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When harmony fails



I go to where the rocks sleep

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FINNISH CRIMINAL POLICY: From Hard Time to Gentle Justice

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Abstract

The early Finnish penitentiary system was originally inherited from the Russians who occupied Finland from 1809 to 1917. The change of philosophy in the penitentiary system started in the 1960s as a result of the country's shift towards the social welfare system that has persevered as the norm in Nordic countries. Simultaneously, Finnish criminologists started attending international conferences on new methods of treating criminals. In 1962 a delegate from Finland participated in an international congress on correctional treatment in Brussels where issues like the absence of psychologists in Finnish prisons were raised and promises of filling such vacancies were made (Laine, 1994)

Academic debates on the methods of treating convicts have been an on-going process in Finland, leading to significant changes in the way that Finland responds to the problem of crime. The result of this shift in criminal justice policy is that Finland has one of the lowest per capita crime rates in the world, as well as significantly lower rates of recidivism as well. The focus of this paper is on the shift in social policy in Finland and the factors related to Finland becoming one of the leading countries in criminal justice and penal reform.

Introduction

It can be argued that Finland possesses one of the most advanced and efficient systems of criminal justice policy ever implemented. As far as methods of punishment go, the Finns believe in

finer, short sentences, open prisons and heavy emphasis on gentle social rehabilitation, yet the rate of recidivism is one of the lowest in the world. The question at hand is how did such a system emerge? Prior to 1960, criminal justice policy had its roots in the Russian authoritarian model of the nineteenth century. Around 1960, a social revolution took place in Finland which led to sweeping changes in social welfare and criminal justice policies. The result was that the old Finnish system was replaced by a forward looking, socially aware new way of thinking. One of the reasons behind this radical change was the desire to minimize the costs of the criminal justice system and to move closer to the Nordic philosophy of criminal justice. Finnish policy makers were heavily influenced by a growing body of research that raised serious questions about the efficacy of harsh penal policies. Instead, these policy makers were struck by the growing body of literature from Nordic countries that supported the idea that recidivism could be greatly reduced by policies that focus on maintaining the connection between prisoners and the outside world and providing them with tools to survive in it.

Finnish Criminal Justice Policy Prior to 1960

After the Second World War, a committee was formed to study the state of Finnish prisons and it was ascertained that serious problems were evident, including the shortage of space, food, healthcare and clothing, which was a reflection of the unstable situation found in Finnish post-war society. Although these deficiencies led to a willingness to improve the conditions in prison, the decision makers did not want to act without due consideration to the increase in the rate of criminality. In 1945, a reformation committee comprised of prison administrators proposed modest reforms regarding prisoners' clothing, smoking and food provisions. These reforms were implemented without exception and a gradual shift in perception of the role of prison administration followed shortly. Rather than simply controlling prisoners, the role of prison administration shifted to the goal of transforming and

rehabilitating prisoners to become better citizens able to adhere to societal norms and abide by its rules (Matinpuro, 1981).

In the turbulent aftermath of the Second World War, Finland experienced a large increase in crime, with crimes of theft heavily represented (Hannula, 1981). In response to this situation, the criminal policy of the time concentrated on punishment and crime prevention through tough sentences. This was reflected in the 1940s and 1950s when Finnish criminal policy experienced a temporary halt in reforms, which resulted in a general toughening of the system. One example of this can be found in the actions of the Honkasalo Committee appointed to investigate prison conditions with special regard to guard safety. The committee found that the atmosphere of Finnish prisons have deteriorated over time due to influence from socially subversive elements and unfounded outside criticism of the system. Measures were taken to counter this development, including returning to the use of harsher sentences for first time offenders. Individual treatment of prisoners was heavily criticized by the Committee, for it was thought to cushion the system excessively, thus weakening its crime preventive element. The consequences of radical change were also deemed too unsure to form any basis for policies (Matinpuro: 1981). It has been suggested that the proposals of the committee effectively amounted to a return to the 1930s in Finnish criminal practices (Hannula, 1981).

