

# The Dissolution of Social Democracy: How Law and Order Came to Norway

## I. Introduction

While the United States grapples with the debilitating consequences of mass incarceration (Western, 2007), and parts of Europe remain caught in a “penal turn” (Wacquant, 1999) with burgeoning prison populations and harsh sentencing laws on the books, the Scandinavian countries have been considered outliers in an increasingly punitive world (Pratt & Eriksson, 2013). As British criminologist John Pratt has demonstrated in a series of influential articles, Scandinavian societies enjoy relatively low incarceration rates and exhibit comparatively humane conditions of confinement, with little overcrowding, extensive rehabilitative programming, and durable post-release support, provided by generous, universal welfare states (Pratt, 2008a; 2008b). The Scandinavian system of punishment is a product of a system of postwar social democracy, which emphasized reintegration of former inmates through counseling, anger management, drug addiction programs, job training, and educational qualifications (Shammas, 2017).

Still, the claim that the Nordic region is exceptional in criminal justice matters has not been without controversy (see, e.g., Ugelvik & Dullum, 2012).<sup>1</sup> Multiple scholars in the Nordic countries have noted that claims about “Scandinavian penal exceptionalism,” to use Pratt’s description of this geographic cluster, neglect the extensive use of pre-trial confinement (Mathiesen, 2012), comparatively harsh treatment of drug offenders (Tham, 2005; Shammas et al., 2014), disproportionate policing and punishment of foreign citizens and ethnoracial minorities (Shammas, 2016), and intrusive aspects of a state set on “repairing” criminal offenders by intruding into the depths of the human soul (Shammas, 2014). With growing immigration, these formerly ethnonationally homogeneous societies mobilize a normalizing vision of what it means to be a citizen (Barker, 2013), resulting in strong “rebordering” efforts—introducing border controls in the previously passport-free Schengen area border between Denmark and Sweden, for instance, or deporting failed asylum seekers back to countries in the Global South (see, e.g., Ugelvik & Ugelvik, 2013)—aimed at shoring up national sovereignty and bolstering the power of the state (Barker, 2017).

## II. Norwegian Law and Order

Between 1980 and 2016, the Norwegian prison population rate increased from 44 to 73 inmates per 100,000

inhabitants, a 66 percent growth in incarceration per capita. This stands in stark contrast to the postwar decades—the “Golden Age” of social democracy—when the country’s prison population rate remained in the 40s and low 50s per 100,000 inhabitants (World Prison Brief, 2018). Prison sentences are growing longer, too. The average length of unconditional prison sentences increased from 141 days in 2002 to 191 days in 2015 (Statistics Norway, 2018a). Along with the expansion in confinement, correctional spending is on the rise as well. Between 2000 and 2016, spending on the prison system more than doubled in real terms, from 2.2 billion Norwegian kroner (NOK) (\$270 million) to 4.5 billion NOK (\$550 million)—small in absolute numbers, at least by U.S. standards, but still a significant expansion on its own terms.<sup>2</sup> The Norwegian system also relies heavily on the use of monetary fines; more than 90 percent of the country’s legal sanctions take the form of non-custodial fines (Statistics Norway, 2018b). But fines have grown more onerous as well, increasing from an average fine of 2,806 NOK (\$345) in 2002, to 4,211 NOK (\$518) in 2015; after adjusting for inflation, fines have increased by around 20 percent in this time period.

