LIFE IMPRISONMENT IN SCANDINAVIA:
THE ULTIMATE PUNISHMENT
IN THE PENAL ENVIRONMENTS
OF DENMARK, FINLAND, AND SWEDEN

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A Dissertation
Submitted in Partial Fulfillment
of the Requirements for the Degree of
Doctor of Philosophy
in Political Science

Northern Arizona University
August 2015

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ABSTRACT

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In the Scandinavian countries Denmark, Finland, and Sweden, criminal offenders convicted of murder and a select few other serious crimes can be sentenced to life in prison. Yet, life sentences are rarely imposed, even in the case of murder, and typically do not mean that the offenders sentenced to life will really remain imprisoned for the rest of their lives. Instead, life imprisonment rarely exceeds fifteen years behind bars in all three countries. This practice raises the question of why life sentences remain a sentencing option for criminal offenders in these countries when, in practice, life sentences are not true-life sentences. By treating life imprisonment as a complex social institution that has continuously been impacted by large cultural and political processes, I will trace the similarities and differences in the imposition of life sentences, conditions of confinement for life-imprisoned offenders, and lifer release over time in Denmark, Finland, and Sweden. Through comparative historical research, media report analyses, and interviews with actors in criminal justice institutions, I will explore to what extent the meaning of life imprisonment in the countries’ wider penal environments has changed over time and what role the ultimate form of punishment now plays in contemporary political and media debates.

Keywords: Scandinavian penal policy, sociology of punishment, life imprisonment, conditions of confinement, prison release mechanisms
ACKNOWLEDGEMENTS

This dissertation developed out of the many interesting classes I took over the course of my graduate career at Northern Arizona University and my genuine interest in the Scandinavian cultures and languages. Working on this specific project over the past few years has been a challenging but fascinating academic experience. Overall, it would never have been possible without the guidance of my advisor and dissertation chair, Dr. Frederic I. Solop. His untiring support was paramount on my entire graduate path, including my dissertation writing process. While he has helped me to stay focused throughout, he has always encouraged me to pursue my own interest. He has also taught me so many lessons on academic research, which I am immensely grateful for. I thank him so much for all his time, guidance, and continuous encouragement at every step of this journey.

I would also like to express my sincere gratitude to my other dissertation committee members. I would like to thank Dr. Jacqueline Vaughn for her valuable feedback on my writing and her help with setting up the interviews for this project. I have also learned so much from Dr. Neil Websdale about the importance and depth of theory over the past few years, and his perspectives have helped me to strengthen my work and will undoubtedly continue to do so in the future. Finally, this dissertation would also not have been possible without the valuable insight of Dr. Matti Tolvanen. With his expertise in law and Scandinavian penalty, his comments and questions throughout the writing and defense process were extremely important for this project.

Last but not least, I would like to thank my parents, Margit and Karl. I would never have enjoyed so many opportunities in life without their support and encouragement. Never did they lose faith in me. To them I dedicate this dissertation.
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PREFACE

At roughly 3.30 PM local time on July 22\textsuperscript{nd}, 2011, Anders Behring Breivik detonated a bomb in the downtown area of Oslo, Norway’s capital. The bomb, which was planted outside of government buildings, killed eight people and wounded several others. Right after the attack, Breivik took off to a Norwegian summer camp organized by the youth division of the Norwegian Labor Party. This camp was held on a small island called Utøya, just a few miles northwest of Oslo. Dressed as a policeman and armed with numerous weapons, among them an assault rifle, Breivik gunned down dozens of the camp participants upon arriving on the island. This happened only two hours after the bomb in downtown Oslo had detonated. Some of the victims were shot down in the water, while they attempted to flee from the island. Breivik later mentioned that, apart from the weapons, he brought drinking water to the island, anticipating a dry throat due to all the stress of killing people.\textsuperscript{1}

Breivik ended up killing sixty-nine of the camp participants, many of them youth. Shortly after the shooting rampage, the perpetrator was arrested and confessed to the murders, which he had, according to him, carefully planned in an effort to engage in a “fight against multiculturalism” in Europe (Groll, 2012, Aug 24). Later described as a right-wing extremist who had spread his political views on social media sites and blogs prior to the attacks, Breivik found that European left-wing parties, including the Norwegian Labor Party, had threatened the continent’s Christian heritage as their immigration policies towards Muslims had been too lax.\textsuperscript{2}

Breivik’s shooting rampage left the Norwegian nation and the rest of Europe in shock. The Scandinavian countries, Denmark, Finland, Sweden, and Norway, have long been known in

\textsuperscript{1} Breivik’s motives were described by CBS News (unknown author) in the article “A Look back at the Norwegian massacre”, published on February 18, 2013 at http://www.cbsnews.com/news/a-look-back-at-the-norway-massacre/

\textsuperscript{2} Ibid.
the rest of Europe and overseas for particularly high levels of tolerance, very low levels of crime, and very restrictive uses of penal sanctions (Bondeson, 2005; Lappi-Seppälä, 2007; among others). The 2011 attacks in Norway not only reflected growing divides in the traditionally homogenous Scandinavian societies but also left many open questions about societal values, crime, and punishment.

In particular, the attacks seriously tested the Scandinavian countries’ traditional commitment to organizing punishment around the principles of rehabilitation and reintegration. In Northern Europe, where alternative sanctions are preferred over imprisonment and short prison sentences are generally preferred over longer periods behind bars, the question arose as to how the state and society should best deal with serious offenders like Breivik. In a newspaper interview following the attacks, Norwegian Prime Minister Jens Stoltenberg said “he [Breivik] managed to cause lots of sorrow and damage, and many people will live with the wounds, but he failed in his main project, which was to change Norway, to make Norway less open, less tolerant” (Orange, 2012, Jul 21).

This belief echoes a statement made by Swedish crime novelist Henning Mankell in an interview with the German magazine Spiegel, directly following the Breivik attack.

There is a myth, although it's one that was more likely created by foreigners than us, namely that we are liberal, tolerant, enlightened, peaceful, affluent, harmonious, egalitarian and united. Most of that is true. But it doesn’t mean that we are not confronted with various grave social and political problems. On the other hand, I don’t believe that the crime of an individual, as incomprehensible as it may be, can change an entire society. (Spiegel, 2011, Aug 2).
The year after the attack, Breivik was sentenced to a definite time sentence of twenty-one years, the longest prison sentence available in Norway. Although his sentence can be extended for another five years at a time if he is still considered a threat to society, a type of sentence referred to as førvaring (preventive detention), Breivik’s fate led to “confused dismay” by many observers in other parts of the world. This was primarily due to the overall perception that the sentence was surprisingly well received by most of Norwegian society, including the surviving victims (Lewis, 2012, Aug 27).

Since the Breivik attacks, however, the question has remained as to how punishment for particularly serious offenders should be organized in moderate penal environments, such as in Scandinavia. A debate has again been reignited by the 2015 Danish terror attacks, when Omar Abdel Hamid El-Hussein killed two by-standers and wounded five police officers at a public discussion about Islam in Denmark’s capital Copenhagen. Although the perpetrator was killed right after the attack, different views have remained about how punishments should be scaled in order to reflect different gradations of seriousness of committed offenses. How does a twenty-one year definite time sentence, the longest prison sentence available in Norway, compare to an indefinite time sentence such as life, the harshest punishment available in the other Scandinavian countries, Denmark, Finland, and Sweden? What should the purpose of long-term imprisonment be? How should penal confinement for long-term prisoners be organized and what role should the offender and the families of the victims play in this process? These are questions that lie at the heart of this study on life imprisonment in Denmark, Finland, and Sweden.
LIFE IMPRISONMENT

Livstid fängsel (Danish)
Elinkautinen vankeus (Finnish)
Livstids fängelse (Swedish)
CHAPTER I: 
STUDYING AND COMPARING TYPES OF PUNISHMENT 
WITHIN SOCIETIES

I.A. Introduction

The countries Denmark, Finland, and Sweden, share many commonalities. Together with Norway and Iceland, they are frequently referred to with the umbrella term Scandinavian or Nordic. With comparable demographics and interrelated histories, these countries developed similar political and legal systems, and they continue to share their social, political, legal, and economic experiences in a system of close regional cooperation (Takala, 2004). The “Nordic welfare model” of a strong state, universal welfare benefits, and generous social services primarily financed by high taxes, has become a “standard term” in political debates across the world as well as in political science and comparative welfare state research (Christiansen, 2006).

The Nordic model has also been applied to analyses of Scandinavian criminal justice policies (Hornum, 1988; von Hofer, 2004; Cavadino & Dignan, 2006; among others). To stress their similarities in criminal justice policies and penal policies, the criminal justice policies concerning the punishment of criminal offenders, the research literature frequently refers to them as one region by speaking of a “Scandinavian criminal justice policy” (Friday, 1988; Lahti, 2000), a “Scandinavian penal model” (Lappi-Seppälä, 2007), criminal justice policy

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3 A welfare state is defined as a “democratically created socioeconomic system,” which is designed for the benefit of all members of society (Sackrey, Schneider, & Knoedler, 2010, p. 217).
4 While criminal justice policy deals more broadly with decision-making on crime control and crime prevention matters (Lahti, 2000), the focus of penal policy lies on what to do with offenders who have already been processed by the criminal justice system (Friday, 1988). Penal policy thus refers to decision-making pertaining to the imposition of criminal sanctions (i.e., in the form of fines, immediate sanctions, restitution, a prison sentence) and to the specific conditions of confinement.
“Scandinavian style” (von Hofer, 2004), a “Nordic model” (Takala, 2004), the “Nordic” or “Northern European cluster” (von Hofer, 2002; 2004), or “Scandinavian Exceptionalism in an era of penal excess” (Pratt, 2008). Although the scholarly literature concedes that a uniform Scandinavian penal policy does not exist, generalizations among the countries are still commonly made. In fact, the majority of the literature analyzing Scandinavian penal policies intends to highlight the commonalities between the countries rather than their differences and, hence, speaks broadly of “Scandinavian penal policy.” Country-specific penal policy approaches are typically only addressed in shorter paragraphs or footnotes (Andenaes, 1983; Friday, 1988; von Hofer, 2004; Lahti, 2000; Pratt, 2008; Pratt & Eriksson, 2011).

