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Criminal policy and sanctions in the 2020s and onwards: Determinants of penal culture in Finland during the last 150 years

Polityka karna i sankcje karne od lat 20. XXI wieku. Determinanty kultury penalnej w Finlandii w ostatnich 150 latach

Abstract: This article provides a fragmentary overview of the developments of criminal law and criminal policy in Finland during the last 150 years. It reflects the author's experiences as a criminal scientist and an expert in drafting criminal legislation over 50 years. This review uses the conclusions from Cesare Beccaria's classic, centuries-old book as its starting point: a punishment may not be an act of violence, but should be public, immediate, necessary, as minimal as the case allows, proportional to the crime, and determined by law.

The Finnish Penal Code of 1889 was originally thoroughly permeated by both the principles and the spirit of the classical school of penal law, wherein punishment was primarily regarded as retribution for an offence and the penal system was therefore tolerably harmonious with the demands of general deterrence. More weight was given to individual prevention when the Code was first drafted. Later on, the influence of the sociological school of penal law, which focused on the offender and individualized criminal sanctions, led to partial reforms of the penal system, such as the enactment of the Conditional Sentences Act of 1918, the Dangerous Recidivists Act of 1932, and the Young Offenders Act of 1940. The day fine system of 1921 and the fluctuations in the ideology regarding indeterminate penal sanctions are analyzed.

The total reform of the Penal Code between 1972 and 2003 aimed to create a more rational penal system – one designed for efficient, just, and humane criminal justice. An ambitious attempt was made in as uniform and systematic a way as possible to assess the goals, interests, and values that the new Criminal Code should promote and protect. The existence of the criminal justice system was justified on utilitarian grounds. The structure and operation of a penal system, however, cannot be founded solely on the basis of utility; the criteria of justice and humaneness must also be applied. The penal system must be rational in regard to both its goals (utility) and its values (justice and humaneness).

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The developments since the 1990s have been characterized by the influence of human rights and basic rights on both criminal and procedural law, as well as by the effects of internationalizing and Europeanizing the criminal justice system. The latter tendencies have resulted in the diversification of criminal law

Keywords: criminal policy, criminal sanctions, criminal sciences, penal culture, comparative law, the ideology of punishment, Finnish criminal law, European criminal law and policy

Abstrakt: Artykuł ten stanowi fragmentaryczny przegląd rozwoju polityki karnej i prawa karnego w Finlandii w ostatnich 150 latach. Odzwierciedla on doświadczenia Autora jako kryminologa i eksperta w tworzeniu prawa karnego przez ponad 50 lat. Punktem wyjścia tego przeglądu są wnioski z klasycznej, mającej już wielowiekową tradycję, książki Cesare Beccarii: kara nie może być aktem przemocy, powinna być publiczna, natychmiastowa, niezbędna, tak niska, jak tylko pozwala na to dana sprawa, proporcjonalna względem popełnionego czynu i określona w prawie.

Fiński Kodeks karny z 1889 roku pierwotnie przesiąknięty był zarówno zasadami, jak i duchem klasycznej szkoły prawa karnego, w której kara była postrzegana tylko jako odpłata za przestępstwo, a tym samym system karny co do zasady wypełniał oczekiwania w zakresie ogólnego odstraszania. W pierwszej wersji Kodeksu więcej uwagi poświęcono prewencji indywidualnej. Później, pod wpływem socjologicznej szkoły prawa karnego, która skupiała się na sprawcy i na zindywidualizowanych sankcjach karnych, doszło do częściowej zmiany systemu karnego, m.in. przez uchwalenie Prawa o karach warunkowych w 1918 roku, Prawa o niebezpiecznych recydywistach w 1932 roku i Prawa o młodocianych sprawcach przestępstw w 1940 roku. W szczególności przedmiotem analizy są system kar dziennych z 1921 roku i zmiany w ideologii dotyczącej nieokreślonych sankcji karnych.

