



IKPONWOSA EKUNWE

Gentle Justice

Analysis of Open Prison Systems in Finland
A Way to the Future?



ACADEMIC DISSERTATION

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Abstract

This study analyses the open prison system as a gentle way of incarceration and as a humane way of treating offenders with the objective of bringing malefactors in line with society's accepted social norms. The primary focus of the study is on the experiences of prisoners (during their time in prison) as they enter the prison. The study also make sense of the prison's social world, the various problems that the prisoners face both inside and outside the prison, as well as the potential hazards connected with re-entry into the outside world. The study extrapolates from the literatures on stigma faced by prisoners and the dilemmas they face as they try to become productive members of the society.

The term **Gentle justice** in this dissertation refers to the political and sociological understanding of Finnish penal system and to an explanation of why Finland has been able to maintain rather low rates of imprisonment since the 1960s, in contrast to opposite trends in most other Western countries. The analytical data utilised in this work comprises: A) A questionnaire survey on "Public Attitude to Crime" conducted in five major cities in Finland in 2004. The questionnaire is presented in Appendix 1. B) One year of participant observations made in Huittinen open prison including interviews conducted with 15 inmates at the time of their incarceration and after their release as well as their answers to the "Questionnaire for Inmates". The questionnaire can be found in Appendix 2. C) The data on "The Police and Citizens actual encounters" which consists of the observations completed during a period of twelve months in a nightclub in the city of Tampere in 2002.

The dissertation utilises a mixture of quantitative and qualitative methods. In the perspective of the **New School of Convict Criminology** (Ross and Richards), the study offers a qualitative analysis of prison experience in an Open Prison in Finland by using one's insider perspective to inform on the actual observations of prison life. The study accomplishes its objective through three interdependent research questions: How does open prison induce changes in inmates' self-definitions throughout their reformatory period? How do the inmates adapt to the prison world and how do their adaptation strategies change during their prison careers? And finally, how do the inmates see their experience and orient themselves within the open prison system in Finland?

The conclusion of the study is that, the introduction of the policies which laid emphasis on **rehabilitation** rather than using the prison institution as mere **punishment** tool in Finland have contributed to a better understanding of the structure and functioning not only of prison populations but of social groups in general. In addition, these methods of prevention and rehabilitation in conjunction with correctional, educational staff within and outside the prison walls steadfastly upholding these policies have contributed to the low recidivism rate in Finland.

Tiivistelmä

Tämä tutkimus analysoi avovankilajärjestelmää lempeänä vankeusmuotona ja inhimillisenä tapana kohdella lainrikkoojia. Järjestelmän tavoitteena on saattaa yhteen rangaistava ja yhteiskunnan yleisesti hyväksymät sosiaaliset normit. Tutkimus keskittyy ensisijaisesti vankien kokemuksiin heidän tullessaan vankilaan. Tutkimuksessa käsitellään myös vankilan sosiaalista maailmaa, vankien kohtaamia ongelmia sekä vankilassa että sen ulkopuolella sekä myös mahdollisia vaaroja vankien uudelleenintegroitumisen aikana. Tutkimus hyödyntää kirjallisuutta, joka käsittelee vankien kokemaa stigmatisoitumista sekä vaikeuksia, joita he kohtaavat pyrkiessään tuottaviksi yhteiskunnan jäseniksi.

Termi **Lempeä oikeus** viittaa tässä väitöskirjassa suomalaisen vankilajärjestelmän poliittiseen ja sosiologiseen ymmärrykseen sekä selitykseen, kuinka Suomi on onnistunut säilyttämään kohtuullisen alhaiset vangitsemisluvut 1960-luvulta lähtien toisin kuin monessa muussa länsimaassa. Tutkimuksen aineisto koostuu: A) Kyselystä (lomake liitteessä 1) otsikolla "Julkinen asenne rikollisuutta kohtaan". Kysely suoritettiin viidessä suuressa suomalaisessa kaupungissa vuonna 2004. B) Osallistuvan havainnoinnin menetelmällä vuoden 2004 aikana kerätystä materiaalista Huittisten avovankilassa sekä 15 vangin haastatteluista vankeusaikana ja vapautumisen jälkeen. He myös vastasivat kyselylomakkeeseen otsikolla "Vankien kyselylomake" (liite 2). C) Aineistosta "Poliisin ja väestön kohtaamisia", joka koostuu 12 kuukauden aikana tehdyistä havainnoista tamperelaisessa yökerhossa vuonna 2002.

Väitöskirjassa käytetään sekä kvalitatiivisia, että kvantitatiivisia metodeja. **New School of Convict Criminology**:n (Ross and Richards) näkemyksen mukaan tutkimus tarjoaa kvantitatiivisen analyysin vankien kokemuksista suomalaisessa avovankilassa käyttäen sisäpiiri-näkökulmaa käytännön havainnoista vankilaelämässä. Tutkimus saavuttaa tavoitteensa kolmen itsenäisen tutkimuskysymyksen kautta: Kuinka avovankila saa aikaan muutoksia vankien minäkuvassa läpi vankeuden? Kuinka vangit sopeutuvat vankilamaailmaan ja kuinka heidän sopeutumisstrategiansa muuttuvat vankeusaikana? Ja viimeiseksi, kuinka vangit näkevät kokemuksensa ja asettuvat avovankilajärjestelmään Suomessa?

Tutkimuksen johtopäätös on, että **kuntoutusta** painottavien menettelytapojen käyttö Suomessa verrattuna vankilan käyttämiseen pelkästään **rangaistuksen** välineenä, on lisännyt sekä vankilassa olevien että yleensä sosiaalisten ihmisryhmien strukturien ja toiminnan ymmärtämistä. Lisäksi näiden ehkäisevien ja kuntouttavien toimintamallien käyttäminen yhteistyössä vankeinhoito- ja koulutushenkilökunnan kanssa niin muurien sisällä kuin ulkopuolella on myötävaikuttanut Suomen alhaisiin rikosten uusiutumislukuihin.

1. Introduction

The success that has been achieved in lowering the prison population in Finland is the result of a conscious, long term and systematic criminal policy initiated in the 1960s. This has allowed Finland to move towards maintaining a relatively favourable position in the global penal chart in a situation where policy initiatives are frequently inspired by international models and the needs for European penal harmonisation. The open prison system has contributed to a significant reduction in prison population due to the extensive rehabilitation programs in operation since the introduction of the modern criminal policy. By definition open prison is designed for prisoners who are considered to be neither dangerous nor violent. Unless otherwise stipulated by the judge, the inmates, as a rule, begin their sentence in a closed prison, from which they may be transferred into an open prison thereby gaining greater freedom of movement, as fully explained in chapter 2.

The introduction of the legislation along with open prisons reduced sentence lengths for property offences and boosted the use of **conditional prison sentences**, which, similarly to the former suspended sentences in England, are imposed but not served unless the offender commits a new offence for which an unconditional (i.e. immediate) prison sentence is imposed. In such cases the court can, though it does not have to, implement the original prison sentence that was suspended. This procedure is regarded as quite successful, although it has been criticised due to a relatively large number of offenders receiving consecutive conditional sentences. Nevertheless, these measures played an important part in bringing Finland in line with the overall Scandinavian level of inmate population. The accom-

plishment of reducing the Finnish prison population within the last four decades cannot be directly accredited to a single factor or easily explained; but the comprehensive, informed and responsive criminal policy stands at the centre of the success. Interestingly, the implementation of the policy has been easier than explaining its main tenets and objectives to the public and gaining their support and acceptance for the adopted changes. A closer look at the dynamics involved in the process, its end result and the ultimate outcomes these changes entailed, is important for a number of reasons other than mere scientific curiosity.¹

1.1 Gentle Justice

The present study focuses on the open prison system as a gentle way of incarceration: of treating the offenders in a humane way with the objective of bringing malefactors in line with the accepted social norms. It investigates the open prison system as one of the factors directly contributing to reducing the imprisonment rates in Finland. The following chapters explore the substitution of the classic “jail house culture” with the more productive and socially accepted culture of law abiding citizens that occurs in the Finnish open prisons, and its effect on recidivism (Chapter seven). Specific attention is directed to providing an understanding and thorough depiction of life in an open prison as experienced by first-time prisoners. The study examines how criminals sentenced to prison arrive at a fuller awareness of their environment through direct experience. It accomplishes its objective via three interdependent research questions: How does open prison induce changes in inmates’ self-definitions throughout their reformatory period? How do these inmates adapt to the prison world and how do their adaptation strategies change throughout their prison careers? And finally, how do inmates

1 One could also describe the changes merely as “normalisation” of prison rates instead of a massive move towards decarceration.

orient themselves within the open prison experience in Finland, and how do their orientations change during their prison careers with regards to outside stigma.

The term **Gentle Justice** in this dissertation refers to the political and sociological understanding of the Finnish penal system and an explanation of why Finland has been able to maintain low rates of imprisonment since the 1960s, in contrast to opposite trends in most other Western countries.

The analytical data utilised in this work comprises:

- 1) One year of participant observations at Huittinen open prison, including interviews conducted with 15 inmates at the time of their incarceration and after their release, as well as the Questionnaire for Inmates which can be found in Appendix 2. For the purpose of this study the wording of all quotations from those interviews is left unedited and the originality of the language of the interviewees preserved.
- 2) The questionnaire survey conducted in five major cities in Finland on Public Attitude to Crime in 2004, which is presented in Appendix 1.
- 3) The data from "The police and citizens actual encounters", which consists of observations completed during a period of twelve months in a nightclub in the city of Tampere in the year 2002.

1.2 Stratification

The study is divided into seven sections. Chapter 2 presents a brief summary of the fundamental principles of Finnish criminal law and legal procedures in order to provide a fuller understanding of the modern Finnish penal system and the scope of Finnish criminal law. Chapter 3 reviews the theoretical literature on crime and punishment and takes Edwin H. Sutherland's theory of **differential associa-**

tion as a point of departure for the ensuing analysis. Chapter 4 tackles the employed research methods and the General Perspective of Convict Criminology, and offers a glance at the existing literature illustrating an “inside perspective” on crime and convicts. It utilises participant observational methodology in analysing **doing time** in Huittinen open prison in Finland and the differential orientation to prison in general. The analysis of Data on Orientation Processes is presented in Chapter 5, beginnings with Preprison orientation. It proceeds to explain doing time from the earliest stage (sentencing) to the moment of release. Stigmatisation and labelling of ex-offenders after their release frequently destroys their hopes and expectations. Information on the Prison Code and the Subsystems of the inmate's code is explored in Chapter 6, which explicates what doing time entails. Chapter 7 reflects on the problems involved upon re-entry into free society after serving a prison sentence through analysis of the general public's attitude towards criminals in Finland based on my questionnaire survey in five major cities in Finland.

The last chapter contains my conclusions, describes what should be regarded as sound rehabilitative policies for inmates, and offers suggestions on possible improvements. Though prison is a long established phenomenon, it should only be used as a last resort when lesser sanctions did not achieve a change in behaviour. What is more, a prison sentence should be backed by a thorough rehabilitation program rather than being merely the punishment.

2. Conceptual Framework of the Prison System in Finland

2.1 The Fundamental Principles and Procedures of Finnish Criminal Law

Comprehension of the fundamental principles of Finnish criminal law and legal procedures is the prerequisite for a full understanding of the modern Finnish penal system. The Republic of Finland is administratively divided into six provinces, which in turn are subdivided into two hundred and forty eight police districts, each consisting of one or two municipalities. To ensure peaceful and undisturbed functioning of society, specific and detailed criminal law had to be introduced. The Finnish Penal Code written in 1889 is the basic statute in Finnish criminal law to serve this purpose. The code was considerably influenced by the Swedish Penal Code, even though Finland ceased to be a part of Sweden in 1809. The Criminal Code consists of two parts, the first of which determines the age of criminal responsibility, defines justification and excuse, sentencing and forfeiture, and contains stipulations on jurisdiction. The second part contains provisions defining types of offences and designates the applicable levels of punishment for those offences. Since the introduction of the code, it has undergone extensive revisions, and additions have been made in the form of separate statutes, such as the Conditional Sentences Act in 1918, the Young Offenders Act in 1940, the Dangerous Recidivists Act 1953, the Narcotics Act 1972, and the Traffic Act 1981. The most thorough reforms of Finnish penal law have been under preparation since 1972, and in 1990 a third of the code's provisions were amended by an Act of Parliament and another third in 1995. Comprehensive reforms to provide safeguards for consistency in defining and handling all types of crime, while recognising the fundamental

changes that transpired in Finnish society over the decades, were finalised in 1999 and the project group appointed to recodify the criminal law was withdrawn.

Similarly, the law concerning criminal procedure contained in the Code of Judicial Procedure (1734) has also been substantially amended and revised, its most recent extensive reforms occurring in 1991. When one examines the changes introduced in both criminal and procedural law, a pattern emerges indicating several significant developments in the direction and differentiation of criminal policy strategies regarding all spheres of the policy – including social planning, crime prevention, penal law, and criminal sanctions policy. An increased consciousness of values and of the costs involved has become clearly visible. Alternative types of punishment available within criminal policy became more pronounced, while more attention was paid to individual prevention through adoption of new types of criminal sanctions such as community service.

2.2 Judicial and Extrajudicial Procedures

Crimes are typically investigated by the police¹; however, customs and tax authorities have the power to investigate certain types of offences falling under their jurisdictions. All findings and evidence resulting from the police investigation are turned over to the public prosecutor, who is required to bring criminal charges against the alleged offenders (mandatory prosecution). In rural areas the role of the public prosecutor may be performed by the district police chief or the assistant police chief.

¹ http://www.poliisi.fi/poliisi/home.nsf/pages/index_eng. Also in Chapter 3, section 8 of the Criminal Code; section 27 of the Police Act.

Petty crimes do not require prosecution. Minor traffic offences are punishable by a “petty fine” imposed according to a tariff which cannot be converted into detention. Relatively petty and simple penal cases that are punishable by no more than 6 months of imprisonment may alternatively be penalised by “summary penal orders”. A summary penal order is typically issued by a police officer (or another pre-trial authority) and if the receiver of the order does not oppose it within one week, the order is then forwarded to the public prosecutor for authorisation. Although the prosecutor retains the power to alter the legal assessment of the facts presented to him by the police and modify the suggested sanction, he usually confirms the order². Rarely do offenders opt for opposing the fine and challenging the penal order in criminal proceedings in court.

2.3 Victims' Rights

Although no separate victims' rights legislation exists in Finland, several provisions included in the Code of Judicial Procedure and the Criminal Code guarantee the victim the right to redress and to justice. Consequently, the injured party plays a major role in the prosecution of the complainant offence, in which the victim's consent is a prerequisite for prosecution. Not only has the victim the right to prosecute an offence, whether the public prosecutor decides to press charges or not, but they may also participate in every stage of the prosecution. They have the right to submit evidence and comment on it, and they may even suggest questions to be asked during the investigation or court proceedings. The right to seek compensation in connection with the criminal proceedings or for an injury or injury-related loss arising from any offence is another important right granted to the injured party. All these rights combined make the position of a victim within the Finnish legal system one the strongest

² Chapter 5, section 1, paragraph 2 of the Code of Criminal Procedure.

in the world. Nevertheless, it should be mentioned that in practice these rights may, and often do, remain unused as a result of the victims' lack of awareness of their position or due to more practical problems.

The Finnish legal system is based on mandatory prosecutions which require public prosecutors to bring criminal charges against offenders. The prosecutor may waive the charges only if certain conditions, clearly defined in the penal code, are met. These conditions, redefined in 1990 reform, include:

- a) **Pettiness** specified as a petty offence punishable by a fine. In cases of underage offenders punishment would not exceed six months' imprisonment, and if the offence is believed to have been committed due to lack of understanding or negligence, rather than out of deliberate disrespect for the law.
- b) **Procedural economy**. The charges may be waived if the offender is already being prosecuted for other, similar charges and, on account of concurrence, the collective sentence would remain largely unaffected by the charges in question.
- c) **Equity**. Charges may be waived due to the offender's personal circumstances or if they have taken action to prevent or eliminate the consequences of their transgression by participating in the reconciliation programme. Prosecution may also be waived due to certain consequences of the offence on the offender, or due to the insanity or senility of the offender. Defendants found guilty but criminally irresponsible due to manifest insanity are turned over to the National Board of Medicine, which judges the need for involuntary confinement in a mental institution. However, in cases of a simple need for medical treatment other than for manifest lunacy, the offender's mental health is not recognised as a sufficient reason to waive the prosecution. Should the prosecutor decide to waive the prosecution, the victim ought to be notified of the decision.

If the offender is aged 15 to 20 years old, the case may be reassigned to the municipal social welfare board; but this alternative is not used frequently. The other available alternative to court trial is victim-offender reconciliation, which has been gradually increasing in use since its introduction in 1983. First pioneered in Vantaa, it has slowly spread to the rest of the country. If the offender is ready to accept responsibility for his or her actions and the harm they caused, and is eager to make amends and in some way compensate for the damages their actions incurred, then they may participate in the mediation programme. In 1996 the victim-offender reconciliation programme acquired recognized legal status, and the outcome of the mediation may affect the prosecutor's or court's decision concerning the punishment, even to the extent of waiving it entirely.

Mediation is overseen by a voluntary mediator and the local programme managed by the municipal social welfare office. Typically, the police suggest the case could be determined through reconciliation, but consent of all parties involved is needed to proceed with mediation. Cases decided by such a procedure include thefts, petty thefts, assaults and incidents of damage to property as well as many of the offences committed by juvenile offenders. Approximately 5,000 cases every year are currently determined by means of the reconciliation programme in Finland.³

2.4 The Scope of Finnish Criminal Law

The territorial and the temporal extent of Finnish criminal law was reduced during the most recent penal reform in 1996.⁴ For the past decade, Finnish courts have passed judgment on offences commit-

³ See "Sanctions in Finland" by Tapio Lappi-Seppälä (draft, September 2004). [Available online at <http://www.optula.om.fi/uploads/cxiz1k.pdf>.]

⁴ Chapter 1 of the Criminal Code.

ted on Finnish soil under the *territorial principle*, as well as offences perpetrated on board Finnish vessels or aircrafts, offences committed abroad by Finnish citizens, offences committed by foreign nationals residing in Finland at the time of the offence or at the beginning of the trial, and on suspects who are citizens or permanent residents of Nordic countries found in Finland at the start of the trial (the *nationality principle* also known as the *active personality principle*). Under the *protective principle*, Finnish courts have jurisdiction over offences committed abroad by foreign nationals targeting certain vital Finnish interests (i.e. treason or any other act directed against a Finnish authority, or one that gravely violates the state, military or economic rights or interests of Finland) and under the *passive personality principle* the courts exercise authority over offences where a Finnish citizen, a Finnish corporation, or a foreign citizen residing in Finland is the injured party. Additionally, Finnish courts arbitrate in cases where the offence was committed outside Finland, if the offender was apprehended on Finnish soil and the extradition request has been denied, or if the country where the crime was committed petitioned that the offence be tried in Finland (*the principle of vicarious administration of criminal justice*).

Crimes of genocide, war crimes and crimes against humanity form a special group of offences whereby any state that apprehends their perpetrators has the jurisdiction to try and punish them on behalf of the international community in compliance with the universality principle of jurisdiction. Such crimes are subject to punishment in accordance with international criminal law, or other statutes or regulations binding Finland to act on them. The requirement that such acts are recognised as an offence in both countries involved (double criminality) is not mandatory. Nevertheless, an order by the Prosecutor-General is a condition for bringing charges for offences committed outside Finland. The temporal scope of Finnish criminal law is detailed in chapter 8 of the Criminal Code on prescription, and in section 3 of the Enforcement of the Criminal Code Act (1990/770). For offences punishable by over eight years of imprisonment, charges have to be

brought within twenty years; while for offences punishable by less than eight years, charges need to be brought within ten, five or two years depending on the specific level of punishability. No statute of limitation applies to offences which may be punishable by life imprisonment. If the law has been amended between the time the offence was committed and the charges brought, the law that was in force of the time of the offence will apply. Nevertheless, the new law is applicable if it is more favourable to the defendant.

The Finnish Criminal Code specifies the age of criminal responsibility as fifteen years of age, meaning that anyone younger than fifteen cannot be liable for any acts committed.⁵ Offences committed by offenders younger than fifteen are not judged by a court of law, but rather decided on by the municipal social welfare or child welfare board (procedure stipulated in the Child Welfare Act (1983/683)). The sentencing of offenders older than fifteen, but younger than twenty, at the time of the offence is detailed in the Young Offenders Act (1940/262). Offenders older than fifteen but younger than eighteen are sentenced according to a mitigated scale of punishment, and they have a greater possibility of receiving a suspended sentence. If an offender was under eighteen at the time the offence was committed, he or she can be sentenced to unconditional imprisonment only for very important reasons.⁶ Additionally, defendants may claim to be not criminally liable for their law-breaking actions on the grounds of mental illness at the time the offence was committed.

5 Chapter 3, section 1 of the Criminal Code.

6 Section 1 of the Conditional Sentences Act, as amended by Act 1989/992. Soon after the adoption of this amendment, the Supreme Court decided a case involving its application. In the case, the court had sentenced the defendant for attempted manslaughter to two years of imprisonment. He had been under 18 at the time of the offence. In view of the circumstances of the offence and the offender, the Supreme Court took the view that, despite the seriousness of the offence and the length of the sentence imposed, there were no "weighty reasons" for ordering the sentence imposed unconditionally (Supreme Court decision no. 1991:185, 20 December 1991).

These two factors, the age limit and the insanity defence, become the general prerequisite for criminal responsibility. Moreover, a criminal offence has to be proven to have been intentional to be punishable by law. Negligence resulting in a criminal offence is not punishable unless otherwise stated in the Criminal Code. The code does not sanction strict liability, even though a number of penal administrative sanctions that are in use, or their preconditions, may bear a certain resemblance to it.

Chapter 3 of the Finnish Penal Code stipulates the requirements for criminal responsibility and the grounds for justification and possible defences.⁷ According to its provisions any criminal act committed by an insane or senile person is not punishable. A state of diminished responsibility is grounds for a more lenient sentencing; however, self-induced intoxication is not regarded as a legitimate reason to pronounce the offender's diminished criminal responsibility.⁸ The evaluation of the suspect's criminal responsibility or lack of thereof is conducted by the court. Mental examination may be turned over to the medical authorities if the court determines it as necessary; however, in cases where the offence is punishable by less than one year of imprisonment the defendant's consent is required in order to carry out such an examination.⁹

Sections 6 and 7 of this same chapter of the Penal Code define self-defence as yet another possible grounds for justification. An act of protecting oneself or another person, or one's or another person's property against unjustified attack that is imminent or has already begun, is justified as self-defence if the act was essential to neutralise the attack. Similarly, self-defence is justified against a person or persons who enters a room, house, estate or vessel of another person without permission to do so, and when the person entering with-

7 Chapter 3, section 3 of the Criminal Code.

8 Chapter 3, section 4 of the Criminal Code.

9 Chapter 17, section 45 of the Code of Procedure.

out authorisation is discovered by the owner of the property and the offender resists the owner who tries to regain his or her property.

In addition to insanity, senility and self-defence, chapter 3 includes use of force by an authority, necessity, self-help, and obedience to a superior order as other possible grounds for justification and exculpation. Necessity is understood as being a punishable action committed with the purpose of saving oneself, another person, or some property from a formidable danger that cannot be evaded otherwise. Last but not least, section 10a goes on to ascertain that a subordinate committing an offence as a result of obeying a superior officer's order is not criminally responsible for his or her actions unless the offender had a clear understanding that obeying the order would lead to violating the law or the subordinate's official or service duties. Nonetheless, had the offender no means of disobeying the order, he or she may be exonerated from the charges.

2.5 Sentencing and the System of Sanctions

The Finnish criminal justice system is based on the principles of legality, equality and humaneness, which are imbedded in the current Constitution of Finland that came into force on 1 March 2000. The constitutional right of legality in criminal cases stresses that no one can be held criminally responsible for any acts committed that were not stipulated as punishable by law at the time the offence was committed (Section 8; "**nullum crimen sine lege, nulla poena sine lege poenali**") – No crime can be committed, no punishment can be imposed without a previous penal law). The principle of equality urges for all cases in the same category to be handled and sentenced in the same manner and that no arbitrary discrimination affects the judgment (Section 6 of the Constitution). The third constitutional right, the right of humaneness, demands the exclusion from the Finnish justice system of death, torture or any other form of sen-

tencing or treatment that infringes on the offender's human dignity (Section 7 of the Constitution).

Another imperative principle the Finnish system of sanctions aims to improve in the uniformity of sentencing, is predictability, which states that a knowledgeable person (not just legal representatives) should be able to predict within reasonable limits the type and length of a probable sentence for a specific offence. Additionally, the statutory sentencing principles¹⁰ urge the court to bear in mind the uniformity and the proportionality of the sentence to the dangerousness and harmfulness of the offence in question, together with the guilt of the particular suspect discernible in the offence. The extenuating factors are less rigid and allow for more discretion on the part of the prosecution and the judges whether regarding the reduction of the severity of the punishment or concerning the waiving of charges or the punishment entirely.¹¹ As mentioned above, **equity, pettiness** and **procedural economy** are the main grounds for the waiving of the prosecution; however, the drug related offences section 7 of chapter 50 of the Criminal Code provides an additional possibility to waive the charges on condition that the offender agrees to undergo treatment approved by the Ministry of Social Affairs and Health.

If the charges are not dispensed with, the offender may be punished by summary penal order, fine, community service or imprisonment. Public officials may be punished by dismissal or warning. The **summary penal order** ("petty fine") is a relatively new form of a sanction, first introduced into the Finnish legal system in 1983.¹² As discussed above, summary penal fees are used for minor traffic

10 Chapter 6 of the Criminal Code, adopted 1976/466.

11 Chapter 3, section 5 of the Criminal Code, as amended by the Acts of 23 March 1990 (1990/302) and 12 December 1996 (1996/1060).

12 Petty Fine Act 1983/66 and Chapter 2a, sections 8–11 of the Criminal Code (as amended 550/1999).

offences, littering, and for breaking fishing regulations. They may not exceed 200 euros, and if unpaid, may not be converted into imprisonment. In 1921 Finland introduced the day-fines system,¹³ according to which a **fine** is passed in the form of day-fines ranging from one to one hundred and twenty day-fines. The amount of the fine is set in monetary currency depending on the offender's income and assets. If the fine remains unpaid, it may be converted into a prison sentence, with two unpaid day-fines equalling one day's imprisonment.