The main commonality between the Scandinavian countries in the penal policy realm has been the reservation of prison as a punishment of last resort for only serious offenders, in an effort to limit social marginalization and to maintain equality among all citizens (von Hofer, 2003; Lappi-Seppälä, 2008; Pratt, 2008; Pratt & Eriksson, 2011; among others). Consequently, the countries’ penal policies have traditionally been characterized by low and stable imprisonment rates and much shorter average prison sentences than are seen in most other penal environments in the Western industrialized world (Blumstein, Tonry, & van Ness, 2005; Pratt, 2008; Lappi-Seppälä & Tonry, 2011). If a prison sentence is imposed, its primary goal is the prisoner’s rehabilitation and successful reintegration into society. With relatively high levels of trust and low levels of fear for personal safety, scholars have described traditional forms of

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5 Although Lappi-Seppälä (2008) discusses similarities between Scandinavian penal policies over time, it is still important for him to note that the Scandinavian countries have differed very much in their use of imprisonment as a form of punishment. The example is Finland, where imprisonment rates were substantially higher for the first two-thirds of the twentieth century than in its neighboring countries.

6 The notion “Western industrialized” is commonly used to refer to the United States and Canada, Western European countries, as well as Australia and New Zealand. Others would use terms such as “Western world” or “developed nations” to refer to these countries. Considering that this categorization of countries is an essential component of Garland’s framework, this research will use solely his notion “Western industrialized.”
punishment in the Scandinavian countries as moderate, or, as some would characterize it, “lenient” (Blumstein, Tonry, & van Ness, 2005; among others).

Despite these broad commonalities, Scandinavian penal policies also differ from one another in many respects. A major difference, for instance, lies in the way that the countries deal with offenders who have committed particularly serious criminal offenses and in their views on what should be the harshest punishment that such offenders could face. In Denmark, Finland, Iceland, and Sweden, life imprisonment is currently the maximum sentence available for offenders convicted of the most serious crimes and those that are considered an eminent threat to society. In contrast, Norway does not have a life sentence on its books, but instead has a fixed term of imprisonment of twenty-one years as the maximum penalty. During the 1970s, the Norwegian Ministry of Justice called for penal reform, by encouraging the increased use of criminal sanctions other than imprisonment. This led also to a reconsideration of indeterminate sentencing schemes, which also included a discussion of life imprisonment. This eventually resulted in the abolition of the life sentence in 1981 and its replacement with a twenty-one year definite time sentence. Meanwhile in Iceland, life sentences have in practice not been imposed since 1945.

In Denmark, Finland, and Sweden, life sentences continue to be imposed on a select group of criminal offenders, yet practices in the use of life sentences differ between the countries. On a common note, however, a life sentence in Denmark, Finland, and Sweden

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7 This research relies heavily on the conceptual polarities “punitive” and “lenient.” As this research indicates in subchapter I.F., these concepts have been operationalized in many different ways, depending on the interpretation of the scholars using these concepts and the countries/states they have studied. As this is a transcultural study, it will be prevalent in this research to explore and compare the different understandings of punitiveness and leniency in the three countries examined.

8 As Norway does not have a life sentence, the country will only be referenced marginally in this research, especially in parts where the origin and development of penal policies in general and the life sentence in particular in the Scandinavian countries will be traced.
practically does not mean that offenders will really spend the rest of their lives in prison. The countries have prison-release mechanisms in place that give life-imprisoned offenders the opportunity to return back to society after having served a minimum time behind bars. Yet again, the minimum amount of time to be served and the actual release mechanisms for lifers differ from country to country. In the three countries, different actors are responsible for making the release decisions. The minimum requirements for release also vary between the countries. Finally, the specific conditions of release are different, too.

Sociologist and legal scholar David Garland (1990a; 1990b; 1991; 2001; 2010) has focused his analysis on understanding and explaining a country’s penal system and policy change within that system by paying particular attention to its historical context. According to his sociological perspective on punishment, punishment must be understood as a complex social institution that is shaped by historical, social, economic, and political forces (Garland 1990a; 1990b; 1991; 2001; 2010). Through an in-depth examination of the complexities of the “unique structures” of the state and the “political relations and cultural sensibilities that form around it,” Garland (2010, p. 152) believes that the contemporary forms of punishment within a society can be understood and explained. His primary object of study is not a “form of punishment as such” but the “punishment complex.” This encompasses the discursive and nondiscursive practices through with a certain form of punishment is enacted, represented, and experienced in the criminal justice system and society.

Framed by Garland’s theory, I argue that a comparative historical study of the use of a specific institution of punishment, in this case the “institution of life imprisonment,” can demonstrate that punishment does not only have political and social functions, but that the specific punitive measures a country applies show the role punishment plays within that
particular society. Such a study can further elucidate how these specific forms of punishment contribute to sustaining that society (Garland, 1990b; 2010). The main reason for why I consider the life sentence in Scandinavia suitable for such a historical analysis is that the imposition and enforcement of such a sentence can be viewed as a particularly strong expression of state power. A life sentence is an indefinite time sentence in most regimes and means, in contrast to a fixed (or definite) term of imprisonment, that offenders are not given a guaranteed date of release from prison. Although most will eventually be released from prison, the state theoretically still has the legal authority to deprive the individual offenders of liberty for the rest of their natural lives (van Zyl Smit, 2002).

Life imprisonment can thus be considered a particular challenge in moderate (or relatively lenient) penal environments that emphasize the rehabilitation and reintegration of criminal offenders. Rehabilitation and reintegration are intertwined concepts that are used for the justification of certain forms punishment. Adopting Allen’s (1981, p. 2) widely-used definition, the purpose of rehabilitation as the guiding principle of punishment is to “effect changes in the characters, attitudes, and behavior of convicted offenders, so as to strengthen the social defense against unwanted behavior, but also to contribute to the welfare and satisfactions of offenders.” Reintegration is a broad term and reintegration success is typically more than simply a lack of recidivism. For my study, I borrow the definition of Visher and Travis (2003, p. 90-1). These authors understand reintegration as the “individual’s reconnection with the institutions of society, which is both a process and a goal.” In this sense, the authors infer that reintegration can mean many different things for various prisoners, an important assumption for my study of Scandinavian penal practices, as I will highlight with my study. The prisoners’ reintegration
experiences will depend on their lives prior to prison, their individual prison experiences, their reentry processes, and long-term post-release integrations (Visher & Travis, 2003).

Research has found that lifers, as a specific group of long-term prisoners, tend to fall at the bottom of the list of correctional priorities (Flanagan, 1995). Due to them having been convicted of particularly serious crimes, their participation in certain correctional programs targeted towards rehabilitation, and a positive reintegration experience, i.e. expressed by the availability of educational programs, the transfer to lower-security facilities, or the granting of leaves, has proven to be a particular challenge for prison administrations. Due to them serving very long sentences, their needs in terms of prison release are also “less immediate” than those of offenders serving shorter terms (Flanagan, 1995, p. 6).

For all these reasons, I consider a comparative historical analysis of life imprisonment an inviting topic for applying Garland’s sociology of punishment to the Scandinavian context. As life imprisonment constitutes the ultimate form of punishment in these countries that seems to jeopardize the central Scandinavian penal components of rehabilitation and reintegration, a comparative historical analysis of this specific institution of punishment appears well-suited for an in-depth investigation of the relationship between punishment and Danish, Finnish, and Swedish society.

I.B. A Nordic or Scandinavian Penal Model?

Countries in the Western industrialized world, the United States included, have occasionally used the “Scandinavian penal model” for information and direction (von Hirsch, 1983; Friday, 1988; Benko, 2015, Mar 26; Bichell, 2015, Apr 15). More specifically, researchers have been interested in the “restoration” rather than “retribution” orientation of Scandinavian penal policies (Friday, 1988, p. 47). Examining the Swedish correctional system specifically,
Morris (1966, p. 3) wanted to “assess its transatlantic exportability.” Yet, it soon became noted that Scandinavian criminal justice policy in general and penal policy in particular was often treated with “a fair degree of idealism” (Lahti, 2000, p. 141). Research published in more recent years highlights that the Scandinavian penal model *per se* has actually not been studied widely any more. This is due to the overall direction on the study of punishment nowadays revolving around “penal excess,” which is considered to stand in sharp contrast to the more moderate orientation of Scandinavian penal policies (Pratt, 2008, p. 119). Still, the U.S. media has increasingly pondered whether the Scandinavian penal system could hold any lessons to its system in its contemporary era of penal excess (for two examples, see Benko, 2015, Mar 26; Bichell, 2015, Apr 15).