However, even during the immediate post war times there were significant voices in Finland demanding the reform of criminal policy. The Prison Administration Statute of 1950 was for the first time based on recognition of human dignity for all prisoners and laid heavy emphasis on education in prisons, albeit this education was to be more ethical and moral in nature according to the traditional progressive idea of a prisoner making himself eligible for society again through work and worship. Length of workday in prisons was shortened from ten to eight hours following the shortening of the guards' workdays, for even though working was held in very high regard it was seen as beneficial from

a productivity angle to gradually allow prisoners more spare time (Matinpuro, 1981). Already during the late forties Finland adopted its own version of convict labor colonies as a form of punishment, which had no guards and in which the prisoners were paid for their work. According to Anttila, these colonies were not directly based on any foreign examples (Anttila, 1981). Valentin Soine, the reform minded head of Finnish prison administration was very proud to demonstrate them in a Geneva conference in 1958. The Honkasalo Committee itself was highly criticized by advocates of a gentler school of thought, mainly comprised of psychologists and higher officials of the prison administration such as Soine, and the implementation of the committee's proposals was withdrawn in the late fifties (Anttila, 1981). International cooperation in criminal policy had naturally been delayed during war-time but already in the 1950s Finland was actively taking part in international criminal policy conferences, which allowed new ideas to emerge. Especially important for later Finnish development was the Nordic connection, for the Scandinavian countries were already in the process of reforming their prison systems along gentler lines and Finland had a long standing tradition of cooperation with them. The mention of human dignity in the 1950 Statute came directly from a Swedish example, with the first Finnish statement concerning the lack of social rehabilitation capabilities of Finnish prisons being made by a Finnish psychiatrist during a conference in Sweden. At the end of the 1950s, new attitudes to crime control were developed by inter-Nordic research on juvenile crime. At times, however, the Finnish intellectual climate became so hostile to the gentler school for its excessive leniency that foreign connections became vital for its survival (Anttila, 1981). Moreover, it was made clear that Finnish criminal policy could not extend to the same level as Swedes due to post-war living conditions in Finland. It was believed that more attention needed to be paid to raising the standard of living of society as a whole than to the state of the country's prisons (Matinpuro, 1981).

The November Movement

In 1967, a new social movement emerged which directed its criticism at the legislature. This November movement established in subsequent years a prisoners union called *Krim* and was also used by the media as a vehicle to report problems within the criminal justice system (Matinpuro, 1981). The movement was interested in prisoners' backgrounds, in who they were and what would happen to them after serving a prison sentence (Pajuoja, 1998). A book published by the November Movement received a lot of attention in the media which contained prisoners' narratives of their own experiences within the Finnish prison system (Matinpuro, 1981). These writings brought the prisoners closer to ordinary people, and helped the public to better understand some of the problems inherent in the prison system.

Among the achievements of the November Movement was starting a debate on what prisons produce (Myllylä, 1998). One important idea that emerged was that prison cures nobody. As a result policies were enacted that prison sentences should rarely be used in smaller crimes and other penalty systems should be developed instead (Pajuoja, 1998). Most of all, thanks to the November movement, some improvements in prison conditions were realized. Political parties became interested in criminal policy, mostly thanks to the attention provided by the media to the November Movement and *Krim* (Matinpuro, 1981). The Finnish social democratic party was the first to lay out a program for criminal policy in the year 1968. After that, other parties followed suit.

The principles of criminal policy started to undergo a fundamental change during the 1960s, mirroring changes in the rest of society. First of all, there was a general political change: after the right-wing dominating the 1940s and 1950s, the parties of the left gained the majority in Eduskunta, the Finnish Parliament, during the 1960s. This was a clear sign of a generational shift, which became

gradually visible in every facet of Finnish society, from university professors to radical student movements to rising influence of foreign pop culture. New thinking centered increasingly on social issues and the key word was reform.

The Changes of the 1960s

Policies in the criminal justice system in Finland, imbedded with the principles of legality, equality and humaneness by making rehabilitation the central value, have created an encouraging situation for offenders in desisting from crime. The initial high numbers of confined criminals in Finland by the beginning of the 1960s subsided to the Nordic level of 50–60 prisoners per 100,000 inhabitants by 1998 as seen in the figure below.

Insert Table 1 here

The fact that Finland has been a relatively peaceful and safe society with a low level of crime facilitated the adoption of liberal policies in crime control. 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 its 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 professionals was reinforced by close personal and professional contacts with senior politicians and with academic research.¹

¹ Several of Finnish Ministers of Justice during the 1970s and 1980s were in 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.

