

Kaiser/Kury

Criminological Research in the 1990's

Criminological Research in the 1990's

Summaries

edited by

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Preface

The present publication is intended to provide an overview of the most important research projects conducted by the Criminological Research Unit of the Max Planck Institute (MPI) of Foreign and International Criminal Law during the last five years. The research developments promoted by the institute and the results that have been achieved since the 10th International Congress of Criminology which took place in Hamburg in 1988 shall therefore be presented, if not in a comprehensive form - at least in form of a representative collection of articles. The present publication thus continues where the preceding conference volume entitled "Crime and Criminal Justice. Criminological Research in the 2nd Decade at the Max Planck Institute in Freiburg" (ed.: Kaiser and Geissler, Freiburg, Germany, 1988) left off.

The first volume of the two-part documentation covers research activities devoted to the subject domains of "Crime in the environmental and economic sectors" as well as "Justice Administration research - cohort research - sentence imprisonment". The second volume contains the essential results of the "Victim Research - Restitution" priority research endeavor. An English summary has been provided for each contribution to promote better comprehension by research scientists from abroad.

The research activities of the Criminological Research Unit of the MPI have been dedicated to empirical projects centered on victimological issues since the beginning of the Seventies. However, it was only in the last few years that the Research Unit carried out the first national victim surveys covering the territory of the former Federal Republic of Germany (i.e. former West-Germany) as well as that of the new federal Länder. The domain of victimization research was continuously expanded at our institute, with special emphasis being placed on methodical aspects of victim surveys.

In conclusion, we would like to thank to all the members of the Criminological Research Unit, including those who have in the meantime left the institute, for their excellent work. It is their contributions that have made this research documentation possible.

Furthermore, we are indebted to Dr. M. Grade and Mrs. A. Würger for translating the introductory contribution and the summaries of the articles included in these volumes. We also thank Mrs. D. Kirstein and Mr. J. Obergfell-Fuchs for corrective reading and revision of inconsistencies. And finally, the preparation of the final camera-ready manuscript by Mrs. B. Lickert, Mr. R. Seitz, and the Computersatz G. Diesch is gratefully acknowledged.

Freiburg, July 1993

G. Kaiser
H. Kury

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Criminology in a Society of Risks - Looking backward and ahead -

GÜNTHER KAISER

I.

Various attempts have been made to devise different labels for characterizing life in the present day and age. Thus, it has been assumed that we are living in an information society, an experience-seeking society, or even in a society of risks. Among such generalized descriptions, the designation "society of risks" enjoys widespread popularity - especially in the German literature - in view of the ecological hazards prevailing worldwide.¹ It is therefore entirely understandable that there is no lack of analyses focusing on the role and **significance of criminal justice in today's society of risks.**² Occasionally, reference to the hazards of modern-day society has even served to herald, in a nostalgic sense, the retreat of penal (law) policy into allegedly risk-free domains of activity that have, however, certainly never existed in the assumed form.³ One is dealing here with a kind of regression phenomenon aimed at keeping the criminal law - in its role as a system of norms and as an institution - free of future risks and insufficient possibilities of controlling these risks. This includes attempts to evade constellations that may be too complex to handle by recurring to assumedly well-established realms of judicial knowledge.⁴ Obviously, a fear of being confronted by the "consequences of coping with the consequences" is involved here.⁵ There also seems to be a desire to disengage oneself from the constraints of empirical evaluability that had until recently been applauded as a sign of a newly acquired rationality in criminal policy and celebrated as a major step forward. The "procedural deficits" of a criminal-law based implementation of norms that are well known in criminology, but that have nonetheless been newly discovered by penal policy, are cause for disillusionment.⁶ They also serve

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- 1 Cf. *Beck, U.*: Risikogesellschaft. Auf dem Weg in eine andere Moderne. Frankfurt/M. 1987²; by the same author: Politik in der Risikogesellschaft. Frankfurt/M. 1991; *Luhmann, N.*: Soziologie des Risikos. Berlin et al. 1991; *Bonß, W.*: Unsicherheit und Gesellschaft - Argumente für eine soziologische Risikoforschung. In: Soziale Welt 42 (1991), 258-277; in reference to the "experience-seeking society" cf. *Schulze, G.*: Die Erlebnisgesellschaft". Kultursoziologie der Gegenwart. Frankfurt/M. 1992.
 - 2 *Hassemer, W.*: Kennzeichen und Krisen des modernen Strafrechts. ZRP 25 (1992), 378-383; *Seelmann, K.*: Risikostrafrecht. In: KritV 75 (1992), 452-471.
 - 3 *Hassemer* (cf. footnote no. 2).
 - 4 *Naucke, W.*: Die Wechselwirkung zwischen Strafziel und Verbrechensbegriff. Wiesbaden 1985; *Herzog, F.*: Gesellschaftliche Unsicherheit und strafrechtliche Daseinsvorsorge. Heidelberg 1991; *Hassemer* (cf. footnote no. 2).
 - 5 Cf. *Hassemer* (footnote no. 2) and *Müller-Dietz, H.*: Strafzumessung und Folgeorientierung. In: Festschrift für G. Spindel. Berlin et al. 1992, 413-433.
 - 6 Cf. *Hassemer* (footnote no. 2); on the subject of the development of implementation research in criminology cf. *Heinz, W.*: Diversion im Jugendstrafverfahren. ZRP 23 (1990), 7-11.

as a vehicle for such a policy of retreat, as if a penal policy which declares itself as (neo)-"classical" were able to withdraw from assessing the consequences.⁷

From a perspective which is far removed from such inherently problematic reservations, the degree and the manner in which criminology has approached the issue of technological and ecological risks, has focused attention on these themes as areas of research, and has resolutely placed the possibilities of acceding and managing these issues under the heading of "civilization processes" might almost appear careless and naive in this general context. Studies devoted to criminality in motorized traffic, in the computer sector and in the ecological domain bear witness to these developments. Nevertheless, attempts to accede such issues will be considered as daring, or even incomprehensible, if one gives serious consideration to repeated allegations that (German) criminology has been in a state of "trials" and "tribulations" since the International Congress in Hamburg in 1988.⁸ Analyses to this effect seem to have failed to reveal any observable consequences, however. As far as can be seen, criminological research has remained largely unaffected by such circumstances. Nevertheless, some of the raised objections may be valid. For this reason as well, it is worth reviewing developments in criminology and determining the status of criminological research - because, as things stand, "rethinking criminology" is not a task to be handled only by British researchers.⁹ Besides, criminologists can also become an endangered species under certain conditions, as is highlighted by the brief lifespan and the disillusioning end of the era of "socialist criminology".¹⁰ It was shortly after the Congress of Criminology in Hamburg that dramatic **changes affecting politics, society and the economic system** took place notably in Eastern Europe, the impact and reverberations of which will have lasting effects, also in the field of criminological research.¹¹ Despite the (intermittent ?) reduction of the existential threat posed by the armed confrontation of global military blocs, the more widely distributed risks do not appear to have lost any of their potential explosive power. In criminology, only a partial and more or less hesitant recognition of such constellations has developed - probably because the other risk domains are already sufficiently forcible. But still, socio-political changes of a macroscopic magnitude do not leave research on a micro-level unaffected. This change is thus also reflected by the advances in criminological research spanning the period between the Criminological

7 Reference is made here to the objections justly raised by *Seelman* (cf. footnote no. 2). No solution is offered, though.

8 Cf. *Quensel, St.*: Krise der Kriminologie. Chancen für eine interdisziplinäre Renaissance. *MschKrim* 72 (1989), 391-412; *Sack, F.*: Das Elend der Kriminologie und Überlegungen zu seiner Überwindung - Ein erweitertes Vorwort. In: Ph. Robert (ed.): Strafe, Strafrecht, Kriminologie. Frankfurt 1990, 15-55.

9 Cf. *Young, J., Matthews, R.*: Rethinking Criminology: The Realist Debate. London et al. 1992.

10 Recently *Lekschas, J. et al.*: Kriminologie in der DDR. In *Kaiser, G. et al.* (ed.): Kriminologische Forschung in den 80iger Jahren. Berichte aus der Bundesrepublik Deutschland, der Deutschen Demokratischen Republik, Österreich und der Schweiz. Freiburg 1988, 19-56, and in retrospect *Ewald, U. et al.* (ed.): Entwicklungsperspektiven von Kriminalität und Strafrecht. Festschrift für J. Lekschas. Bonn 1992.

11 In reference hereto cf. *Kury, H.* (ed.): Gesellschaftliche Umwälzung. Kriminalitätserfahrungen, Straffälligkeit und soziale Kontrolle. Freiburg i. Br. 1992, and *Kaiser, G., Jehle, J.-M.* (ed.): Politisch-gesellschaftlicher Umbruch, Kriminalität, Strafrechtspflege. Heidelberg 1993.

Congresses in Hamburg and in Budapest. Socio-political upheavals and crime development as well as socio-historical criminological research¹² bear witness to the newly kindled interest in the relations between social change, crime development and fear of crime.

Among the **priority research topics** on which criminology in Germany has concentrated during the period of reference - i.e. drug-related crime, unlawful practices causing damage to the environment (= environmental offenses,) and crimes of violence, organized crime, victim(ological) research, fear of crime, diversion, victim-offender-mediation and prevention - the MPI (Max Planck Institute) was, of course, able to deal with only a smaller number of such issues within the framework of extensive empirical-criminological research projects and pursued such projects with different degrees of intensity. This division of labor is a sensible approach to the problem also in view of a cost-efficient management of allocated research resources. With the exception of socio-historical research, applied research plays a predominant role in Germany. This is also the case with secondary analyses and the recommendations of the so-called Anti-Violence Commission.¹³ The fact that a new wave of politically motivated violence emanating from "right-wing extremist" groups has been unleashed - exactly at a time when historians are criticizing, among other points, the premise of the alleged lack of violence in present-day society given in the committee's report¹⁴ - must be considered as an ironical twist of historical events. Moreover, it is almost superfluous to add that the recommendations of the Anti-Violence Commission have by and large remained without consequences and have basically received only a divided response even within the scientific community. Possibly, the acceptance of reports presented by such committees is greater abroad, or at least better than in Germany.

II.

In its cooperation with the international and intra-German scientific community the Criminological Research Unit of the Max Planck Institute has dedicated its efforts to the pursuit and advancement of relevant **research topics**. Within the scope of these activities, the cohort and victim studies belong more to the domain of basic research, whereas studies devoted to the issues of abortion, the law on protection of the environment, criminal proceedings, sentence determination and administration of criminal justice can be attributed partly to implementation and evaluation research, but on the whole more to the field of applied basic research.¹⁵ This also holds for the investigation

12 In reference hereto cf. *Blasius, D.*: Sozialgeschichte der Kriminalität. In *Kaiser, G. et al.* (ed.): Kleines Kriminologisches Wörterbuch. Heidelberg 1993, 490-495; *Romer, H.*: Historische Kriminologie - zum Forschungsstand in der Literatur der letzten zwanzig Jahre. *Zeitschrift für Neue Rechtsgeschichte* 14 (1992), 227-242.

13 Cf. *Schwind, H.-D., Baumann, J. et al.* (ed.): Ursachen, Prävention und Kontrolle von Gewalt. Analysen und Vorschläge der Unabhängigen Regierungskommission zur Verhinderung und Bekämpfung von Gewalt (Gewaltkommission). Berlin 1990.

14 In reference hereto cf. *Albrecht, P.-A. et al.* (ed.): Verdeckte Gewalt. Frankfurt 1991.

15 *Pallin, F., Albrecht, H.-J. et al.*: Strafe und Strafzumessung bei schwerer Kriminalität in Österreich. Freiburg i. Br. 1989; *Albrecht, H.-J.*: Strafzumessung bei schwerer Kriminalität. Eine vergleichende theoretische und empirische Studie zur Herstellung und Darstellung der Strafzumessungsentscheidung. Freiburg i. Br. 1993; *Holzhauser, B.*: Schwanger-

of secondary research topics such as those of drug control, criminal violence and fear of crime. On the whole, the following **key research topics** can be designated as the primary point of emphasis of the group's scientific activities over the five-year period covered by our report: the "cohort study" and the "victim and criminal proceedings" project. These two projects have absorbed the majority of our available resources.