While the majority of the literature describes the cultures of the Scandinavian countries as being very similar (Takala, 2004; Tonry, 2004; Lappi-Seppälä, 2007; Pratt, 2008; Pratt & Eriksson, 2011; among others), these same authors also suggest that penal policy in these countries (as elsewhere) must be considered a product of distinct cultural values and long-term social, political, and economic forces. My study moves beyond the broad descriptions of a “Nordic penal policy” and offers a clear distinction between the Scandinavian countries, Denmark, Finland, and Sweden. Upon review of the relevant literature I discovered that the many cultural, historical, social, political, and economic similarities between the countries speak to a “Nordic cluster.” Yes, these broad generalizations happen at the expense of paying attention to the subtle, yet important differences between the three countries.

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9 In 2014, Pratt and Eriksson (2014) released a book [Contrasts in punishment: An explanation of Anglophone excess and Nordic exceptionalism. New York, NY: Routledge], in which they compared Scandinavian with Anglophone penal policies. While the two authors’ previous works provided me with crucial insight into Scandinavian penal policies, I did not know about their book at the time of my dissertation writing in 2013 and 2014.
An exception is Lappi-Seppälä’s work (2007, 2008). He compared Finland’s unique penal policy approach in the second half of the twentieth century with the other Scandinavian countries. It is noteworthy, also, to mention Bondeson’s (2007) book on value continuities and discontinuities in Denmark, Finland, Norway, and Sweden. Although Bondeson does not include an analysis of penal policies per se in her book but more broadly discusses the “moral climates” within these countries, she includes a chapter that highlights the similarities and differences between the countries in a historical perspective, inferring thereof the country-specific moral climates. Apart from these few selected writings, the majority of the scholarly literature broadly describes the Scandinavian penal policies as relatively lenient, especially when comparing their policies to contemporary criminal justice policy approaches in the United States, Great Britain, and to other European countries.

When exploring life imprisonment in these countries, subtle differences are expected to materialize. Most prominently, an analysis of the role and meaning of life imprisonment within the Scandinavian societies must ponder why Denmark, Finland, and Sweden maintained this type of punishment while Norway abolished the ultimate penal sanction. By embedding the development of their penal policies and the use of life imprisonment in its country-specific historical context, the fine nuances between Denmark, Finland, and Sweden not only surface but also highlight the importance of considering the social foundations of punishment in order to understand its contemporary implementation.

I.C. The Concepts of Penal Leniency and Penal Punitiveness

Penal leniency and penal punitiveness are polarized concepts commonly applied in the comparative penal policy literature and they are essential to this study. These concepts have been used in many of the scholarly articles and books on Scandinavian penal policy. In fact, the
comparative penal policy literature in the Western industrialized world has largely focused on either comparing various countries through the quantitative measuring of the size of a penal state and conditions of penal confinement or detailed historical descriptions of various countries’ penal policy approaches.

In many quantitatively-informed studies, relative penal leniency and punitiveness have been measured by a comparison of imprisonment rate trends and average prison sentence lengths (Blumstein, Tonry, & van Ness, 2005; Cavadino & Dignan, 2006, only on imprisonment rates). Broad comparisons of country-specific penal policies in the Western industrialized world reveal that the levels of punishment these societies apply for the variety of crimes committed differ to a large extent (Blumstein, Tonry, & van Ness, 2005). To describe countries as either being penally lenient or punitive, this quantitatively-informed literature ranks countries by comparing the average number of prisoners per 100,000 population (imprisonment rates), the number of new prison admissions per 100,000 population per year (prison admission rates), or the probability of a prison sentence or average sentence length per crime committed, recorded, prosecuted, or resulting in a conviction (Blumstein, Tonry, & van Ness, 2005). By comparing the severity of modes of punishment in various countries, these researchers have applied the adjectives “punitive” on the one end of the penal spectrum and “lenient” on the other end of the spectrum. In this study, the United States is considered particularly punitive, as it currently has the highest imprisonment rates in the Western industrialized world. This is primarily a result of a large number of new prison admissions per year and relatively long average prison sentences.

Still others use quantitative data but also add a discussion of the historical development of a country’s penal policy approach to their analyses. Most scholars analyzing the shape and size of a country’s penal policy apparatus in a historical perspective have so far focused on the
United States (Blumstein & Beck, 1999; Caplow & Simon, 1999; Tonry, 1999; Gottschalk, 2006; Bosworth, 2009; among others). The underlying reasons for the United States’ unique approach to punishment are multiple, have been widely discussed by these numerous authors and others, and a discussion of these would go beyond the scope of this study. Meanwhile, several authors have compared the U.S. penal policy approach with selected European countries (Garland, 2001; Garland, 2010; Whitman, 2003; Wacquant, 2009a; Wacquant, 2009b; among others). To a comparison of the United States with a number of European countries, Cavadino and Dignan (2006) added South Africa, Australia, and New Zealand to their analysis.

In qualitatively-informed studies, scholars have moved beyond comparing imprisonment rates and average lengths of prison sentences to examining conditions of confinement in different countries when discussing penal punitiveness and leniency. Pratt (2008), for example, argued that going to prison alone could be seen as punishment, but it would also depend on how “degrading” and “debasing” the life behind bars is allowed to be to determine either penal leniency or punitiveness. Tonry (2001; 2004) chose yet another perspective. He noted that levels of punitiveness could also be determined by looking more closely at country-specific sentencing policies. In relatively lenient penal environments, sentencing policies tended to be more limited, and they typically reflected prevailing public attitudes about punishment (Tonry, 2001). On the other hand, Green (2009) found that harsh public attitudes towards criminal offenders might drive tough-on-crime solutions, such as had been the case in the United States and Great Britain in the past few decades. Finally, Lappi-Seppälä (2007) suggested that the degree of penal severity was related to public sentiments (such as fears and levels of trust within society), as well as to the extent of welfare provisions, differences in income equality, political structures, and legal cultures.
Regardless of the different perspectives, the Scandinavian countries’ penal policies have been described as being relatively “lenient” or “moderate” as compared to other countries in the Western industrialized world by many of these authors. Through a comparison of trends in imprisonment rates, Blumstein, Tonry, and Ness (2005) found that the U.S. ranked highest in punitiveness and the Scandinavian countries (the specific case of Sweden is used for this study) fell on the more lenient end of the penal spectrum. Similarly, Cavadino & Dignan (2006) found in their comparative study on imprisonment rates that the U.S. ranked high in terms of punitiveness and Sweden and Finland ranked low. In addition, some scholars note that the Scandinavian countries have traditionally had comparably humane conditions of confinement (Pratt, 2008; Pratt & Eriksson, 2011). Lappi-Seppälä (2007) added to that discussion that Scandinavian penal policies have also tended to be fairly stable, with imprisonment rates over time not fluctuating as much as elsewhere. This could be taken as another indicator for penal leniency.

I find a clear definition of these central penal policy concepts an important starting point of this study for several reasons. First, the scholarly literature has widely used these concepts, yet, in different ways. As the above discussion showed, penal leniency and punitiveness can mean quite different things, depending on how these terms are conceptualized. Second, the use of these polarized concepts can become troublesome when data of a variety of different countries are collected and compared cross-nationally. For instance, imprisonment rates can be calculated by merely using imprisonment rates for convicted offenders. In the Scandinavian countries, however, imprisonment rates often also include a count of remand prisoners.¹⁰ Also, determining penal leniency or punitiveness through a comparison of imprisonment rates alone does not provide any insight into the extent of the use of alternatives to imprisonment, such as suspended

¹⁰ In the Scandinavian context, remand imprisonment is a term commonly used for pre-trial detention.
sentences, which are commonly used in the Scandinavian context. Finally, I believe that life imprisonment overall cannot be described as a particularly “lenient” way of punishing. Even though conditions of confinement and release mechanisms pertaining to lifers might be more flexible in the Scandinavian countries as compared to other countries in the Western industrialized world, life imprisonment in general entails long-term imprisonment without a clear prospect of release for particularly serious offenders.

In this study, I therefore attempt to avoid a categorization of penal policy along lenient or punitive terms. I use the term “punitive” in reference to “punitive shifts” in penal policies or “punitive attitudes” within a society but not for the purpose of “ranking” a country’s penal policy approaches with other countries. In sum, I find the use of the concepts of penal leniency and penal punitiveness misleading and irrelevant for this comparative historical study and avoid using these terms as much as possible.

I.D. Theoretical Framework: David Garland’s Sociology of Punishment

I.D.1. Understanding the Sociology of Punishment

In today’s society, the punishment of criminal wrongdoers is an indispensable part of state power. Through the imposition and enforcement of sentences, a state can deprive individuals of their liberty, depending on a jurisdiction’s specific penal-legal provisions and the discretion of criminal justice players involved. Still, punishment has been considered “a deeply problematic and barely understood aspect of social life, the rationale for which is by no means clear” (Garland, 1990, p. 3).

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1 A sanction in the form of a suspended sentence means that a prison sentence can be suspended for as long as the offender does not commit a new crime during the time of the sentence.
Justifications of different forms of punishment, their proportionality to the crime committed, and the goals that should be achieved with punishment are controversial issues that lead to many different interpretations. They are also necessarily context-dependent. For David Garland (1990; 1991; 1992; 2001; 2010), the relationship between punishment and society and the role the state plays in this relationship has been a topic of particular interest. According to his sociology of punishment framework, an analysis of the role of punishment within a society must go beyond viewing punishment simply as a technique of crime control or as a moral problem.

Punishment is a complex and controversial social institution that affects social relations and cultural meanings. It is a social artifact that serves many different purposes and is derived from a conglomeration of social, economic, and political forces. Hence, punishment has an instrumental purpose, but also a cultural style and historical tradition. In addition, punishment depends on institutional, technical, and discursive conditions (Garland, 1990). Similarly, the law is a social institution, which Garland (1990, p. 282) describes as a “highly patterned and organized” set of social practices. In short, social institutions are dynamic and evolve slowly over time. In order to understand their contemporary character, it is crucial to explore their history and tradition (Garland, 1990).