Similarly, the use of coercive measures in prisons has expanded rapidly. While the Scandinavian prison systems have prided themselves on the selective use of “isolation cells”—a form of solitary confinement—their use in Norwegian prisons, as measured by official statistics (which, if anything, usually tend to underestimate the real incidence of coercion), grew by nearly 50 percent, from 292 incidences of placement in isolation in 1998 to 433 incidences in 2016 (Norwegian Correctional Service, 2016). Prison officers deployed riot shields only 6 times in 2003 but 76 times in 2016, an elevenfold increase, and tear gas against rioting or disruptive inmates was used zero times in 2003 but 14 times in 2016. But it is the use of handcuffs that rises above the rest, from a paltry 6 recorded instances of use in Norwegian prisons in 1998 to a whopping 1,703 uses in 2012, a 282-fold increase (admittedly from a low base). In short, Norwegian prisons are growing tougher and prison guards seem unafraid to deploy the very same coercive measures used in prisons around the world. When it comes to coercion, exceptionalism is on the wane.

What has been the primary immediate driver of this heightened punitivity? Drug offenses are an important part



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of the story. More than 40 percent of all custodial sentences are drug-related; police-reported drug offenses more than tripled between the early 1990s and today, while less serious drug offenses—violations of the Norwegian Controlled Substances Act—more than quadrupled in the same time period (Shammas et al., 2014). Clearly, not all reported crimes result in criminal convictions, much less prison sentences, and most of the less serious offenses are sanctioned by the use of fines, not close confinement. Still, the importation and distribution of drugs has been policed and punished in non-exceptional ways in the Scandinavian countries. Countries like Sweden and Norway have remained in accord with the broader, global “war on drugs” (Pratt, 2008b; Tham, 2005). Given the imperatives of running a social-democratic welfare state, with its demand for extensive income tax revenues to fund free public education, healthcare, and other infrastructure, and an attendant reliance on high rates of labor force participation, the stringent punishment of drug offenses is perhaps to be expected. From the perspective of the welfare state, the distribution and consumption of narcotic substances represents a withdrawal from society and the state. Welfare states require sober, industrious, and productive workers to meet their fiscal needs—a structural requirement serving to feed an exclusionary, punitive “zero tolerance” policy on par with that found in other Western, post-industrialized societies (Shammas, 2017, pp. 69–70).

Simultaneously, public opinion has grown increasingly concerned with the fear of crime. Norwegians have called for a tougher response to crime. One poll in 2009 showed that around 70 percent of respondents believed that prison sentences remained too short, and more than 80 percent felt that violent offenders in particular should face harsher sentences; approximately half the respondents compared Norwegian prison conditions to a “stay in a hotel” (Balvig et al., 2010). An increasingly anxious public has pushed politicians to enact legislative changes that raise sentencing levels and introduce harsher penal sanctions. In the wake of 9/11, Norway’s counterterrorism legislation was brought into line with the rest of the post-industrialized world, with 30-year prison penalties introduced for the most serious acts of terrorism (Husabø, 2013), a departure from the Norwegian Penal Code’s previous maximum term of 21 years in prison for serious offenses. Furthermore, due to the absence of a true life sentence in the Norwegian Penal Code, a new sanction termed “preventive detention” (*forvaring*) was introduced in 2002. It allowed judges to sentence offenders deemed particularly dangerous—such as mass shooter Anders Behring Breivik, who was responsible for the July 2011 attacks in Oslo and Utøya resulting in the deaths of 77 individuals—to an indefinite period of incarceration, subject to renewal by a judge at five-year intervals after an initial 15-year term of confinement. While only around 100 individuals are held on “preventive detention,” its usage is growing steadily and represents a hardening of the Norwegian legal environment. In the midst of such tendencies, international watchdogs like the European

Committee for the Prevention of Torture (CPT) offer credible criticisms of problematic conditions of confinement. Their latest report criticizes the Norwegian government for holding detainees in police lock-ups for far longer than the stipulated 48-hour maximum, using solitary confinement too extensively, and failing to provide in-cell toilets to inmates (CPT, 2011), among other issues. Although other countries often fare worse in the CPT’s reports, these and similar critical reviews from the Norwegian Civil Ombudsman (a semi-independent government watchdog), suggest that Norway’s prisons are not the luxury hotel-like sites of confinement they are sometimes made out to be.