The **cohort study** which was designed as a longitudinal investigation served to monitor the development of police-registered crime and penal sanctioning practice (prescribed by the juvenile criminal law) on the basis of various birth cohorts. In this context we also endeavored to monitor officially recorded processes of criminality determined by the age of the offenders and also by social change, and to assess the impact and effects of possible acts of court intervention. The analyses are based on data drawn from police statistics and also from the Central Federal Crime Register (Bundeszentralregister), and thus on information concerning more than 30,000 persons to date. Partial investigations conducted in this sphere of research were aimed - among other issues - at the "dropout rates" occurring between police registration and the judicial sentencing of particular groups of individuals, e.g. those with German or foreign citizenship, male or female juveniles, single or multiple offenders - especially in cases in which the offenders were registered for committing crimes of violence.¹⁶

The priority research theme of "**victims and criminal proceedings**" has on the other hand been devoted - in the form of several sub-projects - to the implementation of the Victims Protection Law,¹⁷ and furthermore to the concept of retribution and also to the issues of victimization experiences and coping with criminal victimization.¹⁸ The existing phenomenon of criminal victimization, the experience of having become a victim and having to cope with the effects of victimization, as well as the formation, assertion and appeasement of existing demands are being studied in a multi-methodical and interdisciplinary research project. A further sub-project is centered on the relationship between "victim interests and criminal prosecution". In this project attention is focused not only on the subjectively experienced impact of victimization, but also on reporting behavior, attitudes towards sanctioning and on the desire for punishment of the victims.

schaft und Schwangerschaftsabbruch. Die Rolle des reformierten § 218 StGB bei der Entschleifungsfundung betroffener Frauen. Phil. Diss. (doctoral dissertation) Freiburg 1991²; *Liebl, K.*: Ermittlungsverfahren, Strafverfolgungs- und Sanktionspraxis beim Schwangerschaftsabbruch. Materialien für Implementation des reformierten § 218 StGB. Freiburg i. Br. 1990; *Hoch, H.*: Umweltschutz und Umweltstrafrecht. Grundprobleme des Umweltstrafrechts aus kriminologischer Sicht. Einschätzung seiner Implementationsbedingungen durch zentrale Instanzen der Normanwendung, in this volume; *Dünel, F.* Empirische Beiträge und Materialien zum Strafvollzug. Bestandsaufnahme des Strafvollzugs in Schleswig-Holstein und des Frauenvollzugs in Berlin. Freiburg i. Br. 1992; *Ortmann, R.*: Resozialisierung im Strafvollzug - Theoretischer Bezugsrahmen und empirische Ergebnisse einer Längsschnittstudie zu den Wirkungen von Strafvollzugsmaßnahmen. Freiburg i. Br. 1987.

- 16 Cf. *Karger, Th. and Sutterer, P.*: Legalbiographische Implikationen verschiedener Sanktionsstrategien bei Jugendlichen am Beispiel des einfachen Diebstahls, in this volume.
- 17 Cf. *Kaiser, M.*: Die Stellung des Verletzten im Strafverfahren. Jur. Diss. (doctoral dissertation) Freiburg i. Br. 1992, and by the same author: Gesetzesimplementation und -evaluation. Anspruch und Umsetzung des Opferschutzgesetzes, in this volume.
- 18 In reference hereto cf. *Richter, H.*: Verarbeitung krimineller Viktimisierung - Ein Forschungsdesign, in this volume.

About one third of the overall number of surveyed respondents had become the victim of a crime in the past five years. The police complaints that were filed in approximately half of the cases, vary, however, according to the nature of the pre-existing personal relationship to the offender and according to the type and seriousness of the committed offense. Furthermore, the significance of the desire for punishment expressed by the victim undergoes changes during the post-offense period. Whereas the call for punishment plays a rather subordinate role immediately after the victimization incident, the punitive motives gain in intensity several times over in the course of the ensuing proceedings. Nevertheless, the desire to reach a compensation settlement remains invariably prominent, whereas the demand for unconditional imprisonment plays only a marginal role. But still, the punitive desire of individuals affected by victimization increases in proportion to the period of time separating the victimization event and the time of the interview. Such a trend is most pronounced in the case of offenses with personal contact between the victim and the offender. In comparison to the demand for compensation, the option of choosing out-of-court forms of dispute settlement is given slightly less preference by crime victims. In the latter case the rate of approval expressed by victims of crimes without direct contact with the offender is higher than for other victimized individuals. The willingness to accept dispute settlement efforts declines distinctly with increasing seriousness of the victimization experience.¹⁹ Another smaller project intends to clarify by means of a contextual analysis the image of the victim in the crime scenarios disseminated by the media.²⁰ And finally, by participating in an international comparative victim survey and in an interview-based survey that compared the inner-German situation in the reunification year of 1989 we attempted to compile victimization experiences and victim expectations. The results of the interview survey have already been published in part.²¹ It may be added that the inner-German victim study is part of an international comparison. Cf. *Kury, H. et al.: Opfererfahrungen und Meinungen zur Inneren Sicherheit in Deutschland*. BKA-Forschungsreihe, Vol. 25. Wiesbaden 1992.²² The international comparative victim survey conducted by the telephone interview method was carried out in cooperation with an international research group in a total of 16 European and non-European countries. In Germany, over 5,000 randomly selected respondents were asked in half-hour phone interviews, whether they had been victims of an overall number of eleven selected offenses in the last five years.

Another more comprehensively designed project was devoted to the empirical investigation of the **implementation of penal regulations in the domain of the law on protection of the environment**.²³ The question whether and under which conditions

19 In reference to the entire subject area cf. *Kilchling, M.: Viktimisierung und Sanktionseinstellung - Tatschwere und deren Einfluß auf das Sanktionsbedürfnis*, in this volume.

20 Cf. *Baumann, U.: Das Bild des Opfers in der Kriminalitätsdarstellung der Medien*. Max Planck Institute of Foreign and International Criminal Law. Appendix to the 1992 Status Report. Kriminologische Projektberichte, Freiburg i. Br. 1993, 36 et seq.

21 Cf. *Kury, H. et al.: Opfererfahrungen und Meinungen zur Inneren Sicherheit in Deutschland*. BKA-Forschungsreihe, Vol. 25. Wiesbaden 1992.

22 In reference hereto cf. *van Dijk, J.J.M. et al.: Experiences of Crime Across the World. Key findings from the 1989 international crime survey - Deventer et al. 1990*.

23 Cf. *Hoch* (footnote no. 15).

environmental protection laws can exert an ecologically effective regulatory function served as the essential guideline of this project. On the current statutory basis one of the prime objectives of the study is to assess which practical consequences follow from the material links to the administrative law and what effect existing deviations in the degree of protection of individual environmental assets can be expected to have. Possible sanctioning alternatives and ultimately also the organizational framework conditions of the criminal prosecution and administration system deserve special attention, particularly in view of the quite substantial regional differences in development trends observed in this field. Content analyses of case history files covering approximately 1,200 criminal proceedings involving environmental offenses and a further 800 cases of administrative offenses, discussions with experts, and interviews and inquiries including virtually every level of authority involved in prosecution and sentencing practice in the domain of environmental regulations formed the point of reference of the multidimensional project design. Secondary evaluations of official and institution-internal statistics supplemented the primary investigations. On the basis of the research results the initial question as to the regulatory function of the environmental protection law can be answered affirmatively only to a limited extent. The findings concerning the contemporary state of affairs are more or less disillusioning and the prospects for the future rather uncertain. On the whole, however, the number of clearly documented and registered offenses is on the rise at an above average rate. This indicates a certain "efficiency of implementation" of the pertinent regulations as well as continuous improvements in the conditions of criminal prosecution practice. Improvements particularly in the personnel situation and in the technological facilities available to the police tend to generate distinctly increased police control activities. In addition, the number of filed complaints has increased substantially over the last few years, so that the dark figure for the entirety of all environmental offenses appears to be declining. Nevertheless, a more detailed analysis of the registered cases reveals that the increasing quantity of filed complaints is by no means complemented by a corresponding, qualitatively significant number of convictions. As was hitherto the case, only the ecologically more or less minor offenses which occur in private or commercial everyday affairs end up in the control process. In contrast, the primary target group of major environmental criminality enriched with elements of organized criminal enterprise, which should be the focal point of control efforts, becomes the object of prosecution quite rarely in comparison.

Particularly the cases of water pollution which account for the largest proportion of environmental offenses by far remain close to the legal perimeter of punishability in the majority of cases. This manifests itself in a high ratio of case dismissals on the ground of insignificance. Indeed, the practice of dismissing cases by district attorneys continues to expand and is becoming the regular form of settling criminal cases involving damage to the environment. Hardly more than a quarter of all cases advance as far as the stage of court decision. It is only environmental offenders in the sectors of small-scale business, farming and private households who are subject to a real threat by sanctioning measures. When searching for the motives underlying such structures, one must take into account that certain areas in registration practice - specifically in the medium to lower range of relevance - are virtually predetermined to become points of emphasis in view of the broad scope of definition of the constituent elements of water pollution offenses and also in view of the resultant statistical probabilities. On the other hand, distortions also arise, especially as a result of the highly selective control and perception behavior developed by the police. As private complaints - by virtue of their specific

nature - are not able to close the existing gaps, the only remaining competent source of information is in principle the environmental administration board. This agency, however, tends to take a very reserved stand, when it comes to the question of actively and constructively contributing to the implementation of environmental penal regulations. This indicates that more far-reaching and fundamental discrepancies between the implementation of the criminal law and the administrative law have emerged in daily practice than was originally anticipated by the legislative. Thus, the implementation of environmental administrative regulations by no means consistently conforms to a rigid system of statutory prohibitions and permission(s). By offering a range of measures such as toleration, transitional regulations or long-term monitoring parameters, environmental regulations hardly provide any clearly defined points of access for the application of criminal-law based measures. Furthermore, as environmental authorities consider themselves to be obliged to the principle of mutual cooperation with the citizen, they tend to impose repressive measures only as an ultimate rationale. Accordingly, police complaints are filed very rarely. Even the regulations pertaining to the commission of administrative offenses which offer an adequate alternative to the criminal law in other areas seem to play only a minor role in prosecuting at least more serious acts of damage to the environment. A harmonization of such divergent strategies is yet not in sight. Similar problems also emerge in an international comparison, even though concepts of criminal-law based protection of the environment are en vogue worldwide in the arena of judicial policies. Despite the more or less critical judgements concerning the overall legal practicability of penal norms, the proposition maintaining that the penal law on protection of the environment is counter-productive is refuted by a clear majority of the interviewed district attorneys, police officials and administration authorities. Even though differences and divergent views concerning the value of environmental protection laws may exist, the degree of acceptance of these laws is extremely high in the opinion of all the questioned public authorities.

Another key research project was devoted to the empirical investigation of the **forfeiture of profits gained from illicit drug offenses**. Here the assumption that the goal of securing high financial profit margins is one of the major incentives for commercially organized trafficking of illicit drugs and other forms of organized crime formed the initial point of departure of the project. Therefore, the demand to confiscate the profits of criminal enterprise is being persistently emphasized on both a national and an international level. This demand is also backed by the criminal-policy postulate that "crime should not pay". Another important objective of the confiscation of profits is that of crime prevention, because the profits drawn from criminal enterprise often serve as an investment basis for the perpetration of further criminal acts. A number of empirical sub-projects are striving to elucidate the context of these issues. One of the studies is using the interview method to obtain data from close to 200 experts who are members of the criminal police force, district attorneys' offices, the courts, and of the customs and revenue investigation services. The interview results confirm the initial assumption that already the detection and determination of existing assets which represent the first prerequisites for implementing measures of profit confiscation encounter serious problems. Within the framework of an analysis of approx. 340 case records comprising over 600 accused individuals, the study performed a comparison between a group of proceedings in which profit-confiscating sanctions were imposed and two control groups in which the serious abuse of illicit narcotics and criminal enterprise were involved. Crimes that have generated profits predominate among the proceedings belonging to the control

group. A further psychological study with a decision-theory background is devoted to the interdependence of the criminal acquisition of profits, risk factors, punishment and morals.²⁴ A model designed along the lines of decision-theory that is intended to describe and correlate the relevant determining factors forms the core of the study. The empirical data derived from interviews with imprisoned offenders sentenced for criminal enterprise and with members of the business community show that criminal behavior motivated by the material enrichment that the offender hopes to achieve can be explained to a great extent on the basis of the investigated determining factors.

