

Newsletter of the *European Society of Criminology*

# CRIMINOLOGY IN EUROPE



**Sonja Snacken on Crime, Criminology and Justice**

**Susanne Karstedt on European Criminology**

Frieder Dünkel

## THE REFUGEE PROBLEM AND WHAT CRIMINOLOGISTS SHOULD SAY TO IT

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We are facing a human catastrophe at the moment. Between 45 and 60 million people worldwide are on the run due to wars and ethnic, religious or political persecution. About 1.5 million refugees are expected in Europe by the end of 2015, most of them trying to escape the wars in Syria, Iraq, Ukraine and other regions where their lives are in danger. Most of them have experienced traumatic situations—even the killing of relatives—and suffered from exhausting and often deadly travels. (In particular, thousands have died on their way to the Mediterranean Sea).

The reactions towards the humanitarian disaster in the receiving countries are ambiguous. An overwhelming ‘culture of welcome’ has evolved in Germany, whereas other countries such as Hungary or Slovakia (and many other in Eastern European countries, recently also Poland) refuse to accept asylum seekers at their borders. The worst case is Hungary, where Prime Minister Orbán decided to establish fences around the country in order to divert the refugees to the neighbouring countries. Such policy of foreclosure is an evident violation of human rights and in particular the Charter of Fundamental Rights of the European Union (Art. 18) and also of the European Convention on Human Rights (by, for example, prohibiting the expulsion of individuals into countries where their life is at risk). But also in ‘open’ countries the so-called ‘welcome culture’ is beginning to erode, as right-wing parties or movements increase. In Germany almost every day refugee’s homes are targeted for fire-raising. Regular anti-Islam demonstrations by the so-called ‘Pegida’ movement and right-wing extremist parties take place (in particular in the capital of Saxony, Dresden) with slogans like ‘today we are tolerant, tomorrow we are strangers in our own country’. These groups have expressed both fear of increased crime and fear that the level of wealth will decrease. Still, the official policy of Chancellor Angela Merkel is that a country based on the rule of law and human rights guarantees cannot deny the right of asylum to the arriving refugees. However, her slogan “we will succeed” (“*wir schaffen das*”) is openly questioned, even in her own party, the Christian-Democratic party.

Why is Germany different from many other European states in its welcome of and attempts to integrate so many refugees? Maybe German history explains it: Germany successfully integrated 14 million refugees after World War II and more

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than two million East Germans moving to the West German federal states after the reunification of the country, in addition to more than four million so-called resettlers (*Aussiedler*, people with German origins, mainly coming from the former Soviet-Union and Poland). And many Germans remember this past experience.

What is the relation to criminology? Why and how should criminologists intervene in the debate? The former president of the ESC, Michael Tonry, has repeatedly expressed his view on the characteristics of European criminology as being oriented toward the protection of human dignity and human rights in general, much more than in other parts of the world. Another former president, Sonja Snacken, has situated this in the context of cultures of punishment and deemed the orientation toward human rights as a main protective factor against punitive developments in criminal justice.

The refugee problem has many criminological aspects to address: First, refugees are victims of crimes, often seriously traumatised in their countries of origin, but also on their way to Europe. They are exploited by people smugglers who take the last of their money and, in some cases, kill them by sending them across the ocean in an inadequate ship that quickly becomes a deathtrap. There are also reports that children without money are sexually abused by the smugglers as a kind of 'payment'. Therefore the fight against smugglers and others who make profit out of the misery of refugees is an important question. Preventive measures must take place in the countries of origin or the starting place of these dangerous travels. It is evident that agencies like Frontex have not been successful in reducing the flood of immigrants. The European Union has been more occupied with controlling the borders in order to limit immigration (see, for example, Eurosur or Frontex) than with providing humanitarian help to refugees for a long time. Also, military interventions against smugglers' boats were discussed within the EU, but were dropped at the urging of Amnesty International. What is necessary is to avoid further traumatisation by providing a culture of welcome and protection, which includes, among other things, safe accommodation in the country of arrival, clothing, health care including trauma therapy, and equipment for cooking. Refugees should be given opportunities to organise their daily lives and for social integration. This includes language courses and allowing for working (which has not been permitted for asylum seekers up to now), at least for those who definitively will not be sent back as refugees from Syria, Iraq, or the Ukraine.

The fears of the national population are that immigrants will be involved in crime and commit violent crimes against the domestic population. Indeed, it can be observed that immigrants that are not given real chances to become socially integrated can develop criminal lifestyles, and there is certainly a small proportion of refugees who were criminal offenders in the country of origin and will continue to commit such acts. Another concern is that Islamic radicals might be hiding among the refugees to sneak into Europe to commit terror attacks. The recent theft of thousands of blank passports indicates that terrorists might try to enter Europe for violent attacks. However, the horrific attacks in Paris demonstrate that the more realistic danger are probably people, who are already residents in European countries. In consequence, it would be foolish to suggest that the overwhelming majority of those risking their life to get to Europe are not genuine refugees fleeing the very same horrors the Paris attackers brought to European soil.

Therefore, they will likely here to stay. The German experience with the German-Russian resettlers has shown that after an initial period of social disintegration, the large majority of immigrants became socially integrated and that the crime problem has disappeared. If immigrants receive the necessary support there will be no issues with crime. The problems of refugees today are inadequate accommodation, where heterogeneous groups of young men from a different cultural and religious background are housed together in overcrowded facilities, which increases tensions and sometimes leads to violence. But these are "home-made" problems which are easy to solve.