The rhetoric of law and order has also made headway. In 2010, the right-wing, neoliberal Progress Party launched a ten-point program of proposed prison reforms, including the creation of a sex offender registry, modeled on California, and cutting prisoner remuneration for carrying prison jobs. “Nobody is frightened by Norwegian prisons,” Per Sandberg, the deputy leader of the party said at the time. “Foreign criminals are a big problem, and lenient sentences and high-quality facilities [in prisons] are not helping” (cited in Shammas, 2016). Although the party was not in government at the time, it contributed to pushing the then-governing Labor Party in an increasingly punitive direction. Thus, in the early 2010s, the Labor Party–led governing coalition converted one Norwegian prison into a segregated facility for foreign nationals, an idea first proposed by the right-leaning Progress Party, which has turned hostility to immigration into one of its central policy planks. Similarly, in 2013, widespread fears of street crime in Norway’s capital city, Oslo, centered on anxieties about immigrant youths, mainly from the Middle East, North Africa, and Eastern Europe, who resided in the city’s working-class suburbs and were held responsible for a perceived surge in robberies. But as official crime statistics later revealed, there had been no appreciable increase in reported crimes, and the supposed “crime wave” was largely a result of panic-stricken media reporting and right-leaning politicians eager to capitalize on the moment for political gain (Shammas, 2016).

By 2015, the Progress Party had become a junior coalition partner in a conservative government. One of its leading politicians became the country’s Minister of Justice and used this position to tighten border controls, reduce immigration, ramp up deportation procedures, and more controversially, label pedophile sex offenders as “monsters,” while fulminating against the once-dominant Labor Party for being too “soft” on suspected terrorists. This latter statement proved too much for Norwegian political elites, and the Progress Party’s Minister of Justice was forced to resign in a parliamentary vote of no confidence. But the tenor and tone of the political system in discussing and developing criminal justice policies already seemed to have shifted. Political and legal elites increasingly emphasized the perceived connections between immigration and crime, while underscoring the need to deport refugees more swiftly and punish offenders—particularly non-citizens or ethnic minorities—with greater severity.

What is behind this (moderate) turn to a politics of law and order? Part of the explanation can be found in a broader set of policies best described as neoliberal (Harvey, 2005; Wacquant, 2009; 2012). Although influential political scientists have long described the Scandinavian societies as social-democratic (e.g., Esping-Andersen, 1990), social scientists are beginning to recognize that countries like Denmark, Sweden, and Norway are doing away with significant elements of postwar social democracy (Shammas, 2016; 2017). As the Swedish sociologist Göran Therborn (2017, p. 275) writes, the “egalitarian, solidaristic ‘People’s Home’, which has attracted widespread progressive admiration internationally, is being eroded and dismantled.” Sweden now displays “extraordinary . . . inequality of wealth,” Therborn (2017, p. 278) writes. In Norway, national industries, such as the country’s flagship oil and natural gas company Equinor (formerly Statoil)—the source of so much of Norway’s wealth—have been fully or partly privatized. Socioeconomic disparities have run rampant. In Norway, the wealthiest 10 percent of the population now control more than half the country’s total net wealth (Epland & Kirkeberg, 2012); comparisons can be tricky, but one prominent study suggests that in the United States, the top 10 percent of the population controlled more than 70 percent of net personal wealth (World Inequality Database, 2018), making Norway more egalitarian than the United States, but less so than one might be led to expect from the political punditry and news reporting surrounding the Scandinavian countries. Private health insurance and private healthcare providers are slowly beginning to encroach on the provision of free healthcare by the state, with more than half a million Norwegians, or 10 percent of the population, carrying private health insurance in 2016 (Finans Norge, 2017). This would have been largely unthinkable only ten years ago in a country that has long prided itself on the high-quality provision of free or very low-cost public healthcare for all. Similarly, in the past decade, the proportion of Norwegian schoolchildren in private schools has doubled, with around 4 percent of students attending private schools in 2017 (“Rekordmange . . .,” 2018), a significant development in a society that has frowned upon private schooling for privileged elites. In short, Norwegian society has undergone a significant transformation, with declining egalitarianism and an emphasis on markets over the state, a tendency toward competitive marketization and neoliberalization seen all around the Western world since the early 1980s (see also Davies, 2014; Slobodian, 2018).

