science or space of scientific practices, which mandates a reflexive "science of science," or, more specifically, a "sociology of sociology" (Bourdieu 2004), that is, an investigation into the conditions of scientific production and how the makers of this knowledge are themselves produced. Second, the objects of social science are themselves historical: institutions do not arise out of thin air, and it is the historical constitution of the subject—through the intertwining of societal history and personal history—that gives rise to particular actions in society. Historicity makes itself felt in both the production of the analyst and the analysand, the scientist and empirical object – and so must be brought into the analysis.

This has important ramifications for a critical reading of contemporary criminology. One case in point: Sayad (2004) draws attention to a fundamental point often ignored by social science, namely, that *immigrants* are always simultaneously *emigrants*, that is, that arrivals in one social space are always departures from another. This deceptively elementary insight contains the potential to defuse all manner of politically charged misreadings of immigration by emphasizing the ways in which conditions of departure are themselves embroiled in, on the one hand, the structured lifeworlds of sending nations—for instance, how the notion of "Syrian refugees" conceals the multi-layered differentiation of a national population by the cleavages of class, ethnoraciality, religious affiliations, sexuality, and so on—and, on the other hand, those political actions committed by receiving nations in sending nations, as with the so-called "European migrant crisis," which by the mid-2010s saw the influx of millions of refugees from Libya, Afghanistan, Iraq, and Syria to Western Europe, in large measure the predictable products of three major military incursions in the Near East and beyond over

the past decade-and-a-half committed by various constellations of NATO member states, and the vacuum of power left in their wake. If the concept of “the immigrant” is flawed, then, it is because it effectuates a denial of the historicity of the object, a conscious denial of the temporal trajectory that constitutes the phenomenon.

Unfortunately, criminologists are adept at ignoring this lesson, if they were ever taught it. Gottfredson and Hirschi’s (1990) influential “self-control theory” decontextualizes and universalizes the very concept of crime, attempting to construct, in circular fashion, a “definition of crime consistent with the phenomenon itself” (Gottfredson and Hirschi 1990: 3), in which the *positive* (societal) definition of crime is ignored in favor of a retreat into *natural law*: crime is arbitrarily defined as “acts of force or fraud undertaken in pursuit of self-interest” (Gottfredson and Hirschi 1990: 15), an act of scientific violence necessitated by an attempt to construct a “general theory of crime” founded on a universal cogito, a socially-denuded agent stripped of contextual attachments, or the individual as non-historical man. This artificial subject, suspended in a non-social void, is assumed to act in violation of a socially unreal definition owing to an absence of “self-control,” a capacity to hold personal impulses in check.

The problems with this approach are multiple. First, Durkheim emphasized that the social definition of crime—inherently non-universal because it arises out of a configuration of social space—must be the basis for a properly sociological analysis of offending: to take any other definition as one’s outset means that the mechanisms one uncovers have no intrinsic connection with events in social reality, the *explanandum* being little more than a posited artificiality that is not coterminous with crime in its actuality. Second, the institutional process by which a legal definition of crime comes to be enacted—police strategizing, prosecutorial actions, judicial decision-making, to name but a few relevant stages—is entirely ignored in this asocial account. It ignores what one might term the *political economy of punishment*, the dense network of logics, practices, institutions, and agents that coproduce the translation of vaguely felt social mores into a clear-cut *practice* of legal punishment. A universalizing theory cannot ignore these particularities because these particularities are inherently embedded in the proper sociological explanandum as it actually comes to exist in social reality. Finally, it relies on an individualizing, moralizing, astructural, if not actively *anti-structural*, vision of social action. One sympathetic supporter of self-control theory must be lauded for their credulous encapsulation of the central representation of the offender underpinning this theory of criminality, positing “an egocentric, poorly tempered individual who perhaps

above all other factors demands immediate returns from social interactions and has neither the wherewithal nor the skill set to wait for longer returns” (DeLisi 2013: 265). This is only the most forthright expression of a conceptual vocabulary centered on individualization, and moralization, and the blaming of victims, a lexicon characteristic of various “developmental” approaches to crime and punishment.

A general theory of crime—modeled on a form of social physics—remains a conceptual impossibility in the sociology of illegality because crime does not itself exist in generality: it only exists in a situated and specific space of practices suffused with historical contingency. Actions come to be classified as criminal in historically determinate ways and in ways shaped by already-existing relations in social space; the very notion of “crime” changes meaning over time and across space. And yet Gottfredson and Hirschi’s (1990) “general theory” would study them all as so many “offenders,” “persisters,” and “desisters,” in the name of a falsely universalizing optic.

The bureaucratic field is a powerful historicizing factor in matters of crime and punishment: it enacts legislation, creates regulations, oversees court decisions, and strategically allocates resources of surveillance. In the United States, this is most clearly evidenced by penal expansionism (Garland 2001) at a time of rapidly declining crime rates (Zimring 2007). While much of the Western world was in the throes of the war on drugs in the 1980s, statistics released after the collapse of the USSR showed that in the Soviet Union, less than two percent of all recorded crimes were classified as drug-related (Butler 1992: 154). A United Nations Office on Drugs and Crime (1990) survey showed that Russia (then RSFSR) experienced some 21,971 drug crimes in 1986, while Australia, with around one-ninth of the population, recorded nearly three times the number of drug offences in absolute terms: some 62,333 drug crimes that same year; similarly, Sweden, a society with a tiny fraction of the population of Russia, recorded almost twice the number of drug crimes as Russia in 1986. Such disparities very probably reflect differences in state strategies of categorization and prosecution. It is impossible to understand such phenomena stripped of institutional accounts. Understanding Sweden’s drug offenders would require studying the turn from rehabilitationist “harm reduction” in the 1960s and 1970s to “zero tolerance” and “punitive prohibition” policies in the following decades (Bewley-Taylor 2012: 62). To study “crime” and “offenders” is therefore simultaneously to study shifting historical webs of social relations.

Such a perspective squarely contradicts the tacit assumptions of dominant approaches in contemporary studies of deviance, including the “life-course” school of

criminology. Sampson and Laub (2003) present a curiously timeless analysis, shorn of institutions, of a historically situated sample first constructed by the Gluecks: 500 male “nondelinquents” and 500 male “delinquents” born between 1924 and 1932 in central Boston. The authors present “individual risk factors” as key ingredients in the production of crime, all the while neglecting the very configurations of social space that produce the definitions of crime. Even amateur historians would recognize that the cohorts’ years of birth warrant at the very least a passing mention to that deepest crisis of the US economy in the twentieth century, the Great Depression, resulting in double-digit unemployment, widespread poverty – and, later, generous public spending through the expansive, decommodifying welfare provisions of the New Deal. Surely these factors must have had a profound effect on the life chances and “criminality” of the Gluecks’ original sample of men, as must the peculiarities inherent in the ways delinquency was defined in the first half of the twentieth century in the United States. But these issues are curiously absent from Sampson and Laub’s (2003) search for decontextualized and largely ahistorical “risk factors.”

Life-course criminology has a curious tendency to suspend offenders in abstraction, decoupling them from their material-symbolic environs. Tellingly, their grounding in an existing social reality is held forth as a *flaw* to be minimized or eradicated, as when Carlsson (2012: 931) observes that “the obvious limitation of the sample [...] [is that] the study is based on Stockholm-born, lower-class males only” and the “men are in their 60s,” making it difficult to project findings to “the lives and narratives of younger offenders.” Such factors might be considered not limitations but *essential components* of a study of crime. Understanding what makes people commit and stop committing crimes demands paying close attention to the *circumstances* of their lives in the fullest sense. Understanding criminal offending among males in their 60s from lower-class origins in the capital of Sweden would require studying the contours of social democracy, the historic origins of the de-commodifying Nordic welfare states, the condition of Nordic penal exceptionalism, police strategizing, the state of labor markets and universal educational opportunities, to name but a few relevant domains and practices: in short, the condition of a series of fields that envelop and enmesh the individual. By removing the properties of the phenomenon *in situ* one yields, paradoxically, a study that is non-generalizable and yet also generates a “false universalization” that arises from bracketing off all historical context (Bourdieu and Wacquant 1999). The suggested tension between situated lives and abstracted

generalization, which Carlsson (2012: 933) briefly describes in concluding remarks as the “intersection of biography and structure in practice” and the “interactional process between the individual and his or her environment,” threatens to undermine the durability of the life-course enterprise because to take social space seriously is to accept the untenable nature of the proposition that “desistance” is a property of the universal *cogito*.

Lesson two: Dissect symbolic categories

Second, criminological investigations should begin by conducting a sociology of the category. Bourdieu’s sociology concerns itself centrally with the production and circulation of categories, understood as *symbolic representations* of entities and phenomena in social life or *principles of vision and division*—ways of seeing and acting—that provide the perceptual basis for material action. Categories are modes of seeing. But modes of seeing also become ways of acting. They are among the prime movers of social action—the fuel that fires social dynamics—and are among the central stakes (*enjeux*) of agonistic struggles ongoing within fields: agents contest the right to define what should count as dominant categories.

Studies of the political economy of punishment are often studies of categories by their concern with structured ways of perceiving and acting upon offenders. Wacquant’s (2009b: 209-242) social anatomy of the category of the “sex offender” and its entanglement in hyperincarceration is a paradigmatic example of how symbolic representations come to mobilize material action, and how understanding the latter without dissecting the former is a conceptual impossibility. Pratt’s (2008a, 2008b) work on penal exceptionalism demonstrates how the relatively low incidence of punishment in the Scandinavian societies is propelled by a category of the offender that is said to remain within the communal folds of relatively egalitarian societies. Beckett and Herbert (2010) show how “banishment” orders and a policy of urban exclusion are made possible by the production of a category of undesirables and disreputables, capturing impoverished and stigmatized minorities, vagrants, drifters, drug users, and the homeless.

There are, however, those who perform a sociology *in the aegis* of the category rather than performing a sociology *of* the category, that is, studying phenomena that are suffused with categorical traces while failing to take heed of the process of production of categories. Such studies are liable to commit the fallacy of *substantializing* entities manufactured by dominant social agents, turning their objects of study into naturally occurring substances, while denying their embeddedness in a process that manufactures

particular representations. Substantialization is the cornerstone of *sociodicy*, that is, a naturalization of the present order, a “legitimation of the social order such as it is” (Bourdieu 2014: 160). To Bourdieu, a proper understanding of categories is a necessary step in a sociology deserving of its name; a failure to recognize the efficacy categories is the very basis of sociodicy.¹⁰

Consider an example from parole hearings in California, studied by the author in a different research context.¹¹ Here “lifers”—prisoners with indeterminate sentences that include the theoretical possibility of incarceration for life—must demonstrate to the parole board that they no longer pose a threat to the world at large. Self-prostration has become one of the primary (unconscious) linguistic-behavioral strategies adopted in demonstrating “insight” into one’s former vices and deficiencies. When asked to describe himself at the time of the commission of his “life crime” (the crime for which he was serving an indeterminate life sentence), one inmate said, “I was cruel, I was careless, I didn’t care about anybody. I didn’t care about myself. I was reckless. I was a monster back then.” When asked by the parole board to specify these “broad terms” in greater detail, the inmate recounted a list of depravities: he was angry, cared about no-one but a close family relative, and was addicted to drugs. “I guess you could say I was a parasite.” However, these self-flagellating maneuvers must be performed with great care, for if the inmate emphasizes their defects too emphatically, they are liable to be perceived as presenting “continued dangerousness”: excessive prostration before the board is either indicative of a diminished self-worth (considered a risk factor) or creates the impression of an essential, incorrigible wickedness that is not amenable to therapeutic interventions. One inmate was asked to explain why he had committed one of his crimes, to which he replied self-effacingly, “Because I was a piece of shit.” This fired up the parole commissioner, who reacted with indignant, paternalistic rage: “No, we’re not going to call you a piece of shit in this room. [...] We don’t use those words against people.” A sociological analysis of parole hearings must anatomize the central symbolic categories of

¹⁰ One might summarize this view along two chains of equivalence:

(1) acategorical = substantialization = naturalization = sociodicy

(2) categorical = relationalism = denaturalization = sociology

¹¹ All quoted extracts are derived from the author’s own field notes and from official transcripts published by the California Department of Corrections and Rehabilitation’s (CDCR) Board of Parole Hearings (BPH) division. These materials were gathered in the context of another study that investigates parole hearings for indeterminately sentenced “lifers” in California.

insight and dangerousness, exploring their internal constitution and role in structuring the life chances of inmates partaking in these bureaucratic spectacles. The individualizing-moralizing categories of California parole boards simultaneously reflect, fuel, and feed off the anti-historicist, substantializing categories deployed by orthodox criminology: the parole board's tendency to reduce all explanatory justifications to the level of the individual offender partakes of the same ideological moment as that of self-control theorists that deny the structuring import of extra-individual properties.

Lesson three: Produce embodied accounts

Third, social agents are corporeal agents: the locus of social action is not the rational-calculating brain but an embodied being, a “sensate, suffering, skilled, sedimented, and situated, corporeal creature,” in Wacquant’s (2015: 2) terse formula. In an arresting image, Hegel noted that students of human behavior should take heed of the organic totality of social action: “A chemist puts a piece of meat into his retort, tortures it in many ways, and then says that he has found that it consists of nitrogen, carbon, hydrogen, etc.,” writes Hegel ([1817] 1991: 297). “But these abstract materials are no longer meat.” Similarly, Hegel notes, an empirical psychologist may separate human behavior into its component parts—the metaphor Hegel uses is that of an onion whose multiple layers have been peeled back—and mistaking the reality of such behavior for the sum of its individual elements viewed in isolation. An emphasis on the embodied nature of experience means precisely not trying to hold on to these elements “in their separation from one another” (Hegel [1817] 1991: 297), that is, appreciating the flesh-like quality of the object being studied—its meaty reality, one is tempted to say—to follow Hegel’s initial image.

The notion that experience is ineluctably corporeal has important implications for the sociology of punishment, particularly for those students of rehabilitative interventions who have neglected to realize that what these programs must do is *rehabituate* the offender, that is, instill a new habitus, a new mode of “corporeal reason,” to use Hardt’s (2007: x) pointed term, a move that itself faces a challenge of extreme statistical improbability. Bourdieu (1990: 68) likens the attainment of a new habitus to a “second birth.” To take an illustrative example from the world of academe: the economist Paul Samuelson (1997: 159) famously noted that economics advances “funeral by funeral,” a Kuhnian argument that scientific commitments are so inbuilt that only the brute fact of mortality can clear the way for new modes of embodied belief.

In 2014, Lutfi Bin Ali, an Italian citizen born in Tunisia who had been held at the US detention camp at Guantánamo Bay for nearly a decade-and-a-half, was released from the custody of the US Department of Defense (The Guardian 2016b). Bin Ali spent 13 years at Camp Delta before the US Department of Defense concluded that “based on the detainee’s health status, intelligence value and risk level,” he was to be “released or transferred to the control of another country for continued detention” (Wikileaks 2016). A reporter from *The Guardian* interviewed Bin Ali after his transfer to a remote region of Kazakhstan, where he had been required to live as part of his release conditions. Bin Ali provided a stark account of his new existence: upon arriving in the former Soviet republic, “still in Guantánamo flip-flops, because none of the shoes they had were big enough,” he discovered that “it was minus 30 outside” and that he was to be housed in a dusty, desolate village near a former Soviet nuclear testing site. Now in his early 50s, with no passport, only Kazakhstani identification papers (erroneously) stating that he was “a person seeking refugee status,” lacking contact with a local population who feared a man long branded a “terrorist,” and denied permission from local authorities to pursue his life-long dream of opening a restaurant, Bin Ali was trapped in the stasis of a purgatorial quasi-prison. Shockingly, considering a future in isolation and without hope, stranded on the steppes of Kazakhstan, he seemed to long for his old life in Camp Delta: “At least in Guantánamo there were people to talk to. Here I have nobody.”

The following year, one Albert Woodfox, an inmate in Louisiana who had spent 43 years in solitary confinement, was released from the Louisiana State Penitentiary, also known as Angola Prison (The Guardian 2016a). Woodfox spoke of a life passed largely without human interaction. Reporting on a series of mind-numbing details of daily life—“the absence of human touch, the panic attacks and bouts of claustrophobia, the way they chained him even during the one hour a day he was allowed outside the cell”—a journalist noted that perhaps the most surprising aspect of Woodfox’s recollections was how, two months after his release, the former Angola prisoner still occasionally longed for his former existence. When asked whether he missed the confines of his old cell life, he exclaimed, “Oh yeah! Yeah!” before continuing: “You know, human beings are territorial, they feel more comfortable in areas they are secure. In a cell you have a routine, you pretty much know what is going to happen, when it’s going to happen, but in society it’s difficult, it’s looser. So there are moments when, yeah, I wish I was back in the security of a cell.”

These vignettes are suggestive of the forceful manner by which social agents come to be stamped with the imprimatur of a disciplinary state and turned into bearers of a specifically *carceral habitus*, a set of corporeal dispositions characteristic of those having passed through institutions of legal punishment. Both cases illustrate the validity of the concept of “pains of freedom” developed in Article 1 (see also Crewe 2011). While common sense might suggest that liberty would always be preferable to confinement, the tragic dimension of a particularized carceral habitus, however, is that the very capacity to enjoy freedom is broken or perturbed. Bin Ali and Woodfox had been *rehabilitated*, acclimated to the harsh realities and close constraints of discipline and punishment – and if adjusting to life outside Guantánamo and Angola was proving so difficult, it was because they were faced with the imperative of adopting a new habitus, an improbable retooling of the body for new uses. Little wonder, then, that their statements should be so surprising, nay, even shocking, to those accustomed to the orthodoxies of liberal theory, positing a human instinct for liberty: for those who have not been stamped with a carceral habitus cannot really understand what the world looks like from its viewpoint, equipped, in Hobbes’ ([1651] 1985: 81) phrase, with the “springs and wheels” of a distinct bodily relationship to the world. But one can try.

A reconstructed sociology of punishment should anatomize the formation of a carceral habitus. These dispositions are among the primary mechanisms by which former inmates are prevented from participating in conventional social life, including the labor market. This is why all manner of reintegrative policies aimed at the *formal* dimension of the former convict’s life chances—such as the “ban the box” initiative in the United States, aimed at preventing (federal) employers from inquiring about an applicant’s criminal record—while important in their own right, do not strike at the dispositional dimension of the former convict’s being-in-the-world, which ensures that the “mark of a criminal record,” to use Pager’s (2003) term, is not so much a technical-bureaucratic sign as a set of interactional stigmata borne by the body and evidenced by a set of devalORIZED gestures, postures, mannerisms, and utterances.

One cannot determine a priori the contents of the carceral habitus, engaging in pure theorization *in abstracto*, from the comfortable repose of armchair speculation; a habitus is not a “universal and unhistorical subject,” to borrow Foucault’s (2000b: 335) remarks on the universal Cartesian ego, a category so general that it is “everyone,

anywhere at any moment.”¹² Rather, the proper terrain for excavating the carceral habitus is the site of punishment itself – the individuals and institutions subjected to punishment. It is a concept that prevents the fallacy of false universality, that is, the projection of particular knowledge in the form of generalized universality, characteristic in particular of studies of prison life based in leading nations, what Bourdieu and Wacquant (1999) termed the “cunning of imperialist reason,” that take a definite empirical locale, equipped with a definite political-economic regime, as the tacit or explicit premise for theorizing the social world. The carceral habitus must be specified in theoretical terms that balance between permeability and closure: it must be narrow enough to be useful as a conceptual tool and wide enough to possess applicability to a sufficient range of empirical domains.

A carceral habitus has four fundamental properties. First, it is *non-universal*. The carceral habitus varies at different levels of social magnification. As Bourdieu points out, different formations of habitus can congeal and coalesce at a variety of ontological levels: institutional, occupational, local, regional, national, civilizational, and so on. And so, too, there may be a specific carceral habitus that obtains—that is massaged, manipulated, and manufactured—in particular wings or units, correctional facilities, state prison systems, and nationally-bounded political economies of punishment. Second, it is *durable*. The carceral habitus has longevity. Once stamped onto agents, it gains a life of its own, achieving an objectivity that is not easily undone. It is the durability of the carceral habitus that accounts for many of the difficulties confronting former convicts in adjusting to the expectations of conventional life, including the strictures of familial relations and the discipline of wage labor. Carceral institutions typically instill categories, dispositions, and affective structures that are at odds with life in the wider world. What is required is not so much rehabilitation as *rehabitation*, a remaking of the habitus, a transformation made even more improbable by the very durability of the corporeal self. Third, it is *dispositional*. The carceral habitus generates activity according to a probabilistic tendency to commit to particular courses of action, a set of “incorporated dispositions, or more precisely the body schema” that is “capable of orienting practices in a way that is at once unconscious and systematic” (Bourdieu 1990: 10). It is contrasted with strategic, rational, calculating models of human action that rely on hyperagentic agents capable of precisely

¹² It would be preferable to maintain the indefinite form: *a* habitus, not *the* habitus. To speak or write with the definite article runs the risk of establishing a universal concept. The indefinite article seems to connote contingency and variability. For stylistic reasons, this strict usage cannot always be maintained.

evaluating the costs and benefits of different courses of action. Finally, it is *state-centric*. The state is the prime mover of social life, on Bourdieu's (2014) account. The "search for the place where the true identity of social agents is defined" when conducted by sociologists will lead to a "central place where the resources of legitimate authority are concentrated," and this place, Bourdieu (2014: 68) writes, "is the state." The state is the entity that gets the social game off the ground: even apparently state-free markets are really suffused with the values, operations, preferences, policies, and interests of the state (Bourdieu 2005). The carceral field is a space that is almost totally traversed by an operant state, an entity that seeks to modify behavior through its continuous activities.

The concept has existed for a long time in one form or another in the sociology of incarceration. Clemmer's (1940) notion of "prisonization" and Sykes' (1958) concepts of "inmate roles" are tangential to the substantive orientation of the concept of a carceral habitus, even if the former is over-universalizing, positing that processes of adaptation to prison environs are identical across the domain of diverse penal institutions, while the latter is marred by structural-functionalist commitments, imagining human action to be restricted to the unfolding of unitary and static categories of behavior. Pratt (2002: 148) skews the concept toward the level of macroscopic social structures, writing of a discernible "shift in the penal habitus" of entire societies, by which is meant the average social attitudes toward crime and punishment in specific societies. In this way, Pratt forecloses the deployment of the concept to analyze the micro-level of carceral life.

More useful is Caputo-Levine's (2012) notion of a "carceral habitus," understood as a bodily set of dispositions encapsulated by the notion of a "yard face," a bearing-in-the-world allowing inmates to navigate hyperviolent and hypermasculine penal institutions (and which, negatively, carry over into extra-penal interactions, causing all manner of troubles in everyday situations and relations to employers, friends, and family). But Caputo-Levine also commits the paramount mistake of overuniversalizing the partial experiences of a single, singular correctional facility in the United States, determining at the level of theory what should be left to empirical specification: "The carceral habitus enables the inmate to respond in the same manner to the high levels of interpersonal violence that are present within the prison" (Caputo-Levine 2012: 169). Clearly, if the carceral habitus is to be so narrowly understood, it fails to make sense of social action in penal domains lacking those attributes, such as the more pacified, irenic prison regimes existing in northern Europe, to take but one example. A carceral habitus need not contain a "hyper-sensitivity to physical space" stemming from "the danger of interpersonal

violence” (Caputo-Levine 2012: 175), because not all penal institutions are sites of extreme bodily danger: some inscribe symbolic structures of extreme docility, encouraging inmates to become pliable bearers of institutional discourses of pacification and passivity.

Lesson four: Avoid state thought

Fourth, criminologists risk operating as uncritical *state thinkers*, bearers of those “categories of state thought that the state has produced and inculcated in each one of us” (Bourdieu 2014: 108). If criminologists are particularly exposed to this risk, it is because the objects of criminological knowledge are fundamentally constituted by the operations of the state. To Bourdieu, the state is primarily a symbolic agent, the producer of particular cognitive categories, “principles of vision and division, principles of viewing things, systems of classification” that allow it to exercise an “effect of symbolic imposition that is absolutely without any equivalent” (Bourdieu 2014: 114). This effect, moreover, tends to become so naturalized that it is extremely difficult to perceive that one has been made the subject of such a process. The state protects itself from “scientific questioning” by becoming a form of second nature: it “thinks itself through those who attempt to think it,” and effecting a “rupture with state-thought” is consequently both difficult and necessary (Bourdieu 1998b: 36-37).

For criminologists, there are multiple problems on this account. First, the state is an interested party: it generates funding—the National Institute of Justice (NIJ), an agency of the Department of Justice in the United States, provided nearly a quarter of a billion dollars for “criminal justice” research and training in 2015 alone, fundamentally shaping the trajectory of scholarship on crime and punishment (National Institute of Justice 2016). The state is a stakeholder in the training of future criminologists because it is likely to employ a significant proportion of criminology graduates. Second, the proper domain of criminology vacillates between internal underspecification and excessive external determination. On the one hand, if criminology takes as its objects of study those things defined as criminal, that is, those actions violating positive law, the discipline risks falling into the trap of accepting contingent categories that are the product of agonistic relations of social domination – and thereby failing to develop a properly autonomous science of society. On the other hand, if it attempts to develop an object of study independent from state operations, as with the “zemiological” study of “social harms” (Hillyard and Tombs 2004) or the disciplinary reorientation envisioned by the

“constitutive criminology” of Henry and Milovanovic (1999: 7) to study “harm resulting from humans investing energy in harm-producing relations of power,” the claims to a distinctive domain of criminological knowledge collapses, effecting in its place a merger with (parts of) psychology, political science, sociology, and moral philosophy.

Emblematic of the statist orientation of some criminological researchers, Lyngstad and Skardhamar (2011) lament the failure of criminologists to exploit Nordic “registry data” on criminal offenders—essentially, vast databases containing information on all individuals who avail themselves of state services, such as public health and education, including records of those convicted of criminal offenses, with information on employment, education history, family background, and more—used by the state to coordinate its programs and policies. Admittedly, registry data does promise to be a rich source of information on crime and punishment in countries like Denmark, Norway, and Sweden, but such procedures simultaneously reveal the risks involved in overtaking data produced by the state for its own *sui generis* purposes, which do not necessarily overlap with the aims of (critical) social science. Asking questions from registry data is to take for granted the officially sanctioned definitions of criminal actions or risk accepting the equivalence between state-registered crime and its “real” incidence. Astutely, Christie (1997) criticized “oversocialized” criminologists for readily accepting the procedures and problems of the state. “The problem in modern research is not that we are denied access to the official files,” Christie (1997: 19) wrote, but rather that “we are given too easy access” to “data already processed by the authorities, data already given their certified meaning.”

Ultimately, criminology chases a moving target—the shifting definitions of what a crime can be said to constitute—that gives rise to all sorts of untenable mental acrobatics to maintain the coherence of a fractured discipline. For this reason, criminology remains susceptible to an anti-sociological return to the tradition of natural law. If the central point of this discipline is to study violations of human law, indeed, to explain how, why, and under what conditions social agents violate laws, objects of study would have to be variously adopted and removed from one day to the next in following the vicissitudes of legislators. If the natural law approach prevails within criminology, members of the discipline would be forced to continuously *take up new objects of research* with the advent of new laws, some of which might run counter to feelings of human decency, social progress, and so on. This makes criminology a most peculiar discipline. One might imagine a team of criminologists laboring under Stalinism in the Soviet Union of the

1930s being enjoined to “explain” why so many individuals had become bearers of criminal, “bourgeois” modes of thought. How would criminology respond to such an exterior determination of certified objects of study? Evidently, it would have no other recourse but to develop a metascientific ethics to challenge the state-driven imposition of particular categories of thought; indeed, this would be the only way to prevent criminology from being appropriated as an auxiliary science to the operators of Gulagism (or whatever other dominant ideology might obtain in a given state). But it would have to do so in a way running counter to the foundational parameters of the discipline itself. What is more, owing to its isolation by design from philosophy and wider social science, it would lack the instruments necessary to engage in this reconstructive labor.

Lesson five: Embrace commitment

Fifth, scientific researchers must abandon the outmoded ideal of an uncommitted, “pure” science, a *postureless posture*, premised on the notion of a scientific practice seemingly devoid of commitment. The choice to abstain from choice is also a choice; in the case of scientific production, it has impactful effects on the trajectories of social space, even as these effects are disavowed by scholars trapped in the unattainable purity of scholastic theoreticism. There is no sense in striving toward an unattainable objectivity when we are always immersed in particular symbolic categories of perception and action: they form the cognitive ground from which (scientific) objects come to be constructed.

On Bourdieu’s view, scholars have a duty to act as intellectuals, that is, to engage in “political actions” outside the semi-autonomous field of academic production (Bourdieu 1991a). This duty arises out of the fact that scholars possess specialized training and knowledge; they possess leisure—the word “scholar,” as Bourdieu repeatedly points out (e.g. Bourdieu 1990: 27, 1998b: 128, 2014: 75), is derived from the ancient Greek *skholē*, meaning leisure, a withdrawal from the world of pressing business—and this relative freedom gives rise to an ethical imperative. The axiomatic principle on which this imperative rests is the posited duty to reduce social domination, a duty that applies even more to those who enjoy the time, training, relative autonomy, and symbolic capacities needed to effectively counteract domination. Thus Bourdieu (2008a: 380) asks rhetorically whether scholars who possess the sort of scientific knowledge enabling them to anticipate the deleterious effects of political changes “can and should remain silent, or whether this does not involve a kind of failure to assist persons in danger.” If neoliberalism is a social disaster waiting to happen, Bourdieu suggests, it

would be *unethical* to assert the scientific prerogative of observing and recording events as they unfold, or even evaluating negative effects in their aftermath: “Do those who believe they understand these calamities in advance not have a duty to overcome the reserve that scientists generally impose on themselves?” (Bourdieu 2008a: 380). Bourdieu’s (2008a: 380-381) answer is unequivocal, and, unusually for Bourdieu, takes aim directly at criminological inquiry:

The dichotomy between scholarship and commitment reassures the scholar of [their] good conscience, as [they] receive the approval of the scientific community. It’s as if scientists saw themselves as doubly scientific because they did nothing with their science. If applied to biologists, this would be criminal. But it is just as serious if applied to criminologists. This reserve, this flight into purity, has very serious social consequences.

To know alone—that is, to strive after cognitive, discursive, and theoretical knowledge—practically guarantees the impossibility of producing comprehensive knowledge-accounts. What is more, commitment is unavoidable because all beings are inherently committed, and it is necessary because comprehensive accounts are only possible through an intimate knowing of the totality of social relations. “The true is the whole,” Hegel ([1807] 1977: 11) wrote, and this whole—this totality—includes the situated being of the scientist. Commitment does not mean subordinating oneself to a party, group, organization, and so on. On the contrary, the commitment of the scientific researcher is first and foremost directed at the right to asking autonomous questions, staking out the right to ask one’s own questions. This really is the opposite view of the idea that commitment entails subordination. It is all those commitment-averse committees, those subordinates of extrascientific reason, who have lost the right to ask their own questions.

Admittedly, Bourdieu vacillates between a *commitment to commitment* and a *scientific elevation of scientific reason*: on the one hand, he recognizes that all scientific production takes place within a particular, situated field, and so there can be no “pure” questions or truly independent lines of inquiry, free from infiltration by extra-individual influences, such as relational ties to other agents embedded in the same field or in other fields, the existence of particular dominant ideas, the influence of funding bodies, and the miasmatic effects of a generalized spirit of an age. All scientific work therefore *emanates from a point* in a definite, situated field and is *directed at a pre-populated field* already abounding with ideas, objects, and agents. On the other hand, Bourdieu does at times

betray a belief in the possibility of a pure, autonomous science, a sociology standing outside social space, having undergone the purificatory rite of a reflexive sociology of sociology that would be capable of interrogating and repairing the (heteronomic) conditions of the production of scientific knowledge.

The problem with insisting on a strict delineation between science and pseudo-science is that the criteria deployed to establish scientificity do not inhere in reality itself. Instead, they originate from the intersubjective agreements and relations of domination that obtain within the scientific field. This problem has been termed the Dilemma of the Criterion and was effectively summarized by Sextus Empiricus:

In order to decide the dispute which has arisen about the criterion [of truth], we must possess an accepted criterion by which we shall be able to judge the dispute; and in order to possess an accepted criterion, the dispute about the criterion must first be decided (cited in Westphal 2009: 2).

The formation of a Kuhnian scientific paradigm requires a series of posited axiomatic criteria that obtain their symbolic efficacy through a formalized training, that is, the inculcation of multiple, largely unconscious, Kierkegaardian “leaps of faith” (see Ferreira 1998), to engage in practices describable as scientific. When Bourdieu insists on the elevated status of sociology as a science, he fails to resolve the problem of how the status of scientificity is to be determined outside the space of symbolic struggles and relations of domination. Bourdieu fails to do so because no such thing can be accomplished: no solid bedrock exists that is exterior to the realm of symbolic struggle.¹³ In this sense, Bourdieu is an antifoundationalist who falls back on an imperfectly defined foundationalism at the very moment when antifoundationalism yields corollaries destined to seem uncomfortable to those agents who have made significant cathectic investments in the scientific field.

Furthermore, a sociologist who asserts that there can be no socially relevant domain exterior to social space, even as the sociological science of social space is held to

¹³ Ironically, the notion that there exists no space exterior to symbolic struggles is one of the central insights of Bourdieu’s sociology. As with so many great thinkers, Bourdieu’s central flaw is that he did not fully adopt the lessons emanating from his own work. In insisting on the scientificity of science and its transhistorical validity, Bourdieu was himself not Bourdieusian enough. On this issue, Bourdieu fell prey to the siren song of the self-understanding of the scientific field, proving that no social observer, no matter how apparently autonomous and reflexive, is fully immune to the doxic structures of their time and place.

be an autonomous point outside social space, is clearly self-contradictory. This is the same paradox raised by Agamben (1998) regarding the figure of the sovereign, a being who maintains that there exists no exterior point to the legal order, while at the same time staking out the right to stand outside the law for the purposes of suspending or overthrowing it, as in periods of excessive turmoil, for instance: “I, the sovereign, who am outside the law, declare that there is nothing outside the law” (Agamben 1998: 15). Bourdieu’s position is similarly paradoxical: I, the sociologist, who am outside social space, declare that there is nothing outside social space. Bourdieu is never quite so explicit in his formulations, but it is his implicit position.

It is true that overtly committed science may result in inferior or blinkered research products. Dogmatic Marxists have written colorless hagiographies of Marx and misleading works on Soviet economics. Libertarian accounts of Milton Friedman praise too much and criticize too little. However, the charge that committed scientists risk producing inferior products could be said to hold true for all scientific producers, overtly and consciously committed or not. This claim also raises the question of which criteria are to be applied in the judgment of scientific products and which groups are to be empowered to impose these criteria, elements that constitute an essential stake in symbolic struggles constantly ongoing within the field of scientific production.

Scientific practices are “always-already” politicized. They are the subjects of symbolic contestation, regardless of the conscious awareness of their practitioners. Even as we deny symbolic power, we are exercising it; even as we reject politics, we live in its shadow. The charge that commitment gives rise to the risk of inferior work can in principle be leveled at all members of the scientific field: scientific life as such always entails the risk of misfirings. In *Negative Dialectics*—a work with deep affinities to Bourdieu’s critical sociology, although stemming from a school of thought largely ignored by Bourdieu (see Bourdieu and Wacquant 1992: 192-193)—Adorno (1973) observes that the seemingly rational, neutral, and objective labor of the empiricist social scientist necessarily involves acts of (disavowed) subjective differentiation. Even statisticians are essentially qualitative researchers in so far as they weigh the worthy against the valueless and engage in distinctions and disquisitions that are the sole preserve of intuition—for example, in “Discussion” sections in journal articles, which are often highly speculative, or in the substantive significance attributed to merely statistical significances—and are themselves groundless, i.e. self-referentially axiomatic.

It is not at all clear why overtly committed agents alone should be held to such standards. Bourdieu's radical historicism teaches that all scientists are unavoidably engaged in ways and means of practicing science. The creature known as *Homo academicus* is a historical being (Bourdieu 1988): the molecules of their historical situation courses through their veins. As noted earlier, all thinking beings are engaged in a mode of corporeal reason. As a result, all individuals are situated along a horizon of meaning that is embodied and individuated. Individuals carry with them the baggage of all previous history. A theoretical framework, which is always the result of a process of historical immersion, is itself constitutive of phenomenal reality. To be "sedimented" and "suffering," as Wacquant (2015: 2) claims, is to be an entirely different sort of agent than that posited by the postulates of positive science: one cannot be a Mertonian adherent to scientific universalism and at the same time be a situated being. As Adorno (1973: 54) notes, "Tradition is immanent in knowledge itself," because there can be no question "which we might simply ask, without knowing of past things that are preserved in the question and spur it." There is a traditionalism in all thought. Traditions must therefore consciously be grasped and assumed.

Integrating criminological approaches

Criminology has been remarkably slow to absorb Bourdieu's concepts and hypotheses. This is partly explicable by Bourdieu's own relative lack of interest—with some notable exceptions (e.g. Bourdieu 1987, 2014; Bourdieu et al. 1999)—in issues related to law, crime, and punishment. Partly, too, it must be admitted that Bourdieu represents a continental-European moment in social science: trained at the elite *École Normale Supérieure* in the 1950s and steeped in the Heideggerian-Husserlian-Hegelian traditions of postwar French philosophy (Wacquant 2013: 24), Bourdieu's approach can appear abstruse to researchers engaged in essentially practical studies of relatively circumscribed empirical domains. Notwithstanding, a Bourdieusian movement has gained ground within criminology in recent years. Scholars are putting Bourdieu to work, mobilizing and deploying concepts such as the field (see Article 6), social capital (Ilan 2013), cultural capital (Sandberg 2008), and habitus (Fleetwood 2016; Sandberg and Fleetwood 2016) to solve real research puzzles. However, this nascent tendency in criminology must recognize the crucial role played by the positionality and posture of Bourdieu toward the *craft* of research: while Bourdieu's favored concepts (habitus, forms of capital, field theory, and so on) and methods (multiple correspondence analysis, discursive

interviewing, and participant observation) are important, what gives rise to a distinctly Bourdieusian social science is the stance adopted in Bourdieu's works vis-à-vis social reality and scientific practice. This stance has been summarized above in the form of five central lessons.

Admittedly, some, perhaps even all, of these lessons have at various times been understood and taken up by various (critical) strands of criminology. Realist criminology has been fully cognizant of the imperative to historicize its objects of inquiry, invoking the need to "contextualize the moment and place its trajectory in time," in Jock Young's (1987: 337) words. Labeling theory highlighted the importance of breaking with state thought to comprehend how categorizing actions were imbricated in the "process of making the criminal," according to one early statement of this view, a "process of tagging defining, identifying, segregating, describing, emphasizing, making conscious and self-conscious" that was centrally carried out by the state (Tannenbaum 1938: 19-20). However, the distinct advantage of absorbing these lessons through an integrated Bourdieusian social science, however, is that this approach offers to unify divergent strands of critique hitherto only existent in fragmented form and provide a coherent rationale for the approach. Additionally, a Bourdieusian approach offers an interface compatible with a variety of other subdisciplinary studies: it offers a unifying language with which critical scholars across a variety of empirical domains—including those outside criminology—may communicate. In this sense, it offers a metalanguage capable of prying open the stale hermeticism of disciplinary enclosure.