A comparative **longitudinal study of regular prisons and model social-therapy institutions** is dedicated to the key issue of "research on sanctioning practice and penal institutions". Here the main point is the question what contribution penal institutions can make in resocializing offenders. The collection of empirical data was completed in 1990, and the data are presently being evaluated.²⁵

III.

During the period covered by this report the research activities described above and their evaluation, as well as insights gained in conjunction with the relevant research topics, have generated about 250 **lectures**, 200 **essays** and 25 **monographies**. A part of the research results have also been presented to the public at international **conferences**. At this point the following meetings and publication activities should be emphasized: the 1991 inner-German colloquium in the city of Jena which focused on the problems of criminality and advances in criminology,²⁶ and further, the Second European Colloquium on Criminology and Public Policy in Buchenbach/Freiburg,²⁷ the European seminar on "Criminal Law and the Environment" held in Lauchhammer in 1992,²⁸ and the proceedings (comprising several volumes) of the international victimological symposium entitled "Victims and Criminal Justice"²⁹ which convened in Rio de Janeiro

- 24 Cf. *Smettan, J. R.*: Die zwei Seiten moralischer Kosten, in this volume; *Dessecker, A.*: Gewinnabschöpfung im Strafrecht und in der Strafrechtspraxis. Jur. Diss. (doctoral dissertation) Freiburg i. Br. 1992.
- 25 In reference hereto cf. the intermediate reports by *Ortmann, R. et al.*: Resozialisierung im Strafvollzug - Eine vergleichende Längsschnittstudie zu Regelvollzugs- und sozialtherapeutischen Modellanstalten in Nordrhein-Westfalen. Appendix to the status report of 1992 (footnote no. 2), 3-14, and by the same authors: Zur Evaluation der Sozialtherapie anhand einer experimentellen Längsschnittstudie - Darstellung und Begründung des Untersuchungskonzepts sowie erste Ergebnisse der Untersuchung in Nordrhein-Westfalen. In: *Killias, M.* (ed.): Rückfall und Bewährung, Schweizerische Arbeitsgruppe für Kriminologie. Chur/ZH 1992, 81-106, and by the same author: Die Nettobilanz einer Resozialisierung im Strafvollzug: Negativ? - Plädoyer für eine theoriegeleitete kriminologische Forschung am Beispiel der Begriffe der Resozialisierung, Prisonisierung, Anomie und Selektionseffekt. In: *Gesellschaftliche Umwälzung*, ed. by H. Kury. Freiburg 1992, 375-451.
- 26 In reference hereto cf. *Kury* (footnote no. 11).
- 27 In reference hereto cf. *Kaiser, G. et al.* (ed.): Crime and Criminal Policy in Europe. Proceedings of the IInd European Colloquium. Freiburg i. Br. 1990.
- 28 In reference hereto cf. *Albrecht, H.-J., Leppä, S.*: Criminal Law and the Environment, Proceedings of the European Seminar held in Lauchhammer, Land Brandenburg, Germany, April 26-29 1992. Forssa/Finland 1992.
- 29 In reference hereto cf. *Kaiser, G., Kury, H., Albrecht, H.-J.*: Victims and Criminal Justice. Freiburg i. Br. 1991.

in 1991. Furthermore, the criminological research work of the MPI during the period covered by this report has produced two habilitation theses³⁰ and ten doctoral (PhD)-theses.³¹ And finally, the empirical investigations have made a major contribution to expanding the scope of university and college courses and have provided material for lectures in Germany and abroad. The major publications have been listed in the footnotes given below. Moreover, the Max Planck Institute has been engaged in compiling and preparing for print the "Kleines Kriminologisches Wörterbuch" (Criminological Dictionary).³²

IV.

The MPI has been involved in criminological research for over two decades. Whereas research efforts were concentrated on the topics of "crime and private crime control", "the police", "criminal justice administration", "sanctioning practice and sentence execution" and "implementation research" during the first decade, further research themes became the center of attention in the second decade.³³ During the period in question, i.e. since the 1988 World Congress on Criminology in Hamburg, areas such as cohort research, evaluation and implementation research, and the range of issues related to victims and criminal proceedings - mostly embedded in the context of international comparison - became the objects of priority scientific research. The **results** have been presented to the public not only in the abovementioned research reports, but also in numerous presentations given by research workers of the MPI. Depending on the scope of interests, which vary according to scientific and political motivation, and depending on the degree of acceptance shown by the general public, particularly the reports deal-

30 Cf. *Dünkel, F.*: Freiheitsentzug für junge Rechtsbrecher. Situation und Reform von Jugendstrafe, Jugendstrafvollzug, Jugendarrest und Untersuchungshaft in der Bundesrepublik Deutschland und im internationalen Vergleich. Bonn 1990; *Albrecht* (footnote no. 15).

31 In reference hereto cf. the verification given in footnotes nos. 15, 17 and 24; and further in *Nemec, R.*: Evaluation im Strafvollzug. Theoretische und empirische Ergebnisse zur Judikation sozialtherapeutischer Interventionen. Phil. Diss. (doctoral dissertation) Freiburg i. Br. 1993; *Tauss, R.*: Die Veränderung von Selbstkonzeptkomponenten im Inhaftierungsverlauf jugendlicher Strafgefangener. Phil. Diss. (doctoral dissertation) Freiburg i. Br. 1992; and also *Häußler-Sczepsan, M.*: Arzt und Schwangerschaftsabbruch. Eine empirische Untersuchung zur Implementation des reformierten § 218 StGB. Phil. Diss. (doctoral dissertation) Freiburg i. Br. 1989; *Geissler, I.*: Ausbildung und Arbeit im Jugendstrafvollzug. Haftverlaufs- und Rückfallanalyse. Jur. Diss. (doctoral dissertation) Freiburg i. Br. 1992; *Schwarzenegger, Ch.*: Die Einstellung der Bevölkerung zur Kriminalität und Verbrechenskontrolle. Ergebnisse einer repräsentativen Befragung der Züricher Kantonsbevölkerung im internationalen Vergleich. Freiburg i. Br. 1992; *Smattan, J. R.*: Kriminelle Bereicherung in Abhängigkeit von Gewinnen, Risiken, Strafen und Moral. Eine empirische Untersuchung. Phil. Diss. (doctoral dissertation) Freiburg i. Br. 1992; *Ambos, K.*: Die Drogenkontrolle und ihre Probleme in Kolumbien, Peru und Bolivien. Eine kriminologische Untersuchung aus der Sicht der Anbauländer unter besonderer Berücksichtigung der Drogengesetzgebung. Freiburg 1993.

32 Cf. *Kaiser, G. et al.* (ed.): Kleines Kriminologisches Wörterbuch. 1993³.

33 Cf. *Forschungsgruppe Kriminologie (Criminological Research Unit)* (ed.): Empirische Kriminologie, Freiburg 1980, and *Kaiser, G.*: Kriminologische Forschung am Max-Planck-Institut. In: Kriminologische Forschung in den 80er Jahren, ed. by G. Kaiser et al., Freiburg 1988, 165-174, and by the same authors: Victim-related Research at the Max Planck Institute. In: Victims and Criminal Justice, ed. by G. Kaiser et al., Freiburg 1991, 3-17.

ing with the issues of abortion, confiscation of profits, the (criminal) law on protection of the environment, victimization and protection of victims have received major public attention. But still, those research projects that have not, or hardly, received public acclaim should not be neglected. They deserve special attention and promotion, insofar as they can be expected to produce substantiated results. This applies particularly to cohort research, to the results obtained from social-therapy treatment,³⁴ and to the study on the implementation of the law on protection of the environment and the investigation of victim interests.

Every era has its sufferings, needs and basic problems; in this light, criminological research also has its share of era-specific fundamental issues and priorities. For the period covered by this presentation such key issues were provided by evaluation and implementation research, aspects of victimization, as well as drug-, violence- and environment-related criminality. These criminological **research priorities** will continue to retain an important role in the foreseeable future. Nevertheless, victimization research will soon have crossed the peak of general research interest, giving way to such issues as foreign residents, social minority groups and migration. Moreover, endeavors to further promote the formation of criminological theory - specifically in the domain of perspectives of integration - will be on the rise and will no doubt lead to the envisaged cognitive advances.

1. Environmental and economic crime

Environmental protection by means of Environmental Criminal Law. Basic problems concerning the Environmental Criminal Law from a criminological perspective. Conditions of the implementation of such legal provisions by the central institutions of norm-application. -

An assessment

HANS HOCH

The contribution of penal legislation to environmental protection efforts has been a subject of controversy and critical debate since the enforcement of the law(s) on protection of the environment in 1980. In the meantime, a number of empirical projects have evaluated legal contributions to environmental-protection policy and have also analysed the problems of implementing environmental regulations, thus providing a basis for such discussions.

The Max Planck Institute has analysed the current status of the implementation of environmental criminal law within the framework of a broadly designed implementation research study. The underlying design of the study called for an analysis of case records of environmental offenses (n=1.203) and breaches of environmental regulations (n=794) in 6 German federal Länder. Analysis of the data had been performed in the Eighties. As a supplement to this analysis, a questionnaire-based survey was carried out in

34 In reference hereto cf. *Ortmann* (footnote no. 15); *Nemec* (footnote no. 31) and *Tauss* (footnote no. 31).

1990/91 in the same federal Länder yielding data from district attorneys (n=76), members of the police force (n=1148) and environmental protection authorities (n=697).

The research project on the implementation of the criminal law(s) on protection of the environment is currently nearing completion. The research results are presently being compiled for a final report scheduled for publication in 1993.

The survey results showed that particularly district attorneys and the police call for a tightening of the legal norms applying to crimes against the environment. A clear majority of the police force additionally advocates the imposition of tighter restrictions on the power of discretion of environmental administration authorities in exercising their environmental approval and control responsibilities, and also calls for a legally prescribed obligation to give notice when cases of environmental offenses are brought to the attention of civil servants. There is basic agreement between criminal prosecution authorities and environmental protection agencies that their mutual cooperation in environmental matters must improve. The surveys also revealed severe personnel deficits in the domain of environmental administrations in particular. But the police also bring forward an increasing demand, on one hand, for the formation of special decentralized organizational units that focus their activities on the prosecution of crimes against the environment, and on the other hand, for improvements in the available personnel capacity and material resources.

The environmental criminal law(s) have gained widespread acceptance by criminal prosecution and environmental authorities. However, one of the conclusions of the present research project is that the function of these regulations should not be over-estimated. The process of "ecological transformation" of modern societies has to rely on a high degree of individual initiative, as is the case not only in the legal system, but also in other relevant societal domains such as the educational and economic sectors. All other viable approaches would mean imposing demands that are too difficult to bear on the judicial system and on the state institutions responsible for the practical implementation of justice.

The dual nature of moral costs

JÜRGEN RÜDIGER SMETTAN

Decision-making behavior in situations in which potential offenders are able to gain criminal profits - forms the reference point of a study carried out by the Max Planck Institute in Freiburg in 1992. Moral costs play an important role in models endeavoring to explain this behavior. The term "moral costs", however, is ambiguous and needs to be interpreted. The term is conceptually suspended between economic models of criminality and models that explain norm-conform behavior on the basis of the existence of norms and norm orientation. In explaining criminal behavior economic models refer to the social environment of the offender, whereas norm theories focus more strongly on the set of values of the offender and on his personality traits. The present investigation proceeds from the premise that both conceptual approaches have their limitations and that a combination of individual and situational factors is required to account for the phenomenon of criminal profiteering. The situational factors include above all the profits and penalties in connection with the risks involved, whereas the individual factors

encompass norm orientation aspects or comparable personality traits of the offenders. Moral costs have a dual nature and can be assigned to both groups of factors. Moral costs have great empirical significance in explaining behavior serving to gain criminal profits. This empirical significance manifests itself on several data levels and on various levels of aggregation. Offenders imprisoned for criminal enterprise and members of non-criminal control groups were asked to fill in a questionnaire serving to measure subjective opinions on the issues of penalties, risks, profits and moral costs in a variety of different situations. From this assessment the propensity towards criminal profiteering was predicted and compared with propensity data obtained from the test persons. The explanatory potential of the specific selection of variables, about 80-90% explained variance, was very high, and the results confirm the validity of such a combined model. The moral costs play the most important role in this context. Yet the interpretation of these costs is somewhat difficult. Their dual nature both as a cost factor included in the calculation of the offender and as a personal trait makes them conceptually more difficult to accede than variables such as risks, profits or penalties. Due to their dual nature and their empirical significance, moral costs may yet turn out to be suitable factors for integrating seemingly incompatible models of crime also in future investigations.

