

SCANDINAVIAN EXCEPTIONALISM IN AN ERA OF  
PENAL EXCESS*Part I: The Nature and Roots of Scandinavian Exceptionalism*

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*This is the first of a two-part paper on penal exceptionalism in Scandinavia—that is, low rates of imprisonment and humane prison conditions. Part I examines the roots of this exceptionalism in Finland, Norway and Sweden, arguing that it emerges from the cultures of equality that existed in these countries which were then embedded in their social fabrics through the universalism of the Scandinavian welfare state.*

In *Nations Not Obsessed with Crime*, Freda Adler (1983: 1) wrote that ‘the province and function of criminology has been thought to be the study of crime ... this has meant the study of the reason for the existence of crime. By emphasizing crime—the negative—the exploration of non-crime—the positive—has usually been excluded or neglected’. Much the same can be said for the study of punishment in modern society, where we have become preoccupied with the nightmares of penal excess. Developments in the United States especially, where the imprisonment rate is 750 per 100,000 of population, loom large on the horizon of Western society as a whole (Christie 2000). In Part I of this paper, however, I want to give attention to the considerably more neglected subject of *low-imprisonment societies*. As such, it provides a sociological account of *Scandinavian exceptionalism* (Savelsberg 1994; Lappi-Seppälä 2007). It is based on research undertaken in Finland, Norway and Sweden in 2006. This included visits to 16 prisons and discussions with academics, policy makers, criminal justice practitioners, politicians, judges and prisoners, as well as observations of everyday life in these countries.<sup>1</sup>

By the term ‘exceptionalism’, I am referring, first, to the *levels* of imprisonment in these three countries. While there have been recent increases in imprisonment here (this is further addressed in Part II of this paper), with a rate of 66 per 100,000 of population in Norway and 68 in Finland in 2006, only Italy of the other main European countries (at 66 per 100,000 of population) was on a par with them (the rate for Denmark was also 67 per 100,000); other than these countries, only Ireland (72 per 100,000) and Switzerland (79 per 100,000) had rates less than Sweden (82 per 100,000). Second, the paper also refers to prison *conditions* in these countries—exceptionalism does not just refer to imprisonment rates. Generally speaking, in this region, it is recognized that going to prison is itself the punishment for crime; prison conditions can then approximate to life outside as far as possible, rather than being allowed to degrade and debase all within. These claims will be substantiated in a descriptive account of the prison conditions I observed. The paper then examines the roots of this exceptionalism and illustrates the way in which penal and prison policy emerged from them. Of course, each of these

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<sup>1</sup> Although Denmark was included in pilot visits in 2003, lack of time and funding prevented me including this country in the 2006 research.

countries has its own separate history and identity. Yet, at the same time, their connections, similarities and overlaps also provide an identifiable regional—Scandinavian—identity. It is *this* identity and the penal developments associated with it that are the focus of this paper. This means that it concentrates on the points of intersection and commonality between these countries rather than their differences.

Whitman (2003) argues, in the context of the United States, that the egalitarian tradition of that country contributed to a dynamic that has led to a tolerance of more degrading and inhumane punishments in that country than in similar societies—the hallmark of *United States* exceptionalism. In contrast, however, the argument developed here is that egalitarianism produced the opposite effect in Scandinavia. The roots of *Scandinavian* exceptionalism are to be found in the *highly* egalitarian cultural values and social structures of these societies. This egalitarianism was then institutionalized and embedded in their social fabrics through the development of the Scandinavian welfare state. The penal and prison policies that this framework produced began to sharply diverge from those in the Anglo-American world, particularly during the post-war period, and have remained distinct from them, even though their exceptional characteristics now themselves face significant challenges. What these might be and their implications, however, are the subject of Part II of this paper. Here, I want to examine what it was that made Scandinavian exceptionalism a possibility.

### *Scandinavian Prison Conditions*

These countries have a large number of small prisons, often with 100 inmates or fewer. In 2006, there were 86 in Sweden (total population 9.1 million), 47 in Norway (4.6 million) and 38 in Finland (5.4 million). The largest prison in the region, in Sweden, holds around 350 inmates. Given the extensive geographical areas of these countries, this form of prison organization allows most prisoners (unless they are maximum-security classification) to be fairly close to home and family. This fits the ethos of Scandinavian prison management, which is one of normalization, most clearly stated in the Finnish Sentences Enforcement Act 2002: ‘... punishment is a mere loss of liberty. The enforcement of the sentence must be organized so that the sentence is *only* loss of liberty. Other restrictions can be used to the extent that the security of custody and the prison order require.’ Core prison services such as health care are thus provided from community facilities, rather than the prison service, and reflect these rather than prison values. All Scandinavian prisons are run by the state—there has been no momentum for privatization. Social distance within these prison systems seems relatively short, allowing prisoners to have direct input into prison governance: ‘... inmates in Swedish prisons have the right to meet and discuss issues of mutual interest and to present their views to the warden’ (von Hofer and Marvin 2001: 638). In Norway, prisoners are included in the yearly ‘meeting in the mountains’ (Christie 2000), where prison policy is worked through and determined by all interested parties. When it seemed likely that a proposal for a 1,000-bed prison in Oslo would go ahead in 2006, a meeting was held between senior civil servants, prison staff, academics and prisoners’ groups, who successfully opposed it.

In Swedish male prisons, 28 per cent of prison officers are under 35, 33 per cent are women and 20 per cent have university degrees. The staff:inmate ratio is 1:1. The position is quite similar in the other two countries. In Norway, trainee prison officers, nearly all of whom have tertiary qualifications, receive two years’ training while on full

salary. In all three countries, this training is likely to take place alongside that provided for probation officers—there is no great difference in the academic and professional ethos that separates these two groups of correctional workers. In Finland, about 80 officers are recruited each year from 300 applicants; in Norway, 150 from 2,000. Officers wear uniforms, but these have no military trappings or insignia. In Sweden, local communities compete with each other for the location of new prisons, recognizing their economic and social benefits. ‘Prisoners can play a positive role in local communities,’ a Norwegian senior civil servant told me. Prison work seems a relatively more attractive career option than in most other modern societies. Thus, prison officers need not feel any shame over their working environment here. That Norwegian students often work as prison officers on a casual basis is indicative of the generally relaxed conditions to be found in most prisons and the socially acceptable nature of prison work. In contrast to concerns in other countries about the management of ageing prisoners, in Oslo Prison there is a unit for elderly *prison officers*—those coming to the end of their career who supervise the quietest and most well behaved prisoners. That we can find such an arrangement in this era of penal excess exemplifies the differing organizational priorities of prison life in this region.