The new social outlook connected criminal policy with overall social policies in Finland, stressing that it should never be viewed as something separate from the fabric of the society. To demonstrate the changes of the intellectual climate an example is in order: in 1964, a committee was set to evaluate the Finnish use of confinement, but by the time its report was published in 1969 its findings, recommending adoption of more individual treatment for prisoners and increased use of open prison sentences, were already considered old fashioned and out dated while the so-called neoclassical school, ready to take the reforms even further, advocating common crime deterrence and social re-acclimatization, was gaining popularity. In 1968 Paavo Uusitalo demonstrated in his influential research that less restrictive conditions would not lead to increased recidivism, but could in fact have the opposite effect. Overall, the socio-politically influenced Finnish criminal policy adopted a new kind of orientation: in the future the policy would aim at minimizing the suffering and social costs incurred by criminal activity and the measures used to combat it, and for sharing these costs fairly among the parties involved (Matinpuro, 1981). This era gave birth to the neoclassical interpretation of the functionality of prisons, with explicit stress laid on the general instead of individual inhibitory effect of criminal policy, identical treatment of cases, guaranteed legal protection and new criminology (Hannula, 1981). A sign of changing thinking taking practical shape was to be found in the appointment of permanent prison psychologists, the first of which began working in Turku and Helsinki in 1968 (Anttila, 1981), while the prison conditions saw tangible improvements and led to a decrease in the overall amount of prisoners. This was achieved in 1969 through decriminalization of drunkenness and a reform in fine legislation, which drastically changed the conversion imprisonment for non-payment and practically removed fine offenders from prisons (Aho & Karsikas, 1980).

The emerging social awareness can be demonstrated very well through the example of formation of societies based on critique of the prison system. Most notable of these were the so called

November Movement of 1967 and the National Convict Alliance Krim (Valtakunnallinen Vankiliitto Krim) of 1968. These organizations for the first time brought a lot of media attention to the ills of the Finnish prison system, even managing to attract the political parties of the day to their cause. The November movement organized a writing contest for convicts, which exposed the strictly disciplined old fashioned prison ways in a very straightforward manner. The influence of these movements was soon felt, when prison rules were reformed at the end of the sixties: many unnecessary formalities were abandoned and censorship of outgoing convicts' letters was relaxed. Vocational prison education began replacing the purely moral and ethical teaching the prisoners had been earlier received, and in 1971 compulsory church visits were abolished (Matinpuro, 1981). The old work and worship ideology was being replaced by the new re-socialization principles already.

Again the international dimension played a significant part in influencing these Finnish national reforms. The existing international discussion was centered more and more on the scientific aspects of crime in the form of academic criminology, with the Council of Europe starting to sponsor criminology expert meetings in 1963. In just such a meeting in 1964, British criminologist Roger Hood demonstrated that people charged with fines rather than short term prison sentences were much less likely to continue committing crimes, a lesson to which Finns heeded. Even more important was the Nordic criminology seminar in 1965 which concluded that the more closed prisons are kept the worse convict atmosphere they produce, thus greatly hindering the overall performance of the prison system. A general reworking of attitude was called for, since it was determined that even in Nordic countries prisons that were supposed to provide social treatment for the prisoners were de facto still dispensing punishment only masqueraded as treatment. Attitude transformation was to be a long and gradual process.

In the seventies international cooperation received even more attention with the practice of study trips to other countries' prisons, once again especially utilized in Nordic countries. With the generational shift in universities, the former criticism of the Swedish system eventually declined, while the Finnish system was increasingly seen as backward in contemporary publications such as the *Vankeinhoito* magazine.

This series of reforms was brought to a formalized close with the advent of the Finnish Prison Administration Reform of 1975. Statements issued by the Finnish government postulated that the moralizing attitude of prison education was to be abandoned in favor of social acclimatization. To facilitate this, prison education was to be transformed to support the convicts' vocational skills. It was made clear that prison sentences should constitute purely a loss of freedom, which meant that prisoners were sent to prison as punishment, not for punishment. The continued use of freedom limiting sentences was stated to be based on two principles: on one hand it limits the danger to society from prisoners assessed as dangerous and on the other hand, it keeps an air of common crime deterrence in effect through the very existence of such sentences. To demonstrate the long road the Finnish prison administration had walked to reach these goals and to signify the fact that these ideas were the product of gradual development, one could observe the comments of the Chief Director of the Finnish Prison Administration, who implied that the Reform of 1975 was practically a formalization of and final recognition for policy that had in principle already been followed for many years (Matinpuro, 1981).