Criminologists should raise their voices and contribute to a rational discourse about immigration, crime and the possibilities for a humanitarian solution. I really hope that not only in countries like Hungary and others in Eastern Europe, but also, for example, in the UK, criminologists will protest against politics of foreclosure. But we should furthermore address the causes of the refugee problem: the conflicts in the Middle East, poverty and food shortage in regions of ongoing civil war, such as in Libya. Therefore, war, conflicts, religious and political persecution and the role of state crime should be discussed. I think that our next Annual Meeting in Münster will have to address these problems intensively.

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Susanne Karstedt

## A SHORT HISTORY OF THE PRESENT (AND THE PAST)

### ON TRANSATLANTIC ENCOUNTERS, CHANNEL CROSSINGS, LIBERATING MOMENTS AND EUROPEAN NORMATIVE POWER

Europe is the birthplace of modern criminology, and in particular of criminology as a science in the 19<sup>th</sup> century. Its birth was part of a major endeavour across European states to assess the moral state of the rapidly changing societies of the 19<sup>th</sup> century. ‘Moral statistics’ as they were first developed in France, Belgium and soon in Germany, canvassed an array of social and moral woes, and employed the newly discovered instruments of counting and statistics that governments increasingly used to assess harvests, poverty, the health of children and potential conscripts for their armies, railway travel, migration and emigration, and finally crime and justice. These authors produced the first works on the geography and ecology of crime, and Emile Durkheim, one of the classics in our field, made ample use of them. Moral statistics, its criminological branch and finally criminology proper were inventions from the West and South of Europe.

From the start European criminology developed along two lines of thinking. As the geographical perspective gave rise to analyses of concentration, distribution, and correlation, it promoted a perspective with emphasis on the prevention of *crime incidents* that contemporary criminologists would identify as ‘situational’. The other perspective focussed on the offender, and prevention became a question of deterrence, of preventing recidivism, or of rehabilitative measures. While the first perspective inspired a social or sociological analysis of crime, the second found a disciplinary home in the equally newly developed disciplines of psychiatry and psychology, or developed as a branch of biology, ‘criminal biology’ (*Kriminalbiologie*).

However, across Europe criminology soon became a

sub-discipline or ‘auxiliary discipline’ of criminal law, implying that criminology could and would deliver the empirical foundations and evaluations for reforms of criminal justice, for laws as well as for institutions. Thus, criminology was in the firm grip of lawyers and law faculties, who often in their grand designs and theorising ignored the empirical results that criminologists had to offer, small as they might have been. Rather than being a discipline on its own, criminology was relegated to its place as a sub-discipline and subjected to the hierarchy of law and lawyers. A famous German criminal lawyer conceded that law without criminology might be blind, but he added that criminology without law would get out of hand, meaning that it engaged with improper subject matter outside the confinements of the legal profession as defined by its superior knowledge.

Rescue came from across the Atlantic in the mid-1960s, where in the US criminology was thriving as a social science and firmly situated at the crossroads of sociology, psychology and psychiatry. Books like *The Street Corner Society* or the ‘Cambridge-Somerville Youth Study’ by Joan McCord and her husband; work by Frank Tannenbaum and Charles Lemert; and Howard Becker’s ‘Whose Side are We On’ were all revelations, opening up a whole new world of thinking, theorising and research in criminology. They were inspirations for many, among them a young German sociology student in Hamburg. US criminology inspired a strand of critical analysis and thinking about crime and justice that liberated continental European criminology and set it on the path towards becoming a social science and discipline proper rather than an appendix to law and legal studies. These transatlantic encounters that shaped a gen-

### FROM THE NEXT ISSUE

- › May-Len Skilbrei and Maria João Guia on the Refugee Crisis and Criminology
- › Dario Melossi on European Criminology

eration of European criminologists transformed European criminology and laid the foundations for the thriving multi-disciplinary and critical enterprise that it is today.

On the continent, the Scandinavian countries and the Netherlands were the first to take up the challenge and develop criminology as an empirical social science. In other countries, the transatlantic encounters led to a rift between traditional criminology and 'critical criminology' which divides scientific communities to this day. When US criminologists Robert Sampson and Michael Tonry today describe European criminology as 'more critical' than its American counterpart, we need to realise that this was initially an import from the United States, rather than a fully home-grown development; it could not have happened without the transfer from across the Atlantic. In the decades that followed, the flow of ideas, theories, innovative methods, path-breaking research, and policies changed European criminology forever, with a further boost for countries in Central and East Europe after 1990. Why, then, did it not just become a European version of US criminology?

Importantly, on the British Isles criminology had taken a different path. While their continental counterparts pored over crime figures and government statistics, or measured the heads of convicted criminals in the 19<sup>th</sup> century, British social scientists and activists had actually 'gone there', and explored the lives of the London poor up close and with anthropological methods. They visited prisons and pragmatically started an inspectorate of prisons. Notwithstanding their highly critical activism, they aimed to change penal policies by influencing politicians as well as bureaucrats, through numerous commissions and inquiries to which their political system was much more amenable than the authoritarian ones on the continent. It was in this tradition that Taylor, Walton and Young wrote their *New Criminology* in the early 1970s, decisively as a 'Social Theory of Deviance'. British criminology thus triggered a new strand of theorising, and in particular infused European criminology with an array of qualitative methodologies to which it turned out to be particularly receptive. What crossed the channel was a mixture of broad and critical theorising, highly critical engagement with criminal justice policies, innovative and influential concepts like Stan Cohen's 'Moral Panics', a focus on marginalised subcultures, and finally a toolkit of qualitative methods to research all these interesting topics and themes.