Community service has been a part of the Finnish system of sanctions since its passage by an Act of Parliament on 14 December 1990 (1990/1105). In this Act a trial period of three years (1 January 1991 – 31 December 1993) was introduced, during which this new form of sanction would be tested in twelve rural districts and six cities. On conclusion of the stated period, the use of community service was widened to the rest of the country through the Act of 25 March 1994 (1994/227) for another three years. Eventually, the new sanction permanently entered the Finnish penal system in December 1996 (1996/1055). Community service is detailed as a form of punishment used instead of unconditional imprisonment. An offender may be sentenced to at least 20 and at most 200 hours of regular, unpaid work carried out under supervision. Up to ten hours of the sentence may be covered through the offender's participation in programs aimed at reducing recidivism or in treatment to reduce alcohol abuse. This form of punishment can substitute sentences of up to eight months of imprisonment (section 3); however, for the court to be able to rule in favour of community service, the offender has to not only consent to it, but it must be clearly established that he or she would successfully complete the sentence. The community service order is enforced and supervised by the Probation and After-Care

13 See Chapter 2a, sections 1–7 of the Criminal Code (as amended 1999/550).

Administration.¹⁴ If the offender does not comply with the rules of the community service, the Probation and After-Care Administration has the authority to issue a warning. If the transgression is serious, the public prosecutor must be notified, who may request from the court a conversion of the community sentence into imprisonment.

The last and the most severe form of criminal penalty is **imprisonment**, which in Finland can range between fourteen days and twelve years. When an offender is sentenced to a joint punishment, the maximum sentence passed may be as long as fifteen years. Particularly serious crimes, for instance murder, are punishable by life imprisonment.¹⁵ Finland does not permit capital punishment. In 1972, capital punishment was banned in Finland both in time of peace and war, even though in practice, it has not been imposed in times of peace for more than 150 years.¹⁶

2.6 The Finnish Prison System

There are 35 prison institutions in Finland, 19 of which are open prisons. These institutions are classified into five districts, as shown below in a diagram from the Finnish Prison Service website¹⁷:

14 See Acts 2001/135 and 138, which came into force on 1 August 2001. The Probation and After-Care Administration under the Department for Punishment Enforcement of the Ministry of Justice replaces the role of the Finnish Association for Probation and After-Care.

15 Chapter 21, section 1–3 the Criminal Code. (Such prisoners are usually freed by presidential amnesty).

16 Act 1972/343 on the Abolition of Capital Punishment from the System of Sanctions.

17 <http://www.vankeinhoito.fi/14994.htm>

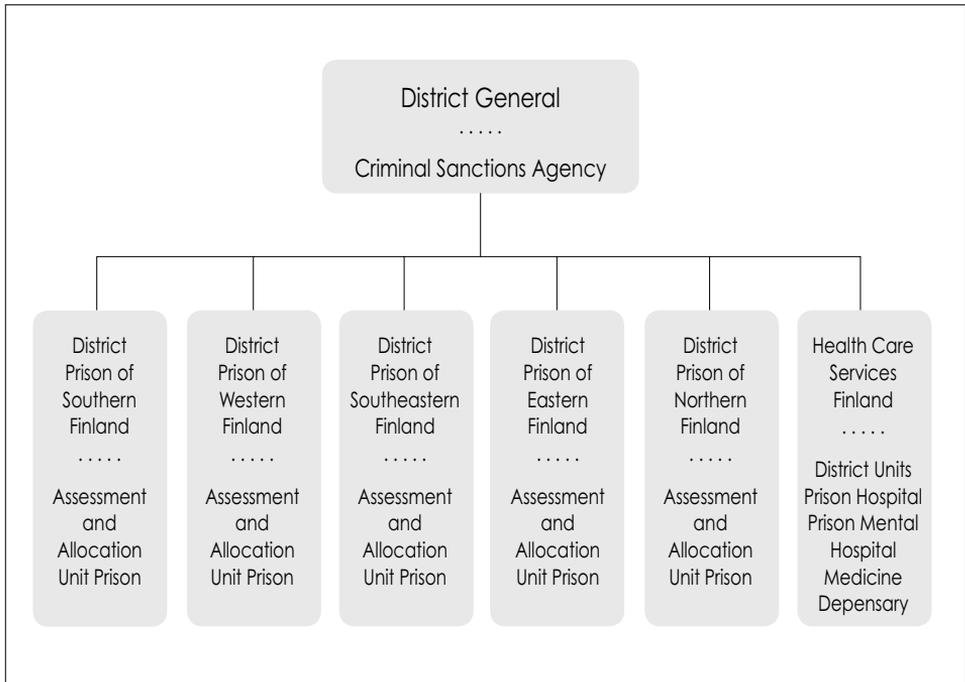


Figure 1.
Prison Service Classifications into Districts

The purpose of a district's prison is to implement the pre-trial detentions and sentences decided by the court. These district prisons' tasks also include assessing and allocating prisoners to units (Mohell Ulla and Jussi Pajuoja 2006: 29–30).

The new legislation on imprisonment¹⁸ that entered into force in October 2006 emphasises the need to encourage inmates towards pursuing lives without crime upon release. Imprisonment, according to the legislation, is seen as a three-phase planned process: the arrival in prison, serving the sentence, and release.

¹⁸ Found in Mohell Ulla and Jussi Pajuoja (2006) (*Vankeuspaketti*) on Finnish prisons, in page 393–431.

Each of the five districts has their own assessment and allocation unit. The unit is situated in one of the prisons belonging to the district. Prisoners sentenced to unconditional imprisonment are summoned to come to the assessment and allocation unit for an assessment. However, in some cases, some prisoners are assessed and allocated based on documents in their absence.

In the assessment and allocation unit, prisoners receive a detailed plan of the sentence term, which is based upon risks and needs assessment and an assessment of the functioning capacity of the prisoner. The allocation of inmates to different institutions, among other criteria, is based on: 1) the activity and rehabilitation needs of the prisoner, 2) the required level of security in the institution, and 3) the prisoners' contact with close relatives, their age, sex, health, prior offences, wishes, and their possibility of being allocated to an activity (work, education, rehabilitation) according to the sentence plan.

The measures recorded in the sentence plan are aimed at helping the prisoners live a crime-free life and promoting their reintegration into society. The plan also prevents recidivism within the institutions or during prison leave or supervised probationary freedom.

Prisoners are transferred from the assessment and allocation unit to serve their sentence either in a closed prison or an open institution. In open institutions, prisoners are required to commit themselves to supervised abstinence from substances. In principle, prisoners are allocated to the district prison closest to their place of residence.

The open prison units in the five districts are independent, but are administratively subject in their functions to the closed prison. Both types of prison house inmates from all walks of life and with all types of criminal record. Those inmates that are deemed capable of functioning in a more open environment, those who are actively employed or studying, and lastly those who are not likely to leave

the premises of the prison without permission, for the final part of their sentence are transferred to open institutions where they gain privileges unavailable in the closed prison. Open prisons organise work colonies for certain building projects, including for instance the third runway of the Helsinki-Vantaa Airport. The National Board of Antiques cooperates with the open prisons by employing inmates to help restore historically valuable sites.

Closed prisons can be divided into three categories: central prisons, provincial prisons and juvenile prisons (only one in Finland). The **central prisons** mainly house inmates already serving a sentence whereas suspects remanded for trial are sent to **provincial prisons**, where his or her freedom may be limited only to the extent necessary for the maintenance of order, the security of detention, and the particular purpose of the custody. Accordingly, the prisoner awaiting trial or sentencing is not expected to work, study or participate in any programmes or activities provided by the prison.¹⁹

The **juvenile prison** is founded on the Young Offenders Act (1940/262), which was a result of the modern theory of the individualisation of punishment, particularly when an offence is committed by a minor, defined as a person below the age of twenty one at the time the offence was committed. Any juvenile offender sentenced to imprisonment will either serve the time in an ordinary prison or a juvenile prison depending on the decision made by the Prison Board. Apart from apparent differences between the two types of prison, the additional advantage of being sent to juvenile prison instead of ordinary prison is the possibility of parole at an earlier stage. In an ordinary prison, inmates are eligible for parole only after half of the sentence is served, whereas in the juvenile prison eligibility occurs already after one third of the sentence.

¹⁹ Section 4, paragraph 1 of the Remand Imprisonment Act 2005/768.

Both open and closed prisons make target-oriented activity programmes available for all inmates, striving to reduce intoxicant abuse and boosting the inmates' chances for crime-free life outside the bars. The number of prisoners daily taking part in some programme or other activity sustaining their capacity to work is on the increase, especially in open prisons. The bulk of the activities offered consist of various programmes for intoxicant abusers. Other programmes include courses in cognitive skills as well as programmes enhancing life control skills, training in job-seeking skills and rehabilitative camps. In addition, there are various leisure-time activities.

The open prisons are more relaxed (the inmates are granted certain privileges unavailable in closed institutions, like the right to use their own clothes at all times). In addition, the prisoners in open prisons are paid wages that are comparable to those in civilian life; from these wages, they pay taxes and maintenance allowance for their upkeep as well as for their board and lodging. Prisoners are encouraged to receive visitors during weekends and, on special grounds, at other times as well. Most of the visits take place under supervision. Visits by close relatives and other persons can also be granted without supervision. Prisoners may be granted permission to go on leave if it is considered probable that they will observe set conditions. Leave permission may be granted when half of the sentence has been served or on other, particularly important, grounds.

Education is a given right to all inmates, though many view it as a multipurpose instrument of influencing inmates' orientation to imprisonment by providing a means of passing time, and of building their self-confidence by upgrading their educational level. As the study officer²⁰ said to me during one of my informal discussions with him at Huittinen open prison:

20 The duties of this prison study officer, among others, include assisting those with educational aspirations and advising them on vocational study options available to the inmates.

Finnish prisons organise many-sided vocational and educational schooling. Education is arranged together with local educational institutes. The prisoners receive their certificates from the educational institute, and these do not reveal that the studies have been carried out in custody. With certain pre-requisites, prisoners have a possibility to study at day-time also in an educational institute outside the prison.

But he regretfully pointed out that, "Studying in jail has become slightly less common". During 2000, an average of 312 inmates from both open and closed prisons (11 % of all prisoners) were studying daily. About half of them were carrying out vocational studies in different fields. Approximately a quarter of them were occupied in primary or basic studies. 5 % of the studying prisoners were performing university studies. He pointed out that in the year 2000, 135 prisoners were studying outside the institutions.

Finnish prisons are supposed to be a place where convicts are rehabilitated and become law abiding citizens. This is reflected in the role of the Prison Service, whose goal is to take care of security in society by maintaining a legal and safe system of enforcement of sanctions. It also aims to reduce recidivism and to eradicate social exclusion, which contributes to crime. The Prison Service enforces prison sentences and fine conversion sentences passed by the courts and takes care of the enforcement of remand imprisonment. The Finnish Sentences Enforcement Act (1974/612), with amendments to the law in 2005, (2005/767)²¹ sets, among other things, the following requirements on the Prison Service:

"Punishment is a mere loss of liberty: The enforcement of sentence must be organised so that the sentence is only loss of

21 <http://www.finlex.fi/fi/laki/alkup/2005/20050767>

liberty. Other restrictions can be used to the extent that the security of custody and the prison order require.

Prevention of harm, promoting of placement into society: Punishment shall be enforced so that it does not unnecessarily impede but, if possible, promotes a prisoner's placement in society. Harms caused by imprisonment must be prevented, if possible.

Normality: The circumstances in a penal institution must be organised so that they correspond to those prevailing in the rest of society.

Justness, respect for human dignity, prohibition of discrimination: Prisoners must be treated justly and respecting their human dignity. Prisoners may not be placed without grounds in an unequal position because of their race, nationality or ethnic origin, skin colour, language, gender, age, family status, sexual orientation or state of health, religion, social opinion, political or labour activities or other similar reason.

Special needs of juvenile prisoners: When implementing a sanction sentenced to a juvenile offender, special attention must be paid to the special needs caused by the prisoner's age and his or her stage of development.

Hearing of prisoner: A prisoner must be heard when a decision is being made concerning his/her placing in dwelling, work or other activity and other important matters connected to his/her treatment".²²

2.7 The Criminal

Who is a criminal? Jerome Hall stipulates that a person who commits a crime is regarded as a criminal. As Hall²³ points out, the term

22 <http://www.vankeinhoito.fi/14994.htm>.

23 In Jerome Hall's book *General Principles of Crime Law*. Indianapolis: Bobbs-Merrill, 1947. Pp 9–18.

“criminal” cannot be used unless all seven differentials of crime are present. The first condition to be met before a deed or behaviour can be deemed a ‘crime’, is that certain external consequences or ‘harms’ must exist. A crime has to exert a harmful impact on social interest; a ‘mental’ or ‘emotional’ state is not enough. Even if one decides to commit a crime, but changes his mind before he carries out his plan, he has committed no crime. The intention does not equal the deed. Second, the above mentioned harm resulting from the crime must be legally forbidden and must be proscribed in penal law. Anti-social behaviour is not a crime unless it is prohibited by law. ‘Conduct’, understood as intentional or reckless action or inaction that causes a harmful consequence, is the third differential that needs to be present for behaviour to be considered a crime. The fourth element is ‘criminal intent’ as opposed to ‘motivation’ which, as Hall²⁴ points out, legal scholars have often failed to differentiate. Intentionality denotes deliberate functioning to reach a goal while whereas motivation is the reason or grounds for the end seeking. To highlight the difference he provides as an example an instance in which a man decides to kill his starving children because he feels that they will pass on to a better world. Though his motives are good, his intention is wrong. What is more, persons ‘insane’ at the time they perpetrate legally forbidden harms do not commit crimes, for the necessary ‘criminal intent’ is not present. The fifth condition is that there must be a fusion or concurrence of ‘criminal intent’ and conduct. This means, for example, that a policeman who enters a house to make an arrest, and who after making the arrest and while still in the house commits a crime, cannot be considered a trespasser from the beginning. The criminal intent and the conduct do not fuse or concur. Sixth, a ‘causal’ relation between the legally forbidden harm and the voluntary misconduct must be present. In the case of a person who fails to file an income tax return, his failure to take a pen and fill out the form constitutes the voluntary miscon-

24 Ibid. pp 141–142, 149.

duct, and the legally forbidden harm is represented by the absence of a return in collector's office. In such a situation, the 'causal' relation between the two is clearly present. However, not all distinctions are so clear-cut. If one shot a person (conduct) and the victim died of suffocation while recovering from the wounds in a hospital, the relationship between conduct and harm (death) is not so straightforward. Seventh, there must be legally prescribed punishment. Not only must the harm be proscribed by law but, as indicated above, the proscription must carry the threat of punishment to violators. Nevertheless, in the democratic legal tradition, one who admits to having committed a crime is not regarded as a criminal until his criminality has been proven by means of the accepted court procedures.

The short answer stating that a criminal is one who has committed a crime, however, raises other questions; for even criminal law does not specify the length of time a person remains a criminal after he has committed a crime. Is one a criminal only during the time he is committing the crime, until he has "paid the penalty", or for the remainder of his life? The question is not easy to answer since the word 'criminal' is frequently used to stigmatise those who violate the law. In public thought the word 'criminal' is chiefly applied to those who are ostracised by society. Criminologists today and throughout history seem focused on the debate between criminals being created by external or internal factors: the ultimate 'nature versus nurture' division. This dichotomy infiltrates all areas of society and interpersonal communications, reflected in politics by the debates on the role of the state.

2.8 Who Enters Prison

The prison population on any given day is overrepresented by those who have been sentenced to longer prison terms, because the probability of being in the prison stock is a function of the length

of sentence imposed. Taking into consideration that prisoners with longer sentences have committed more aggravated offences or have more serious criminal histories, the prison data understates the extent to which prison is used for non-violent offenders and for persons with limited criminal histories. A glance at a group of persons entering prison helps us obtain a better picture of the scope of the impact of sentencing reforms by showing how many non-violent offenders were incarcerated. The table below, using official statistics from the Finnish prison databank, illustrates the estimation of criminal histories of persons admitted into prison during 2002 and 2003.

Table 1.
Prison Population in Finland According to the Categories of Prisoners.
From 31st December 2002 until 31st December 2003

<i>Category of prisoners</i>	Men		Women		Total		<i>Change 2002–2003</i>
	2003	2002	2003	2002	2003	2002	
<i>Prisoners serving a sentence</i>	2 605	2 599	144	144	2 749	2 743	6
<i>Fine defaulters</i>	151	159	17	1	168	175	-7
<i>Prisoners held in preventive detention for dangerous recidivists</i>	22	24	1	1	23	25	-2
<i>Juvenile prisoners</i>	71	51	2	0	73	51	22
<i>Remand prisoners</i>	421	441	29	34	450	475	-25
<i>Total</i>	3 270	3 274	193	195	3 463	3 469	-6
<i>There were 97: 74 prisoners serving a sentence of life imprisonment</i>							

Source: Finnish prison databank.²⁵

²⁵ <http://www.rikosseuraamus.fi/11135.htm>.

The data above stipulates an increase of prisoners from 2002 to 2003 by 6. However, the number of prisoners held in fact decreased by 2 during the same period. Looking at the remand prisoners in the chart, there is a clear decrease of 22. This continuous decrease in the Finnish prison population is due to the changes in sentencing practices that began in the 1960s that were mostly directed at the incarceration of persons convicted of violent offences with prior histories of violence or a prior criminal record. This pattern continues to the present day, as the 2005 Finnish prison data in table 2 below illustrates:

Table 2.
Prison Population According to the Categories of Prisoners on
31 December 2006 (31 December 2005)

Category of prisoners	Men		Women		Total		Change 2005–2006
	2006	2005	2006	2005	2006	2005	
<i>Prisoners serving a sentence</i>	2 700	(3 015)	168	(183)	2 868	(3198)	-330
<i>Fine defaulters</i>	112	(153)	20	(27)	132	(180)	-48
<i>Remand prisoners</i>	440	(468)	37	(37)	477	(505)	-28
<i>Total</i>	3 252	(3 636)	225	(247)	3 477	(3883)	-406
There were 136 (124) prisoners serving a sentence of life imprisonment							

Source: Finnish prison databank ²⁶,

26 <http://www.rikosseuraamus.fi/uploads/rnx2bi.pdf>

2.9 Sentencing Reforms and Socially Integrated Offenders

The Finnish sentencing reforms of the 1960s inculcated rehabilitation as its primary aim, which in turn helped accomplish the ultimate objective of a reduction in the size of the prison population. At the same time the sentencing reforms raised the question of how to best make use of scarce prison resources. In 2005, according to the Finnish Ministry of Justice, the revenues for the enforcement of sentences amounted to 18.1 million euros. The socially integrated policies adopted in open prison institutions help address the problem and keep the cost at a reasonable level by contributing to the budget. For instance, the larger part of the prison guards' salaries is generated from the sales of the goods produced by the prisoners.²⁷

From this perspective, one can view prison as cost beneficial in reducing crime. Although researchers have shown that imprisonment with rehabilitation as its main objective may be cost beneficial for violent crimes, it is unrealistic to expect huge reductions in violent crime with large increases in imprisonment. Using incarceration to control crime may be an effective strategy to combat some types of crimes, particularly those involving violent offenders and offenders with long and serious criminal careers. But sole reliance on incarceration for crime control without considering rehabilitation creates substantial cost to society, as Freeman explained in his work, "in 1990 in the USA, \$25 billion was spent on corrections. That with more than 1 million persons in prison that year in United States, the average cost per prisoner was \$22,000. With about 20 percent of the prison population in 1990 consisting of drug offenders, the amount spent on incarcerating them was about \$5 billion". (Freeman 1996).

²⁷ <http://www.rikosseuraamus.fi/16922.htm>.

A glance at the ever increasing prison population in the USA in the table below from *Prison and Jail Inmates at Midyear 2005*, U.S. Bureau of Justice Statistics, underlines this growing need for other alternative penal policies.

Table 3.
U.S.A. Prison and Jail Inmates at Midyear 2005,
U.S. Bureau of Justice Statistics ²⁸

Year	Total inmates	Federal prisoners	State prisoners	Local jails
1990	1,148,702	58,838	684,544	405,320
1995	1,585,586	89,538	989,004	507,044
2000	1,935,753*	133,921	1,176,269	621,149
2001	1,961,247*	143,337	1,180,155	631,240
2002	2,033,022*	151,618	1,209,331	665,475
2003	2,082,728*	159,275	1,225,659	691,301
2004	2,131,180*	169,370	1,241,034	713,990
2005	2,186,230*	175,954	1,255,514	747,529

* Total counts include federal inmates in non-secure privately operated facilities (6,143 in 2000, 6,192 in 2001, 6,598 in 2002, 6,471 in 2003, 7,065 in 2004 and 7,233 in June 2005).

With the prison population increasing world-wide, it could be said that the prison population increase is universal; but the prison population increase in Finland is relatively low. A comparison between the U.S. Bureau of Justice statistics, above, and the Finnish prison

28 From <http://www.infoplease.com/ipa/A0903753.html>

statistics below, also illustrates the relative reduction of the Finnish prison population in 2006. At the turn of the millennium Finland experienced an increase in the number of prisoners, and the increase continued until 2005. Then a downward trend began in 2006 and seems to have continued in the first half of the year 2007.

Table 4.
Finnish Prison Population Development from 1998 to 2006

Year	Number of prisoners at the end of the year	The average number of prisoners daily	Sentenced 1)	Released 2)
1998	2 772	2 809	5 803	5 074
1999	2 663	2 743	5 838	5 123
2000	2 887	2 855	6 561	5 412
2001	3 110	3 135	6 832	5 569
2002	3 469	3 433	7 451	6 295
2003	3 463	3 578	7 654	6 605
2004	3 535	3 577	6 575	5 537
2005	3 888	3 888	7 552	6 230
2006	3 477	3 778	7 292	6 860

1) Including the prisoners in pre-trial custody and those who waited for their sentence on the outside.
2) Including fine default prisoners sentenced to conversion sentences for unpaid fine serve their sentence in full.

Source: Finnish prison databank²⁹

²⁹ <http://www.rikosseuraamus.fi/11126.htm>

Research has also shown that imprisonment for the sake of imprisonment is *not* cost effective in reducing certain crimes, for example drug crimes. Imprisonment however, may only be marginally cost beneficial in reducing property crimes. Continued incarceration of large numbers of low-level drug dealers and minor property offenders without rehabilitation programs makes little sense for these crimes. These crimes are caused by income deficiencies, and require an income policy to address their cause by social integration of the inmates from the beginning of their sentence.

3. Literature Review

3.1 Definitions of Crime and Punishment

The word 'crime', as defined in modern dictionaries, lends itself to a variety of meanings. First, it has a legal meaning: it is "an act (...) forbidden by a public law of a sovereign state" as injurious to the public welfare and which, after indictment and trial, may be punishable by the judgment of a court. But a moral ingredient is also involved in the definition, whereby crime is regarded as "any grave or aggravated offence against or departure from moral rectitude" (Merriam-Webster's 3rd, 1976).

If crime is understood in its legal sense, inclusive of immorality, then sin is equated with immorality, and the word 'crime' would also encompass the meaning of sin. Nevertheless, in modern circumstances courts may tend to tread cautiously where moral considerations are at stake in criminal cases.

The concept of punishable transgressions and the practice of punishment are often rooted in religious thought. One of the oldest theories of punishment is the belief in retribution encapsulated in the **Old Testament**. The law of tit for tat expressed as "Eye for eye, tooth for tooth, hand for hand, foot for foot" (Exodus, XXI, 24) was meant as a means of ensuring rigorous justice while at the same time preventing disproportionately severe punishments¹. This doctrine of **lex talionis**

¹ The Code of Hammurabi, created circa 1760 BC, also testified to one of the earliest extant sets of laws and one of the best preserved examples ancient Mesopotamia. The Code contains an enumeration of crimes and

was renounced by Christ who rather decreed: "That ye resist not evil: but whosoever shall smite thee on thy right cheek, turn him the other also" (Matthew, V, 39). More recently W.S. Gilbert expressed the Old Testament idea in a witty fashion in *The Mikado* (Act II): "Let the punishment fit the crime". A fundamental part of Christianity, as well as of other religions, has been the belief in reward and punishment, particularly as dispensed in the after world. This belief supported the use of harsh punishment as a necessary tool to save the soul of the child from future damnation.

Gottfried Leibnitz (1646)² was one of the first great modern thinkers to analyse the purposes of punishment. He acknowledged that punishment may be inflicted out of retribution, as a form of revenge intended to satisfy the injured party, or it may be imposed to protect society. Several years later, Cesare Bonesana Beccaria (1738–1794) in his "Essay on Crimes and Punishments" (1764) condemned all forms of torture and insisted that excessive punishment causes unnecessary harm. He stated that a person should remain innocent until proven guilty; and therefore he or she has the right to enjoy public protection until and unless it has been confirmed that he or she has violated the law. One has no right to punish a citizen if unable to prove his guilt beyond reasonable doubt. Therefore, this dichotomy of guilty or innocent leaves no place for torture. If one's guilt can be proven beyond doubt, his confession is redundant and so is torture. If the tortured person cannot be proven guilty, the authorities are torturing an innocent citizen (Beccaria 1995: 18).

their various punishments as well as settlements for common disputes and guidelines for citizen's conduct as verse 196 explained, "If a man put out the eye of another man, his eye shall be put out" in Leonard W. King's book.

² "The Principles of Nature and Grace" [1714], in *Philosophical Works of Leibnitz*, ed. George Martin Duncan, New Haven, Conn., 1890, vol. 32, pp. 209–17. Repr. in *From Descartes to Locke*, ed. T.V. Smith and Majorie Grene, University of Chicago Press, Chicago, 1964, pp. 320–9.

At the end of the 18th century Immanuel Kant joined the discussion on the purpose and meaning of punishment. He saw punishment as necessary where the natural consequences were inadequate and deficient. To Kant, “the outcome of an action is incidental: the morality resides in the motive or intention generating the action. All transgressions of a command by a child are lack of obedience, and this entails punishment”.³ His discussion of the theory of punishment often employs a comparison of rearing a child to a prison system, where children are prisoners and adults act as guards correcting their behaviour and enforcing their system of rules. Kant distinguishes two types of punishment: *physical* and *moral*, which are imposed depending on the child's disposition and the seriousness of transgression.