2. Research on Justice Administration - Cohort Research - Sentence Execution

Reform of criminal procedure and empirical research. Deliberations on a strategy of research integration

ALFONS BORA AND AXEL DESSECKER

In Germany, the Criminal Procedure Act (Strafprozeßordnung) has been a subject of continued discussion since its enactment in 1879. Numerous reform projects have been conducted since then, although the fundamental structure of the system of criminal procedure - the basic characteristics of which are derived from the notion of the inquisitorial system - have remained unchanged. Hence the project of a complete reform of the Criminal Procedure Act can easily be justified, even if it is not yet clear - in view of the unification of the two German states in 1990 - when this reform will actually be initiated.

This article presents several conceptual and methodological reflections on research which is currently being conducted in the context of these reform plans. The present research project focuses on two subjects: (1) a documentary report on contemporary empirical research devoted to criminal procedure in Germany, Austria and Switzerland, that is also available as a computerised database, and (2) an integrative secondary analysis of the documented research results.

First of all, possible aspects of a complete reform of the Criminal Procedure Act are developed on the basis of the prevailing discussion on reforms. Although these discussions have virtually never ceased over the last hundred years, the most recent complete draft law dates from 1920. Nevertheless, several proposals concerning partial reforms exist, e.g. on the issues of pretrial detention and the court trial, and on the role of victim

compensation. These proposals, though, seem too narrow to serve as a conceptual framework for identifying topics for a complete reform. To that end, the existing German literature on criminal procedure reform is reviewed and systematically classified.

In Part 2, the methodology of the research project is discussed. A critical assessment of the concept of meta-analysis shows that most problems associated with this research strategy do not result from technical details, but rather from more basic epistemological difficulties. This argument is discussed along the lines of *Blaikie's* (1991, A critique of the use of triangulation in social research, *Quality and Quantity*, 25, 115-136) critique of triangulation. On the other hand, the fact that there are numerous empirical studies not only on one particular problem, but on almost as many research problems as there are studies - not to mention all the possible hypotheses and operational definitions - represents a specific problem of any meta-analysis concerning criminal procedure. The developed research design is that of an integrative secondary analysis associated more with the "research-review" tradition of meta-analysis than with the realm of quantitative statistical evaluation methods. It combines elements of both qualitative and quantitative methods and can be structured on three levels: text analysis and documentation, analytical classification, and triangulation.

On level 1 of the project, 507 empirical studies on criminal procedure were documented (*Dessecker et al.* 1993, *Dokumentation empirischer Forschungsarbeiten zum Strafverfahren*, Freiburg). These publications were abstracted by means of hermeneutical methods. On level 2 of the project, they were classified according to categories established on the basis of the literature on criminal procedure reform and then further synthesised by qualitative content analysis. On level 3, the applicability of quantitative meta-analysis is investigated for each category.

Legal-biographical implications of various sanctioning strategies applied to juveniles, as illustrated by the case of simple theft

THOMAS KARGER AND PETER SUTTERER

This contribution compares the legal-biographical prerequisites and consequences of various judicial reactions imposed on youths who had been convicted for a simple theft at an early age. The investigated data base was extracted from the suspect registration records of the police (PAD = polizeiliche Tatverdachtsregistrierungen) and the data records of the Central Federal Crime Register (BZR = Bundeszentralregister) and encompasses 3 complete birth cohorts (1970, 1973, 1975) from the federal Land of Baden-Württemberg. These were cross-referenced on an individual basis within the framework of the "Cohort Study on the Development of Police-Recorded Criminality and Criminal Sanctioning". The study has a prospective design, that is to say, the data sets are complete (i.e. no deletions) from 1987 onward.

The following 4 different sanctioning strategies that have been applied to the first simple theft committed by youths aged 14 or 15 are investigated:

- Group 1: Conclusion of proceedings under 45, 47 Juvenile Court Law (JGG = Jugendgerichtsgesetz) without any further conditions having been imposed, etc.;
- Group 2: Cautions / admonitions;

Group 3: the "classical" non-custodial sanctions of the Juvenile Court Law (in general, educational or disciplinary measures);

Group 4: custodial sanctions.

A comparison of the cohorts shows an increase in the more moderate (i.e. essentially informal) sanctions from the 1970 to the 1975 cohort (period-specific effect). At the same time, indications of a net-widening effect of measures of diversion (as a 0.5% higher theft prevalence was determined for juveniles born in 1975 as compared to juveniles born in 1970) must be rejected, because of the proportional higher rate of foreigners (with a higher risk of being police-recorded) in the 75-cohort.

It has become evident that not only offense viz. offender characteristics but also the legal-biographical history precedent to the age of criminal responsibility play a role in determining the type of the first imposed sanction. Thus, there is a tendency to impose milder punishment on female juveniles; the measure of punishment for theft is lower, if the inflicted damage is less severe and if the theft was committed by an individual offender. A substantially larger proportion of offenders subject to more severe sanctions had already come into contact with the police before reaching the age of criminal responsibility, the average number of police registered offenses is also higher, and the offenses committed by juveniles who were sentenced to a custodial sanction also exhibit an above-average degree of seriousness.

According to the first (court) decision regarding thefts over two thirds of the juveniles who received sanctions of group 1-type did not become recidivist offenders up to the age of 21; in the case of juveniles subject to a custodial sanction this proportionate figure merely reaches a quarter. The more moderate sanctions applicable to groups 1 and 2 play an increasingly less important role from the second conviction onward, whereas the percental contribution of the more severe sanctions is on the rise.

On the average, those juveniles who had first been subject to a custodial sanction subsequently commit more serious offenses than the juveniles assigned to the other groups of sanctioning measures. A self-developed scale for determining the seriousness of offenses shall be briefly introduced in this general context.

Finally, survival analyses show that the rapidity of recidivism is the highest for the group of juveniles subject to custodial sanctions. At the same time, a greater risk of recidivism is noted in the case of male juvenile offenders.

Relaxations of rules as a disciplinary measure in juvenile sentence execution practice?

OLAF GROSCH

Since the mid Seventies relaxations of rules have been granted to a considerable extent also in juvenile prisons parallel to the execution of prison sentences. This mainly concerns work release, short prison leave and furlough. These measures are intended to further the integration of young prisoners and offer them a social training ground outside the closed system of the institution. They are moreover intended to counteract both the risks of disintegration which inevitably result from isolation within the institution and the processes of prisonization connected with confinement as much as possible.

Disciplinary effects which concern the maintenance of order within the institution correspond to these positive intentions of relaxations of rules: The inmates' efforts towards relaxations and their fear of being denied relaxations theoretically offer the prison staff an excellent opportunity to influence the prisoners' conduct in the desired direction. Consequently, the power to grant relaxations is considered the most important disciplinary action available in (juvenile) correction. The present contribution, which presents partial results of a rather comprehensive investigation conducted by the author into the granting of relaxations of rules in juvenile prisons, focuses on the method of disciplining by way of relaxations of rules.

109 respondents who had been put into custody between March 10 and July 10, 1981 in the German federal Land of Baden-Württemberg were interviewed three times during their stay in prison (after having served 4%, 36% and 69% of their sentence), being asked, i.a., what degree of importance they attached to certain goals as, for example, the granting of relaxations of rules, and how important they considered individual sanctions, i.a., the withdrawal of relaxations. Moreover, a record analysis was carried out which determined the extent and nature of disorderly conduct during the period of confinement. As the importance attached to relaxations of rules was expected to be dependent on whether they were attained or attainable, the respondents were divided into the following two subgroups: 'Inmates with external relaxations' (n = 56), i.e. those who had already been granted external relaxations by the time they were interviewed for the third time and 'inmates without external relaxations' (n = 53) who had not been granted such measures by that time.

The study shows that, similar to the respondents who were not granted any external relaxations later on, the respondents who were granted external relaxations in the course of confinement attached a prominent degree of importance particularly to external relaxations compared to all other confinement-related and -relieving measures. It can hence be assumed that the 'disciplinary pressure' of these relaxation measures is almost the same for all inmates at the outset of confinement - it is only slightly lower for the group of 'inmates without external relaxations'. The curve of disorderly conduct exhibits the same tendency: In the first third of confinement both groups exhibit a trend towards increasing disorderly conduct - the level, however, being slightly higher for the 'inmates with external relaxations'.

In the second phase of imprisonment, however, the curves of disorderly conduct differ distinctly. The 'respondents with external relaxations', who continue to attach a high or in part even higher degree of importance to relaxations of rules, behave clearly more conformable with prison rules: In part they exhibit even less disorderly conduct as compared with the first third. The 'inmates without external relaxations', though, exhibit increased deviant institutional behavior during this phase which is characterized by a stagnating or decreasing degree of importance attached to external relaxations by this group.

Towards the completion of confinement the curves of deviant behavior of both groups begin to converge once again. 'Inmates with external relaxations' are more conformable now as compared with the second phase of confinement; this might be connected with the possibility of early release or with the approaching date of release. The importance 'inmates with external relaxations' attach to relaxations decreases towards the completion of imprisonment as their behavior becomes increasingly deviant anew according to tendency.

A qualitative analysis of the deviant institutional conduct of both groups shows that 'inmates without external relaxations' exhibit mostly general deviant behavior towards the middle of confinement, i.e. particularly violations of working or school regulations. This possibly concerns above all those inmates who are considered to be a 'monkey wrench in the works' of the prison routine. Nonconformable conduct is possibly recorded earlier in their case than in the case of inmates who are regarded as positive prisoners and are granted relaxations. This would also explain the finding that the recorded deviant behavior of inmates with external relaxations consists mostly of more serious infractions.

A comparison of the potential disciplinary pressure resulting from the juvenile prisoners' assessment of relaxations and their deviant behavior suggests the existence of distinct connections. Prisoners who consider relaxations of rules the highest goal attainable and who are ultimately granted relaxations, behave clearly more conformable within the institution than those who definitely also strive to reach this goal at the beginning, but do not succeed, though. While the former are still under pressure to be granted these measures, the latter steadily lose interest in this goal. Increased deviant institutional behavior runs parallel to the decreasing disciplinary pressure exerted by these measures. Reciprocal effects - no relaxations on account of increasing deviant conduct or increasing deviant conduct for lack of relaxations - could not be examined any further. At any rate, the author was able to show that relaxations actually represent an important disciplinary measure. Compared with other confinement-related and -determining measures, it can even be considered the most important disciplinary measure available in everyday prison life. This finding simultaneously draws our attention to the risk of prison measures - originally intended to reach the objective of juvenile detention, i.e., (re)socialisation and to reduce possible negative effects of confinement - being used to guarantee a maximally smooth functioning of the institution. Moreover, there is the risk of a calculated sham adjustment on the part of the inmates. Hence the desire for freedom easily leads to even further unfreedom.

Recidivism of career criminals following various forms of sentence execution and release

FRIEDER DÜNKEL AND BERND GENG

The present study involves **510 career criminals** who had served prison sentences during the period of 1971 to 1974 and whose **subsequent legal biographies** were monitored over a **median period of ten years**. There was a trend for their case histories to differ according to the forms of treatment and release to which they had been subjected. Inmates who had spent the last part of their sentence in **social therapy** were **reconvicted at a significantly lower rate**. In the latter case renewed imprisonment occurred in **47%** of the cases, whereas **70%** of offenders with **comparable** legal- and socio-biographical **characteristics**, who had served sentences in regular penal institutions and who had been sentenced to renewed imprisonment without probation for committing subsequent offenses, were reconvicted. An examination of the recidivist case histories with respect to the **type, frequency of occurrence, and time progression of reconvictions** also revealed **differences favoring social therapy**. Offenders who had

received social-therapeutic treatment were, in general, reconvicted less frequently, of less severe offences, and mostly at a later point in time. Only in exceptional cases they were reconvicted for the commission of a serious crime of violence.