Generalna reforma Kodeksu karnego przeprowadzona w latach 1972–2003 miała na celu stworzenie bardziej racjonalnego system karania – takiego, który będzie służył skutecznemu, właściwemu i humanitarnemu wymiarowi sprawiedliwości. W artykule dokonano ambitnej próby podsumowania, w sposób możliwie jednolity i systematyczny, celów, interesów i wartości, które nowy Kodeks karny ma promować i których ma chronić. Funkcjonowanie wymiaru sprawiedliwości w sprawach karnych jest uzasadniane na gruncie utylitarnym. Struktura i działanie systemu karnego nie może jednak opierać się wyłącznie na użyteczności; kryteria sprawiedliwości i humanitaryzmu muszą być również stosowane. System karny musi być racjonalny w odniesieniu zarówno do jego celów (użyteczności), jak i jego wartości (sprawiedliwość i człowieczeństwo).

Zmiany od lat 90. XX wieku charakteryzują się wpływem praw człowieka i praw podstawowych na prawo zarówno karne, jak i proceduralne, jak również skutkami umiędzynarodowienia i europeizacji systemu sprawiedliwości w sprawach karnych. Te ostatnie zmiany przyczyniły się do dywersyfikacji prawa karnego.

Słowa kluczowe: polityka karna, sankcje karne, nauki o przestępczości, kultura penalna, prawo porównawcze, ideologia karania, fińskie prawo karne, europejskie prawo karne, europejska polityka karna

Introduction

In this article, I present an overview of the development of criminal policy and sanctions in Finland by tracing the legal ideological orientations that have influenced them during the last 150 years. I highlight my review above all with my own experiences as a researcher in criminal science and an expert who has participated in law drafting (Lahti 2019; Lahti 2021c). Although attention is mainly paid to the

development of Finnish criminal law, there is reason to point out that the ideologies in the background of tradition have followed international trends. I posit that the attachment of Finnish criminal law to international, and especially European, developments has become stronger in recent decades. At the beginning of this overview, I assess the significance of Cesare Beccaria's classic work, "Dei delitti e delle pene" (Beccaria 1977; 1995; 1998), from over 250 years ago. I conclude my presentation with a prognosis of the criminal justice system in the 2020s and onwards.

The person who most influenced my criminal justice thinking is my teacher, Inkeri Anttila, who passed away in 2013 (Anttila 2001a; Lahti 2013). The stimuli for research work she produced can be expressed with the key concepts of multi-disciplinarity, internationalism, and the reciprocity between theory and practice. Of these concepts, multi-disciplinarity for me has meant encompassing a broad understanding of criminal justice or criminology, whereby legal research should be combined with elements and viewpoints from empirical social science and political research. Consequently, criminal law teaching and research should also be connected to other criminal sciences, i.e., criminology and criminal policy. Multi-disciplinarity can also emerge by crossing boundaries between legal areas. For myself, medical law and biolaw – for which I was responsible as a part-time teacher between 1997 and 2011 – has meant an enriching perspective on the legal system.

For me, internationalism has meant participating in congresses of scientific organizations and other events within my own scientific fields, cross-border contact with other researchers, and research collaboration. It has also meant that the legal sources and influences that are taken into account in the research have been internationalized as well as participating in creating norms and standards that are significant for international criminal policy in various arrangements of the United Nations.

For me, the interplay between theory and practice has been realized through my participation as an expert in law drafting from 1967 onwards, most notably in the management group for a criminal law project that completely revised criminal law, under the Ministry of Justice during its entire period of operation (1980–1999). As criminal law is rarely revised completely – perhaps once a century – it was a unique vantage point for a scholar of criminal law to participate in it.

1. About Cesare Beccaria's "On Crime and Punishments" (1764) and the influence of the work

Cesare Beccaria's book "On Crime and Punishments" has been considered one of the most significant works of the Enlightenment, which is rooted in utilitarian philosophy, as it was written in the spirit of equality, freedom, and tolerance. Beccaria opposed the death penalty and other cruel punishments. The work was quickly translated into the major European languages and many of Europe's rulers began to reform their countries' criminal law systems under its influence.