There was, however, something else that crossed the channel. In the Home Office, a small group of civil servants-turned-criminologists (or the other way round) started to launch a firm evidence- and research-base for government policies, in particular crime prevention measures

and innovative policing. Their funding for evaluation and research was envied by criminologists throughout Europe, and the Netherlands soon followed suite. They invented the (quantitative) instrument of the Victimisation Survey, which went international before it actually covered Europe, and provided an unprecedented database for criminological studies worldwide. It testifies to cross-channel collaborations between the United Kingdom and the Netherlands. Together with their US counterparts, this group was instrumental in inaugurating sweeping changes in police practices and crime prevention policies at community level throughout Europe. Today, community crime prevention comes in many different shapes, and European countries have developed an amazing diversity of community crime prevention programmes.

Finally, the rapid and unprecedented growth of criminology as a field of study and research in Britain demonstrated that criminology as a discipline had by far outgrown its 'auxiliary role', and could thrive under the roof of many disciplines, faculties and schools, from traditional law schools, to sociology and social policy, and psychology and its diverse branches. This sent an important message across the channel, and decisively changed the institutional context of criminology on the continent forever.

So far, our history of the present has been a history of travelling ideas, theories, concepts, methods and research, and of course people (admittedly these travels reflect my own journeys into criminology and between countries and continents). These travels and encounters were liberating European criminology in more than one way. There is, however, a darker strand of historical roots of European criminology which has left a distinctive mark on its contemporary landscape. This is the history of European values and the emergence of Europe as a normative power, in particular in our field of criminal justice. In which ways has European criminology been shaped by Europe's tormented history, and which lessons has it taken away?

Common European values and traditions as a seed-bed for criminal justice policies are conjured in many declarations of its nations as, for example, in the Treaty of Lisbon (2007/ 2009). The Lisbon Treaty invokes the 'cultural, religious and humanist inheritance of Europe ... (its) universal values of ... inalienable rights of the human person, freedom, democracy, equality and the rule of law'. Behind these invocations of a common European heritage of values lurks another, much darker common inheritance. With very few exceptions European states look back at a history of authoritarian and non-democratic rule during the past century, simultaneously a history of massive criminal *injustice*, state terror and state crime.

Today, Europe has the best record and lowest level of state violence since 1980, measured as a combined indicator of extra-judicial killings, torture, and forced disappearances at the hand of security forces and criminal justice agencies, and political imprisonment. European courts have confirmed and protected human rights for prisoners, as well as their human dignity and their political and civil rights: in contemporary Europe most prisoners have voting rights. In a landmark and highly influential decision on life imprisonment the Constitutional Court of Germany stated in the 1980s that depriving prisoners of the hope to be released would be a violation of their human dignity, and thus a violation of their basic rights as enshrined in the German constitution. It is in this process that Europe emerged as a 'normative power' within the region and globally. The European Committee for the Prevention of Torture, which served as a model for and facilitated the UN Subcommittee and its Optional Protocol for visits to all institutions of detention signifies the emerging normative power of Europe.

The normative power of Europe has changed the direction of flows of concepts, ideas and policies across the Atlantic. In 2013, and again in June 2015, a group of criminal justice practitioners, politicians, and criminologists from the United States visited Europe, including a Democratic governor and chief prosecutor, to see 'how Germany does prison'. What they brought home was the need to 'fundamentally rethink values' with an emphasis on the protection of and respect for the human dignity of prisoners, which not only is part of the German Basic (Constitutional) Rights, but also animates the Eighth Amendment of the US Constitution, which prohibits cruel and unusual punishment. Among the delegates was a district attorney whose father had narrowly escaped death in the Bergen-Belsen concentration camp as a five year old. Seeing German prisons in 2015 he was confident that 'countries can change'. We should not forget that it was the United States that set post-war Germany on this trajectory of change.

European criminologists across all regions have taken up the challenges posed by Europe's tormented history of the 20<sup>th</sup> century. In 2014 a group of criminologists from the Netherlands, Germany, and the UK established the *European Criminology Group on Atrocity Crimes and Transitional Justice*. The group organised a number of successful sessions in Prague and Porto, and will soon establish a book series in order to publish the extraordinary range of research and theorising in and on Europe, and by European scholars. European criminology is globally unique in taking up these themes as its own disciplinary endeavour rather than leaving it to others. Importantly, the group mirrors the

multi-disciplinary character of European criminology in bringing together political scientists, historians, anthropologists, lawyers and socio-legal scholars, sociologists and psychologists with an array of different perspectives.

Europe emerges as a normative power from three sources. Its tormented violent history provided lessons and motivation for a different future and a post-war and post-cold-war consensus. Second, Europe is constituted as a hybrid polity which is built upon sovereign states and an order of supra-state institutions. Finally, the development of common principles and the facilitation of exchange, commitment and transmission of these principles between European countries have established a normative consensus on these basic principles. European criminology is part of this endeavour and shares these basic values.