Moral punishment affects the child's desire to be respected and loved, which are feelings closely related to morality. Moral punishment is imposed when the child is shamed and treated coldly and in a reserved way. Feelings of love and acceptance are withheld from a disobedient child. In accordance with the idea of moral punishment, a lying child is sufficiently punished with a look of scorn on his parent's face. This kind of punishment is preferred to physical punishment as it supports and strengthens morality.

Physical punishment may take the form of either the refusal of the object of the child's desires or the infliction of punishment. Refusal is closely related to moral punishment, and it is based on negation. The infliction of a disproportionately harsh punishment may lead to the development of a servile disposition in the child; therefore, it should be imposed with caution. Kant felt strongly against awarding children, believing that it contributes to the development of materialistic and selfish traits in their personality. He distinguished two types

3 From Immanuel Kant work on *Educational Theory*. Philadelphia: J.B. Lippincott Company, 1904 edition, 191–193.

of punishment: *natural* and *artificial*. Natural punishment is brought on by the man himself as a consequence of his actions. A child who ate too much will feel sick, and a child who takes his cap off when it is cold against his parents' wishes will catch a cold. However, not all actions have clear natural consequences, or the consequences are insufficient to correct the child's behaviour. Artificial physical punishment is therefore needed to rectify the conduct. Nevertheless, as efficient as physical punishment may seem to those imposing it, moral punishment is preferable as it leaves a more durable imprint on the person's way of thinking.

3.2 Criminal Theory as a Learning Process

The theory of differential association was introduced by Edwin H. Sutherland, who attempted to create a general theory that could categorize the many diverse facts known about criminal behaviour into some logical arrangement (Vold: 1998). His theory declared that criminal socialisation involved the learning of definitions favourable to violation of the law. When a novice lawbreaker is sentenced to a prison sentence in a facility where he or she will socialise with other lawbreakers, the person will consequently learn "the specific direction of motives, drives, rationalisations and attitudes" (Sutherland – Cressey: 1960, 78). Normative experience of the prison reality, as well as new learned forms of behaviour, will dictate the person's choices after his or her release. Therefore prison should bear a resemblance to the life outside it in order to counter the negative influences of the criminal learning process. The same understanding is echoed in the documentary "To Kill or To Cure"⁴, which illustrated that even the high security prisons in Finland take as their objective correction

4 *To Kill or To Cure* is a documentary by Josh Freed and Jon Kalina who travelled the globe looking at different prison systems. It is a compelling and controversial look at a problem that goes back to Cain's murder of Abel, and to this present day on how should we deal with crime.

and rehabilitation instead of punishment, unlike the United States' penal system where the sole purpose of the prison is to punish the malefactors.

Even though this deviant form of learned behaviour occurring in prison settings was known earlier, it became popular among academics only after Edwin Sutherland introduced his theory of differential association, which explains career criminals and systematic criminal behaviour. He argued that individuals could be trained to adopt and follow patterns of criminal behaviour and this can include behaviour learned within the prison settings. From Sutherland's viewpoint, the etiology of crime is that certain processes or relationships exist which can explain all crime.⁵ He clarified and summarised his tentative theory of criminal behaviour in six points:

- Criminal behaviour is learned. Both systematic criminal behaviour and systematic lawful behaviour are results of essentially the same form of a learning process.
- Learning takes place through association with people. Just as systematic lawful behaviour is determined through a process of association with those who abide by the law, systematic criminal behaviour is determined through a process of association with those who commit crimes.
- The primary setting for learning is within close personal groups (differential association).
- Learning includes developing techniques to carry out a certain crime as well as attitudes and motives supportive of committing crime. The chance that a person will participate in systematic criminal behaviour is determined roughly by the frequency and consistency of his contact with the patterns of criminal behaviour.

5 In Edwin Sutherland's *Principles of Criminology* (1947) 4th edition.

- Depth and significance of learning experiences (differential association) will vary in frequency and importance for each individual. Regularity and consistency of contacts with criminal patterns, as well as social situations that lead to crime, will affect people differently depending on their individual characteristics.
- The processes involved in learning criminal behaviour are no different from learning any other behaviour.

Interestingly, this process of learning criminal behaviour by association with criminals and the process of learning lawful patterns incorporates all of the mechanisms involved in any other form of learning. What is more, both criminal and non-criminal behaviours are an expression of the same needs and values. While honest labourers work in order to secure money, thieves steal money with the same purpose in mind.

Criminologists have adopted numerous methods of studying this universal phenomenon from various social and behavioural sciences. Like other scientists, they measure and assess crime over time and place, as well as the characteristics of criminals, crimes, and victims using a variety of methods. Society fears crime and responds to it by punishment or treatment of the offenders, or by trying to prevent it from happening. These three reactions to counter crime come together to comprise the object matter of criminology.

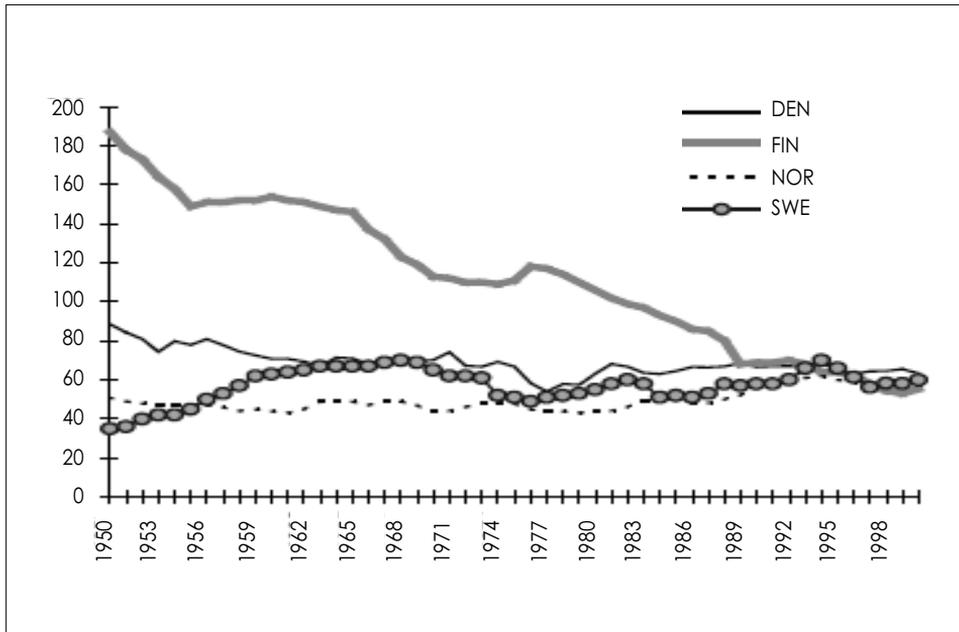
3.3 The Rational Choice Perspective of Crime

Clarke states that: “crime is purposive behaviour designed to meet the offender’s commonplace needs for such things as money, status, sex, excitement, and that meeting these needs involves the making of (sometimes quite rudimentary) decisions and choices, constrained as they are by limits of time and ability and the availability of relevant information” (Clarke 1997: 9–10). To paraphrase:

criminal offenders make decisions that appear rational – to the offenders at least – to engage in specific criminal acts when there are no other options. Keel (1997) illustrated the central points of this theory as follows:

1. “ The human being is a rational actor,
2. Rationality involves an end/means calculation,
3. People (freely) choose behaviour, both conforming and deviant, based on their rational calculations,
4. The central element of calculation involves a cost benefit analysis: Pleasure versus Pain [or hedonistic calculus],
5. Choice, with all other conditions equal, will be directed towards the maximization of individual pleasure,
6. Choice can be controlled through the perception and understanding of the potential pain or punishment that will follow an act judged to be in violation of the social good, the social contract,
7. The state is responsible for maintaining order and preserving the common good through a system of laws (this system is the embodiment of the social contract),
8. The Swiftness, Severity, and Certainty of punishment are the key elements in understanding a law's ability to control human behaviour”.

The sentencing and criminal justice system of sanctions in Finland, in which are imbedded the principles of legality, equality and humaneness by making rehabilitation the central value, have created an encouraging situation for offenders to make better choices of desisting from re-offending, as can be clearly seen from the country's reduction of the prison population. The initial high numbers of confined criminals in Finland had, by the beginning of the 1990s, subsided to the Nordic level of around 50–60 prisoners per 100 000 inhabitants, as seen in figure 1 below.



Source: Falck, von Hofer and Storgaard (2003)

Figure 1.
Prisoner Rates (per 100 000 Inhabitants) in Four Scandinavian Countries (1950–2000).

The fact that Finland has been a peaceful and safe society with a low level of crime facilitated the adoption of liberal policies in crime control. Notwithstanding, it can also be argued that this factor has a rather restricted explanatory force. For example, during the 1960s Finland experienced severe social and structural changes in its development from a rural/agricultural economy into an industrial urban welfare state. This rapid development had a positive impact on its low crime rate. Finnish criminal policy may also be described as **exceptionally expert-oriented**: reforms have been prepared and conducted by a relatively small group of experts whose thinking on criminal policy has followed similar lines. The impact of these profes-

sionals was reinforced by close personal and professional contacts between senior politicians and academic researchers.⁶

3.4 A General Theory on the Fear of Crime

The primary assumption postulates a direct connection between social isolation and the fear of crime: the greater the social isolation – the more one is left out of society and the weaker one's position is in the social network – the greater the fear of crime.⁷ Focusing broadly on the contact each of us has with the object of 'crime', one can deduce a more distinct assumption that the more indirect and impersonal (diffused and generalised) experiences of crime one has, the stronger the fear of crime. And conversely, the more direct and personal one's crime experience is, the lesser the fear. Along such a dimension with indirect/impersonal experiences of crime on the one end of the scale and direct/personal contact on the other, various categories of experiences can be established.

Exposure to crime through the mass media appears as the most indirect and impersonal type of experience. Less indirect, and especially of a more personal character, are the accounts heard from or about a victim-experience from family, acquaintances, friends or colleagues, etc. The most direct and personal contact with (convicted) criminals are obtained by associating with them: knowing them, having them as friends or working with them, etc. By using

6 Several of Finnish Ministers of Justice during the 1970s and 1980s have had direct contact with research work; indeed, one of them, Inkeri Anttila, was a professor of criminal law and the director of the National Research Institute of Legal Policy at the time of her appointment as Minister.

7 Probably the first study of fear of crime in Scandinavia is a small study conducted by Peter Sigsgaard on Greenland from 1971–76 (Sigsgaard 1977). He reported a widespread fear of violence and other crime among the Danes stationed there, and was of the opinion that the main cause of this fear was social isolation of the Danes from the local inhabitants.

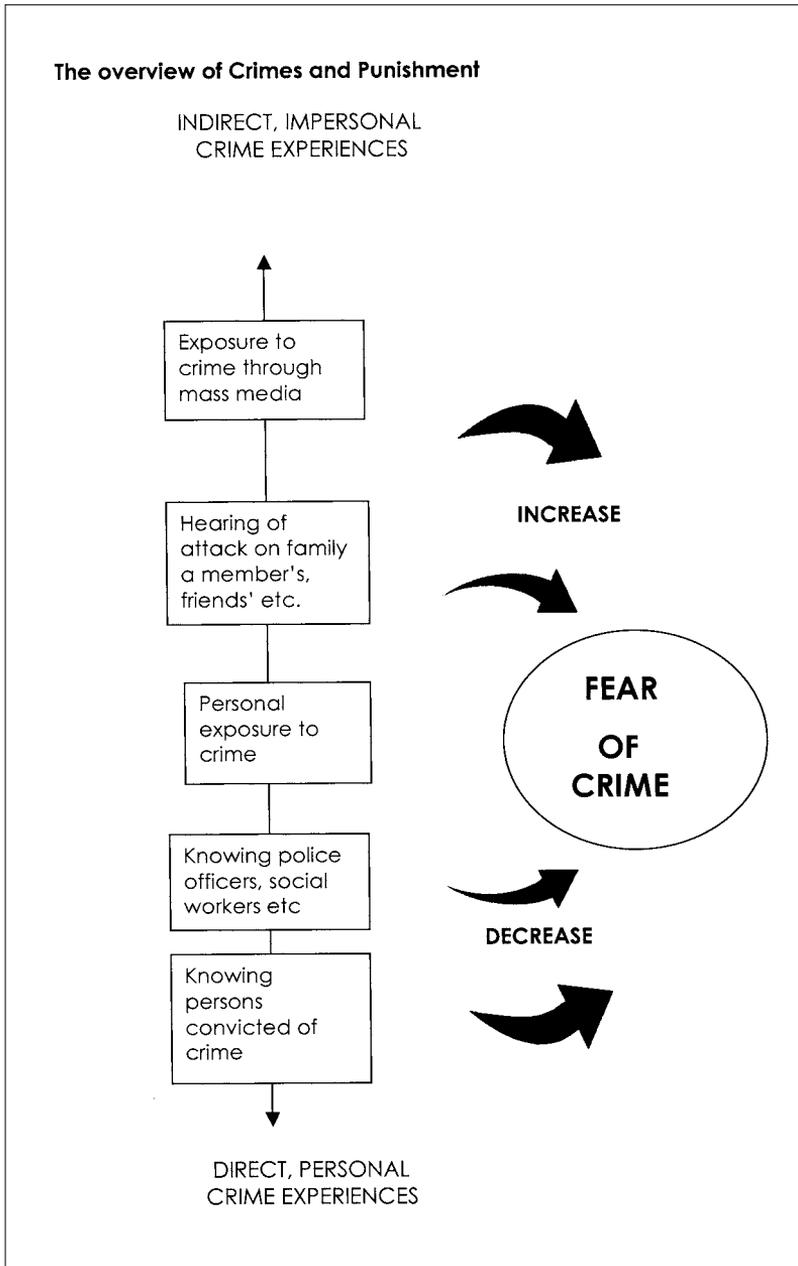


Figure 2.
A Model of the Impact of Crime Experiences on the Fear of Crime

these anchor points regarding the character of crime experiences, the following theory can be outlined below in figure 2.

The thickness of arrows in the figure indicates the expected strength of correlation. In order to achieve even stronger tangible derivations of the basic hypothesis, one can look into the individual 'values' on the crime-experience dimension and attempt to specify accurately the assumptions. Only some of the numerous concrete assumptions that can, and have, evolved are suggested in the diagram.

One can come to a conclusion that local media sources will have a stronger effect than global ones, partly because the former often inspire more trust than the latter. Consequently, a relatively modest display in a local medium might generate stronger fear than a large, dramatic display in a global medium. With fear of crime as the focal point, one can expect that this fear and opinions on having more or less police, milder or severer penalties, etc., are interrelated.

There is an expectation that fear will be strongly related to immediate daily experience, but only weakly or without any direct connections with aspects of the individual's social position. Though absent in the model, social position – such as age or gender – is not of no impact on the fear of crime. The influence is, however, indirect in the sense that the social position influences the amount and character of an individual's crime experience, which in turn influences the fear of crime (Balvig 1975:195–198).

3.5 Understanding Delinquency and Crime

Sociologists have emphasised the importance of social structure in understanding delinquency and crime. Durkheim, the first to argue that crime is normal and functional, laid the foundation for later theories regarding the importance of social structure. Merton, in devel-

oping theory of anomie, clearly rejected individualistic explanations of behaviour, and attempted to understand behaviour in terms of the social structure within which that behaviour occurs.

Social structures exert pressure on one person to conform and on another to deviate. Sutherland, similarly to Merton and Durkheim, tried to explain delinquent behaviour within the context of the personal environment. His theory of differential association is essentially a learning theory, which states that criminal and delinquent behaviour is learned within small intimate groups. For example, parents who beat their children because of their aggression intend to 'stamp out' the negative behaviour, although the beating brings about the opposite and unwanted effect of instilling the very behaviour they wish to rid of. The fact that the approach does not work as intended, suggests that the implicit learning theory is wrong (see Cressey 1966 and Cleeremans 1997).⁸

Sociologists have argued that unless the environment of a child can be changed, any treatment will be ineffective. In a similar fashion Shaw, in his studies on delinquency and crime, states that a delinquent must not be neglected, despised or ignored as a person – but rather dealt with as a person worthy of consideration. To fully utilise the potential of treatment programs they must deal directly with both the delinquent and with his entire environment (see Shaw and McKay 1942).

The interrelationship of law and behavioural science working through the juvenile court system to rehabilitate juveniles sounds great. However, as indicated by numerous studies, the reality of the system is that the dreams of the reformers have not been realised. The juvenile court system has failed to remove the 'stigma' that the society

⁸ Axel Cleeremans' work on "Implicit learning: A graded, dynamic perspective" is also available on line <http://srsc.ulb.ac.be/Al/papers/axclj01.pdf>.

attaches to those who violate its criminal law. The label 'juvenile delinquent' may, and usually does, destroy a child's reputation in his home community and the stigma usually follows him throughout his life. Young law-breakers are often detained in jails or lockups, and by so doing are mixed up with habitual adult criminals without any safeguards.

The most serious problem, however, is that the juvenile court's philosophy of treatment, and not punishment, has not been accomplished. In this matter, "the dream and the reality have been far apart" (Reed 1968:642). Institutions designed with the objective to treat juvenile delinquents are often more preoccupied with providing custodial care instead of ensuring the availability of actual treatment.

3.6 The Causal Effect of Punishment

In this dissertation the verb to **punish** is defined as, 'to subject someone to penalty for a crime, fault, or misbehaviour' (American Heritage Dictionary 1982:1004). Presumably, the punisher possesses the superior power of authority, since it is unlikely that most people would submit voluntarily to even a mild reprimand. What is more, the association with the concept of penalty means that punishment is a deliberate act. Within the criminal justice system, the current understanding of punishment is that it is a sanction, an act that deliberately inflicts pain – either mental or physical. The superior power to apply the sanction is, of course, given in jurisdictions with a legally constituted criminal justice system.

As can be inferred from the discussion in the previous sections, it is fair to say that incarcerations with the sole purpose of punishments have perverted effects. Offenders regard such punishment merely as consequences and themselves as objects of another's emotions.

Malefactors should always be corrected cautiously, so that they may see beyond the penalty and perceive their improvement as the ultimate objective. It is absurd to demand or expect that after a severe punishment imposed on them by the government for their crimes, they will be appreciative and respectful towards the system that caused them pain, however justified the punishment may seem. On the contrary, harsh punishment will only make them bitter, resentful, aggressive, and even more at odds with the rest of society. This perspective on punishment and its often precarious results is not a new one. Already Kant advised that:

“If physical punishments are often repeated, they make a child stubborn; and if parents chasten their child for wilfulness, they only make them more wilful. Stubborn people are not always the worst, but often yield easily to kindly remonstrance”. (Kant, 1904 edition, 191–193).

Kant pondered the results of the punishment itself as well as the justification or morality of it. Another thinker who tackled the issue of justification of punishment was Kant's contemporary Jeremy Bentham (1748–1832). Bentham believed that both morals and legal systems should be founded on the principle of utility (hence the name “Utilitarianism”); and consequently insisted on judging the justification of punishment imposed by the results it brought about. To quote his opinion, “All punishment in itself is evil. Upon the principle of utility, if it ought at all to be admitted, it ought to be admitted in as far as it promises to exclude some greater evil”. (Bentham, 1948 edition: 171). Punishment may be admissible if it takes as its objective one of the four purposes, “1. To prevent all offences. 2. To prevent the worst (if there is a choice). 3. To keep down the mischief. 4. To act at the least expense”. (Ibid: 179)⁹.

⁹ Also found online in Bentham works on Balancing Punishment and Offence, at www.humanistictexts.org/bentham.htm#Balancing%20Punishment%20and%20Offens.

As the 19th century progressed, the view on punishment as detrimental if used excessively solidified and intellectuals became more aware that any good results stemming from imposing punishment, as understood and administered at the time, are far outweighed by its evil effects. The following passage from Friedrich Nietzsche illustrates this thesis:

“The broad effects which can be obtained by punishment in man and beast, are the increase of fear, the sharpening of the sense of cunning, the mastery of desires; so it is that punishment tames man, but does not make him ‘better’ – it would be more correct even to go so far as to assert the contrary. “Injury makes man cunning” says a popular proverb: so far as it makes him cunning, it also makes him bad. Fortunately, it often enough makes him stupid”. (Nietzsche, 1964 edition: 99).

At this juncture, it is worth drawing upon the work of Foucault and Hart who defines the standard or central case of *punishment* in terms of five elements:

1. “It must involve pain or other consequences normally considered unpleasant.
2. It must be for an offence against legal rules.
3. It must be of an actual or supposed offender for his offence.
4. It must be intentionally administered by human beings other than the offender.
5. It must be imposed and administered by authority constituted by a legal system against which the offence is committed” (Hart, 1968:4).

To distinguish from the standard or central case of punishment, I shall relegate to the position of substandard or secondary cases the following, among many other possibilities:

- A. Punishments for breaches of legal rules imposed or administered other than by an official (decentralised sanction).
- B. Punishments for breaches of non-legal rules or orders (punishments within a family or school).
- C. Vicarious or collective punishment of some member of a social group for actions done by others without the member's authorisation, encouragement, control or permission.
- D. Punishment of persons [other than under (C)] who neither are in fact, nor supposed to be, offenders.

The chief importance of these sub-standard cases is to prevent the use of what Hart in his discussion of punishment refers to as **definitional stop**. This is the abuse of definition that is especially tempting when use is made of conditions (2) and (3) of the standard case in arguing against the utilitarian claim that the practice of punishment is justified by the beneficial consequences resulting from the observance of laws which it secures.

A variety of ingenious punishments have been invented throughout the ages to be inflicted on convicted offenders. Among them we find the death penalty, torture, branding, fines, imprisonment, banishment, as well as restrictions on movement and occupation, and even the loss of citizenship. The method that deprives the malefactor utterly of his or her liberty is through imprisonment in a closed institution, the form of retribution that is believed to deter, inhibit, or prevent violence. The mere fact that the individual's movements are restricted, however, is far less serious than the fact that imprisonment cuts the inmate off from his or her family, relatives, and friends – not in the self-isolation of the hermit, but in the involuntary seclusion of an outlaw.

Foucault lays a lot of emphasis on punishment as a practice dating far back to the time before the French Revolution, when the power to punish was associated with monarchical law. The movement then for more efficient and calculated punishment did not involve

a reduction of penalties to imprisonment, but rather an index linking the idea of crime to the idea of punishment, for which the visibility and diversity of forms of punishments were prerequisites.

At the beginning of the nineteenth century the spectacle of physical punishment disappeared; the tortured body was avoided, and the theatrical representation of pain was excluded from punishment. It was no longer a ceremony of sovereignty, in which vengeance was inflicted on the body of the condemned person. Punishment was to become both a procedure for re-qualifying guilty individuals as subjects, so that they might be able to resume their place in society, and a means for discouraging potential offenders.

How are we then to account for the adoption of the practice of imprisonment as the principle of the penal system? Foucault's answer to this question is that the transformation within the penal system of punishment into a penitentiary technique is synonymous with a political investment of body, with the diffusion of disciplinary power. That diffusion of disciplinary methods in the eighteenth and nineteenth centuries represents one of the dimensions along which the new mechanisms of power exercised their control over the body, and over life (Foucault 1977:224).

It was during the course of the eighteenth century that the disciplines (methods of observation, recording, regulation, and training, to which the body had long been subjected in monasteries, armies, and workshops) became the general formulae of domination. Bearing that in mind, it should additionally be pointed out that the principal objective of discipline was, and has been all along, the control of individuals through training and normalisation, and the regulation of social functions.

With his great mind for observations, Foucault remarked that a judge, magistrate or juror is no longer alone. Parallel judges are found virtually everywhere in our society, subjecting individuals to investiga-

tion and stigmatisation through detached analytical observation and comparison with an inaccessible norm, as well as by producing permanent records and files to support and authorise a decision or judgment. Subjecting individuals to observation is:

“A natural extension of justice imbued with discipline methods and examination procedures. Is it surprising that the cellular prison, with its regular chronologies, forced labour, its authorities of surveillance and registration, its experts in normality, who continue and multiply the functions of the judge, should have become the modern instrument of penalty? Is it surprising that prisons resemble factories, schools, barracks, hospitals, which all resemble prison?” (Foucault, 1977:227–228)

3.7 Punishment as a Discourse

One of the problems that Foucault's works have encountered is that of assimilation within the existing discourses of criminology and penology. His works are read as specific contributions to an understanding of the history of punishment, among others. It is his descriptions and accounts of the history of the prison to which most attention is devoted. His work *Discipline and Punish* is not only about punishment and the prison, but rather it includes instances of practices and an institution, which serve as significant examples showing the emergence of the new technology of power to discipline.

Foucault, in his analysis of punishment, asks society whether the convicted person represents a real danger to society: Is he susceptible to punishment? Is he curable or re-adjustable? These questions highlight the concern in the administration of the penalty, its necessity, its usefulness, and its possible effectiveness. According to Foucault, the art of punishing should rest on the whole technology of representation, and he believes that “to find a suitable pun-

ishment for crime is to find the disadvantage whose idea is such that it robs forever the idea of a crime of any attraction" (Foucault, 1977:104). The general theory on the relation between punishment and criminality claims that a severer punishment always leads to lesser criminality. Although politicians and lay people may believe this, the criminologist finds it hard to accept. Nevertheless this theory may lead to abuse by politicians, who by using a pen to change a figure in a legal text allow themselves to appear as knights on the front line in the battle against crime.

A brief consideration of the terms of reference in Foucault's history of the practice of imprisonment might be helpful at this point. At the outset, through a description of physical torture, we are persuaded to fall back on the self-evidence that contemporary forms of punishment are more humane. We are invited to be both the readers and the judges, to reflect upon the lesser cruelty and pain inflicted on offenders in contemporary societies. However, such a judgment may fail to direct a significant qualitative change in the object and objective of punishment; for it is no longer the body that is the direct object of punishment, but the knowable individual and the soul. As he accurately put it, "A corpus of knowledge, techniques, scientific discourse is formed and become entangled with the practice of the power to punish" (Foucault, 1977: 23).

