

Criminal Policy in Sweden – from rehabilitation to prison?

by

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Criminal Policy in Sweden – from rehabilitation to prison?

While taking a highly liberal position on this matter during the second half of the 20th century, the Swedish criminal policy is today on its way back to a view which is comparatively much more conservative. Signs of this change can be clearly seen if you look at the Swedish prison system: the data about people sitting in prison has risen continuously since the end of 1990 and parallel to that the statistics show that these people are sentenced to a much longer imprisonment than before. Due to an amendment of the Swedish penal law in 2006 and 2008 there had been changes in the prisons themselves, too: when the Swedish Parliament had passed in a first step partly new forms of releases, the delegates enacted in a second step new rules relating to the organization of the Swedish prison system. These clauses imply restrictions for the prison inmates rather explicitly.

This article tries to give an overview of this change inside the Swedish criminal policy during the last ten years. Furthermore the contribution attempts to give some possible explanations for this turnabout. In the end it could be interesting to discuss to which extent these explanations – which mostly reach over the field of mere criminal policy – are appropriate. Another question is, if it is possible to draw conclusions out of the Swedish situation which could be applied to the German system.

1st The directive for a new penal law in Sweden

In October 2002, the former Swedish Minister of Justice, *Thomas Bodström*, ordered a commission of inquiry - comprising 15 members both MPs and non-MPs of the Swedish parliament – to prepare a report, which should propose (and be the basis for) a new Swedish penal law. This report remarks at the same time the beginning of the parliamentary process to a new law in Sweden.

Before preparing the report, the commission received the appointment by the Swedish government to deal especially with questions regarding the implementation of imprisonment and its possibilities to prevent recidivism and to protect the society (at the same time).

When the report under the name „Framtidens kriminalvård“ [The penal system of the future] (SOU 2005:54) was published in June 2005, the commission had created in over 1.000 pages the picture of a new Swedish penal system.

Therein the commission proposed to adopt a so called „förmånssystemet“ [privilege system], which includes different levels linked to certain privileges during imprisonment. By establishing this privilege system, so the commission's opinion, the „individual's motivation to change something during the imprisonment“ can be pro-

moted in a stronger way than before (SOU 2005:54, p. 25).

Moreover the members of the commission declared, that „they had no reason to take a stand concerning the aim of imprisonment”. The starting point of their report had been rather that the sentence of imprisonment should be implemented „in the best way” (SOU 2005:54, p. 211 f.).

This report, with no statement regarding the reintegration as the aim of imprisonment can be seen in contrast to the old Swedish Penal Law from 1974, which also based on a report by a commission of inquiry, published 1972. But according to the guidelines of this report, which were later known as the Swedish tradition of prison, the sentence of imprisonment should be seen solely as an *ultima ratio*. And if it is necessary to use this sanction, it should be the most important task (of the Swedish Prison and Probation Service) to counteract any adverse effects of imprisonment as well as to prepare the prisoner’s reintegration into the community from the very first. Moreover, the old commission proposed that the sentence of imprisonment has to be as short as possible and the prisoner should be preferably placed in open prisons.

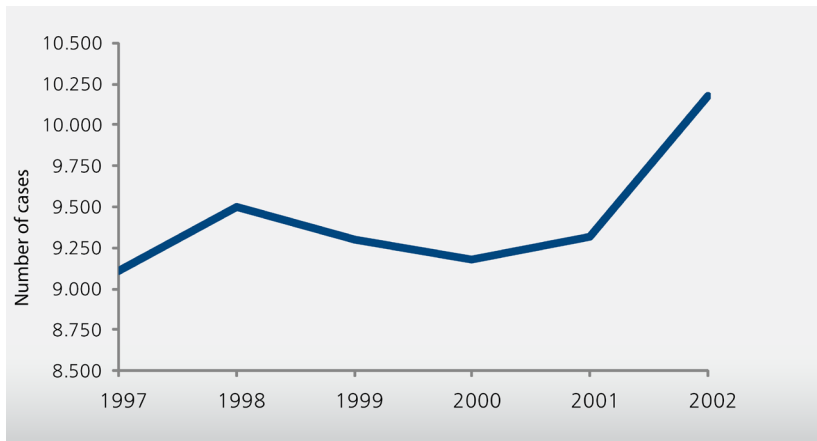
The big questions is here - how has it come to this new parliamentary directive from 2002, which can be seen in that contrast to the former Swedish prison philosophy? It is not possible to answer directly to this question, but there are some trends in the Swedish Criminal Policy before this report was prepared, which could be interesting for our question.