There are major distinctions between Scandinavian closed and open prisons, with the latter holding between 20 and 30 per cent of the respective prison populations. While some prisoners, such as those convicted of drunk-driving offences, can go directly to an open prison, most will spend a good part of their sentence in a closed institution. For them, open prisons exist as inducements for good behaviour and an opportunity towards the end of long sentences to prepare for release. Between 15 and 20 per cent of referrals to open prisons are recalled to closed institutions for breaches of the rules each year. There are routine tests for drugs in both types of prison.

### *Closed prisons*

External appearances of Scandinavian closed prisons are unexceptional, the architecture spanning all stages of prison development from the mid-nineteenth century onwards. There are external security precautions, controlled exits and entrances and, in some, airport-like security checks for visitors, prisoners and also prison staff as they move around the institution. At one maximum-security prison in Sweden, there is an electrified fence sitting between two perimeter walls. Once inside, there are the familiar wings and long corridors with unit-based divisions between them. However, what strikes any visitor familiar with Anglo-American prisons is the personal space and relative material comfort of most prisoners. There is no ‘prison smell’ in Scandinavia—the combined aroma of poor personal hygiene, ‘slopping out’ practices, food preparation and cigarette fumes. ‘Double-bunking’ is quite uncommon. Prisoners have televisions in their cells, usually state-provided. Most cells have internal sanitation, although, in Finland, there were still 500 without these facilities in 2006. Outside of maximum-security conditions, movement within the prisons is relatively relaxed. There are few signs of prisoners loitering on corridors or ‘hanging around’ trying to kill time. The wings I visited were quiet, with no ‘ghetto-blaster’ music coming from the cells. Most prisoners work or receive full-time education well beyond remedial level—many are encouraged by the prison authorities to study for degrees by distance education.

There are also likely to be common rooms or lounges for each unit, with communal television and cooking facilities for light meals. In some prisons, select inmates are entirely self-catering. In lower-security prisons, inmates are able to go to local shops themselves for these purposes. In the main, however, meals are eaten in a canteen, often used by prison staff as well, or at a communal table in the unit, where prisoners might be joined by officers for midday meals. Food servings seemed nutritious and generous, with ample servings provided. There was no attempt to ration, for example, how much bread, sugar and sauce each prisoner was allowed to have, as happens in some of the Anglo-American jurisdictions. Nor did I come across one prison where inmates, as a matter of routine, would have to eat meals in their cells. Inmates wear their own clothes during visits. ‘Conjugal relations’ are encouraged and facilitated in Scandinavia. Most prisons (*high-security especially*) provide accommodation where partners and children can stay free of charge for weekends—usually at monthly intervals—with the prisoners on an unsupervised basis. This is obviously an important mechanism in maintaining relationships and reducing tension. Homosexual activities, consensual or forced, are also likely to be reduced. Similarly, the Scandinavian prisons hold hardly anyone under 18, which is also likely to reduce the potential for bullying and sexual assault.<sup>2</sup>

As another illustration of the exceptional qualities of Scandinavian prisons, solarium facilities are provided in a number of closed and open prisons, even if this is not as exotic as it might otherwise sound. Absence of sunlight in the Scandinavian winter can lead to serious Vitamin D deficiency. This is likely to be exacerbated for high-security prisoners, with little freedom of movement beyond their own units. However, these facilities have become so unremarkable a feature of prison life that, unless a visitor specifically asks, there is unlikely to be any mention of them. Their very provision, though, surely points to the way in which Scandinavian prison authorities recognize and offer redress for *chronic* health problems or prevent them from developing, rather than confining prison health care to emergency or acute cases.

### *Open prisons*

Here, fences, walls and other barriers are reduced to a minimum. Sometimes, there are none at all. There are no bars on windows and, in some, prisoners lock their own doors. After the prisoners finish work or classes, they are free to walk around the prison grounds and sometimes into local communities. The concept of the Scandinavian open prison began in Finland, where, in the 1930s, inmates were allowed to work on farms. A new type of ‘labour colony’ prison (not to be confused with gulag developments in Soviet Russia) was introduced to the Finnish prison system in 1946: ‘... no limit was to be placed on the freedom of those sentenced to labour colonies except where called for by maintenance of order and work discipline, and inmates [were to] be paid according to the normal wage’ (Lahti 1977: 137). This is still so in Finland. From their wages, such prisoners pay taxes and ‘rent’, buy food, give money to their family and to their victims and save for their release. It used to be the same in Norway and Sweden (see Marnell 1972), but now the prisoners simply receive an allowance, as in closed prisons. Many of those serving short sentences in open prisons are allowed to continue with their previous employment. In one open prison near Stockholm, there is a car park for the prisoners

<sup>2</sup> In Norway, for example, there were eight prisoners under 18 in May 2007.

so that they may commute to work in the morning, returning in the evening. If they are going to be delayed, they can telephone ahead and a meal will be left out for them.

Bastøy Prison in Norway is the shining jewel in the Scandinavian open prison system. Built on an island in picturesque surroundings of fjords and hills, there are no other buildings and transport to it is by ferry. Its complement of 100 inmates live in chalet-type facilities (no walls or fences anywhere) that are self-catering, although main meals are provided in a canteen for the whole prison. It aims to provide prisoners with social rather than professional competencies and help them to develop a sense of responsibility for their actions. As the Superintendent explained to me, ‘the usual thing is that prisons are all about security ... on the island, inmates work with knives and saws and axes. They need these if they are to do their work. And if an inmate increases his responsibility, you have to give him trust’. Most of the work is agricultural or involves animal husbandry. There is a ‘guesthouse’ where prisoners can stay with their families for the weekend. These exceptional facilities raise no ‘scandals’ in the media: ‘Norwegians are used to open prisons,’ I was told. Again, one of the Finnish open prisons is near to a kindergarten. Clearly, as with social distances inside the Scandinavian prisons, the social distance between prison and the outside world is also comparatively short. The reconsecration of Bastøy’s chapel after fire damage was attended by members of the Norwegian royal family—prison was not too shameful an institution for them to visit. The highest members of this society were able to mix with its lowest.