The Swedish translation (1770) was among the first translations of Beccaria's work (Finland was a part of Sweden until 1809). It inspired Sweden's regent, Gustav III, to introduce his measures to soften the penal system and abolish torture. Beccaria's contemporary, Matthias Calonius – characterized as the father of Finnish criminal sciences – recommended the work, although he noted that it went too far in its humane philosophy (Wahlberg 2003: 48).

Enlightenment philosophy (Strömholm 1979: 661; Anttila 2001b; Ferrajoli 2014) influenced criminal justice thinking, particularly in terms of the rationalism that the Enlightenment emphasized, with the humanization of the criminal justice system becoming secondary in comparison. It is interesting to compare the concepts of rationalism and humanism, which are characteristic of the Enlightenment, with the demands for a rational and humane criminal policy that were highlighted in our country two centuries later. I return to the demands of recent decades below. Here I quote a statement from the conclusions of Beccaria's work, because it still has a message that is very viable: "In order that punishment should not be an act of violence perpetrated by one or many upon a private citizen, it is essential that it should be public, speedy, necessary, the minimum possible in the given circumstances, proportionate to the crime and determined by the law" (Beccaria 1995: 113).

2. The ideology of punishment in the 1889 Penal Code and its later amendments

During the Lantdag of 1863–1864, the foundations of the new penal code were approved for subsequent preparation, which lasted for a quarter of a century. The Imperial bill on these grounds included a detailed proposal for penalties to be introduced and discontinued by the new law. From today's perspective, the most important result of the bill was thus a progressive statement of the program for a comprehensive audit of the criminal penal system. This bill, the main features of which received the approval of the Estates, contained proposals for the abolition of the death penalty as well as the abandonment of the use of both corporal and shameful punishment and exile. The basic structure of the penal system would consist of "penitentiary" imprisonment (with hard labor), confinement to special short-term custody ("arrest"), and fines. The enforcement of custodial sentences would follow the principle of treating prisoners progressively, with parole being part of such a progressive system (Lahti 1977: 122–127).

In the report of the Legal Affairs Committee of the Assembly of the Representatives of the Estates from the year 1867, there is a statement of principle that is still worth considering "The history of criminal law teaches that the means of punishment in an advancing civilization seek a milder form and that the progress of general culture is accompanied by a uniform progression in the perception of the means for the realization of those demands" (Lagutskottets betänkande 1867: 508–509).

It is interesting to compare this statement with, for example, Tapio Lappi-Seppälä's recent research: fundamentally, the Nordic criminal policy and thus its relatively low level of repression (and, for example, the fairly low number of prisoners) are explained by the social and cultural characteristics typical of the welfare state, which create the conditions for citizens' trust and perceived legitimacy toward the activities of the authorities and the judiciary (Lappi-Seppälä 2012).

When one assesses the goals that were subsequently set for the penal system in the 1889 Penal Code, one notices that the penal system was not only supposed to fulfill the requirements of justice in line with the idea of retribution, that the punishment should be proportionate to the deed, but that the system should also entail a quest for deterrence, implying a general preventive action, and for improvement characteristic of a special preventive action. They also wanted to make the penal system more humane than before.

In the 1889 Penal Code, driven by the father of the law, Jaakko Forsman, the idea of retribution in the so-called classical school of criminal law was retained as the primary basis of assessment for the penal system. However, the goal of improving the offender was also expressed, above all in the way of enforcing custodial sentences. The death penalty and loss of civic trust were retained in the penal system, contrary to the program declaration of the 1863–1864 Lantdag; they were finally abolished as forms of punishment in the late 1960s and early 1970s. Admittedly, the last peacetime death penalty was carried out in 1825.