Foucault's study of the practice of imprisonment constitutes "a corrective history of modern soul and of a new power to judge" (Ibid, 1977: 23–24). It encompasses not only a consideration of the complexity of penal mechanisms and their position within the field of technologies of power, but in addition, it is addressed to the interdependence of the humanisation of the penal system and the emergence of the human sciences upon the new technology of power.

3.8 The Return of the Normative Theme

There are many reasons why the once popular 'moral' positions of justifying punishment on grounds of wrongdoing have suffered severe eclipse. Surely the most prominent reason derives from the fact that we are not quite certain what a 'moral wrong' is, and certainly are in doubt as to any given man's freedom to do the act (Hart 1960:1-2).

Following hard upon this major premise is the humanitarian feeling that the gratuitous application of pain is wrong; that pain is a negative value to be permitted only where there is some greater value to be achieved. This can be compared to medical surgeries, which are approved only when there is an advantage to be gained and not merely for the sake of spilling blood. We assuage our consciences with the notion of a criminal as someone sick and in need of treatment, and not simply a wrongdoer deserving punishment (Szasz 1958:185). But how can we determine how much a man should suffer for a crime? There is no safe guide to meting out justice when we know that at best it represents irrational motives in the punisher. Thus it may seem strange that retribution, which is so out of phase with current scientific and humanitarian temperament, is on an upswing trajectory.

It should be noted that retribution has been unpopular, yet it has never been entirely 'out'. It must also be admitted that however much we have moved towards rehabilitation as a total ideal, there still has to be punishment. Hart took a somewhat off-key position by advocating a *moral* basis for criminal law, and specifically a *denunciatory* quality for punishment, which served to revenge the crime. He made it clear that retribution, in his limited sense of the meaning, is part of the reason why we punish: to defend the system, to assist the individual to become a responsible member of society, and to participate in the socialisation process of decision making within the system (Hart 1966:410).

3.9 Programmes, Practices and Imprisonment

The conception of the interrelationship between the exercise of power and the formation and the production of knowledge, or the notion that “power and knowledge directly imply one another; that there is no power relation without the correlative constitution of a field of knowledge, nor any knowledge that does not presuppose and constitute at the same time power relations..” (Foucault 1977:27/28), is a central feature of the position developed by Foucault. In his work he discusses how human sciences provide for the development of programmes of social intervention through the generation of institutional practices towards specifically constituted objects, and that such interventions have consequences or effects.

Within the discourse of the human sciences, and in particular in the field of policy studies, we find a conception of the social world as a potentially rational order; as a reality which may be rendered orderly through instrumental-rational conceptions of knowledge and social engineering techniques of intervention that constitute their corollary. However, in the works of ‘the genealogist’ Gordon, he implied that the relationships between discourses, practices and effects is of a different order (Gordon 1980:245).

It is the nature of the interplay between forms of rationality and specific institutional practices, for example the practice of imprisonment, that is the issue here. In particular, the fact that programmes or rational schemes offering prescriptions for the reorganisation of institutions and the regulation of behaviour have not, and this understates the point, been fully embodied in social practices. In short, there has been, and indeed remains, a lack of correspondence between programmes and practices.

Foucault’s argument is that **penalisation** of incarceration was not in accordance with the proposals advanced by the 18th century

penal reformers; rather, that practices of penal incarceration, which emerged at the end of the 18th century, signified the successful diffusion of a particular type of power, namely *discipline*. Nevertheless, in order to be able to make any attempt at normalising or transforming offender-inmates, earlier knowledge is required, e.g. knowledge of the offender's life and of the crime committed, and knowledge of the circumstances. Thus, the prison became a site within which the knowledge was constituted: a scientific knowledge of the offence and of the offender.

Foucault suggests that attention should be turned to the 'productivity' of the prison, to its effects, and to the positive strategical uses to which its success have been put. The practice of imprisonment is thereby recognised as being a mechanism for differentiating offences rather than eliminating them; for establishing and reproducing a 'politically and economically less dangerous type' of illegality (delinquency). This form of illegality is 'advantageous' in several respects (Foucault 1977:276–282), but above all because it serves to provide a rational justification for the extension of methods of surveillance throughout the social body.

The effect of prison is therefore not that of a *failure* to reduce the number of illegal offences committed. On the contrary, it may be considered a *success* as far as the form of illegality it produces has been proven useful, that is to say there has been a strategic utilisation of what had been experienced as a drawback. The formulation of the dichotomy of the prison has prompted two related questions: one concerning the possibility of a latent functionalist tendency at play in Foucault's analysis; the other involving the conception of strategy.

3.10 Regulation of Society

The concept of social control in a society refers to all those actions of socialisation; the formal and informal application of social sanctions and other practices in a society intended to encourage conformity and discourage deviance from prevailing social norms. Therefore, Foucault asks us to “seek the reason for a formidable efficiency of prison. But one thing may be noted at the outset: the penal justice defined in the 18th century by reformers traced two possible but divergent lines of objectification of the criminal: the first was the series of monsters, moral or political, who had fallen outside the social pact; the second was that of the juridical subject rehabilitated by punishment” (Foucault, 1977:256).

He traces the emergence of population as a phenomenon, and as a problem for government, through a chain of complex processes. Specifically, the regulation of population represents an issue of security, as it involves the right of the body to ensure, maintain, or develop its life and therefore it ultimately becomes an issue of government. When this phenomenon of population emerged with the demographic expansion of the 18th century as a possible object of government, it became apparent that the effects of population were not reducible to the unit of the family and, in consequence, the conception of the family as a model for government was displaced by that of the family as an instrument of government. This complex new form of power, described by Foucault as **governmentality**, is a product of several developments including a change in the meaning of *economy*.

At the same time various discourses on government took the form of a science of police, the latter being a reference to the development of the promotion of happiness or the public good, rather than to the suppression of disorder, the surveillance of public space or the protection of private property – which is its contemporary refer-

ence. Police regulations mark the establishment of the power of an administration over the social body, a beginning that constituted the population as both a target for the exercise of power and as an object for a set of knowledge around such sites as police, prison, and the family that we encounter in the orderly network of the social arena (Pasquino 1978:52).

Although my point of departure for the theoretical discussion of punishment has been philosophical, it is evident that its popularity among philosophers is due to the general societal concern. Due to public anxiety over crime and punishment, the wave to find an answer to the problem has occupied philosophers; not for reasons of civic-mindedness, but because the problem itself has much deeper implications for us as civilised beings. The problem of punishment has its roots in almost every field of human endeavour. As we punish the malefactor, so we exercise one of the fundamental faculties of man – **justice**.

The shift in emphasis while trying to justify punishment clearly shows that its image has been tarnished by a series of exposes. The initial discovery has shown that rehabilitation has frequently been a cover for neglect. People put into incarceration in the *name* of social reform have been left there interminably because they were being cured. The ugly fact is that few states have adequate facilities to implement a rehabilitation program at the level which their policy insists on under the terms of confinement.

4. Data and Methods

4.1 Data

My research data is based both on qualitative and quantitative approaches. The qualitative data comes from an ethnographic study of prison life taken from the incarcerated group's point of view and this is drawn from my one year participant observation in Huit-tinen open prison in Finland. I have also used data on stigma, drawn from analyses of some of the ex-convicts' lives outside of prison; this qualitative data is from "police and citizens in actual encounters", which I collected over a twelve month period by working as a door-man in a nightclub in the city of Tampere in the year 2002. This enabled me to observe the police on nightly patrols in actual encounters with citizens, particularly those with past criminal records.

My quantitative data is based on a questionnaire survey which was dispatched randomly in 2004 to 350 citizens in five major cities in Finland. The survey is a representative sample of the five most populated cities, which are regionally the areas experiencing high job-growth rates, and thereby attracting migration from the surrounding areas. These cities also have the greatest numbers of foreign migrants. The four tables below illustrate the dynamics of the respondents in terms of ages, sex, educational background and occupation. The ages of the respondents are from 25 to 70 years old, and the response rate was 60.3% (N=211).

Table 1.
Respondent's Age

N	Valid Missing	211 0
Mean		47
Median		49
The youngest respondent age		25
The oldest respondent age		70

In terms of gender, the response was highest among women (58.8%), as seen in the table below:

Table 2.
Respondent's Sex

	Frequency	Percent	Valid Percent	Cumulative Percent
Male	87	41,2	41,2	41,2
Female	124	58,8	58,8	100,0
Total	211	100,0	100,0	

The rate of response from those with a university degree was 31%, followed by those with comprehensive schooling.

The upper and lower level white-collar workers combined makes up the highest group of respondents at 37.6%, in terms of occupation background as seen in the table below. This trend was followed by blue-collar workers with a response rate of 21%. These groups are

Table 3.
Respondent's Educational Background

Primary school	10,0
Civic school	12,4
Comprehensive school	27,6
Matriculation examination	19,0
University degree	31,0
Total %	100,0
Total N	210

also those that have acquired properties worth protecting. From the survey, 85% in these groups are willing to pay extra tax to the government if necessary in order to improve the existing system of correcting crime.

Table 4.
Respondent's Occupation

Small entrepreneur	2,9
Entrepreneur	3,3
Upper-level white-collar worker	18,1
Lower-level white-collar worker	19,5
Blue-collar worker	21,0
Housewife	1,9
Student	8,6
Unemployed	8,1
Pensioner	16,7
Total %	100
Total N	210

The white- and blue-collar workers combined makes up a huge percentage in the respondents chart, and these groups are very active in influencing policy making in Finland. This high response can be useful when explaining the exceptionally expert-oriented nature of Finnish criminal policies. In fact, several Finnish Ministers of Justice during the 1970s and 1980s had direct contact with research work on the above groups; indeed one of them, Inkeri Anttila, was a professor of criminal law and the director of the National Research Institute of Legal Policy at the time of her appointment as a Minister.

4.2 Research Methods

As the prison social world is naturally extremely restricted, gaining unlimited access to inmates' day-to-day lives proves to be very problematic for researches. Nevertheless, social scientists have succeeded in collecting data in prisons with some regularity, even if under closely controlled conditions (Farkas 1992). Zwerman and Gardener (1986) express their concern that control in the form of attempts to define the nature of studies or by demanding access to research data may become a means for the state to interfere with the research process and final conclusions. Silberman argues that beyond these obstacles presented to the researchers are those impediments presented by the prison social world itself (Silberman 1995:4). Inmates may be concerned about confidentiality regarding their own prison misconduct, or that the findings might be used to justify more restrictive policies. The isolation of the prison world, where cultural values and norms are likely to differ from those of the researcher, may cause serious misunderstandings that the inmates would rather avoid and therefore they might distort the true picture of prison reality.

In light of these formal and informal restrictions, selective and time-limited methods such as survey research are believed to allow for

the efficient collection of isolated pieces of information from large numbers of inmates or staff (see Wheeler 1961). Although these methods have contributed valuable knowledge about prisons, they also suffer from serious limitations, including a tendency to focus primarily on issues of administrative concern (Fleisher 1989). Moreover, the preconceptualised and prestructured nature of survey data collection instruments is not conducive to creating an understanding of daily life within prisons, and may even lead to significant misrepresentation (Irwin 1985).

To achieve a thorough understanding of how inmates (or staff) interpret the prison world and act on their interpretations, it is essential for researchers to interact directly with them. This was the part I undertook: to observe the inmates and talk with them repeatedly over an extended period of time and within the natural setting of the prison itself. Participant observation, in one form or another, has thus been the most fruitful approach for the development of knowledge about prisons, even though the kind of access necessary for true participant observation is extraordinarily difficult to secure. While expressing reservations about the neutrality of the method, Gresham Sykes (1958:136) concluded that participant observation “leads to a far more detailed view of either the captives or captors than is possible by other means”. This method of research has ultimately shaped my research work, which originated when I was sentenced to Huittinen open prison here in Finland, making it possible for me to observe the inmates from the perspective of a genuine insider.

Participant observation research in prisons (or in other hidden or highly stratified social worlds) raises the issue of whose viewpoints will be represented in the resulting ethnographic analysis, and therefore the question of the specific participant observation role used by the researcher to discover the “subjective meaning-contexts” (Schutz 1967) of social world participants. In the prison world, to be identified to staff and inmates as a research student is hardly an

assurance of intimate or unbiased information. In his work on this subject, Jacobs (1977:215–229) describes the suspicions and hostilities he encountered during the early phases of his study of Stateville prison, and the effect these difficulties had on the information he received. Naturally, academic roles are not fully comprehended by prison inmates, and since anyone whose role is not clearly defined is automatically suspect, prison researchers often have to assume alternative roles. Jacobs, for example, subsequently came to be viewed in the more acceptable role of a prison advocate, although this role also affected both the nature and the amount of information he received. Clemmer (1958) and Fleisher (1989) conducted their observations while performing staff roles, a strategy that provides direct access to both inmates and staff but nonetheless inhibits the acquisition of personal information from inmates. Marquardt (1986), on the other hand, worked as a prison guard while conducting his research on guards; although this strategy led to role conflict and other difficulties, it did furnish him with first-hand knowledge of the guards' interpretations of the prison world.

Notwithstanding, a researcher who performs full-time staff responsibilities or who manages to devote an extensive amount of time to research activities, cannot fully come to comprehend "what it means to be an inmate in the prison". Like all prison employees, a researcher has greater control over his or her actions within the prison and retains the ultimate freedom of being able to leave the institution at will. Therefore, a quantity of research on prison popularly accepted as having been conducted using the participant observation method, should actually be classified as having been performed from the position of an "outside observer". A more comprehensive access to the inmate social world requires a stronger and more direct affiliation to that world. Among the most remarkable prison accounts are those provided by John Irwin (1970), who served his prison sentence before pursuing a graduate degree and later returned to the prison as a participant observer. Irwin's prior

experience as an inmate unquestionably contributed to his ability to provide an insider's perspective on the prison world. In contrast to Irwin's research, my observation took place only whilst I was serving time. After my sentence was passed, I suspended serving my sentence for the duration of one year due to my then on-going studies. During this time I was able to prepare the type of questions I wanted answered for my work and to decide on which aspects of life in prison I should focus my observation. Although prior to my going in my knowledge of the prison world was limited, during the eleven months that I spent inside I found myself in an ideal position to document the process through which new inmates experientially discover prison reality. My dual role as inmate and academic provides an advantageous viewpoint for a political scientist to analyse the prison experience.

4.3 A General Perspective of Convict Criminology

Convict criminology¹ deals primarily with the recently highly popularised research strategy of participant observation, which is based on the assumption that those who serve time themselves or work within the institution are best equipped to provide or analyse the "inside perspective" of the prison. As William H. Kuenning put it in his "Letter to a Penologist":

"If you want to understand the prison system I suggest that you go out and commit a "crime" – something like robbing a bank, which might be a commendable thing to do from a moral standpoint, and to which there is attached a fairly strong social stigma. Thus you wouldn't miss the full flavour of

1 See Ross, Jeffrey Ian & Stephen C. Richards (2002). *Convict Criminology*. Belmont, CA: Wadsworth Publishing.

the experience of going through the court and the prison... You have my best wishes that you'll turn up something of value. I do think, though, that you ought to rob a bank". (Holley Cantine & Dachine Rainer, 2001: 136).²

The existing literature which illustrates an "inside perspective" on crime and convicts can be tabulated into six groups: edited anthologies by prison reform activists (e.g., Rosenblatt: 1996), journalists' accounts of life inside prison (e.g., Conover 2000), prison journalism written by convicts in prison journals (e.g., the free world publications such as *The Journal of Prisoners on Prisons*), edited collections of authentic convict writing (e.g., Martin 1995; Franklin 1998; Leder 1999; Chevigny 2000), sole-authored books or edited works by academics that may employ observation and/or interviews of criminal offenders or convicts (e.g., May 2000), and lastly, the monographs written by convicts about life in prison (e.g., Chessman 1957; Cleaver 1968). The first four groups, from convicts, activists, journalists and academic editors, write "stories" or investigative reports rarely connecting their discussion to the debates found in the scholarly literature. The fifth collection of authors are academics, who while they support their research with excerpts from interviews with prisoners and who may have been at a time employed inside prisons, are still writing from a privileged perspective when compared to the lived experience of convicts. The last mentioned group write authentic and compelling accounts of prison life, with many of them firmly grounded within the scope of academic research (e.g., Richards and Jones 2000).

2 That comment was a response to a questionnaire requesting his view on prison conditions by William H. Kuenning in "Letter to a Penologist", in *Prison Etiquette*.

Unfortunately, such research accounts by academics, who themselves have served prison time, are rare and underutilized. This issue was highlighted by John Irwin, the most prominent American exconvict criminologist, who wished to assemble a group of exconvict scholars to write criminology from a convict's perspective. Over the last 40 years it has proven impossible as there has been a very limited number of exconvicts that held academic positions. The change in circumstances in the US, the drug war, as well as the dramatic increase in the American prison population over the last two decades, has finally allowed for such a group to be organised. Clearly, the use of this type of ethnographic methods is not new in the field of penology or corrections (see Sutherland 1937; Sykes 1956; 1958; Sykes and Messinger, 1960; Jacobs 1977; Lombardo 1989). Already in the 1930s Clemmer (1958), while employed as a sociologist on the prison mental health staff of Menard Penitentiary (Illinois), collected extensive information on the social system of the convicts.

4.4 Huittinen Open Prison: Facilities.

My one year spent in the Satakunta³ prison institution enabled me to be a participant-observer of prison life and to describe it in great detail: the rules and regulations governing it as well as the reality of daily existence. As a rule, all open prisons in Finland are drug-free institutions. Every inmate signs a self-obligation in which they agree to abstain from the use of drugs (including drugs, alcohol, other intoxicating substances, anabolic steroids and medicines without

3 The Satakunta prison institution comprises of two open units, Huittinen (where I was placed) and Köyliö.

a doctoral prescription)⁴, maintain a drug-free life, and participate in activities supporting life without them. Every inmate is subject to random drug checks and should be ready to give a urine, saliva, or breath specimen upon demand. Refusing to give a specimen, manipulating it, or failing to provide a negative specimen leads to punishment (for instance the annulment of transfers from closed to open units). The obligation to live a drug-free life also applies to the time spent outside the prison, for instance during work or studies performed outside the prison premises, and while away on leave.

When entering the prison, all new inmates have their fears and prejudices. Upon arrival, inmates are processed and taken to the medical personnel for a drug check, after which they are supplied with fresh beddings and a key to their cell.⁵ Later, they are assigned to one of the guards, who plays the role of the inmate's mentor. His main responsibility is to assist the inmate with any problem he might have in settling down into the system and help to find a solution to any family or study problems which might arise due to the inmate's incarceration.

Within the first weeks, an inmate's prior perceptions of prison as a place where one remains locked up at all times with highly limited or no access to the outside world, is refuted. When compared to most Western prisons, such as the one described by Jones and Schmid (2000) in chapter two of their book *Doing Time*, Huittinen prison is a highly modern institution. Like all other Finnish penal institutions, it professes the ideology of normality, aiming to ensure that the outside reality is closely reflected in the organisation of the prison. For

4 Signing the self-obligation is imperative for serving time in open prison as stated in the law on implementing punishment, 2 chapter, § 9 c.

5 Unlike closed prisons, in open prisons all inmates keep keys to their cell rooms, so they may lock their doors at their own will. The guards have the master key to open all cells at any time.

example, the prison library is equipped with a computer which is made available to inmates for the purpose of writing letters or filling legal forms. The institution orders various newspapers to keep inmates up to date with the events in the outside world. Inmates may purchase soft drinks from a vending machine. They may also decide not to eat the food prepared by the main kitchen, but cook for themselves in the floor kitchens. They can exercise in the all-purpose gym hall, enjoy a wood carving workshop and once a week canteen services where they can buy as well as order articles from the community. The inmates may attend a church service on Sundays conducted by the prison's cleric. Various outings are organised during the time free from work duty by the study officer, who acts on suggestions and according to conditions specified by the governor of the prison. Suggestions concerning trips may also be made by the prisoners' committee. The trips often include places like a spa, cinema, horse-racing track or bowling alley, etc. Prisoners on sick leave may not participate in these free-time activities for the duration of their sick leave.

Close relatives and acquaintances can visit prisoners at weekends and each visit can last up to 45 minutes per inmate, during which any physical contact is absolutely prohibited. Inmates may apply for the right to a family meeting, which may be granted for a prisoner's spouse, cohabitant, or for the next of kin. Such visits are conducted in a specially reserved room and the ban on physical contact does not apply.

4.5 Time: Programs and Services

During admittance to the prison, new inmates receive a brochure containing a formal explanation of the rules and regulations they are required to follow and the general procedures of the institutions. It specifies daily routines as tabulated below:

Daily Program	Weekdays	Saturdays	Sundays
Wake-up time	06.00	08.00	08.00
Morning Inspection (Head count)	06.05	08.05	08.05
Morning Activities [= washing, etc.]	06.05 – 06.55	08.05 – 09.00	08.05 – 09.00
Morning distribution of medications	06.30 – 06.45	08.30 – 08.40	08.30 – 08.40
Breakfast	06.30 – 06.50	08.30 – 08.50	08.30 – 08.50
Cloakroom open		06.45	
Leaving for work	06.50 (back gate closes at 07.00)		
Morning working hours	07.00 – 11.00		
Physical exercise outdoors for unassigned prisoners	07.45 – 08.45		
Change of laundry, (on Friday)	15.30 – 16.00		
Possibility to exercise outside the fence – Specified area only	09.00 – 10.00	09.00 – 10.00	
Lunch	11.00 – 11.30		
Consultation hour with the nurse and other officials	11.00 – 12.00		
Cloakroom open	11.45 – 12.00		
Back to work	11.50		

As can be seen above, each day begins and ends with the inspection (head count), which not only ensures that all inmates are present, but that they are in a healthy condition. For the duration of the inspection, the prisoner has to remain in his cell and has to be in a standing position once the guard enters the cell. Additional inspections can also be carried out at the staff's discretion. **One**

Daily Program	Weekdays	Saturdays	Sundays
Afternoon working hours Friday	12.00 – 16.00 12.00 – 14.15		
Sauna Wednesday Saturday	16.15 – 20.30	16.15 – 20.30	
Visitation (by families and friends)		10.30 – 13.30	10.30 – 13.30
Dinner Friday	16.05 – 16.30 15.00	14.15 – 14.45	14.15 – 14.45
Weekly house cleaning, (Friday)	15.30 – 20.00		
Outdoor exercise & leisure recreations within the prison yard	16.30 – 21.00	10.00 – 21.00	10.00 – 21.00
Possibility to exercise outside the fence – Specified area only	18.00 – 20.00	16.00 – 18.00	16.00 – 18.00
Evening distribution of medications	21.00 – 21.10	21.00 – 21.10	21.00 – 21.10
Evening Inspection (Head count)	21.15	21.15	21.15
Reading room, washroom, telephones and the use of the floor kitchens end. Movements are restricted to one's floor and to the rooftop for smoking.	22.30	22.30	22.30
Smoking outside ends	24.00	24.00	24.00
Curfew Inmates must not leave their cells. Fridays and holidays	23.00 24.00	24.00	24.00

is not allowed to leave the cell until the guard has inspected the whole floor.

Inmates may be engaged in working, studying or rehabilitation activities. Working hours are Mondays – Thursdays 07:00–16:00 and Fridays 07:00–14:45, amounting to 38h 15 minutes working time per

week. The areas of work available within the premises of the institution typically include the metal industry, production of construction elements and traffic signs, agriculture, sewing, and activities related to the maintenance of the prison. Prisoners receive a salary of €3.63–4.41 per hour according to their professionalism. Hard working prisoners may receive *good man's extra pay* of up to 20 % of their basic rate. Inmates may enrol in rotationally offered in-prison courses in the metal and building industry, automatic data processing, and other vocational studies organised at the Huittinen department.

Upon agreement, inmates may be permitted to continue their previous or new employment in society⁶ or their studies at education facilities outside the prison, e.g. graduate students. The permissions to work outside the prison are prepared by social workers, and a permit to study by the inmate's supervisor; both are later confirmed and issued by the governor of the prison. If no other directives are given, prisoners waiting for a job placement are required to participate in the organised physical exercise sessions starting every morning at 7:45. Studying inmates receive € 1,28 per hour for students, and prisoners in rehabilitation € 0,84. The income serves to pay for accommodation and upkeep, as separately regulated.

Penal institutions provide medical care within the institution. A nurse is available between 11–12 am every weekday and the doctor may see ailing inmates once a week. If needed, an appointment with the doctor may be booked on any other day of the week with the nurse's recommendation. The inmates can also make an appointment with specialists, such as a dentist or optician, through the nurse. No medicine can be kept by the inmates in their cells without the nurse's

6 According to the law on the implementation of punishment (612/1974, chapter 3, § 6, paragraph 2) a prisoner considered as trustworthy is allowed to perform work in freedom (under appropriate supervision) with the permission of the Ministry of Justice or – according to the Ministry's rules – of the head of the penal institution.

or doctor's issued permission about which the guards need to be informed. Pills are distributed in the prison polyclinic at 6:30–6:45 am on working days, 8:30–8:40 am on weekends, and every evening at 9:00–9:10 pm. Prisoners feeling unwell need to notify the polyclinic at 6:30–6:45 am on weekdays, after which they remain in their cell until it is time for them to see the nurse at 8:05 am. The nurse evaluates the inmate's ability to work and the possible need for medication, as well as deciding whether the inmate should be discharged from his work duty. Reporting sick without a reason leads to punishment. Inmates diagnosed as too sick to perform their work duty are not allowed to take part in any excursions outside the institution or any outdoor activities. Those who report sick on a Friday are considered sick for the duration of the weekend, and the above mentioned restrictions apply to him throughout Saturday and Sunday.

4.6 The Paradox of Daily Routine

The analysis of the daily routine in this chapter shows how the inmates' time inside is modified by the institution to fit the working life on the outside. New inmates, after a period of time, shift their focus from the threat of unpredictable violence towards the invariability of the prison routine. Endurance and preparation for a better life on the outside become their primary problem. Fending off boredom may be the immediate challenge of their day-to-day life but survival remains their underlying concern.