Of course, one must recognize that however relaxed a prison regime, whatever material comforts are provided, prisoners are still prisoners. There are rules, levels of surveillance, record-keeping, denials of choices, deprivations and sanctions that will differentiate any prisoner from free people. In Norway, the physical comforts in one open prison for women are remarkable but this will not ease the distress of those who are mothers of infants. Norwegian prison rules do not allow children in prison under any circumstances. At the same time, prisons being prisons, there is likely to be bullying and violence. If the circumstances of Scandinavian prisons are likely to reduce the prospects for this, one in eight inmates at Helsinki prison still request to be placed in isolation at some stage of their sentence (Finnish Department of Prisons and Probation 2004).

In addition, Swedish closed prisons are becoming more security conscious. There were riots in five in 2004 (due, apparently, to restrictions on prisoners’ gym activities and communication problems between prisoners and staff). There was also a sensational (by Swedish standards) escape from a maximum-security prison, which involved guards allowing guns to be smuggled in (there have been corresponding events in Norway and Finland in recent years, but without, as yet, the same consequences that this has had in Sweden). In its aftermath, and in a highly symbolic gesture, the head of the National Criminal Investigation Police was appointed Director-General of Corrections (his predecessor resigned after the escapes). The prison where the escape took place is the one which now has the three-tier fencing arrangement and extravagant airport-like security checks as one moves around inside. It also has units within units and one ‘maxi-maxi’ unit that I was not allowed to see. As with some of the other high-security prisons, all movement in the prison itself takes place underground, through tunnels—an architectural design that is well suited to intensifications of security. Furthermore, during the course of my visits, I only met with and saw *convicted* prisoners. Norway has been criticized by the United Nations Working Group on Arbitrary Detention for often holding remand prisoners in ‘total isolation’ (meaning exactly this) while police investigations

continue.<sup>3</sup> However, on the basis of what I *did* see and experience, then, despite some warning signs and qualifications, the exceptional conditions in most Scandinavian prisons, while not eliminating the pains of imprisonment, must surely ease them.

### *Cultures of Equality*

How did this exceptionalism begin? Prior to the nineteenth century, the geography of Finland, Norway and Sweden had led to them being sparsely populated, often on unproductive land, making it difficult for rich farmers to mobilize agricultural workers to tenant their fields and to pay land taxes. Economic life was based on small units and lacked an influential conservative upper class, nor was there ever serfdom or anything resembling a feudal society. Instead, these communities tended to have equal social conditions and a good deal of autonomy, leading to a strong tradition of local democratic self-government without a powerful land-owning aristocracy—indeed, Norway abolished its nobility in the early-nineteenth century (although the monarchy was retained after independence from Sweden in 1905). Even though Sweden retained its aristocrats, they did not have the position of a land-owning elite—the monarchy had largely stripped them of their estates in the seventeenth century. Instead, they tended to work in the administration of government and the civil service and, as Sweden became more industrialized in the late-nineteenth century, their residual powers diminished.

Generally speaking, social conditions provided for little class distinction and high levels of egalitarianism. Tweedie (1897: 126) thus observed that in Finland, ‘very few persons are rich according to English lights, but very many are comfortably off ... All annual tax returns are published ... there are no shutters on windows or locks on doors’. Similarly, Norway’s egalitarianism had become one of its identifying characteristics at the beginning of the twentieth century: ‘... among civilised states, there is scarcely any that is so fortunate with regard to the equality of its social conditions as Norway. There is no nobility with political or economic privileges, no large estates, no capitalist class ... The highest and lowest strata of society are on the whole no farther removed from one another than that there is constant reciprocal action between them, and transition from one to the other’ (Official Publication for the Paris Exhibition 1900: 202). The solidarity and cohesion that these very flat class relationships had produced was reinforced by population homogeneity. Because of the climate and the poverty, there had been next to no immigration to this region by the early-twentieth century. Outsider groups consisted only of a small number of indigenous Sami people in the far north, some Jewish communities and Gypsies—largely invisible for all political purposes. As Myrdal (1945: 11) later put the matter, ‘Sweden has had no problem of minorities, neither have there been regional differences to divide the nation’. At the same time, the flow of emigration from these countries during the nineteenth and early-twentieth centuries because of the intrinsic poverty (Sweden lost one million citizens, mainly to the United States, in this way, Finland and Norway 750,000 each) may have acted as a safety valve, ensuring that social tensions were reduced in the struggle over scarce resources. There was also a very strong religious homogeneity, with almost universal membership of the Lutheran church.

<sup>3</sup> [www.unhcr.ch/hurricane/hurricane.nsf/view01/BF4A0205D44AD9E3C12572CF006C8787?opendocument](http://www.unhcr.ch/hurricane/hurricane.nsf/view01/BF4A0205D44AD9E3C12572CF006C8787?opendocument).

The ‘sameness’ between citizens ensured that the conduct of everyday life reflected passivity, consensus and an emphasis on collective rather than individual interests. Indeed, in Sweden and Norway, the term *likhet* means equality *and* sameness—the two concepts being indivisible. One early visitor, Edward Daniel Clarke (1824: 238), thus noted that ‘the Swedes are naturally mild and obliging: being rarely provoked to anger, or passionate when disputing with each other’. Undoubtedly, such values can be repressive and stifling, as a succession of writers have maintained. In the late-nineteenth century, Henrik Ibsen (quoted by Connery 1966: 184) wrote that ‘Norwegians can only agree on one sole point: to drag down what is lofty’. Similarly, Gustav Sundbårg (1911: 28) argued that ‘Sweden is a country where only the mediocre is successful ... generally speaking, we do not like eccentric or original people, unless they amuse us’. Huntford (1972: 32) observed that ‘to be different in Sweden is to be burdened with a sense of guilt and to be the worst of failures’. However, these qualities are also likely to lead to trust, self-regulation and cooperation and are still reflected in the conduct of much of everyday life. A sign at the entrance to woods near Oslo declares that ‘the city forests are our common property ... wherever you move around in these forests, you have rights and responsibilities. Take care of the forests and of their animals and the plants there. Help us to keep the area clean’. It goes on to explain, for example, that ‘you can bathe in all rivers and lakes where there are no restrictions due to protection of drinking water. The rules are valid for rowing and paddling in a boat you might have brought with you’. In effect, it seeks to bring about rule compliance through inclusiveness and solidarity, giving emphasis to everything that visitors are *allowed to do*, instead of the punishments that will follow for rule breaking. Similarly, passengers are trusted in Oslo to pay their bus and tram fares on the machines provided—there is no inspection of tickets. On wet days, shoppers can leave their umbrellas in the porches of department stores without any security check, in the knowledge that these will still be there when they leave. The Norwegian custom of *dugnad* (similarly, the Finnish *talkoot*) literally means ‘voluntary work amongst friends’, but, in practice, it relates to a broad range of mutually reciprocated, taken-for-granted neighbourly activities and support.