Although the latter type of crime occurred quite frequently in relation to its proportionate incidence among the initially prosecuted offenses, reconvictions on account of such offenses were very rare during the 10-year observation period and less common than in the case of inmates released from regular penal institutions. **Highly significant differences concerning the risk of reconviction** and its dependence on the **manner in which the sentence had been executed** in particular, were found for the entire period of observation. Thus, the risk of reconviction (under the model assumption) of the treated offenders was 38% lower than the corresponding figure for the group serving sentences in regular penal institutions. The difference in risk ratings favoring offenders who had received social-therapeutic treatment becomes even more pronounced in the case of convictions leading to prison sentences without probation, and lies below the corresponding risk figure for inmates released from regular penal institutions by a margin of 53%.

On the whole, one can see that the potential propensity even of **highly predisposed career offenders** towards committing **serious crimes of violence** seems to be fairly low, whereas the criminal career generally concentrates on the commission of offenses against property and assets, partly in combination with misconduct in motor vehicle traffic.

Despite the **methodological limitations** of an ex-post-facto study design regarding the effects of **social-therapeutic treatment measures** in the context of sentencing practice, the **assumption** that this treatment concept has a fairly significant effect, appears **justified**. In this respect the results of evaluation research conducted in the Federal Republic of Germany differ from various Anglo-American studies.

Nevertheless, a reassessment of the pessimistic views prevailing in the Seventies on treatment measures implemented inside and outside of correctional institutions is also emerging in the United States. Hence, more recent meta-analyses are coming to more differentiated conclusions and are demonstrating the successful progress particularly of programs tailored to the specific needs and living conditions of the offenders who are subject to treatment. It is in this context that *Gendreau* and *Ross* (1987, Revivification of rehabilitation: evidence of the 1980s, *Justice Quarterly*, 4, 349-408), for example, speak of the "revivication of rehabilitation", or that *Palmer* (1992, *The Re-emergence of correctional intervention*, Newbury Park, London, New Dehli) refers to the "re-emergence of correctional intervention". Indeed, the newer meta-analyses speak in favor of a limited optimism towards treatment concepts (without wanting to fall back into the over-enthusiastic attitude propagated in the Sixties).

By international standards the measure of success which has been achieved, is remarkable. The differences in recidivism rates are even more pronounced than those observed in the initial study of 1980. It comprised only highly predisposed career criminals. To some extent this success could be the result of the relatively advantageous initial conditions for social therapy prevailing in prisons in the Federal Republic of Germany. Characteristic of these conditions was a greater degree of openness in the execution of sentences than had existed in regular penal institutions at the beginning of the Seventies. In this respect, social therapy played a trend-setting role in promoting greater humanity in the execution of prison sentences in Germany in the course of the Seventies and Eighties. Apart from the possibility of a necessary differentiation of the

system of confinement, its significance in criminal policy lies in a further reduction in the terms of imprisonment which are actually served, as has also been indicated in the present study, specifically in the case of conditional release. Prisoners who had undergone social therapy were released on parole twice as often, without a subsequent increase in recidivism rates, in comparison to inmates of regular penal institutions. On the contrary, the considerably lower recidivism rates provide arguments substantiating the advantages of special-preventive measures.

Imprisonment as a negative process of socialization

RÜDIGER ORTMANN

According to *Clemmer's* "The prison community" (1940, Boston) the social structures in prisons lead to a prisonization process which consists in the promotion of norms and attitudes that are adverse to rehabilitation objectives and that develop in direct proportion to the served sentence. In contrast, *Wheeler* states in "Socialization in correctional communities" (1961, *American Sociological Review*, 26, 627-712) that the degree of prisonization does indeed increase with the period of detention, but then declines in the "late phase" of confinement in the sense of an "anticipatory socialization" process, resulting in a U-curve of conformity for the overall course of the confinement period. In short, imprisonment is adverse to rehabilitation according to *Clemmer*, but has no adverse effects according to *Wheeler*.

Clemmer's hypotheses concerning prisonization are embedded in a well-founded theoretical context, which includes *Clemmer's* deliberations on the influence of social structures and on the social learning theory, the theory of deprivation by *Sykes* (1958, *The society of captives*, New Jersey) by which the deprivations experienced during detention give rise to an enmity of the inmates towards the prison institution. A close relationship to the theory of reaction by *Brehm* (1972, *Responses to loss of freedom: A theory of psychological reactance*, Morristown) and to anomie theory by *Merton* (1974, *Sozialstruktur und Anomie*, in: F. Sack & R. König (Eds.), *Kriminalsoziologie* (pp. 283-313), 2nd ed., Frankfurt/M.) is also included.

In comparison, *Wheeler's* hypothesis of an "anticipatory socialization" represents an isolated ad-hoc statement serving to interpret unexpected results. In the face of varying results his hypothesis recurs to different, respectively "fitting" theoretical approaches without explaining why they are applicable in one case and not in another. The reasons given are not even convincing if one assumes that the inmate expects a "conform" environment after his release. Furthermore, it would also be easy to make the contrary ad-hoc proposition that anticipation of the approaching day of release represents the anticipation of being liberated from the range of sanctioning measures that can be applied by the prison institution, and that for this reason prisonization increases in the last phase of a prison term. In contrast to the expectations initially raised by *Wheeler*, he himself refers largely to *Clemmer* in his line of reasoning.

There is sound empirical evidence supporting *Clemmer's* basic views. A number of well substantiated studies are available that convincingly confirm that basic prisonization variables in studies with a cross-sectional design show, in the main, the correlation patterns that can be expected according to *Clemmer* and *Sykes* as well. The clear major

urity of the investigations has also furnished results confirming *Clemmer's* hypothesis on the course of prisonization, which states that prisonization increases with the duration of the served period of detention. This point has also been corroborated by a more recent American review article by *Goodstein* and *Wright* (1989, Inmate adjustment to prison, in: L. Goodstein & D.L. MacKenzie (Eds.), *The American Prison. Issues in research and policy* (pp. 239-252), New York).

In contrast, *Wheeler's* U-curve has been confirmed only by a few studies. *Goodstein* and *Wright* specify two affirmative and four non-affirmative studies. The present author determined a total of four affirmative - including *Wheeler* - and seven non-affirmative studies. The non-affirmative studies include the excellent investigation by *Bondeson* (1989, *Prisoners in prison societies*, New Brunswick, New Jersey).

Even *Wheeler's* investigation itself merely represents a partial confirmation of his proposition. *Wheeler* divided the members of his random samples into three groups with "high", "medium" and "low" degrees of conformity and, depending on the point in time within the period of detention, defined an "early", "middle" and "late" phase of the served prison term. The proportion of test persons with a "high" conformity follows the course of a U-curve from the "early" to the "late" phase of imprisonment. The proportion of persons with "medium" conformity ratings follows an inverse U-curve, and the proportion with a "low" conformity shows a continuous increase.

There is no reason whatsoever for selectively giving preference to only one of these three different cases, i.e. the U-curve.

Secondly, continuous features such as conformity and time are generally not categorized for good reasons. But no reasons are found in *Wheeler's* work. If one calculates median values for the overall random sample using *Wheeler's* data, values of 3.25, 2.64 and 2.89 are determined from the "early" to the "late" phase of imprisonment. Hence, even the data provided by *Wheeler* himself do not yield a U-curve. It is remarkable that *Wheeler* does not report why he restricted his evaluation efforts to sub-samples.

Thirdly, it has yet to be proven for the hypothesis of "anticipatory socialization" that an upward trend of conformity values exists in the last phase of detention. This is almost impossible to achieve with *Wheeler's* study design which is based on three points in time and has been replicated by virtually all other authors.

Nevertheless, studies that confirm *Wheeler's* U-curve on a descriptive level - though maybe not in the full sense of the interpretation of the same - need to be explained. Presumably, the process of prisonization shows neither a linear dependence on the duration of confinement, as assumed by *Clemmer*, nor does it follow a U-curve of "anticipatory socialization" as inferred by *Wheeler*. In this light, the basic features of a dynamic theory of prisonization are presented.

According to this theory the onset of imprisonment marks the beginning of a massive disturbance of the equilibrium between goals and desires of inmates on one hand and personally experienced realities on the other hand. It is the aim of the prison inmate to establish a new level of equilibrium. The development of prisonization sets in, as a rule, with a vehement phase of growth which reflects the process of approaching the desired new state of equilibrium. In this phase the process loses some of its impetus.

On the other hand, the parameters of the process of prisonization undergo shifts due to increasing integration in inmate groups and due to the continuous recurrence of experiences of deprivation in the sense of *Clemmer*, which in turn imparts new thrust to development processes. Therefore, the dynamic initial phase of prisonization consists of

phases of accelerated and decelerated development which converge towards an elevated - at least intermediate - plateau of prisonization.

The speed and duration of this process are influenced by the susceptibility of the individual inmates to prisonization. The degree of severity of the indicator representing prisonization influences the process in the same manner. In the case of actions with a high degree of difficulty that are exercised by a relatively low number of inmates the process follows the same course as with test persons with a low susceptibility to prisonization - i.e. on the whole rather slowly and long-lasting.

The conceptual approach allows the susceptibility of the inmate to prisonization and the degree of difficulty of the respective action or norm to be analysed under the same aspect - namely that of the relative prisonization competence of the test person towards a specific action or norm.

Depending on the relative competence it can happen that a very strongly driven development in the growth phase results in the new equilibrium state not only being reached, but even superseded. In such cases a corrective reversal of prisonization takes place until a new, relatively stable equilibrium state is reached once more. On this basis a U-curve of conformity consisting of three points can indeed develop without the need for an "anticipatory socialisation" as inferred by *Wheeler*.

According to the proposed theory the phase of vigorous growth and also the height and position of the prisonization maximum depend primarily on the duration of the served prison term and on the relative level of competence of the inmate, but not on the relative phase of confinement as claimed by *Wheeler*.

Studies that give a detailed and careful description of the course of development of prisonization are first and foremost required.

3. Victimology

Crime, victimization, feelings of (in)security and residential satisfaction - Objective and subjective indicators and their effects on the valuation of neighborhood and community

HARALD ARNOLD

The point of departure of our considerations lies in the endeavor to thematically establish the relevance of immaterial costs of crime in destabilizing feelings of security and thus weakening an essential foundation of the quality of life.

Fear of crime as an individual and subjective form of reaction towards the threat of criminality is recognized as an essential source of anxiety caused by feelings of insecurity. In this context the aspect of residential satisfaction is introduced in the present analysis on a close-range community level as a theoretical link between crime and quality of living. This leads to the question which forms the theme of this contribution: Does crime reduce residential satisfaction? Reference is made here to the importance of this question for preventive considerations.

In a brief review of the current status of research on this issue one comes to the conclusion that empirical evidence for a negative effect of crime on residential satisfac-

tion is provided mainly by Anglo-American sources, but that results to this effect have hardly been reported by German research groups. It should be pointed out moreover that, on the whole, the majority of research findings on this issue does not originate from the primarily criminological domain. It is from this set of findings that we derive the justification and necessity for further analysis of the above research theme.

The statistical analysis was carried out on the basis of data obtained from a victim survey conducted at the outset of the Eighties in one of the federal states of the Federal Republic of Germany (Baden-Württemberg). Data acquisition was carried out in the form of a mail survey involving a representative random sample of the adult residential population (age 18 and above). The response rate reached 59%, so that the data of $n = 2,252$ respondents were included in the analysis.

Several regression analyses were performed in an attempt to investigate two points of interest:

- 1) Can subjective and objective crime indicators be used as (statistical) factors in predicting the level of residential satisfaction, and if so, to what extent?
- 2) Is the predictive potential of the crime-related factors retained, if other relevant variables are introduced?

In addition, special attention was devoted to the differential explanatory contribution of objective crime indicators on the one hand, and to subjective indicators of crime on the other hand. The incidence rate and the crime density as derived from the Police Crime Statistics of the federal state were selected as objective indicators. The variables of global and offense-differentiated victimization, both direct and indirect as well as recent and prior, fear of and concern about crime etc. as derived from the victim survey served as subjective variables.

