Discussion Article

The Nordic carceral system: examining Scandinavian penal exceptionalism

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Abstract

Scandinavian (Nordic) penal exceptionalism is a well-established body of opinion within carceral studies. It means that, judged by international standards, the prison systems of the Nordic countries are considered exceptionally humane. This article asks to what extent is Nordic prison exceptionalism a valid proposition; is the prison estate of the Nordic countries reflective of their broader societies, and if so, how does this relate to the idea of a pan-Nordic identity? The core concepts examined are collective identity, social contract, and Nordic carceral philosophy. The sources used draw from the theoretical literature about Nordic society, the established body of literature on incarceration, and expert studies on the Nordic prison systems. Conclusions largely support the positive view of Nordic incarceration but point to significant challenges to the broader Nordic welfare model.

Keywords

Nordic, collective identity, penal exceptionalism, prison, social contract

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Introduction

Scandinavian penal exceptionalism – actually 'Nordic' to include Finland – is a well-established body of opinion within carceral studies. Briefly stated, it means that the prison systems of the Nordic countries are considered exceptionally humane. Among the indicators are cell size and other physical factors, a high awareness of prisoner rights, and progressive practices such as rehabilitation and the re-socialisation of prisoners.

For example, Crew, Ievins et al. (2022, p. 440) concluded that 'there is little doubt that the typical experience of imprisonment is more humane and less damaging in Norway than in England & Wales'. Comparisons with other societies, whether democracies like the USA – which has a notoriously brutal prison culture – yet alone authoritarian regimes like Russian or China, will throw the Nordics into an even more positive light. Plainly, at face value, Nordic identity can take much pride in its very humane approach to imprisonment. This article examines if Nordic prison exceptionalism is a valid proposition, how do Nordic prisons reflect their broader societies, and how does this relate to the idea of a pan-Nordic *identity*?

Viewing these societies as a whole, it is common to link carceral policy with the Nordic ideals of the welfare state and egalitarianism. To quote John Pratt (208, p. 120): 'The roots of Scandinavian (prison) exceptionalism are to be found in the highly egalitarian cultural values and social structures of these societies.' He argues rather broadly that the culture of 'sameness' (*likhet*) between citizens ensured that the conduct of everyday life reflects passivity, consensus, and norm-compliance.

One is justified in asking how valid such cultural generalisations are. How much of Nordic societies can be explained by such broad auto-stereotypes as, for instance, (Danish) *hygge,* (Swedish) *trygghet,* (Norwegian) *friluftsliv*, or (Finnish) *sisu*? How much *identity* can be predicated on such concepts (if such fuzzy generalisations can be elevated to the status of concepts)? Certainly, there have been prior scholarly attempts to gain insight into societies and cultures by examination of certain keywords. The pioneering work was done by Raymond Williams (1963/1958), and later by Anna Wierzbicka (1997). Critics of such an approach can argue that it contains a tendency towards essentialisation.

Identity: Reconciling individual and collective?

The term *identity* is so commonly used in the 21st century societal and political discourses that it is worth reviewing its origins and its varying interpretations. It was long associated with psychology, in particular with the work of Erik Eriksson (1902–1994), who coined the much-used phrase 'identity crisis' (Eriksson, 1950). His theory of the 'stages of psychosocial development' firmly locates identity within *individual* psychology. *Identity* is now often associated with 'identity politics', a term often deployed in a pejorative sense, and central to many contemporary controversies. How does the jump from individual psychology to group activity, i.e., politics, look under scrutiny? One useful definition of collective identity is that of Alberto Melucci (1989, p. 34):

> *Collective identity is an interactive and shared definition produced by several interacting individuals who are concerned with the orientations of their action as well as the field of opportunities and constraints in which their action takes place.*

He further elaborates on this formulation by stating that collective identity needs three fundamental dimensions: *cognitive frameworks*, activating *relationships among actors*, and finally the making of *emotional investments*. Combined these 'enable individuals to recognise themselves in each other' (Melucci, 1989, p. 35).