Inmates often speak of a kind of psychological tension that emanates from prison life, because of the monotony of daily routine and because the inmates have virtually no control over even the most minute details of their environment. An extended passage from one of my interviews describes the prevailing feeling of boredom within the institution:

...I honestly would say that I am sick of this fucking place and some of the people here smile all the time like this place is better than the life outside. For me, it is really difficult to see the same people day after day with no future whatsoever. I have heard every story from them a number of times and there is nothing else to talk about. Also, there are groups of them that I just can't tolerate. ...Either they stink from not showering, or they have terrible manners, or maybe they just have big mouths. Even with your partners, sometimes they have annoying little bastards that just get to you at times...

In response to this tension inmates in open prison engage in various diversionary activities outside the official, monotonous daily routine, like applying for vocational studies, enrolling onto any extra rehabilitative programs available etc. The paradox of an unchanging daily routine within an environment that remains fundamentally unpredictable reflects the new inmates' existential reality at the time of their incarceration. Like more experienced prisoners, they believe that their principal problem of serving time is enduring the boredom that results from an invariant prison routine. Immediately beneath this problem, however, is the belief that on any given day they might still walk into a violent confrontation with other inmates. In this sense, new inmates remain marginal in the prison world even when they have constructed an insider's orientation to it.

For some inmates, though the boredom of daily routine can be addressed by involving oneself in extra curricular activities, the pains of coping with the daily routine are greatest after weekend visiting hours. Inmates share a tacit belief that preoccupation with the outside world can make their sentences more difficult to bear; most believe that they can serve their sentence easier without the infringement of a world to which they no longer actively belong. As an inmate with a short sentence for drunk-driving explained to me one Saturday after the visiting hour:

When they [the inmate's visitors] left, I felt depressed... I was so happy when they came and I got depressed when they left. Now I am beginning to wonder if it is a good idea to keep on having weekend visitors. Maybe I should just forget that there is an outside world so as to be able to concentrate on my studies...

Such inmates find it hard to adjust to the prison daily routine as they keep counting the months to their release while those with longer sentences accept the realities of prison life better by filling their time with the rehabilitative programs available to them.

New inmates view the psychological tension of imprisonment as a personal problem that originates from a homogeneous prison routine. However, most acknowledge that other inmates experience these phenomena as well. If all inmates are subject to this kind of tension, though at varying levels of intensity, then casual interactions with other inmates, essentially similar to those that take place every day on the outside, can suddenly erupt into flared tempers or impulsive behaviours.

The resigned **acceptance** of a strictly controlled daily schedule as the condition of one's life represents a viewpoint on imprisonment that is fundamentally different from that of the inmates' pre-prison imagery. The effects of the prison routine (Cohen and Taylor 1972; Clemmer 1958) are most often attributed to long-term prisoners (of whom there are very few in Finland), who without reservations adapt totally to the routine as a means of forgetting life outside of prison. This effect of "prisonisation" is also exhibited by a number of first-time inmates within the first few months of their imprisonment. Some of these coping methods are visible, behavioural manifestations: inmates take on a slower walk in circles, known in Finnish jails as the "jailhouse walking to nowhere", and their language increasingly includes prison jargon and nastiness.

A few of the new inmates attempt to counter their weariness with intensive participation in athletics, or even religion, but many succumb to it and spend all of their spare time watching television or lying in their cells. Typically, inmates experience a corresponding emotional apathy about the outside world and their own circumstances and many inmates stop reading newspapers and restrict their outside contacts.

4.7 Differential Orientation to Prison

What is life in prison like? Most law abiding citizens have little idea what life behind bars looks like. Even though some of us may know someone who is doing time, or who works inside the prison walls, most people lack a realistic picture of prison life. Much of what we think and know is based on television or motion picture depictions of prison. While in the 1990s, with movies such as *Oz* and *Dead Man Walking*, those portrayals are taking a step closer to reality, the media continues to exploit the most unseemly, graphic, or horrific aspects of incarceration and distorts the true nature of life behind bars.

During the research conducted throughout my time in Huittinen, I observed that the depiction of the reality of life in Finnish prisons varies with different prisoners, with the inmate's discussion of the initial response to imprisonment indicative of his basic orientation to prison. While, understandably, the articulation of the reactions differed, the comments could be divided into two orientations: the **rejection** and the **acceptance** of imprisonment.

The reality of imprisonment and of oneself in the status of prisoner dominated answers expressing the first attitude, the initial *rejection of imprisonment*. A good example of such a mind-set is verbalised by one prisoner who said ...*the first days were as if I was in a trance*.

(...) *It was close to the end of the world.*⁷ Other inmates expressed acceptance of the reality, however unwilling it was. The following responses by interviewees illustrate the theme: *When I came through the gate, I said to myself: "is this a prison?" All the trees and flowers – I couldn't believe it. It looked like a college with buildings, the trees, and all the flowers.* Another prisoner commented that *"As prison go, it's not bad (...) I didn't feel a thing"*. Some inmates might partially accept imprisonment as "just one of those things," but at the same time reject the experience of imprisonment itself. These rejections usually concern either fellow-inmates or staff members as seen in assertions such as: *I hated the people there. I was scared and green, the old-timers talk about me being young and you know what I mean.* By examining the replies, a clear pattern emerges that distinguishes petty criminals from career criminals and supports the hypothesis that basic orientation to prison varies according to normative background.

60 percent of those interviewed were regarded as career criminals, who seemed to be relatively undisturbed by their incarceration and viewed prison as an occupational hazard. However, people who do not take crime as their profession find it difficult to orient themselves to incarceration, as can be seen in the case of a young man I interviewed who at the time of the interview was serving his second prison sentence. After his first misdemeanour he was sentenced for a non-violent crime (breaking and entering) to a minimum-security prison. Though he had no prior history of violence, he behaved in an obnoxious and rebellious way towards the prison authorities. The guards knew only one way to respond to his constant breaking of petty rules and regulations, and they kept punishing him more and more severely with the assumption that once he was punished enough he would finally obey the rules. Nevertheless, not only had

⁷ As explained in the introduction, the wording of all quotations will be left unedited in order to preserve the original language of the interviewees.

punishment not rendered this man less violent, but it would seem to have increased his level of aggression. As one of the correctional officers recounted, *you can lock a dog in a closet for a month, but I don't want to be the one who's standing there when you let him out.*

Another instance of a difficult adjustment case was provided during my observational work by the prison study officer, who postulated the need for extensive rehabilitation programmes and for various alternatives to prison to be available. He narrated a story of one inmate who was convicted of killing two people. At the institution he spent the most part of two years in solitary confinement due to his extremely aggressive behaviour towards the prison officers. After he had seriously harmed one of the guards, he was charged with assault and battery in an outside court. During his trial, his lawyer requested the court to conduct a psychiatric evaluation of the defendant. Upon examination it was discovered that the prisoner was suffering from hallucinations, delusions, and showing other psychotic symptoms of which he had no prior history and which, presumably, were precipitated by the conditions of sensory deprivation and social isolation. This phenomenon of *stir-crazy* has been observed to be most common in closed institutions and has been attributed to sensory deprivation, especially with those serving long sentences and in closed environments.

4.8 Transferring to Open Prison from Closed Prison

As explained in chapter 2, open prison facilities are intended to help prisoners prepare for their transition to the outside world. All prisoners, including those with life-sentences, are transferred to participate in the rehabilitating programs available in open prison facilities. Inmates with long sentences who are towards the end of their sentence must apply for a transfer to these facilities, and their acceptance depends mutually on the crime for which they were

sentenced. Acceptance of a prisoner's application and the timing of his transfer also depend on the available space at the open institution. On arrival to any open institution, the transferred inmates are subject to drug screening and are allocated to job assignments. To the inmates in closed prisons, the idea of a facility without bars and a program that not only offers greater means of income earning and visiting privileges, but also family stay-over visits has obvious appeal to someone who is only months away from completing his sentence. When a transfer is approved, the inmate's optimism remains guarded as the prison world is unpredictable, and the inmates know that prison authorities may revoke or postpone their decision at any point due to numerous reasons, like possession illegal drugs, fighting, breaking the existing prison rules, etc.

On arrival at an open prison, inmates find themselves adjusting to the lower security and less institutional living arrangements of abundant personal privacy: having the key to your cell, being able to cook for yourself any time you want, and taking walks in the evenings without guards hovering over you. This freedom of movement inside and outside of the residential building is within the restricted territory, where the staffs are in a better position to observe and respond to acts such as not complying with the institution set rules, including verbal aggression and minor challenges to authority. Along with all the freedom and privacy, the inmates are subject to frequent informal head counts as well as the formal counts of the routine prison day.

5. The Data on Orientation Processes

5.1 Preprison Orientation

...When I knew that I was going in, I felt horrible, thinking that a fellow citizen can remove me from my house, detain me, pass judgement on my actions, and forcibly deprive me of my liberty for such time as they see fit. It was scary just thinking about it, then I got inside; all of a sudden, it felt like the light...the sun, was gone. The door shuts, and all you got around you are scary people who you feel are willing to harm you. The only thing I could think about it that this is a nightmare come true. Furthermore, their power issues from the authority granted to them by a set of rules, which bind you whether you agree with them and respect their terms or not. Also, in what way does someone's forced confinement constitute payment?...

These are the words of a first time inmate, who shared the cell with me for the first two months of his incarceration, who recalled his ordeals from his arrest to his arrival at prison on the first day of his sentence. Whether you are sent to an open or closed prison, most first time inmates exhibit the same feelings of uncertainty once they have walked into the prison and the gates have shut behind them. Knowing that you are now out of your known social world and entering a new, unfamiliar one, with its own social organization and culture is frightening. And, at least for some time, your experience will be *nightmare come true*. The man interviewed had not viewed a prison "up close" before, but he had devoted a considerable amount of time building an image of what a prison would be like.

Prisons are part of our shared social landscape. The idea of prison is present in our vocabulary, and therefore in our lives. The irrefutable fact is that we all know that prisons exist and why they exist. Most of us know where the closest prison is located, and we have probably driven past a prison wall. We use *prison* as a metaphor for our lives or those of other people. We have viewed films or television shows about prisons. We have undoubtedly glanced at a newspaper article about correctional policies or prison incidents. We are familiar with prisons as part of our general cultural awareness of our own society.

Surely our knowledge of prisons is not very detailed. We cannot really know what it means to be confined to a prison for days, months or years. And even if we have visited a prison, know someone who works in a prison or someone who has served a prison sentence, we cannot really know what kind of people prisoners are. But we do, however, have some idea of what prisons are like and these ideas enable us to have rhetoric discussions about prisons with others. For example, we have arguments that open prisons are too soft on criminals or that inmates become hardened criminals within prisons; we assert that existing prisons should be improved, that new prisons should be constructed or that too much money is already being spent on prisons; we express dissatisfaction that judges are becoming too compassionate with convicts.

How do people develop these prison images? They are not derived from any single source, but from a limited number of sources, some of which are fictional accounts: novels, films, and television entertainment programs that unquestionably shape our ideas about prison. We know that the events depicted in fictional accounts may not be entirely precise representations of what takes place in real prisons, yet we do not know specifically how they differ from the reality. This distinction between fiction and reality becomes additionally clouded in films or television programs that are *dramatisations* of actual events. Of course we do not try to evaluate the accuracy

of every film we see; nor do we derive our imagery from any single representation. Even so, it is possible to formulate images of prisons and prisoners on the basis of fictional accounts alone.

Journalistic accounts are another, more direct, source of our prison images. Many of these are mundane reports on political appointments, correctional spending, prison overcrowding, the construction of new facilities, or policy analyses. Periodically, we encounter more sensational stories on prison incidents, which typically present prison life as an anarchical world of random violence and heinous atrocities. Prisoners, by extension, are portrayed as violent men capable of immense cruelty to their fellow inmates and to the world at large. Regardless of any form of explanations, the underlying tacit image is usually the same: a prison is a separate world, segregated from the larger society for the confinement of violent criminals.

It is from these kinds of fictional and journalistic sources that we create our cultural imagery of prison as a distant world of indiscriminate violence. This imagery is disturbing in its inhumanity, in locating this inhumanity outside the boundaries of our own social world. Though we may be horrified by some of the stories we see about prison life, we are rarely surprised by them because they fit our imagery. Whilst we are aware that our actual knowledge of the prison world may be highly limited, it is nonetheless adequate for our needs, which are also quite limited. On the other hand, we would imagine the same level of knowledge to be inadequate for someone who must directly participated in the prison world, for example for the man we quoted at the beginning of this chapter. As he had never been to prison before and because he most probably had never associated with people who had been to prison, he initially crossed the border between the outside world and the prison world with a personalized and intensified version of the same prison imagery that most of us hold. This level of knowledge was insufficient for his needs, which is why he pronounced his border crossing as a **nightmare come true**.

5.2 Prior Expectations to Re-Entering Free Society: Birth of Stigma

Most inmates while preparing to re-enter the society upon completion of their sentence share the hope of starting their life free of criminal intentions. During the preparations for the outside world, discussions are centred on not coming back to the prison, as expressed by one inmate:

I was a fool to have got myself into this mess, now I know the shame I have brought on my family by being sent to prison, I hope they will forgive me now that I have served the time and learnt my lesson. I have promised myself never to go astray. I will be responsible in future by seeking for a real job, keeping my nose clean and taking care of my family.

This perception can also be seen in the questionnaire for inmates in Appendix 2, in response to the question “How likely is it that you will commit crime again after their release”, 90 percent of the respondents answered “very unlikely”. These good intentions of becoming a productive member of the society are frequently destroyed by the social reality of the outside world due to stigmatisation. Most offenders upon their release experience the reality of life after incarceration, where they might encounter police monitoring, problems in securing housing accommodation and difficulties finding employment.

A large number of factors related to the status and the role of the citizen, the officer, the department's policies, and the system of command and control influence the conduct of police and citizens in their encounters. While it is commonly known that all of these factors and others related to the specific form of the encounter seem to influence both the behaviour during, and the outcome of, the police-citizen encounter, there is a shortage in available empirical studies that would permit one to pronounce how and to what extent

they shape the behaviour of the involved parties and to consider the consequences for the system of law and order.

My basic interest in this social reality observation is whether the police actions have such an effect on people as to make them stop committing crimes, or change their ways of living. In other words, I wish to determine whether an ex-convict is socially acceptable and if he himself feels to be a part of the society. A person who is socially accepted, or has many stakes in conformity, might see that committing a second crime is something that is not tolerated by society. Unfortunately, being a “criminal” may become a person’s primary identity, and the way they are recognised by the society. Their life roles as a husband or a wife, parent, and worker remain overlooked and ignored. Though public pressure may scare or shame a person into conformity, it is even more likely to push the ex-convict until they forfeit all efforts to re-join general society.

5.3 Stigma as Social Reality

To understand the dynamics of police-citizen encounters with reference to ex-convicts, one can certainly employ the labelling theory for some explanations. This theory focuses on reactions of people and the subsequent effects of those reactions which create deviance. Once it becomes known that a person has engaged in deviant acts, he or she is then segregated from society and labelled “whore”, “thief”, “abuser”, “junkie”, and the like. Becker¹ notes that this process of segregation through branding creates ‘outsiders’ who are ostracised from society, and who then begin to associate with other individuals who have also been cast out. When a grow-

¹ Labelling theory is associated with Howard Becket and was introduced in 1963 in his book “Outsiders: Studies in the Sociology of Deviance”. He stipulated that the deviant is one to whom that label has successfully been applied.

ing number of people begin to think of these individuals as deviants, the deviant reacts to such a response by continuing to engage in the behaviour society now expects from them.

To analyse some of the problems of the stigmatizing and labelling practices of the police, I will reflect on four of my observations of the police and citizens in actual encounters I observed when working as a doorman in a nightclub in the city of Tampere during a period of twelve months in the year 2002.

Case study # 1.

One Saturday evening a car pulled over by the club. As the driver was about to get out of the car, two unmarked police cars pulled over, took the driver out, spoke with him for some time and then gave him a strip search by the car, after which the police proceeded to perform a thorough search of his vehicle. It lasted approximately forty-five minutes; when nothing incriminating was found, they left him with a "have a nice evening" farewell. The suspect came to the door visibly depressed and asked if he could sit down for some time to cool off since he was shaking with fury. When I asked him why he had been strip searched, he said that the police thought that he was going to perform some illegal act. He added that since he came out of prison six months ago he had been subjected to constant street searches and that his life was being reduced to constant harassment by the very same officers. He also pointed out that because of the unceasing police actions towards him none of his friends were willing to be seen in his company, which led to him living a lonely life.

Case study # 2.

At another time the police approached me at the door and showed me pictures of two men asking me if I had seen them. After giving a negative answer to their inquiry I asked them what those men had done. The senior police officer replied

that they were ex-convicts and that "they are sure that they are up to no good in the society" and that they were "just keeping an eye on them so that they can be returned to the best place for them, which is the prison".

Case study # 3.

On another occasion four people were sitting at the bar drinking; as I found out later, two of them had criminal records. Very close to them, two detectives were eavesdropping on their discussion. As one of the four men went out, he was encountered at the entrance by a squad of officers, who jumped on him, and another two officers escorted the remaining three out and searched them by the door. It turned out that they were all clean, but the officers insisted that they must have been planning to sell drugs or they were in the process of doing so. They even went as far as going to their houses to search them without having search warrants but found nothing incriminating. These four men felt so humiliated and enraged at the same time that for a couple of weeks they stayed away from that particular bar. One of them told me later that it feels so degrading to be pulled out from a bar and be constantly searched just because you happen to have committed a crime once, and that after having served your sentence one would expect to be left alone and treated like any law abiding citizen.

Case study # 4.

An African had fallout with some Finns and the African was badly beaten. Since he was drunk and could not defend himself, he sustained a lot of injuries. Nevertheless, when the police officers arrived, they arrested the African, claiming that he must be under the influence of drugs, that "at first glance he has been suspected for having something to do with drugs since he happens to have a drug record in the past". It was only after a long interrogation that they found out that this time he was the victim.

Observing these incidents will show that the police are actually entrapping these ex-convicts who have paid for their first crime by serving their sentences, but who still find themselves being harassed and humiliated by the law enforcement agents.

The police are known sometimes to be intimidating, influential, and authoritative. The reaction of civilians to the police by intervening with them, or their direct orders, can vary from individual to individual.² But we have to ask ourselves if such an attitude by the police actually deters crime in the form of preventive action or if it prompts these ex-convicts to believe in the fact that whatever they do, they have been labelled as *no good*, so why try to rehabilitate themselves?

5.4 Stigma: Labelling Approach

The main point of the criticism that the *labelling approach* directed towards criminological research was that it tends to define crime and deviance in the same way as the criminal law and legal system does. What is more, criminology simply adopts the ascriptions and labels from the legal system, and these definitions form the basis, not only of legal, but also of sociological research on how specific types of crime are distributed among the population and on the eti-

² A study was done in 1981 in Minneapolis to determine whether the act of arresting or the threat to arrest all domestic violence offenders or possible offenders deters further crime. Four different cities were used in this experiment, Milwaukee, Omaha, Dade County in Florida, and Colorado Springs. Three different strategies were used by the police: arresting the suspect, ordering the suspect from the premises for 24 hours, and trying to restore order (Berk, 1984). The official recidivism measures show that the arrested suspects manifested significantly less violence than those who were ordered to leave. The victim report data also showed that those arrested manifested considerably less subsequent violence than those who were advised.

ology of crime. The labelling approach deconstructed this alleged secure resource of criminological research and made it the topic of research. By empirically reconstructing crime as a societal and legal construct, qualitative methods were brought into play.

The labelling approach added to criminological research two subjects that were widely neglected or forgotten: the analysis of those interaction processes by which the institutions of social control (police, courts, social work, psychiatry and others) produce the social reality of deviance and crime as it is documented in official statistics, and the analysis of deviant careers, i.e. analysis of the trajectories which were initiated or increased by the labelling. The approach focuses on how crime is produced by reconstructing the routine practices of the institutions of social control, and by reconstructing the implicit principles which generate those practices. This perspective on crime especially characterizes the ethno-methodological research on deviance. Much of labelling theory comes from the general sociological perspective known as symbolic interaction theory. This theory states that reality is, to a large degree, defined by shared social symbols. When enough people agree that a certain idea is true then it “becomes” true and is understood as real. If one person commits a crime and is defined as a criminal then society may react to that person as a criminal. This will in turn require him to act as a criminal. Or, on the other hand, if another person commits the same crime and society defines the behaviour as a “mistake”, he is not seen as a criminal and as such is not required to be a criminal.

Labelling theory relies on the ideas of primary and secondary deviance.

- **Primary deviance** is when someone commits a crime.
- **Secondary deviance** is when someone is labelled a criminal and so he acts in character with the label.

According to secondary deviance, the more someone is defined as a criminal the more likely they are to commit a crime. If labelling theory is correct then the way to lower the crime rate and reduce re-offending is found in changing how society interacts with criminals by avoiding labels. With this in mind, I agree with Sherman and Smith who stipulate that the theory of arrest deterring crime is inconsistent and sporadic. I believe this is due to the fact that many of the people who are unhappy with their quality of life after their first imprisonment will try to change it in a drastic way, most likely in an illegal way, especially when they are constantly being harassed by the police.

5.5 Police Brutality as a Form of Stigma

Obtaining information about police mistreatment of citizens is no simple matter. A lot of complaints concerning mistreatment have been lodged but proving these allegations, especially if you have a record as an ex-convict or as a rabble-rouser, is a difficult and uphill task. Generally, police chiefs are silent on the matter or answer charges of brutality with vague statements that they will investigate any complaints brought to their attention.

What citizens mean by police brutality covers the full range of police practices. These practices, contrary to the impression of many civil-rights activists, are not newly devised to deal with ex-convicts by way of labelling. They are ways in which the police have traditionally behaved in dealing with certain citizens, particularly from the lower classes. The most common of these practices and pattern of abuses are:

- The use of profane and abusive language – these are the complaints of most foreigners with a past criminal record experience, as well as the minority groups here in Finland.

- Stopping and questioning people on the street or searching them and their cars – this is pertaining to the minority groups here in Finland (Gypsies, dark-skinned people, and those with prior criminal records), and the majority of the ex-convicts I interviewed attest to this experience.
- Commands to move or to return home – especially foreigners and younger people.
- Threat of being arrested if not obeyed – also foreigners, as well as those whom the police just deem worthless in society (normally ex-convicts).
- The actual use of physical force or violence itself – especially towards foreigners.

Citizens and the police do not always agree on what constitutes proper police practice. What is “proper” or what is “brutal” is more a matter of judgment about what someone did than a description of what police do. What citizens object to and call “police brutality” is really the judgment that they have not been treated with the full rights and dignity deserved by citizens in a democratic society. Any practice that degrades their status and restricts their freedom, that annoys or harasses them, or that uses physical force is frequently seen as unnecessary and unwarranted. More often than not, they are probably right.

Many police practices serve only to degrade the citizen’s sense of himself and his status (a social reality). This is particularly true with regard to the way the above mentioned driver with the past criminal record was strip searched outside the club. To be treated as “suspicious” is not only degrading, but is also a form of harassment and a restriction on the right to move freely.

But what citizens regard as police brutality, many policemen consider necessary for law enforcement. While humiliating epithets and abusive language may no longer be considered proper by either

police commanders or citizens, they often disagree about other practices related to law enforcement. For example, although many citizens see “stop and question” or “stop and frisk” procedures as harassment, the police usually regard them merely as “aggressive prevention” in order to curb crime before it happens.

We should also bear in mind that the interactions between representatives of control (the police) and a deviant person amount to only one part of the everyday professional work in these institutions. With such a broadened perspective, understanding of the interactions between the agents of control and those who are controlled remains curiously clear. This is reflected in Hüttermann's work in an ethnographic study on “street corner police”³. He pointed out that the interactions between police and male juveniles of a so-called “street-corner gang” are not only determined by the public assignment to control, but just as much by a culture of masculinity that is as evident within the police force as among the young men of the “street-corner gang”.

5.6 Inmates Expectations: On the Outside

The period of release from prison is particularly difficult for the prisoners because the problem of securing employment becomes very real. In most cases, this fear is due to the lingering effect of a “criminal record” and lack of basic qualifications, etc. 60% of the inmates interviewed considered themselves of possessing a work skill and/or an educational or vocational qualification. During confinement, almost all the inmates held at least one job or attended some type of vocational studies. About half of the inmates believed their work and/or the vocational studies helped them develop new

3 In the article *Qualitative Research in Criminology*, by Michael Meuser & Gabi Löscher. [Online available] at <http://www.qualitative-research.net/fqs-texte/1-02/1-02hrsg-e.htm#lit>.

skills, although only 35% said it would enable them to find a job upon release.

Inmates' expectations and worries vary but the majority of those interviewed expressed their concerns regarding their housing situation, finding employment, and re-establishing family bonds upon release. Some expressed the usefulness of participating in programs preparing for release from prison and the opportunity of getting a look at and an insight into the "outside world" (the community) and, thus, being able to correct their own perceptions and expectations.

When put to the inmates, the majority responded that they would like a follow-up programme on drug-related relapses through the provision of continuous care and support, before and after release from prison. A program with the aim to: 1) ensure the continuity of assistance and care given to them upon release from prison, 2) create employment with the help of a probation officer to coordinate such job programmes so as to avoid stigma related to ex-offenders.

6. Analysing the Prison Experience

6.1 The Prison Code and the Subsystems

The maxims of the inmate's code do not simply reflect the individual values of imprisoned criminals; rather they represent a system of group norms that are directly related to mitigating the pains of imprisonment under a custodial regime possessing nearly total power. The prison, like other voracious institutions, is a place of residence and work, where a large number of like-situated individuals, cut off from wider society for a substantial period of time, lead an enclosed, formally administered round of life.

Only a short residency is necessary to discover that every form of movement and almost every object in the institution has an order of usage and meaning (Goffman 1961:171–180). The sinks and showers and the chairs in the recreation room, dining room, classrooms, and auditorium all have a priority of use based on a subtle intermixture of status determinants. Sentence length, aggressive qualities, monetary standing, race, age, and 'the way you carry yourself' are all offered as factors determining one's rank. The existence of different statuses is acknowledged by prisoners with a shrug of the shoulders and a comment 'some can, some can't'; some can always use the sink first, some always sit in certain chairs directly in front of the TV, and some sit at certain tables in the dining room. Their interpretation varies with the position of the interpreter. If undisturbed, the real order may remain almost invisible and unrecognised. However, a deliberate challenge or an accidental assault on the established order by a new inmate is certain to threaten the position of the old inmates, and that means a challenge of power and intrusion into one's territory.