2nd Indicators for a change concerning the Swedish penal policies between 1997 and 2002

The indicators shown in the following apply to the persons convicted to imprisonment in Sweden between 1997 and 2002 and the attitudes to punishment in the Swedish population in this time period.

Chart 1 on the next page gives a rough outline of the total number of Swedish adults who were sentenced to imprisonment and admitted to prison from 1997 to 2002.

Chart 1: The total number of Swedish adults who were sentenced to imprisonment and admitted to prison from 1997 to 2002



Source: *Brottsförebyggande rådet (figure by the author).*¹

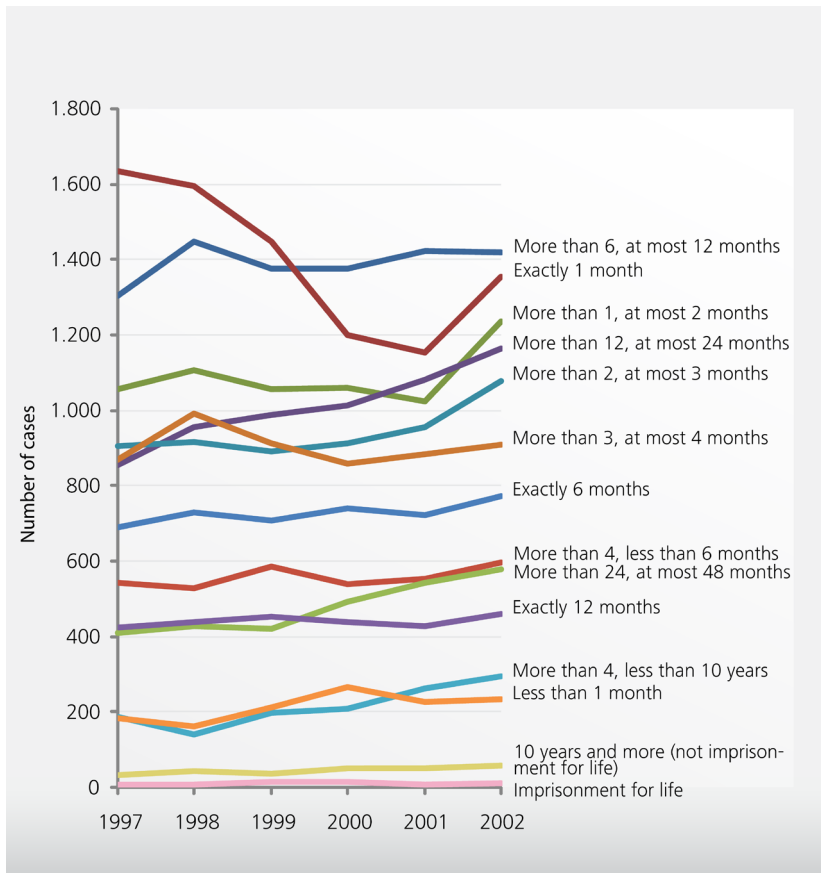
Here we can see that the number of Swedish adults who were sentenced to imprisonment varies between 1997 and 2000 but has increased continuously since this year. While in 2000 approximately 9.200 persons were sentenced, this number has reached the mark of 10.250 in 2002.

Chart 2 on the next page applies to the number of Swedish adults, who were sentenced to imprisonment, itemized by the time spent in prison (from 1997 to 2002).

This figure shows us on the vertical axis the number of persons, who were sentenced to imprisonment, itemized by the time spent in prison and on the horizontal axis the time period between 1997 and 2002 in years. Here we can see that the number has been on the increase since the year 2000 for all imprisonment durations except the “less-than-one-month sentence”. The increase of judgments is significant for the short-time sentence as the duration of “exactly one month”, the sentence of “one to two months” and „two to three months“.