VI. Summary of articles

Before turning to the articles that make up the remainder of this dissertation, a summary of the arguments proposed in the articles is offered here. As noted, this study takes as its empirical object the practices and politics of punishment in Norway. More to the point, three overarching research questions have guided the present study:

- (1) What has the empirical status of the Nordic penal exceptionalism (NPE) thesis been in the years following its initial formulation and proliferation?
- (2) What are the interconnections between social democracy, neoliberalism, the welfare state, and the carceral field?
- (3) How can Bourdieu's theoretical framework be applied to studies of crime and punishment and used to instigate a theoretical rupture with scholarly orthodoxies?

These three questions have been addressed in six articles included below. An enlarged summary of each article is presented here.

Article 1 focuses on the everyday experiences of inmates in a minimum-security prison in Norway, demonstrating the existence of a particular form of social suffering that is modulated and reconfigured by the vector of Nordic penal exceptionalism, that is, how the pains of imprisonment long ago detailed in the groundbreaking study of carceral life by Sykes (1958) have been inflected and shaped by an exceptional, tolerant, and putatively humanitarian regime of carcerality to produce what are termed *pains of freedom*. In this way, an important component of the NPE thesis advanced by Pratt (2008a, 2008b) is moderated through an acknowledgment that even apparently anodyne modes of custodial sentencing can impose unusual, unorthodox, and unexpected forms of social suffering. Drawing on three months of ethnographic fieldwork and interviews with 15 inmates, the article contends that it is the very notion of self-governance, autonomy, personal liberty, and extra-institutional interaction beyond the walls of the prison proper that gives rise to tensions, anxieties, and pains within minimum-security, "model" prisons such as the one studied in Norway.

Article 2 analyzes another rupture in the NPE thesis, that of drug legislation, documenting and detailing the ways in which exceptionalism is undermined by relatively

strict drug enforcement policies, policing practices, and sentencing standards. Drawing on interviews with 60 incarcerated individuals with experience of drug distribution in Norway, it is argued that drug prohibitionism and “zero tolerance” have made themselves felt even within a regime of exceptionalism in this national society. These policies and practices must be viewed in conjunction with the close interconnections that obtain between political economy and the carceral field, largely propelled by a conception of citizenship under social-democratic welfare capitalism that is reliant on a productive populace capable of participating in the labor market to fund generous welfare policies through taxable revenue streams. The bureaucratic field mobilizes the carceral field in such a way that persons involved in the illicit drug economy, or more broadly, the *street field*, are penalized harshly for their involvement. Moreover, the bureaucratic field produces particular symbolic representations of drug distributors, constructing a particular categorical vision of drug distributors as belong to one of three categories—high-level, mid-level, or low-level drug distributors—that are exceedingly hierarchical and static when compared with the life stories and sociobiographical trajectories of those participating in the street field. In short, there is a disconnect between operative categories imposed by the bureaucratic field on the street field, and the lived realities of the street field as they are expressed by those residing within it. The state is the producer of symbolic categories *par excellence*, however, and its categorical vision is enacted through a triple-tiered drug legislation—a “drug section” in the Norwegian Penal Code that envisions and punishes drug distributors as belonging to either of the three levels—and so comes to overrun autochthonous representations emanating from within the street field itself and instead imposing on it a condition of heteronomy.

Article 3 offers an analysis of the transformation of the carceral field in Norway from the beginning of the twenty-first century until 2014. It provides a macroscopic snapshot of tendencies and transformations in the trajectory of punishment, emphasizing the ways in which the process of a neoliberalization of social-democratic welfare capitalism, evidenced by the privatization of national industries and ownership structures, growing socioeconomic disparities, and the gradual proliferation of market alternatives to once-universal services offered by the welfare state, has exerted a rightwards pressure on the carceral field. The reduction of the scope of state action to a cultural-symbolic sphere has permitted the carceral field to be shaped by electoral competition between the center-left Labor Party and right-neoliberal Progress Party in a process that could be termed *staging sovereignty*, allowing politicians to appear forceful and potent in a political order

increasingly incapable of material action in the domain of economy and consequently relegated to symbolic contestation. While NPE remains a valid descriptor of the regime of carcerality extant in this national society, its future looks increasingly insecure as the Norwegian carceral field has increasingly shifted away from an outermost position of leniency on the carceral continuum.

Article 4 approaches the Norwegian carceral field from a historicizing perspective, asking what transformations of carcerality took place in this society between 1900 and 2014. Understanding the logic of carcerality in the present-day world necessitates understanding the long, slow process of historical accumulation that resulted in this present configuration. Approaching the empirical object of present-day sociological research from a sociological-historical perspective is part of Bourdieusian injunction to “construct the object.” Recall that Bourdieu, drawing on Marx, attacks the “naivete of the empiricists,” that is, those who accept empirical objects in their ready-made form, i.e. as reality presents itself to them, “without seeing that this means being forced to accept the abstractions of common-sense by refusing the work of scientific abstraction which always brings into play a historically and socially constituted problematic” (Bourdieu, Chamboredon, and Passeron 1991: 147). More substantively, one of the key argument in this dissertation is that to understand the logic of the carceral field requires scrutinizing the logic of the bureaucratic field: the former emanates from within the latter. Archival materials, official documents, and secondary sources from past scholarly research are combined to suggest that the Norwegian bureaucratic field passed through three distinct stages between 1900 and 2014: liberal proto-welfarism, Fordist-Keynesian social democracy, and semi-neoliberal welfare capitalism. To each of these stages a distinct logic of the carceral field was produced: *penalty as paternalism*, *penalty as treatment*, and *penalty as dualization*. In the latter phase, Norwegian penal exceptionalism has undergone a modest weakening and witnessed the beginnings of a two-track system of carcerality – with generous rehabilitationism increasingly reserved for an ethnonational core of the citizenry, while a lesser form of (modest) carceral austerity has increasingly been targeted on “foreign offenders.”

Article 5 inspects and interrogates the notion of “penal populism” (less commonly rendered as “punitive populism”) that has proliferated in the sociology of punishment as a critical thinking tool in recent decades. Penal populism, understood as the growing influence of politicians and the public on the trajectories of carceral fields and the declining significance of expert elites, has been used as one of the primary explanatory

devices in the sociology of punishment to account for the punitive turn that is said to have occurred across wide swathes of the postindustrialized world. The article demonstrates that the notion of penal populism, while apparently serving as a pry bar skewing toward critical, progressive ends and deployable against stultified orthodoxies in conventional discourse on crime and punishment, simultaneously conceals a whole host of anti-democratic implications. First, it employs a simplified model of social reality conceived as a triadic interaction between politicians, legal professionals, and “the people,” that conceals the multiplicity of viewpoints, interests, and preferences concealed by each of these monolithic categories. As several brief, illustrative empirical snapshots from the history of carcerality suggest, the categories of “professionals” and “politicians” are not inherently rehabilitationist anti-punitivists, and “the people” are not universally retributive. Sociologists of punishment who have deployed the notion of penal populism—an inchoate and castigatory term employed with an insufficient degree of critical reflexivity—betray a desire to take the politics of punishment off the table of democratic contestation. Democracy understood as popular sovereignty, rests on a singular notion: *quod omnes tangit ab omnibus approbetur* (“What touches all shall be approved by all”).¹⁴ Violating this maxim seems largely untenable when discussing policy issues such as income taxation or public education, but it has unthinkingly been carried out and elevated to the position of “critical doxa” by a significant proportion of leading scholars engaged in the sociology of punishment.

Article 6 attempts to bring Bourdieu’s theory of fields to bear on problems relevant to scholars of crime and punishment. The article develops the notion of the *street field*, an agonistic and semi-autonomous space where agents compete to capture the “profits and prizes” associated with an existence in a dominated domain in social space that revolves around illegal enterprise as its primary plane of action. The article offers an analytic sketch of a Bourdieusian re-reading of criminology, criticizing the failure of leading scholars to properly *historicize* and *contextualize* their objects of study, effectively suspending them atomistically in an ahistorical, decontextualized space and overtaking objects in ready-made form from the bureaucratic field. The article provides an analytic roadmap for scholars wanting to adopt Bourdieu’s theoretical framework for the study of crime and punishment and shows how the conceptual triad of field, capital,

¹⁴ The phrase is attributed to Edward I (1239-1307) and is cited in Prestwich (1988: 465-466).

and habitus can meaningfully be applied to the study of the life trajectories and life chances of agents residing in the dominated sections of social space.

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The pains of freedom: Assessing the ambiguity of Scandinavian penal exceptionalism on Norway's Prison Island

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Abstract

Where is the pain in exceptional prisons? A new generation of prisons produces unusual 'pains of imprisonment' which scholars of punishment are only beginning to catalog. This article brings the reader inside the social milieu of Norway's 'Prison Island', a large, minimum security ('open') prison. Here inmates live in self-organized cottages and enjoy relatively unrestricted freedom of movement. But even under exceptional conditions of Scandinavian incarceration, new vectors and modes of punishment arise that produce 'pains of freedom', a notion drawing on Crewe's historicizing examination of Sykes' concept. Serving as an addition to conventional sociological conceptualizations of prison pains, the 'pains of freedom' can be classified into five sub-categories: (1) confusion; (2) anxiety and boundlessness; (3) ambiguity; (4) relative deprivation; and (5) individual responsibility. Based on three months of ethnographic fieldwork and semi-structured interviews with 15 inmates, it is shown that freedom is occasionally experienced as ambiguous, bittersweet or tainted. These new pains may be indicative of what is in stock for clients of future penal regimes in other societies.

Keywords

open prisons, pains of imprisonment, prison ethnography, relative deprivation, Scandinavian penal exceptionalism

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Introduction

Popular media representations portray life in Scandinavia's 'open', minimum security prisons as comfortable, rehabilitation-oriented and couched in generous welfare state provisions. These open prisons have lower-security with limited outer-perimeter control, a more trusting attitude toward inmates among staff, and greater opportunities for autonomy, freedom of movement and leave to outside society for inmates than more typical prisons. To some degree they are comparable to Category D prisons in England and Wales. Such conditions have led some scholars to discuss the trend toward 'Scandinavian penal exceptionalism' (Pratt, 2008a, 2008b). Popular representations reinforce the scholarly vision of the Scandinavians as carceral champions. For instance, the UK tabloid newspaper the *Daily Mail* (2011) reported on life in a Norwegian 'cushy prison' as one where inmates were treated with 'saunas, sunbeds, and deckchairs':

They spend their days happily winding around the network of paths that snake through the pine forests, or swimming and fishing along the five miles of pebble beaches, or playing on the tennis courts and football pitch; and recuperating later on sunbeds and in a sauna, a cinema room, a band rehearsal room and expansive library.

Though nominally still a member of the domain of 'prisons', such institutions seem a far cry from the San Quentins, Sing Sing or La Santé of the world. More broadly, the Scandinavian correctional systems and their exceptional traits have generated interest and debate (Baldursson, 2000; Johnsen et al., 2011; Snortum and Bødal, 1985; Ugelvik and Dullum, 2012). In part this is probably because they seem to contradict broader penal trends on the international scene and they might serve as an example to follow for societies trying to counteract the turn of the penal screw. Pratt (2008a) contends the Scandinavians are exceptional on two counts: first, these societies exhibit low incarceration rates, nearly half of England and Wales and one-tenth of the United States. Second, these societies detain inmates under unusually favorable prison conditions (Pratt and Eriksson, 2011, 2013). The prison as a social problem-solving institution plays a less central societal role in Scandinavia than in most other advanced societies; while penal policies may be gradually shifting in these countries, 'commitments to liberal values, human rights, and rational policy making remain strong' (Lappi-Seppälä, 2007: 217). Scandinavian penal exceptionalism is not simply the expression of a quantitative difference between this region and the rest – measurably better material conditions and lower incarceration rates – but perhaps also the expression of a more tolerant, regionally bounded penal culture (Hörnqvist, 2012). Even as Nordic penal regimes may be changing, the 'social democratic way of thinking about crime and punishment remains the dominant one' (Pratt and Eriksson, 2013: 192).

Ground-level studies of exceptional prison systems are in short supply. Pratt has been criticized by Minogue (2009) for his reliance on scripted, day-long visits; more generally, Piché and Walby (2010, 2012) have criticized the adoption of 'carceral

tours' by social scientists as a surrogate for field immersion, contending that tours allow prison administrators to display the 'front stage' of imprisonment. Nielsen (2012: 135) takes Pratt to task for failing to account for the discrepancy between goals and practices, suggesting that, in the context of imprisonment in Denmark at least, 'penal realities as they are experienced from within may not match the level of exceptionalism that Pratt observes from the outside'. In the US penal context, Wacquant (2002) has drawn attention to an 'eclipse' in prison ethnography even as this institution has risen to unparalleled prominence. In Norway, until quite recently, one had to venture back nearly half a century for semi-ethnographic studies of the prison (Galtung, 1959; Mathiesen, 1965), although recently, Ugelvik (2011a, 2011b, 2012) has studied a Norwegian men's prison ethnographically.

Below, the empirical dearth on exceptional penalty will partly be redressed by engaging with an open, low-security institution in Norway which I have called Prison Island. Based on ethnographic fieldwork and semi-structured interviews, the concept of the 'pains of freedom' is launched to produce a more nuanced scholarly vision of how Scandinavian penal exceptionalism plays out in practice.

Entering Prison Island

Prison Island houses around 100 inmates at any one time, and around 80 officers and staff are employed there. At the end of the ordinary working day, only a handful of officers remain on duty until the next day, indicative of apparently high levels of social trust and remarkably low security levels. Inmates spend their first weeks or months in one of two reception dorms – large, imposing brick structures several stories tall – housing between 15 and 20 inmates each, before transitioning over into one of the dozen or so cottages on the island that house four to six persons each. Inmates work, study, shop for groceries and cook most of their own meals; they receive visitors, hang out in the library, or run on paths around the island for exercise. Living conditions are, as far as possible, meant to mirror the world outside. But Joseph, an inmate, warned that 'there is one thing you should understand: This is still a prison.'

Inmates must work or study; in exchange, they are paid around 60 Norwegian *kroner* (around eight euros) per day. Inmates work in the commissary, communal kitchens, laundry building, horse stables or onboard the ferry that travels between the prison and the mainland. Some work in the fields, raising staple crops using ecological farming techniques. During the harvest season, most inmates are expected to take their turn out in the fields. Others attend classes in the educational building. Some work out in the forests, felling trees for firewood, which inmates sell to nearby communities, accompanied by an officer. Those who have earned an adequate degree of trust and have progressed sufficiently far along in their sentences can attend school or hold down jobs on the mainland. There is great freedom of movement on the island. Inmates can freely walk about in the leisure time left after work.

But prison life in this unusual institution is not entirely unrestricted. Rules govern behavior. For instance, there is a curfew in force after 11pm. Inmates are expected to show up for a 'body count' several times a day. Officers collect urine samples during the morning 'count', usually targeted at random within the population of inmates who have a known history of drug addiction. Visitors can bring food and share a meal with inmates, but any leftovers have to be thrown away or taken back to the mainland. Inmates can jog around the island, but the north tip of the island is off-limits because the beach there is reserved for recreational boaters. Telephones are for the most part switched off during working hours, but some inmates reported being able to negotiate with officers on this point.

More informally, inmate codes massage action into socially acceptable routes. Inmates expect basic courtesies of one another when passing on the gravel roads around the island. Violent confrontations are strongly frowned upon by inmates because violence attracts the officers' attention and can get innocent bystanders kicked off the island and sent back to less comfortable, higher-security facilities. As far as possible, inmates try to sort out conflicts that arise without involving officers. That this is at all a possibility is because of the spatial concentration of officers (who spend a great portion of the day in the officers' building) and de-centralized living and working conditions of inmates (who are spread out across the island).

One might expect that the clientele of such a low-security prison would be exclusively drawn from the ranks of petty offenders, non-violent white collar criminals and the like. Potential residents are certainly filtered according to risk and behavioral history, but the prison warden places emphasis on holding inmates with long sentences, who, it is believed, will be more successful targets of rehabilitative interventions than those with brief sentences, and that means also taking in offenders who have committed violent crimes. The average prison sentence length in Norway is around three months, while the average Prison Island sentence is five years long (Justis- og politidepartementet, 2008: 33), indicative of the unrepresentative offender clientele that the prison houses.

Around one-third of prison beds in Norway are in open prisons. These institutions are meant to act as 'socialization machines', gradually acclimatizing prisonized offenders to life on the outside. As a rule, offenders are first sentenced to closed prison and only later, if they meet certain criteria of risk and probable pay-off in rehabilitation outcomes, can they be transferred to open prison (Justis- og beredskapsdepartementet, 2012). Offenders with a sentence of less than two years may be considered for direct placement in open prison, provided that lower-security confinement does not create 'security issues' or violate public perceptions of fairness. One year prior to release, Correctional Services is legally obliged to consider transfer to open prison. The Norwegian Execution of Sentences Act (*Straffegjennomføringsloven*) contains a principle of 'efficient penalty', that sentenced persons should 'not be transferred to a more restrictive prison than necessary'. This is partly justified with reduced fiscal expenditures: each additional low-security prison bed costs between one-third and one-half of what a

high-security prison bed costs (Justis- og politidepartementet, 2008: 213), mostly due to lower staffing requirements in open prisons.

Criminal justice bureaucrats consider a number of criteria in deciding who gets in to open prison, including the gravity of past offenses and inmate behavior – for instance, they consider whether the inmate has violated institutional rules, used drugs or been caught with illicit materials (Kriminalomsorgen, 2008). Inmates otherwise eligible for an open prison may be kept in closed confinement if capacity is low because of staff or space shortages (Justis- og politidepartementet, 2002), an important qualification since Norway has experienced a shortage in prison beds throughout the 2000s (Justis- og politidepartementet, 2006).

Theorizing the open prison

There are differences between prisons. Some prisons hurt their residents a great deal, while others display a better 'moral performance' (Liebling, 2011). Sykes (2007 [1958]) famously documented five distinct 'pains of imprisonment'. These were 'deprivations' of liberty, goods and services, heterosexual relationships, autonomy and security. The 'pains of imprisonment' form a conceptual toolbox to critique penal institutions and show ways in which incarceration produces harm.

But Sykes' five imprisonment deprivations do not capture the full scope of prison pain. As a new generation of prisons is being constructed, an expansion of this original typology is taking place. McDermott and King (1988) argued that the nature of inmate–officer relations was changing inside English prisons; crucially, the preeminence of 'mind games' was supplanting the role of physical abuses in inflicting pain on prisoners. More recently, Crewe (2011a, 2011b) has argued that the 'softening' of penal power in certain prisons calls for a historicization of prison pains, as the rise of 'neo-paternalism' has invalidated the use of 'hard' and direct coercive power in prisons. Prisons are experienced as 'considerably less heavy than in the past' and power is 'exercised more softly, in a way that is less authoritarian' under a regime of 'neo-paternalism' (Crewe, 2011a: 523–524) as violence and squalor give way to new pains following the deployment of various cognitive-therapeutic interventions, the rise of inmate responsabilization and sentencing progression. More specifically, these include pains of uncertainty and indeterminacy, pains of psychological assessment, and pains of self-government. Even though Crewe writes on the basis of empirical work with a medium-security prison in England, the argument he proposes is assumed to have broader implications beyond the confines of that particular institution or, indeed, the limiting category of medium-security prisons. Similarly, on prison architecture, Hancock and Jewkes (2011) have argued that 'new generation' prison environments – which are cleaner, brighter and more spacious – may bring about their own 'insidious form of control' as they mask more effectively the fact of incarceration.

In historicizing Sykes' prison pains, it is argued that new imprisonment deprivations exist that one might call the 'pains of freedom'. These pains posit freedom as an experientially ambiguous, bittersweet privilege; under the constraints of penal

confinement, even exceptional degrees of liberty are never unproblematic and can be directly cost-inducing to the inmate. The concept develops tendencies discussed by Crewe (2011a), but extends the substantive reach, arguing that freedom within constraint is itself the source of experienced pain. While to Sykes, the 'deprivation' of liberty and autonomy is a fount of suffering, in open prisons, it is the provision of freedom that causes frustration.

Methods

I spent a three-month period in 2011 conducting ethnographic fieldwork on Prison Island. Fifteen inmates were interviewed over the course of 17 interviews. Dozens of informal conversations were carried out with inmates, officers and other staff. Time was spent 'hanging out' with inmates on an informal basis. Since inmates were spread out all over the island and were often busy with work, pre-appointed interviews were useful for establishing rapport with sources. This allowed for a stronger bond to be developed more casually later. Contradicting Gobo (2008), who argues that early interviewing will make the field-worker seem 'aggressive' and 'misled', semi-structured interviews were useful icebreakers.

Interviews lasted between 30 minutes and three hours, and they were recorded digitally and transcribed. All but three interviews were conducted in Norwegian; transcriptions in Norwegian were translated into English by the author. Fieldnotes were written immediately after returning to the mainland or in a borrowed office in the prison. Transcribed interviews and fieldnotes were coded using computer software according to the five dimensions of the pains of freedom developed below; the five dimensions were developed through a combination of inductive immersion in the data and through a process of refinement and extension of existing theoretical categories in the research literature. In addition, a database containing interviews with around 40 prisoners serving time for drug-related convictions in Norway was checked for codes or statements relevant to open prisons.

Prison ethnography is fraught with practical difficulties (Crewe, 2007). 'Gatekeepers' can be formidable obstacles to prison research (Waldram, 2009). Surprisingly, this study was facilitated eagerly by parties who might otherwise impede research. Institutional Review Board approval was secured without difficulty. Correctional Services, the local warden and officers facilitated prison research willingly. On occasion, officers expressed concern over the author's safety while 'wandering about' among inmates on the difficult-to-monitor terrain of the island. After some time, and to appease concerned officers, the author agreed to limit interviewing to the visitor's building. Some officers were more liberal and allowed the author to 'wander' freely. Officers were ultimately responsible for the safety of visitors, and so their impulse to err on the side of caution was understandable, but this also limited observational opportunities. Below, many data are derived from interview situations.

Findings and analysis

Many of Sykes' original pains of imprisonment were found on Prison Island. On the deprivation of heterosexual relations, some complained that sex was frustrated by the sounds of other inmates engaging in intercourse with guests in visiting chambers; others expressed surprise that overnight conjugal visits were prohibited even though they were permitted in some higher-security prisons. On the deprivation of goods and services, some said there was not enough food to go around: since 'self-empowerment' of inmates means having them cook most of their own meals, inmates must purchase food, even as their daily allowance from Correctional Services remains mostly unchanged from closed prison. But what will interest us below are non-Sykesian vectors of pain and power. The pains of freedom can be studied as five distinct but related sub-phenomena: (1) confusion; (2) anxiety and boundlessness; (3) ambiguity; (4) relative deprivation; and (5) individual responsibility. These new pains are described and discussed along the five dimensions below.

Confusion

There are conflicting sensations and situations that arise as the inmate balances between norms, roles and expectations in prison and the world outside the prison. The open prison can produce confusion over roles, and below it is described how the inmate role enters into conflict with the role of wage-earner and of autonomous intellectual, and how role strain (Goode, 1960) – in which inmates have trouble balancing dual and contradictory commitments – enters into each of these areas.

The role of wage-earner and the role of inmate can enter into conflict with one another. An inmate who commuted between prison and a regular job on the outside said time on Prison Island was surprisingly hard because 'you're free and you aren't free' and 'you get confused moving between the outside and in here'. By day, the standards of ordinary working life applied, while at night, he lived by officer rules and inmate expectations. His life consisted of a migration in and out of these two contrasting worlds, and, he suggested, this migration produced cognitive disarray. Mario, an inmate who was starting work as an office clerk outside the prison, said he was worried what would happen if his boss kept him behind for overtime work. He knew from past work experience that overtime work was a regularly recurring feature of the job, and it might delay return past a set curfew. 'See, that's the thing, you don't know where they draw the line', he said. He worried how he was expected to make a choice if the wage-earner role came into conflict with correctional expectations.

More broadly, exceptional conditions of confinement can produce an autonomous mindset in inmates. Ali, a young inmate in his early 20s, described how he was confused about what kind of environment he was expected to adjust to: 'It's not really a prison. I don't know how to say it. But it *is* a prison.' He noted the

increased risk of rule-breaking behavior attendant with the lowered vigilance that freedom tended to produce:

Ali: Sometimes I feel like I'm not even in prison. I forget myself a little.

Author: When do you forget that you're in prison?

Ali: Almost all the time, nearly. You're not supposed to walk outside [at night] and if you walk outside, you'll get a report. You don't think about the fact that it's nighttime and you have to stay indoors. You forget you're in prison.

This place did not *look like* or have the *feel* of a prison, but violating institutional rules could still produce very 'prison-like' effects. For instance, a seemingly innocent mistake like breaking the curfew would lead to a 'strike' on his prison record and three 'strikes' in a month would lead to a disciplinary report which could affect sentencing progression.

Johan, a middle-aged inmate, reported a conflict between the role of autonomous intellectual and the role of obedient inmate. He had embarked on a course of self-study. The warden had granted him permission to read and write in his room instead of taking on a regular prison job. But Johan had missed three counts in one month. The officers had called him in for routine questioning, and a report was being written. If worst came to worst, he would be sent back to a closed prison. His date of release was drawing near, and this could jeopardize release. He explained that when he was engaged in intellectual labors, he was 'not in prison any longer'. Rather, he would 'dive straight into the text' he was working on. His room looked like the comfortable office of an academic: rows of books lined the walls, a computer and a desk by the window overlooked the sea, manuscripts and stacks of paper were everywhere. One could forget the 'count' in there, maybe even prison altogether. The prison had equipped him with conditions of life in ways conducive to a 'normal' mode of existence. But these freedoms were precisely the things that were disrupting the smooth workings of the institutional order.

An officer who cracked down on several inmates' seemingly innocent but semi-illicit actions, asked them: 'Have you forgotten that you're in prison now, boys?' When inmates forget their place, officers see it as their job to continuously reinforce the steeply hierarchical relations between inmates and themselves as a procedure for 'managing trouble' (King and McDermott, 1990).

Anxiety and boundlessness

Both anxiety and a sense of boundlessness can arise as inmates transition from closed to open prison, from tight confinement to looser regulations. 'A lot of people told me: "Do time in closed [prison]." There isn't a whole lot that can affect you [there]', Espen said. In the solitude of the high-security cell, he explained, 'you just go into your own world'. The apparent boundlessness of freedom can be troubling to prisonized inmates (Clemmer, 1958; Thomas, 1977). Their 'ontological security' (Giddens, 1990: 92), that is, their confidence in the permanence of

'self-identity' and stability of 'social and material environments of action', is disrupted by increased freedom. Too much is made possible. Analogous pains can be identified in prisoner 'release anxiety' (Crawley and Sparks, 2006; Mabli et al., 1985; Uggen et al., 2004; Visser and Travis, 2003). Inmates on Prison Island experience a foretaste of release proper, and therefore live in a kind of permanently suspended release anxiety. This is seen in two areas of inmate life: in stories inmates tell about arriving in prison, and in their stories about home or town leave.

Arrival stories describe the transition from closed to open prison. Magnus had arrived from a high-security facility and had been told to take a stroll around the island while officers completed the transfer paperwork. But unused to the sudden expanse, it turned out that going for a walk became 'too much':

First of all, I didn't know how far I was allowed to go, so I just took a chance and went for it. And then I discovered a sign that read 'Prison Area: No entry.' But it was *turned around* [the wrong way]. So I thought I wasn't allowed to walk any farther. But then I thought to myself, 'I'm already in prison, I'm a prisoner.' So I just started walking real slow in case anyone would start shouting after me.

Joseph described a kind of mental passivity in his arrival story. After having been taken on a brief tour of the island by one of the officers, he was taken back to the officers' building for his transfer papers to be processed:

And then she [the officer] said I can *go*. I said, 'Go?' I said, 'Go where?' When I came outside, I stood in front of [the officers' building]. I was waiting for her because normally, in closed prison, if you go outside, an officer has to follow you around, like if you go to the doctor, or the lawyer, if you go to the *wherever*, they follow you around. So I thought it would be the same here.

It was quite simply unthinkable for him that he would be allowed to walk around in comparative freedom after years in closed prison, and the mere possibility of it was anxiety-provoking.

Leave stories describe visits to the outside. Confrontations with 'normal life' during home leave or town visits can be distressing. For instance, Magnus was going on his first home leave. It was a distressing experience that manifested itself somatically:

I had my first overnight leave, a welfare home leave, and at that point I'd been in for three years. It was *not* a great experience. Way too much stress, so much stress in fact that I developed a rash all over my back. Uncomfortable.

He continued,

Well, I went straight to a family party. I met relatives I hadn't seen in three years. I met my cousin who had become an adult all of a sudden. He didn't talk to me before,

he used to be very shy and now he was sitting there, telling jokes. It was very like, 'Who is this man?' And my other cousin, she talked lots, and I didn't *know* them any longer. I was there for an hour-and-a-half before I said, 'Look, I *have to* go now.' I was dripping with sweat. It was all too much. I had to go home and get changed because I was *soaking* wet. I've always been very social, but all of a sudden it's uncomfortable being close to lots of people, even my own family.

Freedom is an arena for anxiety: It produces *sweat* and *dizziness*, even a *rash*. On a town visit accompanied by officers, Magnus had walked into a grocery store for the first time in years, and confronted with the sudden plenitude of choices, he said he 'just got dizzy in there'. What should have been positive events were converted into moments of dread. Joseph had a similar story of how freedom was problematic and frustrating. He too had been taken out on a town visit with an officer, and they entered a department store. But touching the outside world only reminded him of obligations unmet:

My mind was occupied with my family mostly, so I didn't get a chance to *feel* the atmosphere, *feel* being among people again. And then when I came into the shop, I see some stuff that's for kids, you know, and I'm supposed to buy this or that for my kid. But I don't have the money. It left me just thinking about them.

Instead of contact with the outside world being a pleasant experience – a welcome break from prison life – it was a source of trepidation and anxiety. He was reminded that he had failed as a provider for his family. Other inmates commented how leave confronted them with new technological innovations like electronic coin counting machines and credit cards with electronic chips, developed after their incarceration, which left them bewildered and paranoid. To inmates, freedom is not necessarily something to be clutched after because years in prison have made them wary; freedom is something to be analyzed carefully and accepted piecemeal.

Ambiguity

The institutional provision of goods and privileges is frequently experienced as ambiguous by inmates; the key experiential descriptor here is *bittersweet*, the sense that liberty is a double-edged sword that provides both pleasure and pain. Haney (2010) argues that there is an 'empowerment myth' surrounding the soft, 'community' alternative to incarceration. Instead of empowerment, semi-permeable institutions can produce dependency, frustration and ambiguity. Similar ambiguities can be found on Prison Island. Exiting the prison on leave is 'good, but at the same time, it's a little weird', Jonathan said, because 'you get a taste of freedom'. This 'taste of freedom' is the basis of Prison Island's *raison d'être*: to provide a hint of the world outside, to 'socialize' and mentally 'decarcerate' inmates, to 'normalize' the malignant effects of high-security confinement.

But the 'taste of freedom' is sometimes bittersweet because it promises too much and leaves inmates unfulfilled.

Comparing English and Norwegian prisons, Baer and Ravneberg (2008: 205) note that the traditional binary opposition between the 'outside' and 'inside' in Goffman's (1961) definition of the 'total institution' seems strangely absent from many modern prisons; instead, a series of 'incompatible juxtapositions between inside and outside' were in evidence as the prison and normal society became 'entangled and fused with one another'. Developing this argument in the context of a study of prison visiting rooms in Russia, Moran (2013) notes that visiting rooms are 'liminal' spaces that blur the boundary between inside/outside norms and expectations. While Van Gennep's (1965) notion of 'liminality' was originally intended to study a linear progression from childhood to adulthood, Moran (2013: 343) notes that in prison visiting rooms, liminality can instead be a repeated occurrence that is 'followed not by a post-liminal reintegration in a different social status, but by a return to the state experienced before pre-liminal detachment.' The fact that the liminal stage seldom leads anywhere but back to where the inmate came from can give rise to what Moran calls a 'space of frustrated partiality'. To inmates on Prison Island, some of the same mechanisms are active.

Compared with life outside, high-security facilities involve sensory slowdown. Time perception changes and inmates receive fewer impulses. Surprisingly, some inmates report that sensory slowdown is beneficial; conversely, the comparatively high-impulse life of open prisons is experienced as injurious by some. One inmate suggested that 'there are lots who would rather serve in closed [prison] than in open [prison]' because in open prison you 'have to *do* stuff' and '*make* something out of your time' while under tight confinement, time passes through a tunnel, 'like standing in line all day'. In interviews with men in closed prison convicted of drug-dealing offenses, this perspective was reiterated. An inmate who had recently been returned from open to closed prison over possession of illicit materials in his cell said:

The days pass a lot quicker here in closed [prison] than in open [prison] because here everyone is in a bubble. Here you just keep your thoughts inside these walls. Focus on your own well-being in here and everything will pass fucking smoothly. In open [prison] it's like you always have leave once a week, right, you've always got something to look forward to, you've got a phone, right, the opportunities are there.

The ambiguity of goods and privileges was echoed by Fredrik, a middle-aged inmate. On Prison Island, he said there were more opportunities than in high-security facilities, but these did not come without a cost:

You get to make phone calls out, but the problem is that at the same time you get a *contact* with freedom, you *notice* freedom without being free. You get more involved in the troubles your wife has at home, but without being able to do anything about them. I can call her every day. In closed [prison] you get 20 minutes [of phone time]

a week. But here I'll call her all the time, and that way you get a running update on everything going on at home, about things you can't decide over or take part in. It makes it harder because you're sensing the problems they have at home a whole lot more. In closed [prison] you can isolate yourself more. You don't *know*, you're isolated.

He added, 'in a way, being here is harder [than being in closed prison]'. Regular contact with the world outside gives inmates a 'taste of freedom' that whets their appetite for more. Under penal constraint, apparent privileges can therefore be subject to ambiguity. This theme is developed by Neumann (2012) in a study of an open women's prison in Norway. Neumann (2012: 151) argues that even though Norway's prisons may be more 'humane' than their British counterparts, 'It is not at all certain that observable differences in material standards between the two countries have an effect on how prisoners experience being imprisoned.' In her study of Bredtveit Women's Prison, Neumann (2012: 151) points out that 'prisoners are forced to impose on themselves the image of prison discipline' and to 'conduct a self-control that can be extremely challenging'. Following Foucault, even as the body remains relatively free, Neumann (2012: 148) notes that this is an extreme case of 'imprisoning the soul' and perhaps the 'ultimate version of Foucauldian governmentality'. The freedom to leave the open prison at any time gives rise to an ambiguous relation to that very same potential mobility:

In order to return every day, [inmates] would have to build inner bars – some said they actually had to visualize the picturesque house with physical bars in front of the windows – constantly reminding themselves of the consequences of leaving the prison never to return. (Neumann, 2012: 148)

While viewing prison conditions through the optic of 'humane' or 'inhumane' conditions arguably produces a flattening, one-dimensional gaze – the task of prison scholars might better be understood as studying how punitive power varies in kind rather than degree, how the nature of pain-imposition varies qualitatively, producing incommensurable pains that are to some extent not easily given to cross-national comparisons – Neumann's study confirms some of the same notions of ambiguity witnessed on Prison Island.

Relative deprivation

Social immiseration is relative. Inmates come to regard aspects of open prison life as painful because they measure their experiences against their immediate surroundings, not a (worse, higher-security) past. Marx famously noted that:

a house may be large or small; as long as the surrounding houses are equally small it satisfies all social demands for a dwelling. But let a palace arise beside the little house, and it shrinks from a little house to a hut. (Howard and King, 1985: 120)

Well-being is measured in relation to surrounding levels of welfare rather than an absolute benchmark (Crosby, 1976). On Prison Island, relative deprivation is facilitated by freedoms creating rising expectations.

The problem of telephone access for inmates illustrates this point. In Norway's closed prisons, inmates are as a rule allowed 20 minutes of telephone time per week, while open prisons usually place far more relaxed time limits. In closed prison, officers usually dial numbers on behalf of inmates, phone calls may be monitored and inmates may be prohibited from using their native language, while open prisons are exempt from these restrictions (Kriminalomsorgen, 2008). On Prison Island, inmates share six telephone booths. They pay for calls with telephone cards on sale in the commissary, and calling rates are slightly more expensive than outside. Telephones are switched off during working hours and switched back on in the evenings. The telephone is a frequent topic of concern and consternation, and inmate complaints revolve around two main areas: *first*, inmates complain about high prices. Particularly non-residents who frequently make overseas phone calls to speak with relatives find this galling. For instance, a foreign national inmate believed the prison had raised rates so that wages earned on a prison job were 'earned back' by the prison over telephone calls. *Second*, inmates complain about limitations on operating hours. Steffen pointed out that inmates occasionally need to call prospective employers ahead of release. Restrictions on operating hours hindered this:

It's pretty stupid because the only time during the day before 2.30, 3.00pm [you can use the phone] is during lunch break, and if you want to take care of anything practical in terms of an employer, public offices, those kinds of things, then you have to go through a big process and ask [the officers] *nicely* if you're allowed to call, and you may not be allowed to even then.

The paradox here is that Prison Island inmates may feel worse-off the greater the access to goods and services. Given a comparative abundance of telephone time, one would expect fewer complaints. But by giving inmates greater privileges, officers are also giving them something to lose, whetting inmate appetites for things unreachable. If a person 'thinks that possession of X is feasible' (Crosby, 1976: 85), then plausibly only the *entire* X will be satisfactory. However, restrictions of some kind must probably always circumscribe privileges within the framework of penal institutions, since inmates must be reminded of their place – to prevent social unruliness and maintain the punitive component of imprisonment.