In the decades that followed the entry into force of the 1889 penal legislation, criminal law thinking changed under the influence of the so-called sociological (modern) school. Allan Serlachius, who on behalf of the Ministry of Justice wrote the Criminal Code bill in 1920, was a firm supporter of the school. From the beginning of the 1910s, changes were made to the penal system, according to which the character of the convicted person and special preventive purposes (being reintegrated into society or rendered harmless, i.e., isolating dangerous offenders) were to be taken into account more than before when choosing the type of punishment (Lahti 1977: 127–143).

Typical examples of how this way of thinking is reflected are the law revisions regarding suspended sentences (1918), preventive detention in penal institutions (1932, 1953) (Lahti 2021b), recidivism (1939), and young offenders (1940). An internationally noted reform propelled by the demand for justice was the introduction of the day fine system in 1921, which takes into account the financial status of those to be punished (Lahti 2021a).

3. The idea behind the total revision of the penal legislation between 1972 and 2003: Toward a rational and humane criminal policy

In the late 1960s, Professor Inkeri Anttila published in Swedish a seminal lecture on a conservative and radical criminal policy in the Nordic region. She analyzed trends in criminal policy, highlighted criminology's latest research findings and developed a future criminal policy based on them (Anttila 1971). The text reflected the general intellectual atmosphere of the 1960s, where the prevailing criminal and more comprehensive control policy became subject to re-evaluation; the need for change in criminal policy and criminal law derived from changes in society and criminological research. As a result of the new way of thinking, the different subfields of research in criminal law and crime are perceived to be in an important interaction with each other. Legal and social science research should be extensively used in rational criminal policy decision-making and the results of other scientific fields (medicine, humanities, and the natural sciences) are having a growing impact on legal decision-making.

In Finland, starting in the 1960s, planning systems for the economy and public administration began to be created as well as for using research in social policy decision-making in general. This was evidenced by the fact that a cost-benefit-conscious way of thinking and a diverse selection of means were included in several criminal policy preparatory documents, such as the revision of the regulations on drunk driving in 1975. The legal changes that were implemented concerned improving the conditions for traffic monitoring, expanding and clarifying the area of criminality, and making conditional sentences and fines more useful alternatives to unconditional prison sentences. In addition, the regulations regarding drunk driving were unified and placed in the penal code with the aim of increasing the reprehensibility of the behavior (Lahti 1977: 143–155).

By making corresponding use of criminology, the Criminal Law Committee, which operated in the period 1972–1976, closely linked criminal policy with other social policies and argued for a narrow criminal justice system in comparison with other means of prevention and control. The committee continued to emphasize the general preventive effect of the penal system (promoting general law-abiding behavior), but rejected its one-sided connection with the severity of punishment (Komiteanmietintö 1976: 72). With similar justifications, the Government's bill for the first stage of the total revision of the Penal Code recommended that prison sentences be used in only the most necessary cases and argued that in light of criminological research it was not justified to expect a small, gradual reduction in punishment to weaken the general preventive effect of the punishment (Hallituksen esitys 1988: 17–19, 23).

From all the different mechanisms through which the general preventive effect of punishment should be reached, deterrence is not the most important; it is socio-ethical disapproval which affects the sense of morality and justice – general prevention instead of general deterrence – without the need for a severe penal system. The legitimacy of the whole criminal justice system is an important

aim, and therefore such principles of justice as equality and proportionality are central. The emphasis on the non-utilitarian goals of the criminal justice system – fairness and humaneness – must be reconciled with the lessening of its repressive features (punitiveness), for example, through the introduction of alternatives to imprisonment. The significance of individual prevention or incapacitation in the neo-classical penal thinking is regarded as very limited (Lahti 2017).