¹ Cf. http://www.bra.se/extra/pod/?action=pod_show&id=354&module_instance=21 (Date of access 8.3.08).

Chart 2: The number of Swedish adults who were sentenced to imprisonment according to time spent in prison from 1997 to 2002



Source: *Brottsförebyggande rådet (figure by the author).*²

Hence we can see, that the number of persons convicted to imprisonment in Sweden have risen – both if you look at the absolute number of convicts as well as if you look at the time remanded in prison.

But not only had the case of numbers considering the people, sentenced to imprisonment, increased – if we look at the findings of the International Crime Victim Surveys concerning the topic “attitudes to punishment” for the Swedish interviewees in 1992, 1996 and 2000. In this survey between 1.000 and 2.000 persons in each country are asked “What sentence do you consider to be the most appropriate for a recidivist

² Cf. http://www.bra.se/extra/pod/?action=pod_show&id=354&module_instance=21 (Date of access 8.3.08).

burglar – a man aged 21 who was found guilty of burglary for the second time after having stolen a color television?” The interviewees have the possibility to choose between the answers „Fine“, „Prison“, „Community Service“, „Suspended sentence“, „Other sentence“ or „Don't know“. *Chart 3* shows how many of the Swedish interviewees decided to answer with “prison” in 1992, 1996 and 2000.

Chart 3: Sentence preference for a young recidivist burglar (percentages) in 1992/1996/2000/ ICVS (Sweden)

	1992	1996	2000	1992-2000
Prison	26	22	31	26

Source: van Kesteren/Mayhew/Nieuwbeerta 2000, p. 87.

While in 1992 26 percent of the Swedish people thought, imprisonment would be the right sentence, in 2000 31 percent of the interviewees chose this answer. This is an increase of 26 percent. Thus the Swedish interviewees became more punitive between 1992 and 2000.

The important things to remember here are consequently, that something has changed in the Swedish Criminal Policy as well as in the Swedish society considering the need of imprisonment. We should keep this in mind, while we get back to the reformed Swedish Prison law, what leads us directly to the next point of this contribution.

3rd The Swedish Penal Laws 2006 and 2008

On the 24th of May the Swedish Parliament passed on basis of the report “The penal system of the future” the law „Lag om ändring i lagen (1974:203) om kriminalvård i anstalt 2006:432“ [Law to change the penal law (1974:203) 2006:432] which came into force the 1st of January 2007.

Newly in this law are basically four special forms of releases called 1) Conditional release [frigång], 2) Care service [vårdvistelse], 3) Half-way house [vistelse i halv-vägshus] and 4) Extended conditional release [utökad utgång] (§§ 54, 55, 56, 57, 58 KvaL). They were established to broaden the possibilities for preventing recidivism in combination with alternative sentences as well as to facilitate the reintegration into society (according to the law, the release forms “Care service”, “Half-way house” and “Extended conditional release” have to be planned in that way that they remain until the day of the prisoner’s release). If you look closer at this new forms they can be described as followed³:

³ Cf. http://www.kriminalvarden.se/upload/Informationsmaterial/Basic_Facts_2009.pdf (Date of access 8.3.08).

- *Conditional release*: allows the prisoner to spend time outside the prison during the day and to work, partake in educational or vocational programs or in organized activities.
- *Care service*: allows the prisoner to spend time at a family care home or care and treatment centre for the purpose of participating in various treatments.
- *Half-way house*: allows the prisoner to interact with an environment that is more exposed than an open prison, at the same time benefiting from the support and assistance provided by the Prison and Probation Service and other authorities.
- *Extended conditional release*: allows the prisoner to serve his/her sentence at home under controlled circumstances (intensive supervision with tagging). The prisoner can work, attend educational or vocational programs, receive treatment or participate in organized activities.