Garland’s work has been strongly influenced by Michael Foucault. In the fundamental work *Discipline and Punish* (1995), 12 Foucault examined the change in modes of punishment from pre-modern to modern (capitalist) society. By focusing on the nature of punishment, Foucault found that fundamental changes in the preferred modes of punishment have occurred from pre-modern to modern society. While punishment was not to target the body anymore (i.e., through corporal and capital punishment), its new objective became the soul (i.e., through penal

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12 *Discipline and Punish* was first published in 1975.
confinement). What emerged was a “new art of punishing,” not necessarily with the goal of punishing less but of punishing in a more targeted manner.

These penal changes happened, according to Foucault (1995), against the backdrop of the consolidation of state power in modern society, when the power to punish became increasingly centralized. For Foucault, modern society meant capitalist society and he concluded that the study of punishment was only one way to illustrate that discipline had become a key characteristic of the “new” society. In other words, Foucault found that discipline had become the guiding principle of modern society not only in prisons but also in other social institutions, such as the military, schools, hospitals, and even the factory. For Garland, these observations were particularly compelling. Applying a “history of the present,” an approach he borrowed from Foucault, his goal was to study an institution (i.e., an institution of punishment) in order to understand its late modern moldings.  

In other words, the penal measures used by the state to control crime cannot be understood and explained without putting them into their historical, political, social, and economic context (Garland, 2001). Garland has also been interested in the role of the prison in today’s society, which he considered a particularly prominent social, yet also problematic institution. He found it especially problematic that when penal policies are analyzed, current institutional frameworks tend to be taken as a given and hardly ever are questions asked as to why the prison exists in the first place (Garland, 1990). In order to understand the contemporary

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13 Prior to Garland, Giddens (1991, pp. 14-5) theorized the shift from modernity to late modernity. With modernity, Giddens refers to the industrialized world, the “institutions and modes of behavior established first of all in post-feudal Europe,” in which industrialism is recognized as an institutional dimension. Meanwhile, Giddens rejects the notion of “postmodern” to capture the fragmentation and dissociation of modern societies in the past few decades (Giddens, 1991). According to Giddens, the use of the term “late modernity” instead of “postmodernity” indicates that there is more of a continuation of “modern” characteristics within contemporary society rather than the emergence of a completely new type of society, a so-called “postmodern” society. Similarly, Garland has a preference for the term “late twentieth century modernity,” as it stresses the continuity with the modernization process and shows that there is yet no end of modernity in sight (Garland, 2001).
set of problems around the prison institution, we must “reconnect the institution with values, interests, and power relations out of which it emerged” (Garland, 2010). By doing that, our perception about the institution might change (we might better understand it why it is that way) (Foucault, 1995, as cited in Garland, 2010).

In sum, Garland strongly believes that by analyzing crime control and modes of punishment available within a specific society, broader generalizations about social order and ways of governance within that society could be inferred. Only by detailing the nature of punishment and the role it has played in society over time can we capture the full complexity of punishment within a society. Garland therefore views the institutions of punishment, their functioning, and effects from the outside and situates them in the wider social network of a society (Garland, 1990). Indeed, all social institutions within that society would be organized in a similar way and would thus be a reflection of the values and attitudes of the society as a whole (Garland, 2001).

I.D.2. Studying Specific Forms of Punishment

In his book Peculiar Institution: America’s Death Penalty in an Age of Abolition, Garland (2010) conducted a historically-grounded comparative analysis of the role of capital punishment in the Western industrialized world, applying his sociology of punishment framework to a specific form of punishment. Garland attempted to find answers to why the United States remained an exception in the use of the death penalty in today’s age. By treating capital punishment not just as a technique of crime control but by considering it as a “capital punishment complex,” Garland examined discursive and nondiscursive practices through which capital punishment had been enacted, represented, and experienced in the American criminal justice system and society over time (Garland, 2010, p. 14). By doing so, he found that
America’s unique political culture, its emphasis on local decision-making, relatively underdeveloped centralized state, and lack of social solidarity as compared to many European countries could help explain the continued use and appeal of capital punishment in the United States (Garland, 2010). Stressing the unique American path in maintaining capital punishment, he referred to the death penalty as a “peculiar institution.” In the manner of the sociology of punishment framework, Garland’s main message with this book was that without an understanding of the origins and historical use of the death penalty in the United States, its role in contemporary American society, especially in direct comparison with other Western industrialized countries, could not be understood nor explained. I argue with this research that the same can hold true for life imprisonment as the ultimate form of punishment in contemporary Denmark, Finland, and Sweden.

I.D.3. Penal Welfarism

A specific concept that depicts the complex relationship between punishment and society and that is of particular interest to my study is Garland’s use of the concept of “penal welfarism.” Garland used this concept in his book Culture of Control (2001), in which he described and tried to explain the changing nature of penality, the character and extent of penal measures imposed by a state to punish criminal wrongdoers, within American and British society. In this context, penal welfarism refers to the “structure, combining liberal legalism of due process and proportionate punishment with a correctionalist commitment to rehabilitation, welfare and criminological expertise” (Garland, 2001, p. 27).

Garland suggested that the origins of penal welfarism lied in the emergence of new academic disciplines and the establishment of the social welfare state in the late nineteenth century. New academic disciplines like psychiatry, psychology, and sociology led to a refocusing
on penal intervention on the individual offenders, their criminal characteristics, and “the psychopathic offender” (Garland, 2001, p. 42). By better understanding the causes of individual criminal behavior, it was generally believed that the offender could be subjected to such social interventions as deemed necessary for successful reentry. Thus, penal practices were based on a strong belief in the possibility of “treating” an offender (Garland, 2001). With medical and psychological interventions, the mentally-ill criminal offender could be treated and rehabilitated (or “corrected”). Penal welfarism also meant that scientific methods and the new academic disciplines became linked with penal policy considerations. Penal policy had to be drafted by professional experts rather than be the result of political compromise. Drafting penal legislation was the duty of senior civil servants and expert advisers. Penal welfarism indicated that penal policy was largely removed from the public debate.

During the penal welfarist era, the prison as a place of punishment reoriented itself. Penal welfarism first and foremost meant making as little use of imprisonment as a mode of punishment as possible. This was largely due to the belief that confinement was considered counter-productive to reform and individual progress (Garland, 2001). As Nietzsche, from which Garland also borrowed some ideas, so fittingly put this shift of thinking into words in the late nineteenth century,

It is precisely among criminals and convicts that the sting of conscience is extremely rare; prisons and penitentiaries are not the kind of hotbed in which this species of gnawing worm is likely to flourish; [...] Generally speaking, punishment makes men hard and cold; it concentrates; it sharpens the feeling of alienation; it strengthens the power of resistance. (Nietzsche, 1989, p. 81)
As a method of last resort, society must simply rely on the imprisonment of criminal offenders in order to guarantee public safety. Still, the “benefits” of imprisonment for both the offender and society included rehabilitative efforts to facilitate the reintegration of the offender into society after prison time served (Garland, 2001). In a penal welfarist regime, therefore, penal measures must be guided by rehabilitation as the main purpose of punishment for criminal offenders rather than retribution. In this sense, rehabilitation is the penal paradigm that binds together all components of the criminal justice system and is the foundation of each policy implemented and every action taken by practitioners and intellectuals in the penal realm (Garland, 2001). Therefore, punishment must necessarily be individualized (Garland, 2001).

Individualization could materialize in various ways. First, it became the duty of judges to make a holistic evaluation of the criminal offender upon sentencing, not only considering the crime they committed but also weighing in their personal backgrounds such as family and work when deciding about sentence length. Based on the appraisal of other criminal justice professionals from a variety of professional backgrounds (psychiatrists, jurists, prison officials, etc.), the treatment of prisoners was also individualized in order to ensure that individual “progress” was measured and accounted for when deciding about granting early release or not (Garland, 2001).

In this respect, the indeterminate sentencing scheme, which gave prison officials substantial discretion in deciding about the “appropriate” length of the individual prison sentence, led to the opening of a gap between the formal prison sentence and the time that was actually served by the prisoners. Indeterminate sentencing schemes would also give prisoners the opportunity for early

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14 Indeterminate sentencing, commonly used in the United States up until the 1970s, meant that judges had substantial discretion in sentencing offenders to a prison sentence with a wide range, e.g., 2 to 10 years, 10 to life. Their release would depend on their efforts towards rehabilitation and the discretion of prison official and a parole board.
release from prison. They would become eligible for conditional release\textsuperscript{15} if they had participated sufficiently in rehabilitative programs (Garland, 2001; see also Petersilia, 2003).

Penal welfarism further indicates that welfare provisions shape a country’s penal policy approach. As a result, crime is typically considered a social problem (or a consequence of social circumstances) rather than a problem \textit{per se}. The state was responsible for managing problems of “individual maladjustment” that would predominantly emerge from the poorer segments of society and reflected typical problems of the “industrialized, inegalitarian, class society” (Garland, 2001, p. 45). During the penal welfarist era, the strong role that the state should play in both the social and penal realms was thus invigorated. Penal welfarism redefined the state’s role in imposing “law and order.” Instead of considering the state a “hostile and threatening power,” the state was viewed as contractually obliged to take care of its citizens and to contribute to their well-being. The state became entrusted with monopolizing the punishment of criminal offenders. This state responsibility did, however, not only include the punishment but also the care of criminal offenders. By being responsible for criminal offenders, the state was considered “an agent of reform as well as of repression, of care as well as control, of welfare as well as punishment” (Garland, 2001, p. 39).