That this is so is illustrated by officer talk. Each year for the past three years, Prison Island has opened its doors to neighboring communities for an 'open house' event. Hundreds of outsiders flock to the prison ferry and spend a few hours on the island. Speaking of the 'after-effects' of such an event, an officer commented that 'there's always a bit of unrest after something like that'. Contact with the outside world, the sudden influx of persons who have not been screened in the way that visitors usually are (a background check for a criminal record, for instance),

the ‘carnevalesque’ atmosphere of such a day – all this disrupts the subtle balance of power on the island. When asked what he meant by ‘unrest’, the officer simply stated that, ‘well, they [the inmates] begin to think that it’s not quite a prison’. Their task is to remind inmates through a series of micro-level ‘technologies of control’ of their incarcerated status, and this work inevitably produces frustration. In addition to the use of population counts, telephone restrictions, visitor regulations and urine samples noted above, infractions against rules can earn the inmate a ‘dot’ or a strike. Three strikes in the course of a month results in an officer writing a report and calling the inmate in for questioning. Reports count toward the broader institutional evaluation of the inmate, and can form part of the reason for why an inmate is deemed unfit for continued residence in the prison. Another example of a ‘technology of control’ is the locked isolation cells on the island. When a prisoner fails to produce a urine sample for a drug test, he may be placed in one of the cells with a pitcher of water for a few hours. These places of confinement are referred to as ‘solar cells’ (*solcelle*), a euphemism that plays on the fact that on sunny days, the sun will be trained straight on their windows. In the prison handbook for newly arrived inmates, the euphemism is taken one step further: here they are referred to as ‘leisure single rooms’ (*fritid-senerom*), though no-one used that term in conversation. The fact that these cells must be shrouded in euphemism is in itself telling of the fact that the prison has an uneasy relationship with their existence.

Individual responsibility

Responsibilization is a prison governance strategy (Hannah-Moffat, 2000, 2001; Ugelvik, 2011b). On Prison Island, ‘doing time’ in an isolated vacuum is not an option; instead, inmates are forced to strive for self-improvement. Inmates express carceral-managerial ideologies of ‘creating the responsible prisoner’ (Bosworth, 2007), which can be frustrating because they are enmeshed in broader structures that limit the reach of individual action in producing successful outcomes. Norwegian Correctional Services recognize that self-improvement is painful, noting that ‘it is just as demanding to go through with intensive personal development as it is to be locked up in a high-security prison’ (Justis- og politidepartementet, 2008: 33). Instead of burrowing inside their cells, inmates are expected to fill their days with rehabilitation programs, cognitive interventions and daily life routines mimicking those found in the world outside. Many inmates voiced the notion of individual responsibility for sentence outcomes, emphasizing the trope of *opportunity*. Mario also said enthusiastically that ‘when you come to a place like this, you’ve got a great number of opportunities’, but qualified this assessment by underscoring that ‘it depends on what you make of them yourself. No-one will do anything for you here. It’s so that you’ll get used to making it on your own.’

For officers, increased social control at a lower input labor cost is achieved by a ‘transfer of responsibility’ (Crewe, 2011a) from officer coercion to inmate

responsibilization. Echoing Joseph's warning against 'misuse or abuse' of opportunities, Ali said that escape was unthinkable, even though it was easy enough to pull off because of loose security and availability of town leaves. Commenting on what it felt like voluntarily returning to the prison ferry after town leave, he said,

Ali: It's a little hard. Irritating. [snickering] 'I have to go back now. Catch the ferry back.' It's something you have to do. You have to come back and finish up. That's how I think. Come back, take the ferry. I could walk away. If you want to escape, you can go right ahead.

Author: Why don't you escape?

Ali: I'll never be done with it. Get it over with, that's what I think about. That's the goal. Finish my sentence, so I can start over. Go to school. [sighing]

Contrast this with Conover's (2001: 96) vision of Sing Sing, the US maximum security prison, described as 'a microcosm of a totalitarian society, a nearly pure example of the police state' where 'the military provided for the chain of command' among officers and inmates. This is Alford's (2000) prison, where 'lock' em up and throw away the key' is the dominant control practice. But in the open prison, it is instead the 'submission of subjectivity' (Foucault, 1983: 213) that constitutes the vector of control, that is, the remolding of subjects into 'docile bodies' (Foucault, 1995[1977]). A whole host of fine-grained 'technologies of power' are mobilized so that they may be made a-new into self-governing subjects; a new 'governmentality' (Foucault, 2007; Garland, 1997) or 'conduct of conduct' (Dean, 1999) is set in motion.

Prisons make moral assessments. At San Quentin State Prison, signs targeted at visitors reveal an institutional assumption that female visitors possess a 'hyper-sexualized body' that must be corrected by decent moral standards (Comfort, 2008: 53). Hannah-Moffat (1999: 82-83) uncovers 'moral evaluations of behaviour' in a Canadian women's prison where 'leisure training' courses make the demeaning assumption that 'women do not engage in socially legitimate activities' in their spare time. On Prison Island, all inmates are expected to take part in a Domestic Training Course where they are taught basic aspects of cooking, cleaning and personal hygiene, deemed necessary before 'letting inmates loose' to live semi-autonomous lives in de-centralized living conditions. Some inmates welcome the course, either because they lack life skills, or because they would, in the absence of the course, risk living alongside housemates lacking these skills. But to others, moral assumptions of responsibility are resisted. One inmate derisively called it the 'learn to wash your cock course'; another had been a father, husband and homeowner for years before going to prison and felt he no longer needed reminding to 'wash your hands and brush your teeth every day'. By casting its moral net wide, the prison makes infantilizing assumptions about inmates as part of its program of responsibilization, projecting a vision of inmates as helpless and incompetent.

Conclusion

Where is the pain in exceptional prisons? Above, it has been argued that it resides in *confusion* over roles; *anxiety* when transitioning from closed to a (seemingly limitless) open prison and from open prison to a (seemingly boundless) world outside; *ambiguity* over seemingly unequivocally beneficial goods and privileges; expressions of *relative deprivation* at the ‘taste of freedom’; and notions of *individual responsibility* in self-improvement and discipline. Clearly, as with all typologies, the boundaries bleed over into one another: when an inmate experiences a wage-earner role as *confusing*, it is connected with the *ambiguity* of access to the world beyond the prison. Nevertheless, these analytical categories are useful to the extent that they attune us to occluded punitive components in exceptional incarceration.

To govern in open prison is to produce self-governing prisoners, what might be described as ‘authoritarian governmentality’ (Dean, 1999: 141–148) or ‘neo-paternalism’ (Crewe, 2009: 144). Power is, in Crewe’s phrase, ‘soft, but tight, with hard edges’ instead of ‘heavy’. Power pursues inmates into the depths of their being, and it becomes integrated in them. For instance, Fredrik, an inmate, said, ‘It’s a prison. There’s no escaping that. But it’s a prison without guards.’ Guards were ‘invisible’ and spent a great deal of time in a central guards’ building. That they could afford to do so was because inmates to a significant degree shouldered the burden of self-control.

Admittedly, to observers of penal hardening or expansion in the age of ‘austerity’ in other advanced societies, the experiences outlined above might not occasion raised eyebrows. For instance, how can too much telephone time be a bad thing, as Fredrik’s story above tries to show? Are Norway’s inmates simply spoiled by a strong, over-protective welfare state? This is taking too shallow a view. Instead, for inmates, all lived experiences are recast by the long shadow of confinement, which skews and reconfigures sensations in its sign. Norway’s Ministry of Justice has asked why so few inmates seek transfer from closed to open prisons (Justis- og politidepartementet, 2011: 86). Do inmates know something outside observers do not? Perhaps inmates’ stock of ‘folk concepts’ (Banton, 1979) already contains an inkling of the pains of freedom – that they, on some level of cognizance, understand that there are frustrating demands and opportunities in open prisons. Further work should excavate the reasons why open prisons are not the coveted institutions for inmates one might expect them to be.

In taking a step back from the site of inquiry above, four points can be made. *First*, despite popular representations of ‘soft’ incarceration, deprivations do exist therein, but they are occluded from view, unusual and counter-intuitive. We must break out of conventional notions of rewards and punishments to be able to analytically delineate such sensations as components of a new imprisonment experience. *Second*, this finding, if replicated and developed in further empirical cases, is simultaneously a methodological defense of ethnographic immersion – in place of quick ‘carceral tours’ by social scientists or brief excursions by journalists; tours are scripted and supervised to produce ‘impression management’ for visiting social scientists, while journalists have arguably described prison conditions with worn-out

tropes and narrative structures ('prison as hell', or, on the flipside, 'prison as paradisiacal non-prison'). *Third*, the concept of the 'pains of freedom', if developed across a broader range of institutions, can strengthen the political legitimacy of 'soft' incarceration, showing that this imprisonment form is sufficiently painful to stand the test of rising punitive sentiment even in the Scandinavian countries (Balvig, 2005; Green, 2009; Smith, 2012). *Finally*, as the nature of imprisonment changes, so too must the conceptual toolbox which prison scholars deploy. Exceptional penal institutions may perhaps be said 'not to punish less, but to punish better' (Foucault, 1995 [1977]: 82). Further research should study other unusual penal institutions – other open prisons in Norway and Denmark, or Category D prisons in England and Wales, for instance – to expand our understanding of unorthodox prison pains.

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TRAJECTORIES TO MID- AND HIGHER-LEVEL DRUG CRIMES

Penal Misrepresentations of Drug Dealers in Norway

VICTOR L. SHAMMAS*, SVEINUNG SANDBERG and WILLY PEDERSEN

While the Nordic countries represent a zone of penal moderation, drug offences remain subject to harsh punishment. Based on 60 interviews with incarcerated drug dealers, we present four trajectories and turning points to the higher tiers of the illegal drug economy. The first trajectory is characterized by criminal entrepreneurship, but three other trajectories were equally evident: (1) Many drug dealers experienced poor parenting, parental substance abuse and early involvement with substance-using peers; (2) for others, marginalization processes started in adulthood, related to job loss and the breakdown of intimate relationships; (3) for some, drug dealing was interwoven with substance abuse. The findings suggest that drug control policies rest on misleading ideas about the trajectories of persons convicted of drug crimes.

Keywords: drug dealers, war on drugs, drug smuggling, life-course criminology, social marginalization

Introduction

From 2003 to 2012, the number of drug-related cases handled by Norway's [National Criminal Investigation Service \(2012: 1\)](#) rose from approximately 20,000 cases to more than 28,000 cases per year. The number of drug crimes reported to Norway's national police increased from 12,714 cases in 1993 to 45,921 cases in 2012, representing a three-fold increase in reported drug crimes to the national police in per capita terms ([Statistics Norway 2013](#)). Drug seizures also became a major focal point of police activities. Compared with seizure levels in 1985, the police were by 2009 seizing nearly 10 times more cannabis, 25 times more heroin, 30 times more amphetamine and 60 times more cocaine ([National Police Directorate 2010: 6](#)). 'Drugs are the backbone of organized crime', the chief of the Organized Crime Unit at the Oslo Police Department said in an interview in 2011. 'Whether you like it or not [drug dealers] have adopted a professional culture. They are flexible and mobile, making police work more complex. They are characterized by a businesslike attitude' ([Norwegian Broadcasting Corporation 2011](#)). Apparently, a belated US-style war on drugs had made its way to Norway, and its antagonists were viewed as professional, proficient and formidable adversaries.

In this study, we have interviewed 60 drug dealers in Norwegian prisons. Many were categorized as professional business persons by the legal system and punished as if they were highly organized, mafia-style operatives. We identify four intertwined trajectories

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to large-scale drug dealing, described as criminal entrepreneurship, early marginalization, adult marginalization and drug addiction. We argue that there is to be a mismatch between, on the one hand, the representations of incarcerated higher-level dealers held by the general public and actors in the penal system and, on the other hand, the actual and marginalized substance users' disorganized involvement in the higher levels of the drug economy.

Background and legal frame

The international system for drug control is based on a number of UN treaties, particularly the 1961 Single Convention on Narcotic Drugs. They were established to prevent non-medical production, supply and use of narcotic drugs. A key element has been penal control (Boister 2001), and the 'international prohibitionist regime' was developed within this context (Bewley-Taylor 2012). In Norway, Section 162 of the General Civil Penal Code was introduced in 1968 with a maximum length of imprisonment of six years for drug offences. Gradually, upper sentencing limits were raised, and by 1984, aggravated drug offences (Section 162, Subsection 3) were punishable by up to 21 years in prison.

Norway remains enmeshed in a broader, Nordic zone of penal moderation (Pratt and Eriksson 2013; Shammass 2014) in an era that has witnessed rising punitive outcomes on both sides of the Atlantic (Downes 2001; Wacquant 2009). But even though the Nordic countries remain committed to low levels of punitiveness, recent decades have witnessed increasing control specifically targeting drug distribution (Tham 2001; Lappi-Seppälä 2007). Drug sentencing lengths are an anomaly in the generally lenient Norwegian legal system. 'Norway and Sweden have very strict anti-drugs laws', Pratt (2008: 285–86) writes, noting that 'the aim of their "zero-tolerance" drug policies is to make these two countries *drug-free societies*'. The policing of drug crimes is extensive; out of 39 European jurisdictions, Norway had the fifth highest rate of detected drug offences in 2006 (Aebi *et al.* 2010: 58). Some have argued that prison sentence lengths for drug offences have been comparatively severe in the Nordic countries (Chatwin 2003; Träskman 2005)

Figure 1 presents the annual number of investigated drug offences over the last 30 years (Hauge 2013). One should particularly note the steep increase in investigations of the least serious drug offences (Section 162, Subsection 1; punishable by fines or an upper limit of two years prison) during the second half of the 1990s. The most serious crimes (Section 162, Subsections 2–3) have remained comparatively stable at around 1,000 investigated offences per year. Drug offences are the leading cause of imprisonment (30 per cent), well ahead of crimes of gain (22 per cent) and violent offences (21 per cent). In terms of the prison population, drug offenders made up nearly 30 per cent of the prison population on a single given day in 2011 (Norwegian Correctional Services 2012: 38). While milder drug infractions such as possession and use of illegal substances have been de-penalized (Hauge 2013), serious drug crimes have been met with equal or intensified penal reactions over the last decades, producing an 'ambivalent balance between repression and welfare', as Larsen and Jepsen (2002: 582) note in the case of Denmark, a point that may be equally applicable to the remaining Nordic societies.

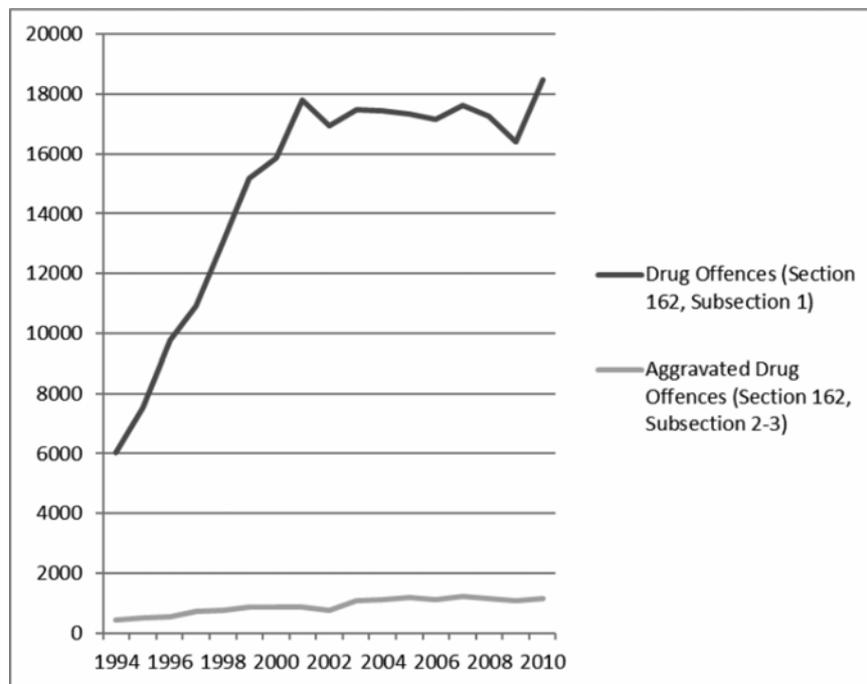


FIG. 1 Investigated drug offences in Norway (General Civil Penal Code Section 162, Subsections 1–3), 1994–2010

Drug dealers and traffickers

Previous research on mid- and high-level actors in the drug economy has suggested several typologies of how distributors organize and operate. [Dorn et al. \(1992\)](#) distinguished between *trading charities* (ideologically committed distributors), *mutual societies* (reciprocating user-dealers), *sideliners* (licit enterprises with an illegal side business), *criminal diversifiers* (illicit entrepreneurs entering the drug market), *opportunistic irregulars* (short-term, spontaneous and co-incidental dealers) and *retail specialists* (stable, hierarchical entities with a division of labour and ‘managerial structure’). Focusing on traffickers, [Dorn et al. \(2005: 35\)](#) later distinguished between politico-military, business criminals and adventurers. They argue that the latter include more marginalized groups that are also more vulnerable to disruption and judicial action. [Natarajan and Belanger \(1998\)](#) distinguished between freelancers, family businesses, communal businesses and corporations. [Curtis and Wendel \(2000\)](#) constructed a similar typology of heroin distributors in New York, but compressed their schema into three categories: freelance distributors, ‘socially bonded businesses’ and corporate-style distributors.

In a literature review, [Desroches \(2007\)](#) argued that large-scale drug dealers and traffickers have been represented as either small, independent entrepreneurs, or as part of large, hierarchical, mafia-style syndicates. The latter, however, are less commonly portrayed in scholarly work. Research shows that even large quantities of drugs are often handled by loosely structured, semi-independent actors ([Reuter and Haaga 1989](#); [Dorn et al. 1992](#); [Adler 1993](#); [Zaitch 2002](#)). However, as reflected by the typologies above, studies of large-scale dealing and trafficking have emphasized rational,

entrepreneurial modes of organization. Moreover, drug dealing and trafficking has been regarded as a combination of individual preferences and responses to opportunities in a market.

Producing typologies has been a central concern to scholars of drug distribution, but scant attention has been paid to teasing out the sociobiographical properties of drug distributors (Dorn *et al.* 2005). A concern with dissecting the life stories of drug dealers has played a stronger role in research on street-level sales. Such studies have typically emphasized the importance of marginalization and exclusion in shaping offenders' lives (Buceri 2007). As Coomber (2006: 145) points out, drug dealing is sometimes the 'outcome of a marginalized and relatively oppressed existence', and what he describes as 'pusher myths' have the effect of 'ignor[ing] the role of poverty and other structural influences that help *produce* involvement in crime, and by extension, in drug dealing'. Studies from both the United States (Bourgois 2002; Hoffer 2006; Venkatesh 2006; 2008) and the Nordic countries (Lalander 2004; Sandberg and Pedersen 2011) reveal how street-level drug dealing can be understood as a response to socio-economic marginalization. This perspective has been little represented in research on upper-level dealing and trafficking, except shorter statements often linked to the situation in poor drug-producing countries (Decker and Chapman 2008: 97, see also Desroches 2005). In this paper, we will demonstrate that a more thorough perspective of marginalization also is crucial to understand more highly placed actors in the Western drug economy.

Dorn *et al.* (2005: 38) argue that future research needs to explore the reasons drug dealers and traffickers get involved in the trade, e.g., lack of alternative opportunities, perception of superior rewards, appetite for/toleration of risk. Among the methods they suggest are biographical research with individuals. Following this call, we explore the trajectories of incarcerated drug dealers and smugglers in Norway.

Trajectories, transitions and turning points

Pioneering work by Sampson and Laub (1993; 2005) on the so-called life-course view of development of crime provides a theoretical framework for our study, and their key concepts include trajectories, transitions and turning points. A *trajectory* is defined as 'a pathway or a line of development over the life span, such as work life, marriage, parenthood, self-esteem, or criminal behavior' (Sampson and Laub 1993: 8). Trajectories refer to long-term patterns of behaviour, and they are marked by a sequence of *transitions*, such as a first job or first marriage. *Turning points* are events that shift trajectories towards lesser or greater propensity to engage in crime. The turning point represents 'an alteration or deflection in a long-term pathway or trajectory that was initiated at an earlier point in time' (Sampson and Laub 2005: 16).

Carlsson (2012: 4) argues that even if it is not obvious that certain events in individuals' lives are important in themselves, and even if individuals themselves provide 'strangely trivial reasons' for why they desist from crime, a turning point 'can be a useful construct for interpreting, analyzing and understanding changes'. We agree and, rather than exploring desistance from criminal offending as is common in the research literature, we explore trajectories and turning points that *lead to* drug distribution and subsequent incarceration.

Method

The present study is based on interviews with 60 incarcerated drug dealers. Interviews were carried out in six prisons in southern, eastern and western Norway. The sampling criterion was involvement in drug dealing and trafficking. All research participants had experience with drug distribution, covering a broad spectrum of drug offences, from lower-level cannabis dealing to higher-level smuggling of dozens of kilos of cocaine or heroin. Sample characteristics are presented in [Table 1](#). Research participants were selected by asking prison wardens to let us into wings, allowing us to ask who would be interested in participating, or prison officials would post notices on our behalf outlining the research project.

We used semi-structured life story interviews ([Bertaux 1981](#)) and interviews covered a time span from childhood to present-day. Interviews lasted between 1.5–2.5 hours and were carried out by a team of five researchers, including the authors of this article. Four of five interviewers were men, and the female researcher conducted all interviews with female participants (see [Grundetjern and Sandberg 2012](#) for the particulars on the female drug dealers). Interviewers were trained sociologists with previous experience in qualitative interviewing with hard-to-reach populations. We followed a general interview guide developed in advance, but interviewers were free to explore themes that emerged in the course of interviews. Trajectories and turning points identified below are based on statements that emerged spontaneously, largely by participants' own volition. We adopted the stance that 'you *do not* explicitly ask the interview participant about turning points' ([Carlsson 2012: 2](#)), and responses were therefore less dependent upon the researcher's preconceived analytic notions.

TABLE 1 *Sample characteristics (gender, age, type of drug distributed, hierarchical classification, primary drug use)*

	N = 60	Percentage
Gender		
Male	32	53%
Female	28	47%
Age		
Minimum	20 years	–
Maximum	50 years	–
Median	36 years	–
Type of drug distributed		
Amphetamine	23	38.3%
Cannabis	15	25.0%
Heroin	14	23.3%
Cocaine	4	6.7%
Ecstasy	2	3.3%
Other	2	3.3%
Hierarchical classification		
Low	7	11.7%
Middle	39	65.0%
High	14	23.3%
Primary drug use		
Amphetamine	32	53.3%
Opiate	16	26.7%
Cannabis	9	15.0%
Cocaine	2	3.3%
Other	1	1.7%

Past research on drug markets has had trouble delimiting the boundaries between drug economy actors. Researchers have variously focused on quantities, perceived seriousness of drug offences or earnings to hierarchically categorize dealers. Desroches (2007: 828) viewed 'higher-level' drug traffickers as persons who sell 'large quantities' of drugs; May and Hough (2001: 138) understand 'low-level police enforcement' as concentrated on the physical locale of the street. While such definitions may have an intuitive appeal, clearly, notions of 'street-level drug markets' or 'large quantities' are contestable. Defining the elusive 'middle market' becomes even more problematic. After trying to carve out a conceptualization of the middle-level drug market, Pearson and Hobbs (2001: 17) conclude that there is 'no one place called the "middle"' and contend that 'in one sense' drug economy actors are 'all "in the middle."'

Norway's Penal Code Section 162 states that the severity of drug offences is based on (1) kind of substance, (2) quantities and (3) 'character of the violation'. In practice, the combination of quantity and type of drug seems to be prioritized in sentencing, a tendency found in other societies as well (Green *et al.* 1994; Harper *et al.* 2000). We categorized sample members using guidelines from the Norwegian Director General of Public Prosecution. The penal code distinguishes between three different levels of involvement in the drug economy. Table 2 shows the governing guidelines for drug prosecution in Norway. For example, an offender who recounted having sold less than one kilo of cannabis at one point in his youth and smuggled more than 750 g of heroin later in life would be classified as a 'high-level heroin dealer'. Offenders were categorized according to their (admitted) highest level of involvement in the drug economy over the life course. While applying official guidelines may seem like a passive acceptance of governing agendas, it is warranted when the topic is the nature of punishment directed towards drug offenders.

Interviews were recorded, transcribed and coded in HyperRESEARCH, a qualitative data processing programme. When analysing interviews, themes were first coded broadly pertaining to possible trajectories to drug dealing. Codes were established according to predefined research interests, including (1) family of origin and school experiences, (2) partners and children, (3) conventional life and careers, (4) pathways to crime, (5) substance use, (6) drug dealing operations and (7) pathways out of crime. After this initial coding, we coded statements consistent with the four trajectories that make up the results of the current analysis. This style of coding is consistent with general standards of qualitative research analysis (Kvale and Brinkmann 2008). All three authors participated in data coding and analysis, and the four trajectories we have highlighted are those that appeared most important to us during analysis. Less fine-grained

TABLE 2 *Hierarchical ordering of drug economy actors based on guidelines from the Norwegian Director General of Public Prosecution (Riksadvokaten) for conviction according to Norway's triple-tier 'drug section' (Penal Code Section 162)*

Substance	Lower level	Mid level	High level
Heroin	<15 g	≥15 g	≥750 g
Cocaine	<50 g	≥50 g	≥3 kilos
Amphetamine	<50 g	≥50 g	≥3 kilos
Cannabis	<1 kilo	≥1 kilo	≥80 kilos
Ecstasy	<350 tablets	≥350 tablets	≥15,000 tablets

analyses could include fewer trajectories; conversely, more fine-grained analyses could include increasingly detailed trajectories. Data on sentence lengths were not systematically gathered from prison authorities as this might raise issues of anonymity, but interviewees were prompted to speak about their sentence length and type.

A common criticism of prison interviews is that participants are not in close proximity to the events they are recounting and that they can be influenced by the institutional setting (Wright and Decker 1994). It has been argued rightly that prison populations more frequently the subject of research scrutiny than other offender populations; more open to contest is the claim that inmates provide less valuable insights into offending behaviour (Jacques and Wright 2010). Copes and Hochstetler (2010) reject such criticism by arguing that interviews within and outside the prison context generally present similar challenges and dilemmas but that prison interviews carry additional advantages; e.g., incarcerated offenders are more likely than active offenders to be motivated to respond and they have more time to reflect and respond to researchers.

In this study, we were interested in the characteristics of incarcerated drug dealers. We sampled from a prison population because we wanted to study those most directly affected by illegal drug policy and legislation. Detailed information provided by interviewees on their role in the drug economy may of course still be questioned. One might, e.g., expect prisoners to downplay their role in crime in order to present a 'moral self' (Presser 2004: 82–3). A more specific problem for the analysis in this study is the inherent problem of establishing longitudinal trajectories on the basis of cross-sectional data. For instance, interviewees may have linked drug offending to disruptive events in order to organize them as proper narratives or life stories (see e.g., McAdams 1993; Riessman 2008).

Still, while there is no way to secure the absolute validity of self-reported data, we have several reasons to trust their relative accuracy: First, interviewees reported a number of crimes for which they had not been convicted. Second, interviewees frequently described incidents more incriminating for their moral image than drug dealing, including serious violent offences. Finally, while the dominant stories in the data set revolved around semi-accidental involvement in the drug economy, some interviewees told us about continuous large-scale engagement in drug dealing.

Below, we describe the four trajectories and key turning points we identified in data. Each trajectory is illustrated first a case study before moving on to more analytical remarks.

Paul: criminal entrepreneurship

None of Paul's family members were involved in crime or illegal drug use, but at the age of 14, he and a friend started selling small amounts of hashish to his schoolmates. He described the startling feeling of having large sums of money at his disposal. In the beginning, their operation amounted to 'no more than a one, maybe two thousand [NOK] turnaround every week. But the wheels were rolling, and I realized that there was a lot of money to be made'. Gradually, they built up a small drug dealing enterprise, recruiting other boys to sell for them. Later, they realized that the big money lay in smuggling, and by the age of 16, they had completed their first smuggling trip. Paul described how they got drunk at a party and decided to give it a try:

Paul: It started by taking a taxi back to my home to fetch my passport. Then to the airport, each of us with a ticket to Denmark. Straight to Christiania,¹ pissed off our heads, argued it down to a good price. Over to the hotel and smoked a fat one, with a taxi back to the airport. Back to Oslo the same evening. Then we just had to stroll through customs and Bob's your uncle.

Interviewer: And you were 16 years old?

Paul: 16 and 17, yes. And then we realized we could do it lots of times. Being 16–17 and sitting on six-figure sums without having to worry about shit. In any case, the years pass and it keeps snowballing and the amounts get bigger and you get more creative. Yeah, you lose some of your inhibitions with money. Then a million isn't that fucking much.

The experience of making money, growing self-reliant in early adolescence and the thrills and ease of his first smuggling trip were important turning points in Paul's criminal career. He was fascinated by the 'sneaky thrills' (Katz 1988) of crime and was captivated by the voluntary risk-taking and edgework involved (Lyng 1990, see also Fenwick and Hayward 2000). Such experiences, in addition to the satisfaction derived from earning large amounts of money at an early age, were decisive for his trajectory into the higher levels of the illegal drug economy.

By his mid-20s, Paul had become a mid-level cannabis smuggler. He hired people to smuggle on his behalf, but he also smuggled a great deal himself. He described three main routes. One consisted of picking up hashish in Spain and bringing it back on commercial flights, rarely amounting to more than three to five kilos of high-quality product. The second and more commonly used route was via Denmark, on the ferry between Oslo and Copenhagen. The third route, which came to be Paul's most profitable, was via an acquaintance who worked as a truck driver. At first, Paul concentrated on hashish, but seeing the profit potential in branching out, he started smuggling amphetamine powder, ecstasy and Rohypnol.

He was eventually sentenced to six years in prison. He believed his incarceration was a natural outcome when 'you go after the big money, when you have no limits'. Criminal enterprise had been profitable to Paul, and he boasted about the large sums he had earned. Like many other drug dealers, Paul considered himself a businessman who happened to be trading in a product that was illegal. Rational pricing and risk strategies were employed to minimize costs and maximize profits. But he also noted the attraction and excitement deriving from criminal activity. 'I think of myself as an adrenaline junkie. I need the excitement', he said. Parallel to findings by Dorn *et al.* (1992), Paul seemed to have moved from being a spontaneous, loosely organized 'opportunistic irregular' in his adolescence to becoming a more stable 'retail specialist' in his later 20s. Most importantly, Paul's involvement in the drug economy seemed to be motivated by the very real possibility of earning large sums of money.

Criminal entrepreneurship

Purposeful, rational weighing of costs and benefits characterized Paul's trajectory to high-level drug dealing. Other dealers had similar stories. A mid-level cannabis and cocaine dealer described several rational strategies to solidify her relationship with a fixed customer base.

¹ Freetown Christiania is a neighbourhood in Copenhagen, Denmark, renowned for open consumption and sale of cannabis.

I've never been dependent on anyone else. I've had one rule and that is: I don't cheat. If you want customers to return you have to offer them high quality. The same thing goes for a store that sells electrical [appliances], for example. You have to offer quality goods for the customers to return. Otherwise they'll just find another supplier. And then you won't be making any money.

She maintained a fixed number of customers and a long-term planning horizon. This was simultaneously a strategy for avoiding arrest: A large number of infrequent customers would result in her name being thrown around on the street more often, resulting in greater probability of police detection.

Another dealer described the higher-level segment of the cocaine trade in a language laced with business terminology: There was a 'long production line' from source to consumer, and 'marketing' tools like 'taster samples' to showcase product quality were used for 'advertising'. Business school vocabularies are frequently employed by drug dealers (Dwyer and Moore 2010), and business-oriented rationales were the driving force in this trajectory to high-level dealing. Profit-seeking individuals not concerned with the legality of their business explore markets generating a high income in relatively rational ways (Zaitch 2002; Desroches 2005; Decker and Chapman 2008).

The lure of extraordinary profits can exert a strong force on would-be drug entrepreneurs. One said that 'money had *definitely* become the most important thing' in his life. Promising to pay far more than could be accumulated in the wage labour economy, drug dealers often report that the promise of easy money and extravagant lifestyles was what motivated them to enter and stay in the drug economy. 'I started selling cocaine, and very quickly I made *a lot* of money doing it', a high-level cocaine dealer said. 'I would make 30,000 [NOK] a week by myself after all expenses had been paid'. To some drug dealers, it was the combination of earning potential and being their own boss that attracted them to the drug economy and later solidified their position within it. A mid-level amphetamine dealer remarked, 'It's all about being in charge on your own'. The combination of high incomes and self-employment was attractive.

The entrepreneurial trajectory to the illegal drug economy was two-fold. Sometimes, as in the case of Paul, potential dealers and smugglers entered the drug economy through a combination of greed and business-like motivation. More commonly, however, early socialization into the economy made drug dealing appear more 'rational' than a legal career. The practical rationality in heavily marginalized segments of the population has previously been captured by the concept street capital (Sandberg 2008a; 2008b). One dealer said that at the age of 10, his father had told him who to contact if he wanted to smuggle large quantities of drugs. Another noted,

Nobody in my family ever worked. Nobody paid taxes. Everyone made a living dealing drugs or committing other types of crime. It all became very *normal* for me. I've watched my [step-]father get up and go to work – by walking over to the couch and selling hashish. That's been his job. It's like some other kid watching his dad go to work at the local corner store. It became so ordinary. Drug dealing was a *natural* thing for me to start with.

These dealers used this street capital, or competence and knowledge they had acquired through socialization in families involved in the illegal drug economy, to earn money. In this way, the criminal-entrepreneurial trajectory remained interwoven with trajectories characterized by socio-economic exclusion and marginalization.

Adam: early marginalization

Adam's trajectory to mid- and high-level drug dealing was linked to behavioural and emotional problems in early childhood. 'I was *hyperactive*', Adam said. '[I had] a lot of energy'. School authorities reacted to his antisocial behaviour by segregating him from other children. 'In elementary school I had a classroom to myself. I wasn't allowed to spend recess with the other kids because I was so unsettled, and people were afraid of me', he said. Psychological distress went undiagnosed and untreated, and Adam held this to be an important reason for what would follow later in his life.

Adam was frequently embroiled in fights, but his parents lacked the resources to find an appropriate solution to his problems. State psychiatric services subjected him to testing, and after a while, child protective services took him into custody. At one point, he was transferred to a closed psychiatric facility. He recounted how, as a 13-year-old, he was 'beaten up' by seven staffers at the institution, describing the episode as a 'turning point' in what would become an extensive criminal career:

That's where it all started for me. Seven adults jumping me, *lying* on top of me for hours. [Afterwards] I was taken into a narrow room with three windows and a long table. I received a mattress and I ate my meals in there and they let me use the toilet – that's all I was allowed to do. The experience did something with my head. In recent times I've discovered that it was a turning point.

After this episode, violence became easier to accept and humiliation more important to avoid. Moreover, while in the closed ward, his social network expanded to include a boy his own age who smoked cannabis and used amphetamines. They began taking drugs together. Escaping from the institution they ended up committing an unsuccessful violent robbery, seriously injuring two persons. By the age of 15, he had received his first conviction and was set on a course of increasingly serious delinquency.

Adam's aggression and proclivity for violence led to his recruitment into the drug economy. 'I was into *violence*. That was my drug, the thing I got a rush out of', he said. After turning 18, child protective services released him from their charge, and he began to look for work to earn money. '[I asked myself], "OK, what do I know how to do? Well, I know how fight. Who do I look up? Well, I can get into one of the gangs."' Work as an enforcer came his way from the motorcycle gangs who seemed to take a liking to this brash, hard-hitting young man. 'They welcomed me. So I started selling drugs for them', he recounted. This contact was the key turning point in his involvement in drug crime.

At the time of our interview, Adam had reached his mid-30s, achieved 15 prior convictions and spent around 12 years in prison. He was serving a six-year sentence for smuggling five kilos of amphetamine from Sweden to Norway. He had accumulated extensive experience with transporting and dealing drugs at the mid- and higher levels. His way was shaped by violent dispositions developed at an early age, combined with experiences of humiliation and social exclusion in childhood and early adolescence.

Family, school and early juvenile delinquency

In our data, the most important indicators of early socio-economic marginalization were: (1) parental substance use, violence, abuse or family disruption and (2) early problematic experiences in the school environment, including restlessness, attention

deficit hyperactivity disorder (ADHD) and learning failure. Combined these experiences formed their trajectories to drug crime. They developed ‘cumulative disadvantage’, whereby bonds and social control, including employability, were gradually undermined (Sampson and Laub 2005: 15).

A mid-level cocaine dealer described growing up in an environment where illegal drug use was common. ‘I grew up with a mother who was an addict’, she said. ‘She used to inject. And I had a grandmother who was a “pill-popper” – I guess she’d take around five “roofies” [Rohypnol] a day at a minimum. So I grew up with it’. Similarly, a mid-level amphetamine dealer in her mid-30s described how parental and peer environments in early childhood were pivotal for her early experiences with illegal drugs and drug dealing.

I had a father who was in [a criminal gang] who worked on debt-collecting through intimidation and selling drugs. My parents’ friends were very much in the gang. So the path was laid for me from when I was very little. I grew up in a small place, and when you’re 11, 12, 13 years old, you hang out with older kids. I started taking drugs when I was 11 years old, sniffing gasoline, smoking hashish.

The combination of parental criminal involvement, parental substance use and peer delinquency shaped his early trajectory into drug dealing. A growing body of research demonstrates intergenerational transmission of broader offending behaviour (Farrington *et al.* 2009; van de Rakt *et al.* 2009). Low parental monitoring and parental substance use have also been found to significantly increase young persons’ involvement in drug dealing (Little and Steinberg 2006). Our data point in the same direction, and some of our interviewees learned the skills necessary for drug dealing via family members.

In this way, lack of parental care and maltreatment were typical in drug dealers’ life stories. Still, dislocation from family or placement in community homes via child protective services were often described as turning points, producing new social networks that fuelled the interviewees’ criminal careers. A cocaine smuggler described how she was removed from her family home:

I was a child protective services kid. You get a little affected by the others who are there. We came up with a plan to escape. We were going to piss off the adults, get into some trouble. It was fun, I remember! And that’s how it went down for a long time, because I just kept meeting more young people from really messed up environments where the parents were either drug addicts or dead.

She had lived in three state institutions while waiting to be relocated to foster care. But as her teenage years passed, no families were interested in taking her into their home. School progression was disrupted by learning difficulties and continuous relocation to different institutions. She further described delinquent acts that grew progressively more serious in the absence of parental control and ‘being allowed to do almost anything you want when you spend the whole day sitting in an institution with the same people’. Crimes such as drug dealing can be seen as shaped by exposure to parental criminal involvement (Farrington *et al.* 2001) or peer-group delinquency (Matsueda and Anderson 1998). In our data, relocation to child protective services facilities was often the link between the former and the latter.

Sometimes, the path from juvenile delinquency to higher-level drug dealing networks was remarkably short. A mid-level heroin dealer described how, in his early teens, he had been transferred to a community home after his mother committed suicide. He started smoking cannabis and taking pills with a friend. He was then recruited by a

group of older boys in the community home, as they grew aware of his auto theft skills. Finally, like Adam, he was introduced to a motorcycle gang. It was terrifying at first, but after a while ‘it was fun, because they accepted me’, he said. Being part of a motorcycle gang that distributed drugs provided him with a sense of community, self-respect and income.