Unity and solidarity had been further strengthened in nineteenth-century Finland and Norway over their struggles for national identity and independence (from Russia and Sweden, respectively). Finnish and Norwegian nationalism rekindled local traditions and folklore. It also gave an emphasis to education and learning—language and literature became expressions of this national identity, which was built around egalitarian values. In Norway, peasant farmers seemed to represent its essence, in contrast to the Swedish ruling elite of the period (Sorensen and Strath 1997). Furthermore, in all three countries, popular movements in the late-nineteenth and early-twentieth centuries—of industrial workers, farmers and religious groups—emphasized egalitarian goals and placed great emphasis on moderation and thrift, which then came to be inscribed in the cultures of these societies. Hence, for example, the particularly restrictive attitudes to alcohol consumption.<sup>4</sup> These social movements gave further encouragement to education—through knowledge would come empowerment. Visitors thus began to report that ‘the Norwegians do not buy books to sleep on the shelves. The library of Christiania [Oslo]

<sup>4</sup> In Finland, prohibition was introduced from 1919 to 1932, in Norway, from 1919 to 1926. Sweden allowed restricted amounts of alcohol to be purchased from *systembolaget* (state-run alcohol warehouses). Until 1955, each purchase was recorded in the buyer’s rationbook. Alcohol can now be purchased from similar ALKO stores in Finland and *vinmonopolet* in Norway.

accommodates about ten times as many readers as the [Oxford University] Bodleian' (Latham 1840: 24); and 'I like the system of youth education in Sweden much better than in England. It is freer, and much less expensive. In nearly every town there is a public school open to all classes, and peasants are admitted on an equality with gentlemen's sons' (Wheelwright 1865: 119). For Tweedie (1897: 18), the Finns 'read much and think deeply, for both rich and poor are wonderfully well educated'.

In these societies without rigid class divisions and distinctions, educational qualifications became an important way to gain status. Surveys in Sweden in the 1950s found that university professors were the most highly esteemed professional group. Tomasson (1970: 226) observed that 'there is enormous respect among Swedes for science, technology and expert opinion. No society in the world utilizes experts and knowledge in the whole process of writing legislation as much as does Sweden'. Similarly, Phillips-Martinson (1981: 50): '... in Sweden a person of learning is looked up to ... an education brings to the individuals added social prestige and this is particularly true regarding academic degrees.' The annual awards of Nobel prizes became a celebration of intellectual achievement. In Finland, the legal profession came to be held in particular high esteem because of the strong belief developed in the nineteenth century in legal structures and written law. These provided guarantees of Finland's autonomy while a Grand Duchy of the Russian Empire. In Helsinki, one finds numerous statues of economists, artists and musicians, with streets and parks named after them—a celebration of the way in which these intellectuals have contributed to Finnish national identity. Education remains highly valued in these countries (and is given a strong emphasis in prison administration). In 2003, Finland was second highest and Norway and Sweden were joint fourth highest for age-adjusted public expenditure on educational institutions as a percentage of GDP (Denmark and Iceland were first and third).

One of the indirect consequences of the value placed on education was that, by the 1960s, Sweden had the largest circulation of newspapers in the world (Tomasson 1970), while Finland had 110 daily newspapers and Norway 84 (Connery 1966: 184, 451). Newspaper readership remains amongst the highest in Europe and the tabloidization of the news media has been comparatively modest. Lappi-Seppälä (2007: 27) thus writes that 'the tone in the Finnish [media] is less emotional and reports are usually accompanied with commented research based data on the development of the crime situation'. State-owned television channels in these countries performed public education functions and attracted much higher audiences than in other Western countries (Wilensky 2002). Given its relationship to the way crime news is reported, we can begin to understand why fear of crime was not able to encroach much upon the quality of life in these countries. In the EU ICS survey of 17 countries (van Dijk *et al.* 2007), perceptions of risk of burglary were lowest in Finland and Sweden; Finland ranked first and Sweden fourth as regards perceptions of safety on the streets. Similarly, Finland had the third lowest use of burglar alarms, although Sweden was just below the average level. At the same time, both countries were amongst those with the fewest special locks to protect against burglary. Such practices would also seem to be indicative of societies with high levels of trust and solidarity.

### *Security and the Scandinavian Welfare State*

The development of the Scandinavian welfare state helped to institutionalize and give a material basis to these values, although it should be recognized that Finland came late

to these developments, in the 1960s. The lingering aftermath of its own civil war (1918) after the collapse of Imperial Russia, economic hardship in the inter-war period and payment of exemplary war damages to Russia post-1945 meant that the shift to welfare governance only became a political priority at this point. However, as regards Norway and Sweden, from modest beginnings in the late-nineteenth century involving workers' insurance, during the 1920s, the idea of the welfare state began to be envisaged as something much more than the mere 'safety net' it was to become elsewhere. Instead, in Stockholm in 1928, Prime Minister Per Albin Hansson conceptualized it as 'the Swedish people's home' (*folkhemmet*), in which 'the basis ... is togetherness and common feeling. The good home does not consider anyone as privileged or unappreciated; it knows no special favourites and no stepchildren. There, no-one looks down upon anyone else ... no-one tries to gain advantage at another's expense, and the stronger do not suppress and plunder the weaker' (quoted by Tilton 1990: 126).

The development of the Scandinavian welfare state was then given political momentum and urgency in the aftermath of the 1929 stockmarket crash. In the early 1930s, unemployment affected 33 per cent of the workforce in Sweden, 45 per cent in Norway. While these conditions had led to industrial conflict, Social Democrats (who represented the trade unions) chose to postpone the aim for fully fledged socialism (through public ownership of the means of production) in return for price controls, state-provided work and unemployment benefits. These tangible forms of assistance from the state then helped to build a willingness to subordinate individual interests to common economic and political goals, typified by the corporate agreements that came to be established between unions, employers and governments regarding wage bargaining and social benefits around this time.<sup>5</sup> Keynesian economic orthodoxy became the motor through which these ideas were put into effect. This involved increasing public expenditure to guarantee job creation and protection. In this way, a greater tax revenue was generated which could be ploughed into a further extension of welfare services.