Why is neoliberalization and marketization important? Egalitarianism feeds the idea that all members of society are essentially equal; social relations remain tight and all-encompassing, fostering an inclusive polity. Under social democracy, the state follows the individual from the cradle to the grave. However, growing social inequalities, rising immigration, and a resultant diversification in both socioeconomic and ethnonational terms, creates otherness, exclusion, and a collapse in *communitas*, fueling a sense of

apartness and a decline in what French sociologist Émile Durkheim (1964) called “social solidarity.” As the community begins to break apart—a process reinforced by various policies of privatization and marketization—the very communal sense and fellow-feeling that allowed Norway to construct exceptional prisons such as Bastøy and, more generally, embark on a large-scale project of postwar national reconstruction (see, e.g., Sejersted, 2011), begins to wither away. Whereas postwar social democracy emphasized economic policies promoting near-full employment, free higher education, free public healthcare, and subsidized public housing, instead of a “get-tough” attitude to social problems such as crime, the neoliberalized welfare state of the twenty-first century responds to social pathologies with the strong arm of the state (Wacquant, 2009), opting to select, eject, and exclude, rather than cushion, support, and protect struggling elements of the populace. And whereas the Norwegian prison system remains relatively exceptional, especially when compared with countries like the United States and the United Kingdom, its moderate turn toward heightened punitivity remains moderate largely due to the continued solidity of social welfare and social assistance programs.

### III. Defending Exceptionalism

Even as Norway continues to bend toward heightened punitivity, there are signs on the horizon that tell a different story. Although the incarceration rate has increased in the past several decades, its growth is miles away from the explosive growth in incarceration seen across the United States until recently. Although the comparison is in some ways unfair due to differences in population size, it is worth bearing in mind that the entire Norwegian prison system could fit quite comfortably into the confines of San Quentin State Prison.

Prisons like Bastøy, where inmates reside on an island, many of them living in small wooden houses, working out in the fields and tending to the crops, and allowed considerable freedom of movement, suggest that the criminal justice system still tends to normalize rather than dehumanize convicted offenders. Indeed, one-third of all inmates in Norway reside in such “open prisons,” similar in some respects to prison fire camps in California (see, e.g., Goodman, 2014) or Category D prisons in England and Wales. And although inmates are usually only transferred to such prisons after a lengthy stay in a more traditional, higher-security facility, thereby necessitating an often grueling rehabilitative intervention aimed at correcting the pathologizing effects of lengthy stays in close confinement (Shammas, 2014), the truly extensive use of open prisons suggests a very different mentality vis-à-vis prisoners in Norway: rather than condemn and censure those who have committed crimes, the aim is to normalize and reintegrate offenders upon release and turn them into productive, tax-paying members of the community.

One of the most significant developments to this end has been a concerted effort to prevent criminal offenders

from being sentenced to prison at all and instead allow them to serve time in the comfort of their own homes using electronic monitoring systems. Wearing high-tech ankle bracelets, thousands of convicted offenders—who have often committed quite serious crimes—have in the past several years been permitted to serve time at home, commuting to their workplaces or educational institutions every morning and returning to their private domiciles in the evening at assigned times, often residing with their families for the duration of their criminal sentence. In 2016, nearly 3,000 offenders carried out their entire sentence under electronic surveillance, and nearly 400 inmates were able to complete parts of their sentence at home, equivalent to a downsizing of the required operating capacity of the Norwegian prison system by around 10 percent (Norwegian Correctional Service, 2017, p. 50). In many ways, these legal sanctions are not entirely unproblematic or a mere “slap on the wrist” (Vanhaelemeesch et al., 2014): inmates report that the stress of surveillance can be intrusive in entirely novel ways, with a blurring of bounds between punishment and privacy (De Vos & Gilbert, 2017)—better than being stuck in prison, one could plausibly maintain, but still restrictive and punitive in its own peculiar ways, resonating with French philosopher Michel Foucault’s claim that the object of modern punishment is “no longer the body, but the soul” (Foucault, 1995, p. 101).