In his comparative analysis of penal developments in the United States and Great Britain, Garland found that the era of “penal welfarism” came to an end in both countries during the 1970s (Garland, 2001). Garland found that the United States and Great Britain had experienced similar “social and cultural changes as the coming of late modernity” which had “transformed the experience of crime, insecurity, and social order,” leading to the demise of the penal welfare state (Garland, 2001, p. viii). Among these changes were an increased dynamic in capitalist

\textsuperscript{15} Garland uses the term parole instead of conditional release. In the Scandinavian context, however, prison administrations frequently use the term conditional release over parole in texts written in or translated into English.
production and market exchange, technological and communication advancements, the restructuring of the family and households, and increased democratization of social and cultural life (Garland, 2001).

In order to stress the complexity of these changes, Garland notes twelve different indices of change: the decline of the rehabilitative ideal, the reemergence of punitive sanctions and expressive justice, changes in the emotional tone of crime policy, the return of the victim, the priority of protecting the public in crime policy, a more politicized and populist policy-making process, the reinvention of the prison, the transformation of criminological thought, an expanding infrastructure of crime prevention and community safety, civil society and the commercialization of crime control, new management styles and working practices, and a perpetual sense of crisis. The combination of these twelve indices has led to the demise of the penal welfarist state and an era of increased punitiveness in the United States and Great Britain.

Applying Garland’s concept of penal welfarism, Beckett and Western (2001) argued that in late modern society, welfare and punishment institutions formed a single policy regime. The purpose of this regime was to govern social marginality. Based on this belief, they hypothesized that welfare spending and imprisonment rates were negatively related. The lower the welfare expenditures of a state, the higher the imprisonment rates will be. Despite their focus on a comparison of U.S. states, they concluded that regions with a larger share of poorer and minority populations tended to have higher imprisonment rates and lower welfare spending than states that were more equal and homogenous.

I.E. Application of Garland’s Framework to the Scandinavian Context

While Garland did not apply his concept of penal welfarism to the Scandinavian context, other researchers have highlighted the emphasis on rehabilitation and the strong link between
social and penal policy in these countries. The scholarly literature on Scandinavian penal policy observed that it must be viewed within the context of the Nordic welfare state (Hornum, 1988; von Hofer, 2004; Cavadino & Dignan, 2006; Lappi-Seppälä, 2007; Pratt, 2008; Lappi-Seppälä & Tonry, 2011). It was in the first half of the twentieth century that all of the Scandinavian countries developed what is now called the “Nordic” or “social democratic welfare state” model. The establishment and consolidation of that model was facilitated by social democratic governments, which dominated politics in the Scandinavian countries throughout the twentieth century (Bondeson, 2007). The main characteristics of the particular Scandinavian welfare state have since been described as

Broad public participation in various areas of economic and social life, the purpose of which is to promote economic efficiency, to improve the ability of society to master its problems, and to enrich and equalize the living conditions of individuals and families. In social policy, the cornerstone of the model is universalism. (Erikson et al., 1987, p. vii)

Emphasizing the link between social and penal policy, Lappi-Seppälä (2007) pointed out that Scandinavian penal policy has traditionally had a social policy orientation. Lappi-Seppälä and Tonry (2011) later argued that the welfare state has sustained high levels of social and institutional trust as well as high levels of social tolerance, values that have also been absorbed into the penal state. Together, the authors noted that a “good social policy is the best criminal justice policy” (Lappi-Seppälä & Tonry, 2011, p. 16). As such, the power of the criminal justice system to impact crime rates is considered very limited. Instead, larger social, economic, political, and demographic forces affect criminality (see also Friday, 1988). On a similar note, Pratt (2008) argued that Scandinavian social values of egalitarianism, a deeply engrained strong sense of equality among all citizens, have not only shaped the Nordic welfare state but also
produced the penal state. I consider his argument particularly important for my study, as I will show later on.

I.E.1. From Modern to Late Modern Society

Although Garland focuses on a comparison of the United States and Great Britain in his book and does not make any reference to the characteristics of penal policies in any other countries, he points to the need for more research in the summary of his book *Culture of Control* (2001) when he stresses that “a more extensive work of international comparison could have shown how other societies…have experienced the social and economic disruptions of late modernity without resorting to the same strategies and levels of control” (Garland, 2001, p. 202).

He thus seems to suggest that other countries, which he refers to as “Western industrialized” exposed to “distinctive problems of social order that late modernity brings in its wake” might not have experienced similar punitive tendencies than the United States and Great Britain in recent decades, although they underwent similar structural transformations (Garland, 2001, p. 202).

Other comparative penal policy research has applied Garland’s model to the Scandinavian context. Most interestingly, Demker and Duus-Otterström (2009) have used Garland’s framework to investigate whether a noticed punitive turn in Sweden can be explained by the fact that the crime discourse has become victim-centered in recent decades, one important change in penal policy that Garland noticed as an indicator towards increased punitiveness. With these scholars testing this index in the context of Sweden, they found that the growing individualization of society, one characteristic of late modern society, facilitated a more victim-centered crime discourse.
Pratt (2007) also noted that similar to other Western industrialized countries, politicians and the media have popularized topics in crime and punishment in Scandinavia and in that way contributed to the spread of national insecurities (Pratt, 2007). Some public officials, policy-makers, and researchers would consider these changes as “signs of increasing public punitiveness” (Pratt & Eriksson, 2011). In fact, the increased politicization of crime-related topics and a more emotional tone in crime policy are another two indices of change that Garland (2001) noted in more punitive late modern societies. In Scandinavia, Lappi-Seppälä & Tonry (2011) believed that the media and certain politicians used the growing diversification of the countries, resulting from a large influx of immigrants, to affirm, using Pratt’s (2007) term, national insecurities. This has led to new legislation, largely characterized by harsher penalties for a wide variety of crimes and longer prison terms for more serious offenders (Lappi-Seppälä, 2007). This has led to the suggestion that the “Nordic penal model” has “perhaps slightly diminished” (Lappi-Seppälä & Tonry, 2011, p. 29).

On another note, although not using Garland to frame the research, von Hofer (2011) noted in his analysis of crime and punishment trends in the Scandinavian countries from 1750-2008 that these countries underwent significant changes in their social and political structures during that time period and that developments in the penal realm in these countries mirror those of many Western industrialized countries. At the same time, sparked by an overall increase in crime rates, increased politicization of and media attention to crime-related issues, the Scandinavian countries also took a harsher stand towards punishment in recent decades.

Finally, Whitman (2003) noted more punitive tendencies in many European countries in recent decades. He found that European countries have taken steps towards the eradication of individualization in punishment and towards replacing indeterminate with determinate
sentencing schemes. Although Whitman does not speak to the Scandinavian countries explicitly, he still broadly discusses the changes in penal policy in many different European countries in recent decades, suggesting that many of these countries that Garland would include in his broad concept of late modern societies have experienced increased punitiveness.

Whitman (2003) found that rehabilitation and reintegration have increasingly lost appeal as the primary justifications of punishment. Instead, they have been replaced by a stronger belief in retribution and incapacitation. The call for retribution and incapacitation was partly driven by the emerging victims’ right movement. In addition, politicians in various European countries have stepped on the tough-on-crime bandwagon (Whitman, 2003). In this sense, Whitman noted two of Garland’s indices of change towards an increasingly punitive society in the European context. Yet, in contrast to as Garland seems to suggest, Whitman (2003, p. 70) argues that Europe, “taken all in all,” has experienced growing mildness of punishment in recent decades, reflected by more use of alternative sanctions and lower imprisonment rates, leading to a “diverging” of the two sides of the Atlantic in punishment practices.16

Against the backdrop of these studies, I ponder to what extent the Scandinavian countries embrace penal welfarist ideals. How far does the link between social and penal policy in the Scandinavian context go? To what extent has the link between social and penal policy changed in late modern Scandinavian society? Might it even have diminished?

I.E.2. Critiques of Garland’s Approach

Garland’s theoretical approach provides a fertile ground for a comparative analysis of penal institutions in the Scandinavian countries over time. It is important to note, however, that Garland’s framework has not remained without critique. Wacquant (2009), for instance, located

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16 Although Whitman (2003) primarily analyzes punishment practices in France and Germany, he still, more than once, speaks of Europe and general European developments in punishment practices.
the reasons for increased punitiveness in the economic realm rather than within the specific relationship of society and punishment, and, more specifically, in the characteristics of the neoliberal state. He found that there existed a close connection between the “upsizing” of the penal sector and the “downsizing” of the welfare sector, as it is particularly the poorest segments of the population that would end up in prison (Wacquant, 2009). In later work, Wacquant (2010, p. 210) specially characterized the typical Western European prisoner clientele as precarious workers, unemployed individuals, post-colonial migrants, as well as “lower-class addicts and derelicts.” Most interestingly for this research, Wacquant (1999; 2010) found the concept of “late modernity” as used by Garland (2001) and its direct link with increased punitiveness vague and dubious and questioned its applicability to the Scandinavian context:

The jumble of trends that Garland gathers under the umbrella term of late modernity—the “modernizing dynamic of capitalist production and market exchange, “shifts in household composition and kinship ties, changes in urban ecology and demography, the disenchanting impact of the electronic media, the “democratization of social life and culture”—are not only exceedingly vague and loosely correlated; they are either not peculiar to the closing decades of the twentieth century, specific to the United States, or show up in their most pronounced form in the social democratic countries of Northern Europe that have not been submerged by the international wave of penalization.