Common principles, however, do not imply being unified in every respect, and institutions might widely differ. Common principles coincide with different ideas about penal control, or welfare solidarity; accordingly, highly different penal cultures emerged in Europe's regions and countries. In the same vein, criminology and criminologists differ widely across the continent (I include the United Kingdom here). European criminology's diversity originates from its engagement with national and common histories, from different institutional and disciplinary trajectories, and from the different ways in which it absorbed ideas, concepts and theories as they travelled from foreign to European shores. Its receptiveness to new ideas is one of its biggest assets, and has generated the diversity that is its outstanding characteristic today. Even if its 'captivity' in the clutches of law and law faculties impeded its development, today it turns out as a tremendous advantage in the concert of disciplines that make European criminology. Much more than in the US or in any other regional criminology (perhaps with the exception of Latin America), socio-legal and legal analyses provide gateways towards incorporating human rights into the criminological enterprise.

Certainly there is a 'European criminology', and it is expanding and leaves its mark globally. It has thrived and will continue to do so, on the exchange of ideas, concepts, theories and research, across the Atlantic and with other global regions as well as within Europe, from the Balkans to Scandinavia. It will certainly discover the increasing diversity within European countries, and will engage with its neighbours around the Mediterranean Sea. European Criminology will be part of Europe's normative power.

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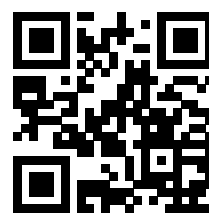
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Sonja Snacken

# CRIMINOLOGY BETWEEN SCIENCE AND JUSTICE

I am very honoured by this Award, granted by this Society that is very dear to me and by colleagues whose opinion I greatly value. As co-founder of the European Society of Criminology in 2000 and having been elected President in 2004–2005, I have come over the years to consider the ESC as my ‘natural habitat’ – the place where I’m sure to meet not only friends and colleagues from all over Europe and beyond every year but also the new generation of young enthusiastic criminologists who are the future of our scientific endeavour. It is also heart-warming to know that in these difficult times of ‘*publish or perish*’, some people actually do read these articles and books that we produce.

I am especially happy with the motivation for the Award, stating ‘Sonja Snacken combines in her writings the role of the sharp and empirically oriented researcher with that of the engaged citizen who believes in humane values and who is willing to fight for them’ It refers to aspects of my career that I consider as fundamental, but were not always easy to accommodate: the combination of research with the fight for humane values. Hence my title ‘*Criminology between Science and Justice*’.

## I. CRIMINOLOGY AS SCIENCE

I will not go into the discussion whether criminology is an autonomous discipline or rather a field where various disciplines meet. My concern here is with a different question: are we, as criminologists, still ‘scientists’ if we get involved with values? But how can we avoid this involvement when how societies deal with crime and punishment is suffused with values? The tension between ‘science’ and ‘justice’ in my title questions the place of the normative in social sciences and in criminology. It is often claimed that science is not normative and that the normative is not scientific. In a discussion of my 2010 article in *Theoretical Criminology* on ‘Resisting punitiveness in Europe?’ in a workshop at New York University, some of the colleagues present questioned my use of the concept ‘resisting’ as being too normative – scientists describe, analyse and explain phenomena such as differences in punitiveness, they don’t mix into normative debates.

At the ESC Conference in Prague last year, Tony Bottoms (who was the first to receive the ESC Criminology Award in 2007) corroborated that many scholars want



to exclude the normative from criminology ‘because it is only a matter of science’. He stressed the importance though of making morality explicit in criminology, continuing an earlier claim that ‘if they are to be true to their calling, all criminologists have to be interested in morality’ (Bottoms, 2002: 24). He distinguished between *positive morality*, defined as the morality actually practised by a given social group or individual, and *critical morality*, the critical ethical analysis of current laws, social practices or policy proposals. While the former raises *descriptive/analytic* questions (e.g. do people’s moral judgements contribute to their willingness to commit criminal acts?), the latter raises *normative* questions, such as what policies should a state adopt to deal with a particular set of circumstances?

This tension between science and normative questions has long been present in my personal career. As a student starting university in 1973 at the Vrije Universiteit Brussel (VUB), I hesitated between law and sociology. I finally chose law because the many social injustices in our society made me angry; I wanted to go into politics and change the world, and law seemed useful to do that. It was only later that I found out that law didn’t say much about social injustice and that political parties were either too conservative or too dogmatic to fit my ideas. But I was shocked to the bone when I was confronted for the first time with a closed psychiatric institution holding mentally ill offenders, nicknamed ‘the hell of Tournai’: dormitories with twenty-some beds in miserable material conditions; two mentally ill offenders tied to their iron bedposts, their face covered with blood, endlessly banging their head against the bars; two part-time psychia-