Young people with experiences of parental substance use, family disruption and socio-economic exclusion are more easily recruited to such drug dealing networks. Transfer to institutions like community homes or prisons are turning points in this development. ADHD symptoms and disorders of conduct and emotion are also important risk factors for offending behaviour (Mordre *et al.* 2011; Gudjonsson *et al.* 2012). The ‘multiple marginality’ (Vigil 2002) many of the participants had experienced in childhood and early adolescence led them in ‘search of respect’ (Bourgois 2002), which, for our participants, ended in the drug economy. With humiliating experiences from a variety of society’s conventional institutions, they were both pushed and drawn towards the illegal drug economy.

Martin: adult marginalization

Unlike many mid- and high-level dealers in this study, Martin had lived a conventional working class life until his late 20s. Looking back on his youth, the worst acts of delinquency he could remember were some school truancy. In his spare time, he would engage in one of his passions, fixing up cars and motorbikes after school with friends. Since jobs were scarce, his restlessness found a meaningful outlet in military service. ‘I found there was a lot of life experience to be had there’, he said. His conventional adolescence was reminiscent of experiences shared by many working class youths growing up in Norway at the time. A turning point occurred in his late 20s when his partner left him:

We had a kid together. She moved out, sold the apartment. My days started growing monotonous. I couldn’t just sit around moping at home by myself. I had to think of something to do. I called up some friends from my childhood.

He contacted old friends and discovered that many now were eager partygoers, who had turned to binge drinking and amphetamine use. Meanwhile, he had been leading a dull existence at the bottom of the wage labour economy. Influenced by his new friends, he began using small amounts of amphetamines for partying, but as time went by his drug consumption increased. He also came into contact with a man who shared his passion for cars. They hit it off, fixing up cars together. Gradually, Martin learned that his new friend was able to pursue this passion by smuggling cannabis. As his commitment to conventional marital and working life slipped away, Martin found himself working closely in the cannabis trade with this friend. They found small roads in rural eastern Norway where they could smuggle cannabis across the border from Sweden.

When interviewed, Martin was in prison for smuggling several hundred kilos of cannabis. His story illustrates several of the trajectories to mid- and high-level dealing presented in this paper. To engage in trafficking was entrepreneurship, taking advantage of opportunities and a market to finance an expensive hobby. At the same time, his increasing use of amphetamines played a crucial part. But it is also difficult to

understand Martin's pathway to smuggling without seeing the importance of his cultural and social departure from conventional working class life, starting with the break-up with his partner. For some, processes of marginalization starting late in life played a crucial role on their way to mid- and high-level dealing. However, most people who experience such marginalization do not start dealing drugs. Another turning point was usually, as in Martin's case, the introduction to new networks, providing an opportunity to start dealing.

The breakdown of adult social bonds

In much the same way as early marginalization, transitions and turning points in adulthood shape pathways into the drug economy. Our findings here closely echo previous research in life-course criminology (Sampson and Laub 1993; 2005). The most important turning points in adulthood were job loss and failed spousal relations. The more basic trajectories of those who initiated drug dealing in adulthood were lack of educational credentials, accumulation of debt, welfare state dependency. The result was a gradual disorganization of personal life. In the midst of such disorganization, research participants reported coming into contact with an opportunity to engage in drug crime. This trajectory contains within it the category of 'adventurers' described by Dorn *et al.* (2005: iv) who are willing to take relatively high risks 'because they may feel they have little alternative...or they may experience a sense of excitement yet do not fully understand the risks being run'.

A weak attachment to the legal labour market was a particularly important aspect of this long-term trajectory. A mid-level amphetamine dealer described how he had worked mainly temporary menial jobs.

I've had a couple of cleaning jobs. I've worked in a sausage factory. A three-month temporary position in a warehouse. Since I've never had a driver's license, I've never been able to drive a garbage truck, you know, so I've always been the guy on the back of the truck who helps out.

His working life was characterized by brief and occasional involvement in the labour market, usually involving menial labour at the lower rungs of the service sector, with income derived from a mix of job earnings, social welfare receipts and later, burglary and drug sales.

For many persons in this study, criminal careers in adulthood were initiated via trajectories characterized by weak attachment to the job market and marital instability. This may be a result of selection bias, i.e., the unobserved characteristics of individuals (Gottfredson and Hirschi 1990), but persons with a high propensity to crime seem to have lower crime rates when married (Sampson and Laub 2005: 18). Many interviewees spoke about diagnoses such as ADHD (see also Kaye and Darke 2012), or a thrill-seeking tendency and impaired self-control (Burt and Simons 2013). Several spoke of 'kicks' when managing to handle large operations and the sensual attraction of 'rapidly escalating' dealing. There is much to indicate that personality factors play a role in this picture—some simply enjoy the thrills associated with mid- and high-level dealing. Cultural criminology has emphasized that this is an important aspects in all kinds of crime (Ferrell *et al.* 2008). However, such escalation—moving from conventional life to large-scale drug operations—frequently hinged on moments where their personal life

cascaded out of control. An amphetamine dealer described how she enjoyed working, but worked ‘all too long hours’. She told us how this destabilized her life.

I love working. Because I really want to be on that side, the right side [of the law]. But I’ve got a tendency to work too much and then I have trouble saying no. For a while I quit amphetamines. All I had was my job. But then I get exhausted from work, and then I know how when you take a little amphetamine I work two jobs at the same time.

She described how amphetamines were instrumental in increasing work effort. A mid-level heroin dealer who had started up a carpentry business by himself described how he was ‘not good enough at regulating [work hours] to take care of myself’ and he ‘worked [his] marriage to death’. Gradually, his personal life escalated into a pattern of drug use, job loss and the loss of his spouse until, finally, he was willing to take risks in the drug economy. A mid-level amphetamine dealer similarly described how working long hours in bars and restaurants facilitated excessive use of alcohol and drugs:

There was a lot of partying [going on]. I had a partner and things were going all right. 5–6 years with a partner. Then I came home after smoking a joint with my pals. “You’ve been smoking hashish again?” – “Yeah,” [I said]. “Aren’t you going to grow up, become an adult?” [she said]. I wasn’t going to grow up. What the fuck, [I remember thinking], I’m not going to quit smoking hashish. So I just sacrificed my woman. It was the most stupid decision I’ve made in my life.

The most important events and processes in adult life leading to drug dealing and smuggling seem to be the breakdown of intimate and work-related social bonds, resulting in reduced social control, lack of supervision and lack of structured routine activities (Sampson and Laub 2005: 18). The findings echo previous studies suggesting that unemployment plays a role in motivating crime (Raphael and Winter-Ebmer 2001; Edmark 2005). In much the same way as for early marginalization, processes of socio-economic marginalization starting later in life are pivotal to understanding trajectories to mid- and higher-level dealing. In both instances, new networks offering a possibility of drug dealing are important turning points.

Tommy: drug addiction

Tommy had been taken care of by child protective services from his early teens. He started using alcohol when he was 11 years old, cannabis at 13 and amphetamine at an orphanage when he was 14. Gradually, he started dealing to his friends, his network of customers expanded and, by his late teens, Tommy had become a mid-level amphetamine and ecstasy dealer in a small town near Oslo. Moving into the house culture of the 1990s, he started trading in ecstasy. He gained a foothold as a drug retailer at the house clubs in Oslo. Drug dealing helped him attain social status and financed his escalating use of drugs. When he was 18, he first tried heroin: ‘It didn’t work too well the first time, but gradually it felt better and better. Then, for two weeks straight I used it every day. Suddenly I was hooked’.

Three years passed before he began injecting. At this point, he realized that he was no longer able to coordinate drug transactions on the same scale as before, which would have required the balancing act between buying on credit from higher-place wholesalers and fronting sales to lower-level customers—in addition to feeding his own growing heroin habit.

Heroin addiction became a serious problem. ‘I couldn’t control my use’, he said. Heroin was also a gateway into further drug dealing. He injected heroin 3–5 times a day. Hunting for his next fix meant spending time on the open heroin scene in Oslo, and he came to know this scene in detail: which mid-level dealers could supply high-quality heroin, which of the addicts who were willing to pay the right price for quality stuff. Seeing an opportunity to finance his own habit, he transitioned into the life of a street-level heroin dealer, never purchasing more heroin on credit than he could pass on in a couple of hours. Tommy did not want to go back to trading in larger quantities. ‘I didn’t want to tempt fate. It could get real ugly if you screw things up for others’, he said. ‘A friend of mine got shot in the knee’. He avoided larger transactions. Still, following prosecution standards, his dealing remained on a scale classifiable as mid-level. He was frequently arrested, and he had been in and out of prison for many years.

When we interviewed Tommy, he was in his early 30s. He was pale, soft-spoken and with missing teeth in his upper gums. Throughout his career, growing addiction to illegal drugs was interwoven with selling them—sometimes at a higher level, more frequently at lower level. Many street-level dealers move in and out of the categories of lower- and mid-level dealing, as defined by the authorities. The amount of drugs they were dealing hinged on possibilities and needs rather than on a particular dealing strategy (see also [Hoffer 2006](#)). If they were caught in one of their larger operations, punishment could be severe. In addition, low-level dealers could be charged and prosecuted as mid-level dealers if the police combined quantities sold over a period of time rather than prosecuting single transactions.

Substance use and drug dealing intertwined

Previous studies reveal that many lower-level drug dealers first develop substance problems and then drift into drug dealing ([Mieczkowski 1986](#); [Murphy et al. 1990](#)). Studies of heroin and amphetamine users suggest that between one-half and two-thirds also have drug dealing experiences ([Bretteville-Jensen and Sutton 1996](#); [Morgan and Joe 1996](#)). When a person’s friends and acquaintances are drug users or dealers, they are more likely to start selling drugs.

Our data, as well as previous studies from Norway ([Bødal 1982](#); [Ødegård 2008](#)), suggest that this trajectory also exists for mid- and higher-level actors. Most of the drug dealers we interviewed had serious substance abuse problems. Offenders with drug dependence problems probably make more mistakes and are more susceptible to arrest. Financing drug consumption is costly, and drug dealing provides a steady source of drugs for personal consumption. Heavy substance use may also interfere with the ability to hold down steady wage employment. Several mid- and high-level drug dealers in this study bore visible traces of an addict lifestyle, e.g., poor dental health, needle marks and scars. A female dealer said: ‘In summer, it’s embarrassing for me to wear a t-shirt and I avoid it. I’ll just carry my purse in a way so that nobody sees [the needle marks]’. The physical stigma of extensive drug use made drug dealing one of the few sources of income available. The visible and stigmatized ‘junkie look’ drew attention from police, potential employers and the general public. Moreover, even for drug users without this visible stigma, drug use comes with extensive social networks of drug suppliers, and exclusion and isolation from social networks with links to the legal economy.

This provided numerous opportunities for a career as a drug dealer, but as drug use progressed, fewer opportunities for alternative forms of employments.

Conceptualizing drug addiction as a trajectory to mid- and high-level drug dealing highlights how dealing becomes a way of earning money necessitated by heavy substance use. According to one mid-level dealer, selling drugs had been a way of ‘financing own [heroin] use, and to get a little pocket money’. When craving heroin ‘you’d do almost anything, when you wake up in the morning and you’re sick and you don’t have any money’, he said. Another mid-level dealer similarly described smuggling and selling amphetamine first and foremost as a way of financing his drug habit. He explained how he would travel to Sweden to buy amphetamine, exploiting the price differences between Norway and its neighbouring country. ‘I haven’t been looking to make money, just so long as I get my needs covered, then I’m happy’, he said. Some had also become involved in large-scale drug operations to honour drug-related debt emerging from extensive use.

Street-level dealers are typically portrayed as struggling with substance use problems (Mieczkowski 1986; Murphy *et al.* 1990; Hoffer 2006). Our study suggests that this also holds true for many higher-placed actors. Moreover, many of them played minor roles in drug dealing operations and did not earn a lot of money from it. They could nevertheless end up handling relatively large quantities of illegal drugs, and prison sentences typically reflected this fact. In a study of traffickers imprisoned in Ecuador, Fleetwood (2011) found that mules often carry greater quantities than ‘professional’ traffickers, arguing that ‘sentence guidelines premised on weight will punish mules disproportionately’. This seems to hold true for the Nordic context as well.

Discussion and conclusion

Many mid- and high-level dealers are drawn into the drug trade because of the large profits to be made, and some drug dealers in this study developed complex strategies to maximize income and avoid arrest. These are the ‘business criminals’ described by Dorn *et al.* (2005). This study still suggest that trajectories into drug dealing characterized by social marginalization, including poor parental monitoring and parental substance abuse, were more important trajectories to trafficking careers, at least for those who ended up in prison. This trajectory, similar to what Dorn *et al.* (2005: 38) described as ‘adventurers’, consisted of amateurish, and perhaps more importantly, heavily marginalized individuals. Turning points in early adolescence often included placement in community homes and involvement with juvenile gangs. In adulthood, the dissolution of intimate ties and other social bonds were typical turning points, combined with the introduction to drug dealing networks.²

Marginalized populations are more easily captured and imprisoned ‘due to inexperience, bravado/overconfidence, risk-taking, exposure, betray’ (Dorn *et al.* 2005: 36). Illustratively, mid- and high-level drug dealers in this study typically exhibited characteristics such as low educational attainment, problematic family backgrounds, lack of attachment to the work force, poverty and substance abuse problems. Powerful

² Offending probably contributed to the creation of such disruptive events as well, and causation goes both ways, making it difficult to determine the proper ordering of factors. Data from this study nevertheless indicate that turning points and drug dealer trajectories are closely interrelated.

marginalization processes have played an integral role in shaping the dealers' long-term trajectories to drug crime. Much the same picture was uncovered in the early 1980s in a study of Norway's first 350 drug dealer convictions by Section 162 of the Penal Code (Bødal 1982). The trajectories suggested in this study thus seem to have characterized incarcerated drug dealers since the advent of the present 'prohibitionist regime' (Bewley-Taylor 2012) in the mid-1960s. Today, Norway's prisons are filled with drug offenders with the same problematic life courses as other categories of offenders (Fazel and Danesh 2002; Pettit and Western 2004). What sets the persons incarcerated for drug crimes apart from the general prison population is that they are held on incomparably longer sentences.

More than 20 years ago Dorn and colleagues stated that 'the practical merits of long prison sentences for drug trafficking have not been established. Their preventive value has not been established. They are expensive to administer' (Dorn *et al.* 1992: 198). 'Why then have such penalties?' they asked, and the question is still highly relevant. Increasingly, there is talk of reorienting the international 'war on drugs' away from penalization and prohibition and towards decriminalization, legalization and rehabilitation. Clearly, a shift in the 'war on drugs' remains fraught with uncertainty, and the future of drug control is by no means clear. But as the international drug control consensus grows increasingly 'fractured' (Bewley-Taylor 2012), attempts to demonstrate how social marginalization processes are wedded to criminal-entrepreneurial elements in the drug economy may provide the basis for a rational reworking of drug policy that seriously considers the multiplicity of paths that lead to drug crime. In light of the above findings, there are good reasons to rethink the excessively punitive approach to so-called mid- and higher-level drug offences.

Past studies have shown that processes of social and economic marginalization are pivotal to understanding recruitment to the lower-level illegal drug economy (Bourgois 2002; Lalander 2004; Coomber 2006; Hoffer 2006; Bucerius 2007; Sandberg and Pedersen 2011). Research on the mid- and higher levels of the drug economy has questioned the degree of organizational coherence in drug dealing operations, and it has to a large extent been focused on findings derived from organizational sociology (see e.g., Dorn *et al.* 1992; 2005; Desroches 2005; Decker and Chapman 2008; but see Fleetwood 2011). We believe that further research into the role of social and economic marginalization is important also for the higher reaches of the illegal drug economy.

Further research based on findings from this exploratory study could take two directions: First, examining the sociobiographical properties of non-incarcerated drug offenders to assess the degree to which professional, hierarchically organized distributors with fewer elements of social marginalization in their life story may be evading arrest, imprisonment and the seemingly inevitable sweep of the penal dragnet; second, enlisting the aid of registry-based 'big data' to track the life courses of persons convicted of drug crimes across a number of domains, extracting data on parental socio-economic class membership, educational attainment, unemployment and welfare benefits to understand the pathways into drug crime.

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The Rise of a More Punitive State: On the Attenuation of Norwegian Penal Exceptionalism in an Era of Welfare State Transformation

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Abstract While sociologists of punishment have been interested in the notion of Nordic penal exceptionalism, rapid changes are taking place in the penal policies of one of the members of the Nordic zone. Norway’s penal state is growing increasingly punitive, and penal exceptionalism appears to be on the wane, evidenced by a growing incarceration rate, increasingly punitive sentiments in the population, moral panics over street crime, raised sentencing levels, the forcible detention and extradition of asylum seekers, punitive drug policies, and the creation of segregated correctional facilities for stigmatized foreign offenders. Penal transformation should be understood as the outcome of symbolic contestation between politicians eager to present themselves as “tough on crime,” increasing differentiation of the social structure that has led to the declining fortunes of rehabilitationism, and a nascent neoliberalization of the welfare state. As a consequence, Europe’s penal landscape may be growing more homogeneous.

Introduction

In recent decades, the United States and Western Europe have witnessed rising incarceration rates and an increasingly populist public discourse centered on the perceived problems of crime, policing, and public safety (Garland 2001; Pratt 2007; Wacquant 2008a, b). Amidst US penal expansionism and a European turn to punitiveness, the Nordic countries—Denmark, Finland, Norway, and Sweden—have been presumed to have largely withstood such trends. In a series of influential articles, Pratt (2008a, b) argued that the Nordic countries exhibited a regime of “penal exceptionalism,” characterized by relatively humane standards of incarceration and a low incidence of criminal confinement (see also

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Green 2008; Pratt and Eriksson 2013). A series of critical rejoinders sought to illuminate the ways in which the Nordic countries were expressly not exceptional (Ugelvik and Dullum 2012), drawing attention to an extensive use of police lock-ups and pre-trial remand detention, the disciplinary aspects of seemingly liberal “open” prisons, and other cracks in the apparently gleaming façade of Nordic punishment practices. However, Pratt (2008b) was careful to qualify the thesis of penal exceptionalism by noting the growing incarceration rates, zero tolerance drug legislation, sensationalized media reporting on crime, fissures in the social compact underpinning the welfare state, brought about by the twin pressures of growing immigration and declining egalitarianism, in these societies. The sum of these contradictory tendencies led Pratt to ask the prescient question: “Does Scandinavian exceptionalism have a future?”

This article demonstrates a series of important strides that have been taken away from exceptionalism in Norway’s penal state.¹ While developments in Norway cannot be assumed to be representative of its neighboring countries—both dramatic and subtle differences exist among the constituents of the Nordic model (Hilson 2008)—a turn towards punitiveness in recent years has been detected and described in a number of Nordic societies (Balvig 2005; Estrada et al. 2012; Lappi-Seppälä 2012; Tham 2001). This suggests that the policy reforms and institutional developments outlined below may hold true for ongoing changes in the remainder of the Nordic societies, although more work remains to be done in the domain of comparative penology in this part of the world.

The first part of the article outlines the increasingly punitive character of Norway’s penal state. The key dimensions of Norway’s gradual turn towards the careful resurgence of punishment as an integral element of statecraft include increasingly punitive sentiments and growing concerns over security and “law and order” issues in the population, raised sentencing levels by legislators in the national parliament, the rolling out of surveillant and disciplinarian counterterrorism legislation, increased rates of incarceration, increased confinement beyond the penal system proper through institutions of immigration detention, the increased penalization and policing of drug offenses, and increasingly virulent public debates about street-level crimes and aggressive policing of impoverished “problem populations.” The second part of the article discusses three theoretical dimensions that can be used to understand these changes: the growing importance of symbolic politics as a method for staging sovereignty, diminishing symbolic and fiscal investments in rehabilitative policies as social differentiation increases along ethnonational and socioeconomic class lines, and an incipient transformation of the social-democratic welfare state in the direction of neoliberal restructuration.

¹ Drawing on Garland (2013), the notion of the penal state is used throughout as a neutral, “non-evaluative” label referring to the sprawling web of interconnected criminal justice policies and institutions that are tasked with punishing offenders. Unlike Garland, however, the term is used to denote both the “leadership elites” and the ground-level decisions made by the courts, prisons, parole boards, probation agencies, street-level bureaucrats, and related venues, chiefly because these institutions are of signal importance in shaping the texture of punishment as it is enacted, enforced, and experienced in a frequently dispersed, decentered, and agonistic manner (Goodman et al. 2014).

The Intensification of Law and Order

Against the backdrop of a decade characterized by high levels of economic growth, expansive wage gains and historically low levels of unemployment (OECD 2014a), Norway witnessed a simultaneous growth in punitive sentiment.² Concerns over “security” entered the public domain with fresh vigor. Between 2002 and 2012, the proportion of respondents to the European Social Survey (ESS) in Norway who strongly or moderately identified (“very like me” and “like me”) with the importance of a government that was “strong and ensures safety” increased from 40.6 percent to 53.1 percent of respondents. Similarly, the proportion of respondents who strongly or moderately agreed (“like me” and “very like me”) that it was important to “live in secure and safe surroundings” increased from 41.5 to 53.1 percent (Statistics Norway 2012). More than half of Norway’s respondents to the ESS in 2012 agreed or agreed strongly that persons who break the law should face “much harsher sentences.” Between 1989 and 2005, the proportion of the public that would opt for imprisonment as the punitive sanction of choice for the hypothetical case of a recidivist burglar facing criminal charges, increased from 14 percent to 29 percent (van Kesteren 2009: 29). A 2007 World Values Survey asked respondents in Norway to assess on a 10-point rating scale to what extent they believed the notion that “criminals are severely punished” was an essential “characteristic of democracy.” (1 = not essential; 10 = essential) Notably, one-quarter of respondents were concentrated along the highest three points of the scale, believing that severe punishments for criminals was in some way essential to democracy. A poll in 2009 revealed that 68 percent of the population believed punishment levels were generally too low, 84 percent felt violent offenders should face harsher sanctions, and approximately half the respondents likened Norway’s prison conditions to a “stay in a hotel” (Balvig et al. 2010: 236). Such figures suggest the existence of increasingly punitive sentiments in Norway.³

Partly as a response to the perception of increasingly punitive sentiments in the population, in 2010 the Norwegian Parliament decided to amend penal sentencing guidelines upwards for a total of 18 categories of offenses, including raising the maximum imprisonment term for sexual assault from 2 to 3 years, from 6 months to 1 year for assault, and from 8 to 10 years for aggravated assault (Norwegian Ministry of Justice 2010).⁴ Some members of parliament were motivated by a sense that legislation was out of step with

² Punitive sentiment refers to the aggregate of public support for criminal justice policies that punish criminal offenders (Ramirez 2013). While actual policy output is the result of a complex interplay of agents, forces, and interests—which could be thought of as being the product of ongoing struggles between members of what Page (2011), drawing on Bourdieusian field theory, calls the “penal field”—public opinion plays at least a partial role in shaping criminal justice policies. Understanding the extent of punishment in a society therefore mandates paying close attention to how the public thinks about punishment, while bearing in mind that public opinion is in part an artefact constructed by the methods one uses to plumb the depths of popular sentiment (Hutton 2005), public opinion is itself subject to feedback loops in which policy outputs shape public opinion inputs, and policy output is itself not a one-to-one expression of public sentiment but the product of struggles between agents (see also Frost 2010).

³ However, there are a number of methodological issues that suggest that caution should be exercised in making assumptions about punitive sentiment on the basis of surveys and opinion polls. Balvig et al. (2015) suggest that Nordic public opinion on criminal justice issues appears to be less severe when additional information about hypothetical offenders and offenses is provided, and that the public is less punitive than judges when provided with “vignettes” about hypothetical crimes. What matters more than the real incidence of punitive sentiment may be the ways in which political elites appropriate and construct a representation of public sentiment concerning appropriate levels of punishment.

⁴ It should be noted that while sentencing levels have been raised for violent and sexual offenses, the most common decision made by public prosecutors in the case of sex crimes is that of dismissal.

increasingly punitive sentiments in the population, the public “sense of justice” (*allmenn rettsfølelse*). However, when Norwegian members of the public were asked to estimate how they believed the courts would rule in a series of courtroom scenarios, they consistently underestimated the actual severity of sentencing outcomes (Olausen 2013). While judges were in actual fact meting out relatively long sentences, participants adhered to an outmoded belief in the restraint of judges.

Meanwhile, Norway’s prison system expanded along a number of dimensions. The incarceration rate surged up from 58 inmates per 100,000 persons above the age of criminal responsibility in 1960 to 93 inmates per 100,000 persons above the age of criminal responsibility in 2011. Figure 1 suggests that the average incarceration rate was generally low for the entire postwar period, but the past three decades have seen a long and steady upwards climb. Norway’s incarceration rate has attained a scale not seen since the era prior to the postwar construction of the social-democratic welfare state.

More recently, operating expenditures on correctional services increased by more than 80 percent between 2005 and 2012, from around 2.6 billion Norwegian *kroner* (NOK) to 4.8 billion NOK.⁵ Staff employed in the correctional system increased by 18 percent from 2007 to 2012 (Norwegian Correctional Services 2012: 3). On the other hand, new prison entries declined from 12,003 persons in 2005 to 10,485 persons in 2012. But far from signaling a decline in punitiveness, this reduction in new entries to prison was achieved by the proliferation of a number of non-custodial sentences, chief among them the deployment of electronic monitoring, producing novel and insidious forms of penal constraint (Vanhaelmeesch et al. 2014). Simultaneously, the average prison population grew from 3124 inmates in 2005 to 3727 inmates in 2011. This occurred due to two significant shifts: First, the average number of pre-trial remand prisoners (*varetektsfanger*) nearly doubled between 2006 and 2013, from 569 persons to 1027 persons, a consequence of both a growth in new instances of pre-trial remand detention (from 3018 new remands in 2006 to 3963 new remands in 2013) and a lengthening of remand stays (from an average of 64 days in 2006 to 81 days in 2013). Second, the average time spent in prison grew; for persons sentenced to prison, the average duration spent in prison rose by more than 46 percent between 2007 and 2013 from 96 days to 141 days (Norwegian Correctional Services 2014: 8–12). While fewer people were being sentenced to prison, the prison population grew: due to the growth and increased severity of the pre-trial remand wing of the penal state, and due to the lengthening of prison stays for the category of convicted offenders. Perhaps the most parsimonious summary of the expansion of the Norwegian prison system is provided by a snapshot of the growth in the number of “prison days” passed in all the various forms of penal detention: from 1,158,039 days in 2005 to 1,369,960 days in 2012 (Norwegian Correctional Services 2014: 8). To summarize, then, from 2005 to 2012 there was an 18 percent increase in total person-time being passed within the confines of the prison.

If one were to include in the incarceration rate all those convicted offenders who live in society at large while waiting for prison beds to be freed up, the incarceration rate in 2013 would have risen from 72 inmates per 100,000 persons to around 86 inmates per 100,000

⁵ These figures are extracted from the Correctional Services StatRes database, available online at http://www.ssb.no/en/sosiale-forhold-og-kriminalitet/statistikker/kriminal_statres. The operating expenditure figures have been re-calculated in 2013 NOK equivalents in order to adjust for inflation. Recalculated figures were produced using the Statistics Norway’s Consumer Price Index (CPI) calculator: <https://www.ssb.no/en/priser-og-prisindekser/statistikker/kpi>.

persons.⁶ *Ceteris paribus*, this would place Norway ahead of Bosnia and Herzegovina, Germany, and the Netherlands in terms of the rate of incarceration (see Walmsley 2013). Allowing prison construction to be outpaced by the growth in prison convictions has the effect of masking the real incidence of punishment. The gap between the number of prison beds and the number of sentenced offenders permits the continued existence of a smaller prison population than if the entire population of sentenced offenders were to be placed in a correctional facility rather than be kept on hold and awaiting incarceration. The gap between supply and demand also imposes pains of imprisonment beyond the prison by keeping convicts in a frustrating state of limbo as they wait for the implementation of their sentences. Tapping into the crisis of prison capacity, the right-wing, neoliberal Progress Party proposed renting prison cells from Sweden, a proposal that was ultimately rejected (Norwegian Broadcasting Corporation 2013). Not to be deterred, the following year the Progress Party, having gained control of the Ministry of Justice following a favorable outcome in the 2013 parliamentary elections, proposed leasing a prison in the Netherlands. The Progress Party's Minister of Justice, Anders Anundsen, noted that the prison was probably to be reserved for foreign citizens who faced deportation after release (Aftenposten 2014a). Both proposals demonstrate how demand has outstripped supply in Norway's once-trim prison system.

Counterterrorism legislation became another venue for raised sentencing levels and extended police powers. In the years following the 9/11 terrorist attacks, Norway's counterterrorism laws were calibrated with the rest of the European Union. The police were granted the power to conduct covert audio surveillance of suspected terrorists, and the maximum penalty for terrorist offenses was raised from 21 to 30 years (Husabø 2009: 81). The latter reform represented a rupture with legal orthodoxy; for over a century, Norway's penal code had capped prison sentences at 21 years (Norwegian Ministry of Justice 2013a: 65). Following the 22 July 2011 terrorist attacks in Norway, the Ministry of Justice further cemented the police's proactive powers, including proposals that extended well beyond terrorism proper, particularly into the fields of organized crime and drug offending (Husabø 2013: 12–14).

Simultaneously, a growing incidence of confinement is taking place outside the correctional system. Mirroring a broader European trend toward immigrant detention (De Giorgi 2010), the Trandum Detention Center—operated by the national police and therefore excluded from official rates of imprisonment produced by the correctional services—added another 150 places of confinement to the national carceral stock. In 2009 alone, some 4359 persons were forcibly extradited by the National Police Immigration Service (Global Detention Project 2010), many of whom passed through Trandum. By 2012, this recent unit of the national police employed some 438 officers and caseworkers responsible for evicting 4902 persons; in 2011 alone, some 2500 persons were incarcerated at the asylum detention center (National Police Immigration Service 2012). As a reward for their efficiency at evicting illegal and irregular refugees, the police service even received the international 2014 Workflow Management Coalition award for “excellence in law enforcement.” Ugelvik and Ugelvik (2013) note that Trandum has been the site of fires,

⁶ These calculations are based on figures from the World Prison Brief (2013) and the Norwegian Correctional Services (2014). In 2013, there were a total of 1176 prison sentences waiting to be fulfilled in the “sentencing line.” The average length of sentences was 234 days in 2013. Converting this into a rate of imprisonment per 100,000 persons would generate an added 14.73 inmates per 100,000 persons. A countercharge could be made that the *ceteris paribus* assumption masks the fact that other societies might also have “sentencing lines” or their national equivalent. As with all comparative criminological statistics, caution should be the order of the day when drawing conclusions on the basis of divergent modes of categorization.

attempted escapes, small-scale riots, requiring the extensive deployment of coercive force to pacify the detainee population and resulting in criticism from civil society organizations. In line with broader European trends (Welch and Schuster 2005), asylum detention is growing, and it is capturing a growing stock of resources, manpower and detainees.

Drug use and distribution has also been a growing target of police surveillance and penalization. Between 1970 and 2000, the number of reported drug offenses per capita increased 170 times over: from 5 drug offenses per 100,000 persons to 853 drug offenses per 100,000 persons (Falck et al. 2003: 41). They constitute the category of crime that sits most uncomfortably with the Nordic penal exceptionalism thesis, a point recognized by Pratt (2008b: 285), who observed that both “Norway and Sweden have very strict anti-drugs laws.” In the Nordic countries, “criminal justice policies tend to have a moralistic tinge, especially in relation to drug and sexual offenses,” Lappi-Seppälä and Tonry (2011) suggest. Sweden transitioned from a rehabilitationist “harm reduction” program in the 1960s and 1970s to a series of “zero tolerance” and “punitive prohibition” policies in the following decades (Bewley-Taylor 2012: 62). There is little to suggest that Norway has deviated from its Nordic neighbor in the criminalization and penalization of drug consumption and distribution; indeed, drug crime has been a major concern for Norway’s penal state over the past three decades. The number of drug crimes reported to the national police grew from around 12,000 cases in 1993 to around 45,000 cases in 2012 (Statistics Norway 2013b). Between 1985 and 2009, the police were seizing around ten times more cannabis, 25 times more heroin, and 60 times more cocaine (National Police Directorate 2010: 6). One-quarter of Norway’s inmates are in prison for drug-related offenses.⁷

By now, the “crime-incarceration disconnect” is a widely recognized phenomenon (Lappi-Seppälä 2011: 308), strikingly evident in the coexistence of US mass incarceration and the “great American crime decline” (Zimring 2006). Mimicking the growing incidence of punishment amidst declining crime rates seen elsewhere, the Norwegian penal state was rolled out precisely as crime rates generally declined, from a total of 319,523 instances of police-recorded offenses against the penal code in 2002 to 264,199 offenses in 2008 (Eurostat 2010: 6).⁸ The growing incidence of more serious crimes like homicides cannot be said to explain the expansion of punishment either: homicides resulted in 51 deaths in 2003 and 29 deaths in 2009 (Eurostat 2012: 8).⁹ Declining proportions of the population reported being exposed to violence or theft between 2001 and 2012. The percentage of the population exposed to “violence, threats of violence, theft or criminal

⁷ The actual contribution of drug crime to the prison population is probably higher. Persons who have committed multiple types of offenses only appear in the official statistics with offense category that carries the longest maximum sentence.

⁸ Crime victimization surveys are not regularly carried out in Norway. Instead one is forced to rely on police-recorded crime, which risks underreporting or skewing representations of the “real” incidence of crime (Walklate 2007: 58–66). Van Kesteren et al. (2000) suggest that Norway’s crime victimization has increased slightly between 1988 and 2003/2004, but the findings are based on two entirely different survey instruments: 1989 ICVS data and 2003–2004 EU ICS data. See also Falck et al. (2003) for a survey of crime trends between 1950 and 2000, suggesting that the number of reported offenses per 100,000 persons doubled between 1980 and 2000. Again, however, this may be more indicative of police strategies and reporting habits than the “real” incidence of crime.

⁹ Other data sources corroborate this tendency. Official crime statistics in Norway suggest that the number of murder victims remained stable and low throughout the 2000 s with 33 victims in 2004 and 29 victims in 2012. There was, however, a spike the preceding year, with 77 victims from the 22 July 2011 terrorist attacks alone, and in the following year, with 45 victims in 2013 (National Crime Investigation Service 2013: 2).

damage” declined from 17.3 percent in 1991 to 11.8 percent in 2012 (Statistics Norway 2013a). Growing punitiveness seems to have coincided with a broad decline in crime rates.

To take but one illustrative example: a moral panic broke out in the press in 2013 over an alleged spike in robbery incidents in the capital of Norway. Following a well-trodden European path towards the construction of foreigners as “suitable enemies,” (Wacquant 1999), the panic centered on the trope of “child robbers”—roving, predatory juvenile offenders, drawn from the ethnoracially diverse communities of the eastern, working-class suburbs of the city—and the notion of a “crime wave.” Sudden and widespread concern over a supposed “robbery wave” (*ransbølge*) is evidenced by an abrupt surge in national newspaper reporting on this topic: In 2011 and 2012, nine and ten newspaper articles respectively made use of the term “robbery wave”; in 2013, the number of reports employing the term had jumped 13-fold.¹⁰ A typical example of reporting during this alleged surge in street crime was a brief piece in the daily newspaper *Dagsavisen* (2013), which reported beneath the headline, “The Crime Wave Continues,” that a “young man armed with a pistol yesterday robbed a store in downtown Oslo,” described as being of “eastern African appearance between 16 and 18 years old and wearing all-black clothing.” The article further noted that on the same night, “a 46-year-old man was hit on his forehead and had his cell phone stolen from him by a youth gang,” described as “possibly Eastern European.” Foreignness and dangerousness were intimately woven together, as in earlier instances of moral panic over the shadowy figure of the Muslim male in public debate (Bangstad 2011).

Sensationalist crime reporting was disconnected from underlying realities. There was no extensive surge in robberies to explain the sudden boost in reporting. Admittedly the police recorded 874 robberies in 2012 and 997 robberies in 2013, a 15.5 percent increase, but on the other hand the number of aggravated robberies between 2012 and 2013 fell by 9.2 percent. Between 2003 and 2013, the number of robberies per year hovered between ca. 800–1100 cases per year, making 2013 a typical year by that decade’s standards. The phenomenon of increased reporting of crimes to the police when the perceived likelihood that a crime will be resolved (e.g. Levitt 1998) might have contributed to the slight increase in reported incidents from 2012 to 2013. And when taking into account the booming population growth in Oslo over the course of that decade, the rate of robberies per 100,000 persons actually declined from 165 robberies per 100,000 persons in 2003 to 160 robberies per 100,000 persons in 2013. Such factual details were, however, increasingly irrelevant in an ever-more punitive atmosphere. The Oslo Chief of Police expressed support for “stricter punishment” so that criminal offenders could be “kept out of circulation for a long time.” (Storeng 2013) The Conservative Party Prime Minister, Erna Solberg, believed “immigrant parents” needed to “crack down” on their offspring’s unacceptable behavior; the Progress Party Justice Minister, Anders Anundsen, enumerated a series of “immediate measures,” including the creation of a police special task force, expanding the Trandum asylum detention center, ensuring the rapid deportation of foreign offenders, and establishing separate juvenile facilities for juvenile offenders (Norwegian Ministry of Justice 2013b). Moderating statements from police officials suggesting that the “crime wave” was partly uncorroborated by statistical records were drowned out when robbery victims and punitive politicians were trotted out to demand stricter sentencing and increased police surveillance.

At the same time, the policing of urban disorders and the criminalization of poverty seemed to take on a new salience. In May 2013, a ban on sleeping outdoors in Oslo was

¹⁰ These findings are based on searches in the Retriever Database (<http://www.retriever.no>).

Searches were confined to the Norwegian national press and employed the search term “robbery wave” (“*ransbølge**”) with an asterisk appended to capture suffixes after the word stem.

rolled out in response to growing discontent with the influx of disreputable Roma populations (Riaz 2013). A proposal by the Progress Party-Conservative Party coalition government to ban begging was publicized the following year, explicitly targeting an alleged spike in “organized crime in the wake of mobile begging groups,” according to the Progress Party (Aftenposten 2014b). Framing the debate in such a way as to attach the stigma of criminal pathology to the Roma populations, presented by politicians as consisting of “beggar gangs” orchestrated by “criminal masterminds,” was contradicted by findings that most visiting Roma people were essentially poor, unskilled migrant laborers from an economically depressed corner of Europe traveling to one of the richest countries in the world to eke out a meager living (Engebriksen 2012).

Discussion

Scholars are constantly detailing ruptures, revolutions, and new beginnings where adaptation and evolution are commonly the order of the day; as Bourdieu (2014: 357) notes, social scientists are all too often subject to a rupture bias that operates as a “prophetic strategy” that tends to produce academic profits—owing more to the contingent characteristics of the scholarly field than to the empirical parameters of the social world that is under study—at the expense of descriptive adequacy. This poses a properly dialectical problem, one of avoiding the excesses of “catastrophic criminology” (Hutchinson 2006) while at the same time remaining open to the possibilities of significant shifts in forms of penal governance.