Furthermore the conditional release is now carried out in a new form: a prison inmate is still to be released after having served two-thirds of a prison sentence; but: the possibility to delay parole because of “certain reasons” is now linked to an appraisal of the prison inmate’s behavior during his whole imprisonment sentence. That means: If the prison inmate did not behave well during imprisonment, the Swedish Prison and Probation Service chooses a suspension (§ 49 Abs. 2 KvaL) - which is a rather articulate change. In that way, so the lawgivers, the „individuals motivation to change something“(SOU 2005:54, p. 25) during the time of imprisonment is encouraged more than before.

On the 31th of January 2008 the Parliament passed in a second step the law „Lag (2008:35) om ändring i lagen (1974:203) om kriminalvård i anstalt“ [Law (2008:35) about the change of the penal law (1974:293)] which came into force the 1st of April 2008.

The aim of this law was according to the Swedish Government: to make the legislation for the treatment of offenders more clear and precise in questions, which are important for the inmates as well as for the maintenance of safety and order in the prisons (Proposition 2006/07:127, p. 1). Furthermore the questions in the report “The penal system of the future” (2005:54) should be taken into account, which deal with the security measures in prison. Finally a proposal by the Swedish Prison and Probation Service dealing with drug control in the prison inmates rooms has been considered (Proposition 2006/07:127, p. 13).

The content of this law is according to this statement: New concepts regarding the identification and isolation of prison inmates, the personal ownership in the inmates rooms, the inspection of letters in prison, the inmates responsibility to participate in drug control as well as codes of behavior during the release forms (§§ 17, 24, 25, 26, 27, 28, 52 d and 59 KvaL; § 16 KvaL).

This second law brings me to the end of my contribution. Before I stop, let me go through the major issues once more.

4th Abstract

In this contribution I have tried to illustrate a reversal in the Swedish Criminal Policy, which can be noticed in the Swedish penal policies as well as in the attitudes of the Swedish society considering imprisonment and the treatment of offenders. This reversal can be identified by

- a preference of prison sentences as a form of sanction (charts 1, 2 and 3) and
- a focus on measures dealing with the security and safety of the society instead of working on the prison inmates rights (if you compare the two new laws “Lag 2006:432” and “Lag 2008:35” with the older law „Lag (1974:203) om kriminalvård i anstalt“)

But how can this reversal be explained? This question is in my opinion hard to answer, because of the fact that these explanations mostly reach over the field of mere criminal policy. Instead of an answer I'd like to present some interesting remarks and an open question about this reversal at the end of this contribution.

5th Concluding remarks

A new focus on criminal behavior (violence, sex-related crime and drugs) in the Swedish society can be noticed since the 1980s which is parallel to an increasing role of the mass media in Sweden according to *Hanns von Hofer*, Professor for criminology at the University of Stockholm.

Moreover a trend towards safety is perceptible since the 1980s, combined with leaving behind the *penal welfarism*, which dominated the 1960s and 1970s and preferred the principle of rehabilitation especially in the U.S. and the United Kingdom according to *David Garland*, Professor of Sociology, Law at the New York University. But can this trend also be stated in Sweden resp. Europe?

If you aim the comparison with the penal policies in Germany: the conditions in Swedish prisons are better than in other European nations – measured by the European Prison Rules (EPR)⁴ according to *Frieder Dünkel*, Professor for criminology at the Ernst Moritz Arndt University Greifswald.

Addendum

On the 2th of June 2010 the Parliament passed in a third step a new penal law „En ny fängelse- och häkteslagstiftning (2010:610)“ [A new prison and remand legislation (2010:610)] which is going to replace the old law (1974:203) and should come into

⁴ Cf. <https://wcd.coe.int/ViewDoc.jsp?id=955747> (Date of access: 17.8.09).

force the 1st of April 2011.

According to the Swedish government, the basic principle of the law is to “adapt the enforcement of the sentences to the individual requirements of the inmates in a stronger way than before – without ignoring the security as well as the duty of the inmates to take their individual responsibility” (Proposition 2009/10:135, p. 1).

Until now, the rehabilitation of the inmate is still the primary goal of Swedish penal institutions – by operation of law and in practice. It will be interesting to see how the new penal law will influence the Swedish prison system.

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