From prison to prison there is a striking uniformity in the expression of the norms of *doing time*, which suggest that rather than being individual responses developed from personal experience, the norms represent a relatively stable set of behavioural accommodations reflecting the structural necessities of an inmate system. One of the ex-prisoners, whom I interviewed, coined the paramount code of prison life in four phrases:

- **“Don’t show weakness.”**
- **“Show loyalty to convicts, not staff.”**
- **“Don’t lose control.”**
- **“Mind your own business.”**

These principles reflect the need for boundary maintenance in order to prevent involvement and identification with the criminal aspect of prison life. *Mind your business* should not be seen in the context as condoning the activities of the other inmates, but rather as avoiding the entanglements in trying actively to combat them. Another interviewee paraphrased it as *see nothing, know nothing, and hear nothing*. This latter phrase implies less a fear of entanglement than an expression of the need for solidarity to protect the network.

Each new inmate, whether he or she is facing incarceration for the first time or is merely inexperienced in the particular institution, is aware of the need for socialisation. The older inmates are equally aware of its necessity if accepted patterns of behaviour are to be maintained. However, a ‘long termer’ would need a fuller set of norms for doing time compared to a short sentencee, whose set would include at the least his passive participation in the system.

The following quotation from an inmate with experience in several institutions summarises the most frequently mentioned ‘way of making it’:

*The best way of 'doing time' is to follow the rules and regulations and 'respect' the officers and the strong inmates. Now, I don't mean you really follow everything. I don't. What I mean is that you're careful and 'respect' the officers by not doing it right in front of them – you don't flaunt it. Then, '**mind your business**' and don't be trying to run the life of the person next to you. And 'keep busy.' I spent time painting. Then some people are looking for fights. Violence is the way they take care of things. With some of us, we know that it doesn't solve things, but sometimes if a person has a certain attitude, you just finally have to show him physically that he can't get away with it. They respect you and don't tangle with you.*

Examination of the above quotation reveals the predominant norms in two crucial areas of inmate life – relationships with staff (the ultimate decision making area), and the relationships with others in response to the structure of status and power. In the first area, a prudent manipulation is advised. Reaction to the activities of other inmates is governed by the key admonition to 'mind your own business'.

6.2 Tension Management and Integration

Throughout my meetings with the inmates, the most obvious worry in their mind was *time* as a measure of many things. The very phrase 'doing time' (*Lusia* in Finnish prison's slang) implies the emphasis placed on the 'filling' of time. Unlike a situation where the passing of time is regretted, time in prison takes on an almost tangible quality, as one of the inmates put it:

The simple, overwhelming fact is that one is waiting only for time to pass.

Another reflected his worries by saying:

Time is our enemy, whom we must overcome. Time here is wasted, useless; it creates bitterness inflicted on us by a reasonless, unaware, impersonal, monster outside called society.

However, as with the generalised norm of 'mind your business', the referents of 'busy' vary. We may divide them into activities provided by the institution, those arising from inmate interaction, and those involving individual pursuits. The work program in Huittinen Open Prison plays a central and crucial role as the main consumer of time for those confined within the institution, even if the ability of various positions to accelerate the passing of time varies. Jobs performed on the premises (e.g. clerk positions) differ in many respects from employment outside the compound (e.g. in the farms or the workshops). Some positions, like the housekeeping and laundry, are considered isolating; others may be regarded as integrative. What is more, not every position instils pride or at least satisfaction in those performing the tasks. 61 percent of the men interviewed admitted in the questionnaires (though not during the interview conducted in the presence of the prison officers) that they were not happy with their job placement, but their complaints against institutional assignments stemmed not from overwork but from the lack of suitable work. On the other hand, inmates spoke with pride of their position as library-attendants, skilled painters and machine operators. However, the development of a close relationship between keeping busy and the possession of some particular position in the institution results in claims of 'ownership' of those means of production that assure continual activity.

Outside the workday, time distribution becomes voluntary, and the diverse patterns of adaptation more clear-cut. Time may be, for instance, occupied by 'things' that decrease involvement and mentally or physically remove the user from the prison, e.g. watching TV, swimming and the variety of recreation activities provided by

the institution. These activities available during time free from work duty do not require close personal interrelations, and yet at the same time they are not isolating. Through occupation of time, which otherwise would be used for agitation, they provide an escape from the "I say, you say".¹

6.3 The Inmate Social System

Within the criminal science debate two basic research approaches to the inmate system are evident. One probes the absence of consensus or solidarity within the inmate community, while the other approach studies the diversity of adaptive prison roles and their linkages with varying inmate backgrounds and external value systems. Both perspectives represent the application of varying social models to prison organisation; themes used in the analysis of the larger society that were introduced early into the study of the prison and continue to influence both hypotheses and findings.

Clemmer is one of the major researchers who employed social approaches to the study of prison. In his classic study *The Prison Community* he graphically describes the inmate world in terms used by a contemporary critic of society:

"The prisoner's world is an atomised world. Its people are atoms interacting in confusion. It is dominated and it submits. Its own community is without a well-established social structure. Recognised values produce a myriad of conflicting attitudes. There are no definite communal objectives. There is no consensus for a common goal. The inmates conflict with officialdom and the opposition among themselves. Trickery and dishonesty overshadow sympathy and co-operation. Such co-operation

1 The 'I say, you say' phrase refers to gossiping within the inmate community and to leaking information to the prison authorities.

as exists is largely symbiotic in nature. Social controls are only partially effective. It is a world of individuals whose daily relationships are impersonalised. (...) The prison world is a graceless world. There is filth, stink, and drabness; there is monotony and stupor. There is disinterest in work. There is desire for love and hunger for sex. There is pain in punishment. Except for a few, there is bewilderment. No one knows the dogmas and codes notwithstanding, exactly what is important". (Clemmer 1958:297–98).

Closer examination of the available descriptions of prison life suggests that the chief tenets of the inmate code can be classified roughly into five major groups:

1. This group consists of those maxims that caution: *Don't interfere with inmate interests*, which focus on ensuring that the least possible time is served and enable enjoying the greatest possible number of pleasures and privileges while in prison. The most inflexible directive in this category is concerned with betrayal of a fellow captive to the institution officials: *Never rat (vasikoida)² on a con*.
2. This category includes the explicit injunctions to refrain from quarrels or arguments with fellow prisoners: *Don't lose your head*. Emphasis is placed on the curtailment of effect; emotional frictions are to be minimised and the irritants of daily life ignored. Maxims often heard include: *Play it cool* and *Do your own time*.
3. Prisoners assert that inmates should not take advantage of one another by means of force, fraud, or chicanery: *Don't exploit inmates*. This sums up several directives: *Don't break your word*; *Don't steal from the cons*; *Don't sell favours*; *Don't welsh on debts*. More positively, it is argued that inmates should share goods in a balanced reciprocity of 'gifts' or 'favours', rather than sell to the highest bidder or selfishly monopolise any amenities: *Be right*.

2 Vasikoida is a Finnish jail word for snitching on other inmates.

4. Grouped into this category are rules that have as their central theme the maintenance of self: *Don't weaken*. Dignity and the ability to withstand frustration or threatening situations without complaining or resorting to subservience are widely acclaimed. The prisoner should be able to *take it* and to maintain his integrity in the face of privation. Prescriptively put: *Be tough; Be a man*.
5. Prisoners express a variety of maxims that forbid according prestige or respect to the custodians or to the world for which they stand: *Don't be a sucker*. Guards are *hacks* or *screws* and are to be treated with constant suspicion and distrust. In any situation of conflict between officials and prisoners, the former are automatically to be considered in the wrong.

'Doing time' entails a much closer relationship with fellow inmates than with staff. To protect this relationship, the inmate norms of *doing time* caution to *mind your business* and *don't get involved*. These are two normative positions for direct power relations with staff, but not when it is a question of attempting to establish control over other inmates, either directly or through the use of the staff.

An interesting combination of statistics involved in comments on the code emerged during my interviews. Almost 60 percent of the inmates expressed personal adherence to the code, although remarking on the disinclination of others to follow it. In a questionnaire probing inmate loyalty, 30 percent of the respondents were willing to lose up to a year's good time rather than reveal the names of men violating regulations. Yet 21 percent denied the very existence of the code itself in the Huittinen prison, and thereby tried to prevent the breaking of the code, which forbids discussing it with outsiders and consequently being labelled as a rat. Another 46 percent considered it so widely violated that, as one of them put it, "Nothing goes on that isn't in the office the next day". The code was said to be kept more in the closed prison.

Making general statements that 'everything' was known to the officers, several malefactors distinguished levels of snitching. The interplay of the code, official sanctions, and the inmates' use of covert power is revealed in the following discussion of the code. This is, of course, a viewpoint of an inmate, and might not be corroborated by staff members:

There is no code here in Huittinen. Almost everything goes into the office. Of course, not everybody is involved. But there are about five regular informers, always two in each floor. I don't quite know why they do it, but I figure it may have started out of when they were caught in something and they discovered they could get out of it by informing. And they [the staff] trust the snitchers because at least once they were close to the people involved and they could give the straight story. Then once they start, for continued favours they keep on, and if it's necessary they'll work something up. Once Mr. _____ called me in, and I told him that he didn't know it all. I said to him, 'Do you think we're fools? We know the guys call to the office and tell to mingle to find out what's happened. Do you think we'll tell them anything more than we want you to hear? The informers put together things what they hear, a little here and a little there, and give the story'.

As the quotation indicates, snitching could be considered a function of several variables. The constant assertion of a lack of a code, or its extensive violation, however, may weaken its effectiveness among the inmates by evoking justifications for violation of the code on the basis of *it's a dog-eat-dog proposition* or *everyone is doing it*.

6.4 Fears and Coping in Prison

Life experiences affect every one of us; our reactions are frequently influenced by our perception of the world around us, which may

consequently influence our present and future experiences. From early on, we learn how to respond to situations and to people. Painful events like imprisonment test our ability to cope and require us to use all the mental and psychological resources at our disposal. Subsequently, such trying experiences may hamper our perception of available resources and impede coping mechanisms. As a result we may find ourselves faced with a similar difficulty again. For example, having been subjected to abuse, one is prone to consequently developing psychological disorders which increase one's vulnerability to further abuse.³ This hypothesis is confirmed by the higher number of reported painful life ordeals among convicts as compared to the general population. To be even more specific, the reported experiences are, in a large part, family-related. For many, these traumatic experiences become a contributing factor towards continuous criminal habits. What is more, the negative effect of previous experiences is additionally magnified by the prison setting resulting in a vicious cycle of violence and unlawful behaviour. Psychological disorders, such as intrusive memories, denial, and emotional numbing resulting from earlier traumas, are intensified in the highly stressful prison environment, thereby making the inmates extremely vulnerable and easily targeted. Although it is not impossible to break the cycle through active effort to address and manage problem situations and the resultant emotional burden, some inmates observed during my research period proved to lack adequate behavioural tools to offset or overcome adversity. Coping mechanisms employed by the inmates are generally limited to avoidance, aggression and other ways of momentary release of tension without consideration to consequences. These mechanisms, chosen presumably due to their familiarity to the inmates, nevertheless are more likely to further aggravate the problem situation in

3 Gold, S. R., Sinclair, B. B., and Balge, K. A. (1999). Risk of sexual revictimisation: A theoretical model. *Aggression and Violent Behaviour*, 4(4), 457–470.

question and strengthen the harmful pattern rather than provide a way out of the cycle.

6.5 Assaults in Prison

The general view of prison is of a place where assaults of all kinds prevail. It is the assaults among prisoners, particularly sexual assaults, which are the greatest fear of imprisonment and not the sentence in itself. At the initial stage of my research, the majority of inmates questioned indicated no personal experience with victimisation. However, as the research progressed, one-third of them acknowledged having been threatened with assault in the preceding year, with one-fifth describing at least one experience of physical assault. A small number of individuals acknowledged being repeatedly threatened (5%) or physically assaulted (2%) by other inmates. However, data on sexual assaults is not reported due to the very few affirmative responses elicited during official questioning.

Like heterosexual assaults on the streets, the effect of the prison sexual assault goes beyond its immediate victims. Even in an institution like Huitinen prison where rape is close to nonexistent, there is a widespread fear of being raped, and this fear motivates prisoners to defend themselves carefully against this possibility. Sexual assaults are epidemic in some prison systems, and they are the major cause of 'consensual' homosexuality in the prison system. In many, if not in a majority of cases, both continuous and isolated homosexual relationships originate from a gang rape, or from the ever-present threat of a gang rape (R.S. Jones & T.J. Schmid, 2000). Nine out of the fifteen inmates interviewed admitted having sexual affiliations with men for the first time in their life in the prison.

How does homosexual rape affect a prisoner's ability to make a satisfactory adjustment after he is released from the prison? There are no competent research studies to answer this question; never-

theless, my recurring discussions with some of the released inmates from Huittinen led me to the conclusion that the heterosexual life of prison rape victims may be damaged by their experiences. As one of my subjects pointed out, if you have been **punked**⁴ over a long period of time and you had not already established a heterosexual relationship pattern prior to your incarceration, you may find it easier to continue homosexual behaviour after release from prison rather than attempt to switch to heterosexuality. Even more important than these effects is the possibility that playing a consistently passive and demeaning role in the prison may interfere with the newly released person's ability to cope actively with the myriad challenges of the outside world.

6.6 Economic Coercion and Homosexuality

Sexual deprivation within the prison may contribute to the level of homosexuality in the prison, although it is perhaps the least important causal factor in prison rape. Masturbation and consensual homosexual activity are available to all who desire them. Homosexual favours can be purchased with luxuries such as cigarettes, sedatives, candy or extra food from the canteen. Typically, an inexperienced young man will be given cigarettes, candy and other items by an experienced fellow inmate, who after a few days will demand sexual *repayment*. Similarly, an inexperienced inmate will be enticed into large gambling debts and then told to either **pay or fuck**. Or course, the initial voluntary homosexual act indelibly stamps the victim as **a punk boy**.

The common thread in this category of cases is the employment of economic advantage to obtain the sexual one. As one of the inmates stated:

4 Name given to those inmates who have been coerced into participating in homosexual relationships.

I can buy sex if I want, there are always young cute boys, who like to have extra provisions and they have no money, beside these boys enjoy sticking something between their legs, and so why not make good use of it.

In this aspect, though illegal within the prison walls, the homosexual act is truly consensual only where both parties are motivated by their own desires without force, threat of force, or fear of force. While it is probably true that in any sexually segregated institution there will be more consensual homosexual activity than among the general population, truly consensual homosexual activity must be sharply distinguished from acts which are a by-product of the assaultive pattern, and which could be eliminated once assaults are brought under control.

6.7 Status and Power

Status in Finnish prisons, like in any other prison system, is based on the ability to achieve a conventional way of life within the institution, i.e. by recognition of one's work, respect for staff, effective relations within a circle of friends and the standing as a *tough guy*. Officially, there is only one status in prison: that of a convict. This was figuratively expressed by all the interviewees, *we're all represented by numbers instead of by names, or we've all committed some crime*. To shape an informal system of stratification within this context is a major task. Half of the men interviewed insisted that any distinctions within this basic condition of equality are based on fraud or threats of violence. Despite this description, many do not consider the situation to be so lacking in structure. The men use, or at least accept as legitimate, distinctions based on the length of time in the institution, type of offence, age, canteen spending, job assignment, participation in institutional activities, relationships with staff, or success in remaining free of disciplinary actions.

However, certain problems arise in evaluative specification in the prison context. From the viewpoint of the larger society, prison is not a small society but rather an institution in which, by definition, inmates are of equal status unless distinguished by official criteria on the basis of stratification. Consequently, an external normative reference group can supply two basic criteria for evaluation. The first criterion structure is the inmate's body in terms of the previous or present level of wealth, power, and style of life. The second requires a rejection of any internal status system (Lipset 1953:263–270). Parsons favours the opinion that social stratification, the ranking of positions within a system, is a reflection of the standards of a common value system (quoted in Dahrendorf 1968:151–157). He observes that no system has a perfectly integrated value system, and therefore to consider *position* as merely a function of valuational ranking is to neglect the complexity of a dynamic system. Any given system of stratification may be seen as involving both an 'ideal ranking order' and 'power'. Power in this sense is defined as the realistic capacity of a system unit to actualise its *interests* (attain goals, prevent undesired interference, command respect, control possession, etc.) within the context of system-interaction and in this sense to exert influence on the processes in the system (Ibid: 95).

Although Parsons saw power as achieving interests, these interests must not be considered exclusively as the interests of a particular person occupying a certain position, but rather as the interests of the position within the functioning system. Since system values remain a central factor in the preservation of power, the achieving of personal interests at the partial expense of the system may be seen as a permitted deviation that reflects the discrepancy between actual functioning systems and the social structuring. Therefore, in analysing any particular stratification based on power, both the individual and the social aspects of the position should be considered.

6.8 The Concentration of Power: The 'Syndicate'.

The survey of societal powers and their counterparts within the inmate body raises the same question inside the prison as it does outside it: Is there any concentration of power? Are the people holding the resources of power in one area closely related to those in other areas? Does the prison have power elite? (See. Domhoff & Hoyt, 1968). Some interview materials I have gathered imply that certain linkages do exist among the areas – one of the inmates admitted membership to the *underworld*, but hastened to emphasise that he was not in the *syndicate*. As he claimed:

I am not a member of the 'syndicate' though. They are big shots down at Kylmäkoski⁵. Those in the gang are loyal to each other. But they think they're big around there. When things are happening, they are always asked first.

This particular description ties economic, political and recreational power together and, in marking on their loyalty, gives these inmates some of the prestige of a 'real man'. Two other interviews concentrate on the economic and political nature of the *syndicate* as follows:

Some can steal out of the kitchen and some can't. Some can save a seat and some can't, like outside, you know someone. And like there, we've got a 'syndicate'. It's not as obvious as it was before, but it's still a matter of who you know and who they know.

The other explains:

5 Kylmäkoski prison is a closed institution in Finland. And it is also one of the nine prisons in Finland where remand prisons are kept in custody while awaiting their sentence.

Here some of the guys are loyal – like eight or so in the 'syndicate'. They don't say a word about what they're doing, like running a regular kite line, unless there is a falling out. But they'll talk about other people, like they told lies about me. They'll get others in trouble but they don't bother me so much now because they think I have money.

Space and movement in the prison are equally significant. A causal walk within the prison yard without a pass may testify to the attainment of either unofficial *trustee* or *bully* status (the latter, in staff terminology, being someone *emotionally immature* or *doing hard time*). When there is no agreement on the standards to legitimate differentials in power, wealth, or prestige, then the constant threat of coercive force becomes the major source of inmate system of integration and control. As long as that agreement is maintained, legitimacy replaces force – and some degree of system cohesion and equilibrium is achieved.

The adaptability of prison, in regard to the social structure, is always a bone of contention. The question in the mind of most prisoners is: "can you make it alone?" In shifting from the analysis of the functioning of the economic system as an adaptive inmate structure to the consideration of a *familial* system, it might be helpful to return to the new inmate, who may be viewing the phenomenon and feeling the pressure for participation for the first time. Most people would expect to find an extension of the outside economy within a prison, but the existence of a family structure in a single-sex situation is less frequently anticipated. It appears that the family system plays a dual role. It can be considered first of all, as its title suggests – a *play* family. It is a direct, conscious substitution for the family relationships broken by imprisonment. But in most cases, the development of a family unit informally provides a rationale for a multiplicity of close relationships to relieve the tensions of prison life, as well as legitimating dependency and dominance roles that would not be appropriate in other areas of staff and inmate interaction.

Family bonds in prison are different from those of friendship. Prisoners often make the distinction between their *friends* and their *family*. Friendship may be considered a bond of mutual respect and exchange of affection, which is separated from particular family (gang) roles or roles of a sexual nature. As one of the interviewees put it:

You've got to have someone to talk to about things. (...) Someone who will listen to those things you want to share, but you don't want to say to anybody. (...) You'd go crazy without someone. (...) A person needs to talk their troubles with man who'll respect them and keep them to themselves.

In the prison situation, not unlike outside, the role of a friend provides a bond of support and an opportunity for emotional release. However, the role does not appear to be a central one for the inmate social system as such, except as a source of release for tension management.

6.9 Political Power

The analysis of the elected inmate representatives in the political area is slightly more complex. Here we can find not only the unofficial structure, but also an official one that is legitimised outside the inmate system. Members elected by and from among the prisoners form the inmates' council. It should be emphasised here that election to the council does not confer a 'big shot' status, but rather is a reflection of it. The multiple functions of the councillor's position of semi-confidence in the institution, however, create an atmosphere that always offers an opportunity to exchange information - with power over either staff or inmates. As a result, the opportunity is often identified with the act. Taking one of the interviewed inmate quotes:

I am probably the closest person in this prison to _____ (the studies officer) than any other inmate, I am in charge of prison library and all recreational activities.

Such an inmate may claim the ability to or be able to control staff decisions regarding other inmates. While actual influence may be limited, the belief in this ability still provides a basis for power. In a more positive way, such positions may also be a channel for expression of an inmate's requests to staff. The councillor's use is indispensable in matters which may appear small but take on considerable importance in the restricted confines of prison bureaucracy.

Inmate support is based on several factors, but unlike the outside world economic power appears to have little significance in determining membership since the spending level of council members is almost identical, if not slightly lower, than that of the inmate population as a whole.

Whether official or unofficial wielders of political power, those men who mediate between the inmate and staff systems perform the fundamental function in affecting staff decisions regarding the inmate system, by providing the inmate system with access to staff and in their roles are rewarded as *big shots*.

The prison serves different publics. The basic question regarding the integration and cohesion, resources and goals of the prison system can only be answered by asking: What are the normative reference groups of both the inmates and the staff, and how are the day-to-day interactions between the diverse inmate and staff groups worked out? The integration of the prison social system finds its expression less in an "organised totality of beliefs and sentiments"

than in “special functions which definite relations unite”⁶. The prisoners' *community of fate* does not produce normative uniformity so much as functional interdependence. The particular level of uniformity and dependence, however, is influenced by the degree of social distance between staff and inmates and the extent to which *amenities* of life must be obtained illegally (Glaser 1964:147, 505). As Sykes and Roebuck emphasise, the inmate system may be seen as an adaptive system, but one in which, as Irwin and Cressey note, there is a constant interplay between normative orientation to prison and the situational framework of each institution.

Each prison can be considered a micro-society and, therefore, even if all approaches in question to prison research are legitimate, one may be more appropriate than another in application to different prison systems. In fact, the very duality of the prison structures reflects the complexity and levels of social organisation possible within a single social grouping.

Some men have ‘made it’ in prison, while others have been destroyed by it. Discovering the reasons behind this may be of great importance to the development of the studies on prison. It is generally known that research findings can be used to control or destroy a prison; to reform it or to retain a way of life. The decision to use this knowledge rests in the hands of legislators, administrators, and prisoners. Perhaps the time has come for them to examine the most basic of questions: Why prison without rehabilitation?

6 From *Durkheim's Contribution to the Theory of Integration of Social System*, Emile Durkheim, 1858–1917. Edited by Kurt H. Wolff, Columbus, Ohio: Ohio University Press, 1960, 129.

7. The Problems of Re-Entry

7.1 Understanding Public Attitude towards Criminals

To understand public attitudes towards criminals in Finland, we have to start from the highest societal stratum, which is the governmental level. In most countries around the world it is a general notion that the crime control benefits of imprisonment can occur by increasing the certainty of punishment, increasing the severity of punishment, or both. On the other hand the policy in Finland is based on gentle justice, as indicated in the speech delivered by the president of the Republic of Finland at the opening of the annual session of parliament on 2 February 2000, reaffirming Finland's commitment to combating crime by means of gentle justice:

...We need to ask whether these people are receiving the help and treatment they need or if the problems are being neglected because society can not agree on who will pay the bill. However, tackling the drug problem would be an effective means of getting young people to abandon a career of crime in its very early stage. It would also often be the fastest way of reducing the number of repeat offenders – not to speak of the other savings that could be achieved through treatment and rehabilitation....¹.

1 For the full speech, see appendix 3. Online available at www.valtioneuvosto.fi/tpk/puheet-1999/P000204.vpen.html.

The above extract goes on to explain the length Finland will go to in trying to rehabilitate malefactors in order to facilitate their return into society on their release. Although sentencing people to a period of time within prison walls is easy, rehabilitating convicts and providing them with the help and treatment they need is a much harder task, and that is the path embarked on in Finland.

A glance at the questionnaire research from five cities major in Finland on public attitude to crime,² which was dispatched randomly to 350 citizens in 2004, showed that 80 percent of respondents believe that malefactors should be rehabilitated and given second chance. Extracts from a comment made by one respondent testified to the public attitude towards rehabilitation of malefactors:

...I would concentrate largely on crime therapy, probation and aftercare. Handling these issues builds a bridge to the offender's sentimental life, therefore taking care of the others and taking responsibility help to prevent recidivism. ...Long-term therapy and treatment should be applied in all prisons. Finding stimulating activities that could become new hobbies, educational vocation or profession is also important. Prisoners should be encouraged to take more responsibility of their lives, for example as for catering, cleaning, and developing free time activities...

Another respondent stipulates that:

... Crime is a social problem. Its resolving requires changing of the attitudes and mind. People, who are guilty of crimes and they often have got no basic education that would have improved their heart and mind... they leave in a community which emphasizes money instead of human values, which is a good growth base to all crime...

2 The questionnaire on public attitude to crime can be seen in Appendix 1.

This gentle attitude of giving a second chance and a favourable attitude towards rehabilitation among Finns, can be seen from analysing the response to the question: 'Should malefactors be given a second chance?' A majority of respondents fully agreed with such policy.

Table 1.
Second Chances to Offenders

	Male	Female	Total
Agree	42 51,9%	69 61,1%	111 57,2%
Disagree	39 48,1%	44 38,9%	83 42,8%
Total	81 100,0%	113 100,0%	194 100,0%

This understanding of the need to rehabilitate offenders can be attributed to the fact that the majority of the questionnaire respondents believed that although criminal behaviour is a learned habit, the malefactor can be rehabilitated since criminality is not a permanent phenomenon. As shown below, 71.1% disagreed with the statement: 'once a criminal is always a criminal'.