trists responsible for about 800 patients, as depressed as their patients due to the lack of staff and resources. The neutral and clean concepts of ‘deprivation of liberty’ and ‘indeterminate internment of mentally ill offenders’ from our criminal law course suddenly took on disturbing colours, and I knew that—even if I didn’t know the legal concept yet—this was inhuman and degrading treatment (Snacken, 2011: 14). Something had to be done about these kind of situations. And as changing the world was probably a bit ambitious I decided to try giving a voice to prisoners, powerless and neglected people who were not even supposed to be entitled to a voice. Prisoners’ rights seemed a useful instrument to achieve this. Unfortunately, someone had already ‘stolen’ my idea: in the same year (1977), Christian Eliaerts defended a PhD in criminology at the VUB on the protection of prisoners’ rights. I decided to enroll in his criminology course—an *aha Erlebnis* which would change the course of my life. I was no longer dealing with norms, rules and texts, but the real world with real people in real situations, and how the criminal justice system deals with these people; sociological theories to explain crime and the labelling of deviance; and links between social justice and criminal justice. Everything was there. I wanted to move away from law into empirical criminology, away from the normative and prescriptive into the social reality. Six months later, Chris Eliaerts became my PhD supervisor. It would become a common journey for the next 30 years. I was the first full-time researcher in criminology when I started in 1979—we now have a research group (*Crime & Society*: see <http://www.crisresearchgroup.be/>) with 50 members, of which 24 are pre-doctoral researchers. Until his retirement in 2007, Chris remained the boss’ of the department. If I’m standing here, it is in the first place thanks to you, Chris. You allowed me to build on your penological insights, to spread my wings, to go ‘international’—thank you for that, and for our lasting friendship.

For 20 years, helped and inspired by a steadily increasing number of researchers and PhD students, my research would focus on understanding ‘penality’—a broader concept than ‘punishment’—described by David Garland (1990: 17) as the network of laws, processes, discourses, representations and institutions which make up the penal realm. I applied this approach comparatively, through looking for the mechanisms behind fluctuating prison populations. In Belgium, I did this through the empirical study of decision-making processes at all levels of the adult penal system (public prosecutors, judges, parole boards); searching for the meaning of ‘penality’ for society, penal actors, offenders, prisoners, victims, families, etc. For many years, we were five women, part-

ners—not in crime but in penology: Kristel Beyens, Hilde Tubex, An Raes and myself, supported and challenged by our colleague and friend Kristine Kloeck, who would relentlessly question the relevance of our research for policy and practice—for the offenders, victims, families, judges and other professionals confronted with the daily reality of ‘penality’. I was told some years later by a colleague from a French-speaking university that we were known as ‘the Spice girls of the VUB’. I leave it to you who was supposed to be who...

Chris Eliaerts was the first to establish penological research on prisoners’ rights and on sentence implementation law in Belgium. I had the chance to continue his work through an international network established by Frieder Dünkler and Dirk van Zyl Smit, whom I met the first time in 1988 at the World Congress of Criminology in Hamburg. There was little interest in prisoners’ rights and prison conditions at that time. We were a small group of scholars interested in a marginal topic, who felt we had to support each other in our endeavours. They organised several seminars, through which I got to know Jim Jacobs, Rod Morgan, Helena Valkova and many others. I remember an evening during that first seminar, where Rod Morgan suddenly asked: ‘Why are we interested in prisoners’ rights? Could it be that we all have a personal experience of social exclusion?’ And he went one by one—and all of us had a story to tell about personal feelings of social exclusion. So yes, of course we are scientists—but how much are we influenced by our personal histories and experiences?

This network had a huge impact on my further development. My contribution on Belgian prisons in our first common publication, ‘Imprisonment Today and Tomorrow’ (Snacken, 1991), was used by the CPT (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, Council of Europe: see <http://www.cpt.coe.int/en/>) when they prepared their first visit to Belgium in 1993, which eventually led me to become an expert for the CPT in 1994. My work with the CPT would bring me back to what ‘justice’ is all about.

## II. CRIMINOLOGY AND JUSTICE

‘Lady Justice’ is generally depicted as blindfolded and holding a sword. As criminologists, we know that she would do well to look a bit better at what she is really doing. Both our empirical research on the Belgian penal system and my experiences with the CPT brought the normative back with a vengeance. ‘Dispassionate’ criminological analysis of decision-making at the level of sentencing and early release illustrated again and again the intertwining between social justice and criminal justice: suspects from socioeconomic



vulnerable ethnic minorities have a systematic higher risk to end up in remand and be sentenced to imprisonment than Belgian suspects for similar drug offences (De Pauw, 2000; 2010); irregular migrants end up under remand for petty offences that would never bring a Belgian citizen to prison (Raes & Snacken, 2004; Snacken, 2007; De Ridder & Beyens, 2012); the only difference between sex offenders in prison and in private psychiatric treatment outside the criminal justice system is their socio-economic status (Tubex, 2003); parole depends on risk assessments and possibilities for reintegration through employment, housing and treatment, but there are no treatment programmes in Belgian prisons and prisoners have to pay themselves for the treatment upon early release (Scheirs, 2014; Scheirs, Beyens & Snacken, 2015). My yearly monitoring visits with the CPT brought me to some of the darkest places in Western, Central and Eastern Europe and the Baltic states. I talked to victims of torture by police, physical ill-treatment by prison staff, lengthy isolation and interprisoner violence; to young mothers who had been on remand for two years without being allowed to receive visits from their small children. I witnessed demeaning prison conditions, staff indifference and denial of prisoners' sheer humanity, but also various forms of prisoners' resistance, decent and empathic staff members, and highly educated and motivated prison governors. So 'justice' is also very much about how we treat people coming into our 'criminal justice' systems.