#### IV. Conclusion

Can the United States learn from the Norwegian prison system? One of the central lessons taught by Norway is that a truly rehabilitative and integrative criminal justice system is only possible within the ambit of an expansive, generous welfare state. As Per Albin Hansson, a prominent Swedish political leader, wrote in the 1930s, one of the key goals of the Swedish social-democratic government was to prevent social problems from gaining a foothold in society in the first place. His political vision entailed being “deeply aware of the fact that the greatest safeguard of good order is to organize society so that everyone may find security and well-being there” (Hansson, 1932, p. 24). Carried to completion, this would make punishment almost entirely superfluous. Scandinavian incarceration rates were at their lowest in the mid-twentieth century, largely because these societies were governed by politicians who believed that the goal of the state was to provide jobs, free education, healthcare, and housing to their populations. The reversal of such policies would spell the end of an exceptional prison system. Although piecemeal reforms and policies could be exported across the Atlantic to the United States, their long-term success relies on a generous welfare state willing to prevent individuals from falling into crime in the first place, and to reintegrate (relatively small numbers) of criminal offenders upon their release from prison. Although it may be tempting to take a lesson from the Norwegian system, the lesson taught by a review of the history of this system is that it relies on a series of cultural

and political-economic arrangements to ensure its long-term survival and success (see also Pratt, 2008b; Shamas, 2017).

Briefly summarized, then, in recent years, Norwegian penal practices and public discourse on criminal justice issues have undergone a moderately punitive turn. Although there are signs that Norway’s prison system remains durable and exceptional in many ways, including its continued reliance on “open,” minimum-security facilities and efforts to channel offenders into electronic monitoring programs, storm clouds are on the horizon. Politicians have increasingly taken a “tough on crime” approach in promulgating a politics of “law and order.” The incarceration rate has grown by more than 65 percent since 1980. In the last 15 years, the average unconditional sentence length has increased by around 35 percent and correctional spending has more than doubled. Victims’ rights groups have successfully promoted a pro-victim legislative agenda. Hardened counterterrorism legislation has raised the maximum length of determinate sentencing to 30 years in prison, from a previous cap at 21 years. The implementation of preventive detention (*forvaring*) means offenders may now be confined for the duration of their natural lifespan. These developments can be viewed in conjunction with a tougher approach to foreign criminal offenders, who are routinely confined in segregated, “foreigners-only” prisons and deported—a result both of the increased integration of Norway into the global order as well as durable ethnonational anxieties in this once-homogeneous society. Behind the moderate rightward tilt of the Norwegian penal field lies the neoliberalization of Norway’s much-touted welfare state. The slow erosion of social democracy furthers processes of exclusionary punishment.

#### Notes

- <sup>1</sup> The term “Scandinavia” usually refers to the nations on the Scandinavian peninsula: Denmark, Norway, and Sweden. The term “Nordic” encompasses a broader group, including not only the Scandinavian societies but also Finland, Iceland, Greenland, Faroe Islands, and the Åland Islands. As the central focus of this article and special issue is Norway, which is a member of both groups, the terms will largely be used interchangeably, as indeed many scholars of punishment in Northern Europe tend to do.
- <sup>2</sup> These figures are based on the author’s collection of data on government spending, culled from national spending documents, or the so-called *Statsregnskap*. Monetary values are provided in inflation-adjusted 2016 currency.

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