The impact of criminology and other research data on the making of laws must be assessed differently. Such an impact can be easily demonstrated when the legislative documents are directly based on the results of empirical criminological research. A more indirect influence on the preparation of criminal legislation is more common, whereby research data changes thinking on criminal policy. In that case, the important factors are how much up-to-date research data is available, to what extent researchers participate in the legislative process, and whether the use of research data is secured in this process in some other way. In the total revision of the criminal legislation that was done between 1990 and 2003, the conditions for utilizing research were generally good, apart from the domestic basic research regarding the theoretical foundations of criminal law being strengthened too late for the revision.

All in all, since the end of the 1960s there has been a major break in criminal policy thinking, as a result of which the value-based objectives pursued by criminal policy and the decision-making criteria set for it have been redefined, albeit with concepts that were already familiar from Enlightenment philosophy: toward a rational and humane criminal policy. According to one contemporary interpretation, rationality implies an awareness of impact, value, and alternatives (Anttila, Törnudd 1973; 2001). Reducing crime is not the only objective; the aim is rather to reduce the damage caused by crime and its control and to distribute it fairly between different parties (such as the public authority and individuals). With the criminal justice system, utility (efficiency), justice, and humanity are pursued, whereby the demands for justice and humanity are concretized by fundamental and human rights (Lahti 2021c: 3, 35).

Differentiation of the values and objectives that define criminal policy and diversification of the principles and interests that must be taken into account when choosing means have also affected the expectations placed on research that must be used in legislative work. It is understandable that under the current financial situation of the state, it is assumed that costs and other consequences are taken into account more seriously and systematically than before.[1] When criminal policy measures are evaluated, even more weight than before should be placed on alternative approaches in which preventive measures and other types of punishment take precedence over criminal law. For the prevention of crime in business activities, various models are increasingly sought that emphasize corporate self-regulation.

[1] See, e.g., the official positions on crime policy and the criminal justice system in the Ministry of Justice's Outlook 2014. *Oikeudenmukainen, avoin ja luottamukselle rakentuva yhteiskunta* [A fair, open and trusting society]. Ministry of Justice publications.

4. Research data and choice of values: Recent legislative examples

Expanding research data and exploiting the models these data offer so as to exercise criminal policy and criminal law on rational grounds does not exclude basing the final choices of values on an examination that is compatible with democratic political decision-making. In addition to empirical research results, research at best highlights legal and moral-based criteria for evaluations that influence decision-making and yardsticks to combine or balance such criteria. It can also be used to analyze various trade-off options to achieve the values and objectives that have been set and to make impact assessments.

Two recent examples of reforming the criminal punishment system can be mentioned, in which the use of empirical research data has been central, but where the justification has ultimately been a result of legal ideological or social political choices of values: The importance of assessments of danger when executing long-term prisoners' sentences has increased (most recently through legislative amendments in the 2010s) and there are still plans to expand them (Lahti 2021b: 210–215). The assessment of whether these changes to the law are justified is significantly influenced by how reliable such assessments of the danger posed by prisoners are in light of research data (Kampen, Young 2014). But even more important is how such individualization of criminal penalties that strive for "de-harming" society is emphasized, as the legal principles of equality, proportionality, and predictability that are applied in the prisoner's favor act as a counterweight.

My second example concerns the amendment to the law on the supervised freedom of prisoners on probation (Statutes Nos. 629–630/2013). In the law, it was established as a possible condition for supervised freedom on probation and the conditional release of life prisoners that they consent to drug treatment that suppresses sex drive. When I was heard in the Parliament about the Government bill (Hallituksen esitys 2012), I considered that its justification presupposes that the consent is based on the prisoner's firm belief that such drug treatment is estimated on good grounds to prevent the prisoner from committing a new serious sexual crime and that this objective is not possible to achieve with care or support measures that interfere less with the prisoner's integrity. By way of comparison, I had the experience of working on the abolition of forced castration for sex offenders (1970) as the secretary of the committee (Komiteanmietintö 1968), the rationale being – apart from the inhumanity of such a coercive measure – that, according to research, forced castration did not have the effects that were sought for it.