One should be careful not to exaggerate the present scale of transformation in the domain of Norwegian penal policy. First, prison conditions remain markedly more generous than those found in many advanced societies. Case in point: in 2015, prisoners could receive 63.50 NOK (around 8 US dollars) per day in exchange for working or studying,¹¹ and even after taking into account elevated costs of living, this is far more generous than the minimum employment remuneration of 4 British pounds (around 6 USD) paid by prison authorities in England and Wales *per week*.¹² One-third of all Norwegian prisoners reside in minimum-security, “open” facilities, which are in many ways less intrusive than higher-security facilities. Norwegian prisoners are allowed to vote in national elections; one might compare this with the widespread practice of felony disenfranchisement in the United States, which in some cases extends even beyond the immediate period of confinement, or the British blanket prohibition on inmate voting in elections. The principle of “normalization” holds a dominant position in official discourse on imprisonment, and a strong commitment to replicating “normal” conditions within prison does give the prison system a peculiar character. Thus Anders Behring Breivik, the perpetrator of the 22 July 2011 terrorist attacks and one of the worst spree killers in modern history, was granted conditional permission to study political science at the University of Oslo while remaining in high-security confinement. And while Norway’s incarceration rate has increased in recent decades, it has done so at a slower pace than that of other Western European societies.

¹¹ Particularly important prison jobs were remunerated with an additional 24 kroner per day. Regulations governing prison inmate pay is outlined by the Norwegian Correctional Services in an annually renewed directive: <http://www.kriminalomsorgen.no/getfile.php/2855696.823.fdxuwcvetf/KDI+rundskriv+1-2015.pdf>.

¹² Prisoners in Norway are paid some six times a greater amount (in nominal terms) compared with the minimum wage received by prisoners employed under the auspices of Her Majesty’s Prison Service in England and Wales.

Second, alternatives to imprisonment are being deployed on a large scale by the court system. The number of community sentences (*samfunnsstraff*) more than tripled between 2002 and 2013, outpacing the 30 percent hike in the number of unconditional prison sentences over the same time period.¹³ Electronic monitoring has become an increasingly popular alternative to incarceration, with an increase from 95 persons who served their entire sentences using electronic monitoring in 2008 to some 1681 persons in 2013. In many ways, these sentences may be preferable to serving time in a prison, and they have been interpreted by some as an instantiation of lenience; the crucial questions, however, are whether electronic monitoring represents a widening of the “penal dragnet,” that is, whether it replaces imprisonment with a more lenient alternative (or whether they expand the menu of penal choices available to the courts), and whether this apparently anodyne legal sanction does not in itself involve the introduction of a novel set of unanticipated, intrusive vectors of social suffering.

Third, drugs for personal use (defined as the possession of 1–2 “user doses”) are typically sanctioned with a fine rather than the use of imprisonment, and this includes “hard” drugs like heroin and cocaine. While official statistics suggest that the punitive sanctions leveled against drug consumption have remained confined to the imposition of fines, the police have aggressively pursued drug offenders in recent decades. The *policing and surveillance* of drug use and possession has increased dramatically: from 4785 police-reported offenses in 1993 to 24,168 offenses in 2013, a 405 percent increase over the course of two decades (Statistics Norway 2015). Between 2002 and 2013, the total number of punitive reactions (conditional and unconditional prison sentences, court-mandated fines, and administrative fines) towards drug offenses increased from 11,866 instances of penal sanctioning to 16,288 instances. Drug use and consumption should still be considered an increasingly important target of the penal state, as evidenced by the remarkable expansion of the police dragnet surrounding drug consumption.

While a synchronic, cross-national comparisons may suggest the continued existence of an exceptional penal regime in Norway, an internal, diachronic assessment of the country’s mode of punishment suggests that the trajectory of the penal regime as a whole seems geared more towards expansion than contraction, towards growing penalization rather than greater lenience, and towards the growth of policing, security, and surveillance.

Drawing on the work by Wacquant (2008b) on the link between neoliberal transformations of the state and the resurgence of punitive policymaking, I propose interpreting the transformation of the Norwegian penal state along three different theoretical dimensions. First, political contestation is increasingly oriented around symbolic rather than material issues; crime and punishment are well-suited targets for political contestation because they allow politicians to portray themselves as decisive (Jones and Newburn 2006). Second, the willingness to invest—in both the symbolic and fiscal sense—in criminal justice policies that are rehabilitative and tolerant is under pressure because of growing differentiation in the social structure along ethnonational and socioeconomic class lines. Finally, the universalist, social-democratic welfare state is gradually being restructured in the direction of increased neoliberalism, which generates problem populations that are increasingly likely targets of containment by a punitive penal state rather than an assistive social state.

¹³ The number of community sentences increased from 750 sentences in 2002–2427 sentences in 2012, while the sum total of unconditional prison sentences grew from 9041 sentences to 11,676 sentences in the same time interval, according to data from Statistics Norway (<https://www.ssb.no/statistikkbanken/selectout/ShowTable.asp?FileformatId=2&Queryfile=2015713231832455118502Reaksjon01&PLanguage=0&MainTable=Reaksjon01&potsize=240>).

Symbolic Contestation

Politicians increasingly compete over the right to differentiate themselves in the field of symbolic politics, that is, in a symbolic-culturalist, value-oriented policy domain, which includes topics like immigration, asylum seekers, crime, and punishment. Politicians construct and exploit perceived social problems in these fields to present themselves as competent and potent agents of change and state responsibility, differentiating themselves from their peer-competitors in a crowded multi-party political landscape. It is not at all clear why a rightward shift in the politics of crime control has become such potent force for party differentiation and voter mobilization, and the causes are no doubt complex. One clue resides in the hiatus in expansive *material* welfare spending in Norwegian society. Between 2005 and 2013, the Red-Green Coalition government introduced an 8-year freeze on tax increases, effectively locking taxes to their 2004 levels. As income poured in from the booming oil and natural gas industry, the state found itself in a peculiar position: on the one hand, it enjoyed a steady and expansive flow of income from heavily-taxed natural resources, resulting in the accumulation of hundreds of billions of dollars in cash in a Sovereign Wealth Fund, potentially providing practically limitless state spending. On the other hand, without the opportunity to rein in private spending through raised tax levels, the natural resources revenue streams could not be used to fund expansive welfare spending programs without raising inflation and destabilizing inflation-oriented macroeconomic policy goals. With few opportunities to embark on large-scale public works programs or investments in public infrastructure, then, what was left to politicians was the opportunity to mobilize voters over value-laden and symbolic questions.

As Newburn (2002) points out, law and order policies permit politicians to stage a profitable “tough on crime” stance: politicians can appear formidable as they embark on campaigns against disorderly youths and drug dealers or lengthening sentences for violent offenders. In the case of Norway, the Progress Party has mobilized a law and order agenda to capture the public imagination. In the process, it has pulled the Labor Party towards its own position. The mechanisms of such attraction are undoubtedly intricate. Plausibly, the Labor Party has feared the possibility of the Progress Party appropriating supernormal profits by being the sole voice of law and order—and therefore of *punitive common sense and reason*—in the public sphere. Whatever the cause, the two parties have engaged in an inter-necine struggle for the position of leading exponent of punitive policies.

A clear case in point: in 2010 the right-wing populist Progress Party launched a 10-point prison reform proposal aimed at creating harsher conditions of confinement in Norway’s prisons. While it remained a proposal from a government opposition party, it signaled a sea change in political discourse. Prison allowances for Norwegian inmates were to be cut in half and foreign inmates were to have no right to wages at all. Foreign citizens were to serve their sentences in prisons with “lower standards” than those enjoyed by Norwegian citizens. The names of child sex offenders were to be made public. Early release on parole was to be subject to stricter scrutiny. Inmates were to take part in mandatory work activities during the daytime, and all social welfare provisions from other parts of the welfare state to foreign citizens were to be reduced to zero. “No one is frightened by Norway’s prisons,” Per Sandberg, deputy leader of the neoliberal Progress Party, said at the party’s national conference. “Foreign criminals are a big problem, and mild sentences and high-quality facilities aren’t helping” (Fremskrittspartiet 2011). Their proposals were ridiculed by the Labor Party’s Minister of Justice, Knut Storberget, who described the proposals as “unspeakably bad,” and he observed that “the countries that try to worsen inmates’ conditions struggle the most with crime” (Johnsrud 2011). Despite the initial rejection the Labor Party-led coalition

government established a segregated prison reserved for foreign citizens the following year (Norwegian Broadcasting Corporation 2012). In this way, the rhetoric and policies of crime control by the governing social-democratic party were drawn in the direction of the Progress Party's law and order orientation.

Differentiation and Social Solidarity

Both the universal welfare state and the rehabilitationist penal state depend on a minimum of social solidarity for their sustenance. "Everyone who receives the protection of society owes a return for the benefit," Mill ([1859] 2003: 147) noted. Comprehensive webs of mutual rights and obligations are crucial for maintaining generous social provisions and comparatively mild penal strategies. What matters most is perhaps not population homogeneity as such, since homogeneity is a contingent and constructed property and the outcome of boundary-drawing activities, but that collective representations are shaped in such a way that members of the polity conceive of their fellow citizens as honorable, worthy recipients of welfare state goods. There is much to suggest that such collective representations are being transformed in Norwegian society.

First, the distribution of income and wealth has grown increasingly polarized. According to the OECD (2014b), since the 1980s, Norway has experienced rising poverty and income inequality on a number of important measures: The S90/S10 disposable income decile share increased from 4.500 in 1986 to 6.100 in 2011; the Gini coefficient, post taxes and transfers, increased from 0.222 in 1986 to a peak of 0.276 in 2004 before decreasing slightly to 0.250 in 2011. The median poverty gap after taxes and transfers (with a poverty line set at 50 percent) more than doubled between 1986 and 2011. Hansen (2014) shows that the concentration of income in the top 1 percent of income earners more than doubled from 1990 to 2006, and that the wealthiest 1 percent control around 20 percent of total net wealth, arguing that the Norwegian "safety net provided by welfare state institutions [...] does not seem to limit the opportunities to acquire high incomes or accumulate large holdings of wealth."

Second, large-scale immigration has taken place in a society that has traditionally been considered ethnically homogeneous. Immigration has been fueled by the demand for inexpensive labor in manual and low-skilled sectors of the economy, work that is increasingly viewed as undesirable by the symbolically prestigious population of non-immigrant Norwegians. One-third of all immigration since 1990 has been motivated by the search for work, and nearly 200,000 persons moved to the country (Statistics Norway 2014). Simultaneously, non-Norwegian citizens now make up around one-third of the prison population. The perceived intersection between immigration and crime has had a destabilizing effect on penal regimes all across Europe (Aas 2013: 20). A *dualization* of the penal system has occurred where foreigners are channeled into divided modes of punishment in the form of "separate but parallel systems, one for citizens, another for non-citizens" (Ugelvik 2013: 196).¹⁴ It remains to be seen whether such separate-but-equal measures will degenerate into the kinds of inferior treatment such measures have

¹⁴ The concept of "dualization" has been used by political scientists to study the transformation of labor market regimes; it has been mobilized to describe the unfurling of a two-track system in labor protection, job quality, and employment stability in recent decades, as labor market segmentation arises between "insiders" in standard, protective, high-quality employment and "outsiders" in precarious, irregular, and atypical employment (see e.g. Thelen 2012). The concept can be applied to penological inquiries to capture the split between generous rehabilitationist policies, reserved for national "insiders," and penal austerity, targeted towards non-citizen "outsiders."

tended toward in other historical situations. Some political rhetoric is suggestive of this tendency: “We don’t need to spend resources on rehabilitating offenders who will be extradited and who won’t be returning to Norwegian society after release,” said the deputy leader of the Conservative Party in 2012. “We would also like to end the notion that certain foreign criminals consider serving time in Norwegian prisons like a holiday” (Aftenposten 2012).

Growing differentiation of the national population threatens to wear down the social compact underpinning both the universal welfare state and the rehabilitationist penal state. Differentiation can threaten the cosmology of social democracy. One should hasten to add that difference per se does not necessarily challenge social democracy but rather the meaning attached to difference. A perfectly homogeneous society might receive a large influx of immigrants and have no trouble accommodating them. It is only through symbolic struggles that construct salient differences out of an aggregate of individual properties that such population flows might make a difference for the state of the social compact. The conditions that make such symbolic struggles more likely to occur remain to be specified. One such condition may be a period of economic austerity where competition for scarce jobs becomes refracted through an ethnoracial optic, but even here, crucially, “the intensity of conflict does not depend on real competition in the job market,” as Wimmer (1997: 21) observed. “Rather, it stems from the perception of equality and difference, of legitimate and illegitimate competition.” Another condition may be the degree of generosity of the welfare state: the more generous, the more important it becomes to draw boundaries between worthy and unworthy recipients of those generous provisions. A dualized penal state becomes one mechanism by which the generosity of the welfare state can be protected and reserved for the core of the worthy citizenry.

Transforming the Welfare State

Under Esping-Andersen’s (1990) tripartite model of welfare capitalism, Norway has been characterized as a social-democratic welfare state. According to Esping-Andersen’s model, the social-democratic welfare state is characterized by generous, universal, and strongly de-commodifying welfare provisions. As Przeworski (1985) observes, social democracy in a broad panoply of variants has been the dominant form of democratic capitalism in the twentieth century, producing a relatively stable and prosperous brand of market capitalism: markets with a human face. In Norway, social democracy arose out of a powerful Labor Party and trade union movement in the first half of the twentieth century, ushering in the “age of social democracy” in the second half of the twentieth century: the ideology of social democracy achieved hegemony more or less uninterrupted during the postwar Golden Age of Keynesian welfarism until the rupture and transformation of the 1980s *laissez-faire* revolution (Sejersted 2011). However, the Nordic social democracies have been transformed in the past three decades. The Reaganite-Thatcherite neoliberal revolution of the 1980s swept across large sections of the industrialized world (Harvey 2005), and the uncertain fate of Nordic social democracy in the face of this revolution was observed by social scientists at an early stage. In Sweden, Pontusson (1984: 70–71) noted that “party politics has become increasingly polarized” and that “the traditional hegemony of social democracy appears to have been eroded.” To all those who held out hope for the Nordic countries as a bastion of opposition against the tide of neoliberalism, Pontusson (1987: 5) warned: “Against the background of what has actually happened in this period, it cannot but seem odd, and frankly disheartening, that the

current government in Stockholm should be construed as the flagship of the European Left.” In Norway, observers warned of the “decline of social-democratic state capitalism” altogether (Fagerberg et al. 1990).

Following Wacquant (2012), I understand neoliberalism not as the replacement of the state by markets; rather, neoliberalism entails three fundamental points of political alteration: First, neoliberalism is a project of statecraft that involves a transformation rather than a downsizing or destruction of the state. Second, neoliberalism involves as a rightward shift in the political common sense of the state. Third, the order-maintaining institutions of the state are scaled up and attain positions of central importance because they are needed to regulate the disorderly conduct of problem populations and to act as a stage on which politicians can forcefully pose to bolster public support.

The ascendancy of neoliberalism should not be exaggerated. Its deployment has been uneven, its trajectory littered with “contradictory obstacles...to the realisation of its liberal programme at the global level” (Turner 2008: 3). In Norway, replacement rates for unemployment and sick pay increased between 1975 and 1999 (Allan and Scruggs 2004: 500). Social spending remains high and generous. At the same time, however, there have been significant shifts in the political economy of the welfare state, and the sum total of these changes has been the dilution and diminution of social democracy (see e.g. Mydske et al. 2007).

First, national industries have been denationalized and privatized. The leading national oil company Statoil was partially privatized in 2001 and became a public listed corporation on the Oslo Stock Exchange and the New York Stock Exchange. The national telecom company Telenor was partly privatized in 2000 and listed on the stock exchange. While the state maintains large ownership shares, the marketization of national industries represents a fundamental shift “from state to market” (Megginson and Netter 2001). Second, welfare provision has increasingly been conditional on workfare policies, increasingly obliging recipients to work in exchange for benefits. Following Clinton’s promise to “end welfare as we know it” in the mid-1990s, resulting in a rollback of crucial elements of US social policy (Zylan and Soule 2000), Norway has gradually made moves in the direction of workfare, albeit timidly and to a circumscribed degree (Kildal 2001). Third, as an illustrative example of the decline of universalist policies, co-payments for medical consultations have increased, and a nationwide general practitioner program was rolled out almost solely with the aid of privately contracted physicians (Lian 2003). Finally, Norway has established one of the world’s largest Sovereign Wealth Funds (Chesterman 2007), investing some 5500 billion NOK (around 860 billion US dollars) on world markets, effectively making the state dependent on the continued good fortunes of liberal financial markets and the profitmaking abilities of some 7000 separate corporations.

Conclusion

Norway’s penal state has moved in a punitive direction in recent decades. “Nordic crime policy has become more offensive, more politicized, and more adaptive to the voices of the media,” notes Lappi-Seppala (2012) in a review of recent policy developments. For Norway’s part, the incarceration rate has increased, a dualization within the prison system between Norwegians and non-nationals has taken place, and concerns over security and public safety have increased. Along with this penal convergence with the rest of the advanced world, Norway’s welfare state has been transformed: there has been

a rightward shift in the bureaucratic field, a movement towards market-oriented restructuring of the public sector, growing socioeconomic inequality, and an expanding dependence on private providers of welfare state services. One might plausibly view these developments in conjunction: changes in the welfare state are linked to transformations in the penal state.

These changes have been gradual and glacier-like. The result of those minor incremental steps, however, has been a significant change of course. The diminution of Nordic penal exceptionalism can be viewed along three dimensions. First, the collective representations and state practices that permitted a humane and rehabilitationist orientation towards criminal offenders was driven by a belief in the undifferentiated qualities of the population, a lack of difference that countered a process of “othering” vis-à-vis criminal offenders. As differentiation has set in the social compact underlying both *universal welfare policies* and *rehabilitationist penal policies* has been destabilized. Second, generous welfare states seem to require the production of boundaries between worthy recipients and unworthy outsiders. Typically such boundaries are minimally drawn on the basis of citizenship. As immigrant laborers and asylum seekers have entered the country in growing numbers, a *dualization* of the institutions of confinement has taken place, resulting in a differentiated set of facilities and practices for foreign citizens. Third, the dwindling material-economic space of policy competition has added prominence to the *symbolic-cultural* domain of political contestation.

Crime and punishment have proven fertile ground for electoral contest, allowing politicians to present themselves as vigorous proponents of social improvement through “law and order” rhetoric and punitive policymaking. What we are witnessing is perhaps a homogenization of Europe’s penal landscape.

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Appendix

See Fig. 1.

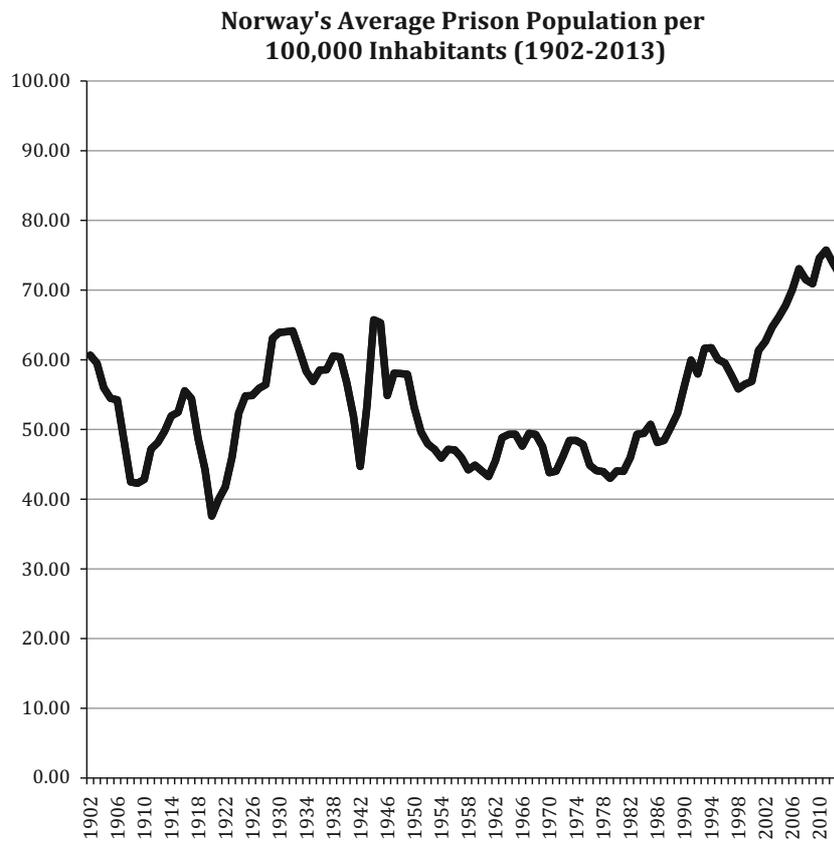


Fig. 1 Average Prison Population per 100,000 Inhabitants in Norway (1902–2013). Average prison population figures are drawn from a series of official government sources: *Fengselsstyrets historie, 1931–1950*; *Statistisk årbok 1957*; *Statistisk årbok 1960*; *Statistics Norway*, “Belegget i fengselsanstalene”; *Statistics Norway*, “Some main results from the statistics on imprisonment, 1960–2011”; *Statistics Norway*, “Imprisonments, 2012.” Average annual prison populations were converted to rates of imprisonment per 100,000 inhabitants using annual demographic records from Statistics Norway. For the years 1940–1945, persons imprisoned on orders from the Nazi occupying powers were later excluded from official correctional statistics. Norway’s Ministry of Justice also excluded persons who were imprisoned after World War II for collaborating with the Nazi regime from their statistical reports. No doubt this artificially deflates the postwar imprisonment rate: for several years following World War II, some 18,128 persons were imprisoned or convicted of forced labor on grounds of wartime collaboration, and around 70 percent of prison sentences were 6 months or longer (Central Bureau of Statistics of Norway 1954: 30–34). However, in lieu of precise records of the duration of imprisonment, those persons have not been included here

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Prisons of Labor: Social Democracy and the Triple Transformation of the Politics of Punishment in Norway, 1900–2014

Victor L. Shammass

Introduction

This chapter charts the structural transformation of the Norwegian welfare state and attendant shifts in the modality of punishment over the course of the 20th century and beyond. Between 1900 and 2014, the Norwegian welfare state embodied three distinctive forms: first, a residualist, minimally decommodifying regime of Bismarckian welfare politics; second, a comprehensive, universalist regime of social democracy that was broadly redistributive and decommodifying along Fordist-Keynesian lines; third, a hybridized semi-neoliberal regime that maintained important elements of social democracy while implementing marketized logics of state governance, relying increasingly on private providers to deliver core state services and witnessing accelerating

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socioeconomic disparities. Three modalities of penalty arose out of and in conjunction with these stages of transformation of the welfare state in this period (see also Hauge 2002): first, *penalty as paternalism*, mobilizing prisons to act as warehouses for the poor and disreputable, particularly the unemployed, vagrants, thieves and alcoholics; second, *penalty as treatment*, entailing the medicalization of social pathologies and the resurgence of prison labor schemes, paving the way for a reintegrative system of treatment and work that was fundamentally aimed at bringing wayward social agents back into the fold of the citizenry through gainful employment; third, *penalty as dualization*, in which the prison system diverged along lines of citizenship, giving rise to a rehabilitation-oriented track increasingly reserved for national insiders and slowly mounting a residual, punitive wing to be mobilized vis-à-vis foreign outsiders and non-Norwegian citizens. In this third and last period, incarceration rates slowly crept upwards to levels not seen since social democracy's apex at mid-century.

More generally, there exists a nexus between *social policy* and *penal policy*, and understanding changes in the latter domain mandates attending to transformations in the former. In teasing out the myriad ways in which the political economy of the state—more traditionally the provenance of economists political scientists—impacts the objects of study held to be the preserve of criminologists, penologists, historians of the prison, and sociologists of punishment, this historical account of transformation of welfare and penalty in Norway throughout the 20th century and beyond underscores the importance of “bringing the state back in,” to use Theda Skocpol's phrase, in studies of the politics of punishment. Admittedly, while there is a *covariation* between the structure and logic of the welfare state and the modality of the penal state, the latter is not reducible to the former (Wacquant 2009); the penal field is relatively autonomous, and the contours of punishment adhere in some measure to a principle of autochthony in which agents internal to the field determine policy agendas that are not immediately translatable to transformations in the wider state (e.g. Goodman et al. 2015). While detailing the totality of mechanisms underpinning the coevality of social policy with penal policy remains beyond the scope of this chapter, for the purposes of a macrohistorical account of systemic evolution over the

longue durée, a “state-centered approach” offers an initial, parsimonious mapping that would otherwise threaten to be as large and unwieldy as the terrain it purports to describe.¹

Three Faces of Penalty

Penalty as Paternalism (1900–1945)

At the outset of the 20th century, Norway was a poor, underdeveloped, and largely nonindustrialized member of the European periphery. Despite its backward economic condition and subservient membership in a political union with Sweden (lasting until national independence in 1905), a series of early attempts at constructing an embryonic welfare state had started in the 1880s which had resulted in a series of carefully circumscribed, moderately protective social policies. This constituted the second half of Polanyi’s (2001 [1944]) famed “double movement,” the first being the institution of *laissez-faire* capitalism across large parts of the industrialized and industrializing world, revolving around the fantasy of the “self-regulating market,” the second being the counterreaction that saw a movement towards growing “collectivism” across the advanced world. This latter “movement” entailed a form of primitive welfarism, including policies like workers’ safety legislation to deal with decrepit conditions of life in factories and mines, sickness insurance, public housing, healthcare, sanitation, and public education. On Polanyi’s account, this collectivist reaction to the dream of market society was not the outcome of a “conspiracy”; rather, it was the natural and expected counter-reaction to the visibly harmful effects of the self-regulating market—of excessive inflation, rampant unemployment, and squalid living conditions.

¹ For alternative mappings and periodizations of the history of imprisonment in the Scandinavian countries, see Nilsson’s (2013) account of Swedish incarceration in the mid-sections of the 20th century; Søybe’s (2010) micro-level account of the historical transformation of a prison in Oslo, Norway; Pratt and Eriksson’s (2013) comparative analysis of incarceration in three Nordic and three Anglophone societies; and Smith’s (2003) study of the rise of the modern prison in Denmark over one century.

In Norway, excessive commodification and marketization were counteracted by policies that were, as Bjørnson (2001) notes, limited in scope and aimed at preventing only the most destitute and impoverished elements of society from falling off the cliff of social risks into abject misery. In this age, “it was accepted that the authorities would take care of the elderly, disabled and indigent if ‘utter impoverishment threatened’” (Bjørnson 2001, p. 199). As part of the wave of moderately decommodifying Bismarckian welfare reforms that began in the 1880s on the European continent (Briggs 2006, pp. 20–23), a series of social policies and legislative reforms were enacted that sought to protect the poor, sick, and elderly as well as injured or disabled workers, including such legislation as the Factory Inspection Act of 1892, the Accident Insurance Act of 1894, and the Sickness Insurance Act of 1909 (Bjørnson 2001). In this period, as Esping-Andersen and Korpi (1986) note, social insurance was of a classically *liberal* kind, in part because of the fact that these legislative reforms were enacted by non-socialists. Norway implemented a voluntary scheme for unemployment insurance, operated by unions, and mandatory insurance policies for low-income laborers, but would not see universal and compulsory forms of accident, sickness, and unemployment insurance or universal old-age pensions introduced until mid-century. This was, then, a “predominantly liberal era” (Esping-Andersen and Korpi 1986, p. 46).

In the first half of the 20th century, Norway’s prison system was to fulfill one central function: to control and contain problem populations and their attendant social pathologies and perceived vices. At the outset of the century, more than one-half of all convicted persons—some 2,231 persons out of a total of 3,951 convicted persons in 1900—were punished on charges of theft (Det Statistiske Centralbureau 1903, p. 107). Nearly three-quarters of incarcerated men in Oslo’s central prison, Botsfengselet, between 1920 and 1939 were classified as manual laborers or precariously employed by contemporary observers (Møglestue 1962, pp. 172–173). But this was also a period of liberal reform. It was a period that was deeply self-conscious of its own perceived liberality. “There has been a momentous development, particularly in a milder and more humanitarian direction, in the domain of penal policy,” wrote a group of state statisticians on the period lasting from the closing

decades of the 19th century to the first years of the 20th century (Det Statistiske Centralbyraa 1913, p. 8). A new penal code was introduced in 1902, widely lauded in Europe for being in the vanguard of legal reform; it abolished the use of the death penalty in times of peace, raised the age of criminal responsibility from 10 years to 14 years, and would allow convict laborers to be considered for release after 6 months of hard labor (see Heivoll and Flaatten 2014; Hauge 2002).

This was an era of liberal-paternalist concern with the socially deleterious effects of punishment. Particularly among legal elites there was a growing belief that corporal punishment would not fulfill its aims. “We all know that bodily infliction of pain and corporal punishment have not helped,” said Andreas Urbye, a state prosecutor, at a meeting of Nordic legal experts in 1899, “and that they have been repealed not only on account of their inhumanity, but also—and first and foremost—because of their futility” (Den Norske Bestyrelsesafdeling 1899). There were efforts to curb the imposition of penal constraint. On 22 January 1925, a 32-year-old man, Hjalmar Sigvard Olsen, was sentenced to 60 days in prison for vagrancy (Ministry of Justice 1925). Olsen was a renowned recidivist, a man who had “previously been sentenced on 10 separate occasions” for breaking the law against vagrancy and committing an act of violence against a public official, and who had accumulated in excess of 40 fines during his rootless wanderings. A pardon was sought for his sentence. Olsen’s petitioners—four character witnesses, all respectable members of conventional society, including the chief of police in Olsen’s hometown, his employer, and a representative of the *Fattigstyre*, a public agency tasked with providing for the indigent—noted that Olsen was gainfully employed as a gardener and able to provide for his wife and three children. Incarceration would cancel his terms of employment, and his wife and children would consequently be cast into deeper poverty. One of the petitioners noted that he was “under the impression that Olsen would make amends”; his employer remarked that Olsen had been sober and dutiful throughout the period of his employment, and that he had “lately not been seen to be intoxicated”; the police chief was more hesitant, noting in qualified terms that “there may possibly be reason to hope that the applicant . . . will quit his inebriated lifestyle.” Nevertheless he supported

Olsen's request for pardon. There was room for contrition within the confines of the system, especially when the crimes were considered to be broadly social in origin: Olsen was pardoned by the Ministry, which had observed that a previous court had noted that Olsen's inebriation had been of a "relatively innocent character."

Indeed, all across the penal system there were signs that an incipient humanitarian transformation of criminal justice was under way. There was a growing concern with the problem of ensuring that conditions of confinement were "rational," a notion that was thought to entail incarceration in a single cell under conditions that were not to be excessively austere with the possibility of engaging in meaningful work. In 1927, the Ministry of Justice circulated a memo to a number of other government ministries emphasizing that a wide range of artisanal and semi-industrial products would now be manufactured in prisons around the country, permitting prisoners to work as bookbinders, carpenters, cobblers, painters, and saddle makers in the hire of the state (Fengselsvesenet 1936, p. 5). Certainly, such work had already been ongoing in some penitentiaries since the late 18th century, but by the end of the 1920s, skilled work activities became the norm for prisoners at the nation's central prisons (*landsfengsel*): on average, inmates in Oslo's two largest prisons spent some five-and-a-half days per week in gainful employment (Fengselsvesenet 1936, pp. 24–25). The desire for a rationally ordered prison also made the administrators of the prison wary of collective living quarters, overcrowding, and the formation of a hardened society of captives. In a missive to the Ministry of Justice, the warden of the penal colony (*tvangsarbeidshus*) at Opstad observed that the colony was filled to excess, that inmates were being housed in overfull dormitories rather than in solitary cells, and that overcrowding would create a criminogenic environment. Conditions would not improve, the warden complained, until a series of new cells could be constructed, but no money was forthcoming from the government to carry out its mission; more satisfyingly, it was noted that primitive forms of coercion, such as using irons and straitjackets, had not been in use at Opstad for a full year (Fengselsvesenet 1929, pp. 13–14).

Just as the risks facing the newly formed industrial proletariat in the course of their labors were to be collectivized and mitigated by the proto-welfare state, so too did the state consider laboring inmates as deserving

some modicum of social protection. One 39-year-old inmate who was held at Akershus Landsfengsel in 1918 lost the use of four of his fingers while laboring in the prison sawmill (Ministry of Justice 1918). After reviewing the facts of the inmate's case, the Ministry of Justice declared that the incident "must be characterized as an accident, which now and then will take place in any industrial enterprise." Inmates were laborers, and prisons were industrial enterprises: the overlapping sociodemographic characteristics of the industrial proletariat and the prison populations revealed a vision of the prison as an industrial enterprise. For the inmate, compensation for his injuries was to be calculated following the procedures that were used to allocate compensation in ordinary "private enterprise," the Ministry observed. The National Insurance Administration was consulted, and the agency calculated the inmate's invalidity to the preposterously precise figure of "16 and two-thirds percent," which should have afforded the inmate an annual compensation of "10 percent of annual wages." But such precise metrics only gave rise to further problems of computation, for what was the *value* of the inmate's labor? In a firm, the value of labor was represented by the laborer's wages. Inmates, however, received only the most minimal remunerations. Cutting a clear path through such metaphysical quandaries, the Ministry simply decreed that the inmate's annual salary "under the present circumstances" was to be pegged to the wholly artificial level of 1,200 Norwegian kroner. An insurance payment of 120 kroner per annum was therefore to ensue upon his release. In light of the inmate's record of theft and recidivism—the man had previously been convicted 12 times for "crimes of theft" (*tyvsforbrydelser*) and once for robbery—the Ministry stipulated that compensation should not be permitted to accumulate "if he were to be placed in prison for forced labor" in the future or "in any other way be placed under public or municipal supervision for any considerable duration."

This was also an age of ascendant biopolitics, of the medicalization of correctional expertise, and of scientific schemes of prisoner classification (see Schaanning 2007; Søybye 2010). In a letter to the prison warden of Oslo Central Prison, the institution's chief medical officer, the renowned psychiatrist and eugenicist Johan Scharffenberg, requested that all inmates that were to be released and who had been classified as "expressly abnormal," should be noted as such in their criminal records

(Ministry of Justice 1924). Taking the example of one of his inmate-patients, who had exhibited “groundless delusions of persecution” and “elevated self-confidence,” Scharffenberg recommended that an annotation be added to the man’s files that this man should be categorized as a “homosexual, paranoid psychopath.” Such classificatory designations were to be used in the probable event of any future dealings with the criminal justice system. The other face of a seemingly progressive and high-minded project of social engineering found its legal expression in a 1934 law that permitted both quasi-voluntary and explicitly compulsory sterilization on the basis of eugenic grounds (Haave 2007, p. 46). Unlike most other European societies, the Scandinavian turn to eugenics took place under the auspices of democratic governments in relatively egalitarian societies and were “linked to a liberal movement for social reforms rather than a politically conservative agenda” (Dikötter 1998, p. 469). The intrusive nature of liberal paternalism found its dual expression in incipient rehabilitationism within the correctional apparatus and, more broadly, in concerns with reproductive suitability in wider society; it was a movement that was supported by broad sections of the Scandinavian social-democratic parties (Roll-Hansen 1989).

This was a time of contradictions, then, characterized by a strengthened belief in the possibility of the rational and utilitarian treatment of persons liable to be categorized as incorrigible in the previous century, the advent of medical-psychiatric instruments of classification and assessment, and growing rehabilitative ambitions that were constricted by narrow fiscal means. A wave of liberal-humanist sentiments confronted the continuing material austerity of penal confinement and servitude as well as the extrapenological functions of social control directed against the unemployed, destitute, homeless, morally outrageous, and related constituents of the “dangerous classes.” At the heart of the primordial welfare state there existed a tension between the growing recognition of the need to relieve the plight of the burgeoning industrial proletariat and the desire to maintain the essential balance of power within the framework of the conventional social order, a tension that was made visible in the structure and operation of the penal state in this era.

Penalty as Treatment (1945–2000)

While the social-democratic Norwegian Labour Party had formed its first durable cabinet government in 1935, it was not until the postwar years of national reconstruction that the project of erecting a universal, generous, and strongly decommodifying welfare state began to gain ground. After 5 years of occupation under Nazi rule between 1940 and 1945, the Norwegian social democrats, taking a cue from the British Labour Party, urged that a “people’s war” of popular and partisan resistance should be followed by a “people’s peace” of fervent restoration and modernization. In a flourish of Marxist phraseology, the party noted that its goal was to construct a “socialist Norway” wherein “broad masses of the people” would secure the right to work, leisure, education, and gender equality “in all areas of social life” (Norwegian Labour Party 1945).

With a program for vibrant postwar reconstructionism, the party secured some 41 % of the vote for the national assembly, laying the foundations for a stable period of governance—interrupted by two short-lived center-right coalition governments and a more long-lasting center-right coalition government from the mid-1960s to the mid-1970s—by a (nominally) social-democratic party for decades to come. Facing weak opposition from conservative parties, the Norwegian Labour Party, allied with a strong trade union movement, took advantage of this “golden age” of social democracy to roll out a series of Keynesian welfare reforms with an aim of full employment (Esping-Andersen 1990, pp. 167–169). With absolute parliamentary majorities in the immediate postwar decades and a strong neo-corporatist model of wage setting, the Norwegian Labour Party was able to secure historically low levels of unemployment: an average of 2 % between 1950 and 1960 (Esping-Andersen 1990, p. 170). A series of universal, protective social policies were implemented in the postwar era: universal and compulsory accident, sickness, and unemployment insurance as well as universal, state-financed flat-rate old-age pensions were rolled out in the second half of the 1950s (Esping-Andersen and Korpi 1986, p. 48).

Crime control was not of great concern for the architects of the Norwegian welfare state at mid-century. The prison remained an

inconspicuous institution: on average, around 1,375 inmates were held in confinement on any given day in 1902, and by 1952, this figure had crept marginally upwards to 1,587 persons (Statistics Norway 2015). To the reigning Norwegian Labour Party, building a universal healthcare system, constructing public housing, establishing social security programs, and securing full employment were the primary objectives of postwar reconstruction: a strategic plan for the country for the years between 1953 and 1957 does not so much as mention the criminal justice system with a word (Norwegian Labour Party 1953). Crime was viewed as a pathology whose causes were largely social in origin; it was to be combated indirectly by building a more just social order. Macroeconomic policies were criminal justice policies in disguise. An all-embracing welfare state was the best bulwark against offensive acts of crime and the attendant need to punish, a view that was fully in evidence by the time the postwar social democrats published their first major white paper on crime policy in the late 1970s. “Crime and community are connected,” observed the authors, noting that a respect for the law was simultaneously a vote of confidence for the “key political lines” governing the social order, and “in this respect, a just distribution of goods is of central importance”; furthermore, crime was to be viewed as something of a social construct because of the way in which society categorized acts as deviant (Ministry of Justice 1978, p. 5). While such statements echoed the logic of penal modernism sweeping across the Western world in the postwar era, their publication in a 1978 white paper on criminal justice policy produced widespread criticism of the apparent naïvete of penal modernism, finally resulting in the early departure of the Minister of Justice, Inger Louise Valle. Such controversies were a symptom of the continuous ebb and flow of supportive and critical sentiment surrounding penal modernism in the second half of the 20th century.