Table 2.
Once a Criminal is Always a Criminal

	Male	Female	Total
Agree	26 33,8%	26 25,2%	52 28,9%
Disagree	51 66,2%	77 74,8%	128 71,1%
Total	77 100,0%	103 100,0%	180 100,0%

Though prison as a concept is here to stay, Finland with its gentle justice has mitigated penal policy based on rehabilitating the malefactors. To this effect, the open prison system in Finland has contributed to the reduction of criminal behaviour by improving the prisoners' chances of coping with life in society after release through the activities organised for the inmates during working hours, e.g. work, studying or other activities. It has also contributed to the breaking down of the prison cycle of violence by transforming the typical jailhouse culture of humiliation and violence into one of dignity and healing. Though the research on the program's success is still in progress, the early findings are very encouraging. Repeat offences among convicts in open institutions in Finland in the intensive drug therapy program have dropped drastically. Recidivism among graduates has dropped, with the majority trying to seize the opportunity to further their education and acquire a better position in society.

7.2 Stigma: The Associated Cost

To achieve some clarity on stigma, it is worth noting that when contact with the justice system generates a criminal record, starting with an arrest record, the long-term collateral consequences are often more severe than the criminal punishment imposed. In particular, the existence of a criminal record creates long-lasting barriers to securing employment and housing. The difficulty in finding employment and housing is a reoccurring theme in all studies related to collateral consequences. As one ex-offender in search of employment upon his release stated:

I served my time, during which I studied as a car panel beater and I am good at it. I was full of hope that on my release I will look for and get a job in that field since there is great demand for such workers. And then all I am getting from employers are, we'll do the background check and comes back to you,

“thanks for your interest” and all that. I got a whole file full of replies like “thanks for your interest” – But I still don't have a job.

Criminal records are not straightforward to understand. Due to the frequent use of abbreviations and technical language, employers struggle to determine the context and outlook of a criminal charge, thereby making the struggle to find employment by ex-offenders an up hill task and consequently making individuals with an incarceration record face the additional challenge of effectively transitioning back into the community. The justice system fails to address the released offenders' immediate needs of securing employment and housing, and the burden of providing support falls on families and communities.

In fact, a positive relationship between an ex-offender and his family is a key factor contributing to successful re-entry into society after completing his prison sentence. Family support does not merely ease the stress of the re-entry in terms of helping address these immediate needs, but often provides a personal environment in which the offender can live free from stigma. This is important in terms of encouraging ex-offenders to develop a concept of self-worth. Offenders without the benefit of a supportive family structure have greater dilemmas in sustaining housing and employment upon their release. It is worth noting that there are countless reasons inhibiting family network support for ex-offenders. In some cases the offence, or subsequent incarceration, damages bonds that would otherwise promote positive behaviour. Research has shown that offenders who are able to rely on familial resources are likely to be more successful in their efforts to remain crime free, and correspondingly for those without familial support the barriers may seem greater and the needs more immediate.

7.3 Consequence Becoming the Cause

A high unemployment rate among individuals with criminal records is due to a multitude of factors, including lack of work experience, training and “soft skills” (i.e. professional appearance, established work ethic, communication skills). It is also known, however, that a “criminal record is a threshold barrier which may mean the ex-offender is screened out of a job before having the opportunity to even present his or her qualifications”.³

The possession of a criminal record corresponds to diminished life earning potential even when education and job type are considered. Bruce Western (2002), in his article on “*The Impact of Incarceration on Wage Mobility and Inequality*” illustrated how a criminal record limits an individual’s potential future earnings, thereby increasing economic and social inequality.⁴ Interestingly, as income decreases, the likelihood of criminal activity increases. Additionally, as illustrated by Fritsch, Travis and Burkhead, the children of ex-offenders are at risk of suffering from emotional withdrawal and difficulties at school as a result of dealing with the stigma of having a parent in prison. Furthermore, the offspring of ex-convicts are more likely to live in economically disadvantaged families and communities and are inclined to demonstrate anti-social behaviours; this to some extent increases the future probability of these children’s involvement in the justice system.⁵ However, research has demonstrated that this correlation weakens as stability in the form of famil-

3 Pager, Devah. 2003. “The Mark of a Criminal Record.” *American Journal of Sociology* 108 (5): 937–75.

4 Western, Bruce. “The Impact of Incarceration on Wage Mobility and Inequality,” *American Sociological Review*, Vol. 67, No. 4. (Aug., 2002), pp. 526–546.

5 Fritsch, Travis A., John D. Burkhead. “Behavioural Reactions of Children to Parental Absence due to Imprisonment,” *Family Relations*, Vol. 30, No. 1. (Jan., 1981), pp. 83–88.

ial bonds, employment and age increases.⁶ The table below illustrates that Finland has experienced an increase in the number of ex-convicts responding to the rehabilitation programs through the years, by being able to secure a livelihood and housing situation upon their release.

Table 3.
Background of Parolees Under Supervision in 2001–2005

	2001	2002	2003	2004	2005
	%	%	%	%	%
LIVELIHOOD					
<i>Studying</i>	3	5	5	5	5
<i>Working</i>	13,9	13	14	15	13
<i>Unemployed</i>	75	68	68	68	69
<i>On military service</i>	0,1	1	0	0	0
<i>On pension</i>	8	13	13	12	13
	100	100	100	100	100
HOUSING SITUATION					
<i>Permanent dwelling</i>	55	60	59	59	62
<i>Dormitory</i>	9	4	4	4	3
<i>Temporary accommodation</i>	15	17	17	17	18
<i>Institution</i>	12	7	6	6	4
<i>Homeless</i>	9	12	14	14	13
	100	100	100	100	100
TOTAL					
<i>under 21 years of age</i>	1 168	1 333	1 375	1 344	1 452
	=5%	=5%	=6%	=8%	=4%

Source: Finnish prison databank.⁷

6 Sampson, Robert J., John H. Laub. "Crime and Deviance over the Life Course: The Saliency of Adult Social Bonds," *American Sociological Review*, Vol. 55, No. 5 (Oct., 1990), pp. 609–627.

7 <http://www.rikosseuraamus.fi/uploads/hqcb8wcu5a.pdf>.

7.4 The Spiral Effect of Incarceration on Society

Whatever the intended effects of incarceration, it is criticised for its unintended effects on health, personality, family, and on one's prospects after release. There are undoubtedly prisons systems in which food and hygiene are so inadequate as to damage physical health, although this does not seem to be true of most European systems. All systems expose some types of prisoners to the risk of violence from others: but so do offenders' ways of life outside.

Nearly all prison sentences deprive a family of one of its members, and sometimes of its bread winner, thus inflicting undeserved deprivations on spouses and children. The enforced separation is not always a tragedy: a short – or even a long – rest from the offender is sometimes beneficial for the family. Social workers' efforts to prevent the break-up of families are not always in the interest of the wife and children, but with or without such efforts remarkably a lot of marriages are destroyed by long prison sentences.

A known ex-prisoner has more difficulty in finding a job than a man who has been simply fined or put on probation. Rightly or wrongly, it is assumed that he is less likely to be hard working or a trustworthy worker. Agencies which specialise in finding employment for such men have to concede that many are not good at holding down their jobs. Prison, too, is said to be 'school of crime', and evidence supports the claim that among men with similar criminal records, those with more 'time inside' are more likely to be reconvicted. A man who has committed only one offence is unlikely to be turned into a criminal, but he might form friendships with recidivists and learn new techniques of dishonesty. These very friendships and techniques increase the chances of being identified and thus reconvicted.

What needs to be viewed with even more objectivity is the claim that incarceration damages mental health or personality. Very often

the inmates prove to have a record of earlier diagnoses by clinics or hospitals. Not infrequently they are plunged into depression by being locked up, but this is usually a realistic reaction to one's situation (see Coker 1983).

7.5 The Harmful Effect of Incarceration

There is no doubt that for most malefactors, a period of imprisonment – be it in open or closed prison – is an unpleasant experience. Erving Goffman believes that a total institution like prison cuts offenders off from the outside world and from forming and maintaining relationships with family and friends. Family life and work may therefore be seriously interrupted.

The individual's self-concept and self-respect are seriously threatened in addition to the deprivation of autonomy, heterosexual relationships, and normal interactions with friends and relatives. According to M. Wright (1982), many aspects of imprisonment are inhumane and degrading and the physical conditions of numerous prisons are deplorable with poor safeguards against ill-treatment and physical abuse. In most prisons around the world, prisoners are required to ask for permission to perform even some basic functions, such as going to the toilet. Undesirable behaviour and the breaking of petty rules can be punished by solitary confinement, a diet of bread and water, and the additional withdrawal of privileges such as cigarettes and recreation (Harlambos & Holborn, 1995).

Stumphauzer in his book *Helping Delinquents Change* provides an excellent account of how social learning theory in operation within the microcosmic world of the prison can be used for modifying delinquent behaviour. He explains that "delinquent behaviour is acquired through psychological learning principles in a social context, and changing delinquent behaviour requires application and

variation of the same principles also in a social context" (1986:6). Already in his early work, Stumphauzer (1977) developed a training manual constructed on certain basic psychological principles, such as "reinforcement" and "modelling" (aimed at increasing undesirable behaviour), and "punishment" (aimed at decreasing undesirable behaviour). Stumphauzer (1986) argues that "punishment alone is never the most effective method of changing delinquent behaviour" and it should only be used in conjunction with other more effective social learning principles, such as positive reinforcement and modelling.

Goffman identified 5 modes for adapting to an institution. The first step is a **situational withdrawal** where prisoners minimise their interaction with others. This is followed by an **intransigent** line where prisoners refuse to cooperate with the staff and exhibit hostility towards the institution. When this occurs prisoners are usually placed in solitary confinement. The third mode, **colonisation** involves prisoners becoming institutionalised and a shift in thinking occurs to where life inside the prison seems more desirable than life outside the prison. **Conversion** then leads prisoners to adapt to what the guards regard them to be like. Finally, **playing it cool** is achieved by staying out of trouble so that after release they will have "a maximum chance, in the particular circumstances of eventually getting out physically and psychologically undamaged" (Haralambos & Holborn, 1995:306).

Much of approach is developed and imported by each offender from their external lives, and is then combined with the already existent attitudes and behaviours sculptured by the uniquely limited environment of prison. The major function of this new way of life and its normative system is to prevent social rejection from being internalised and converted into self-rejection. Furthermore, it permits the inmate to reject his rejecter rather than himself. Sykes and Messinger during the 1960's proposed that inmates seek to neutralise the consequences of imprisonment by a state of solidarity. By mov-

ing towards this, the pains of imprisonment become less severe. By taking on identity, dogma, customs, and the general culture of the penitentiary, prisoners mould themselves into a state early referred to as prisonisation, which for the most part is a method of adaptation.

However, clinical studies have shown that prisonisation may also have devastating effects and may lead to a 'psycho-syndrome' which includes a loss of memory, clouding of comprehension, apathy, infantile regressions, hopelessness, and the appearance of various psychotic characteristics such as obsession and major depression. This is most common amongst those prisoners who endure long sentences, have unstable personalities, the inability to maintain normal relationships with members of non-prison society, a readiness or desire to integrate into the prison subculture, and a close proximity to other individuals that are already integrated.

All events within prison revolve around the continuous struggle for power and supremacy. The struggle itself takes place in varied forms. Since the inmates have been victims of power by the judicial system and its total authoritarian regime of imprisonment, they tend to regard the possession of power as of the highest personal value, which within itself acclaims them prestige among other prisoners whilst allowing for the restoration of their self worth. The inmate social structure yields much more authority over individual inmates than do the members of staff, simply because inmate groups are capable of inflicting far more physical and psychological damage on their fellow inmates than any type of punishment that staff can administer. In fact, punishment by staff may have a self-defeating purpose in being regarded as a further source of status by the inmates.

7.6 Hidden Victims of Incarceration

The extent to which children or spouses experience the imprisonment of their loved one varies. Imprisonment of a partner can be emotionally devastating and practically unbearable. Loss of income, social isolation, difficulties of maintaining contact, deterioration in the relationship, and extra burdens of childcare can compound a sense of loss and hopelessness for prisoners' partners. Ferraro *et al* and Bolton's (1983) research suggests that the negative impact of imprisonment is generally more severe on prisoners' spouses than on the prisoners' parents, although parents and other family members may also suffer from practical and psychological difficulties (McDermott and King 1992; Noble 1995).

In 1965 Morris asserted that imprisonment of a husband was generally experienced as a crisis of family dismemberment rather than a crisis of demoralisation through stigma or shame. Stigma was experienced almost exclusively by wives whose husbands were imprisoned for the first time, and then only at the initial stages of the separation as one of his anonymous wives of a prisoner illustrated: "... It is like someone had died" (Morris 1965: 166). He further stipulated that: "among the most common problems reported, 63 per cent of wives said they experienced deterioration in their financial situation; 81 per cent some deterioration in their work; 46 per cent deterioration in present attitude to marriage and future plans; 63 per cent deterioration in social activity; 60 per cent deterioration in relationships with in-laws; and 57 per cent deterioration in relationships with friends and neighbours" (Morris 1965: 215–24).

Imprisonment of a partner can cause home moves (Noble 1995), and anything ranging from divorce and relationship problems to medical and health problems (Ferraro *et al* 1983; McEvoy *et al* 1999; Noble 1995). Partners with children face single parenthood at a particularly vulnerable time (Peart and Asquith 1992). As well as having to deal with their own problems, partners are expected to support

prisoners and to look after children, who are likely to be exceptionally hard to manage if their parent has been imprisoned.

Exacerbating these problems is the fact that prisons are clearly not family-friendly places to visit. Poor visiting facilities and the hostile attitude of the staff can put families off visiting, especially those with children (Peart and Asquith 1992).

7.7 The Effects of Incarceration on Inmates' Children

Children can suffer from a range of problems during their parent's imprisonment, such as: depression, hyperactivity, aggressive behaviour, withdrawal, regression, clinging behaviour, sleep problems, eating problems, running away, truancy and poor school grades (Boswell & Wedge 2002 and Centre for Social & Educational Research 2002). It is commonly cited that up to 30 per cent of prisoners' children suffer mental health problems, compared to 10 per cent of the general population (Philbrick 1996). However, there appears to be no documented evidence to support this claim. In Morris's study, "49 per cent of prisoners' wives reported adverse changes in children's behaviour since their husbands' imprisonment" (Morris 1965). Friedman also found that the children of jail inmates were more often rated below average in the school world on social, psychological and academic characteristics compared to controls (although subjects were not well matched on ethnicity) (Friedman and Esselstyn 1965). These studies suggest that parental imprisonment is a risk factor for mental health problems among children. However, to determine the actual increase in risk for mental health problems associated with parental imprisonment we need studies with representative samples, well-validated measures, and appropriate comparison data.

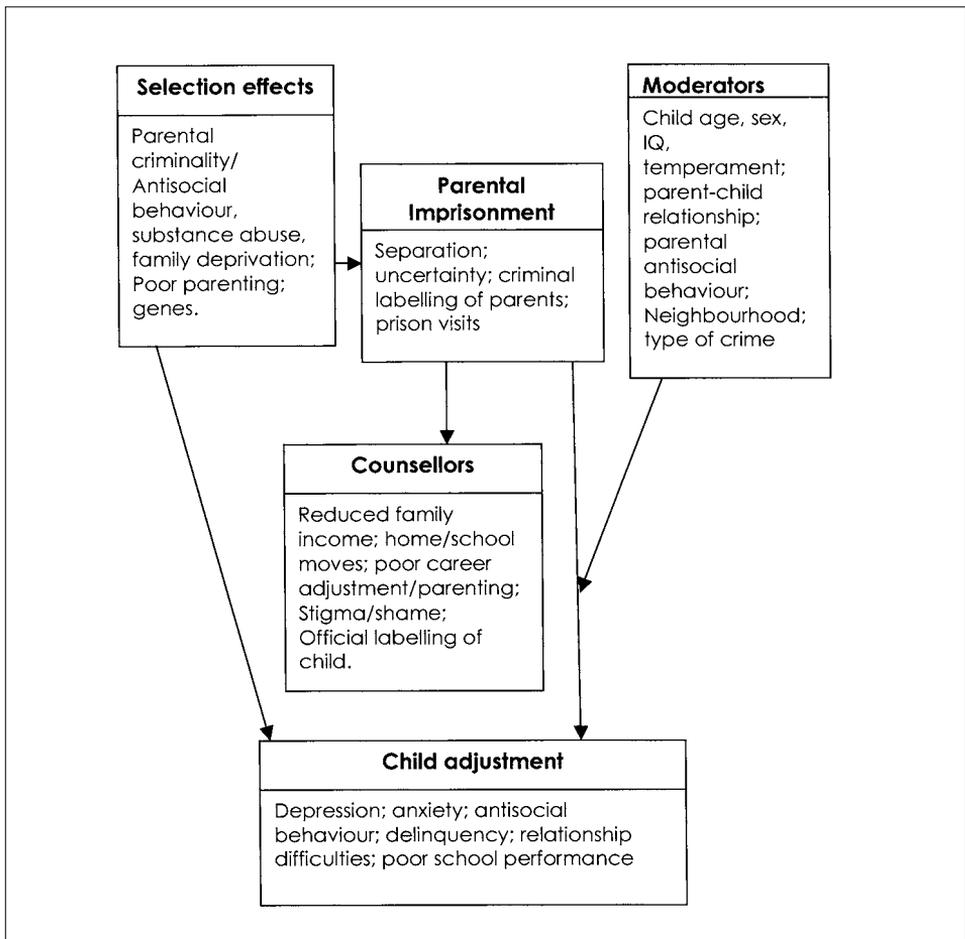
An important question regarding sentencing is whether parental imprisonment causes antisocial behaviour and crime in the next

generation. Anecdotal evidence suggests that children are at risk of antisocial reactions to parental imprisonment (Johnston 1995; Sack 1977; Sack and Seidler 1978). For instance, a boy in Morris's study was discovered by a policeman tampering with car locks and the boy declared his intention of joining his father in prison (Morris 1965: 91). It is frequently stated that children of prisoners are six times more likely than their peers to be imprisoned themselves (See Johnston 1998, cited in Myers *et al* 1999).

The assumption that parental imprisonment causes psychosocial difficulties for children is pervasive in literature on prison. Although it is a reasonable hypothesis that parental imprisonment causes adverse reactions in children, studies have lacked the methodological sophistication to distinguish the effects of parental imprisonment from the effects of other influences on children. Identifying which factors cause prisoners' children's outcomes is critical to developing the most effective solutions to their problems. From the diagram below, I argue that four types of factors should be inculcated in a model of parental imprisonment and child adjustment: selection effects preceding the **imprisonment** and the **direct, counselling** and **moderating** effects following the imprisonment. Figure 3 below hypothesises the effects of the four mentioned factors to explain the relationship between parental imprisonment and child adjustment.

Children's reactions to parental imprisonment might also vary depending on background levels of social support, parental anti-social behaviour, the type of crime committed by the parent, and possibly by neighbourhood context. Schwartz hypothesised that in neighbourhoods with high imprisonment rates, children can be more open about their situation, and feel less social stigma (Schwartz and Weintraub 1974). However, stigma might be especially high in neighbourhoods with high imprisonment rates because many victims of crime also live in these neighbourhoods (Braman 2004).

Figure 1.
The Relationship Between Child Adjustment and Parental Imprisonment



Source: Joseph Murray⁸.

⁸ From his work "The effects of imprisonment on families and children of prisoners". Available online at http://www.fcnetwork.org/reading/Murray_Prison_Effects_Chapter_17.pdf

7.8 Deterrent Theories: Crime Prevention

Deterrent theories may differ as to the properties of punishment emphasised, but all theories include assertions about crime rates. Deterrent is generally defined as the preventive effect whose actual or threatened punishment of offenders has influence upon potential offenders. Hugo A. Bedau⁹ investigated deterrence in two definitions:

Definition 1 “....a given punishment (**P**) is a deterrent for a given person(**A**) with respect to a given crime (**C**) at a given time (**t**) only if A does not commit **C** at **t** because he believe he runs some risk of **P** if he commit **C** and **A** prefers, *ceteris paribus*, not to suffer **P** for committing **C**.” (Bedau 1970: 540).

Definition 2 “....a given punishment **P** deters a given population **H** from a crime **C** to the degree **D** that the members of **H** do not commit **C** because they believe that they run the risk of **P** if they commit **C** and, *ceteris paribus*, they prefer not to suffer **P** for committing **C**.” (Bedau 1970: 541).

Even though both statements are commendably systematic, they are subject to objections, one of which is formal. Bedau's definitions are incomplete and ambiguous in three respects. First, it is not clear if the belief of a “risk of **P** is necessary, sufficient, or both for omission of **C**.” Second, his definitions exclude the possibility of deterrence through “vicarious punishment,” that is, instances where an individual refrains from a criminal act in fear that another person (e.g. a kinsman or a fellow villager) will be punished in response to his actions. Third, Bedau's definitions do not introduce considerations that are necessary to clearly distinguish types of deterrent.

⁹ In Bedau, Hugo A. writing on “Deterrence and the Death Penalty: A Reconsideration,” in *Journal of Criminal Law, Criminology and Police Science*, 61(December 1970) p. 539–548.

Deterrence studies have taken the form of comparing crime rates (dependent variables) under varying conditions of severity, certainty, and swiftness of the legal sanction. Such studies, indeed, have the advantage of accessible data and a relatively high level of measurement (Cushing 1969:207). Their critical weakness lies in their ignorance of the central theoretical conception that deterrence is in the mind of the beholder.

Man does as he has been “programmed” through his experiences and/or associations. Therefore deterrence could be termed and regarded as a state of mind.¹⁰ When I first began interviewing people in prisons, I realised that I had never met a group of people (five repeated offenders) who had been punished more severely from their early childhood as this group had. The first prison inmate with whom I had a discussion, was a man who had committed several brutal muggings and armed robberies, and he described how his father had beaten everyone in his family: him, his mother, and his siblings. At first I believed that he was merely a ‘con artist’ who was trying to enlist my sympathy and give himself an excuse for his anti-social behaviour. Afterwards, I discovered that his father was also imprisoned, convicted of the murder of his own daughter (the subject’s sister). Consequently I have learned that whether or not he was untrustworthy in many other respects, on this subject he was not only telling the truth, but his story was a proof that punishment as deterrence is not only ineffective and barbarous, but sometimes its effects can be contrary. Lately, an empirical approach to deterrence has explicitly put this assumption to the test; but in so doing it has only contrasted the viability of two extreme models of man: human being as a mechanism versus the completely free, rational actor.

10 That is not to say that sanctions necessarily have no effects other than deterrence. I am exclusively concerned with general deterrence – the influences of sanction on members of society at large – also the influence on the actually punished individuals (see Morris and Zimring 1969).

From time to time American social science has manifested extreme scepticism as to the efficacy of legal punishment upon the pervasiveness of crime, maintaining that deterrent doctrines are outmoded and totally out of place in a modern society (Toby 1964:332–333). Punishment has been seen as a barbaric hangover from primitive beliefs in *lex talionis*, an eye for an eye sentencing (see Menninger 1968).

Let us look at the young man from my research group who had been sentenced to a minimum-security prison for a non-violent crime (breaking and entering, also known as burglary). He had no prior history of violence but was nevertheless obnoxious and rebellious towards the prison authorities. The guards knew only one way of responding to his constant breaking of petty rules and regulations, which was to punish him more and more severely hoping that when he was sufficiently punished he would finally obey the rules. The exact opposite happened. It should also be pointed out that deterrence, when stated very bluntly, assumes that cases of punishment produce fear of the consequences in would-be offenders, leading to a decline in deviance among the prisoners.

7.9 Evidence of Deterrence

From the interviews and my discussions with some of the inmates, it can be seen that deterrence does work through the fear of being caught. For example, when asked, “Have you and will you ever turn down a chance to commit any criminal act, which the government deemed offensive because you thought you might be caught?”, a positive response to this question is taken as clear evidence of the deterrent mechanism in operation.

80 percent of all the interviewees admitted that on some occasion they had turned down chances to be so-called ‘big shots’ outside the prison, because they were afraid of being caught again.

Responses to an open-ended question which asked respondents to describe the circumstances in which they had been deterred are summarised in the table below. It is apparent that where specific responses were given, the circumstances of abstention were of a deterrent nature. Subjects were afraid of being detected or of exposure, and restrained themselves accordingly.

Table 4.
Circumstances of Abstention from Illegal Activities due to
the Fear of Being Caught

Circumstances	Number of subjects mentioning
Police apt to be present or tight situation	11
Time or place not safe or right	11
In company of untrustworthy or not well known people.	3
Afraid of being caught by a friend or relative.	2
When planning illegal activity which is really visible	3
No specific circumstances mentioned	8

Some of the questions used in generating data on deterrence employed as the basis for the analysis were:

1. "Have you turned down a chance to make it big because you thought you might be caught?"
2. "Will you turn down any chance in the future, knowing the risk involved in dealing in illegal drugs again?"
3. "Do you think you can resist the idea for the next 10 years?"
4. "Did you commit this act that you are currently serving time for willingly and will you jump at the opportunity again if it is there for you to be taken?"

5. "Knowing now the risk involved and that the possibility of going back to jail as a second offender is high, will you even think of taking that chance again?"

Responses to these questions can be compared with innumerable social patterns to determine what variables appear to distinguish the deterred and those not deterred. These variables include experiences with drug dealing and using. For example, deterrence takes place where the person's self-concept loses any further stake in conformity, knowing now the risk involved, and is afraid of being caught by a friend or relative. The deviant self-image is now in place and exerts pressure on the offender to behave consistently with the society's social norms. This exerted pressure leads to why people who do have more stakes in conformity desist from committing crimes. It can be seen clearly in David D. Friedman's model of deterrence formula, from his article on "Optimal Rules for Penalty and Liability":

*An individual **T** considers an action which will produce a gain g to him but a loss l to someone else. If $g > l$ the action produces a net gain of $g - l$ and, by the usual criterion of economic efficiency, ought to be taken. If $g < l$ it produces a net loss of $l - g$ and ought not to be taken...¹¹*

To paraphrase the above formula: an individual **T** considers that a crime will produce a gain g to him but a loss l to him when caught. **T** will calculate whether $g > l$, and if the action produces a net gain of $g - l$ according to the usual criterion of economic efficiency, the incentive to commit a crime will be high. However, if $g < l$ it produces a net loss of $l - g$ and the incentive to commit a crime will be low. So the idea here is how to make it in **T**'s interest to diminish his criminal activity. I postulate that crime could be deterred if **T** is certain of l and the shame the punishment will bring on him and his family as well as the alienation from the conformist society.