The analysis showed that the subjective crime indicators - yet not the objective indicators - provide a significant contribution to predicting residential satisfaction. The aspects which were most significant in content were those of the estimated security in the residential area ($\beta = 0.17$) and the evaluation of police performance in the community ($\beta = 0.16$). The beta values of the other predictive factors (such as: victim expectations in cases of bodily injury, victim or witness of an offense during the last 12 months) remained below $\beta = 0.10$. The explained proportion of variance of the 6 predictive factors had a rather low value of 11%. In a second stage of the analysis further variables which were not related to crime were included in the regression equation. By this the explanatory potential of the model could be improved: the explained proportion doubled (21%). Now the most significant predictive factor was a social contact variable (number of relatives, personal friends, acquaintances in the community; $\beta = 0.25$), followed by the two most important variables of the model described above which featured crime-related indicators exclusively; furthermore, age, anomia and marital status (single/never married before) played a role.

In conclusion, the investigation established that the subjective crime indicators are more relevant in explaining residential satisfaction than the objective factors. The relevance of subjective crime indicators for residential satisfaction remains, even when this is cross-checked by other important control factors. The significance of these results for further research activities as well as for considerations of crime-prevention is briefly discussed, and the function of residential satisfaction as a key variable is underlined.

The image of the crime victims by the printed media - Results of an investigation

ULRICH BAUMANN

The news coverage given to victims of crime in the printed media is investigated on the basis of the entire range of daily newspapers for a period of one week and of non-daily press publications for a period of one month. The media-typical profiles of the portrayal of victimization are determined - with the result that formal compositional elements are used consistently in all articles, mentioning individual victims **within** the respective publication, but that partly clear distinctions exist **among** publications. The process of selection of press releases by the press offices of the police has a substantially greater effect on the published reports on crime than the selection procedures practiced by news agencies or editorial boards. Reports on court proceedings are published only half as often, but they stand in contrast to police reports as far as the bigger text volume and the more prominent layout are concerned. The attention focused on victims of crime in news articles is subordinate to the coverage given to the offense and the offender: the furnished information is generally confined to data on the sex, age and - more rarely - the place of residence and profession of the victim. Moreover, the preference is given to crimes of violence, frequently with fatal consequences, that are considered worth reporting as spectacular and sensational events. A potential danger of stigmatization and discrimination for victims exists, but in no greater extent than for offenders. The "image" of crime victims is portrayed more positively in non-daily press publications.

Implementation and evaluation of legal provisions - Objectives and enforcement of the Victims' Protection Act

MICHAEL KAISER

There are a variety of reasons for the general lack of recognition and the insufficient practical implementation of victim protection regulations. Even though the reform by the Victim Protection Act (OSchG) has removed some of the previously existing legal uncertainties, there is still a clear lack of unequivocal and compulsory regulations. The merely fragmentary knowledge of the pertinent norms is one major reason why the implementation of victim protection regulations in practice often fails from the very start. Irrespective of the protective regulations in a more narrow sense, the moderately developed acceptance of the relevant norms by the judicial authorities adds to the problem. A majority of the judicial institutions considers the protection of victims to be adequately and exhaustively implemented once the injured individuals are protected against extreme violations of their personal rights. The rights of information and participation are not looked upon as imperative. The views of lawyers on these issues is quite different, though. They feel that there is a definite need for action and advocate further extension of these rights. In this respect they are of one accord with the interests of the injured parties. The assumption is no doubt valid that numerous elements of psychological stress and pressure imposed on the victims in criminal proceedings are simply the

result of the victims being insufficiently informed about procedural aspects and their rights, thus causing them to be burdened by feelings of insecurity.

This situation clearly indicates possible points of approach for further improving the protection of victims. The victims as well as jurists active in the field should be given a better knowledge of the existing legal possibilities. A more comprehensive information policy can be implemented with relatively minor investments in effort and resources. An enhanced level of acceptance by the judicial institutions is certainly an indispensable requirement in achieving this goal. This can only be attained, however, by relieving the responsible judges and district attorneys of other duties, thereby enabling them to handle the increased work load connected with victim protection tasks. Victim protection measures that are carried out merely as an additional duty of judicial institutions cannot be successfully implemented in the long run. Incentives should also be provided to those lawyers who basically advocate the idea of victim protection. A revision of the currently existing, rudimentary regulations on lawyers' fees would no doubt represent a first step in promoting a basic readiness to become involved in victim protection. On the whole, these measures will entail substantial financial investments, since updating the Federal Code of Lawyers' Fees (*Gebührenordnung*) will have to be supplemented at least by alterations in the regulations applying to the provision of legal aid under the Legal Aid Scheme (*Prozeßkostenhilfe*).

The almost universally valid rule that basic improvements invariably go hand in hand with increased expenses is again affirmed by the issue of protection of victims.

Attitudes of the judicial institutions (judges and district attorneys) towards the position of victims in criminal procedure in a German-French comparison

MARTINE MERIGEAU

Victim protection, in particular the improvement of the position of the victim in criminal proceedings as well as compensation of the victim, has become a central concern of the criminal-political discussion in France and Germany since the early Eighties. In this connection a comparison between both countries seemed especially interesting as they in particular differ with respect to their attitudes towards the extent and position of the victim in criminal proceedings. In spite of highly similar objectives both countries differ strongly regarding both the method chosen to improve the position of the victim in criminal proceedings and the realization of criminal-political victim-oriented goals.

The differences in these methods can in part be explained by the fact that the influence of the penal system on the position of the victim and the interaction between these two parties are taken into consideration, and in part by the attitudes of the judicial authorities as decision-making organ. The part of the empirical study presented here deals with the question whether victim-oriented legal provisions meet with the approval of the decision-making authorities (public prosecutors and judges).

The position of the victim in criminal proceedings is much stronger in France than in Germany. The following hypothesis might serve as a possible explanation for this: In France there exists a 'strategy of alliance' between the victim and the public prosecutor according to which the victim is requested to cooperate actively with the public prose-

ctor's office. As a consequence, however, he/she has a share in the repressive task (without his/her knowledge). In opposition to this integrative mechanism in France, the victim is excluded from the proceedings to a large extent by German law. This might be described as the 'strategy of exclusion'.

A standardized questionnaire was developed as survey instrument to determine the attitudes of the judicial authorities towards the position of the victim in criminal proceedings. In order to obtain a representative sample the entire geographic area was included, the written survey of the public prosecutors and criminal judges being conducted at the 175 Tribunaux de Grande Instance (which correspond to the German 'Landgerichte', i.e., regional superior courts). On the whole 86 public prosecutors (49% out of a total of 175 respondents) and 73 criminal judges (42% of the respondents) returned a filled-in questionnaire.

One can say that the strongly victim-oriented attitude of the French judicial authorities is surely one of the measurable effects of the victim-oriented criminal policy which has been pursued for more than 10 years. The results of the empirical investigation, which was carried out in order to evaluate the implementation of the legal improvements introduced by the Victim Protection Act of Dec. 28, 1987 established a rather negative attitude in so far as considerable deficits in the field of victim protection were revealed. As before, the victim is considered an alien element in criminal proceedings and is in a desperate situation - without the possibility of asserting his/her own rights.

Viewed scientifically and particularly in the light of the long test-period of victim participation in criminal proceedings in France, the fear that a stronger integration of the victim might hamper both the effectivity of criminal prosecution and the enforcement of the objectives of criminal proceedings, proves unfounded.

There is, moreover, no indication that a stronger integration of the victim into the criminal procedure effects a process of reorientation and a redistribution of the weights in criminal proceedings.

This much is certain, disregard of the rights of a person who has suffered damage, and misappreciation of his/her needs and expectations are unjustifiable in a welfare state. The victim is therefore not a tool or object needed to establish the truth, but an autonomous legal subject like any other person.

Without toppling the groundwork of criminal law, one might grant the victim rights of his/her own in the procedure and guarantee him/her considerate treatment during the trial.

Empirical studies have refuted the assumption that a strengthening of the position of the victim in criminal proceedings - since the victim has a basic interest in punishment of the offender - might lead to a more intensive criminal policy. They have shown time and again that the victim has a much stronger desire for restitution than for punishment.

Victimization and attitudes towards sanctioning - the degree of seriousness of a crime and its effect on the desire for punishment

MICHAEL KILCHLING

This summary presents some results of a nationwide victimization survey scheduled by the Max Planck Institute for Foreign and International Criminal Law in 1990. The sur-

vey was based on a questionnaire distributed by mail and has reached a net response rate of almost 73.1 percent.

One objective of the survey was to obtain a comprehensive collection of victimization experiences of the respondents - reflecting either personally experienced or indirect victimization incidents. For the main reference period (1985-1990) we determined a personal victimization rate of 35.9 percent and a personal prevalence rate of 2.44 incidents per victim. When taking into account the lifelong perspective which includes all direct and indirect victimization experiences, one obtains an absolute non-victimization rate of only 13.6 percent relative to the overall number of respondents. This figure represents 297 individuals who have never been victimized, neither directly nor indirectly, and who thus constitute the category of genuine non-victims.

The present contribution highlights the development of specific criteria for defining the seriousness of victimization events within the realm of personal experience of the respondents. For this purpose the victims were grouped according to the degree of seriousness of the respective victimization events, independent of classification schemes based on predefined parameters. This approach was adopted, since no universally valid classification index has been established to date in contemporary research. Several attempts in this direction have been made in the past (starting with the scale developed by *Sellin & Wolfgang* 1964, *The Measurement of Delinquency*, New York) - but their relevance to victim-related research in particular is subject to two main limitations: firstly, they remain on the incidence level rather than focusing on the victims' prevalence perspective, and secondly, they are largely based on theoretical answers to fictitious cases - a shortcoming which is still quite widespread in victim research. In contrast, the present evaluation was based on two cluster analyses using various experience-related parameters with emphasis on both objective and subjective aspects. The first cluster analysis concentrates on the consequences of the offense for the victim, whereas the second analysis focuses on efforts to overcome the consequences of victimization. In contrast to discriminant analyses which strive to elucidate differences between the respondents, the cluster analysis method seeks to determine common characteristics. Therefore, the latter appears to be an ideal method for establishing specific groups of victimization seriousness.

The grouping of victims according to a scale indicating the severity of victimization shows the following results: approximately 50 percent of all victimization experiences are rated as minor with respect to the seriousness of their effects, 22 percent as medium, and 28 percent as major. If the aspect of coping with the consequences of victimization is incorporated in a more extensive scale of seriousness, only 27 percent of the victims can be assigned to the minor group which copes with the consequences quite well. In 40 % of the cases the victimization experiences are not entirely overcome by the victims; a finding which is characteristic of this group rests in the fact that the offense itself receives an overall minor scale rating, but that the victims are nonetheless discontent, because they have barely received any compensation. And finally, about a third of the victims have hardly managed to overcome the victimization experience and its associated consequences in any form whatsoever. Moreover, combined evaluation of the different cluster groups has shown that minor or medium victimizations tend to be coped with well, whereas cases of major victimization, in contrast, are often overcome only with difficulty. Victims of burglary, however, constitute a special group: although burglary is generally rated as a major offense, victims of burglary overcome the experience of victimization generally better than victims of other types of offenses with com-

parable seriousness ratings, because burglary victims constitute the only group eligible to receive substantial financial restitution due to extensive insurance coverage.

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The attitudes of victims towards sanctions were operationalised by a graduated set of variables. First of all, a neutral questioning scheme was used to determine their basic interest in punishment. This approach served to ensure that the actual extent of the desire for punishment was not masked or distorted by other, intermittently dominating interests which may prevail e.g. in the postcrime situation or during the process of reporting. Furthermore, this question remained abstract and without reference to any specific legal consequences of an offense. In all, 73.9 percent of the victims exhibited a principle interest in punishing the offender in question. Of these 73.9%, a proportion of 17.7 % even showed a great interest in punishment. Only about 10 % were indifferent towards punishment, and approx. 16 % were expressly opposed to any kind of punishment. Here the seriousness of experienced victimization has little influence. Nonetheless, the desire for punishment increases in accordance with the seriousness of the consequences of victimization. Victims suffering from severe effects of a major offense advocate punishment at a rate of about 83 %. This figure is about 10 % higher than the determined average proportion. Statistically, however, these figures are not significant. In contrast, the coping aspect is highly significant. Only about two thirds of those who have overcome victimization and its consequences either partially or even almost entirely are in favor of punishment, which is clearly below average. Almost 90 % of the victims who have not overcome the consequences of victimization express such a desire for punishment. This finding shows that especially the objective and subjective compensation aspects influence the extent of the victims' desire for punishment.