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So what is Nordic identity? Indeed, is there a single Nordic identity? In the 21st century, it is probable to say that the norms associated with the Nordics are progressive, egalitarian, and liberal. Certain measurables and metrics such as press freedom, lack of corruption, and the quality of life commonly show the Nordics among the top places internationally.

The World Happiness Report consistently ranks the Nordics in the leading places, alongside others such as Switzerland. Their calculations are based on six particular categories: gross domestic product per capita, social support, healthy life expectancy, freedom to make your own life choices, generosity of the general population, and perceptions of internal and external corruption levels. Yet, are there other ways of being Nordic? Certainly. One could posit a national romantic Nordic identity, and even within that, widely differing variants. To use two Norwegian examples, one could strongly admire Edvard Grieg's music and its use of Nordic mythology.

Yet, this benign cultural identity has a malignant twin, that is, the use of images, narratives, and figures from the same mythology by nationalist and xenophobic extremists. Both the vigilante group (founded in Finland but with branches in Norway and elsewhere) and the mass-murderer Anders Breivik identify as 'worshipers' of or as 'Soldiers of Odin'. Is this not validly Nordic, too? Indeed, culture might be a very uncertain guide. The gloom and angst of much Nordic artistic production – the darker sides of Strindberg, Bergman, and Von Trier, or the genre of Scandi Noir – provides a drastic contrast to the image of the planet's happiest societies.

Common institutions might provide a more reliable guide. The Nordic welfare model is surely central here, although this is not entirely free of cultural influences, albeit cultural influences embedded in institutions. For example, historian Pauli Kettunen (2019) sees the role of work in the Nordics as being related to the politics of maximising employment, but also as a manifestation of secular Lutheranism. Lars Trägårdh (2010) posits what he calls 'statist individualism', which is an interesting combination of the individual and the state in a unique social contact. He argues: 'In this scheme, the ideals of social equality, national solidarity and individual autonomy were joined to the beneficial power of the state. This is a social contract that profoundly differs from those of most other Western countries outside of Scandinavia.' (Trägårdh, p. 234) Here we have an explicit statement of Nordic political and societal exceptionalism, of which the Nordic carceral exceptionalism is a subset.

In the light of recent political and societal developments in the Nordics, one might ask if this particular model of social contract is now under assault, or at least, undergoing significant re-evaluation. The emergence of parties that have been described as Populist Radical Right (PRR) calls into question the more benign view of Nordic politics. The rise of the Danish's People's Party, the Finns, the Swedish Democrats, and the Progress Party in Norway have challenged the long-seated and stable party system. This older model was based on a spectrum of social democratic, communist/left-wing, conservative, agrarian, and liberal.

Writing a decade ago, Jungar and Jupskås (2014) proposed the emergence of a new 'family' of radical right-wing parties in the Nordics, with the proviso that since the 1970s Christian and Green parties have emerged and altered the five-party equation. However, those emerging parties have *not* challenged the traditional Nordic welfare social contract. The same cannot be said of the recent right-wing parties. What characterises them is a conservative, even authoritarian stance on social/cultural issues, and a centrist position on economic issues. They are all ethno-nationalist in identity, and especially critical of liberal and tolerant policies towards migrants.

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Punishment and society

In his influential work *Punishment and Modern Society,* David Garland (1998) makes a bold and comprehensive argument about the nature of modern punishment. He notes that there are two very influential – but divergent – bodies of thought on the development of punishment in the world. He traces these to Foucault's Weberian stress on punishment as 'an increasingly passionless and professionalised instrumental process' (Garland 1998, p. 179). This, he notes, has been typically contrasted with a Durkheimian 'insistence that penality – even modern penality – is fundamentally a passionate reaction grounded in non-rational motivations and rituals' (Garland, p. 180).

One can see throughout the history of modern penality tensions between two (seemingly irreconcilable) philosophies of carcerality. In the Anglo-Saxon world, we see both the beginnings of progressive imprisonment and strong resistance to the same. In the British Isles, the late 1840s and 1850s saw huge challenges to their prison systems, caused by the social catastrophe of the Great Famine in Ireland, and in Britain the discontinuation of the deportation of prisoners to Australia. Both events led to large increases in prison population, triggering various legalistic, moral, and political arguments over how to approach this specific challenge.