The importance of the choice of values was particularly accentuated during the total revision of the penal legislation (1972–2003). After all, it emphasized the re-evaluation of criminalization (the values and interests that are protected by penal provisions) and the threats of punishment that would be made. The content of the criminal law was to be adjusted in accordance with the current legal consciousness and this issue was considered to be part of a social justice problem. Even the Parliament's committees had to take a position on these questions about

the choice of values in their reports and statements. In its report from 1990, the Legal Affairs Committee pointed out that regulatory needs that societal changes provoke from time to time must be considered, and that only a comprehensive reform provides the opportunity for a sufficiently comprehensive and consistent reassessment. On the other hand, the Legal Affairs Committee set the goal that the penal code should be able to fulfill its task for even decades with a reasonable number of minor changes. Particularly with regard to provisions on economic crime, this objective has not been possible to achieve (Lakivaliokunnan mietintö 1990).

In the aforementioned report of the Legal Affairs Committee, I draw attention to two points. Firstly, the Committee confirmed the Government's idea that the sentences imposed for crimes against property are on average unjustifiably severe compared to some sentences imposed for crimes against life and health. Secondly, it was important to the Legal Affairs Committee that in the last stage of the total revision of the penal legislation in the entire new penal code, the changes that are possibly needed – due to both the penalty scales established in the different stages of the revision and the final solutions regarding the general part of the penal code – are made.

The Government has not prepared such a bill, although this would be required to complete the total revision of the Criminal Code. Such a bill would also be necessary to correct the fact that our penal code, which has been 99 percent renewed since its establishment, would no longer be known as the Code of 1889, but that the Statute Book of Finland would list it as the Criminal Code from this century.[2] Accordingly, we should have a formally new Criminal Code in our Statute Book by the 2030s at the latest (Matikkala 2007).

5. Criminal law's constitutionalization, Europeanization, and internationalization

The changes that have taken place in the development of law since the 1990s – the constitutionalization of criminal law, Europeanization, and internationalization – have placed new demands on criminal policy legislation, on the application of the law and on research that supports it. The basis for the constitutionalization and Europeanization of criminal law is Finland joining the Council of Europe and signing its human rights convention (1990), Finland's fundamental rights reform (1995), and Finland joining the European Union (1995). The strengthening of the EU's Charter of Fundamental Rights and the expansion of the EU's criminal justice competence with the Treaty of Lisbon (2009) have created further challenges for Finnish legal culture.

[2] According to my calculations in 2014, only Article 4 of the Criminal Code, which now consists of 53 chapters, approximately 650 sections, is in force in their original form (PC 2: 6, 18; PC 18: 2–3) – and the first two of them entail provisions of a technical nature.

In terms of the internationalization of criminal law, it has been significant that criminalization based on international treaties (that is, so-called transnational crimes) has increased and that international criminal courts dealing with the core crimes of international criminal law have been founded. In the latter respect, the ad hoc tribunals established by the UN Security Council in the early 1990s to deal with the serious violations of humanitarian law committed in former Yugoslavia and Rwanda are among the most important, as well as the Rome Statute of the International Criminal Court, which was approved in 1998 and entered into force in 2002.

The aforementioned developments have also changed the scope of criminal law in such a way that substantive criminal law and criminal procedural law have a closer mutual relationship than before. In its own way, it is also a question of the scope of expanding criminal law, as punitive administrative sanctions must be assessed by the same principles of fair trial as actual criminal sanctions (Lahti 2022). Furthermore, the importance of comparing criminal law increases because European and international criminal law both interact with national legal systems. In addition, it is important to understand the characteristic features of foreign legal systems in order to realize international forms of cooperation in criminal cases and to assess the need to approximate criminal legislation.