This brings me back to Tony Bottoms' *critical morality*: the critical ethical analysis of current laws, social practices or policy proposals leading to normative questions such as what policies a state should adopt to deal with a particular set of circumstances. But what should be the basis for such normative questions? Which criteria are we to use to test criminal policies? Lady Justice is supposed to bring 'justice', but what is justice? Justice has been around for a long time and in many forms. From Plato and Cicero to Montesquieu, Alexander Solzhenitsyn, Martin Luther King, Nelson Mandela—even Albert Einstein expressed his feelings about 'justice':

*Plato*: Justice in the life and conduct of the State is only possible as first it resides in the hearts and souls of the citizens.

*Cicero*: The more laws, the less justice.

*Montesquieu*: There is no greater tyranny, than that which is perpetrated under the shield of law and in the name of justice.

*Solzhenitsyn*: Justice is conscience, not a personal conscience but the conscience of the whole of humanity.

*Martin Luther King Jr.*: Injustice anywhere is a threat to justice everywhere.

*Nelson Mandela*: In the end we must remember that no amount of rules or their enforcement will defeat those who struggle with justice on their side.

*Albert Einstein*: In matters of truth and justice, there is no difference between large and small problems, for issues concerning the treatment of people are all the same.

These quotes illustrate both a large variety of definitions and an uneasy relationship between law and justice.

In the latest Special issue of *Punishment & Society* (July 2015) on 'Punishment, Values, and Local Cultures', I refer to Michael Walzer's description of 'justice' as a perfect illustration of a *thick and thin morality*: the concept resonates universally ('thin' morality), but its interpretation is culturally, locally and temporally embedded ('thick' morality). He claims though that the American and European concept of justice is translated into 'rights' (Walzer, 2006; Snacken, 2015). This brings me to the relation between penalty, justice and human rights as basis for a *critical morality*.

As a *prison scholar*, I needed to translate the anger and outrage at some prison realities into clear and testable criteria. I found these through integration of the penological and the human rights frameworks. I was greatly inspired in that endeavour by many discussions with and readings of publications by friends and colleagues: Serge Gutwirth on punishment, human rights and democracy (Gutwirth, 1998); Dan Kaminski, Philippe Mary and Yves Cartuyvels on the impossibility to reform prisons through human rights (2002); Nils Christie's *Limits to pain* (1981); Richard Sparks et al. on legitimacy in prisons (Sparks, Bottoms & Hay, 1996); Ian Loader (2010) on penal moderation; James Whitman (2003) on degradation; and Alison Lieblich and colleagues (2004) on the moral performance and quest for dignity and respect in prisons.

As an activist, I tried to translate these insights into standard setting through participation in drafting prison legislation in Belgium (Prison Act 2005; Act on External Legal Position of Sentenced prisoners and the Rights of the Victims 2006) and Recommendations for the Council of Europe (2001–2012): Recommendations on Parole and on Life sentence and Long term prisoners (with H. Tubex), European Prison Rules (with Dirk van Zyl Smit, Andrew Coyle and Gerard De Jonge), on Juvenile Offenders (with Frieder Dünkel), on the European Probation Rules, etc. (see [http://www.coe.int/t/DGHL/STANDARDSETTING/PRISONS/default\\_en.asp](http://www.coe.int/t/DGHL/STANDARDSETTING/PRISONS/default_en.asp)). It would eventually lead to the book with Dirk van Zyl Smit (OUP 2009), based on our yearlong experience and collaboration.

As a *comparative penologist*, I was challenged by the rather gloomy accounts of western penal future offered by leading scholars such as David Garland (2001) and Loïc Wacquant (2009). My activist convictions and scholarly curiosity were struck and intrigued by the complete absence of human rights in their analyses, described on the other



hand by socio-legal scholars as ‘one of the great ideologies of the age’ (Galligan & Sandler, 2004: 23). Of course, it does take some courage to disagree with such eminencies—especially if they invite you to New York University for a year ... Fortunately, I was helped by the work of equally eminent scholars such as Michael Tonry (2001; 2007), Tapio Lappi-Seppälä (2007; 2011; 2012), John Pratt (2008; Pratt & Erickson 2013) and many others. This allowed me to reconsider whether and why we should and maybe could ‘resist’ punitiveness in Europe, based on commonly shared basic values such as social equality, democracy and human rights (Snacken, 2010; Snacken & Dumortier, 2012; Snacken, 2015), thus again integrating empirical evidence and normative questions.

### III. BEYOND CRIMINOLOGY

Problems of extreme dependency, power, dignity and human rights are not limited to prisons or penalty. Erving Goffman’s (1961) concept of ‘total institution’ is one of the most enduring in sociology and penology, but his description of the different types of total institutions has rarely been tested empirically. Thanks to colleague and friend Wim Distelmans, professor of palliative medicine at the VUB, we are now engaged in empirical studies comparing situations of extreme dependency and their implications for dignity and human rights in different settings, including health care institutions, enlarging our horizon concerning power, suffering and resistance (see e.g. Snacken et al, 2013; 2015).