It was a welfare model that lasted, virtually unchallenged, until the late 1970s (Marklund 1988). Rather than providing a subsistence living standard for the feckless or needy few who then attracted resentment from those whose taxes paid for this, in the Scandinavian welfare state there would be no stigma attached to being a welfare beneficiary; nor would anybody be excluded from the assistance it provided. Its political appeal lay not just in the way it maintained egalitarian social relationships while improving living conditions. In addition, it would provide very high levels of *security*. In the Swedish and Norwegian languages, this term is indivisible from 'stability' and 'safety'. These collectively translate into *trygghet*, which has had a particular importance in this region. The obvious dangers posed by the natural elements, endemic poverty and the proximity of large, bellicose neighbours such as Germany and Russia led to a high public tolerance of the power of the central state if it could provide guarantees of *trygghet*. The means chosen to provide it domestically represented the 'middle way' (Childs 1936) between the free market and state socialism and were based on the provision of high levels of public services, while the wealth-creating sectors remained in private ownership. It also led to high levels of planning and regulation across most aspects of everyday life. In Sweden especially, pro-natalist, family-friendly policies and services were developed

<sup>5</sup> In Norway, the 'Main Bargain' (*Hovedavtalen*), 1935; Sweden, the 'Saltsjobadern Agreement' 1938; Finland, the 'January Agreement', 1940.

(albeit sometimes cold and impersonal<sup>6</sup>), as a result of concerns about a new threat to national security—population decline (Sweden then had one of the lowest reproductive rates in Europe). Collective child-rearing programmes would ensure that ‘every child would be a wanted child’ (Myrdal and Myrdal 1935: 11) and ease the burdens of parenthood, as, by the mid-1930s, did cooperative housing policies. Apartment blocks were built with nurseries on the top floor and with cooperative kitchens, to take account of the fact that 25 per cent of all married women in Sweden were professional workers: ‘... because it is a public dining room, serving excellent food, it is possible to have a rather wide choice of food. Having rested a little, [the mother] may send down to the nursery for her children. The cost by the day for their care is about one krona ... it is possible that if the apartment is small, the children may go back to the nursery for the night’ (Childs 1936: 55).

The electoral systems of these countries helped to institutionalize social democratic values. Proportional representation necessitated a politics of consensus and compromise. Unicameral<sup>7</sup> parliaments ensured that legislation could not be held up or watered down by other tiers of government. In Sweden, the Social Democrats were in power from 1933 to 1976; in Finland and Norway, the pattern became one of coalition government, with Centre or Social Democrat/Labour parties most usually the dominant partner. This meant that there was very little political opposition to the extension of the welfare state, despite the ensuing high levels of taxation that accompanied it (by 1970, the tax rate in Sweden was about two-and-a-half times higher than in the United States). No mainstream political party would consider undermining the security it provided.

Furthermore, post-1945, Sweden was seen as a remarkable success story. Unscathed by war, it seemed to represent the ideals of peace: a willingness of all to work within defined and accepted parameters to achieve social and economic progress. Visitors wrote of ‘a country without slums or degrading poverty, with no illiteracy, with virtually no unemployment, and with excellent medical care provided for all at low cost and assurance of old age support’ (Strode 1949: xvii). The economic prosperity that came to all three societies in the post-war period then facilitated the enlargement of welfare provision. Sweden had a head start over its industrial competitors; Norway had formidable natural resources, the value of which were magnified many times over after the discovery of North Sea oil and gas in 1969; and Finland, in paying off massive reparations to Soviet Russia by 1952, gained important Eastern bloc markets. The establishment of the Nordic Council in 1952—an inter-parliamentary body that could give recommendations on all political matters to its member states—solidified Scandinavian unity and insulated these countries from other modes of economic and social governance.

In the 1950s, flat-rate benefits were introduced in Sweden, guaranteeing ‘normal’ living standards divorced from market criteria (Esping-Anderson and Korpi 1987: 53). Those who became unemployed would receive 80–90 per cent of their previous salary in earnings-related benefits. Social spending as a percentage of GDP increased from 10 per cent in Sweden in 1950 to 33.1 per cent in 1980, although it was only between 1966 and 1971 that Sweden became *the leading* welfare state (Wilensky 2002: 212).<sup>8</sup> At this

<sup>6</sup> Thus, in relation to the cooperative flats, ‘It is a house rule that each new tenant must have his possessions disinfected before he moves in so that there will be no danger of vermin’ (Childs 1936: 53).

<sup>7</sup> Sweden after 1970, when the *Riksdag* voted to abolish its first chamber.

<sup>8</sup> On this gauge, it had only been 7th in 1950, Norway 12th and Finland 14th.

juncture, Huntford (1972: 119) maintained that ‘there is scarcely a field of Swedish life in which the corporate principle does not obtain’. Companies, firms and organizations existed not only for the profit of their members, but also ‘to fulfil the ends of society’. In such ways, it was intended that the interests of individuals would be provided for while individuals themselves, through their work, involvement in voluntary organizations and so on, would be contributing to high levels of social capital (Putnam 2000). The close collaboration between the state and major interest organizations in the preparation and implementation of policy also led to high levels of trust. Baldwin (1990) observed that Norway, Sweden and Finland were amongst the countries with the lowest number of lawyers. Societies built around institutionalized solidarity and security are unlikely to foster swift recourse to law to resolve disputes.

*The Development of Penal and Prison Policy in Scandinavia*

How did the development of penal and prison policy in this region reflect these cultures of equality and provisions of state-guaranteed security?

*No need for spectacular punishments*

The need for dramatic and highly symbolic spectacles of punishment as a way of reaffirming ruling class power (Hay *et al.* 1975; Foucault 1977) is likely to be reduced in egalitarian societies. In hierarchical societies such as Britain and France, towards the end of the eighteenth century especially (see Pratt 2002; Whitman 2003), but well into the nineteenth century in addition, the death penalty was used as a public spectacle which demonstrated the ultimate power of the ruling classes to literally annihilate those who constituted a threat to them (thus the extraordinary torture inflicted on Damien that Foucault’s book begins with; and, in England, the five Cato Street conspirators were beheaded after being publicly hanged in 1820). However, in societies without such rigid class divisions, the spectacle of punishment could perform no such function. Equally, the characteristic of ‘sameness’ is likely to act as a barrier to excessive and stigmatizing punishment and favour reductions in ‘pain delivery’ (Christie 1981). What we thus find is that, in the Scandinavian countries, punishments to the human body were quickly scaled down or abolished in the early modern period. Mary Wollstonecraft (1796: 67) noted that in Norway, ‘the laws here are mild, and do not punish capitally for any crime but murder, which seldom occurs. Every other offence merely subjects the delinquent to imprisonment and labour in the castle at Christiania’; similarly, in Sweden, ‘the laws here, as well as in Norway, are so relaxed that they favour rather than restrain knavery’ (Wollstonecraft 1796: 143). In Finland, the death penalty was abolished in 1826. In Norway, it fell into disuse after 1876 and was then abolished in 1902 for all but treason offences. In Sweden, corporal punishment was abolished in 1855 and the death penalty (rarely used before then anyway) in 1921. More recently, the open prisons could only be introduced in societies which had high levels of trust and tolerance and which were also largely self-regulating and norm-compliant. Sentencing practices also reflected trust and forbearance, rather than the fear and anxiety of a ruling class struggling to maintain its power and authority. Post-war, prison sentences were shorter than those in most other modern societies, with comparatively little use made of life or indefinite prison sentences (Andenaes 1954; Törnudd 1994). Anttila (1977) calculated