¹¹ <http://www.daviddfriedman.com/Academic/deterring/deterring.html>

7.10 Finnish Recidivism Study

Recidivism as a term is broadly used to refer to re-offending within a specified period of time after discharge from imprisonment. In this research, following the international praxis, persons sentenced to at least two unconditional prison sentences are usually considered as recidivists. For the purposes of this study, a person is considered a recidivist if he or she has been sentenced to a new prison term or if the crime has been committed before release or within five years of their release. Consequently, the recidivism of released prisoners in this research relates only to the discovered and registered criminality that has led to an unconditional prison sentence. The number of those receiving a new prison sentence is influenced by legislation, the number of discovered crimes, and their share of detection.

One of the most significant discoveries in the study of recidivism by Anssi Keinänen and Tuukka Saarimaa in their research “Empirical Analysis of Recidivism of Finnish Prisoners” is that a relatively large number of crimes in Finland are committed by a small number of individuals,¹² which leads to a controversial belief that if it would be possible to identify those likely to commit crimes, the crimes could be prevented by selective incapacitation. The Penal Code of Finland grants the courts a choice between applying a conditional or unconditional sentence, thus leaving it to the discretion of the judge except for cases where the seriousness of the offence, the guilt of the offender as manifest in the offence, or the criminal history of the offender necessitates the application of an unconditional prison sentence.¹³

12 See Anssi Keinänen and Tuukka Saarimaa article on “Empirical Analysis of Recidivism of Finnish Prisoners”. [Available online] at http://www.joensuu.fi/taloustieteet/ott/scandale/copenhagen/keinanen_anssi_and_saarimaa_tuukka%20NEW.pdf

13 The Penal Code of Finland, chapter 6, section 9.

Recidivism is influenced, besides legislation and court praxis, by the length of the follow-up times. The longer the released prisoners are followed by the authorities, the higher the proportion caught involved in committing a new crime. A proportion of those released are left outside the follow-up because of emigration. Those fractions that are not nationals of the country, upon their release can be deported to their native country; while some may be in institutional care making the likelihood of recidivism smaller. Notwithstanding, the research carried out by Kimmo Hypén, a senior officer in the Criminal Sanctions Agency in Finland, on Finnish Recidivism shows that the rate is falling, and he has paraphrased it below:

“Of the offenders for the first time in prison back to prison return 35 % but only few of them end up in the actual prison cycle. Based on the results, the idea of the great probability of ending up in prison cycle is false.” (www.rikosseuraamus.fi/25232.htm).

Hypén's research was based on offenders who had been convicted to an unconditional prison sentence and who had been released during 1993–2001. His data was collected from the central prisoner register which includes data on 30 000 separate individuals and their 100 000 prison terms. In his research on “Fewer Offenders than Thought Caught in Prison Cycle”¹⁴ he points out that “[in] the years 1993–1997, 40 percent of the released first-timers started a new, unconditional prison sentence during five years after release”.¹⁵

According to records from the Finnish prison databank, the Criminal Sanctions Agency stipulated that: “The probability of re-entering prison many times is extremely small: under ten in a hundred of the

14 [Online available at www.rikosseuraamus.fi/25232.htm.]

15 Kimmo Hypén further stipulates that the number of convicts to a new prison sentence hardly grew after five follow-up years even when the follow-up time was extended up to ten years.

first-timers return to prison over six times.”¹⁶ This low rate in comparison to the Western world is due to the humane treatment of prisoners in compliance with the country’s penal code system. With a recidivism rate of 35%, Finland has one of the lowest rates of repeat offenders, which can be attributed to various sources. Patrik Törnudd¹⁷ puts the low recidivism rate down to the fact that “those experts who were in charge of planning the reforms and research shared an almost unanimous conviction that Finland’s internationally high prisoner rate at the beginning was a disgrace and that it would be possible to significantly reduce the amount and length of prison sentences without serious repercussions on the crime situation”. This attitude is currently shared by the civil servants, the judiciary, the prison authorities, and even the politicians.¹⁸

Crime control has never been a central political issue in Finnish election campaigns, unlike in many other Western countries. Finnish politicians have hardly relied on populist rhetoric slogans, such as “three strikes” and “truth in sentencing”. The industrial urban welfare state status of Finland, coupled with the good judgment of the Finnish politicians to interact and coexist with the penological experts, could be attributed to the **less interference role** of politicians (partisan politics) in Finnish criminal policy making.

16 In the article on “The released from prison in Finland 1993–2001 and the re-entered” [Online available at <http://www.rikosseuraamus.fi/25234.htm>].

17 Patrik Törnudd, a Finnish criminologist, stressed the importance of the *political will and consensus* in bring down the prisoner rate in his book *Fifteen Years of Decreasing Prisoner Rates in Finland* (1993). [Online available at www.unicri.it/wwk/documentation/lmsdb.php?id_=911&vw_=f.]

18 Finnish politicians do not oppose the reform proposals prepared by the Ministry of Justice; they work with the experts on penological matters without making it a political campaign issue.

8. Discussions, Implications and Conclusions

8.1 Facts on Sound Rehabilitative Policies

Rehabilitation policy in Finland takes into account **the importation** and **exportation models**, and incorporates the belief that inmates must be rehabilitated if they are to fit into society upon release. The importation model as presented by Irwin and Cressey (1962) stipulates that: “prisoners who have been exposed to violence at home or in the streets etc. are at greater risk of behavioural misconduct while in prison” and that inmate behaviour is primarily an extension of the assorted antisocial behaviours that criminal offenders develop in the community. The exportation model/ deprivation model formulated by Sykes (1958) addresses the potential consequences for those who have gone through the traumatic and detrimental experiences inherent in prison settings and who then transmit those experiences into the outside world, thus creating harmful and dangerous situations for society at large.

Clemmer (1962) went even further in dubbing this prison culture as “prisonisation” and suggesting that the effects of prisonisation may be carried with the prisoner upon release. Consequently, once the prisoner is released from incarceration, the society is faced with a range of potential repercussions, from increased social costs to increased crime.

The gentle justice system in operation in Finland creates prisons without walls or fences but with camera surveillance and electronic alert networks. There are no iron gates, metal passageways or grim cells; instead the living spaces for inmates remind one of dormitory rooms.

Guards are unarmed and wear either civilian clothes or emblem-free uniforms. Guns can only be seen during the transfer of prisoners. The typical atmosphere in open prisons is that of humility and dignity where inmates and guards address each other by their first name and the prison superintendents use non-military titles like governor, while prisoners may be referred to as “clients”.

8.2 Way Out

Like Huittinen Open Prison, decent prisons must offer an alternative to the predatory world of the street criminal. They must be secure institutions: settings in which individuals are safe from the assault of others and hence free from violence – that is if they choose to live without resorting to deception or aggression in their dealings with others. Inmates are free to deal with one another in a mature manner, and free if they wish to arrange their lives in accordance with choices made upon reflection and not under duress. In such an environment, prisoners can learn to anticipate and accept the consequences of their personal choices.

With regard to the use of **time** in incarceration, the open prison system enables inmates to adapt to a routine similar to that of the outside, which provides the opportunity of being a master of your own destiny, and provides the opportunity to study and to acquire vocational training, etc. The analyses of programs and services available to inmates (chapter 4) shows a distinct difference in the workings of the Finnish penitentiary system from the typical lock-up system found in most conventional jails where inmates spend sixteen to twenty hours a day in a cell. In contrast, open prison can be seen as a secure social world in which offenders have the opportunity to develop constructive interpersonal relationships with one another, with staff, and with people from the free world. This creates a sense of acceptance in the convict's perception of the outside world and positively reshapes his self-definition.

It is easy to sentence malefactors to prison, but rehabilitating offenders so that they assimilate back into society as law abiding citizens is a much more difficult task; nevertheless it is the path embarked on in Finland. To the Criminal Sanctions Agency and to the society at large, the biggest challenge is presented by offenders who have ended up in the prison cycle. These convicts predominantly belong to the poorest and most socially excluded groups of the general population, which only makes the challenge harder. The ultimate objective of Finnish penal policy is to inculcate social commitment and responsibility upon these offenders and to assist them in becoming productive members of society. This goal is achieved by means of creating an atmosphere where the inmates adapt to life behind bars in a healthy, dignified and responsible manner; from such adaptation they are capable of developing mature and effective coping strategies and become operational and highly useful in the free world.

After thorough exploration of various aspects of incarceration in open prisons, it can be boldly stated that imprisonment should be used as a last resort when all other available sanctions fail to alter the offender's behaviour. However, none of the sanctions alone, as explained in "The Causal Effect of Punishment" in chapter 3, can be expected to prevent the convict from succumbing to a life of crime if, after his release, legitimate employment and housing policies are lacking.

With regard to the effects of imprisonment on an inmate's family, the Finnish prison policy of encouraging parental visitations has reduced the negative effects of imprisonment on convicts' children by helping inmates to maintain good and regular contact with their offspring. The possibility of staying in touch via phone calls and visits helps the children, especially younger ones, to cope better with the absence of their father. Not only does visitation policy alleviate some of the pain experienced by the inmates' children, but those

inmates who communicate with their children adjust better to the prison environment.

Teenagers report mixed experiences of visiting. Though glad to see their incarcerated parent, they complain about the lack of time to talk one-to-one with their father as they are normally accompanied by their mother or other adults. Visiting can also be frightening, may involve unpleasant searches, and to some kids the psychological awareness of seeing dad under the control of the authorities can be shocking. On the other hand, open prison strives to counter the discomfort and distress of prison visits by promoting the possibility of weekend stay-over for the spouse and children in the well equipped cottages in the vicinity of the prison. An opportunity to spend quality time away from the prison walls strengthens the weakened family ties, reasserts the convict's role as a parent and life partner, and reduces feelings of loss and confusion for all parties involved. However, active and effective parenting is extremely difficult to achieve in the prison context due to the necessary limitations on the convict's time; no amount of visitations, calls or letters will thoroughly erase the impact of one's imprisonment on his or her family.

8.3 Conclusion

As explicated in "The Finnish Prison System" in chapter 2, the Finnish Open prison system accommodates convicts working both inside and outside the institution or those taking part in other forms of activities such as studies, etc. Consequently, this considerably reduces the heavy financial and physiological burden of imprisonment on the convict's immediate family. In Finland, academic studies provoked rethinking of penal policy reflecting the region's liberal theories of social organisation, which led to the understanding that imprisonment should be a mere loss of liberty; therefore, prisons in the country, particularly the open prisons, are made as comfortable as possible. More importantly, greater emphasis is placed on

rehabilitation which modifies values and reinserts inmates back into society rather than on vindication of the committed crimes.

Since the time of instituting this unique system, Finnish crime rates have gone down to average Scandinavian levels, which are the lowest in Europe. In addition to human resource benefits, the state has benefited financially from the implemented changes. The Finnish government has saved millions of euros worth of expenses in maintaining prisons since the existence of open institutions. As well as training and preparing inmates for the outside world, it creates some financial support for the inmates, and the society at large also benefit from the work activities. A glance at the Finnish prison data-bank bears testimony to the fact that: "In 2005, the revenues for the enforcement of sentences were EUR 18.1million. Most of the income was received from the sales margin of the products of prisoners' work activities".¹

The introduction of these policies in Finland has led to a better understanding of the structure and functioning not only of prison populations but of social groups in general. These policies laid emphasis on **rehabilitation** rather than using the institution as a mere **punishment** tool, as the reasons below explain:

- Rehabilitation does have an impact on reducing recidivism.
- Rehabilitation programs that have a significant impact on reducing recidivism rates are those which are intense.
- A program's success depends on the selection of offenders who possess the potential to assume responsibility. It also depends on the patience and understanding of the program director in dealing with prison authorities, prospective employers, and clients who are often suspicious, easily discouraged, and respond to negative peer pressure from fellow inmates.

¹ Available online at <http://www.rikosseuraamus.fi/16922.htm>

- The best way to reduce recidivism is to educate offenders on how to manage aspects of their lives that elevate risk, rather than simply presuming a deterrent value of punishment alone.

Methods of prevention and rehabilitation do work, but the correctional and educational staff, etc., within and outside the prison walls must uphold these policies if reduction in recidivism rates is to be achieved. For example, the analysis of “Inmates Expectations” in chapter 5 showed that there is a need for more assistance in planning for release, including re-integration, strengthening social skills, securing housing, finding work, and re-establishing family bonds. The open prison rehabilitation program in Finland includes tools that prepare inmates for dealing with these issues.

Analysis of the non-stigmatisation attitude of the Finns in tables 1 & 2, and extracts from the presidential speech in chapter 7 on understanding public attitude towards criminals, provides evidence of the fact that Finns prefer to treat inmates in a humane manner with the hope that they will return to the society as law abiding citizens. One of the comments made by a respondent in the questionnaire survey in appendix 1, when asked to advise the policy makers on what the government should consider when dealing with offenders, paraphrased the feelings of most Finns by writing:

I would concentrate largely on crime therapy, on probation and aftercare. In my opinion people are driven to criminal acts with family or with other close people in case the background is problematic. Childhood traumas, lack of basic safety, trust for people, self confidence and knowledge are key risk factors for criminal acts. Handling these issues builds a bridge to the offender's sentimental life, therefore taking care of the others and taking responsibility help to prevent recidivism...

Long-term therapy and treatment should be applied in prisons. Finding stimulating activities that could become new hobbies, education or profession is also important. Prisoners should take more responsibility on others, for example as for catering, cleaning, and developing free time activities...

Taking into consideration other respondents' comments which can be seen in chapter 7, it is safe to conclude that Finland has taken the path of gentle justice. Based on the low recidivism rate in Finland, which can be seen in Kimmo Hypén work (chapter 7), it can be boldly stated that Finland is on the right track, although there is still room for policy developments which will bring the recidivism rate even lower.

The political system in Finland, just as in other European countries, when tackling crime and its consequences has failed in one major aspect – which is its fight against unemployment, since unemployment has a causal correlation to crime. However, in many other fields (such as education and social policy) the outcomes of the policies have been realistically good. As a result, inmates in Finland seem to have a much higher confidence in both the penal system, which stresses rehabilitation, and the political system, when compared to many other European countries. One inmate's comment reflects the feelings of most inmates towards the end of their sentence in the open prison, as he proudly puts it:

I am lucky that I am serving my sentence in Finland, a place where I can use my prison time to study and learn a new vocation that I can use upon my release. At the workshop I noticed that none of the other guys had any vocation before coming in. just like me. I can even fix and paint my car now. I am proud in what I have learnt here.

A number of organisations, like **Kriminaalihuollon tukisäätiö**² – The Probation Foundation Finland whose goal is to foster measures that reduce recidivism and its side-effects, bring Finland closer to the country's goal by providing "Aftercare Programs" for ex-offenders.³ For non-violent offenders and drug addicts, more diverse aftercare programs and incentives with the goal of increasing social integration should be developed, which can lead to maximising public safety and induce offenders to choose to behave responsibly.

2 Kriminaalihuollon tukisäätiö is a foundation in Finland whose one of its aims is to help ex-offenders who are in crisis situation due to their criminal past and are facing social isolation.

3 http://www.kriminaalihuollontukisaatio.fi/ENGLISH/Probation_foundation.pdf

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Appendix 1.

Survey of Public Attitude to Crime

1. City of residence:

(.....) Eg. Tampere.

2. Your year of birth? 19__

3. Your sex: () male () female

4. Marital status:

() single. () married. () cohabitation. () divorced. () widow.

5. How many persons reside in your household?

(.....)

6. How many children live in your household?

(.....)

7. What is your educational background? Circle the right alternative, please.

1(____)Primary school.

2(____)Civic school or part of grammar school

3(____)Comprehensive school or grammar school

4(____)Matriculation examination

5(____)University degree

8. Your occupational status: Circle the right alternative, please.

1. farmer

6. blue-collar worker

2. small entrepreneur
or self-employed

7. housewife

3. entrepreneur

8. student

4. upper-level white-
collar worker

9. unemployed

5. lower-level white-
collar worker

10. pensioner

9. Income group:

17. You think that circumstances can drive people to crime. 1 2 3 4 5

18. Once a criminal, will always be a criminal. 1 2 3 4 5

Most of us have some ideas about why crime occurs.

Below are ten statements about criminal behaviour; read each statement and circle **ONE** appropriate alternative from the following scale, please.

- 1 =Strongly Agree
- 2 =Agree
- 3 =Neither Agree nor Disagree
- 4 =Disagree
- 5=Strongly Disagree

19. Anyone would commit a crime if they knew they could get away with it. 1 2 3 4 5

20. Most people commit crimes because of psychological or physical forces they have no control over. 1 2 3 4 5

21. Where someone lives in a city significantly influences whether or not they engage in criminal behaviour. 1 2 3 4 5

22. People turn to crime because their friends or family find crime acceptable. 1 2 3 4 5

23. People turn to crime because they lack opportunities for good education and good jobs. 1 2 3 4 5

24. People generally turn to crime because they have poor self-images and weak ties to their families. 1 2 3 4 5

25. Treating individuals as if they are deviant can in fact make them become deviant over time. 1 2 3 4 5

Appendix 2.

Questionnaire for Inmates

1. Date of birth . _____
2. Date of interview. _____
3. Committal date. _____
4. Release date. _____

5. Marital status

- single
- presently married
- divorced
- widowed
- legally separated
- informally separated
- current common law

6. This is my

- A. First time in prison
- B. Second time in prison
- C. Third time in prison
- D. Fourth time in prison
- E. Fifth or more time in prison

7. As an adult, I have been arrested a total of

- A. One time
- B. Two or three times
- C. Four or five times
- E. Six or seven times
- F. Eight or more times

8. As a juvenile, age 18 and younger, I was

- A. Never arrested
- B. Arrested once, but not placed in a juvenile institution

- C. ___ Arrested two or more times, but never placed in a juvenile institution
- D. ___ Arrested only once, but placed in a juvenile institution
- E. ___ Arrested more than once, and placed in juvenile institutions at least once

9. For the past year before coming to prison, I

- A. ___ Worked at a lawful full time job
- B. ___ Stayed at home with my children
- C. ___ Worked part time and stayed at home part time
- D. ___ Didn't really work, but didn't stay at home much either
- E. ___ Made money doing some things on my own

10. The crime for which I am presently serving time is

- A. ___ Murder or manslaughter
- B. ___ Stealing (theft, larceny, robbery, or burglary)
- C. ___ Cashing bogus checks or using a stolen credit card
- D. ___ A drug related offence
- E. ___ Other _____

11. On my current case, I have already served (choose one)

- A. ___ Two months or less
- B. ___ Between 3 and 6 months
- C. ___ Between 7 and 12 months
- D. ___ Between 12 and 23 months
- E. ___ Two or more years

12. What prisons centres have you served time in the past?

13. How likely is it that you will commit crime again after your release

Very likely *quite likely* *quite unlikely* *very unlikely*

14. Realistically, how likely do you think it is that you'll be back in prison at some time in the future

Very likely *fairly likely* *not very likely* *not at all likely*

15. Have you ever discussed why you committed your offence with a welfare officer or other staff?

_____ yes _____ no.

16. Have you made a suicide attempt on this imprisonment? _____

Yes. _____no

17. Have you ever been physically assaulted in prison by another prisoner?

_____ Yes. _____no

18. Have you ever been sexually assaulted in prison by another prisoner?

_____ Yes. _____no

If yes to either what action (complaint) did you take?

If no, why?

19. Describe the prison work you do.

20. What are the most inadequate services in the prison?

1. _____ 2. _____ 3. _____

21. Are there any aspects of prison life that you find upsetting or irritating?

1. _____ 2. _____ 3. _____

22. What services or facilities would you most like to see provided?

1. _____ 2. _____ 3. _____

23. How satisfied are you with the channels available to you to make complaints

Don't know

satisfied

not satisfied

24. How satisfied are you with the response of these channels to the complaints made by prisoners?

Don't know

satisfied

not satisfied

25. How well is your family/social/personal problems handled in prison?

Don't know

satisfied

not satisfied

Appendix 3.

ADDRESS BY THE PRESIDENT OF THE REPUBLIC AT THE OPENING OF THE ANNUAL SESSION OF PARLIAMENT ON 4.2.2000

Equality matters a lot to the Finns. A good example of this is found in Väinö Linna's novel "Here Beneath the North Star" when Akseli Koskela says that he looks at everyone he meets from the level of his own eyes "no matter what a big shot he is". That is something that every Finn can say. It is also the initial premise in our new Constitution.

I have been pleased to see an extensive revision of trial procedures completed during my term of office. That has required much effort on the part of both law drafters and Parliament. Our experience to date of the effectiveness of the new procedures is mainly positive. However, I wish to draw attention to one aspect.

The prerequisites for solutions to juridical problems, i.e. judgements, being socially acceptable include not only clear arguments in support of those solutions, but also general respect for the way in which the law is administered. It must be possible to see every judgement as a carefully-considered stance taken by an independent court and intended to be final. It is not good for the credibility of judgements if too many trials are perceived by people as an event that is performed from beginning to end more than once in the same way.

An absolutely unrestricted right to appeal against a judgement of a lower court has been considered important in Finland. If, however, appeals become the rule rather than the exception, distrust of rulings by lower courts will naturally increase. Parliament itself has set the goal of transferring the emphasis in trial-related matters to the lower courts. Thus we have every reason to examine the effects of our restructuring of the appellate courts system and our experience

of operating it from a longer-term perspective and, if it appears necessary to do so, draft amendments to the law.

* * *

Ensuring a secure life is nowadays seen as a more important task for the public authorities than it was in the past. However, increasing control or making penalties tougher are not adequate means of creating security in everyday life, because they treat symptoms rather than tackling causes.

The most sustainable way of ensuring people's safety is to guarantee that the foundation of our society remains sound. We need a sense of shared responsibility for those who have been marginalised or are in danger of being excluded from society. We need social policy and effective safety nets.

That signs of marginalisation and growing inequality between people are appearing just when the economy is on an upswing is all the more worrying. If inequality continues to increase, it may provide a growth substrate for many kinds of social problems, including crime.

The way the drug problem is being dealt with and treatment services for substance abusers provide a topical example. Crimes and recidivism are often associated with substance abuse. Many crimes of violence are committed in a state of intoxication, whilst crimes of larceny are often a means of obtaining money for drugs. More and more often, drugs are affecting the lives of young people. A growing proportion of the prison population is likewise suffering from substance dependence that requires treatment.

We need to ask whether these people are receiving the help and treatment they need or if the problems are being neglected because society can not agree on who will pay the bill. However, tackling the drug problem would be an effective means of getting young people to abandon a career of crime in its very early stage.

It would also often be the fastest way of reducing the number of repeat offenders - not to speak of the other savings that could be achieved through treatment and rehabilitation.

The same applies to mental health care services. The economies now being striven for in them could prove very short-lived. Left without treatment, a child's or young adult's psychiatric problems could later turn out very expensive for all concerned.

* * *

Cross-border threats to security are nowadays no longer entirely military. New issues like those of international crime, environmental problems and nuclear safety have become more serious from the perspective of people's everyday lives. The work done during the Finnish Presidency and its culmination in the extraordinary summit in Tampere show that the European Union is for us an increasingly important means of combatting these threats.

Although our perception of security is nowadays a broad one, the threat of military conflicts has not vanished from the scene, either. It is true that the threat of a global conflict declined substantially when the Cold War ended, but armed internecine conflicts and also regional ones seem to have increased rather than becoming fewer.

The civilian population suffers intolerably in situations where states are either unwilling or unable to protect their own citizens. The international community can not stand idly by and watch situations like that, as the UN Secretary-General told the General Assembly last autumn. The development of international humanitarian law and of media technology has made violations of human rights something that concerns us all. That the international community today does not have nearly enough of the institutional and material resources that would be needed to deal effectively with all violations is no excuse for us to evade our responsibility.

In the days of the Cold War we became accustomed to thinking that a conventional, limited war was no longer possible in Europe. However, the events of the past decade, above all in the Balkans and Caucasia, have opened our eyes to the bleak reality. The work of the Organisation for Security and Cooperation in Europe and of the Council of Europe must be made more effective; the European Union must be enlarged. Only prosperity and justice as well as genuine respect for human rights and peaceful coexistence between different majorities and minorities can eliminate armed conflicts from our continent.

Even then, we can not isolate ourselves from problems and their consequences elsewhere in the world. The United Nations and its associated international organisations will continue to be our most important instrument as we strive to enhance the security of humankind. On the other hand, these organisations evolved in the world of the Cold War, a world that has undergone a profound transformation in the meantime. If we are to be able to guarantee coming generations of humankind a secure future, we must be able to reform the institutions of the international community.

* * *

Even when dealing with the issues of day-to-day politics, decision makers must also be mindful of the long-term ramifications of their decisions. At the same time they must be able to anticipate the issues that will be of growing importance. Predicting the effects of decisions and more generally making provision for the challenges of the future feature prominently in the work of the Finnish Parliament. In this respect its various preparatory bodies, such as the Committee for the Future, have done valuable work that has deservedly been acclaimed abroad.

A discourse on social policy and research in relation to it are especially important to us, because our country is in the throes of rapid change. Finland's reputation and economic success are nowadays

based largely on a high level of technical knowledge and rapid implementation of new technology. We have been doing well in this stage of the knowledge society's development.

Now we shall have to take the next steps towards a stage in which people and their needs will play a central role alongside technology. We must not build a society in which only some people are able to function as fully-fledged members. We must ensure that all of our country's inhabitants, irrespective of age, domicile and social background, have the wherewithal to cope, succeed and manage their own lives. A development like this will not take place automatically; it will require conscious decisions.

* * *

Powerful changes in the economy have occupied our attention in recent years. We have spoken of capital flows, indebtedness, prosperity and economic inequality. The might of the market is great, but we must not allow it to obscure our concept of humanity. Culture and education will remain our most important resources. Let us hope that in the new millennium Finnish society will channel its energy more into promoting intellectual growth and struggling against poverty of spirit.

I hereby declare the 2000 Annual Session of Parliament open and wish you success in your work.