In the beginning of 1960s the department of prison administration established a committee to examine how deprivation of liberty could be developed. As a result, the committee suggested proceeding to analogous deprivation of liberty, giving up on the progressive system and extension of open prison system. They also suggested that handling prisoners should become more individualistic; prisoners when entering into prison should be examined carefully. The main goal was to formulate a

process that would offer the best possible conditions for the persons who had committed a crime to readjust to living in society. The deprivation of liberty committee published a list of reformist proposals in 1969.

One could say that the Finnish criminal policy changes of the 1960s and 1970s came into being through a combination of significant outside influence especially in the form of Nordic ideas concerning prisoner treatment, with a native school of thought advocating a gentler approach. In the 1950s the development of criminal policy experienced a temporary halt with a hard line faction wishing to thwart the gentle approach, but after the important change of generations even the prison system was accepted as a part of the emerging Finnish welfare state and developed as such. Combined with the changing societal landscape of the 1960s and 1970s, these influences were bound to carry through to creating the modern Finnish criminal justice system, the basis of which remains unchanged to the present day. These policy changes have been quite successful: from a post war crime boom and relatively high incarceration rates, Finnish prisons have emerged to be counted among the most humane correctional facilities in the world and yet, recidivism is very low compared to international standards.

It is important to note that Finnish policy makers are not satisfied with the results produced by the criminal justice system and continue to work to improve their system. Finland has relied heavily on science in guiding its social policies. The principles guiding Finnish penal policy are aimed at preserving the rights of offenders while also ensuring that people are punished for their criminal acts.

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 and in this research, following the international praxis, persons sentenced to at least two unconditional prison sentences are usually considered as recidivists. 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,² 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 conditional or unconditional sentences, leaving it to the discretion of the judge, except for cases where 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.³

Recidivism is influenced, besides legislation and court praxis, by the length of the follow-up. The longer the released prisoners are followed by the authorities, the higher the proportion caught involved in committing a new crime. A part of those released are left outside the follow-up because of emigration. These fractions that are not the 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 paraphrased it as below:

² See Anssi Keinänen and Tuukka Saarimaa article on “Empirical Analysis of Recidivism of Finnish Prisoners”. [online] at http://www.joensuu.fi/taloustieteet/ott/scandale/copenhagen/keinanen_anssi_and_saarimaa_tuukka%20NEW.pdf

³The Penal Code of Finland, chapter 6, section 9.

“Of the offenders for the first time in prison back to prison return 35 % but only a 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.”⁴

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*⁵ he points out that in “the years 1993-1997, 40 per cent of the released first-timers started a new, unconditional prison sentence during five years after release.”⁶

According to records from the Finnish prison data bank, the Criminal Sanctions Agency stipulated that “The probability of re-entering prison many times is extremely small: under ten in a hundred of the first-timers return to prison over six times.”⁷ 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 Törnudd⁸ identifies the low recidivism rate to the fact that “those experts who were in charge of planning the reforms and research shared an almost unanimous

⁴ www.rikosseuraamus.fi/25232.htm.

⁵ www.rikosseuraamus.fi/25232.htm.

⁶ 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. See www.rikosseuraamus.fi/25232.htm.

⁷ In the article on “The released from prison in Finland 1993-2001 and the re-entered” [Online available in <http://www.rikosseuraamus.fi/25234.htm>].

⁸ 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 in www.unicri.it/wwk/documentation/lmsdb.php?id =911&vw =f.]

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 and the prison authorities, and even the politicians.⁹

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

Human dignity in prison reform

The Sentences Enforcement Act sets the following requirements on the Prison Service:

1. Punishment is a mere loss of liberty: The enforcement of sentence must be organized so that the sentence is only loss of liberty. Other restrictions can be used to the extent that the security of custody and the prison order require.
2. 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.
3. Normality: The circumstances in a penal institution must be organized so that they correspond to those prevailing in the rest of society.
4. 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

⁹ 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.

an unequal position because of their race, nationality or ethnic origin, skin color, language, gender, age, family status, sexual orientation or state of health or religion, social opinion, political or labor activities or other such similar thing

5. 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 stage of development.
6. 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 some other important matter connected to his/her treatment.
7. Prisoners have a right to vote and they can do it in prisons.