that crime in Scandinavia carried only half the penal value associated with it elsewhere.

*The welfare sanction, Scandinavian style*

From the 1930s, it was anticipated that welfare reforms would bring relief from crime as well as from other social problems: ‘... we can prevent—technically it is possible to quite a high degree—illness, crime and asocial tendencies of different sorts’ (Myrdal and Myrdal 1935: 244). On this basis, crime was to be understood as a form of sickness which, through expert diagnosis and carefully planned policy, could be eliminated ‘like other contagious diseases’ (Myrdal 1945: 11). For this purpose, the treatment and rehabilitation of offenders were formalized in Sweden in the provisions of the Implementation of Sentences Act 1945. What had previously been the standard form of imprisonment—solitary confinement (both Sweden and Norway had been strongly influenced by the Philadelphia separate system)—was abandoned and open prisons were introduced (Nilsson 2002). Loss of liberty in itself was now to be the punishment and, under the 1945 amendments to the Swedish penal code, prisoners were to be treated with consideration for their human dignity: ‘... no further deprivation, suffering or curtailment of incarceration was to be deliberately inflicted on inmates’ (Leander 1995: 181). They had become, as it were, ‘orphans of the Swedish people’s home’ (*styvbarn i det svenska folkhemmet*), the task of the criminal justice system now being to restore them to full membership of it—not by stigmatic punishment and exclusion, but by correctional treatment and inclusion. Strode (1949: 225) wrote that ‘delegations from foreign nations [have come] to Sweden to examine its penal system and the workings of its humane programme. They express special interest in the open prisons, where guards are not armed, windows not barred, and where nothing prevents a prisoner from quietly strolling away over the fields’. Because prisoners were seen largely as just another group of welfare clients rather than dangerous outsiders, escape could be treated with equanimity rather than hysteria. Then again, in societies in which equality and sameness were such striking characteristics, there would be few dangerous ‘others’. Connery (1966: 409–10) wrote that ‘I asked what was done about escaping prisoners, since none of the guards had guns and the [prison] walls were not exactly formidable. He replied, “it is better to let the man go than to put a hole in him... we can always catch him later”’.

Much of the stigma associated with imprisonment elsewhere had been removed from this sanction—the press showed little interest in who was being sent there: ‘... if one should be sentenced to a work camp for driving under the influence of alcohol, it will not be in the newspaper even if one is well known; and one has some choice as to when he will serve his time, such as during vacations, so that even his employer need not know’ (Tomasson 1970: 276). In such ways, Sweden became ‘the promised land’ of treatment ideology (Anttila 1977). As Jenkins (1968: 65) pointed out, ‘if the sentence is imprisonment, the prisoner has the comfort of knowing that Swedish prisons are world famous, the explicit aim being to reform, not to punish or take vengeance’. To this end, the high value placed on educational qualifications as well as high levels of trust in government organizations ensured that policymaking was expert-dominated. It became the product of lengthy, considered, evidence-based processes: ‘... a legislative committee [in Sweden] typically works for a number of years. All this serves to make the process as

rational as possible. The issue is “cooled down” and political difficulties are normally solved within the committee whose members continually consult important persons in their respective political parties’ (Jareborg 1995: 99).

The formation of the Scandinavian Research Council for Criminology in 1962, at the instigation of the Swedish Minister of Justice, then provided the opportunity to develop a regional and well insulated penal policy. The Swedish example had anyway been followed to a degree in Norway. Andenaes (1954: 29) wrote that ‘postwar years have seen the introduction of special social workers in the Prison Service, and psychological and social examination of prisoners on reception in institutions ... of all prisoners sentenced to more than six months imprisonment, approximately one third are serving their terms in open conditions .... They are now allowed better earnings, their labour being to a large degree paid for on a piece work basis. They are allowed newspapers and periodicals, the cells equipped with radio sets, the old progressive system has been abandoned and smoking is allowed’. In accordance with the welfare approach to punishment, Ila psychiatric prison was opened in 1951. Here, prisoners could be detained indefinitely until they were ‘cured’ with the assistance of psychotherapy (Mathiesen 1965).

Of course, the welfare sanction was not without shortcomings. The unchallenged place of experts and the primacy given to collective interests above those of the individual meant that individual human rights might receive little regard—Ila, in fact, becoming a very good example of this. For example, its governor (Kjølstad 1954: 33) blithely wrote that ‘in some cases we have used electric shock [treatment] but with poor results. Lobotomy has been discussed in some cases but not performed yet’. Inevitably, being sent to prison for ‘treatment’ could lead to injustices that the supposed humanitarianism associated with the welfare sanction camouflaged (Christie 1960; Anttila 1971). The Director-General of Swedish Prisons thus wrote in 1963 that ‘the treatment will not be as focused on time as it is now, and the time spent in prison will depend on the factual need, rather than the repressive rules recently being followed’ (quoted by Nilsson 2002: 16). In other words, for the penal authorities, this approach to crime, because of its associations with progress and science had an *ipso facto* moral superiority over retributive punishment, which was likely to be guided by unpredictable and subjective human emotions.