Three variables served to assess the envisaged form of reaction. The first of these dealt in general terms with the procedure preferred by the surveyed victims. The result was that clearly more than half of them were in favor of criminal-law-based forms of reaction. Most of the respondents preferred an approach which combined civil and penal reactions, whereas only a few respondents advocated punishment as their main goal. Here the seriousness of victimization has no significant influence on response be-

havior. Therefore, the responses concerning the adopted form of reaction seem to depend more on basic attitudes of the victims. In contrast, a highly significant dependence on the seriousness of victimization is noted in connection with questions referring, for one, to the preferred type of procedure as the formal element of attitudes towards sanctioning, and, on the other hand, to the preferred penalties which represent the material element of sanctioning attitudes. The observed discrepancies in victim viewpoints on the procedural level are particularly prominent. Here non-intervention has no particular significance. As far as diversion on the one hand and formal sentences on the other hand are concerned, an almost inverse distribution within the various categories of seriousness is noted. The less serious the nature of the victimization event the greater the tendency of the victims to advocate diversion and, conversely, the more serious the victimization experience the greater the call for formal penalties. The relative degrees of preference for either of these two options confirm earlier findings that the majority of the victims hold views which are conform with diversion strategies. Very severely affected victims, however, insist on the imposition of formal punishment measures on the offender. The severity-dependent differences in material sanctioning attitudes (the preference for particular material penalties) appear to be less significant, though. Community treatment is chosen most frequently by all the victims. Fines play only a minor role, though, - in contrast to contemporary legal practice in Germany. Moreover, imprisonment seems important only to the most seriously affected victims. Yet it is striking that suspended prison sentences under condition of compensation efforts towards the victim come second on the list. Furthermore, analysis of the relationship between the range of specific penalties and the general desire for punishment shows that both imprisonment options (unconditional or suspended under condition of compensation) are specifically preferred by the victims in favor of punitive solutions. Distinctions within this punitive group are noted insofar as the very pro-punishment oriented victims are considerably less in favor of community treatment than the other members of the same group and also show the highest preference by far for unconditional imprisonment. Fines and community treatment, on the other hand, are more frequently selected by victims who are indifferent towards punishment. The category of formal cautions is most often chosen by those who reject any kind of punishment whatsoever.

Moreover, three quarters of all victims would support the introduction of a compensation order as is the case in Great Britain. An actual two thirds of the most severely affected groups show a positive response rate here. And in fact, this figure even exceeds 71% among the punishment-oriented victims. This proves that general support of restitutive measures of reaction - as reported by numerous research papers - does not necessarily imply a non-punitive attitude towards sanctions. This is reflected by the fact that restitution in the form of penalties is more widely accepted than similar measures within the framework of diversion, where only between 50 and 60 percent of the surveyed victims would accept compensation as a condition for dismissal of charges. The willingness to participate in extrajudicial victim-offender-mediation efforts seems to be rather low as well. Slightly less than half of our respondents would be prepared to accept such a strategy of conflict settlement without reservation. About another quarter would be willing to participate in such schemes under certain conditions, e.g. within the framework of state-supported, institutionalised programs or without having to encounter the offender face-to-face. Approximately another quarter reject such efforts entirely - the proportionate significance of this category of victims distinctly increases, however, in the two cluster groups allocated to the most serious forms of victimization.

On the whole, the results presented here have a triple impact: first of all, it has been confirmed that the vast majority of victims is definitely interested in punishment as an appropriate form of reaction. Secondly, the proportionate significance of this view depends on the seriousness of victimization (as shown by our cluster groups). Especially the attitudes of victims towards formal sanctioning measures differ distinctly in this respect. However, the victims do not differ very strongly in their preferences for the material penalties to be imposed: only the most severely affected victims demand unconditional imprisonment at a significantly higher rate. Thirdly, it can be ascertained that restitution has gained a high level of acceptance as a concept integrated in criminal justice. In comparison to this, the degree of acceptance of extrajudicial forms of dispute settlement such as victim-offender-mediation in its original form is lower by far.

Changes in living conditions, crime and sanctioning expectations in an urban region in East Germany

GÜNTHER KRÄUPL AND HEIKE LUDWIG

A project which was designed in cooperation with the Max Planck Institute of Foreign and International Criminal Law provides the basis for a comparative study of crime, victimization and expectations towards sanctioning in selected West German and East German communities in the context of the social transformation taking place in East Germany. Coordinated population surveys (written questionnaires and face-to-face interviews) were carried out at the turn of 1991/1992. In the present contribution results obtained in the East German region (Jena/Kahla in the federal Land of Thüringen) are presented. The comparison with the corresponding West German data is scheduled for a later date.

It was the intention of the present study to focus on the immediate living conditions of the individual in which he constitutes, shapes, modifies and possibly also deforms his personality by virtue of his social activities ("activity-oriented concept"). The general question of interest was whether certain groups of individuals are severely restricted in the active development of their ability to establish a self-sufficient basis of existence and social productivity (including the productive resolution of conflicts) - or regard themselves as being restricted by the force of individual processes of moral orientation - so that they seek compensation in forms of behavior that deviate substantially from historically developed behavioral norms.

Firstly, this conceptual approach explicitly centers on the self-determination and individuality-development (or individuality-confinement) activities of an individual in his social environment in accordance with the development trends pursued by post-industrial society. Secondly, the realm of investigation of a "city" facilitates the specific inclusion of these immediate social units. The communal unit of a "city" in the sense of an organism of production, culture and living activities allows the context of interaction of conflict syndromes and crime to be traced down to the level of personal experience and living conditions with greater ease. And thirdly, the investigation is rounded off by an activity-oriented and ability-determining personality test (with the help of the FPI-R Freiburg personality inventory).

In the main written survey, and partly also in face-to-face interviews 2,194 persons (age 14 and above) were screened. 40.9% of these surveyed respondents regard themselves as former victims of at least one of fourteen specified crimes. This rate of victimization indicates an increase in victimization events at the outset of the 1990'ies; a similar trend holds for the cases of multiple victimization included in these figures. A (linear) extrapolation serving to provide a basis of comparison with police-registered crime figures corroborates the estimation that the so-called Dark Figure is higher by a factor of about 10. Nevertheless, 43.5% of the victims specify the petty nature of the victimization experience as the reason for refraining from filing a police complaint.

Among the victimization offenses, fraud heads the list, lying clearly ahead of theft and damage to personal property, specifically automobiles. This order of importance reflects, on one hand, insecurity towards unfair trade practices, and on the other hand, the momentary predominance of the automobile in consumer demands.

A look at specific cases of inflicted damage shows that the greatest risk of becoming the victim of comparable violations in the year to follow exists for traffic accidents caused by recklessness (82.2%). The offenses of fraud, bodily injury, damage to property and insult follow at a somewhat lower level of approx. two thirds.

On the basis of the relations between actual victimization and this extrapolated estimate of the risk of victimization, car thefts are expected to show the greatest increase in risk potential by far, followed by crimes of violence. The data concerning fear of crime reflect - virtually without exception (with an index of 96.8%) - a rise in crime figures. But only 44.6% of the respondents actually take the possibility of becoming a victim into account. 20.0% feel "very insecure" at the thought of walking through their residential area in the dark. This feeling of insecurity is not intensified by personal victimization experiences, but is definitely increased by experienced losses of personal unity, awareness of the fading validity of standards and the loss of orientation in life. 68.8% of the intimidated respondents modify their living habits by recurrence to strategies of avoidance or defense, whereas only a tenth heads in the direction of self-defense measures. Protection against attacks on property is more strongly developed than trust in measures of protection against violence.

The influence of television reporting and self-determined, rational formation of opinions appears to be of importance for general "social" attitudes towards crime. This influence has been confirmed by a survey rating approaching a two-thirds level. The latter finding correlates well with a lower fear of crime and a higher readiness for preventive involvement, accompanied by a greater degree of reservation towards a policy of tightening penal legislation.

If one selects the categories of labor and social structure as a basis for differentiation, an improvement in the financial situation compared to the past is noted more frequently (with an incidence of 31.4%) than a deterioration of the situation (24.5%). In general, more women and individuals with a low level of qualification are unemployed. Most of the employed report a rise in the demands placed on the level of qualification, and a deterioration of personal relations at the place of work and beyond.

Three quarters of the respondents express their satisfaction with the feeling of unity in their neighborhood. The family is considered to have an increased importance for the individual (36.8% hold this view, whereas only 1.5% note a loss in importance). Family life and social-communicative outlooks on life in general occupy the top end of the scale in classifying goals in life, and receive a higher rating than career-oriented, hedonistic goals. Questions relating to norm insecurities are answered positively by about

half of the respondents. Women, persons with a low level of qualification, those who are out of work, and individuals aged 45 and above express the greatest degree of insecurity.

Whereas 10.4% of the respondents note an increase in the consumption of alcoholic beverages, 7.0% emphasize a decrease.

In order to determine the expectations of the respondents regarding sanctioning measures, they were first asked in general terms: "Imagine yourself as the victim of a crime. Which consequences would you personally consider important?" (abstract weighting of sanctions). The determination of the offender and the assessment of his guilt on one hand, and compensation for inflicted damage on the other hand dominate here with an incidence of three quarters and above. This is followed (at a level of about two thirds) by the expectation of "strict punishment". In this light the general support of the death penalty by 58.2% of the respondents gains a more relative perspective.

The allocation of different types of state reaction (refrain from any reaction whatsoever/the threat of at the most imposing a sanction in the future; acts of restitution/measures of compensation instead of punishment; formal punishment without deprivation of liberty; prison sentences) to twenty-one given offenses is more differentiated. The results comprise a clear vote in favor of a depenalisation of abortion, a preference for diversion viz. measures of restitution in the case of minor thefts, as well as the strong punitive expectations in the case of crimes of violence.

These results obviously reflect specific experiences of the population in this part of the country. Reduced expectations concerning punishment are noted for juveniles and elder persons. The written survey yielded more stringent expectations than those obtained in face-to-face interviews.

Individuals who have not had any personal victimization experience frequently demand strict punishment of the offender (who, to them, remains abstract). The sanctioning interests of true victims, however, are less repression-oriented, even in the case of victims of violent crimes. Here, the desire for restitution is given the highest priority.

60.9% of all the surveyed victims refrained from filing a police complaint after experiencing the criminal act. About two thirds of the victims justify this attitude of refrain by the claim that the incident was minor or not an affair to be settled by the police, or that it could be resolved on a person-to-person basis. This finding allows a more differentiated valuation of the dark figure and of the disposition towards informal dispute settlement to be made.

The implementation of the FPI-R Personality Questionnaire drew our attention to two methodical problems: in interviews the respondents are more inclined to give answers conforming to social desirability than in the case of written questionnaires. The comparison of our random sample with the control sample of the FPI-R questionnaire yielded differences that raise the question whether the survey instruments that were standardized according to the previously existing societal conditions in West Germany can simply be applied to the population in this part of the country with a very different socialization background. The results are therefore interpreted with an appropriate measure of caution.

**Attitudes and patterns of opinion of juveniles -
A comparative investigation conducted in Jena
and Freiburg in 1991/92 and 1993**

JOACHIM OBERGFELL-FUCHS AND INA FUCHS

Proceeding from the assumption that the opening of the border dividing the two German states and the subsequent process of reunification marked a significant incision in the lives of juveniles - particularly in East Germany - we investigated the effects of these political developments in two studies based on a number of preselected parameters. Both studies were conducted by the Max Planck Institute of Foreign and International Criminal Law in cooperation with the Friedrich Schiller University in Jena. The first study was carried out at the turn of the year 1991/92 in Jena and in Freiburg and was conceived as a victim survey, whereas the second study - conducted at the outset of 1993 - aimed to determine the attitudes and views held exclusively by juveniles and young adults in Jena and Freiburg concerning the political "turning-point" ("Wende") that brought about reunification.