(Wacquant, 2010, p. 209)

Wacquant (2010) suggested delineating the “era of neoliberalism” rather than late modern societal changes in order to understand penal changes in the last two to three decades of the twentieth century. He held that neoliberalism, which he defined as “fragmented labor, hypermobile capital, and sharpening social inequalities and anxieties” was primarily responsible
for *remaking* penalty in late modern society (Wacquant, 2010, p. 202). He theorized that instead of *criminal* insecurity (i.e., more crime), it has been neoliberalism and *social* insecurity that incited the expansion of the penal state. States have increasingly made use of the penal policy apparatus to control marginalized groups at the bottom of society and to “assuage popular discontent over the dereliction of its traditional economic and social duties” (Wacquant, 2010, p. 211). In short, he considered the expansion of the penal sector a government strategy used to manage deepening marginality. So far, he found, it had been employed quite successfully in many countries.

Wacquant thus offered a quite different theoretical interpretation of penal changes in late modern society than Garland. Instead of attributing the changes to perceived risks and anxieties emerging from late modern society and the confused response to these by the state (Garland’s thesis), Wacquant believed that the role of the state in late modern society had to be redefined. Focusing more than Garland on an analysis of Western European penality (and such an analysis typically includes the Northern European context), Wacquant found that the social welfare state (or what he calls “the left hand of the state”) has actually become increasingly coupled with the penal state (“the right hand of the state”). This would suggest that the concept of “penal welfarism,” rather than having diminished as in Garland’s late modern world, reaches a whole new dimension in Wacquant’s world.

Meanwhile, Cavadino and Dignan (2006), instead of using a sociology of punishment framework, suggested that the specific political economy of a country determined its levels of punishment. By comparing the penal systems of twelve modern industrial societies with one another, including the United States, Great Britain, Finland, and Sweden, the authors attempted in their book *Penal Systems* to explain differences in contemporary penal policies in various
countries across the globe. They found that neo-liberal societies, such as the United States, typically have the highest imprisonment rates. Social democratic countries, on the other hand, have been characterized by lower imprisonment rates. However, even these countries have adopted neo-liberal policies and have thus experienced social welfare cuts. Overall however, the two scholars found that, regardless of the specifics of a country’s political economy, more punitive tendencies have emerged in many countries in recent decades. One of the main factors that contributed to these punitive tendencies was the weakening of the state related to the diminishing of trust among citizens.

In the chapter titled *Sweden and Finland: Nordic Social Democracy*, Cavadino and Dignan (2006) noted that the two Scandinavian countries’ similar social democratic welfarism was associated with particularly low levels of punishment (Cavadino & Dignan, 2006). The main political economic characteristic of both Sweden and Finland was “social democratic corporatism” (Cavadino & Dignan, 2006, p. 149). Social democratic corporatism meant that a strong trade union movement participated in shaping social policy, which was based on ideals of egalitarianism and universalistic welfare benefits (Cavadino & Dignan, 2006). Indeed, the philosophy behind social democracy was that there was an emphasis on social solidarity and equality among all citizens. Those at the bottom of society (i.e., the poor, mentally ill, and delinquents) needed to be cared for. However, it was considered the duty of the state to redistribute resources so that equality among citizens could be achieved and social solidarity increased (Cavadino & Dignan, 2006). With the adoption of neo-liberal policies in the 1980s and 1990s, Finland and Sweden experienced social cuts, inducing a weakening of the strong and powerful welfare state. This led to more punitive tendencies even in these countries.
In this sense, I find that an application of the penal welfarism concept, the retraction of the penal welfarist state linked to the emergence and consolidation of late modern society, and the suggested rise of the penal state provide an interesting framework for an analysis of the Scandinavian countries’ penal institutions. In particular, these issues invite to engaging in a “history of the present” of life imprisonment, due to it being the most severe penal sanction in Denmark, Finland, and Sweden. By using life imprisonment as a case study, I explore the dimensions of penal welfarism and the penal state in these Scandinavian countries. By putting the specific penal institution of life imprisonment into its broader comparative historical context, I trace differences and similarities between the three countries. I further explore how the institution has been adapted to late modern society in order to meet contemporary punishment demands within these countries (see Garland, 2001; 2010).

In order to determine whether penal welfarism has given place to increased punitiveness in the Scandinavian context, I frame my research around several of Garland’s indices of change. First, I examine to what extent the rehabilitative ideal of punishment has diminished and been replaced by other justifications of punishment. Second, I examine whether the three countries have imposed more punitive sanctions on offenders convicted of particularly serious crimes in late modern society, especially on those convicted of murder. Third, I ponder whether the countries have noted a more emotional tone in crime policy, particularly seen by not considering the life-imprisoned offender a “disadvantageous, deserving, subject-of-need,” who should be given the opportunity to reintegrate in society after having served a prison sentence, and by abandoning values such as “decency” and “humanity” in the political and media discourse on life imprisonment (Garland, 2001). Finally, I explore whether the relative of the murder victim is a
focal point in political and media debates on life imprisonment or whether the debates are more offender-focused.

I.F. The Literature on Life Imprisonment

Life imprisonment is a topic that has received increased scholarly attention in recent years. In 2002, van Zyl Smit (2002) noted in the introduction to his book titled Taking Life Imprisonment Seriously in National and International Law that an analysis of contemporary penal systems must include a study of life imprisonment. He found this primarily due to the fact that life sentences had become the most severe penal sanction in countries that had abolished capital punishment. Life sentences have also become increasingly popular as an alternative to capital punishment in countries that have maintained such (van Zyl Smit, 2002).

With life imprisonment only recently joining as a topic of increased scholarly concern in legal and social science literature, I have noticed several emerging patterns of particular interest. First, the literature has so far struggled with definitional issues around life imprisonment (van Zyl Smit; 2002; van Zyl Smit, 2010; Gottschalk, 2012; Ogletree & Sarat, 2012). In the United States, life sentences are typically imposed with or without the possibility of parole. The latter is frequently referred to as LWOP, “natural” life, or a true-life sentence (van Zyl Smit, 2002; Appleton & Grøver, 2007; Ogletree & Sarat, 2012; Gottschalk, 2012; among others). While offenders sentenced to LWOP normally remain imprisoned for the rest of their natural lives, with the very few exceptions of commutation or pardon, the purpose of a life sentence with parole eligibility is to ensure that criminal offenders are not given a guaranteed a date of release from prison, keeping them uncertain about the exact length of their prison sentence, and theoretically allowing for imprisonment for one’s natural life (van Zyl Smit, 2002; Henry, 2012; Gottschalk, 2012).
Maybe because of the many possible definitions used in different countries and jurisdictions, the literature on life sentences has used inconsistent terminology for the different types of life sentences. Henry (2012), for instance, uses the umbrella term “Death-in-Prison” (DIP) sentences for all life sentences (life with and without parole) as well as death sentences. This is due to her observing that in the United States, even life sentences with parole eligibility do not necessarily mean that offenders will be released on parole. As such, she noticed “little practical difference” between the various types of life sentences and the death penalty. Others refer to life sentences with parole eligibility as “regular” (Wright, 1990). The terms “indefinite” or “indeterminate” have also been used to describe life sentences with parole eligibility (van Zyl Smit, 2002; van Zyl Smit, 2010; Nellis, 2010; Schartmueller, 2014). Finally in the European context, van Zyl Smit (2010) employed the terms “reducible” and “irreducible” that equate to life with and without parole, respectively.

Much of the research on life imprisonment has so far narrowly focused on different aspects of the LWOP version of a life sentence (Cheatwood, 1988; Wright, 1990; Wright, 1991; Appleton & Grøver, 2007; Johnson & McGunigall-Smith, 2008; Leigey, 2010; Ogletree & Sarat, 2012). In countries with the death penalty, most notably the United States, life imprisonment, especially in the form of LWOP, has become an increasingly popular alternative to capital punishment (van Zyl Smit, 2002; Ogletree & Sarat, 2012). Not only is life imprisonment, even in the form of LWOP, now considered a cheaper alternative to the death penalty, death penalty opponents even believe that LWOP is a “milder alternative to the unique harshness of capital punishment” (Ogletree & Sarat, 2012, p. 3).

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17 When advocating for LWOP over capital punishment, death penalty opponents frequently argue that “death is different.” In case an innocent person was put to death, the wrong could not be undone (Ogletree & Sarat, 2012).

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Regardless of the reasons for its increased use, the growth of the LWOP population in the U.S. has not even closely been met by the surge in the lifer population with parole eligibility. In three different reports, the Sentencing Project found that the lifer population with parole eligibility exceeds the LWOP population in most U.S. states (Mauer, King, & Young, 2004; Nellis & King, 2009; Nellis, 2013). In 2012, for instance, about 160,000 prisoners, or every ninth prisoner, were serving life sentences in American prisons. While roughly 50,000 were serving LWOP, the remainder (about 110,000) served life with parole eligibility (Nellis, 2013). This is primarily due to life sentences having become increasingly attractive for particularly violent and habitual offenders in many U.S. states, at times when a growing tough-on-crime sentiment has called for harsher punishment for such offenders (Nellis & King, 2009, Schartmueller, 2014).