A series of counterpunitive policies and legislative acts were implemented throughout the period. The scope of conditional sentencing was expanded by legal reform in 1955, young offenders between 14 and 17 years old were largely not imprisoned but had their criminal sentences dropped (*påtaleunndlatelse*) by the early 1960s, and an extrapunitive option of “hard time” (*skjerpet fengsel*), which included the option of sentencing offenders to a barebones subsistence diet of “bread and water,” was dropped in the Prison Act of 1958 (Hauge

2002, pp. 53–54). The crime policy architects of the late 1970s emphasized the importance of preventing the commission of crimes, developing a “humane” system of punishment that was in accord with the nation’s “culture,” and a criminal justice apparatus that made effective use of available resources (Ministry of Justice 1978, p. 6). Obviously, these were woolly notions that did not immediately translate into definite policies. But there existed a prevailing notion that prisons should restrict the pains they imposed on their institutional charges and that rehabilitation was a moral, sensible, and cost-effective course of action: the criminal age of responsibility was raised to 15 years, crimes of theft were to be met with alternative sanctions besides imprisonment, persons who could not pay their fines were not to be incarcerated, a form of preventive detention (*forvaring*) was to be abolished, and life imprisonment was also removed (Ministry of Justice 1978, pp. 169–170).

The period started with an exception. The immediate postwar trials against Nazi collaborators exhibited a veritable penal rampage. Nowhere else in Western Europe were such large proportions of collaborating members of the population subjected to legal punishment: all 55,000 members of the Norwegian pro-Nazi party, *Nasjonal Samling*, and an additional 40,000 citizens were set to be tried in the postwar proceedings (Judt 2007, p. 45). Around 9,000 persons were sentenced to prison, an additional 9,000 individuals were sentenced to forced labor, 48 persons were sentenced to a “loss of public trust”—a novel punitive option that entailed, among other things, permanent disenfranchisement and the loss of right to hold public office—and 25 individuals were executed (Central Bureau of Statistics of Norway 1954). From mid-1945 to mid-1946, nearly 23,000 persons were incarcerated, suspected of collaborating with the Nazi occupying powers (Fengselsstyret 1954, p. 16), a remarkable figure for a relatively low-incarceration society.

Some accounts of punishment policies in Norway avoid mention of such proceedings (see e.g. Pratt and Eriksson 2013, p. 212, footnote 12). But there is no sound basis for excluding a deviant case simply because it is deviant. In the postwar proceedings, retributivist sentiment were activated and mobilized by the social-democratic builders of the welfare state, suggestive of the fact that social democracy did not necessarily or

intrinsically entail counterpunitive practices. What obtained for an unusual situation was suggestive of trends that were ongoing, if less pronounced, during periods of relative normalcy, captured by the notion of a “Janus-faced” exclusionary dimension in the ideology and practices of social democracy (Barker 2013). Indeed, despite progressive practices and rhetoric, there was still a definite class dimension to the deployment of punishment in this period: in 1960, for instance, one-third of all inmates were in prison for theft, alcohol consumption, or vagrancy (Statistisk Sentralbyrå 1962, p. 8). And it was the moral opprobrium generated by the visibly austere conditions of incarceration that led the prominent Norwegian writer Jens Bjørneboe to engage in a series of scathing public commentaries of penal practices in the late 1950s, revealing a profound disbelief in the promise of rehabilitation and resulting in the formation of a radical prison reform group, the Norwegian Association for Penal Reform (KROM), in the late 1960s.

Throughout this period there was a growing realization that prisoners would be returned to society. Man was condemned to live in society, and that society would contain former convicts. The 1958 Prison Act paved the way for a series of “open,” minimum-security prisons and a furlough program that granted prisoners the possibility of home leave. Rehabilitation was humane but seemed also to be rational. To take a mundane example, in 1980, fully one-fourth of all “long-term prisoners” were let out on home leave for annual Christmas celebrations (Verdens Gang 1980). Penal modernism (Garland 2001) found its doctrinal expression in the “principle of normalization”; inmates were in the main to “maintain all their rights during the term of incarceration” (Ministry of Justice 1988, p. 301): it was the mere loss of freedom that was to constitute the central deprivation of criminal confinement. From this it followed that conditions of confinement should be made to mimic conventional life in the community as far as would be possible within the strictures of a correctional environment. But even this formula, apparently concrete and definite, concealed a pragmatic open-endedness, and the principle contained a greater latitude of possible interpretations than its proponents would admit. Ethnographic accounts of maximum-security incarceration in this era suggest that imprisonment was not particularly exceptional or humane relative to the rest of

the Western world (Mathiesen 1965). But if penal modernism had limited institutional effects in these decades, its political-economic manifestations were considerable: a sturdy social safety was constructed that prevented social pathologies from flourishing, prisoner populations remained small, and the very need for a prison system remained limited due to the existence of a protective and generous state.

Drugs did not sit quite so well with the apparent lenience of this political-economic modality of punishment. Alcohol was already sufficiently dubious to merit censure: “When a large proportion of crime is committed in a state of intoxication, each individual must take responsibility for limiting the consumption of alcohol in society,” the Ministry of Justice (1978, p. 6) emphasized. If the tone was timid, the policies were comprehensive: alcohol distribution was subject to comprehensive regulation through a state monopoly on its sale. As drug use increased during the 1960s, Scandinavian social democrats envisioned a society that was to be “drug-free” (Tham 2005). A “drug paragraph” was introduced into the national penal code in 1968 that stipulated a maximum length of imprisonment of 6 years for drug offenses; gradually, upper sentencing limits inched upwards, and by 1984, serious drug offenses were punishable by up to 21 years in prison (Shammas et al. 2014, pp. 593–594). While this legislative agenda was part of a broader, global coalition against drugs, a horror at the specter of unproductive hedonism or costly pathologies associated with the consumption of illicit substances also fed off a distinctly social-democratic impulse: the very normative order seemed at stake as the project of constructing and maintaining a generous, comprehensive system of social provision helped elevate the role of labor to a position of sacrality; work was instrumental in securing the reproduction of the welfare state. Drugs undermined the tight reciprocal bonds between citizens and the state under social democracy and were consequently criminalized and penalized at levels that seemed conspicuously disconnected from a wider regime of penal moderation (Pratt 2008, p. 285). Between 1968 and 1998, the number of drug offenses investigated by the police rose more than 150-fold from around 200 cases per year to more than 30,000 cases per year (Statistics Norway 1999). By the late 1980s, nearly 60 % of inmates in the nation’s district prisons were locked up for drug offenses

(Ministry of Justice 1988, p. 35). On the occasion of the publication of a Ministry of Social Affairs white paper that took a prohibitionist stance toward drug use, one newspaper commentator noted that “a drug-free society” had become the state’s “key objective in the field of drug policy.” It was a “goal that is strongly anchored in public opinion, in all political parties, and in the remainder of civil society,” and there existed, according to this observer, a broad “agreement that we cannot accept drug abuse in any form” (Verdens Gang 1985).

Penalty as Dualization (2000–2014)

By the late 1970s, the “golden age” of the Fordist-Keynesian social compact had run into severe difficulties and sustained political opposition across the Western world. Starting in this decade, a transition from the Keynesian state to a Schumpeterian “competitive state” was initiated in many of those countries where social democracy had previously produced a virtuous circle of sustained levels of economic growth, low levels of unemployment, rising productivity, growing incomes, and high levels of aggregate demand (Jessop 2002). So too in Norway. With the formation of Kåre Willoch’s Conservative government in October 1981, the near-hegemonic status of Keynesian, universalist decommodification in the postwar era drew to an end.

Riding on the wave of post-Keynesian, Reaganite-Thatcherite “market revolutions” in the early 1980s (Harvey 2005), a series of Conservative governments or Conservative-led coalition governments traded off with the Labour Party in holding the reins of power throughout the 1980s. What is more, the Labour Party governments formed in the 1990s were largely modeled on the “New Labour” model of Blairite centrism, based on the one hand on the conviction, fueled by the “median voter theorem,” that centrists were the only viable means of securing electoral victory, and, on the other hand, that under novel conditions of post-Fordist global competitiveness, the renewal of social democracy along a “Third Way” was an ineluctable necessity. National enterprises were privatized starting in the 1990s. Healthcare remained firmly universal and public, but a growing reliance on private general practitioners, rising co-payments for

consultations, and the proliferation of private alternatives to state health-care meant that one of the pillars of Keynesian welfare state was looking increasingly unstable. Workfare policies proliferated (Kildal and Kuhnle 2005, pp. 26–29). Tax reforms were initiated in the 1980s that over the next decades generated increasingly inegalitarian distributions of wealth (Aaberge and Atkinson 2008). While union membership—the plinth of leftist state capitalism in the postwar era—remained strong, its semantic meaning had transitioned from serving as a fount of radical agitation to functioning as an instrument of macroeconomic corporatist management and providing inexpensive benefits, such as home insurance policies, for individual members. As a result of widening socioeconomic inequalities, a “New Nordic Model” (Hansen 2014, p. 478) had arisen that was neither fully neoliberal nor recognizably social-democratic in the sense suggested by that term in the immediate postwar years.

By the start of the new millennium, Norway had made a circumscribed turn towards increasingly punitive politics (Shammas 2015): the incarceration rate increased by more than 25 % between 2000 and 2012;² legislative changes raised maximum sentencing levels for violent offenses throughout the 2000s; post-9/11 counterterrorist legislation increased the maximum penalty for offenses considered acts of terrorism from 21 years to 30 years in prison; penal expenditures grew by 80 % between 2005 and 2012; a novel and intrusive mode of criminal sanctioning like electronic monitoring of non-incarcerated offenders using ankle bracelets may in the long term contribute to a widening of the penal dragnet, even as it may in the short term have had a counter-punitive effect on the system as a whole by replacing prison sentences with the possibility of serving time at home. A new penal sanction of “incarceration under preventive detention” introduced the theoretical possibility of life imprisonment in a country that at the beginning of the

²The incarceration rate for Norwegian citizens remained relatively stable over the period; the growth in criminal confinement should be viewed in conjunction with targeted police action aimed at arriving citizens from postcolonial developing countries in and around the Middle East following American military incursions in Iraq and Afghanistan as well as the eastwards expansion of the European Union that attracted tens of thousands of migrants through the increased mobility offered by a widened Schengen Area.

21st century had capped prison terms at 21 years. Prison construction failed to keep pace with the growing number of prison sentences generated by the court system, so that by 2014 some 1,300 persons with unconditional sentences were waiting to begin their sentences, the pretrial remand system was overflowing, and some prisons began housing two inmates per cell in formerly single-occupancy cells—a move that was considered a departure from an important constituent pillar of penal welfarism. Taken as a whole, the penal field underwent a moderate rightwards tilt in this period, a transformation that was accelerated and catalyzed by competition between the previously predominant Labour Party and the newly ascendant right-wing, neoliberal Progress Party over the right to “stage sovereignty” by taking a “tough on crime” stance toward perceived social pathologies. The fundamental axis of transformation in Norway’s penal field in this period stretched between the Labour Party and the Progress Party as both parties entered into a cyclical and punitive arms race, each attempting to outbid the other in adopting stricter measures to respond to the perceived interconnections between crime, immigration, and “permissive punishment”—and thereby demonstrating that parties of both the left and right remain susceptible to the perceived attractions and symbolic profits stemming from the politics of penal austerity (e.g., Tham 2001).

Emblematic of this struggle was the growing deployment of surveillant and punitive energies trained on foreign citizens.³ In 2005, some 12 % of

³The police trained its gaze on “foreign” criminals in this period. “Norwegians constitute the majority of registered criminal offenders responsible for less serious drug crimes, while foreign citizens are responsible for most serious drug offenses,” observed a Norwegian police report in 2014 (National Crime Investigation Service 2014, p. 9); the report enumerates a panoply of “criminal networks” presumed to be stratified along ethnonational or ethnoracial lines and organized by social agents hailing from the Baltic states, Poland, the Balkans, Vietnam, Morocco, Somalia, Kurdish regions, and West-African nations. The report notes, “Statistics show a tenfold increase in the number of drug cases where west-Africans were suspected, accused, and convicted [of drug crimes] between 2000 and 2009.” And yet it remains unclear whether this “explosion”—the term used by the police, enclosed in quotation marks, to characterize the outsized prevalence of “West-African” offenders in the commission of drug offenses—is a function of disproportionate commission of crime by definite social groups or rather an *ethnoracially targeted police surveillance* aimed at uncovering drug offenses by those already presumed to be primarily responsible for the importation of cocaine and heroin into Norwegian society.

new entrants to prison were foreign citizens (Norwegian Correctional Services 2005, p. 6), but by 2013, this figure had grown to 29 % of new entrants, and a full one-third of the prison population was now composed of non-Norwegian citizens (Norwegian Correctional Services 2013, p. 7). For leading politicians on both the left and right of the political spectrum, this seemed to spell crisis for the penal order; the alleged influx of roving bands of predatory criminals from Eastern Europe, rapacious sex offenders, and exploitative drug dealers of African or Middle Eastern origin, was seized upon by politicians from both the Labour Party and right-wing populist Progress Party (Shammas 2015). Through a more aggressive application of the provisions of Norway's Immigration Act, foreign citizens suspected of a crime while residing in Norway could be subject to deportation, sometimes even in the absence of a legal conviction due to the lower evidentiary standards required for deportation to occur (as with asylum seekers suspected of providing false information about their true identity); a veritable boom in the number of deportations of foreign citizens followed, operated largely under the auspices of the immigration bureaucracy and therefore not considered a bona fide legal sanction; the number of such deportations grew from 190 orders in 1991 to nearly 2,500 orders by 2014 (Aas and Mohn 2015).

Declaring that foreign citizens would not be sufficiently deterred from committing criminal acts due to the elevated standards of the Norwegian correctional system, the deputy leader of the Progress Party, Per Sandberg, contended that "foreign criminals are a big problem, and mild sentences and high-quality facilities aren't helping" (Progress Party 2011). Defying the reigning "principle of normalization," Sandberg proposed a 10-point plan for prison reform aimed at making conditions of confinement more austere: Norwegian inmates were to have their prison wages cut in half and foreign inmates were not to receive any wages whatsoever; foreign citizens were to be placed in penitentiaries with "lower standards" than those inhabited by Norwegian citizens; the names of pedophile sex offenders were to be publicized in the mold of a US-style Megan's Law; parole opportunities for early release were to be curtailed; and work programs were to be made mandatory, reducing the opportunity to pursue educational programs. The proposal, put forth at a national party congress and given to

rousing rhetoric and grandstanding, was ridiculed by the Labour Party Minister of Justice, Knut Storberget, who called the proposals “unspeakably poor” and observed that “the countries that try to worsen inmates’ conditions, struggle the most with crime” (Verdens Gang 2011).

And yet only a few months later, one of the Progress Party’s proposals had become official government policy: Ullersmo Prison in eastern Norway was set to house foreign citizens in an ethnationally segregated cell block. A year later, it was announced that a 97-bed prison in eastern Norway, Kongsvinger Prison, was to be converted into a segregated facility for foreign citizens (Ministry of Justice 2012). While political elites promised that this prison was to offer tailor-made rehabilitative programs for offenders who were destined for extradition to other national cultures upon release, this was also a rhetorical strategy that served to reap dual symbolic profits. On the one hand, it assuaged supporters of penal modernism who would not accept the wholesale degradation along ethnonational lines of one of the core pillars of the rehabilitative regime of criminal justice, namely the principle of normalization; on the other hand, it signaled to those sections of the electorate that were increasingly given to ecstasies of denunciation of allegedly crime-prone asylum seekers and stigmatized, mobile economic migrants that toughened measures were being taken.

Punishment is one of the core functions of the state. However, the twin pressures of a growing prison population and a declining willingness to invest rehabilitative energies in stigmatized foreign offenders within sections of the penal field, placed even the most fundamental functions of the state under pressure.⁴ Arguing that the Conservative Party and Progress Party coalition government had inherited a deficit in

⁴A growing number of political agents in the Norwegian penal field believe that rehabilitative functions should be reserved for a privileged core of national insiders by reducing correctional standards for non-national offenders. In 2010, the Conservative Party expressed a desire to establish a “differential treatment” of foreign inmates by “moving foreigners out of ordinary Norwegian prisons and into separate, more basic prison wings.” The party’s spokesperson on criminal justice issues believed it would be desirable to construct “separate wings for foreign criminals with somewhat lowered standards in regards to amenities and rehabilitative services” (Conservative Party 2010). Similarly, the Progress Party’s manifesto notes, “The proportion of foreign convicts is approaching 40 percent [of the inmate population], and high standards in

public spending on prison construction, efforts were made in 2013 to lease spare prison space in neighboring countries. The newly elected Progress Party Minister of Justice, Anders Anundsen, contacted his Swedish counterpart, requesting permission to lease unutilized space in one of Sweden's correctional facilities. After some delay, the Swedish Ministry of Justice rejected the request, noting the troubling issue of ceding sovereignty to another state: "Either Sweden would take on the exercise of authority on behalf of the Norwegian government, or representatives of the Norwegian state would exercise such authority in Sweden" (Svenska Dagbladet 2014). Both options were viewed as deeply problematic.

Not to be deterred, the Progress Party minister sought assistance from the Netherlands. Having housed some 500 prisoners for Belgian authorities under a similar program in 2010 and successfully reduced the use of criminal confinement over the previous decade, the Netherlands accepted the Norwegian request. Gradually, the terms of public debate shifted from moving prisoners *per se* to the Dutch prison to moving *foreign* prisoners who would be extradited following the completion of their sentence. Rehabilitation would be made more difficult by the great distance between Norway and the Netherlands. Visits from friends and family would not be possible to the same extent as before. But this was considered a less salient issue when the inmates were foreign citizens, who, it might be supposed, would lack such social bonds and affiliations. A Conservative Party spokesperson contended that the Norwegian-Dutch prison would be modeled on the ethnationally segregated section of Kongsvinger Prison. "We have a situation in Norwegian prisons where one-third of the prisoners are foreign citizens," said the spokesperson. "This will first and foremost be an initiative aimed at inmates who will be extradited, and who will therefore not be remaining in Norway" (NRK 2014). By October 2014, the Dutch-Norwegian prison housed 153 inmates and around 80 % of the inmates were non-Norwegian citizens; while it was not a facility reserved for incarcerating foreigners, it was disproportionately deployed to this end.

Norwegian prisons are not having a deterrent effect on these criminals. We must establish separate prisons for foreign criminals" (Progress Party 2011).

In a period of a transformation of the logic of service provision by the state where core capacities from elderly care to asylum housing were increasingly subcontracted to private providers, and the offshoring and mass migration of manufacturing capacities to low-cost countries, it seemed only a slight stretch of the imagination to combine these dual transformations and to outsource yet another central capacity of the state—the power to punish—to an extraterritorial entity. Penal modernism had increasingly become the preserve of the national citizenry.

Conclusion

The history of punishment in Norway between 1900 and 2014 can be understood as a series of struggles over the state. The social state was transformed from a minimally decommodifying liberal welfare state, followed by a generous and expansive Keynesian-Fordist regime of social democracy, which finally culminated in a semi-neoliberal regime of state capitalism. To each of these welfare state regimes belonged, with some measure of contingency and variation, a definite stage of penalty, shifting from a regime that can be described as *penalty as paternalism*, wherein humanitarian and liberal reforms imposed a minimal set of constraints on punitive austerity, followed by *penalty as treatment* that saw the ramping up of social policies and rehabilitationist sentiment, and replaced by *penalty as dualization* that witnessed a growing bifurcation along ethnonational lines at the core of the criminal justice system. Certainly, the exertion of force from the structure of the social state to the operation of the penal state is far from unmediated or unidirectional. Exigencies intervene, scientific expertise and the media impose their own logic of autonomy, and global trends transmute the operation of the bureaucratic field by forcing it into a condition of heteronomy. However, the structure of the social state remains vitally important, and it is here that all accounts of penalty must begin.

Throughout the modern period, the prison has been a riveted, conflict-ridden institution, both from within and beyond its jealously guarded perimeter. There has been a constant labor of imagination revolving

around the fevered fantasy of *alternatives*, of additional ways of arranging entities in penal space, of novel sanctions and instruments, of dealing with the “immense task, [the] extreme ambiguity of the prison” (Petit 1990, p. 10). Perhaps no other institution has been quite so haunted by the perpetual desire, even from within its professional core, to imagine other ways of ordering and practicing the art of punishment. The prison has always been a remarkably recalcitrant institution, proving resistant to reform and modification at nearly every turn. Even during the course of its apparently smooth operation, it has always generated more pathologies, vices, and problematics than it has been able to quell or resolve. Even when the prison has done what it has nominally been tasked with accomplishing, it has generated more discord than contentment.

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Who's afraid of penal populism? Technocracy and 'the people' in the sociology of punishment

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ABSTRACT

Contemporary sociologists of punishment have criticized the rising incidence of incarceration and punitiveness across the Western world in recent decades. The concepts of *populist punitiveness* and *penal populism* have played a central role in their critiques of the burgeoning penal state. These concepts are frequently sustained by a doctrine of *penal elitism*, which delegates a limited right to politicians and 'the people' to shape institutions of punishment, favoring in their place the dominance of bureaucratic and professional elites. I argue that the technocratic inclinations of penal elitism are misguided on empirical, theoretical, and normative grounds. A commitment to democratic politics should make us wary of sidelining the public and their elected representatives in the politics of punishment. A brief discussion of Norway's legal proceedings against Nazi collaborators in the mid-1940s and the introduction sentencing guidelines commissions in Minnesota in the 1980s shows – *pace* penal elitism – that professional elites may variously raise the banner of rehabilitationism or retributivism. While penal elitism may yield a few victorious battles against punitiveness, it will not win the war.

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What exactly did the people mean to the intellectuals? [...] [T]he people were a mysterious Them, described in terms of everything their discoverers were not (or thought they were not): the people were natural, simple, illiterate, instinctive, irrational [...].

Peter Burke (1978/2009). *Popular Culture in Early Modern Europe*. Surrey: Ashgate, p. 31.

Introduction

Penal elitism is a doctrine that favors granting experts and professionals the authority to shape the politics of punishment. The central proposition of penal elitism is that experts in law, crime, and punishment possess a set of unique technical competencies that grants them the right to devise crime control policies in place of politicians and the public, who are held to be excessively capricious, emotive, or unenlightened.

Penal elitism has grown increasingly prevalent in the sociology of punishment.¹ It has seemed to offer an expedient device for rolling back retributivism, offering hope that penal

modernism might be restored by means other than those of the traditional avenues of democratic politics. If an enlightened elite could be permitted to tinker uninterruptedly with the machinery of the penal state, this position affirms the penal turn might be unwound and hyperincarceration stemmed. But penal elitism promises too much; it is triply flawed: theoretically, empirically, and normatively.

Its conceptual counterparts are ‘punitive populism’ (Bottoms, 1995; Garland, 2001) and ‘penal populism’ (Pratt, 2007), both of which were developed and deployed against the backdrop of booming prison populations across much of the world in recent decades, evidenced by US hyperincarceration (Wacquant, 2009b) and a growing ‘culture of control’ in Anglophone and continental European societies (Garland, 2001). The concept of penal populism has been used to criticize and account for the growth of the penal state over the past half century (e.g. Green, 2008; Jones & Newburn, 2006; Lynch, 2013; Pratt & Clark, 2005; Roberts, Stalans, Indermaur, & Hough, 2003; Turner, 2014), apportioning blame to politicians and the public for the Western turn to punitive penalty. While the concept may appear analytically innocuous, its usage often hinges on normative claims about the rightful role of technocratic elites, elected representatives, and the general public in shaping political outcomes – with undue weight given to the first over the second and third groups, and an excessively flattened vision of these groups’ sociological realities.

While used in a range of different ways, the concept of penal populism is frequently meant to entail several or all of the following societal properties (see Pratt, 2007): (1) the increased prominence of crime and punishment as topics of prime importance for public debate in democratic elections; (2) the rising influence of public opinion polls and media reporting on the extent and degree of punishment, characterized by increasingly virulent rhetoric against criminal offenders; (3) the disappearance of ‘insulation’ or ‘buffers’ between criminal justice bureaucracies on the one hand and elected politicians and the populace on the other hand; and (4) the introduction of harsh punishment policies by politicians aimed at bolstering public support, including, in the US, determinate and mandatory sentencing laws (e.g. sentencing guidelines and ‘three strikes’ laws), ‘zero tolerance’ policing, ‘war on drugs’-style legislation, and sex offender registries, and, in Europe, the growing prominence of police surveillance and the detention and deportation of ‘irregular immigrants.’

Penal elitism has a long pedigree. Cesare Beccaria, a leading Italian legal philosopher of the eighteenth century, believed criminal justice should be insulated from popular influence; the ‘common people’ exhibited ‘unreasoning veneration’ of delivered wisdom, Beccaria (1771/1995b, p. 154) argued, so that,

faced with the choice between veneration, on the one hand, and a laborious investigation of the truth, on the other, most of them would have little hesitation in choosing the former, given their natural inclination to avoid mental effort except where it is unavoidable.

As unthinking captives of staid common sense, the general public was not to be trusted to develop reasonable models of justice. Neither should a benevolent despot be the guarantor of justice; rather, the ‘greatest gift a sovereign can give the nation and himself would be to make an enlightened man the repository and the guardian of the sacred laws’ (Beccaria, 1764–1995a, p. 107). The general public was to be relegated to a position of submission in the social order because they lacked the finer ‘needs and interests’ and selfless ‘habit of loving truth’ found among more thoughtful elites, and law’s empire was to be the preserve of philosopher-kings (Beccaria, 1764–1995a, p. 107).² Beccaria remained opposed to democratic influence on the law. More generally, it was a view that fit into the elitist perception of the

world propounded by figures such as Pareto, Mosca, Michels, and Bagehot, who believed that ‘the masses’ should be shepherded toward a reasonable social order by an empowered minority (see Parry, 1969–2005). Many sociologists of punishment are also of an elitist persuasion.

The fear of untrammelled democracy

Political theorists have argued against a more prominent role for public political participation because of the supposed ‘cognitive incompetence’ of citizens (see Smith, 2009, pp. 125–126). More specifically, a Habermasian, reason-heavy conception of citizenship and deliberative democracy (Krause, 2008) constitutes the basis of penal elitism, which views ‘experts’ as the sole bearers of reason, politicians and the public as saddled with unreason, and places the emotions in a relationship of opposition to reason. For Green (2008, p. 131), when public debate on penal policy is ‘affectively bound, engagement with it must also begin at the emotional level.’ Green argues that this affective framing of penal debates is ‘why expert, non-emotional, rationalized discourse has diminished purchase in penal policy debates that are affectively and morally defined.’ Arguing for the deployment of bureaucratic councils to determine sentencing guidelines that steer judicial decision-making and trump the influence of politicians over sentencing, Freiberg (2013, p. 161) contends that ‘the Council can play a useful role in defusing issues by taking on contentious matters and considering them in a calmer atmosphere and over a longer period when some of the emotion produced by the original event has dissipated.’ Morris and Tonry (1990, p. 222) decry the ‘mercurial nature of public opinion’ and believe that politicians engage in ‘pandering’ to ‘public fears and stereotypes’ in matters of criminal justice. Pratt (2007), by way of epigraph to the standard reference work on penal populism, approvingly quotes the novelist Ludwig Lewisohn’s warnings against the ‘tyranny of majorities’ and the ‘deadly power’ of democratic influence.

What do these diverse scholars have in common? They share a profound pessimism about the prospects of a democratic politics and a belief in a mutually exclusive relationship between emotion and reason, evident in the cleavage between, on the one hand, professionals as bearers of infallible expert knowledge, and, on the other hand, the general population and politicians as bearers of flawed folk knowledge. Penal elitism is built on the ideal of *technocracy*, a doctrine that asserts that ‘human problems, like technical ones, have a solution that experts, given sufficient data and authority, can discover and execute’ and which finds ‘interference from vested interests, ideologies and party politics intolerable’ (Kuisel cit. Porter, 1995, p. 146).

In a review of the history of Western penal politics, Garland (2000) alleges that criminal justice professionals in the postwar era successfully established and controlled a largely technocratic system of punishment. In this supposed ‘golden age’ of expert opinion, Garland contends that crime control consisted of ‘essentially technical issues, best governed by expert knowledge and empirical research’ (Garland, 2000, p. 352). It is to this hallowed era that penal elitists wish to return. For Pratt (2007, pp. 172–173), penal populism represents a struggle between affect and rationality, so that punishment, ‘instead of being driven primarily by concerns about efficiency, economy and humanitarianism, has to incorporate, and is sometimes overwhelmed by, the emotive forces that populism unleashes.’ Penal elitism envisions a criminal justice machine operated by neutral, objective, and technically proficient experts or coolly reasoning arbiters who make evidence-based judgments of right and wrong.

As if it were a self-evident disqualifier, Pratt (2007, p. 17) contends that penal populism privileges the 'penal expectations of the public over those of the criminal justice establishment.' Ruefully noting that there has been a 'dramatic reconfiguration' of the 'power to punish that had been characteristic of post-war modern society,' Pratt (2007, p. 24) notes that in those golden postwar years, experts reigned supreme, and, happily, the 'general public were largely excluded from any involvement in penal affairs.' In place of the people, criminal justice matters were handled by a civil service that relied on 'academic experts and similar elites' for rational guidance. Some societies have constructed buffers against the pernicious influence of the people's justice. The punitive turn, on Pratt's account, is in part the result of too much democracy, in part the result of not the right kinds of democratic preferences. Securing rehabilitationism presupposes the removal of the public's influence over the law, courts, and prisons. To the extent that popular influence *has* been impeded, elites should be lauded for their efforts.

Garland (2000, p. 350) expresses a similar lament over the alleged laicization of criminal justice policy-making in recent decades; criminal justice policies have become 'populist and politicized.' On Garland's account,

Policy measures are constructed in a way that privileges public opinion over the views of criminal justice experts and professional elites. The professional groups who until recently formed the policy-making community are now increasingly disenfranchised. Policy is formulated by political action committees and political advisers – not by researchers and civil servants.

The crucial characteristics of penal modernism, a benevolent correctional philosophy that is said to have reigned supreme in the postwar era, included its emphasis on the social causes of crime and the importance of rehabilitating offenders through 'the (expert projection of) the individual offender and his or her needs'; contemporary retributive punitiveness, on the other hand, is said to take the side of the victim of crime through '(a political projection of) the individual victim and his or her feelings.' What should concern us are the items enclosed by parentheses, containing an implicit dichotomous struggle between 'expert projection' and 'political projection.' Casting the conflict between penal modernism and latter-day retributivism as taking place between the 'expert,' on the one hand, and the political, on the other hand, can only be meaningful if one holds the view that experts are not wielders of political power. In so doing, Garland deploys a parochial conception of politics as limited competitions between parties in legislatures – as opposed to the wider conception of politics as struggles over power in general.

Others recommend 'buffering' or 'insulating' criminal justice experts from politics in the narrow sense of the term. After reviewing public opinion on criminal justice issues in five countries, Roberts et al. (2003, p. 180) argue that one should 'create a policy "buffer" between politicians and the criminal justice system'; punishment should be the prerogative of experts because 'the closer that politicians come to directly determining sentencing policies, the more likely it is that these policies will reflect the forces of blind populism.' Their policy recommendations betray a disdain for politicians and the public and an almost limitless faith in bureaucratic expertise. And while bureaucrats and parliamentary committees may well have their say, 'at the end of the day, these committees are composed of elected representatives, who are themselves subject to populist pressures, and who are seldom specialists in criminal justice' (Roberts et al., 2003, p. 181). On their account, then, politicians are inept and the public is unreliable because 'people are not satisfied by what appears to be cold rationalism,' being too easily swayed by emotional posturing and an impatience with slow

deliberation. Ultimately, they believe that the public should be prevented from exercising undue influence on social outcomes:

It would be a simplistic form of democracy that delivered flawed criminal justice policies simply because there was an apparent public demand for them. This would amount to democracy by uninformed plebiscite, quite different from the form of government by elected representatives that our five nations purport to uphold. (Roberts et al., 2003, p. 161)

They recognize rightly that this is an ‘intrinsically conservative’ position (Roberts et al., 2003, p. 161) and pessimistically note that there is only a slim probability of establishing a barrier between democratic influence and the institutions of punishment because doing so would require the consent of elected representatives who are not deemed likely to abdicate power to a body of putatively independent experts (Roberts et al., 2003, p. 181). Finally, in order to prevent the deterioration instigated by pure democracy, the authors envision a brighter, more utopian future where ‘adequate buffers between penal practice and populist policy’ can be erected. Against inconstant populations and politicians should stand an ‘effective alliances between practitioners, academics, and reform groups’ so that reason can outmaneuver emotion, to allow ‘rational penal policy to develop a coherent, audible, and authoritative voice’ (Roberts et al., 2003, p. 185).

Writing on the rise of an elitist normative current among US political theorists, Walker (1966, p. 295) pointed out that democratic elitists place ‘great emphasis on the limitations of the average citizen and are suspicious of schemes which might encourage greater participation in public affairs.’ Consequently, Walker noted, they would rather see an ‘active, responsible elite’ manage the daily business of political governance. In a similar vein, Pratt (2007, pp. 160–166) describes how (and welcomes the fact that) countries like Canada, Germany, and Finland have managed to erect barriers between popular influence and the formation of criminal justice policies. In Germany, the prosecutors and judges form an elite ‘cadre’ who are simultaneously protected from ‘political influence’ and are allowed to exert disproportionate influence on the policy-making process. In Finland, there exists ‘deference to law professors and other members of the criminal justice establishment,’ and a ‘coalition of interest’ has been established between various elites against the public. Each of the three societies shares a powerful and independent criminal justice bureaucracy, an ‘entrenched and authoritative civil service’ that is ‘largely in control of penal events in these countries.’ In Canada, successive governments have been ‘able to successfully give the impression that they are being tough on crime and thereby assuaging any populist ripples when in reality they are doing the opposite.’ (Pratt, 2007, p. 156) Welcoming the deception of the populace by an unelected minority of professionals, Pratt displays an almost boundless faith in the liberal tolerance and progressive character of penal elites.

Wacquant (2009a, p. 214) avoids falling into penal elitism by describing how the removal of one set of experts from criminal justice policy-making is followed by their immediate replacement by another set of experts, noting that while ‘the technical voices of experts, such as psychiatrists and penologists’ has been quashed, another set of ‘experts’ – victims’ rights activists, journalists, and ‘think tank’ members – has filled the vacuum left by the withdrawal and deauthorization of experts proper. On the increasingly heavy-handed treatment of sex offenders, Wacquant (2009b, pp. 225–226) contends that there has been, on the one hand, a ‘short-circuiting of the expert,’ and, on the other hand, a ‘promotion of crime victims as authoritative bearers of folk wisdom and popular will.’ On this account, when one set of experts is defrocked, another stands ready to take its place and push its version of

penal common sense. This is a sensible way to analyze the workings of elites because it recognizes that *to be an expert* is simultaneously to take and be handed a position of authority in social space. There are no ‘essential’ experts. Experts are those who speak with the *skeptron* of authorized language (Bourdieu, 1991, p. 109).³

Interrupting penal elitism

Penal elitism contains three fundamental empirical, theoretical, and normative components. (1) The central *empirical* claim is that the preponderance of penal elites secures low levels of punitiveness, reins in retributivism, and strengthens rehabilitationism. On this view, penal elites have traditionally been rehabilitationists; consequently, as penal elites are weakened, retributivism grows. (2) The core *theoretical* model views advanced societies as a triangular exchange between three groups: politicians, professionals, and ‘the people.’ (3) The key *normative* claim is that rehabilitationism is a sufficiently desirable end to trump competing ideals like the democratic control of the state’s instruments of coercion.

All three are problematic. First, the *empirical* claim incorrectly understands penal elites as homogeneous and universally committed to rehabilitationism. I briefly discuss the legal proceedings against Nazi collaborators in Norway after World War II and the establishment of sentencing guidelines commissions in Minnesota starting in the 1980s. These compact empirical excursions suggest that penal elites are *differentiated* across time and space and *possess conflicting penal philosophies*. Far from being inherent guarantors of rehabilitationism and natural bulwarks against retributivism, elites may at various times raise the banner of either approach.

Second, a more sophisticated *theoretical* model of penal change is required than the People–Politicians–Professionals societal model (dubbed the ‘Three-P Triangle’; see Figure 1) implicit in penal elitism. In its place, I propose deploying Bourdieu’s concept of the *field of power* (Wacquant, 1993) to show that the politics of punishment always bears the imprimatur of agonistic interactions between differentiated elites, stratified populations, and ideologically divided political groupings (see e.g. Goodman, Page, & Phelps, 2015). Ascribing essential properties to the corners of the Three-P Triangle causes one to lose sight of the fact that each point contains competing groups whose attitudes to punishment cannot be



Figure 1. The Three-P Triangle: an implicit model of societal interaction and transformation in penal elitism.

resolved from the repose of armchair speculation. Their preferences must be excavated through empirical investigation.

Third, the *normative* claim should be rejected on the basis of a ‘radical democratic agenda’ (Baert & da Silva, 2010, p. 41) that seeks to revoke the monopoly of experts over legitimate knowledge and strengthen democratic influence on social outcomes. Against *democratic instrumentalism*, which contends that citizens expressly do not have a ‘right to a democratic say’ (Arneson, 2009), one might follow Walker’s (1966) critique of the ‘elitist theory of democracy’ and argue that taking democratic politics seriously requires according citizens the right to shape the world in which they reside through deliberation and contestation. That basic commitment may give rise to a range of institutional preferences, including the Montesquieuian ‘checks and balances’ of the US Constitution and the Weberian affirmation of the necessity of bureaucracy, but it crucially orients one’s worldview to see such arrangements as necessary evils to be minimized, not glorified and exalted, whenever possible. It hinges on the concept of popular sovereignty, which sees the people as the legitimating source of all political authority, as opposed to the elitist vision of social reality that relegates the public to a position of ignorance and contamination, a group to be duped and deceived. To take but one example: some 17 million Americans served on juries over the course of a recent five-year span and fully one-quarter of the American public are expected to serve on juries over the course of their lifetime (Gastil, Deess, Weiser, & Simmons, 2010, p. 215). Juries arguably strengthen the sense of civic duty and political engagement. Despite the problematic processes by which US juries are selected, such as the permanent exclusion of some 13 million felons (including some 30% of black men) from jury service (Kalt, 2003, p. 67), which tends to skew outcomes in favor of dominant socioeconomic and ethnoracial groups, a jury system nevertheless empowers a greater proportion of the population in matters of justice than were such a system not to exist at all. The brute fact that juries exist and operate on a regular basis suggests that the public proves itself able to play an important role in matters of criminal justice (Gastil et al., 2010).