### IV. THE GREATEST BELGIAN OF ALL TIME: JACQUES BREL

In a large survey organised by the Belgian public television in 2005, singer, poet, song-writer and actor Jacques Brel was declared to be the greatest Belgian of all time. I have been a long-standing admirer of his work: his passion for life, love and friendship, fierce social criticism and shattering self-irony continue to inspire and humble, nearly 40 years after his death in 1978. He stated in one of his famous quotes that ‘the life of an artist consists in 10% talent and 90% hard work’. It seems to me that this is equally valid for an academic. It has been 35 years of very hard work for me, but an Award like this one compensates enormously.

Thank you.

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## ✓ ESC YOUNG CRIMINOLOGIST AWARD

Daniel Seddig

# TAKING MEASURES

Measurement issues can be complex and uncomfortable. Yet they are among the most important features to consider in order to make reliable and valid scientific statements. However, measurement issues are often missed, underrated, or simply ignored. Although often borrowed from sociology or psychology, a lot of concepts commonly and currently discussed in criminology lack consideration of a comprehensive measurement theory. Consequences of 'measurement-issue-neglect' appear in the form of the application of additive indices based on nonparallel measures, poorly tested scales ('alpha'), and improper distributional handling of responses. Additional consequences relate to biases of parameter estimates and misinterpretations. Hereby, I want to argue that steps should be taken towards

an increase in the efforts to consider measurement issues in research on crime and delinquency.

The article<sup>1</sup> that convinced a jury to make me the recipient of the 2015 ESC Young Criminologist Award makes extensive use of structural equation modelling (SEM). One reason is that SEM appeared to be an adequate method to study the interrelationships between the variables of my research. After all, SEM goes well beyond the scope of multiple regression techniques

1 Seddig, D. (2014). Peer group association, the acceptance of norms and violent behaviour: A longitudinal analysis of reciprocal effects. *European Journal of Criminology*, 11 (3), 319–339.

and offers greater flexibility to represent theoretical propositions within a coherent statistical framework. Additionally, SEM allows us/the reader to consider a data structure that captures inter- as well as intra-individual developmental change (panel data). Further, the issue of causality, or rather the interpretation of SEM results in terms of causality, is given a push into the desired direction with the analysis of panel data.<sup>2</sup> On these bases, I was sophisticated about having chosen the right method. So far so good.

However, another—and maybe even more fundamental—argument is related to the issue of measurement. Looking one step prior to actually thinking about structural dependencies between theoretical dimensions, confirmatory factor analysis (CFA) offers a comprehensive toolbox to think about and test the properties of the measurement instruments used in our studies. Most dimensions used in sociological and psychological theories (e.g., values, attitudes, internalisation of norms, deterrence, self-control, morality, social bonds) to explain one or the other type of crime are theoretically conceptualised as latent unobserved dimensions that are (ideally) captured by multiple observed indicators. CFA can deliver statistical tests in case we rely on a particular type of measurement theory or help to sort out which of the multiple indicators are good in terms of reliability and (!) parallelity. CFA can also be used to determine a dimension's validity. Along with these features comes SEM's strength to quantify the degree of measurement error in the latent dimensions and to decontaminate estimates (e.g., regression coefficients, latent means). Without considering measurement error, statistical estimates will most probably be affected by one or other type of bias.

Another measurement issue puts an emphasis on the equivalence or invariance of measures. Measurement invariance is a fundamental requirement for cross-group and longitudinal analysis of latent dimensions and is thus important for comparisons of sub-populations and different time points. A lack of measurement invariance can lead to fundamentally wrong conclusions about particular features of latent dimensions (e.g., latent means, variances) or structural coefficients across sub-populations or multiple time points. Equivalence properties can straightforwardly be addressed with CFA.<sup>3</sup>

Another crucial issue of (post) measurement has been discussed in various fields of literature and is related to the distributional handling of responses. A prominent example in research on crime and delinquency is the handling of delinquency measures, be they self-reports or official records. When assessing the frequency of criminal or deviant events, a proper representation of the data generating process, that accounts for the count character of the data (e.g., Poisson, negative binomial) is need for subsequent analyses. On this point, the above-mentioned article (see footnote 1) may suffer from a flaw in its the chosen strategy. Data transformations (e.g., Box-Cox, log) can not appropriately display a data generation process, but only alter its appearance. However, estimates generated from transformed normal theory maximum likelihood and count data models were compared and found to be similar in appearance. However, taking this issue 'back' to pre-measurement, I could have advised myself to reflect on whether a self-report scale is even suitable for the type of analysis that is subsequently desired. Here, also, measurement theory can be a cornerstone for orientation.

Another issue of handling responses based on measurement considerations is the use of variety (prevalence) or frequency (incidence) scales. Often a correlation between the two is said to imply that they measure the same. But what type of information do we actually gather with either of the measures? What does it mean to sum up 'yes/no' information about a range of offences in terms of a distributional representation? Can we treat repeated binary outcomes as being generated by a continuous normal process? What is the best way to account for processes of heaping in response patterns?

Although all of the issues introduced here are challenging and reveal just a quick glimpse into the world of measurement, let's not be discouraged. On the one hand, a lot can be learned about the data we analyse. On the other hand, we may gain a better understanding of the concepts we use. Some of the measurement topics touched on here are scheduled to give further directions of work for the European Working Group on Quantitative Methods in Criminology (EQMC), that I am currently chairing with my colleague Heinz Leitgöb (University of Eichstätt). Anybody with a newfound interest is kindly invited to join the group.