Meanwhile in Europe, the University of Nottingham in Great Britain has launched a research project entitled *Life Imprisonment Worldwide*, with the goal of publishing a book about the use of life imprisonment on a global scale. The research team, which is headed by Professor van Zyl Smit, investigates the imposition of life sentences and their implementation in a comparative perspective around the world. The researchers are particularly interested in exploring what types of crimes lead to life sentences and how the conditions of confinement for life-imprisoned offenders compare across various countries (Life Imprisonment Worldwide, 2015).

Besides this large-scale comparative study, no European-wide comparative analyses on the imposition and implementation of life imprisonment have been conducted so far. Against the backdrop of its widespread use in European countries, the gap in the literature on the role and use of life imprisonment in the European countries’ penal policy realm might seem surprising, as
life-imprisoned offenders form a distinct group of long-term offenders due to the uncertainty of release from prison. As the majority of European countries with life sentences on the books only require a life-imprisoned offender to serve a minimum term as specified by law, these countries have mechanisms in place to review the life sentence after the minimum term was served, leaving the offender uncertain about the exact date of release and theoretically allowing for a “natural” life sentence if any required “release criteria” are not met by the prisoner.

The literature analyzing or comparing prison-release mechanisms available to lifers and all prisoners is particularly thin. The lack of research on parole or, as most European countries refer to it, conditional release and (more generally) prison-release mechanisms is especially visible in the European context, as most criminological and criminal legal research has focused more on the imposition of a prison sentence rather than on specific prison-release mechanisms. This is despite the fact that release procedures for prisoners are significant for analysis, as they indicate how a specific society deals with the ones that have lost their liberty and want to regain it (van Zyl Smit & Spencer, 2010). Analyzing prison-release mechanisms alongside the imposition of prison sentences and penal confinement can thus be an important tool for understanding state power.

In a fundamental book that addresses this lack of research on prison-release mechanisms in Europe, Padfield, van Zyl Smit, and Dünkel (2010) highlight that the use of parole as a release mechanism for most prisoners in European countries has been a central component of penal policy for a long time and is deeply rooted in shared values about liberty and the rule of law. For that reason, European countries have long worked together on establishing standards for early

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18 On average in Scandinavia, prison sentences are fairly short, only exceeding three years in roughly twenty to thirty percent of cases. In the majority of the other European countries, sentences are on average slightly longer (Aebi & Delgrande, 2014). For this reason, the Council of Europe uses the definition for “long-term imprisoned offenders” as any individual serving a sentence of five years or more (Council of Europe, Rec 2003(23)).
release within the framework of the Council of Europe and have more recently attempted to harmonize their judicial policies within the European Union (EU).

In this study, I carefully explore the differences between the “content” and the broader "social meaning" of life imprisonment in the Scandinavian countries. Based on my review of the scholarly literature on life imprisonment, I organized my study on life imprisonment into three parts. I use the term “life imprisonment” as a category that refers to the imposition of a life sentence, conditions of confinement for life-imprisoned offenders (or what some have referred to the imposition or enforcement of the sentence), and release mechanisms available to them. I analyze all three of these phases of life imprisonment in detail in the context of Denmark’s, Finland’s, and Sweden’s penal policy apparatuses. I consider it important to divide life imprisonment into these three phases, as I, lending from Garland (2010), treat this form of punishment as a complex punishment institution. Complexity here has several dimensions. It first refers to life imprisonment being the ultimate form of punishment in the three countries and to it thus taking on a specific role in the countries’ penal systems. Complexity also refers to having different actors involved in the various phases of life imprisonment (sentencing, confinement, and release). Furthermore, life imprisonment has a temporal dimension different from other prison sentences, especially when considering the release process. This adds to its complexity. Chapters III to VI compare and contrast these complexities in Denmark, Finland, and Sweden in detail.

I.G. Research Methodology and Chapter Outline

I.G.1. The Research Questions

By embedding the use of life imprisonment in the historical context of the development of penal policy in Scandinavia, I explore what the overarching goals of punishment have been in
Denmark, Finland, and Sweden. I examine whether these goals have changed over time and how they have been rationalized by various players involved. These players are public officials, the media, governmental and non-governmental institutions that are dealing directly or indirectly with life imprisonment in their countries. I then attempt to determine to what extent these goals have been met when it comes to policies regarding life-imprisoned offenders. As such, I organize my study around three research questions that I present in Table 1-1.

Table 1-1

*Three Research Questions*

| I. | What can the role of life imprisonment in contemporary Denmark, Finland, and Sweden reveal about the traditionally penal welfarist understanding of punishment that consider the prison a punishment of last resort? |
| II. | By analyzing the imposition of a life sentence, conditions of confinement for life-imprisoned offenders, and release mechanisms available to them, how does the use of life imprisonment compare between the Scandinavian countries Denmark, Finland, and Sweden? |
| III. | To what extent has the role and use of life imprisonment in these countries been affected by the increased politicization and media exposure of penal political issues, commonly observed in late modern society? |

I.G.2. The Purpose of a Mixed-Methodological Approach

In an effort to find answers to my three research questions and to discuss and analyze the social foundations, understanding, and use of life imprisonment in the Danish, Finnish, and Swedish penal context over time, I apply a mixed-methodological approach in this study. By combining quantitative and qualitative methods, my goal is to compare and contrast trends in the imposition and enforcement of life sentences and release mechanisms pertaining to lifers in the three countries as well as to capture the complexities of the debates around life imprisonment over time.
A mixed-methodological approach has become increasingly popular in social science research as a “response to the long-lasting, circular, and remarkably unproductive debates discussing the advantages and disadvantages of quantitative versus qualitative research as a result of the paradigm “wars” (Feilzer, 2010, p. 6). A mixed-methodological approach allows for a more complete analysis of a complex situation, allowing for describing, explaining, and understanding both trends and details of that specific situation (Ivankova, Creswell, & Stick, 2006). For my study, a mixed-methodological approach is particularly valuable for capturing the trends and details of life imprisonment in three different countries in a historical perspective. By noting that available statistical data on imprisonment rates and average lengths of sentences can lend support to describing some countries as being more punitive than others, I go beyond the “straight-forward” categorization of these ratios in this study. I strongly believe that such a quantitative ranking of the levels of penal leniency or penal punitiveness does little to address the socially-, culturally-, and historically-situated meaning of these ratios.

Consequently, I combine the interpretation of statistical data with qualitative methodology. In qualitative research, the perspectives of individuals who conducted the research or who participated in it are emphasized (Creswell & Miller, 2000). In order to learn about what role life imprisonment plays in Denmark, Finland, and Sweden in a historical perspective and what challenges come with its imposition, enforcement, and release mechanisms, a combination of comparative historical research, media report analyses, and primary data collection through interviews makes up the qualitative component of my study. A combination of various qualitative methods can be considered a helpful tool for identifying major and minor themes in a research study and eliminating others (Creswell & Miller, 2000). Only by describing in historical detail the cultural and political context out of which the policy approaches towards life
imprisonment in the three countries emerged and by retelling the discourse of individuals dealing
directly or indirectly with life imprisonment on a daily basis in these countries, could I do justice
to the prerogatives of Garland’s theoretical framework that views punishment as a complex
social institution. By emphasizing the relationship between punishment and society in a
historical perspective, the object of my study became life imprisonment “not as such” but the
“life imprisonment complex” (Garland, 2010, p. 14). This included many of the discursive and
nondiscursive practices through which life imprisonment has been enacted, represented, and
experienced in the Danish, Finnish, and Swedish penal systems and society. I aim at conjuring an
image of the contemporary practice of life imprisonment, which I approach by a description of
words and images that appeared in the country-specific punishment discourse (Garland, 2010).

Starting with the quantitative component of my study, the direct comparison of numerical
data provides the basis for depicting historical punishment trends and patterns in the three
countries. However, I analyze and interprete only readily available official statistical data on the
countries’ penal systems and other components of their criminal justice systems and did not
collect any statistical data myself. From Denmark, I examine prison population data as well as
the number of life-imprisoned offenders therein. I retrieved the Danish data from the official
website of the country’s Department of Prison and Probation (Kriminalforsorgen). Finnish data
came from the Finnish Criminal Sanctions Agency (Rikosseuraamuslaitos). Finally, I requested
Swedish data from the Swedish Prison and Probation Service (Kriminalvården) and the Swedish
National Council for Crime Prevention (Brottsförebyggande Rådet). In addition, I retrieved data
on all three countries from Eurostat, the statistical office of the EU and the Organization for
Economic Cooperation and Development (OECD).¹⁹ Throughout my study, I provide graphs and tables, which I personally put together, to better illustrate the historical data in a comparative perspective.

Turning to the qualitative component of this research, the first part of my study relies heavily on a comparative historical reading of legal texts, historical texts, and a review of the scholarly literature on penal policy. I begin this study with a tracking of the origins of life imprisonment in Denmark, Finland, and Sweden, and a comparative analysis of its development and use over time. The historical method for understanding the “meanings” of punishment within a society was already described by Nietzsche (1989, p. 80) in the Genealogy of Morals, first published in 1887, and also cited in Garland’s work. Only by distinguishing between the “enduring” (the custom, the act, and the “drama”) and the “fluid” aspect of punishment (the meaning, purpose, and expectations) can its origins and purposes be understood (Nietzsche, 1989, pp. 76-79). The historical and comparative analysis of the country-specific penal codes also provides my study with a base for understanding the subtle differences in the countries’ penal policy approaches today. With Almquist (1931, p. 197) noting in an early comparative analysis on Scandinavian prisons that “legislation [in general in the Scandinavian countries] has on the whole followed similar lines of development without being completely identical,” I rely on his observation and compare and contrast penal legislation in these countries in a historical perspective.