The main point of emphasis of the present investigation is the comparison - within the scope of each study - of the random sample from Jena with that from Freiburg with particular reference to the variables of anomie, views on criminality, fear of crime, attitude towards the death penalty, as well as xenophobia and right-wing extremism. With respect to the variable of anomie it was shown that there were no grounds to assume that the youths from Jena have a distinctly higher anomie value. It is true that more youths from Jena are of the opinion that moral principles are no more valid nowadays, and they do in fact display a clear lack of orientation in view of the rapid pace of social changes. But on the other hand they rate the current circumstances as less difficult to cope with and also show a greater degree of optimism towards the future than is the case with the Freiburg group. This indicates that socio-political developments may impose too excessive demands on young people from the East, but that these developments are nonetheless desired. As far as the variables of political participation and alienation that complement the anomie concept are concerned, distinct East-West divergencies are noted - despite the low level of political involvement in both interview regions - which point towards a substantially higher degree of alienation in the East.

In the polled domain of criminality East-German youths exhibit a much higher propensity towards crime and a greater fear of crime than the youths from Freiburg. They also consider the lack of police intervention as responsible for the rise in crime rates, favor a harder line of police action and also advocate the death penalty more often than their Freiburg counterparts. All these results can be explained by the fact that a high degree of general insecurity is prevailing in East-German society, which manifests itself in fear of crime, viz. in the desire for a strong system of political and social control.

As far as the aspect of xenophobic tendencies was concerned, the sample of youths from Jena also showed clearly higher values than the youths from Freiburg. Furthermore, young people in East German are more willing to accept violence as an instrument of political policy. On one hand, these results indicate a high degree of alienation from official politics. On the other hand they show that young East Germans regard themselves as the "losers", so to speak, of the political "turning-point" ("Wende") and have not yet established a firm foothold in the newly formed German state. This can

manifest itself in the fear of being overwhelmed by foreign influences and in a propensity towards violence or in toleration of violence, thus creating a political reservoir susceptible to right-wing extremist influences.

On the whole, it became evident that the results of the 1991/92 study and of the 1993 youth study indeed differ only in minor aspects, but that pronounced differences are found to exist between the groups from Jena and Freiburg. Those variables which showed divergencies between Jena and Freiburg in 1991/92, continued to do so one and a half years later, in 1993. This indicates stable and long-lasting differences in the attitudes of young Germans from Jena and Freiburg.

Coping with the consequences of serious crime experienced by victims

EVA TOV

The present investigation is a preliminary test model for a study of victims of crimes of violence who had received support by the victims' assistance organization WEISSER RING (= White Ring) which had also supported the project.

An immediate goal of the preliminary study was to develop a set of instruments conforming to the relevant scientific quality assessment criteria and capable of providing methodically verifiable results. On account of the limited size of the selected random sample (n=40) conclusive statements should be made only with a certain measure of caution, as they are still somewhat explorative and hypothesis-inducing at the present time.

Models serving to explain, on one hand, the traumatic experience of victimization as such and, on the other hand, to explain the processes involved in coping with the consequences of victimization form the theoretical framework for discussing the results of the study.

As far as the theoretical premises of the project are concerned, which aim at explaining the destructive psychological impact and the often detrimental consequences of victimization, the conceptual "model of acquired helplessness" established by *Seligman* and co-workers which is derived from behavior theory (cf. *Abramson et al.* 1978, *Learned helplessness in humans: Critique and reformulation, Journal of Abnormal Psychology*, 87, 49-74) is introduced together with a further psychoanalytic concept.

In order to provide an explanation for the phenomena encountered in the process of coping with the consequences of crimes suffered by the victims, the phases involved in overcoming the victimization experience - as outlined by *Lorke* and *Ehlert* (1987, *Ver-gewaltigung von Frauen: Psychodynamik und Therapie. Wege zum Menschen*, 39, 346-367) - are presented, and the coping factors frequently discussed in the literature are summarized.

The random sample comprised 20 male and 20 female test persons, each of which had been the victim of a crime of violence (on the basis of the definition given by the police criminal statistics). All 40 persons had been cared for by the WEISSER RING organization. The random sample was collected on the basis of previously defined criteria. The achieved yield of the sample acquisition procedure was 56% (n=40) of the total original sample.

On the basis of an extensive questionnaire the crime victims were requested to provide data on socio-demographic factors, the crime in question, the post-victimization period, on procedural aspects and on their present situation. The applied questionnaire contained mostly consistent questions. Facts as well as opinions and judgements were queried. In addition, the respondents were asked to fill in forms that contained two scales for rating attribution behavior and two scales concerning coping aspects. Of these two respectively applied instrumental procedures one had already been established in research, whereas the other was newly developed.

From a methodical perspective one can say that both of the newly developed survey instruments - after having been subjected to a factorial analysis - showed very good to good reliability ratings and can thus be considered as valid. The factors that were extracted from the questionnaire regarding the issue of coping with the consequences of crime correspond to the important factors of the Freiburg questionnaire on coping with diseases (*Muthny* 1989, Freiburger Fragebogen zur Krankheitsverarbeitung, Weinheim) as well as the coping factors established in the literature.

In this context it is worth mentioning that the psychological process of coming to terms with the offense and the offender apparently represents the mechanism that is most strongly activated during the first three months after the criminal act. Activities that serve to mentally distract the victim from the offense, on the other hand, are rated as helpful.

A feeling of disappointment with the administration of justice in our state can be inferred from the data; the penalties imposed on the offenders were rated as too lenient without exception, and the respondents would have hoped for more assistance by the criminal prosecution authorities.

In comparison to before - that is to say prior to the offense - the fear of a (renewed) victimization experience seems to have increased markedly. An enhanced level of protective behavior is apparently developed to counteract this feeling of insecurity.

Although virtually all of the respondents regarded the experience of victimization as the most traumatic event in their lives, and even though two thirds are still severely affected by the psychological after-effects even today, and although a substantial proportion of the respondents still suffer from bodily harm in addition, exactly half of the respondents are of the opinion that they "got over the whole experience (fairly) well", whereas the other half gives a negative assessment of the coping process.

Coping with the consequences of criminal victimization. A research project design.

HARALD RICHTER

The Criminological Research Unit of the Max Planck Institute of Foreign and International Criminal Law has been conducting a research project since 1990 which is devoted to the theme of personally experienced criminal victimization. It is the goal of the study to provide a description of the experience of victimization and the factors involved in overcoming the consequences of victimization in dependence on cognitive, emotional and social processes and on the interests of the victim, and also to portray the experiences reported by victims in dealing with official institutions. It is our intention to derive conclusions concerning the factors that determine positively and negatively expe-

rienced aspects of overcoming the consequences of criminal victimization in view of existing patterns of individual and societal response to the committed offense. (Individual ways of coping and experiences made in dealing with close-range social institutions, criminal prosecution authorities, courts). The objective of the project is to gain theoretically and practically applicable insights into the processes of coping with victimization and victim interests, with the intention of not only providing further contributions to the formation of scientific theory and to the empirical investigation of criminal victimization, but also of offering practical assistance and relief to persons affected by victimization and to those persons and institutions giving support to victims. A random sample of victims of offenses belonging to different categories of criminality is being investigated. The sample consists of four sub-samples obtained by different acquisition procedures. Officially registered as well as self-reported cases of victimization will be included in the study. A standardized questionnaire that had been designed and tested within the framework of a preliminary study was used as an investigation instrument. The theoretical background was provided by theories in the domain of victimology, theoretical concepts based on coping and life-event research, theories on individual control convictions and stress management, and also by the paradigm of acquired helplessness. The first sub-samples were polled and questioned in the second half of 1992. The results encompass the completed questionnaire forms of 395 victims of crimes of violence. Preliminary evaluations of these random samples are scheduled for the end of 1993. The acquisition of data will be continued in the second half of 1993.

The effects of the type of data collection procedure on survey results - illustrated by a victimization study

HELMUT KURY

The importance of research into the influence of the data collection method on the research findings is explained. A short description of the most important empirical investigations into this issue is given. On the whole an influence of the collection procedure is established to the effect that a stronger trend towards socially desirable behavior is to be expected in the case of oral as opposed to written surveys.

An own experimental investigation into this issue is outlined, i.e. a victimological survey, where the same questionnaire was presented to 3,000 postally screened and 1,000 orally interviewed persons in the city of Jena. Both the selection of respondents and their assignment to the two types of survey groups were carried out randomly (experimental design).

The results largely confirm the starting hypotheses. In the case of data collection by mail, as opposed to oral interviews, the answers are less in line with social desirability. This not only applies to the questionnaire developed by us, but also to the standardized personality inventory FPI. Here the self-description given by the respondents surveyed by mail is also less in line with social desirability.

With respect to questions monitoring victimisation (incidents of victimisation within the year preceding the survey) the postally screened respondents report more minor incidents of victimisation than the orally interviewed group. This finding also confirms our hypothesis. It is to be assumed that respondents participating in a written survey

remember more minor and hence more easily forgotten past victimisations as they have more time to reflect, to correct and supplement their answers than in an orally conducted survey. These differences were not established for more serious incidents of victimisation, a finding which falls entirely within the scope of our expectations.

As a rule, the established effects are highly significant statistically, though not very large. This indicates a clear, though moderate influence of the data collection procedure (written vs. oral) on the survey findings, including results derived from victimological surveys.

This result largely confirms the international findings gained so far, particularly those derived in the USA. In the future large-scale victimisation studies, which are being carried out increasingly also in the Federal Republic, ought to give more consideration to this aspect. Obviously the finding that written surveys yield results which are the least distorted by the factor of social desirability also applies to such studies.

Victimization experience and fear of crime. A contribution to the victimization perspective

HELMUT KURY and MICHAEL WÜRGER

Since the Sixties fear of crime has been a major subject matter of American victimological studies. In the last few years it has also been discussed increasingly in European and German victim studies. There has been evidence time and again that fear of crime is greater among, e.g., women, elderly persons and residents of larger cities than among the respective comparative groups. An almost immeasurable number of empirical investigations particularly in the USA have been able to determine numerous variables which can be regarded as factors connected with the development of fear of crime, viz., the fashion in which newspapers report about crime, aspects of housing environment and incivilities. As far as the development of fear of crime in connection with earlier victimizations is concerned the results derived are not homogeneous. Measuring problems may be considered a major reason for the conflicting findings. Fear of crime is measured in a variety of ways, often being recorded by means of only one item (standard item). As a rule, the collection of data relating to earlier victimization experience is very cursory. Quite often the victimizations are not differentiated according to seriousness and extent.

Previous empirical research on the connection between victimization and fear of crime (victimization perspective) is discussed. Particularly the more recent studies, which are better and more differentiated methodically, prove to verify the victimization perspective. In an own investigation we examined the validity of the victimization perspective on a broad data basis. For this purpose we used the data sets of the first International Crime Survey of 1989 which had been conducted in 15 European countries, the USA, Canada and Australia. These data had been collected via telephone interviews almost without exception. Moreover we examined the data records of both the first German-German victim study of 1990 and the victimological survey conducted in the cities of Freiburg and Jena in 1991/92. Our investigation focused on victimization incidents within 11 offense categories (theft of/from cars, car vandalism, theft of motorized two-wheelers, bicycle theft, burglary and attempted burglary, robbery, theft of personal pro-

perty, sexual harrasment and assault/(forceful) threat). We conducted a differentiated examination of the influence of victimization on fear of crime according to the seriousness of the offenses and the number of earlier victimizations. Fear of crime was recorded on the basis of items which refer to the avoidance of certain areas after dusk, to the respondents' assessment of the probability of their falling a victim to burglary during the next year (anticipated victimization), to the thought of being victimized, and to the respondents' feeling of safety walking alone outside after dark (standard item). A differentiated analysis had to be conducted, as not all the items were contained in all the data records. The statistical analysis was conducted by means of multivariate analyses, the variables age, sex, income and size of place of residence being taken into consideration.

Throughout all analyses and all the samples, viz., for nearly all the countries included in the investigation a connection between earlier victimization and fear of crime was established. At the same time we were able to show that the extent of fear of crime generally increases along with both the seriousness of the victimization incident and the number of earlier victimizations. Moreover, we were able to show that, as expected, an earlier victimization experience has a significant influence on fear of crime on the one hand, but that, on the other hand, other variables simultaneously have an even stronger influence, in particular sex, age and size of place of residence, in part also the variable income. The victimization perspective was able to be confirmed in our large-scale investigation; we were, however, also able to show that the influence of an earlier victimization on fear of crime ought not to be overemphasized. A clarification of the problems necessitates in particular more differentiated research which above all gives attention to the concerned persons' surroundings and to personality variables.