In what follows, four theses on penal elitism are presented. Each section addresses one of the following questions: Which agents or entities constitute the *penal elite*? Who are *the people*? Is it possible to *depoliticize* penal policy? What does it mean to promote *reason* in the sphere of policy-making?

- 1. Penal professionals are not inherently liberal rehabilitationists. On the contrary, the history of punishment demonstrates that penal elites have cycled between retributivism and rehabilitationism – or combined the two in contradictory philosophical packages. Their punitive proclivities (or lack thereof) must be the subject of empirical scrutiny, not armchair speculation.**

The notion of elites as necessarily progressive found its leading sociological proponent in the figure of Elias (1939/2000). Elias saw the royal court as the leading instigator of the ‘civilizing process’ of bodily moderation and coercive constraint, providing a model of trickle-down civilization from dominant strata and to the lower orders of society. But while elites *may* at some points in history be exponents of liberal-humanitarian values, they are not always so. Law and order can be brought about from below – or imposed from above (Tham, 2013). Public sentiments can act as powerful drivers for limiting punitiveness (Matthews, 2005, p. 189). While Roberts and de Keijser (2014) criticize the tendency toward ‘democratizing punishment’ for robbing ‘experienced professionals’ of their positions of power, elites

are first and foremost bearers of concentrated social power. Their preferences toward such things as sentencing practices and the politics of punishment are contingent on a whole host of variables that lie beyond the fact of their elite status.

Norway's postwar penal rampage

Between 1940 and 1945, Norway came under Nazi occupation. Several hundred thousand German soldiers occupied Norway for the duration of World War II, and during this time, Norway was politically administered by Vidkun Quisling's *Nasjonal Samling* (NS) cabinet government for the greater part of the war. Meanwhile, the democratically elected Norwegian Government fled to London and remained in exile. While organizing a partisan movement and coordinating resistance efforts with the Allies, the exiled Norwegian Government turned to the question of what should be done about the thousands of known wartime collaborators after the war. On 12 December 1944, the government-in-exile passed the National Treason Act (*Landssviknordningen*), controversially positing in the form of an *ex post facto* law that persons who had joined NS after 1940 would be convicted of treason following the cessation of hostilities (Borge, 1998).

The evacuated Ministry of Justice placed a group of Norwegian legal experts, residing in exile in Stockholm, in charge of manufacturing the postwar 'settlement.' They invoked the notion of 'the people' to justify the planned outpouring of retributive sentiment, channeled through the formalistic tributaries of complex legal arguments and structures, and they noted that once the cannons of war had been lowered, the population would thirst for vengeance (Norwegian Ministry of Justice, 1945). In a key document, the exiled lawyers were visibly torn between the alleged popular demands for a 'harsh and quick' justice as opposed to a postwar settlement that would nevertheless affirm 'those principles of right that our democratic society is built on' (Norwegian Ministry of Justice, 1945, p. 3). Providing a series of convoluted (and later contested) legal arguments, the Stockholm lawyers affirmed the constitutional validity of instituting retroactive laws. Membership in NS was to be considered a treasonous offense, and the death penalty was to be instated for offenses previously eligible for a maximum sentence of life imprisonment. A new category of punishment was rolled out, a 'loss of public trust' (*tap av almen tillit*), entailing permanent disenfranchisement and losing the right to serve in the armed forces, hold public office, pursue licensed professions (including seeking employment as a lawyer, medical doctor, dentist, accountant, and so on), obtain leading positions in private enterprise or charitable organizations, and own property. The intention of this penal sanction, which was used sparingly by recalcitrant judges, was to devastate the lives of convicted collaborators, ensuring that they would possess 'no economic or other influence' (Norwegian Ministry of Justice, 1945, p. 11; emphasis added). The closing sentence of the dense legal tract launched one final volley of punitive sentiment: 'The death penalty is to be carried out by firing squad.'

Comparatively large sections of the population were subjected to harsh punitive reactions after the war. Following the surrender of Axis forces, tens of thousands of suspected Norwegian collaborators were interned in makeshift camps. 'Nowhere else were the proportions so high,' notes Judt (2007, p. 45) in a summary of Western European legal proceedings against Nazi collaborators, who points out that all 55,000 members of NS as well as some 40,000 other citizens were tried, even as the legal basis of the postwar settlement remained precarious, based on retroactive laws and the principle of 'collective indictment.' More than

9000 persons received prison sentences, another 9000 individuals were sentenced to forced labor, 48 persons were subjected to a 'loss of public trust,' and 25 individuals were executed (Central Bureau of Statistics of Norway, 1954). From mid-1945 to mid-1946, nearly 23,000 persons were imprisoned on suspicion of wartime collaboration (Norwegian Correctional Services, 1954, p. 16), a truly remarkable figure for a society that had contained comparatively minuscule prison populations throughout the first half of the twentieth century.⁴

It is difficult to say whether the postwar penal rampage was, indirectly, a bureaucratized response to a popular demand for vengeance. Professionals legitimized the sudden punitive upsurge by referring to its alleged origins in the 'sense of justice that has grown in our people at this time' (Solem, 1945, p. 30). Worried about the specter of informal tribunals – 'courts of honor' – that might seek to punish persons guilty of 'unnational attitudes' were the formal criminal justice system fails to swing in motion, the judge Bjarne Didriksen (1946, p. 6) grudgingly accepted the need for a dramatically expanded prison system to handle the sudden flood of suspected collaborators, but warned: 'On the whole we have entered a period of vengeance and self-righteousness that cannot help but have far-reaching consequences.' What is clear is that the hard work of manufacturing harsh punishment came about at the hands of a group of experts who saw it as essential to ground the turn to postwar punitiveness in a particular representation of the popular will.

Sentencing guidelines commissions and US hyperincarceration

In the early 1970s, a growing number of progressive legal scholars, judges, and politicians in the US expressed concern about judicial discretion and its perceived role in producing ethnoracial and class disparities in sentencing outcomes. Judge Frankel (1972, p. 5) argued that the 'almost wholly unchecked and sweeping powers we give to judges in the fashioning of sentences are terrifying and intolerable' in a democratic society. Echoing Bentham's (1776/1988, pp. 100–101) critique of assertive judges, Frankel proposed tempering judicial discretion by establishing sentencing councils that would prescribe fixed sentences for 'comparable' offences and offenders. The 'fear of judging' (Stith & Cabranes, 1998) was prevalent among progressive liberals, encapsulated by the Democratic Senator Edward Kennedy in Washington DC and his efforts to implement federal sentencing guidelines, but the desire for uniform sentencing guidelines eventually became an instrument for the imposition of straightforward 'law and order' policies through raised sentencing levels (Stith & Koh, 1993).

The work of the Minnesota Sentencing Guidelines Commission is illustrative of this tendency. Established in 1980, the Commission worked for the next decades to oversee a series of guidelines outlining presumptive sentences that would subvert the power of judges to make autonomous decisions. The majority of the Commission was steeped in the sensibilities of the penal elite, and the Commission consisted largely of members of the state's penal elite, as is evident from the list of commission members in 1989: a Minnesota Supreme Court justice, Court of Appeals judge, County Attorney, public defender, commissioner of corrections, county sheriff, probation officer, two District Court judges, and two 'citizen representatives' (MSGC, 1989). In place of judicial discretion, the Commission proposed a crude sentencing grid with a criminal history score (from 0 to 6 or more past offences) on the horizontal axis, and a ranking of the severity of the crime under consideration (on a scale of 1 through 11) along the vertical axis (Frase, 2013a, p. 123). Judges were permitted to depart

from the grid, but would be required to outline the 'substantial and compelling nature of the circumstance' were they to deviate from the penal norm (MSGC, 1989, p. 17).

What was the effect of the sentencing guidelines commission on penal severity? While the average duration of pronounced prison sentences in Minnesota was around 38 months in 1980, it had grown to 45 months by 2013 (MSGC, 2014, p. 20). Certain offense categories were met with far more severe prison sentences. According to the 1981 Minnesota sentencing guideline grid, an offender with no criminal history who was convicted of second-degree murder was set to receive a prison sentence between 111 and 121 months (MSGC, 1981, p. 27); the 2001 sentencing guidelines stipulated that an equivalent offense committed by an equivalent offender would receive between 144 and 156 months in prison (MSGC, 2001, p. 49). Aggravated robbery committed by a person without a criminal history would in 1981 receive a sentence between 23 and 25 months in prison for the sentence not to be considered a 'departure' from the sentencing grid (MSGC, 1981, p. 27); by 2001, this same offender was set to receive between 44 and 52 months in prison (MSGC, 2001, p. 49).

Notwithstanding, some have argued that the Commission had a moderating effect on penal outcomes. Reviewing a decade of the growing proliferation of sentencing commissions, Alschuler (1991) believed that in states like Washington and Minnesota, commissions 'probably [...] had some moderating effect' (Alschuler, 1991, p. 934). Similarly, Frase argues that the Commission had the effect of 'controlling prison growth' (Frase, 2013b, p. 99). These scholars have asked what the effect of the commission was relative to its counterfactual nonexistence, which is very nearly impossible to ascertain; more plausibly, they are drawing conclusions on the basis of assessments of the penal trajectories of other jurisdictions.

However, such buoyant assessments of the Commission's work should be tempered by the fact that the number of sentenced prisoners under the jurisdiction of state or federal correctional authorities in Minnesota increased by a staggering 440% between 1981 and 2014 (Bureau of Justice Statistics, 2015). While the Commission may have moderated the acceleration in penal severity compared with what might have happened were it not to have existed, the Commission failed to prevent a veritable penal binge. For while Minnesota remained a low-ranking incarcerator relative to the remainder of other US jurisdictions, it nevertheless underwent a dramatic transformation in the direction of growing penal severity with an unprecedented expansion in the correctional population relative to the state's own history. The rate of correctional expansion in Minnesota mimicked our outpaced that of other jurisdictions like California or Texas. While it would be an exaggeration to blame such developments on sentencing practices alone, half-impotent and half-facilitatory role of the Minnesota Sentencing Guidelines Commission in correctional expansionism is suggestive of the role played by 'buffered' penal elites. While it may be true that even more punitive outcomes might have been produced were there to have existed an uninterrupted link between legislatures and sentencing practices, as with California's determinate sentencing law (DSL) which allowed politicians to directly manipulate sentencing practices (see Campbell, 2014), it is sufficient for our purposes here to recognize that a technocratic body, largely populated by elite members of the criminal justice apparatus, failed to significantly impede the state's turn to penal severity by the mid-2010s.

That this is so should perhaps not come as a surprise. Commissions are, as Bourdieu (2014) pointed out, instruments for the creation of the appearance of apolitical neutrality, their creation a result of acts of delegation by political structures that seek to infuse them with definite and predictable schemata of perception and action. A commission, Bourdieu (2014,

p. 28) observed, must ‘appear as a commission of wise men, that is, above contingencies, interests, conflicts, [and] ultimately outside the social space.’ But this is an only *appearance*, for all commissions remain firmly planted within the perimeters of social space and are, to a significant extent, creatures of their masters’ making. Judges, prosecutors, correctional bureaucrats, prison, and parole officers, persons drawn from all of these groups have formed a majority or near-majority in the multiple manifestations of the Commission over the years; according to current statutes, the Committee must include three ‘citizen representatives’ – those alibis of democratic representation, one of whom must have been the victim of a felony crime – and who have certainly not been drawn at random from the population at large. Under current rules, 8 out of the Commission’s 11 members are appointed by the governor. Selective appointments have ensured that the Commission has taken a tough stance on criminality and gravitated toward reigning standards of penal common sense, all the while presenting itself as an organ of technical neutrality.

In short, the Minnesota Sentencing Guidelines Commission failed to prevent the steady and dramatic raising of sentencing levels and expansion of correctional populations to levels not witnessed before in the state’s recent past and at rates paralleling or exceeding that of other US states. The Commission, this putatively disinterested instrument of bureaucratic standardization, far from being an impediment to hyperincarceration, as Tonry (2004, pp. 101–102) has claimed, oversaw and partook in the punitive turn of a state that has not escaped the profligate swelling of jails and prisons that has become a routine element of hyperincarceration across the US.

2. Political appeals to public opinion are more like *acts of political construction* than sources of political knowledge, and ‘the people’ is a *plastic concept* concealing a variegated social universe cross-cut by traditional sociological cleavages (gender, class, religious and ethnoracial properties, age, etc.).

What we understand by ‘the people’ remains the subject of a continuous process of construction and its definition is one of the stakes in an ongoing symbolic struggle (Bourdieu, 1990b). The people are plastic. Part of the attraction with invoking popular support is that it legitimizes political action in a democratic society. However, ‘the people’ can often be made to order, adjusted to the speaker’s needs and interests at a given moment (Bourdieu, 1991, p. 91).

This is perhaps the core problem with the very concept of populism. It threatens to collapse into a term that is synonymous with *that which is at any given time preferred by a significant proportion of the population*. ‘Populism precisely is taking into account the people’s opinion,’ the French politician Jean-Marie Le Pen once remarked, before continuing, ‘Have people the right, in a democracy, to hold an opinion? If that is the case, then yes, I am a populist’ (Stanley, 2008, p. 101). Admittedly, that is not what most scholars mean when they use the term. They typically require that there be something more than the mere statistical aggregation of preferences into a majority favoring a position for it to be labeled populist (see Mudde, 2004), usually connoting the faintly disreputable air of *demagoguery*, that is, the manipulation and debasement of the general public.

For sociological purposes, however, the figure of the demagogue is analytically vacuous. Derived from the Greek (*demos* [the people] and *ago* [to carry or manipulate]), the demagogue can literally be defined as a ‘people-manipulator.’ But when do politicians properly manipulate the people – and when do they merely appeal to them, making their positions

known in a persuasive fashion? Canovan (1984, p. 313) notes that populism is ‘notoriously hard to pin down’ as it relies on various problematic conceptual foundations, including the problem of defining who ‘the people’ are and establishing a definition of when manipulation can be said to have taken place – that make for a vague and ‘unusually intractable’ term. Mudde (2004) has argued that populism entails a rhetorical opposition between ‘the people’ and ‘the elite’; others rightly point out that this fuzzy dichotomy does not make for a particularly ‘thick’ or germane instrument of ideological analysis (Stanley, 2008).

Complicating matters further, the very notion of populism, as Table 2 shows, does not constitute a monolithic concept within the more limited discipline of the sociology of punishment. Instead, its apparent unitary façade conceals a fragmentary pragmatism of notions that are connected only by a relation of family resemblance. Broadly speaking, the concept contains both strong/weak and material/symbolic dimensions. On the one hand, it may serve as a normative (strong) instrument of reprobation or a descriptive (weak) tool of analysis. On the other hand, it may accentuate either material transformations (legislation and institutional practices) or symbolic shifts (rhetoric, tropes, and topics of debate). Zimring, Hawkins, and Kamin (2001) present a strong material-usage, deploying populism mainly as an instrument of censure to emphasize legislative changes. Diametrically opposed to this usage, Fenwick (2013) employs a weak-symbolic usage of populism, largely studying the (symbolic) development of ‘tough on crime’ rhetoric in Japanese public debate and ascribing these changes to shifts in public perceptions of criminal insecurity. Next, Garland’s (2001, p. 13) usage of populism is for the most part strong-symbolic: reproachful of the decline of the expert and oriented toward shifts in the cultural underpinnings of punishment. Finally, Miao’s (2013) use of the term is weak-material, focusing on the continued use of the death penalty in China as the product of popular support for capital punishment. Without paying heed to the polythetic qualities of the notion of populism, penological scholars may risk talking past each other when deploying or critiquing a notion that in actuality dissembles a multitude of malleable meanings.

Table 1. Conceptions of foundational properties in penal populism and penal elitism.

	Penal populism	Penal elitism
Key agent(s)	Politicians and the public (laity)	Professionals (elite)
Dominant form of knowledge	Value-suffused and ideological (subjective)	Scientific knowledge (objective)
Institutional configuration	Untrammelled democracy	Technocracy
Source of legitimacy	Public support	Technical competence
Basis of decision-making	Emotion	Reason
Symbolic dimension	Profanity of the public	Sacrality of the state

Table 2. Four faces of ‘populism’ in the sociology of punishment: strong/weak and material/symbolic dimensions.

	Material	Symbolic
Strong (normative reprobation)	Zimring et al. (2001): California’s ‘Three Strikes’ Law (condemns the decline of the expert, studies material changes in legislation)	Garland (2001): Western culture of control (condemns the punitive turn, describes cultural-symbolic underpinnings of punishment)
Weak (descriptive assessment)	Miao (2013): Chinese capital punishment (explains death penalty sanction with continued elite support, fueled by perceived public backing)	Fenwick (2013): Japanese criminal justice policies (explains ‘tough on crime’ rhetoric with widespread public perception that the criminal justice system has failed)

What do ‘the people’ want in matters of punishment? In part, the answer to this question is unknowable because to answer it would require an unmediated access to ‘pure’ knowledge that surveys and opinion polls cannot yield (Bourdieu, 1979). Suspending the radical epistemological doubt entailed by this critique and merely accepting the naïve question at face value, however, suggests that ‘public opinion’ is always subject to constraint and construction. Beckett (2000) convincingly shows how politicians actively provoke and precipitate public anxieties over crime and calls for severe confinement. Public concern with crime and drugs, Beckett (2000, p. 15) suggests, is disconnected from the real incidence of these behaviors, but is ‘strongly associated with the extent to which elites highlight these issues in political discourse.’

3. The technocratic inclinations of penal elitism constitute an attempt to *depoliticize the political*, i.e. to remove the problem of the distribution of social power from the arena of democratic contest (where it rightly belongs).

Penal elitism operates on the basis of a narrow conception of politics, regarded solely as those activities that take place under the ambit of government ministries and parliamentary assemblies. A broader conception of politics is evoked in the title of Harold Lasswell’s classic work (*Who Gets What, When, and How?*) and Raymond Geuss’ (2008) remarks on a prominent Leninist slogan (‘Who, whom?’), that is, politics as the *struggle over the distribution of material symbolic resources and social power*. Operating with this broader conception of politics foregrounds the fact that penal elitists want to *depoliticize the political* (see Bourdieu, 2002) by removing issues that are political (in the broad sense of the term) from the sphere of politics (in the narrow sense of the term).

Case in point: ‘If the government of the day chooses to act illiberally and to *politicize criminal justice policy*, there are no competing governmental power centers to stop it’ (Tonry, 2007; emphasis added). Only politics narrowly defined could permit one to produce such a statement. With the broader definition of politics in hand it would be patently absurd to propose that one could ‘politicize’ the institutions of the penal state. Criminal justice policies are inherently political. There is simply no way that politicians can ‘politicize’ phenomena that per definition revolve around an allocation of power.⁵

One recurring example that is used to justify a technocratic conception of criminal justice policy-making is that of independent central banking (ICB) (e.g. Lacey, 2008, pp. 74–77; Pettit, 2002, pp. 442–445; Zimring et al., 2001, pp. 203–209). ICB serves as a model of economic policy governed by experts that is analogous to warnings against the dangers of unimpeded democratic influence on penal policies. Zimring et al. (2001, p. 181) contend that ICB serves as a model for combating populism, rightly pointing out that economics has a ‘rich tradition of antipopulism’ and has worked hard to ‘provide justification for the insulation of substantive policy from direct democratic control.’ They believe politicians cannot be trusted to determine interest rates because they have strong incentives to slash interest rates to fuel economic growth and win elections, even though this might be detrimental to long-term economic welfare; politicians must therefore not be trusted with the capacity to set interest rates. By extension, so Zimring and colleagues’ (2001, pp. 203–209) argument goes, the same should hold true for the politics of punishment: locking up more offenders is a cheap and effective means of generating electoral support, even though it is counterproductive to public safety and penal welfare in the long run.

However, penal elitism distorts the notion of ICB and misrepresents ICB as an uncontroversial institutional arrangement. Independent central banks have been contested since their invention. In their early history, it was understood that ICB involved a transfer of power from elected representatives to an unelected elite. US President Andrew Jackson was notably skeptical of the concentration of power in an institution that was to be insulated from the sway of democracy:

Jackson perceived that the bank, by its very design, undermined popular sovereignty and majority rule. As a friend and adviser [wrote] in a key early memorandum to Jackson, the bank had concentrated 'in the hands of a few men, a power over the money of the country.' Unless checked, that power could be 'perverted to the oppression of the people, and in times of public calamity, to the embarrassment of the government.' But even when well administered, the bank was an enormity, which allowed, Jackson wrote, 'a few Monied Capitalists' to trade upon the public revenue 'and enjoy the benefit of it, to the exclusion of the many.' (Wilentz, cited in Harcourt [2011], pp. 211–212)

Present-day economists have increasingly subjected ICB to intense criticism (e.g. Hayo and Hefeker, 2002). Krugman (2014) describes how he formerly subscribed to the conventional view that economics was a value-free and neutral science; consequently, Krugman believed that the economy should be the preserve of technical experts and remain buffered from politicians. Later, Krugman came to see that the US Federal Reserve Board was a battleground for clashing ideologies and class preferences. US central bankers tended toward 'sadamonetarism,' a proclivity for raising interest rates and worry less about rising unemployment, a preference that had 'a lot to do with ideology,' which itself had 'a lot to do with class interests' (Krugman, 2014). Setting interest rates, far from being a neutral exercise in the mechanics of economic adjustment, is suffused with ideologically inspired trade-offs between inflation and unemployment. Similarly, Joseph Stiglitz has argued that central banks make decisions that favor dominant groups in society. Central bankers tend to value the interests of bond holders over 'marginalized workers' largely for ideological reasons (Stiglitz, 1998, pp. 216–217). According to Stiglitz, '[T]he decisions made by the central bank are not just technical decisions; they involve trade-offs, judgments about whether the risks of inflation are worth the benefits of lower unemployment.' And these trade-offs 'involve values.'

Considering social problems to be *technical* problems is itself an ideological exercise in the construction of particular representations of social reality. In the aftermath of the 2008 financial crisis, Chang (2014, pp. 4–5) has noted the subjective, value-suffused nature of economics, vigorously arguing that the field is split into variegated approaches, each 'making different moral and political value judgements and drawing different conclusions.' Chang (2014, p. 5), himself a 'heterodox' economist, argues that 'if there is no right answer in economics, then we cannot leave it to the experts alone.' Others have pointed out that the concept of 'independence' in central banking conceals a crucial difference between 'instrument independence' and 'goal independence' for central bankers (Fischer, 1995). The majority of advanced societies favor goal independence, i.e. setting precise targets for central bankers (typically, maximum annual inflation rates), and therefore politicians to actually delegate very little real authority to the experts. Far from being a neutral instrument of technical regulation of the economy, then, ICB has come to be recognized as a historical artifact, the neoliberal 'augmented Washington consensus' of the 1990s (Rodrik, 2006, p. 978). ICB is an ideologically motivated institutional distribution of democratic influence taking on all the *appearances* of a neutral instrument of scientific management.

Caution should therefore be the order of the day when penal elitists deploy ICB as an institutional analogy in support of technocratic policy-making (see also Dzur, 2010, pp. 360–362), which they perceive as a necessary check on the popular will because of the irresponsible ‘inflationary bias of democratic preferences’ (Zimring et al., 2001, p. 206) in both economic and penal policies. One should in fact draw the opposite lesson: where a distribution of social power is at stake, democratic politics always has a part to play.⁶

4. Emotion is not opposed to reason, and affect is not opposed to democracy. Instead, emotional commitment is a precursor and prerequisite for democratic engagement and vibrant citizenship.

Emotions are sometimes thought of as being anathema to the responsibilities inherent in sound citizenship (Marcus, 2002). This, however, is a misguided view of both the ideal and reality of democratic politics; instead, the *sentimental citizen* is simultaneously a *rational citizen* because ‘in politics, it is conflict and the attention it brings, not virtuous citizens, that make for rationality’ (Marcus, 2002, p. 148). Healthful democracies require engaged activist-citizens, and emotional commitments are a prerequisite for democratic participation; consequently, the emotions should not be vilified but valorized. Robbing democracy of emotion would be to suck the lifeblood and marrow out of participatory governance, vitiating rather than ameliorating its scope and trajectory. The Aristotelian conception of practical reasoning established a prominent role for the emotions in political life (Abizadeh, 2008). Political theorists are again beginning to view an outpouring of emotions as an instrumental component of committed citizenship (e.g. Ferry & Kingston, 2008; Marcus, Neuman, & Mackuen, 2000).

Penal elitism views the emotions with hostility, often contending that there is a necessary link between affective commitments and rising punitiveness and operating with a Manichean vision of the dependable and rational *cogito* against the unreliable and volatile sphere of the senses. To Lord Windlesham, for instance, the US political system is ‘is prone to be swayed by emotion more easily than by reason,’ and this is why, on his account, punitive policies have held gained ground in that country (Windlesham, 1998, p. 216); punitive policies can be explained by dynamic process whereby politicians have ‘sought political advantage from a fearful, sometimes vindictive, public’ (Windlesham, 1998, p. 12). It may of course be entirely uncontroversial to suggest as an empirical observation that the general public has hungered for harsh policies and that this has played some part in generating stricter laws and bloated prisons; it is quite another matter to hold as an axiomatic statement of faith that the public is permanently committed to exacting revenge on criminal offenders for reasons of temperament. Still, it is probably reasonable to suggest that empirical assessments of the former kind have had a tendency to draw strength from axioms of the latter kind. On this view, *vox populi* is expressly not equivalent to *vox Dei*, to invoke Alcuin’s conceptual couplet, because, as the English saint of the eight century believed, ‘the riotousness of the crowd is always very close to madness’ (Knowles, 2001, p. 10).

But there is a non-necessary link between a passionate public and rising punitiveness: it is possible *first* to feel a visceral horror at the ‘spectacle of suffering’ produced by the incarceration of millions of persons under decrepit conditions of confinement – as in much of the US today – and *second* to begin to reason about the fiscal costs, elevated recidivism rates, and criminogenic qualities of the archipelago of penitentiaries that constitute hyperincarceration, and therefore to oppose it. Not only is this ordering of emotions and reasons

possible; it is highly probable that it is precisely this order of emotional aversion over rational reflection that has motivated and energized many social observers of punishment, perhaps even the very scholars who would decry the role of affect in shaping social outcomes.

Penal elitism professes a dissatisfaction with the emotional qualities of the general public, allegedly desirous of ever-harsher punishment and supposedly lacking a sense of indignity at the state of prisons – and which is consequently criticized, in contradictory fashion, for having *too much* emotion in one sphere and *not enough* of it in another. Scholars who appropriate this position might instead work to shift and transform those very emotions. Wacquant (2012, p. 8) pithily points out that the emotive outpouring implied by ‘zero tolerance’ policies could easily be turned on its head: why not declare a policy of ‘zero tolerance’ on crowded and unsanitary conditions of confinement instead of aggressively pursuing street-level disorders and petty crime? By *inverting the affective*, one might *effectively subvert punitiveness* and thereby reduce the scale and scope of the penal state. As Simon (2014) suggests, the slow and circumscribed turn away from a punitive form of legal ‘common sense’ to another form of penal orthodoxy in the US represents a shift from one combination of emotion and reason to another. If the fear of crime and hatred of criminals produced a form of punitive hypervigilance in the decades since the 1960s, there is now in its infancy a growing fear of burdensome prison systems and a hatred of the crime of the state against its population. And while Simon may strike an exceedingly optimistic note on the trials and tribulations facing US ‘mass incarceration,’ the notion that punishment is ‘inhuman’ is nothing if not an emotional verdict, nourished by and intertwined with rational reason.

Conclusion

In a prominent critique of elitism, Kant (1784/1991, p. 54) argued that the Enlightenment era would see humanity cast off the shackles of ‘immaturity’ through radical doubt and self-emancipatory reasoning; opposed to the labor of self-liberation stood all those ‘guardians’ that would prefer a quiescent and compliant populace. ‘Having first infatuated their domesticated animals, and carefully prevented the docile creatures from daring to take a single step without the leading strings to which they are tied,’ Kant wrote, ‘they next show them the danger which threatens them if they try to walk unaided.’

Writing some two centuries later, Dahl (1985) acknowledged that a persuasive case could be made for overbearing ‘guardianship,’ simply because some problems present technical or moral complexities that only an elite minority might reasonably be expected to be sufficiently equipped to handle. Against this ‘Principle of Guardianship,’ however, Dahl posited a ‘Strong Principle of Equality’ that underscored the *autonomy* and *competence* of all citizens as well as the need for *consent* in the delegation of authority. Relegating even limited domains of social practices to a technocratic minority, Dahl (1985, p. 71) warned, would mean forsaking democracy in the long run: ‘While quasi-guardianship would drift toward full guardianship, quasi-democracy would drift toward non-democracy.’

The doctrine of penal elitism takes up the mantle of the Platonic guardians (Loader, 2006), positing that politicians and the public have only a limited right to be the authors of their own destiny (e.g. Tonry, 2004, pp. 145–146). Commenting on the California ‘three strikes’ law, Zimring et al. (2001, p. 11) are aghast that the ‘provisions of this [policy] package received little or no analytic attention from criminal justice professionals and academic experts prior to enactment’ or that ‘experts were not consulted by anybody in government.’ What they fail

to recognize is that politicians and the public might possess a *right* to be at odds with ‘the experts.’ Indeed, the state legislature, governor, and the public endorsed California’s ‘Three Strikes Initiative,’ with some 5.9 million votes (and 70% of the voters) favoring Proposition 184 in the mid-1990s. Broadly sympathetic to a democratic politics of punishment, Dzur and Mirchandani (2007) nonetheless brush aside the widespread support for habitual offender laws as ‘mere populism,’ a construct they oppose to their ideal of a more refined ‘rational-critical public debate.’ And yet they can provide no solid criteria with which to distinguish the two from each other. Even Rowan (2011, p. 44), who professes a ‘radical’ stance toward the role of democratic influence on the politics of punishment, asserts that the public proves itself at various times too ignorant to be ‘entrusted’ – by whom, one might ask – with the power to shape social outcomes. While it is beyond the scope of this article, it should be stressed that a good part of the trouble with ‘penal populism’ stems from the incoherence of the notion of ‘populism’ itself. The term is inchoate and amorphous, is usually emotive, and often serves as a moral categoeme – a condemnatory instrument drawing on the ‘logic of the trial’ (Bourdieu & Wacquant, 1999, p. 44) – rather than serving as a dynamic and disinterested tool for social analysis.

It is perhaps natural that penal elitism should have grown in popularity in recent decades. Longer sentences, prisons bursting at the seams, and tough public rhetoric on crime and punishment have all been the order of the day. Many, if not most of the leading, sociologists of punishment favor reducing the incidence and severity of punishment (e.g. Braithwaite, 2003, p. 2); combined with a certain resignation and quiet despair about the perceived impossibility of effecting political change through collective action or scholarly interventions in the public sphere, it has come to seem only too attractive, from a purely pragmatic standpoint, to argue for growing technocratic control of the politics of punishment. Striving to realize a series of worthwhile goals, while fatalistically contending that little is to be accomplished through the conventional means of democratic politics, has, however, had turned many scholars into Platonic guardians who would take criminal justice policies off the table of political strife. Despairing that politicians and the public are unable to recognize the value of scholarly insight and policy prescription, many scholars would rather see a strong judiciary and bureaucracy established to see their goals realized than dirty their hands with profane politics. This is a political strategy parading as apolitical discourse. Maintaining the superiority of technocratic competence is simultaneously a strategy to inflate the form of capital specific to academics and make universal the point of view specific to the scholarly class (Bourdieu, 1990a). While penal elitism may be understandable in light of what at times must seem like the slim chances of a reformist agenda, it remains a form of self-aggrandizement, albeit one motivated by noble ends.

One might also pause to consider whether a commitment to penal modernism might not best be served by the removal of technocratic barriers to self-government. Loader (2010) cogently presents the dilemma confronting scholars of punishment as that of choosing between *penal moderation-by-stealth* vs. *penal moderation-by-politics*. Favoring the latter to the former, Loader argues that the duplicitous strategizing of elites may deliver short-term victories for the proponents of rehabilitation and non-punitiveness, but these gains are destined to collapse over the long run without a properly grounded ‘public’ philosophy of restrained punishment to sustain them.

Aside from such pragmatism, however, a commitment to democratic values would seem to require surrendering sovereignty to the populace. It is for this reason that scholars should

attempt to enlighten and influence the citizenry, employing the scientific competencies and resources in their possession (which are, after all, not slight), instead of attempting to establish buffers and barriers between the public and the broad sphere of the political. To do otherwise would be to reinstate a euphemized aristocracy of philosopher kings, an atavistic return to an antiquated method for ordering social life. 'While it is good to know how to use men as they are,' observed Rousseau (1755/1996, pp. 12–13), 'it is much better still to make them what one needs them to be.'

Notes

1. Briefly stated, penal elitism is the belief that the politics of punishment should be the preserve of enlightened elites, excluding allegedly emotive politicians and ignorant populations from decision-making processes and elevating a multitude of putative experts on law, crime, and punishment, including at different times members of professional categories such as judges, criminal justice bureaucrats, penologists, sociologists, and legal theorists. Unlike the concept of *penal populism*, which has generated a veritable cottage industry of penological reflection and analysis, its natural conceptual correlate, *penal elitism*, has rarely been deployed explicitly in the penological literature (but see e.g. Adorjan & Chui, 2013). However, it exists submerged beneath the surface of explicit discourse in most of the relevant works on penal populism. Despite the fact that scholars might not think of their work in such terms, it is possible to discern a series of positions in the literature that are characterized by penal elitism. The hallmark characteristics of penal elitism include a faith in the abilities of technocratic elites to proffer objective knowledge and develop policies of the state unimpeded by emotional attachments through the use of reason (see Table 1).
2. One of Beccaria's contemporaries, Bentham (1776/1988, p. 100), on the other hand, was skeptical of judicial elites. Bentham was particularly scathing of the power of judges to impede or reject legislation: 'Give to the judges a power of annulling its acts and you transfer a portion of the supreme power from an assembly which the people have had *some* share, at least, in choosing, to a set of men in the choice of whom they have not had the least imaginable share.' Bentham viewed the judicial autonomy of a professional, legal elite as the obstruction of democratic politics by an excessively empowered minority. The fact that judges could indirectly temper elected assemblies was a 'great power, too great indeed for judges' (Bentham, 1776–1988, p. 101).
3. In the aftermath of the 2003 US invasion of Iraq, the Coalition Provisional Authority (CPA) hired college graduates in their early 20s to supervise the Iraqi national budget, despite these young graduates' lack of professional experience with national-level economic policy-making. Symptomatic of the chaotic conditions of US colonial governance in Iraq, high-ranking CPA positions were handed out as a reward for their neoconservative inclinations following applications to entry-level jobs with the right-wing Heritage Foundation (Roberts, 2008, pp. 127–128). And yet they were for all practical purposes considered experts because they were *treated as such*, i.e. they were granted positions of real and significant authority. See Wacquant (2009a) for an elucidation of a particular *brand of expertise* that rose to prominence under the turn to 'law and order' politics in the 1990s.
4. To this one might respond that the Norwegian turn to harsh penalty in the immediate years following World War II was itself a response to a remarkable situation: never before in its modern history had such a large contingent of the nation's citizenry been seen to betray the furtherance of national goals and undermine the cause of liberal democracy. What is more, this exceptional scenario represented a brief interlude in an otherwise long century of relatively mild sentencing and punishment practices. What, then, can be learned from examining the limited turn to harsh postwar penalty in Norway? First, it suggests that the perception of penal elites as necessarily bearing liberal values preferences toward punishment is false. Second, it undermines the idea that penal elites will necessarily act as a bulwark against the desires of the population to inflict

- harsh punishment; on the contrary, penal elites can manufacture retributive penal policies and do so by mobilizing a particular representation of the public's preferences.
5. One wonders where penal elitists would draw the line: would their preference for expert authority over democratic influence remain the same if the topic of debate were not the police, courts, and prisons, but rather tax levels, foreign military interventions, or spending on public education? One suspects they would balk at the 'insulation' of democratic influence from questions readily recognized as falling within the horizon of democratic politics. If this is so (and it remains a point of speculation), it may be because of a brute logical inconsistency within a broader domain of political preferences or because punishment policies are considered a special case deserving of their own institutional arrangements and norms of democratic accountability. However, good reasons are seldom provided for why crime and punishment should constitute a special case.
 6. For an erudite account of the 'indictment of politicization' in the history of political thought, from Plato through Edmund Burke, Max Weber, and Jürgen Habermas to Philip Pettit's neo-republicanism, see Urbinati (2014, pp. 81–127).

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Article

Habitus, capital, and conflict: Bringing Bourdieusian field theory to criminology

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Abstract

Bourdieu's key conceptual tools, including the forms of capital and habitus, have recently come to be deployed with greater frequency in criminological research. Less attention has been paid to the concept of the field, which plays a crucial role in Bourdieu's vision of how the social world operates. We develop the concept of the "street field" as a tool for scholars of crime and deviance. The concept serves as a guide for research and an instrument of vigilance, drawing attention to the agonistic nature of social relations and the role of domination, the importance of contextual factors in shaping the objects we study, the skillfulness of agents, and the transformative effects of remaining within semi-enclosed domains of social action over extended periods of time.

Keywords

Drug crime, field theory, habitus, Pierre Bourdieu, street capital, street field

Introduction

Pierre Bourdieu has been one of the 20th century's most influential sociologists. From the sociology of education through postcolonial studies and cultural anthropology to feminist scholarship, Bourdieu's writings have had a marked influence on the trajectory of broad sections of social scientific inquiry in recent decades. But the uptake of his

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works into criminology has been markedly slower: only recently has the discipline witnessed something of a “Bourdieuian moment”, evident in a series of works that meaningfully engage with criminal offending (Fleetwood, 2014; Ilan, 2013), moral panics (Dandoy, 2015), policing (Fraser and Atkinson, 2014), sentencing (McNeill et al., 2009), imprisonment (Caputo-Levine, 2013; Schlosser, 2012), probation (Deering, 2011), and related topics through the optic of Bourdieu’s theories.

A central concept in Bourdieu’s works is the notion of “field” (*champ*), which forms part of a longer tradition of spatial metaphors in social theory (Silber, 1995) and conceptions of social action as taking place within hierarchical, nested spheres or domains (Martin, 2003). With a few notable exceptions, such as Chan’s (1997) field-infused study of policing, the concept is almost entirely absent from criminological research. We aim to theorize the field-based approach in a criminological setting to show its practical applicability and flesh out the multiple advantages inherent in field theory.

For Bourdieu, the social world consists of a series of more or less *autonomous* fields of social action.¹ A field possesses an immanent, internal logic, but its autonomy may be subverted as other fields attempt to modify the logic of the field and the direction it takes. Field theory is *relational* in the sense that the domains of social action are interconnected with agents circulating between them and existing in relation to one another within a field. Agents struggle over *positions and prizes* within fields, which is to say that they compete for scarce resources and the right to dominate the direction that the field takes. Bourdieu offers the analogy of a “battlefield” (Bourdieu and Wacquant, 1992: 17): it is a fundamentally agonistic vision of how social action plays out. Finally, agents who pass through the field are affected by it. One undergoes a process of *personal transformation* by sheer dint of being embedded within the field.