New architecture was one approach to prison reform. There were also other approaches to making the prison experience more humane. In the mid-19th century, a distinct 'Irish System' was created. In that system, the stress was placed on education, on individualisation, and on finding employment for prisoners when re-introduced into society. Supervised parole was born out of this approach. However, there were many influential voices in the Victorian period who were also strongly opposed to any carceral reform; the point, after all, was punishment of men who were seen as evil.

Prison was not about reform or rehabilitation – its purpose was punitive. Harsh labour was part of this, with such devices as the treadwheel. The argument for the remnants of Durkheimian ritual of punishment is supported here. The tensions between progressive and punitive practices did not prevent what Garland calls the 'rationalization of punishment' (Garland, p. 180). They still resonate today.

In his study of US prisons, Robert Ferguson (2014, p. 16) notes how 'a culture punishes is part of its very meaning', which echoes Garland. Ferguson goes on to tabulate some of the familiar statistics of incarceration in the United States, which remain shocking. Some two million people are behind bars, a further seven million are under some form of supervision. This amounts to one out of every thirty-two adults in the United States. 67,5 percent of all prisoners are re-offenders (Ferguson, p. 17). Ferguson argues that the 'notions that prisons serve as "houses of correction" can no longer be maintained. They exist as holding pens with incapacitation as the objective' (Ferguson, p. 16). The question that arises from this discouraging picture is what this says about the broader society: 'Why hasn't a citizenry dedicated to freedom and individual rights rejected institutional horrors that begin to rival the gulags of Communist Europe and the former Soviet Union?' (Ferguson, p. 17) Why is there a lack of any *emotional investment* when other societies have plainly taken very different routes?

Carceration in the Nordics

Among the societies that have taken different routes, the Nordics stand out as counties that have embraced progressive carceration. There are many metrics to make this case. These include the low prison populations. The World Prison Brief (Europe) ranks countries in terms of prisoners per citizens; the leading jailers being Turkey, Belarus, and the Russian Federation. The Nordics all rank very well,

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with very low prison populations (World Prison Brief Europe, 2023).

Despite low prison populations, however, there are a high number of prisons in the Nordics. This large number of facilities allows prisoners relative proximity to their home regions. Family and conjugal visits are encouraged. For example, at Halden prison in Norway, children are allowed to spend nights with their incarcerated parents in special family cottages. The general approach to health care is proactive and preventative, and in line with the principles of the Mandela Rules.

This is part of a holistic approach to imprisonment. Its purpose is the deprivation of liberty only of the internee; his or her rights are not to be violated. The Finnish Sentences Enforcement Act 2002 makes this explicit: 'The content of a prison sentence is loss or restriction of liberty. The enforcement of imprisonment must not place any other restrictions on the rights or circumstances of a prisoner than those provided by law or those necessary due to the sentence itself.' (Ministry of Justice, Finland 2022, p. 1). This is a wholly different approach to those aspects of incarceration in modern society that emphasise control and punishment.

Bastoy prison island in Norway has gained much international attention, hailed as the world's first human ecological prison. In Finland, there is an initiative for the creation of 'smart prisons'. The new prison for women in Hämeenlinna uses digital technology to allow inmates to, for example, contact health staff or take courses online.

Training for prison staff in the Nordics is sustained and systematic, and many prison officers have tertiary education levels. It takes 12 weeks in the UK to train a prison officer. In Norway, it takes two to three years. Officers often train alongside probation workers, seeing their duties as closely related. The ratio of staff to internees in uncommonly high, and there are greater degrees of trust between staff and internees than would be expected in other societies.

The question of *when* these progressive conditions came about is interesting. Norway, now enjoying international status for its excellent prison culture, was markedly different four decades ago. A BBC report noted that prior to the 1990s, Norwegian prisons were not interested in rehabilitation (BBC 2019). Recidivism rates were around 60–70 %, almost US levels.