Life in Finnish Prison

Finland is a country that imprisons fewer of its citizens than any other country in the European Union. An ex-inmate from a Finnish prison rightly illustrates the gentleness of the country's penal institutions by saying: *If I have to be a prisoner again, I will be happy to be one in Finland because I trust the Finnish system.* Looking at Finland's penal institutions, whether those system are categorized as "open" or "closed," prisons, it is hard to tell when you've entered the world of custody. A warden in the Hameenlinna penitentiary, a Finnish prison, normally says when welcoming visitors to the institution, *this is a closed prison, but you may have noticed you just drove in, and there was no gate blocking you.*

Walls and fences have been removed in favor of unobtrusive camera surveillance and electronic alert networks. Instead of clanging iron gates, metal passageways and grim cells, there are linoleum-floored hallways lined with living spaces for inmates that resemble dormitory rooms more than lockups

in a typical prison. Guards in Finnish prisons are unarmed and wear either civilian clothes or uniforms free of emblems like chevrons and epaulettes. As the warden proudly explained *there are 10 guns in this prison, and they are all in his safe, and that the only time he takes them out is for transfer of prisoners.*

At “open” prisons where gentle justice is highly transposed, inmates and guards address each other by first name, contrary to the prison cultures in most countries where prisoners are addressed by numbers. Prison superintendents in Finland go by non-military titles like manager or governor, and prisoners are sometimes referred to as *clients* or, if they are youths, *pupils*. Kirsti Nieminen, governor of the Kerava prison that specializes in rehabilitating young offenders normally explains to the guest visiting the institution that they play the role parents to these inmates.

Prison officials can give up to 20 days solitary confinement to inmates as punishment for infractions like fighting or possessing drugs, though the usual term is from three to five days. The guards even try to avoid that by first talking out the problem with the offending inmate, as was highly emphasized by a supervisor at Hameenlinna Prison. In one of her discussions she said that in Finland *...we believe that the loss of freedom is the major punishment, so we try to make it as nice inside as possible...* She further went on to explain that thirty years ago, Finland had a rigid model, inherited from neighboring Russia, and one of the highest rates of imprisonment in Europe. But then academics provoked a thoroughgoing rethinking of penal policy, with their argument that it ought to reflect the region's liberal theories of social organization.

Finnish criminal policy is exceptionally expert-oriented, said Tapio Lappi-Seppala, director of the National Research Institute of Legal Policy. He explained that Finland believes in the moral-creating and value-shaping effect of punishment instead of punishment as retribution. He asserted that over the last two decades, more than 40,000 Finns had been spared prison, \$20 million in costs had

been saved, and the crime rate had gone down to relatively low Scandinavian levels. Finland is a relatively classless culture with a Scandinavian belief in the benevolence of the state and a trust in its civic institutions, is something of a laboratory for gentle justice. The kinds of economic and social disparities that can produce violence don't exist in Finland's welfare state society, street crime is low, and law enforcement officials can count on support from an uncynical public.

Markku Salminen, the former director general of the Finnish prison service once said, *I know this system sounds like a curiosity, but if you visit our prisons and walk our streets, you will see that this very mild version of law enforcement works.* He also accredited the politicians with keeping the law-and- order debate civil and not strident. He pointed out that in Finland the newspapers are not full of sex and crime as in other countries, and due to this, there is no pressure on him to get tough on criminals from populist-issue politicians like there would be in other countries.

Finnish courts dispense four general punishments - a fine, a conditional sentence, which amounts to probation, community service and an unconditional sentence. The last category which is widely use is made less harsh by a practice of letting prisoners out after only half their term is served. Like the rest of the countries of the European Union, Finland has no death penalty. According to the Ministry of Justice in Helsinki, in 2006, there were a little more than 2,700 prisoners in Finland, a country of 5.2 million people, or 52 for every 100,000 inhabitants. Ministry figures show the comparable rate is 702 per 100,000 in the United States, 664 in Russia and 131 in Portugal, the highest in the European Union.