The first half of this article reviews the belated arrival of Bourdieu to criminology and discusses work in the study of crime, law, and punishment that employs hallmark concepts like the forms of capital, habitus, doxa, and hysteresis. The second half outlines Bourdieu’s concept of the *field*, which, briefly stated, can be understood as a semi-autonomous domain of unified social action that obeys its own logics wherein agents struggle over the right to appropriate particular “profits that are at stake” (Bourdieu and Wacquant, 1992: 97). We develop the concept of the *street field*, an arena that contains criminal deviance and street culture as its focal points, arguing that Bourdieusian criminology should mine field theory for its emphasis on (1) agonism, (2) domination, (3) contextuality, (4) skillful action, and (5) the transformative effects of a field-bound social existence.

The Emergence of Bourdieusian Criminology

Bourdieu published relatively sparingly on criminological issues. For sociologists of law, Bourdieu’s (1987) essay on the “juridical field” has been valuable for its emphasis on the effects of a semi-autonomous legal profession with its attendant values, practices, and interests (e.g. Dezalay and Garth, 1997; Dezalay and Madsen, 2012). Appropriating the concept of the legal field for the study of international commercial arbitration, for instance, Dezalay and Garth (1995) show how the perception of relevant law arises out of an intense competition between “grand old men” and “technocrats”, adherents of civil

law and common law, and scholars and barristers, thereby emphasizing the constructed and agonistic nature of apparently neutral, technical frameworks. Similarly, in a study of The Hague Tribunal for the former Yugoslavia, Hagan and Levi (2005) emphasize the essentially practical nature of the law: legislative texts form an important but partial component in the greater social game of the enactment of the law as investigators and prosecutors struggle to impose their vision of how the social game of the courtroom trial should operate in a field populated by defense attorneys, judges, and international diplomats. It is the emphasis on the conflictual and pragmatic dimensions of law, in many ways analogous to the Critical Legal Studies movement of the 1970s (e.g. Calavita, 2010: 111–113), that characterizes the Bourdieusian approach.

For students of urban marginality and its associated social pathologies, Bourdieu's collaborative tome, *The Weight of the World*, has served as a touchstone (Bourdieu et al., 1999). In this tradition, Sayad's (2004) work on the "suffering of immigrants" emphasizes the importance of studying immigration as a concurrent function of *emigration* away from the deleterious effects of postcolonial upheavals, internal strife, warfare, and economic marginality. While its connections to the study of crime remain implicit, such a perspective prompts scholars of crime, particularly in the European context, to scrutinize how the social problem of criminal disruption is woven into the perceived problems associated with migratory flows and postcolonial populations at the urban periphery (e.g. Aas and Bosworth, 2013; Wacquant, 2008).

As with all social theory, the largely *ornamental* usage of Bourdieu's theories, a tendency observed by Dezalay and Madsen (2012: 434) in the sociology of law, should be avoided at all costs. To take but one example: Deering's (2011) study of the divergences between official representations and ground-level practices in probation broaches the concepts of habitus and fields, but instead of contributing to the analytical construction or explanation of the empirical object, the concepts appear exclusively in the introductory chapter and closing pages of the study. Bookending empirical work with abstruse theory risks involving the mere "rhetorical invocation" of Bourdieu's concepts or the needless art of "speaking Bourdieuese", in Wacquant's (2014: 118) apt phrase. There is also the danger of an *erroneous* application of intricate theoretical notions, as in Dandoy's (2015) attempts to rework the notion of "moral panics" through the Bourdieusian concepts of fields, habitus, and hysteresis, with the aim of understanding why humanitarian aid organizations have grown increasingly concerned with the security of aid workers even as the risks facing them apparently remain unchanged.² Anxieties over safety, Dandoy argues, should be read as a product of hysteresis: a clash between an outdated habitus that confronts shifting objective realities to which it is inappropriately calibrated (Bourdieu, 1990b: 62). However, because Dandoy describes precisely the opposite scenario – a shifting subjective structure (greater anxieties) that confronts an unchanging objective environment (unchanging risks) – hysteresis seems inappropriately applied in this instance.

Fortunately, many have avoided the siren song of "theoretical theory" (Wacquant, 1989: 50). These works allow Bourdieu's concepts to infuse the modeling of research problems, methodological approaches, and substantive analysis. Sandberg and Pedersen (2011) developed the concept of "street capital" – the skills, competencies, and dispositions necessary to survive as a lower-level drug dealer – within the context of a study of

North African migrants selling cannabis on the streets of Oslo, Norway. Uniquely, due to the pervasive nature of the comprehensive Scandinavian welfare state, street capital encompassed more than the stereotypical abilities associated with street crime, such as the propensity to engage in skillful acts of violence, which Bourgois (1995) views as a proto-Bourdieuian strategy for status maintenance and the production of social honor. Instead, the ability to navigate the assistive agencies of the welfare state, including the narrative invocation of victimhood and social marginalization, were integral to “street” survival. Conceptually, the work shares much with McCarthy and Hagan’s (2001) notion of “criminal capital” – which admittedly draws more on the human capital tradition than Bourdieu’s forms of capital, but which nevertheless emphasizes the skilled craftsmanship that is embedded in the pursuit of much criminal activity – and there are some parallels with Lankenau et al.’s (2005) conception of “street capital” and “street competencies” among young male prostitutes in New York City in the early 2000s.

Going back further, the notion of “street capital” can be viewed in conjunction with Thornton’s (1995) concept of “subcultural capital”, developed to capture the competencies and resources mobilized by participants in the dance club scene of the 1990s. Thornton’s valuable insight is that traits can be valorized in relation to a circumscribed social domain even as they remain illegitimate from the perspective of powerful social agents. More problematically, however, Thornton’s central concept constitutes an attempt to roll out a Bourdieuian form of capital without anchoring it in a field that can be said to define, produce, and distribute the capital in question. Similarly, while work on “street capital” has successfully teased out the myriad properties that facilitate success in crime and street culture, they have failed to situate these competencies within Bourdieuian field theory, which, as noted above, entails several problems, including a proclivity for substantialism and the insufficient specification of the contextual properties of wider social space.³

Fraser and Atkinson’s (2014) ethnographic study of the policing of working-class youths in Glasgow demonstrates the analytical potential inherent in a field-theoretical approach. Fraser and Atkinson show how the imposition of “gang member” labels arises out of a struggle between two separable social domains which they label the “street” and the “system”. On the one hand, street-based youths construe the gang as a positive *Gemeinschaft* rooted in circumscribed territorial limits that confers a sense of belonging and mutual support; their identification with the group is fluid and highly contingent. On the other hand, police officers view the gang as an entity of risk and violence where membership is stable and static, fixed definitely in the records of computer databases by police-employed civilian intelligence analysts. A chasm arises between “gangs in the system” and “gangs on the street”: data fed into the system is dependent on the work of ground-level law enforcement officers, and intelligence analysts have to make subjective evaluations as to whether suspects should be labeled as gang members, while the youths have their own version of reality that conflicts with the professional logic of police officers and the bureaucratic logic of intelligence analysts. In this way, Fraser and Atkinson convincingly demonstrate how the social problem of gangs is constituted by the agonistic interplay between distinct fields.

In similar fashion, McNeill et al. (2009) bring Bourdieu’s concept of the field to the sociology of punishment in a study of pre-sentencing reports in Scotland’s penal system,

which are authored by judges and social workers and detail an offender's social background, employment status, mental health, and other life circumstances, in order to make risk-based assessments of offenders' suitability for a range of sentencing options. Social workers and judges originate from two sharply divergent fields, and this is why the dominant policy model of risk assessment is translated into highly ambiguous practical terms: field effects intervene and mediate between policy and practice. Contrast this with Harding's (2014) study of marginalized youths in an impoverished, unemployment-stricken London borough which describes a local gang as a "social field"; a conception of a Bourdieusian field that fails to adequately contextualize its relationship to other fields, including other gangs and community organizations, and how this "field" is constituted by the state, media, markets, or other entities.

Merging Bourdieusian concepts with other theoretical notions should be welcomed; when it is done well, it inoculates scholars against the senseless ritual appeals to esoteric concepts, encourages scholars to see interlinkages between apparently divergent theoretical traditions, and consequently raises the analytical utility of seemingly self-contained notions. For Wacquant (2014: 123–124), habitus need not stand as a lone monolith in the landscape of social theorizing, aloof and elevated above all other theorizing of human action and cognition; instead, habitus is a "detachable capsule" that can "perfectly be separated from the other notions that compose that framework, provisionally or even permanently", including such apparently distant theoretical traditions like network analysis. Following in this vein, Schlosser (2012) attempts to synthesize and combine key concepts in Bourdieu and Foucault's writings in the context of prison studies. Seeking out connections between Bourdieu's notions of habitus, ethos, doxa, and the theory of practice and Foucault's conceptions of discipline, docile bodies, panopticism, and a history of the present, Schlosser contends, allows prison researchers to transcend apparent theoretical cleavages and raise the researcher's level of critical reflexivity upon entering correctional establishments (see also Lumsden and Winter, 2014).

Fleetwood (2014) offers another instance of conceptual integration in a study of the public representations and self-constructed narratives of female drug mules in an Ecuadorian prison, fusing Bourdieu's forms of capital and habitus to the tradition of narrative analysis. Media representations of drug mules are torn between the notion of the "manipulated mule" – a marginalized victim of unfortunate social circumstances and calculating male traffickers' scheming – and its very opposite, that of the "cocaine queen" – hedonistic and irresponsible women who allegedly embody the negative attributes of feminism and the intrusion of gender equality into the domain of the previously male-dominated arena of globalized crime. The narratives told by Fleetwood's women inmates problematize both, eking out a narrow range of agency while recognizing the duress under which trafficking operations were carried out. Against the charge that narrative analysis is "superficial, constructed after the fact", Fleetwood (2014: 118) mobilizes the concept of the "durable and portable" habitus to show that the visceral embodiment of particular dispositions severely curtails the range of available discourses that can be drawn on in constructing a narrative of the self, demonstrating that Bourdieusian criminology can be grafted onto theoretical traditions that might seem remote from its concerns and concepts.

As the above studies demonstrate, Bourdieusian concepts are being applied in meaningful ways to solve real criminological problems. However, work remains to be done in anchoring Bourdieusian criminology in a theory of fields. We briefly review Bourdieu's understanding of fields, enumerate a series of benefits inherent in the field-theoretical approach, launch the concept of the street field, and summarize its five foundational properties.

Theorizing the Street Field

On Bourdieu's account, social action can be seen as taking place within relatively self-enclosed domains of social action that contain agents (individuals, groups, and organizations) that struggle over particular "prizes and profits" (Bourdieu and Wacquant, 1992: 98) and invest a certain amount of personal interest (*illusio*) in the activities of that arena (Bourdieu, 1995: 227–228). Fields revolve around social *games*, a term that is not intended to make light of the activities involved, but rather to draw attention to the fact that they are activities that involve certain rules and logics that nevertheless permit a certain spontaneous and skilled engagement with social reality. Fields are organized around particular activities: the bureaucratic field, for instance, is organized around the activities of the state, while the literary field can be thought of as the domain of writers, publishing houses, critics, translators: in short, all those agents engaged in the production, distribution, and critique of literary works (Bourdieu, 1995). Fields may contain subfields, "nested within, like Russian dolls" (Fraser and Atkinson, 2014); one example might be the penal field (Page, 2011), containing the courts, prisons, parole agencies, and other punitive institutions which in most modern societies is totally submerged within the field of the state.

The location of the field in social space is itself an empirically specifiable property; for instance, one might study the phenomenon of prison privatization as the encroachment of entities outside the bureaucratic field as they attempt to appropriate functions from the state and impose non-state logics onto sections of the penal field. Fields may be constituted by other fields: the philosophical field (where philosophical works are produced, students are trained, and professional philosophers ordained) is seen by Bourdieu (1991: 6) as being largely defined by the university field, which immediately leads to two further propositions: that philosophy largely takes place within a field that is itself often subsumed under the state, making philosophy something that often exists, albeit indirectly, under the aegis of the state, even as it continues to exert its own force and is not "reducible" to the interests or operations of another field (Bourdieu and Wacquant, 1992: 97), and that philosophy largely takes place within relatively formalized spheres (as opposed to in the "agora" by barefoot preachers, or in factory halls by assembly workers), neither of which are necessary or intrinsic to the "idea" of philosophy; instead, they are artifacts of a particular configuration of field positionings.

There are multiple advantages to a field-theoretical approach. First, field theory thinks *agonistically*, drawing our attention to the fundamentally conflictual nature of purposeful activities in which agents are engaged. Second, it foregrounds *domination* in social analysis, emphasizing that the end-point of field struggles is the right to monopolize resources specific to the field, which is a means to authority over other agents in the field.

Third, it thinks *contextually*, emphasizing the embedded nature of a domain of social action within a broader social space and its historical genesis and constitution. Metaphors may be of use here: one may imagine this web of inter-field relations like a fractal that repeats itself on a variety of scales, or a mobile suspended over a crib, none of which are perfect images, but which nevertheless speak to the interwoven and relational nature of social space. Perhaps no other entity is more important than the field of the state, which does so much to shape the worldview of the social body, engaging in the “work of inculcating common categories of perception and appreciation” (Bourdieu, 2014: 348). Fourth, it draws attention to the fundamentally *skilled and skillful* nature of activities that might otherwise be measured according to external criteria and therefore become denigrated, as in the notion of “negative cultural capital” discussed below. On the contrary, if there were not a minimum of skill involved there would be no struggle – and therefore no field – because activities that are intrinsically easy do not form the basis of a site of contestation. Finally, field theory emphasizes the apparently invisible (but ontologically mechanistic and real) *transformative effects* on the individual’s habitus as a result of a field-bounded existence. Just as a university student might come to expand their vocabulary or learn to write essays according to certain formula, so too might drug dealers come to learn how to measure out a pound of cannabis without the aid of a scale or come to adopt preferences for clothing or music specific to their world.

Bourdieu (1991, 1993, 1995) thinks of the production of literary, artistic, or philosophical works within the framework of fields, and so too might we think of particular forms of crime as taking place within a domain of social dynamics which can be called the *street field*, taking care to immediately note that the usage of “the street” here is intended in a non-literal, symbolic sense; the field is defined with reference to criminal and deviant activities which can take place anywhere and are not physically confinable to the street. Still, the framework has been developed with “crimes of the streets” rather than “crimes of the suites” in mind, and is perhaps better suited to studying crimes of drug distribution and various forms of organized crime rather than, say, fraud or embezzlement.

Action revolves around the prizes, in the broadest sense of the term (including economic remunerations, social honor, and ontological security), available to those willing to engage in the social game of criminal deviance. Not everyone is able or predisposed to engage in this game, but there are certain rewards and penalties available to those who are. While the field is not demarcated by formalized institutional boundaries, the boundaries of a field will always be blurry and indistinct, as in any study of a social grouping, which is always in part delineated through an act of imposition by the social analyst. What is more, the boundaries of the field are themselves a stake in the struggle of agents within that field (Bourdieu and Wacquant, 1992: 104). What is extraordinary about the street field is the degree to which it is a creature of the state, to borrow Bourdieu’s phrase, constituted by criminal legislation, police strategizing, judicial decisions, the workings of penal facilities, and so on.

Below we draw on Bourdieu’s writings, secondary theorizing (see, for example, Jenkins, 1992; Mangez and Liénard, 2015; Swartz, 1997), and extant research to delineate the parameters that a field may be said to possess: (1) the boundaries of the street field and its relationship to other fields; (2) the differentiated positions within the street field

and how it is often misread; (3) the effects the field produces, most importantly street habitus; and (4) the resources it contains, including street capital and street social capital. Briefly put, Bourdieu's theory of fields mandates criminological researchers to transcend internalist/externalist accounts of their objects of study: on the one hand, to "bring the state back" into offender-centric or micro-level analyses; on the other hand, to take seriously the empirical contours at ground level.

Boundaries

The fact that fields have boundaries gives rise to three corollaries: fields are relatively autonomous; fields have barriers to entry and exit; and fields relate to other fields. Persons or resources may move from one field to another, and a field may intervene in the workings of another field. In the street field, there are a set of particular competencies, values, and norms that come to be valued. Newcomers need to master or learn some of these to gain access to the field, and if they leave these will often have been embodied in them. Fields are, however, also closely connected to other fields.

First, fields are separated from other sites of social action, and they can therefore be understood as "local social orders" (Fligstein, 2001: 108). Still, field analysis is dogged by the recurring challenge of demarcation: where do the outer boundaries of fields lie? Swartz (1997: 121) notes that the "boundaries between fields are not sharply drawn by Bourdieu", arguing that this is intentional on Bourdieu's part because field boundaries are themselves an object of struggle, in part determining the degree of autonomy possessed by the field. Conceptualizing boundaries implies a pre-empirical assessment of the "relative autonomy" of the field in question relative to all other fields in social space (Mangez and Liénard, 2015). External and internal agents demarcate the street field. The boundaries are partly determined by agents located in the bureaucratic field through the production of laws and punitive sanctions. Internally, agents vie for the right to set the governing logic, central activities, and legitimate means for the field.

Second, fields have semi-permeable boundaries that shape the influx and departure of agents into and out of the remainder of social space. The permeability of field boundaries varies between empirical locales. In the United States, the stigmatizing effects of a criminal record (Pager, 2007) suggests that barriers to exit from the street field are high, while in certain economically dislocated neighborhoods the barriers to entry are relatively low because of the concentration of disadvantage and penalized populations (Clear, 2007). Other societies may have stronger elements of reintegrative shaming, which facilitate exit from the street field, because societal disapproval is frequently "followed by gestures of reacceptance into the community of law-abiding citizens" (Braithwaite, 1989: 55). Crucially, permeability is a property in social space, meaning that "desistance" is in part a product of properties outside individual control. For instance, when Laub and Sampson (2001) emphasize the importance of gainful employment for the cessation of criminal activities, this presupposes that stable jobs are in fact available; in periods of macroeconomic downturn, such jobs may not be available and the propensity to engage in crime may consequently rise due to structural forces beyond individual control (Box, 1987; Raphael and Winter-Ebmer, 2001).

Third, fields maintain relations to other fields. Particularly salient for the street field is the bureaucratic field, which may attempt to control and regulate the street field. Central boundary-defining activities carried out by the bureaucratic field include passing legislation, court decisions, creating regulations for government agencies, and the strategic application of the resources of surveillance. To take one example: while much of the western world was in the throes of a “war on drugs” in the 1980s, the Soviet Union only came to classify between 1 and 2 percent of all crimes as drug offenses (Butler, 1992: 154); in 1986, Sweden, a society with a tiny fraction of the population of Russia, recorded in absolute terms almost twice the number of drug crimes as Russia (United Nations Office on Drugs and Crime, 1990). The bureaucratic field in each of these societies defined the street field, via legislation on drug offenses and strategies of police surveillance, in remarkably different ways. Another example: in the United States, a “crime–incarceration disconnect” has consisted of penal expansionism at a time of declining crime rates (Wacquant, 2009: 144), which has greatly expanded the circulation of populations between the penal field and the street field, while in the Nordic countries a regime of “penal exceptionalism” has sustained an incarceration rate that stands at nearly one-tenth of that of the USA (Pratt and Eriksson, 2013). National disparities reflect profound differences in state strategies of categorization and prosecution. To study “crime” and “offenders” is therefore simultaneously to study shifting, historical webs of relations that are subject to forces of constraint and modification by other fields. A sufficient analysis of the goings-on in the street field mandates simultaneously subjecting the state to an analysis of its categorizing practices.

Differentiated positions

Fields are spaces of differentiated positions, a “structured system of social positions – occupied either by individuals or institutions – the nature of which defines the situation for their occupants” (Jenkins, 1992: 53). Positions within the field are “dominant” and “subordinate”, ranked according to the volume and composition of capital that agents possess (Swartz, 1997: 123). In the street field, possessors of larger volumes of street capital and street social capital (defined below) are liable to end up in dominant positions. For the purposes of practical application, a researcher attempting to map out the space of positions that exist in a field should attempt to chart the *types of positions* that can be said to exist, the nature of *relations* between positions, the *temporal dimension* of circulation or movement between positions, and finally, how *external fields* attempt to constitute the space of differentiated positions in a field by imposing what Bourdieu (1995: 95) calls “principles of vision and division”.

A practical example may serve to illustrate what is at stake. Shammas et al. (2014) interviewed 60 incarcerated drug dealers in Norway and categorized each individual as a lower-level, mid-level or higher-level drug distributor, drawing on categories designated by the Norwegian Director General of Public Prosecution. The public prosecutor attempts to categorize drug offenders according to a triple-tier schema, combining the *quantity* and assumed *harmfulness* of drugs distributed to produce a classificatory outcome, which matches the three tiers of sentencing outcomes of the “drug section” (section 162) in Norway’s Penal Code. Thus, for instance, a person caught selling less than 15 grams of

heroin is classified as a “lower-level” drug dealer, while a person selling more than 750 grams of heroin is categorized as a “higher-level” dealer, with the “middle-level” constituting the space between these two quantitative ranges. This is an example of an externally imposed classificatory practice, a “principle of vision and division”, that tries to both describe and enact how agents are organized in the street field: it attempts to *describe* in the sense that it purports that this is how agents actually come to hierarchically situate themselves within the field and it *enacts* in the sense that the classifying scheme imposes a set of penalties (in the form of prison sentencing ranges) connected with agents’ position in the triple-tier hierarchy that is said to exist.

In reality, of course, it may be that the agents themselves do not see the field in that way. Very likely they do not. Shammass et al. (2014: 597) suggest that notions like the “street-level”, the “middle market”, or “large quantities” are problematic precisely because they are acts of imposition by the state on a field that obeys an autochthonous logic of organization, in which circulation between the three levels may be far more fluid than a definite, state-directed act of classification might suggest, or, indeed, that the three levels do not correspond to any really-existing mental structures of hierarchization among the agents themselves: they may see five, 10 or 20 levels, or have no definite notion of stratified hierarchy at all but rather see things in terms of disjointed individuals, networks, clusters, and so on.

Researchers therefore face the dual task of mapping the space of positions that exist in a street field, describing the webs of relations between these positions, the temporal dimension of circulation between positions, and, crucially, disentangling the properties of the street field from those representations produced by external fields, including the bureaucratic and journalistic fields, who may have strong incentives to construe and represent the dynamics of the street field in particular ways; for instance, agents may be portrayed as powerful and influential beyond the confines of their field. Such portrayals are liable to be undermined by the realization that fields are always ordered within social space, and the street field is typically a depressed field in that space. While some agents may be more powerful within the field than others, in the technical sense of being endowed with greater stocks of street capital, they very probably remain the inverse of intellectuals in social space, who are typically a “dominated fraction of the dominant class” (Bourdieu, 1990a: 196): they are at best a dominant fraction among the dominated, far removed from the field of power.⁴

Effects: Street habitus

Fields produce effects on agents. The metaphor of a magnetic field that acts on objects passing through it without being visible has been used to describe a “*relational configuration endowed with a specific gravity*” or a “*patterned system of objective forces*” (Bourdieu and Wacquant, 1992: 17, emphasis in original). Agents do not pass through the field unchanged; they are shaped and modified by it. Central to Bourdieu’s dispositional theory of action is the concept of habitus. Habitus is “the art of *anticipating* the future of the game” (Bourdieu, 1998: 25, emphasis in original), an “*acquired system of preferences*” based on a “*system of durable cognitive structures*”, produced by historical and social conditions (Bourdieu and Wacquant, 1992: 16). The street habitus, a concept

first used by Wacquant (2002: 1493) to denote the corporal and cognitive dispositions of American blacks residing in the marginalized neighborhoods of the fraying inner-city ghetto, can be conceptualized as the relatively permanent and sometimes unconscious dispositions of individuals in the street economy that is at once valorized and produced by time spent in the field.

The concrete manifestation of street habitus will vary between empirical domains. In a study of working-class youths in Glasgow, street habitus is used as a “means of exploring the deep-seated, preconscious connections between young people and space as a response to limited spatial autonomy in the post-industrial city” (Fraser, 2013: 974). In a study from Frankfurt, the local interpretation of Muslim values and German immigration and educational policy plays an important role in shaping the street habitus of a group of street-level drug dealers (Bucerius, 2014). In Norway, street habitus is described as the “embodied practical sense that is seen in hypersensitivity towards offences and frequent displays of violent potentials” (Sandberg and Pedersen, 2011: 34). Although a street habitus will tend to hold certain characteristics in common, including dispositions toward violence or drug use, its tangible contents must be specified empirically.

There are nevertheless some universal components of the field-specific habitus. Dispositions are durable, meaning that a shift in one’s habitus implies a “veritable change in ‘nature’, since bodily habitus is what is experienced as most ‘natural’, that upon which conscious action has no grip” (Bourdieu, 2008: 85). Dispositions are also shaped first and foremost by early experiences and are therefore prejudiced against later experiences in life and disproportionately “weight[ed] to early experiences” (Bourdieu, 1990b: 54) and “experiences [that are] statistically common” (Bourdieu, 1977: 87) in a person’s life. Third, dispositions produce successful social action within a demarcated field, meaning that social action outside the field may have a lower chance of success when agents depart their original field of inculcation. This has important implications for members of the street field who attempt to “go straight”: there may be a mismatch between, on the one hand, field-specific bodily stances and modes of cognition and, on the other hand, expectations they encounter beyond the field.

Instead of studying the street field as a product of competing “codes” (Anderson, 1999), street habitus attunes us to the fact that action is generated by the sedimentation of social history, the “active presence of past experiences” that produces “schemes of perception, thought and action” more likely to succeed than formalized rules and norms (Bourdieu, 1990b: 54). Habitus is *durable* and cannot be remade instantaneously. To take a criminological example: when punitive sanctions are levied and rehabilitative interventions are mobilized vis-à-vis criminal offenders, what is frequently called for is a veritable “change in ‘nature’” (Bourdieu, 2008: 85), but since the second nature of habitus is resilient to sudden alterations, the process of transformation faces a challenge of statistical improbability, which is what makes rehabilitative criminal justice interventions so unlikely to succeed.

Resources: Street capital and street social capital

Cultural capital constitutes the embodied dispositions, objectified resources, and institutionalized qualifications that produce success in legitimate culture (Bourdieu, 1986).

Similarly, street capital has been understood as the cultural capital of street culture: the skills, competencies, and bodily postures that produce success in the field (Sandberg, 2008). There will typically be a *dispositional* form of street capital, exemplified by a particular relationship to the uses and restraint from violence, drug use, and an understanding of what crimes are legitimate to the members of the field. There is also an *objectified* form of street capital that includes all those material objects, commodities, and paraphernalia that signal belonging to and success in the field. Objectified forms of street capital can include such things as weapons, drugs, and so on, but they can also be inscribed on the body in the form of tattoos or scars, by having molded the body so that it is expansive and powerful or even be seen in the physical marks of ethnoracial group membership. Finally, there is an *institutionalized* form of street capital that can be viewed as the stamp of recognition by official agencies marking a condition of belonging to the criminal world, including early encounters with the police that produce a criminal record, passing through child protective services facilities or doing time in prison – all those marks of officialdom that separate and set aside members of the population from the world of legitimacy and channel them into the illegal economy.

Street capital involves access to a complex set of resources and dispositions that allow the successful day-to-day maneuvering of the street economy. But these competencies are unevenly distributed and filtered downwards to lower-placed members of the field. Success in the street presupposes a “feel for the game” or a “practical sense” that permits navigation around a “social game” (Bourdieu, 1990a) that is per definition illicit and surrounded by a multiplicity of state agents seeking to disrupt the successful flow of action and interaction. “The good player, who is so to speak the game incarnate,” Bourdieu (1990a: 63) notes, “does at every moment what the game requires.” But the games vary according to historical and social context. Conflating street capital with “negative cultural capital” (Barker, 2013) – a concept that attempts to capture the double-sided nature of homeless youths’ striving to “acquire a reputation” on the streets but in so doing exhibiting behavior that is efficacious strictly within their own social world while it is devalored in the remainder of social space – commits the error of judging field-specific competencies by the standards of legitimacy found elsewhere in social space. The problem with describing these capacities as “negative” is that it is not clear why the standards of external society should be permitted to dictate how the phenomenon is labeled, and furthermore, it undercuts the fact that to the agents striving for this particular brand of capital, it is by its very definition positive: if not, there would be no reason for them to strive to acquire it. In short, the concept loses sight of the autonomy of the field.

Another important resource in the street field is street social capital. Bourdieu (1986) understands social capital as a measure of the beneficial aggregate effects produced by relations to family, friends, and acquaintances. Street social capital can be understood as “the resources available to individuals through social networks which allow them to thrive within the street field” (Ilan, 2013: 19). Importantly, street social capital is devalored in broader social space. An investment in street social capital is simultaneously a disinvestment in honorable and valuable social networks in broader social space. For instance, street social capital may promote one’s chances of carrying out a successful burglary but it comes at the expense of investments in the kind of social capital that is helpful in other parts of society.

This must again be viewed within the context of the historic and contextual specificity of the particular field in question. How integrated the street field is with other fields varies across time and space, and the degree of integration will influence the field-specific nature of street social capital. Social bond theory (Sampson and Laub, 1990), for instance, views social attachments as *prosocial*, that is, helpful to one's life chances in conventional society. It is a theory that presupposes that offenders lack social bonds and that social bonds work as constraining relations of power: the tighter the social bonds, the lower the probability of criminal proclivities. Emphasizing that street social capital is a resource in a specific field reorients social bond theory by underscoring that bonds may be productive of success within particular social domains. Agents in the street field are often tightly enmeshed in social bonds, but from the perspective of law enforcement they may be relations of the wrong kind.

Concluding Remarks

One might ask whether "the street" truly constitutes a field in the Bourdieusian sense of the term. Our answer is in the affirmative: it is a term that is wholly aligned with Bourdieu's theoretical framework. On the one hand, Bourdieu was quite clear that an extremely diverse cluster of social practices could be comprehended within a field-theoretical framework. To take only some of the most refined exemplars, Bourdieu took a field-theoretical approach to literary, artistic, legal, bureaucratic, journalistic, and philosophical practices. The fact that some of these practices are situated within formal institutions (the juridical field consists of little more than the operation of formal institutions, as shown by the certifying practices of the state) while others are so only to a lesser extent (a writer is not typically an employee of a publishing house) shows that we should not shy away from studying seemingly casual practices that exist outside the provenance of established organizations, which includes much criminal activity, through the optic of Bourdieu's theory of fields.

On the other hand, it must be noted that the street field denotes a metaphorical, non-literal usage of the term "street". By it we do not mean all those actions literally taking place in the physical locale of the street, which would force us, in a *reductio ad absurdum*, to admit any number of practices into our analyses that are of little interest to criminological research. The "street" is that continuum of actions and cultural practices that are centered around various forms of illegalities and crimes that can be understood through what they are not: they are not the crimes of the members of the field of power, that is, the state, corporations, and so on; instead, they are the crimes of the dominated.

To this one might object that the concept threatens to reify the categorizing practices of the state through the workings of a criminal code, police strategies, judicial decisions, and so on, all of which are contingent and non-natural products of human practice. This is a critique that addresses an important point. Confronting the social scientist is a situation fraught with tension, that of studying a phenomenon that is constructed by others (the state has a hand in manufacturing the street field by decreeing that particular sets of activities should be rendered "criminal"), but at the same time to take that phenomenon seriously once it can be said to exist (the street field develops according to an immanent logic). If we run the risk of essentializing social reality, the

best we can hope for are instruments of vigilance that sharpen our senses and make us aware of potential pitfalls.

Fields are typically semi-autonomous: because they develop according to their own logic, but only partly so, because they are created and shaped in an ongoing process of dialectical interaction with other segments of social reality, the state typically being the most important among them (see Bourdieu, 2014). Far from naturalizing contingent categories that are made by the state, field theory has, as noted previously, an intrinsic tendency to think contextually, that is, to continuously situate a phenomenon within a wider space of practices that agonistically interact with one another. To illustrate this we might think of a criminologist embarking on a study of a drug-dealing gang in a blighted inner-city neighborhood. In this seemingly innocuous choice of a scientific object, the criminologist is simultaneously confronting a whole universe of relations that are more than the aggregate of individuals they might survey. A sufficient analysis would simultaneously need to view the workings of the group in relation to any number of other groups who are also vying to distribute drugs in the same area; to study the constitution of the “gang problem” by external agencies like the state, media, community organizations, and neighbors; to grasp the construction of the figure of the “drug dealer” through the combination of legislative activities and the production of a deprived section of urban space through the workings of the market and the state; to comprehend the skillful nature of activities that draw agents to them and generate prestige; and to study the shifting cognitive and corporal dispositions of members of the group as they remain embedded in it. This is the very opposite of reification; rather, it is an exercise in the “scientific construction of social object” (Bourdieu, 2005: 30; see also Bourdieu et al., 1991: 33–55), which entails a continuous process of critical reflexivity (see Lumsden and Winter, 2014).

In a critique of the ever-widening conceptual dragnet of the term “capital”, which includes street capital as one of the targets of its criticism of alleged conceptual excess, Hodgson (2014) argues for a return to the “pre-Smithian” origins of the notion. Capital, to Hodgson, is equivalent to *money*, having little to do with circulation, relationality, or the production of effects outside the economic sphere. This is a deeply flawed critique for two reasons. First, a wide range of theoretically informed works have made real advances in the comprehension of society through the expanded notion of capital, encompassing all manner of non-economic domains. Second, and more importantly, thinking of capital as a fixed stock misses the fact that it is the relational nature of a resource that makes capital efficacious. Robinson Crusoe, alone on his island, has no use of money because he is isolated: money cannot be *spent* there to achieve anything meaningful in the material world, except for maybe starting a campfire; consequently, money ceases to be an economic capital. The relations that make capital productive always work to produce effects within circumscribed domains of social action. Were Mr Crusoe to be airlifted to the City of London, his valueless tinder would suddenly become imbued with all the social magic of potent financial capital. To understand how resources become productive means paying heed to the social domain in which resources are situated. Actions and objects typically only gain their productive potential in relation to specific sites of social action; in other sites of action they may be meaningless (not recognized as objects or actions imbued with meaning) or stamped with social negativity (recognized as negative markers). As Bourdieu puts it, “*a capital does not exist and function except*

in relation to a field" (Bourdieu and Wacquant, 1992: 101, emphasis in original). Taking seriously the concept of capital means grounding it in a theory of fields.

Field theory offers a way out of the deadlock between internalist and externalist accounts of spheres of social action. To return to the previous example, the actions of the drug-dealing gang we are studying are not "reducible" to the external social conditions that may be said to give rise to them – poverty, marginalization, mass unemployment, the availability of public housing, and so on – because there is an immanent logic to the field they occupy that gives rise to a measure of regulated spontaneity that transcends their social genesis. On the other hand, an internalist account of their symbols, behaviors, dispositions, and so on would threaten to neglect how their existence is circumscribed and constituted by forces beyond the horizon of their existence. This is what Bourdieu (2005: 33) means when he says that to study a field is to study "a social universe [...] that is somewhat apart, endowed with its own laws, its own *nomos*, its own law of functioning, without being completely independent of the external laws."

In sum, the concept of the street field offers a number of advantages to criminologists. Field theory thinks along five central dimensions. It emphasizes the role of *agonistic* social relations in shaping social outcomes and the role of *domination* as agents attempt to monopolize the forms of capital specific to a field; it embeds agents in a broader *contextual* space of relations to agents within the field and between fields as well as in a historical situation; it underscores the importance of *skillful* action in attracting agents to the field, providing the basis for struggle, generating social prestige, and locking agents into the field once those skills have been developed; and it emphasizes the *transformative effects* on the individual, in the guise of a street habitus, which acts as a "generative grammar" that can account for activities within the field and lessens the probability of successful exit from the field through a locking-in effect. In short, conceptualizing criminal action as occurring within a field orients the criminological gaze to pay close attention to aspects of phenomena that might otherwise pass unnoticed.

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Notes

1. Comprehensive accounts of Bourdieusian field theory, drawing on empirical examples from science, literature, art, philosophy, and journalism, can be found in Bourdieu (1975, 1991, 1993, 1995, 2005). Bourdieu and Wacquant (1992: 94–110) offer a synoptic statement of the field-theoretical approach, while Benson and Neveu (2005) offer an attempt to apply the concept to modern journalism, and Hilgers and Mangez (2015) provide an updated reappraisal of Bourdieu's theory of fields.
2. At the center of Bourdieu's theory of action is the concept of *habitus*, which can be understood as the embodied set of corporal and cognitive dispositions that produce action. Against a strategic or rule-based vision of social action, *habitus* is meant to capture the creative, spontaneous nature of agents' behavior that is produced by "generative schemes" of dispositions toward the world, a spontaneity that is nevertheless structured by social experience (see Swartz, 1997: 95–116). *Hysteresis* refers to a situation where the structure of *habitus* lags behind the conditions of the objective world; the discrepancy between the original conditions that gave rise to a particular *habitus* and the changed circumstances of external reality may give rise to all manner of conflicts and confusion (see King, 2000: 427–428).
3. *Substantialism* holds that there are substantial realities behind the phenomenal world of appearances, as opposed to *relationalism* which sees the reality of the world as springing out of the relations between things. Bourdieu repeatedly criticized substantialism because, as Mohr (2013: 101) points out, "a substantialist approach privileges things rather than relations and, as such, has a tendency to reify the social order, to essentialize social phenomena, and to embody a positivist orientation to social research". The concept of the field helps one think relationally by maintaining that the reality of the things one is interested in springs out of relations within the field and out of the situatedness of the field vis-à-vis other fields, and so are, in some sense, arbitrary (see Swartz, 1997: 61–63). An illustrative example: it would be a form of substantialism to posit as an integral element of one's theoretical model that drug distributors are characterized by particular behavioral patterns or lifestyles. Instead, these may be epiphenomenal properties that arise only under particular social conditions; the fact that many drug dealers in a particular environment may carry guns, for instance, may be a fact that springs relationally out of a particularly competitive market for illicit drugs, a culture of gun ownership, policing strategies, and so on. Under other relational conditions, the same behavior may not be exhibited.
4. An analogous illustration of this theoretical point can be found in Wacquant's (2001) description of the "languages of exploitation" among Chicago prizefighters. Their elevated stocks of pugilistic capital do not prevent them from experiencing economic exploitation and dispossession and existing on the lower end of asymmetrical power relations with managers and organizers, and they express the experience of exploitation by way of "three kindred idioms, those of *prostitution*, *slavery*, and *animal husbandry*" (Wacquant, 2001: 182, emphasis in original). Possessing capital, therefore, does not guarantee that one possesses power, since the capacity of field-specific capital to grant power to their possessors hinges on the *position* of the field within wider social space.

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