Now in Norway, punishment is deprivation of liberty only. The other rights stay. Prisoners have the right to vote, attend school, learn new skills, exercise, and see their families. In fact, in many prisons, the security officers participate in activities like yoga right alongside the prisoners. This holistic approach is called 'dynamic security', and it is widely practiced in Nordic prisons (and elsewhere). It is a radical addition to 'static security', which is chiefly concerned with the physical and technical means of preventing escape.

In line with this approach, open prisons are common in the Nordics, many internees are allowed to move with relative freedom, and some even keep their current employment. Progress and educational programs are the norm, and strongly encouraged by the various prison authorities in the Nordic countries.

In 2018, Francis Parkes, a British Professor of criminology, 'embedded' himself in Kvíabryggja prison in Iceland. He noted the level of conviviality and trust: 'Prisoners have their own room keys but they leave their doors unlocked, pretty much at all times. This is a potent symbol: life in Kvíabryggja is all about trust' (The Independent, 16 November 2018). He also noted the remarkable lack of hostility towards sex offenders: 'As far as I could see the general conviviality is extended even to the sex offenders – a population almost universally reviled in prison and at risk as a result. Sometimes this conviviality is a stretch. But it did seem to work. Despite tensions inherent in any prison, people here

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got on' (The Independent 2018).

One clear measure of the effectiveness of a given system of incarceration is the rate of re-offence committed by ex-prisoners. Norway has held the lowest recidivism rate in the world, typically about 20 %, in contrast to say the UK where many prisons have reconviction rates of more than 70 %. In Finland, the recidivism rate is 33 %, in Sweden 32 %, and Denmark 32 % (Yukhnenko, Farouki, and Fazel, 2022, p. 3).

In the larger context, one also has to factor in the justice system of the Nordics, and indeed, the crime profile of each country, as these impact positively on the carceral system. Factors here include the lower crime rates and the relative lack of budgetary pressure, both of which naturally have a positive influence on the prison systems. Efforts are made by the justice systems to avoid incarceration if possible. For example, in the Swedish Penal Code, there is a special provision that prescribes that in all cases the court 'is required to give notice to any circumstance or circumstances suggesting the imposition of a sentence milder than imprisonment' (Leijonram and Lindström, 2011, p. 559).

Certainly, the Nordic prison systems are expensive. Norway spends $93,000 each year per prisoner, the US only $31,000 (First Step Alliance, 2022). Economic factors also impact upon recidivism rates. Speaking generally, countries with high levels of income inequality and poverty tend to have higher incarceration rates and recidivism rates. In contrast, countries that invest in social welfare programs tend to have lower recidivism rates. Another economic factor is the drive towards privatisation of prisons. This too has resulted in higher recidivism rates and a cycle of incarceration for many individuals. Several American sources look with envy on the Nordic prison system, wishing that their country could adopt some of its better practices. However, they are doubtful of any such influence actually taking place.

The reasons are broadly societal. Not only do most Americans, as Ferguson (2014) argues, show zero concern for the brutality of their prisons, but they seem to accept that prisons are fundamentally places of punishment, rather than sites of (potential) rehabilitation. American citizens also do not have a social contact that works (in theory at least) against the expansion of inequality, as in the Nordics. Speaking very generally, the American sense of the individual is higher than that of the collective. It is categorically different to Trägårdh (2010) 'statist individualism'.

Questioning Nordic prison exceptionalism

There are, however, voices within carceral studies who question the orthodoxy of Nordic prison exceptionalism. For example, John Pratt (2007, p. 123) notes that 'Norway has been criticized by the United Nations Working Group on Arbitrary Detention for often holding remand prisoners in "total isolation" (meaning exactly this) while police investigations continue'.