Development of Supervised Probationary Freedom in Finland

The gentleness of Finnish justice extended further to include Supervised Probationary Freedom. This system was first implemented in Finland in October 2006, where prisoners are released from

prison up to six months prior to the actual parole if certain prerequisites are met. The framework for probationary freedom enables individual methods of implementation according to the needs of the specific prisoner.

The preconditions for probationary freedom are defined in the Penal Code (39/1889). Firstly, probationary freedom must promote the implementation of the individual sentence plan, which describes the terms for serving the sentence, for the release from prison, and for parole. Secondly, prison personnel evaluate whether the prisoner in question will probably follow the terms defined for his/her probationary freedom. This evaluation is based on the information concerning the conduct of the prisoner during his/her sentence, on his/her personality and on his/her criminal background. In addition, the prisoner has to agree to follow the terms defined for him/her, to be supervised and to let the officials be in contact with each other and with private communities and persons in matters having to do with the probationary freedom of the prisoner.

When granted probationary freedom, the prisoner is required to live at home, at a half-way house or at a rehabilitation institution and is expected to take part in constructive activities such as work, studying and rehabilitation. They are supervised by correctional officers via mobile phone tracking, visits to home and workplace, and by phone conversations. Case-specific restrictions are defined for each person granted probationary freedom. Usually the person is allowed to move in a restricted area (e.g. within city limits) and he/she must remain at home during night-time. In addition, the use of alcohol and other intoxicants is prohibited.

The background for introducing probationary freedom into the Finnish penal system lies in certain redefinitions of criminal policy as well as the development of related international laws, such as human rights conventions. The aim of the Finnish criminal policy has been to transform serving a prison sentence into a more predictable and systematic process in which a prisoner is given the chance

of gradually gaining license to greater freedom of movement. The implementation of probationary freedom may also be seen as a manifestation of the shift of focus in correctional services towards so-called “community punishments” (e.g. community service). One of the main objectives is to decrease the use of incarceration by emphasizing sanctions that both cost less and are more effective in preventing recidivism.

Discussion

Comparative research poses numerous challenges, but one does wonder if the remarkable results produced in Finland over the past 50 years could be replicated elsewhere, such as the United States. What’s interesting is that in the early 1960s, both Finland and the United States embarked on liberal social and criminal justice models, with an emphasis on expanding the rights of offenders, the rehabilitation of offenders, limiting the use of incarceration to serious offenders, and assisting in the re-entry of ex-offenders back into society.

However, the 1970s produced divergent paths for the two countries. For the United States, there was a conservative backlash, both for social and criminal justice policy, which shifted the blame for social problems on the individual and produced the war on drugs, mass incarceration with long prison sentences, and a subsequent reduction in prison programming due to the cost of building new prisons. The size of the US prison population increased threefold, more than 1/3 of the entire population of Finland. For Finland, they have continued on the path begun in 1960. Avoiding the harsh rhetoric of political conservatives, Finnish criminal justice policy is directed by sound research and is aimed at preserving the rights of offenders while also ensuring that people are punished for their criminal acts.

So, how does one explain these divergent paths? First, the United States has a history of reliance on individual responsibility, a distrust of government, and as a result, there is no inherent belief that people have a right to health care or that one should expect government to provide basic social support for its citizens. In addition, capitalism embraces a competitive ideology, which produces winners and losers, and it is the goal of winning that sustains one's belief in the system. Finland, on the other hand, embraces democratic socialism, and demonstrates tremendous faith in government institutions to preserve the human rights of all of its citizens, which includes health care, education, and meeting one's basic needs for survival.

This paper has demonstrated the effects of liberal policies in Finland that have produced gentle justice and low recidivism rates. Not completely satisfied with their current low rates of recidivism, Finland continues to seek ways to continue to improve their system, as is evidence by the creation of supervised probationary freedom, and the intention of reducing the number of closed prisons and replacing them with open prisons. But, what about the implications of the United States returning to harsh punishment? Richards et al. (2004) has referred to a perpetual incarceration machine, a system that recycles offenders in and out of prison in an endless cycle. One reason for this is referred to as the collateral consequences of incarceration, which includes the stigma of a prison record, numerous job restrictions, and the loss of voting rights, which make it difficult for ex-offenders to successfully re-enter society. Most men and women in the United States leave prison with few job prospects, without adequate housing, and with few prospects for change. It is no surprise, then, that prison staff often tell ex-cons as they leave the prison that "we will see you back soon."