### *Exceptional prison conditions*

Despite the post-war reforms associated with these developments, many of the exceptional conditions that we now find in Scandinavian prisons were the product of prisoner *resistance* to the welfare sanction rather than the sanction itself. In a series of strikes and confrontations, Swedish prisoners (not the prison authorities) in the late 1960s insisted that prison conditions should be *normalized* (Mathiesen 1974), and that they should not be thought of as psychologically deficient subjects. These resistances helped to make the rehabilitative ideal unsustainable in this region. Thereafter, a good deal more emphasis was given to ‘rights’ in official prison discourse. In Sweden, the Correctional Treatment in Institutions Act 1974 stipulated that ‘inmates shall be treated with respect for their human dignity .... They shall be treated with understanding for the special difficulties connected with a stay at any institution’. Rather than speaking of the special difficulties that prisoners might have, it now noted instead the difficulties that *being in*

*prison* caused. Formally, at least, the rights of prisoners were put on the same level of those of other Swedish citizens. Of course, these were rights that could be easily stripped away from them—this is the reality of prison life anywhere. Nonetheless, that the prisoners *did* have some success in achieving these reforms again reflects the comparatively short social distance between themselves and non-prisoners in these societies, which allowed the penal authorities to negotiate and make some compromises with them. In contrast to the vitriolic denunciations in the British press of the unsuccessful struggle for prisoner's rights in the 1970s (and the *uncompromising* approach of the British authorities; Fitzgerald 1977), in Sweden, some sections of the national press supported the prisoners' rights organization, KROM (Mathiesen 1974).

Before the conflicts, 'experiments in family living' had been introduced to some Swedish prisons (*New York Times*, 29 August 1966: 2). Thereafter, the prison system was largely 'normalized': '... every prisoner had the same right as whichever Swede to get the support from government authorities to get a job, a place to live, medical care, the right to vote in elections etc' (Ekbohm 2003: 8). Marnell (1974: 11) observed that 'local community prisons are planned to be open or semi-open for at most 40–60 inmates. These are intended to be as much as possible integrated with the neighbourhood—to counter the negative effects of institutions and to encourage citizens living close to play an important part in preparing for the after-care stage.' By this juncture, the exceptional quality of Scandinavian prisons that we still find today had been established. Wicker (1975: 25) observed that 'modern Sweden seems to have almost the best of everything, including a criminal justice system generally considered fair, humane and effective. Sweden's prisons are models of decency and humanity'.

### *Exceptional prison levels*

There was nothing exceptional, however, about Scandinavian imprisonment rates until the late 1960s. Remarkable though it might now seem, at 27 per 100,000 of population, England had a lower rate of imprisonment in 1939. As Figure 1 illustrates, it remained on a par with that of Norway and Sweden in the initial post-war period, only then beginning to diverge.

Furthermore, until that point, Finland experienced a different kind of exceptionalism—the highest rate of imprisonment in Western Europe. It was only in the 1960s that the divisive and restrictive legacy of its civil war came to end: 'Finland began to return culturally and politically to the Scandinavian mainstream ... in terms of the country's social and administrative structure' (Engman and Kirby 1989: 162). Furthermore, as fear of the intents of the Soviet Union diminished, so this allowed for the assertion of a stronger central state authority. This, in conjunction with the late industrialization of Finnish society, provided new forms of social solidarity and a more powerful intelligentsia, some of whom occupied pivotal positions in government and the civil service (Lappi-Seppälä 2001). As the decarceration programme they devised took effect, prison rates in the other Scandinavian countries remained at a low level. In contrast to the penal pessimism beyond these boundaries (see, e.g., Bottoms and Preston 1980), there was optimism that there could be further reductions—the Swedish Minister of Justice even predicting that there would only be a mere 600 prisoners in that country by 1980 (Ministry of Justice 1974). This optimism was reflected in the philosophical shift from welfare to rights-based discourses in the approach to punishment. In Sweden, the

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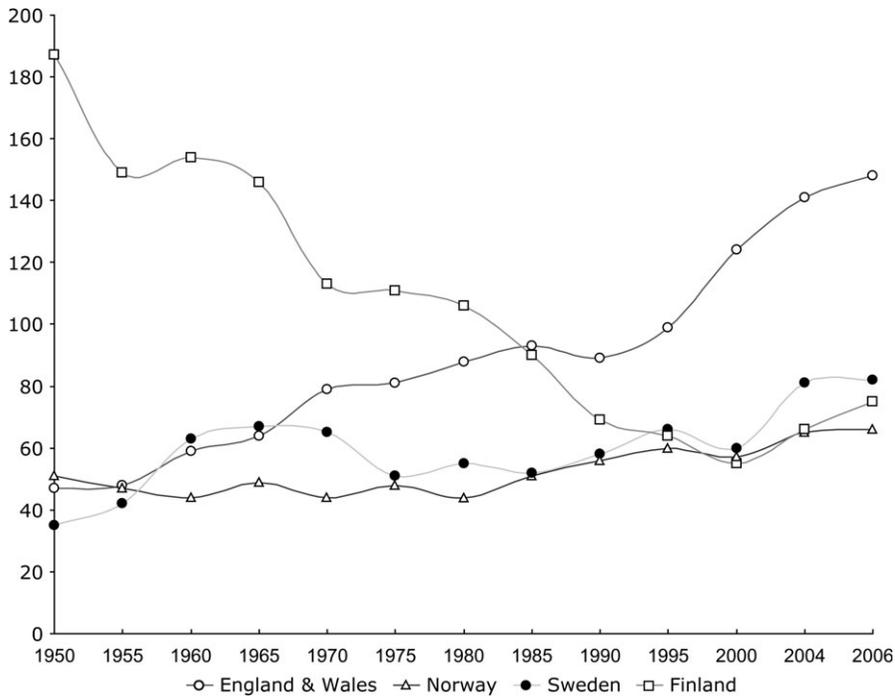


FIG. 1 Prison rate per 100 000 total population: 1950 - 2006.

National Council for Crime Prevention (1977) proposed that punishment should be awarded on a ‘deserts’ and ‘least restrictive intervention’ basis. In Norway, the Ministry of Justice (1978: 31) formally repudiated the treatment model and proclaimed that ‘the demand for justice is a more secure penal foundation than theories which are grounded in the view that punishments are meant to achieve other goals’. Finland, too, pursued a policy of ‘humane neo-classicism’ from the late 1960s, stressing ‘both legal safeguards against coercive care and the goal of less repressive measures in general’ (Lappi-Seppala 2007: 11).

This shift in penal philosophy was hardly unique to this region. Equally, as Figure 2 illustrates, recorded crime levels here showed a remarkable symmetry with those of most other modern societies—England is used again as the comparator—from 1950 onwards, rising inexorably up to the early 1990s, then stabilizing.