Other voices, such as Vanessa Barker (2017) have argued that despite the many positive and progressive elements, Nordic imprisonment can nonetheless be over-controlling and deeply unsympathetic to certain categories of offenders. Her notions of 'welfare nationalism' (people wishing to protect their living standards and welfare state) have been extended to connect with Lynn Haney's (2014) term 'penal nationalism'. This is defined by Barker as 'relying on coercive tools such as expulsion, eviction, criminalization, and penalization to respond to mass mobility, which is perceived to be a social threat to order rather than a political expression of rights' (Barker, 2017, p. 7).

Barker (2017, p. 7) sees penal nationalism as, among other things, a reaction to the pressures of globalisation on national economies: 'Under these unsettling conditions, penal nationalism seeks to reset the frame of reference as a national frame where the nation-state maintains its authority

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over population and territory.' What happens, for example, if 'sameness'(*likhet*) is withheld from certain groups or individuals? In particular, as Anniak Bøstein Myhr (2021) argues, in their treatment of migrants, the impression of benign Nordic practices come under a harsher examination. She argues that some of the broader aspects of Nordic exceptionalism are failing, such as the acceptance of refugees and migrants: 'Given that the values of Nordic Exceptionalism as described by social scientists are waning, it may not be surprising that penal Nordic Exceptionalism has also become the subject of critical scholarly scrutiny' (Bøstein Myhr, 2021, p. 3).

Within the framework of penal nationalism, the position of Ethnic Minority Prisoners (EMS) is central. This is an area where the Nordic penal system has been accused of falling short of its stated intentions. Researcher Dorina Damsas has worked with Romanian and Roma prisoners in Norwegian prisons. The inmates complain of discrimination: 'They say that the officers treat them like they do because they are Romanians and that the officers are racists. Roma and Romanians feel that they are treated differently, and often say things like "they wouldn't ask a Norwegian prisoner to do this." Communication problems do not make it any easier' (Rabe and Ystehede, 2022, para. 6).

It is noted that 'Romanians and Roma are incarcerated in Norwegian prisons for many different types of criminal offenses. Primarily, there are infractions of the Immigration Act, as well as petty crime such as less serious violence and thefts, but in a few cases more serious crimes are involved' (Rabe and Ystehede, 2022, para. 10). As they are not Norwegian citizens, they seem to fall outside of Norwegian welfare. Most are deported to Romania, but they have dismal prospects there, and try to get back to Scandinavia as soon as they can.

In Finland, prison leave is less frequent for foreign nationals (as of 2018, some 13 % of prisoners) (Keinänen et al., 2022, p. 189). The issue is problematic, as the foreign nationals commonly do not have permanent residence to which they can be released. Treatment of ethnic minority prisoners is Sweden has also come under scrutiny. Camilla Svensson (2018, p. 3) makes a bold argument about Sweden's self-image as being free of prejudice is a hindrance to the identification of negative discrimination against minorities: 'In Sweden, there are denials of formations such as "we" and "them" at the structural and institutional levels, which complicates the problem of discrimination and its investigation.' Svensson argues: 'Discrimination is rarely explicit within the legal system since professionals of the judiciary have an intention to not discriminate' (Svensson, p. 7). She describes it as an unconscious process in which 'professionals are at risk of discrimination even if they have an intention to not to' (Svensson, p. 20).

In the Nordics, prison leave uses the technology of Electronic Monitoring (EM), which is gaining in popularity internationally. Typically, prisoners near the end of their sentence agree to wear a digital device that tracks their movements, while they spend the remainder of the sentence at home. Despite its evident advantages, EM as used in Finland and Sweden raises questions about prisoner rights.

Reviewing its Finnish use, Emma Villman (2023, p. 3) writes that 'available findings show that with fairly high certainty, early release from prison with EM does not increase recidivism and has other benefits, such as cost savings'. Yet she also notes that 'for others the intensity and extent of control might contribute to noncompliance and breach of the sentence' (Villman, p. 16).