This development has meant that the field of legal sources has been significantly expanded and the methods of interpreting and balancing used in the application of law have become more versatile than before. At the same time, the general doctrines of criminal law and the uniformity of the system which the doctrines form have been put to the test by this diversity (pluralism) of the law. The previous internal consistency (coherence) in the criminal justice system cannot be achieved; instead, criminal law is differentiated (fragmented) and when it is applied, the observance of the business environment (contextuality) is emphasized (Lahti 2012: 376).

In practice, the constitutionalization of criminal law means, for example, that the constitutional limitations on criminalization are assessed based on principles designed by the Constitutional Committee of the Parliament, such as the requirement of the principle of legality that criminal provisions must be clearly defined and determined (Melander 2008).

In practice, the Europeanization of criminal law means, among other things, that the direct applicability, direct effect, and interpretation effect of EU laws, as well as the importance of the principle of proportionality, are considered in criminal cases connected to EU law (Lahti 2020). It is possible that the Parliament may consider the application of the so-called emergency braking procedure on the grounds that a proposed directive would affect fundamental aspects of Finland's legal system (OJ C 115: Art. 82 § 3).

Problems caused by the internationalization of criminal law in practice include how to insert a regulatory obligation that according to international law must be enforced nationally into the Finnish Criminal Code without violating its internal rationality. Examples of this are the criminalization obligations set out in conventions on the prevention of terrorism (Lohse 2012), as a result of which Finland

decided to uniformly assess the scope and limits of such "proactive criminal law."[3] There is also a growing debate on the trends toward transnational criminal law (Bolster, Gless, Jessberger 2021) and toward law and globalization (Husa 2018) and on the content of these increasingly used concepts. Transnational criminal law in the broader sense covers international criminal law *in stricto sensu*, and so the crimes under international law (core crimes) are topical since the establishment of the International Criminal Court (ICC) and the aggressive war of Russia against Ukraine. Jaakko Husa writes that "[b]ecause of globalisation, the need for a non-nation-state-bound understanding of overlapping legal sources is constantly growing and the necessity for knowledge of how to deal with polycentrism and pluralism of laws has grown intensely" (Husa 2018). A move from transnational criminal law to global criminal law is desirable according to Kimmo Nuotio, because such a trend could lead to a broader setting of law and development studies and of sustainable development (Nuotio 2023: 474).

6. Criminal policy and criminal sciences in the 2020s and onwards

It has traditionally been considered that criminal law, as a morally charged area of law, changes at a slower pace than other areas of law. In accordance with the Parliament's Legal Affairs Committee report described above, "[criminal law] should reflect the views prevailing in society about acceptable and reprehensible behavior" (Lakivaliokunnan mietintö 1990). This statement seems to express conflicting objectives: on the one hand, a certain continuity is recognized in assessing the harmfulness and reprehensibility of the acts; on the other hand, there is an awareness that criminal legislation should be able to express changes in the reprehensibility of acts harmful to society or individuals more quickly than before. In the future, it can be assumed that the international and European regulatory obligations will continue to grow and increase proportionally to the changes in the criminal legislation.

It is desirable that as much as possible of the system's thinking and the internal rationality that the carefully selected wording of the Criminal Code includes should be maintained when the impending total revision of the Finnish Penal Code is completed – and in case of later changes. Criminal legislation should be developed as part of a systematic criminal policy and in the long term. The basis for the final selection of values should consist of careful analysis of legal grounds, impact analyses, and other research data. Unjustified tightening of the criminal justice system should be countered with arguments presented by research, which concern, among other things, the relative ineffectiveness of prison sentences, the importance of societal and circumstantial factors as background factors to crime,

[3] By Statute No. 435/2013, new criminalizations, in which preparatory acts were defined punishable, were introduced into the Penal Code (Crominal Code 21: 6a, 25: 4a, 31: 2a).

and the highly selective nature of the criminal justice system – as Inkeri Anttila highlighted in the text that became her last (Anttila 2011).