While it is unlikely that the US will ever adopt policies similar to those of Finland, it could learn much from what has worked in Finland. First, reduce the profit from political rhetoric, as well as from the prison industrial complex. US criminal justice policy could benefit from relying on strong

research that focuses on what works, rather than embracing political rhetoric or ideology. Secondly, Finland has demonstrated that gentle justice can produce positive results, and that harsh punishment produces the opposite result. It is no wonder that long and harsh sentences would make it much more difficult on a person attempting to re-enter society, and the recidivism rate in the US supports that notion. Finally, reducing the negative impact of a felony conviction and the stigma that is associated with it would go a long way in helping ex-offenders begin life anew with a clean slate. When President Eisenhower warned the American public to beware of the military-industrial complex, he could have easily been speaking about the prison industrial complex. Instead of wasting trillions of dollars on weapons that will never be used, the US spends trillions of dollars on a criminal justice system that does not reduce crime, but instead maintains it.

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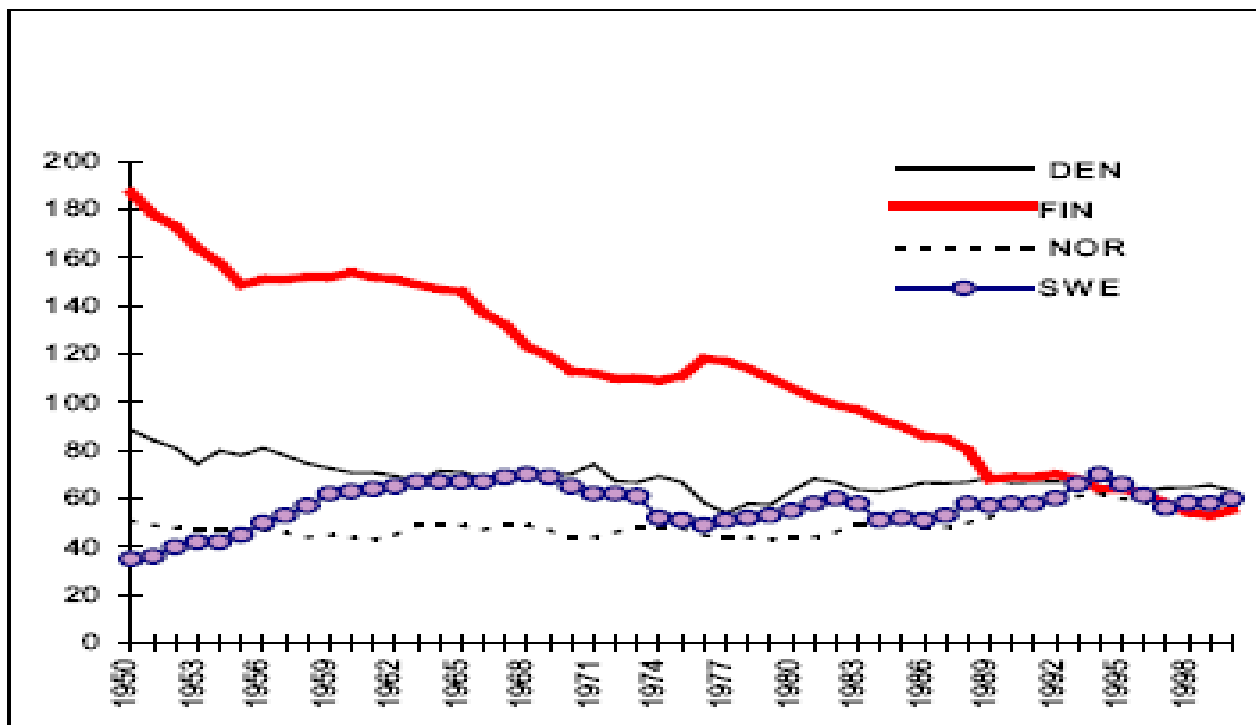
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Table 1

Prisoner rates (per 100 000 inhabitants) in Four Scandinavian Countries (1950–2000).



Compiled from Falck, von Hofer and Storgaard, 2003

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