If Norway continues to carry the flag for state-of-the-art Nordic carceral practices, Denmark has embarked on two troubling initiatives. In early 2016, the Vridsløselille prison in Denmark, which had functioned since the 1850s, closed its gates. Or, more accurately, closed its gates to *prisoners*. The facility was quickly taken back into use as a refugee centre by the Danish Prison and Probation Service. As Barker and Smith (2021, p. 1541) noted:

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> *Within a very short time span, Vridsløselille changed its mission from imprisoning sentenced prisoners under a relatively liberal regime to imprisoning foreigners who had committed no crimes under a much stricter regime. This dramatic transformation in population and prison regime went smoothly, raising few questions within Denmark.*

In their article, they go on to 'deconstruct Nordic exceptionalism by uncoupling the punishment–welfare nexus, an analytical framework central to the sociology of punishment' (Barker and Smith, p. 1541). They argue that the disturbing tendency towards what they call 'crimmigration', in which unwanted migration, particularly by people of colour, is treated as a criminal justice issue, with an emphasis on detention and deterrence.[1]

In Vridsløselille, there was a first inspection of the facility in 2016 by Danish officials. The conditions they encountered were disturbing. The immigrants were locked up in their cells for most of the day and night, and were allowed only a single hour's exercise. They were not allowed to have their own phones, but were allowed to make one free call per week. Conditions did improve later, but by that time there had been one fatality in the facility (Barker and Smith, p. 1552).

Another recent Danish development is that the country has formally agreed to 'export' prisoners to Kosovo. The prisoners to be sent overseas are non-Danes who are due for deportation following their sentence. To quote the (then) Danish Justice Minister, Nick Haekkerup (a Social Democrat): 'With this agreement, Denmark is also sending a clear signal to foreigners from third countries who have been sentenced to deportation: your future is not in Denmark, so you should not serve your sentence there' (Euronews, 27/04/2022).

The public justification for this move is practical: Denmark's prison population increased 19 % between 2015 and early 2021. This was exacerbated by a steady decline in the number of prison officers in Denmark. This was the third agreement in Europe since 2010 on renting prison cells in a second country. The first was between Belgium and the Netherlands (as a receiver country) and second between Norway and the Netherlands, again as a receiver (Kjaer, Minke and Vanhouche 2021, p. 5). There was no prior European cell renting agreements, although the practice was common in the US. It is interesting that the progressive Nordics were two of the sender countries. Is this practice compatible with progressive carceration?

Two immediate problems arise. Firstly, does this not violate the visitation rights of the prisoners who will be transported? It makes visits by spouses or children of prisoners very impractical. Secondly, will prisoners' rights be protected at secondary sites, especially if these are not Danish prisons, but rather sites in Kosovo? The Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) visited Kosovo's detention centres and published a report in 2021 (Council of Europe, CPT, 2021). While not overly damning of Kosovo's detention centres, the report does point out abuses that would not be tolerable in a Nordic prison, including beatings, coercion to extract confessions, sub-standard facilities, and corruption among guards. Beyond these immediate concerns, one might ask if the 'outsourcing' of prisoners to a poorer country might not be a step to the privatisation of prisons.

1. They attribute the term to Juliet Stumpf from 2006.

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Conclusions

The premises of this article were to discuss Nordic identity, and to do so from the distinct perspective of Nordic penal exceptionalism, questioning the solidity of both. Collective identity, it was argued, is fluid and can be multiple. However, there is strong case for a normative and progressive Nordic identity based on a specific welfare state model with high level of egalitarianism and respect for human rights.

As part of this broader identity, there is specifically a Nordic penal exceptionalism, which seems to align with the best of a progressive, humane Nordic identity. Even voices critical of Nordic penal exceptionalism admit its value to identity. Barker and Smith (2021, p. 1546) noted that Finland 'remade its national identity in part through minimizing and reshaping penal power'.

However, the emergence of nationalist and xenophobic parties across the Nordics does pose a challenge to the, generally successful, image of a cluster of countries with egalitarian and humane values as central to their politics, societies, values, and identity. There is now a real threat to the well-established and admired Nordic social contract. As a subset of Nordic exceptionalism, Nordic prison exceptionalism seems to be disuniting. Norway still inspires global admiration for it state of the art standards – some shortcomings have been noted above – whereas Denmark is embracing some questionable and regressive practices.

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