That the criminal justice system, which is in a fixed relationship with state sovereignty, has been partially moved and continues to be moved beyond the reach of the nation-states' direct decision-making is a challenge for transnational criminal law and criminal policy research and discussion, as well as for the deliberation on fundamental and human rights. The continuous task of criminal justice research is to strengthen the theoretical basis in order to be able to take into account the rational and humane criminal policy characteristics of Finland and other Nordic countries, human and fundamental rights, and the Europeanization and internationalization of law. This presupposes that legal principles and interests, which are partly contradictory or in a tense relationship with each other, are weighed and balanced (Lahti 2012: 375–377; Lahti 2020: 10–13).

The need for research becomes greater because the planning of the EU's criminal policy is strengthened, and along with it grows the need to create grounds for approximating the general part of criminal law in EU Member States through legal comparative research. The importance of the studies on comparative criminology and criminal justice should not be forgotten. For instance, empirical studies should increasingly be planned in research groups so that they can be repeated in various countries in order to strengthen their verification value and applicability in decision-making. We need more evidence-based criminological research to be utilized in criminal-policy planning and as a foundation for rational criminal policy. This is particularly true in relation to the decision-making and actors within the EU, where criminal policy has not so far been based on coherent conceptions or by utilizing relevant criminological research. In Europe, such works as the "Corpus Juris" proposal and its implementation (Delmas-Marty 1997; Delmas-Marty, Vervaele 2000–2001), "Economic Criminal Law in the European Union" (Tiedemann 2002), "A Programme for European Criminal Justice" (Schünemann 2006), and "A Manifesto on European Criminal Policy" (Asp et al. 2009) are significant.

International criminal law is a particularly significant subfield in research on the diversity and differentiation of law, as it combines different areas of law (international law, humanitarian law, human rights jurisprudence, and national criminal and criminal procedural law) as well as different enforcement models (supranational, national, and mixed criminal law systems) (van den Herik, Stahn 2012).

The criminal law researchers in Finland and in other Nordic countries should strive to actively influence the international discussion and decision-making (the creation of norms and standards) based on the value premises of our country and other like-minded people. These include – in addition to the values of democracy, human rights, and the rule of law – the demands for legitimacy and relatively low repression and humanity. Examples of such activities are the work of the European Criminal Policy Institute (HEUNI), which works in affiliation with the United Nations (Redo 2012).

Such values that Finnish – and more generally, Nordic – criminal policy represents and their successes have received positive attention in the international discourse (Pratt, Eriksson 2012; Christensen, Lohne, Hörnqvist 2022) and have therefore been an innovative export product. From my own area of influence, I also refer to the International Criminal Law Association (AIDP), founded in 1924, which works to develop norms and standards in the field. The two latest uniting topics for international conferences should be mentioned: "Criminal justice and corporate business" (2016–2019) and "Artificial intelligence and criminal justice" (2021–2024) (de la Cuesta, Blanco Cordero, Odriozola Gurrutxaga 2020).

Conclusions

I finish with the following conclusions as an outlook. A fair balancing between the effective enforcement and a solid protection of fundamental rights should be sought. The focus should be directed to the needs of citizens, treating criminal law as a last resort (*ultima ratio*) and encompassing, at the level of the EU, the principles of subsidiarity and proportionality. We should strive toward a more comprehensive control policy perspective, including penal administrative sanctions and the dimensions of national, international, and transnational relations. We need more theoretical discussion about the pluralism in criminal and other types of punitive law. Theories on the constitutional and other limits of criminalization and punishment should take into account trans-border crime and transnational enforcement. There should be more interaction between the states and inter-/supranational organs. The increased internationalization and regionalization (Europeanization) of criminal law should be based on widely acceptable (legitimate) and rational criteria. Criminal scientists in Finland and the rest of Scandinavia ought to strive more actively to influence both European (the EU's) and global criminal policy toward the "Nordic model," which emphasizes crime prevention, applies specific criteria of rationality – such as legitimacy and humaneness – and plays down repression in criminal sanctions in favor of more restitutive and responsive sanctions.

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