2 Bollen, K. A. & Pearl, J. (2013). Eight Myths About Causality and Structural Equation Models. In S. L. Morgan (Ed.), *Handbook of Causal Analysis for Social Research* (301–328). Dordrecht: Springer.

3 Besides SEM based techniques—of course—alternatives can be applied to address these issues (e.g., IRT, Rasch).

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Frank Weerman

## EUROGANG

The Eurogang working group consists of leading European and American scholars in the field of research on gangs and troublesome youth groups. Researchers within this network have been working together for more than 15 years to develop and apply a common framework for comparative research, based on standardised methodological instruments and a common research design.

Since the last report of the Eurogang Working Group, the group has been very active in organising meetings as well as joint publications. The group organises Eurogang workshops, during which about 30 to 50 researchers convene to present and discuss a wide array of topics related to gangs and troublesome youth groups. Workshops have been held each year since 2010, and there are already plans for a meeting in 2016 (in Sweden). A variety of sources and agencies have supported these workshops, providing lodging and meals for all participants and sometimes funding to assist young scholars with travel support.

In 2013, the Eurogang Workshop was held at the University of Kent in Canterbury. The workshop was hosted by the Centre of Research and Education in Forensic Psychology (CORE-FP), and organised by Jane Wood, Emma Alleyne, and Eduardo Vasquez (all from the University of Kent). It was preceded by a pre-conference for students and scholars about the challenges associated with conducting multi-method and multi-site gang research. One of the aims of the workshop was to bring together different disciplines in the study of gangs, including psychology, prison research, mental health and policy studies. For example, we had presentations about the mental health of gang members; social dominance orientation and trust propensity in street gang members; and street and prison gang membership among detainees. Attendants also discussed more traditional issues like gang definitions and typologies, group processes and desistance from gangs.

In 2014, we met in the Police Training Facility in Stavern, Norway. This workshop was organised by Tore Bjørge (Norwegian Police University College and Norwegian Institute of International Affairs) and Finn Esbensen (University of Missouri, St. Louis) and featured presentations about a wide variety of topics, including motives for leaving a gang, social network methods, gang violence in Venezuela, Danish Exit programs for gang and biker group members, and gay gang members. Another aim of the workshop was to discuss gang transformations: how youth networks develop into street gangs and how street gangs develop

into other types of gangs and groups. As is customary, the meeting was not all work and no play: One evening we took a boat cruise to an offshore island for a wonderful seafood dinner.

The 2015 Eurogang workshop was held from June 14-17 in Blaubeuren, Germany, at the Heinrich Fabri Institute (Social Research Science Centre). The organisation was in the hands of Hans-Jürgen Kerner (University of Tübingen) and Finn Esbensen (University of Missouri, St. Louis). This workshop was aimed at discussing new developments in comparative research on youth gangs with presentations from European and American researchers. These focused on a wide range of topics, including comparative ethnographic gang research, gang embeddedness, gangs in the virtual world, and group processes. The workshop also included a special brainstorming session about comparative analysis and comparative case study methods.

Apart from these focused workshops, the Eurogang working group also organises thematic panel sessions and roundtables at conferences of the American Society of Criminology and of the European Society of Criminology (ESC). During the next ESC conference in Porto, a thematic panel session were held, included presentations about gang measurement, gang typologies, biker gangs, and the seductiveness of gangs and delinquent youth groups.

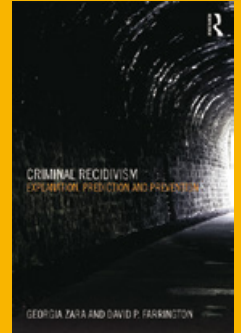
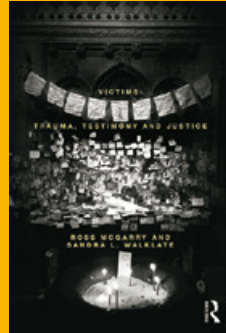
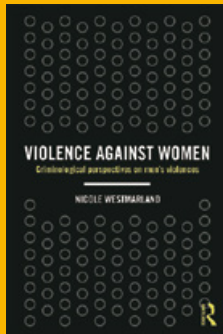
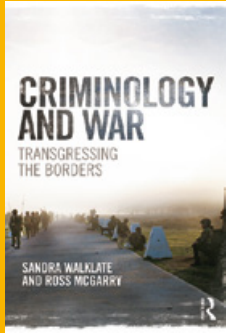
In November 2014, a special issue of the journal *Group Processes and Intergroup Relations* was published, titled 'Gangs: Group and Intergroup Dimensions'. This special issue was edited by Jane Wood and Howard Giles. It included a preface from Malcolm Klein about the group nature of gangs and various papers that were presented at the 13<sup>th</sup> Eurogang workshop, complemented with other papers with a social psychological angle (e.g., attitudes of gang members, social identity, masculinity, and group processes).

After the publication of a 4<sup>th</sup> Eurogang research volume in 2012, Cheryl Maxson and Finn Esbensen are now editing a 5<sup>th</sup> edition of this growing tradition. *Gang Transitions and Transformations in an International Context* will be published by Springer in 2016. The 16 chapters report original research in 3 sections: 1) gang participation and impacts on individual behaviour, 2) transitions and gang transformation and 3) strategies for prevention and intervention.

**Frank Weerman** is senior researcher at the Netherlands Institute for the Study of Crime and Law Enforcement (NSCR).

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