However, Scandinavian social and cultural arrangements seem to have insulated these countries from the law and order politics that this generated in Anglo-American societies in particular (Garland 2001), and which allowed similar philosophical shifts to be overlaid with more punitive intents.<sup>9</sup> Notwithstanding the decline of the welfare *sanction*, social welfarism as a mode of governance remains deeply inscribed in the *weltanschauung* of this region. The Norwegian Labour Party’s *Crime Policy* (2006) states that ‘with good welfare services for everyone, crime can be prevented and many of the initial incentives for a life of crime can be removed. Given that 60 per cent of violent crime is committed under the influence of alcohol, it is important to adhere to a

<sup>9</sup> At least, as regards Sweden, until the 1990s (Tham 2001).

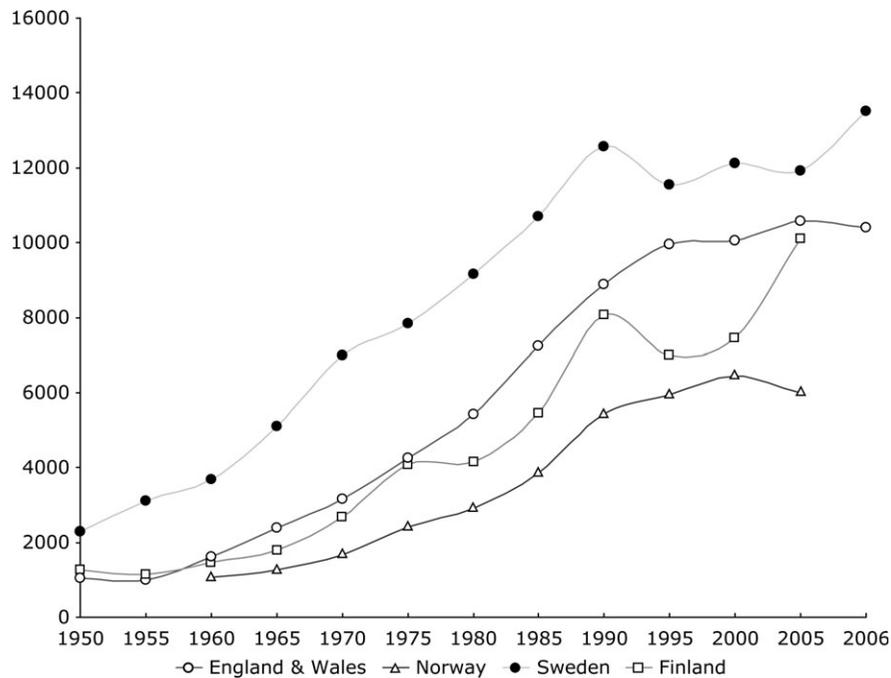


FIG. 2 Total recorded crime: 1950 - 2006.

restrictive drug and alcohol policy. Good psychiatric health care services and an active labour market policy are important for comprehensive crime fighting'. There is still the belief that state-provided welfare services and regulation can reduce crime problems and, in so doing, provide social solidarity, without recourse to exclusionary sanctions.

Policy thus remained expert-driven and research-led, rather than politically opportunist and ad hoc. Lappi-Seppälä (2007: 69–70) refers to the revision of the Finnish penal code that commenced in 1972. After four years, 'the Committee ... laid down its principal paper. Again, after four years of preparation a specific Task-Force for criminal law reform was established ... practically all key figures stayed active from the start to the closing of the project (1980–1999) and some remained in the work from their initial start in 1972 till the last official sub-reform in 1999'. Furthermore, victimization, which was to become so influential in fuelling penal excess in the United States (Garland 2001), was largely depoliticized. Beginning in Finland with the Victim Compensation Act 1973, crime victims have been given the right to receive compensation from the state—initially for personal injuries suffered, but then extended on a discretionary basis in the 1980s to cover property crime. The compensatory claims of the victims are dealt with at the same time as conviction is secured. In unproblematic cases, they need not appear at all—the prosecutor claims damages on their behalf. In effect, 'victim's rights are associated, not with the right to exercise personal vendetta in the court, but with the victim's possibilities of getting his/her damages and losses compensated' (Lappi-Seppälä 2007: 73). Victim impact statements are thus unknown, allowing sentencing to be administered on the basis of objective rationality rather than subjective emotion: '... a search from the Finnish supreme court case register covering

the years 1980–2004 did not find a single case with the words “public opinion” or “general sense of justice” cited in the decision’ (Lappi-Seppälä 2007: 65).

Against this backdrop, policy remained humanitarian and pragmatic. For example, in all three countries, an unconditional prison sentence can be deferred on application (around 20 per cent are successful) for several months for reasons of health, family and work, simultaneously relieving overcrowding and pressures to build more. In Norway, prison levels have been kept artificially low because of the refusal to compromise the ‘one man, one cell’ principle by the authorities and their resistance to any expansion of the prison estate. This meant that in 2006, there was a waiting list of nearly 3,000 for a prison place. In Finland, too, there has been a deliberate refusal by the authorities to expand the size of the prison estate.

### *Conditions for Penal Exceptionalism*

What can we learn from these developments about the conditions necessary for penal exceptionalism? To a certain extent, there are characteristics in the Scandinavian countries that are also to be found in other European low-imprisonment societies: strong state bureaucracies with significant autonomy and independence from political interference—and a strong, interventionist central state would seem more likely to have a welcome place in the development of the infrastructure of small modern societies which did not have the private investment to do this; mass media largely controlled by public neo-corporate organizations rather than market forces which provided its already well informed public with objective rather than sensationalized crime knowledge; traditions of social welfarism which reduced criminogenic tendencies and led to a less severe punishment mentality; high levels of social capital; the power and influence of expertise (see Savelsberg 1994; Whitman 2003). Clearly, when these, or some combination of them, are present in a given society, the less likelihood there will be of that society marching down the route towards penal excess. The social solidarity rather than division that is produced, the forms of knowledge and power relations characteristic of them are likely to act as preventive barriers. However, in just the same way that we must avoid over-generalizing the dimensions of penal excess (Doob and Webster 2006), so we need to be aware that there is no simple formula available which can provide guarantees of the penal exceptionalism that came into existence in Scandinavia. We can discern the general themes and social attributes that were conducive to this, but how these arrangements came to be present in such an intense concentration is *specific to these countries*. It needed their egalitarian and homogenous origins, the geo-political forces that made ‘security’ so paramount, and Scandinavian-style welfarism. Subsequent penal developments became identifying and distinguishing characteristics of this region, allowing it to become the shining light of Western liberalism in the post-war era of optimism; and now giving it the opportunity to act as a focal point of difference and opposition in the contemporary era of penal excess.

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