I have collected the data from legal texts and historical sources through an extensive literature review online and in numerous libraries. I have read the historical literature on the

¹⁹ The Organization for Economic Co-operation and Development (OECD) tracks demographic and economic data from its member countries and selected non-member countries and compiles them on its website at http://stats.oecd.org
countries’ penal codes and have examined major legal reforms in the Scandinavian countries’ penal realm, which I link with the separately collected statistical data on crime rates and general prison population counts. With Norway not being a focus of this research but with its history being intertwined with the other Scandinavian countries, I make occasional reference to Norway throughout this study. Also, some of my interviewees have taken part in this data collection technique by providing me, upon my request, with specific sources, which they found important for me to include in this study. This specific data collection technique can be seen as an additional tool to help build the research participants’ views into this study and in that way increase the validity in qualitatively informed research (Creswell & Miller, 2000).

In order to grasp the contemporary debates around life imprisonment in Denmark, Finland, and Sweden, I complement the comparative historical research with an analysis of discourse on this topic taken from both primary data collection through interviews and secondary media report analyses. The purpose of the interviews was less to compare and contrast the individual answers the interviewees gave but to capture the overall tone and perceptions the interviewees had about life imprisonment in their country and to compare and contrast those country-specific perceptions with one another. By highlighting the “discursive practices” through which life sentences are implemented and through which life imprisonment is enforced and experienced in the Scandinavian criminal justice systems and society, I aim at shedding light on this form of punishment not just as such but as a complex punishment institution (compare with Garland, 2010, p. 14).

I.G.3. Description of the Interview Process

I set up my interviews with the intention to hear the voices of a wide range of individuals working in different components of the three countries’ criminal justice systems (police, courts,
institutional and community corrections, and victim’s advocacy groups) as well as political figures involved in drafting penal policy legislation, prisoner organization representatives, and other relevant actors. A second goal was to interview similar representatives in all three countries (e.g., at least one judge in Denmark, Finland, as well as Sweden). Both of these goals became quite difficult undertakings. Unfortunately, I did not manage to interview representatives from all components of the countries’ criminal justice systems. Most importantly, representatives from police in all three countries did not agree to participate. Also, although I managed for the most part to interview similar representatives in all three countries, some of the interviewees did not have a matching counterpart in at least one or sometimes even two of the three countries. For instance, I interviewed a victim advocate and prisoner organization representative in Denmark but not in the other two countries. Similarly, I interviewed a member of the Swedish parliament but could not get similar representatives to participate in the other two countries. Table 1-2 below shows the number of interviewees per country and their professional affiliations. I conducted a total of twenty-one interviews (6 in Denmark, 8 in Finland, and 7 in Sweden). Sixteen of my interviewees were female (76%) and five were male (24%).

Table 1-2

Overview of the Interviews (conducted in between January-May 2015).

<table>
<thead>
<tr>
<th>Country</th>
<th># of Interviewees</th>
<th>Professional Affiliations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Denmark</td>
<td>6</td>
<td>2 district court judges, 1 representative from the Ministry of Justice, 1 representative from the Department of Prison and Probation, 1 victim rights advocate, 1 representative from a non-profit prisoner organization</td>
</tr>
<tr>
<td>Finland</td>
<td>8</td>
<td>2 appeals court judges, 1 court personnel, 1 prosecutor, 1 representative from the Ministry of Justice, 3 representatives from the Criminal Sanctions Agency</td>
</tr>
<tr>
<td>Sweden</td>
<td>7</td>
<td>1 district court judge, 1 prosecutor, 4 representatives from the Prison and Probation Service, 1 member of the Swedish parliament</td>
</tr>
</tbody>
</table>
Before deciding about which individuals to contact for my interviews, I reviewed the relevant literature and searched websites to learn about the criminal justice organizations in Denmark, Finland, and Sweden. On the organizations’ or agencies’ official websites, individual or organizational contact information was provided. Following Institutional Review Board (IRB) approval at Northern Arizona University, I sent individual recruitment request emails in English directly to these actors. If they were part of a larger organization (e.g., a prison and probation agency), I sent an organizational recruitment letter, also in English, to the agency’s general email address to ask for permission to recruit individuals from that agency for interviews. Sometimes, my individual recruitment letters were forwarded to individuals who were deemed more suitable for an interview than those I initially contacted. This was either due to certain individuals than the ones I initially contacted within that agency being more familiar with the issue of life imprisonment or due to others being more knowledgeable of the English language. Finally, some of my initial interviewees helped me connect with other individuals who they considered important for me to interview on the topic of life imprisonment.

I conducted all of the interviews during the months of January and May 2015. I interviewed the majority of individuals via the use of the free Internet phone service Skype; yet, some of the interviewees preferred the use of a regular phone. A select few of the interviewees also emailed written responses to my interview questions, perhaps because they felt more fluent about their written English language than their spoken English. In order to minimize the problem of any language barrier, I decided to provide my interviewees with the questions beforehand (through an email attachment), so they were given some time to prepare for the interview. The fact that my interviewees knew the questions beforehand also maximized my interview results, as my interviewees could take some time to prepare for our conservation. As I noticed while
conducting the interviews, my interviewees appeared to be very well prepared when answering the various questions I asked them.

My interviews were semi-structured and consisted of six open-ended questions. The questions can be reviewed in Appendix 3 of my study. Before I started asking the actual interview questions, I gave the interviewees time to raise any concerns they might have about the study and to ask additional questions about the purpose of my study. I also requested that they give their verbal consent to participate in the study. At that time, I informed each interviewee that they could skip any of the questions that they did not wish to answer. This format allowed the interviewees to determine for themselves how much they wanted to participate in this research. I then opened the actual interview with a question about the individual’s work and in what way their work was affected by life imprisonment. I used this question to learn more about my interviewees and to break the ice for the more specific questions about life imprisonment. I developed the following interview questions (questions 2-6) upon review of the literature and by making sure that at least one question would address each of the three aspects of life imprisonment: the imposition of a life sentence, conditions of confinement for life-imprisoned offenders, and lifer release mechanisms. I asked questions about their professional opinions regarding life imprisonment (their opinions regarding the current process and any reform suggestions to improve the current process), but I was also curious about their observations regarding the media and political debates surrounding life imprisonment in their countries.

I did not record the interviews, yet only took handwritten or typed notes. Most of my notes were not verbatim. Only on a few occasions, I wrote down said words verbatim. I marked a direct quote with quotation marks, some of which I reproduce in this study. On several occasions after I had conducted the initial interviews and while I was in the writing process, I emailed my
interviewees and asked them brief follow-up questions. This was done to clarify certain gaps that had emerged while reviewing the interview notes. Follow-up questions also allowed me to request more information on the minor and major themes that had emerged through the various interviews (Ivankova, Creswell, & Stick, 2006).

The interviews were estimated to last about thirty to forty-five minutes. Yet, the majority of the interviewees took a somewhat longer time, and the average interview lasted fifty minutes. The shortest interview lasted thirty minutes, while the longest interview lasted one hour and forty-five minutes. I treat the interviewees’ responses as confidential. This means that I do not include any personal identifiers such as names, addresses, or ages in my study results. The only identifiers that I disclose are countries of origin and professional affiliations (see Table 1-2 above). Without these identifiers, the comparative component of this research, the analysis of the similarities and differences of life imprisonment in Denmark, Finland, and Sweden would become irrelevant.

As a last step in this research, I include an analysis of select media reports from the print media and various television outlets. All of the articles and video clips, which I analyze for the purpose of this research, were accessible online and were published in the time period of 2008 and 2014. The news reports were written in Danish, Finnish, or Swedish, and only a select few were in English. I translated all of the foreign-language reports into English for the exclusive purpose of this research. This means that the translations which I provide throughout this study fall under my discretion. Adding media report analysis to my study serves three important purposes. First, the media reports complement the interview results by adding an analysis of additional discourse to the study. Second, the media reports add discourse around life imprisonment from life-imprisoned offenders themselves including their full names, age, and
crime information, relatives of murder victims, and several other actors who could not be interviewed for the purpose of this study. This was either because they did not agree to be interviewed or they were excluded from the recruitment process due to confidentiality concerns. The latter refers in particular to the offenders themselves and the relatives of the victims. Additional IRB approval would have to be sought if primary data would have been collected from these individuals, as they are considered part of a “sensitive” class by the university. Finally, the media report analysis compares and contrasts the discourse around life imprisonment in the three countries examined. An exclusion of media reporting on this issue would have made an analysis of contemporary debates much more difficult and incomplete.

I.G.4. Study Outline

I divided this study into eight chapters. Chapter I introduces the study in general terms and provides a brief overview of Scandinavian penal policy as a topic of research interest. After a brief introduction of Garland’s sociology of punishment and its designation as my theoretical framework, I discuss its usefulness for a comparative historical study of a specific punishment institution, life imprisonment, within the Scandinavian context. I then review the scholarly literature on life imprisonment and find that the literature has so far been inconsistent in its use of life imprisonment terminology and focuses on the sentencing rather than confinement and release aspect of a life sentence. Finally, I sketch my research methodology, which consists of secondary statistical data analysis, comparative historical research, media report analyses, and primary data collection through semi-structured interviews.

Chapter II, titled *Comparing Denmark, Finland, and Sweden*, provides a broad overview of the cultural, social, political, and economic similarities and differences between the Scandinavian countries. This lays the foundation for the comparative study of the countries’
penal policy approaches over time. Influenced by Pratt (2008) and Pratt and Eriksson (2011), I address basic demographic and societal characteristics such as religion and homogeneity. I consider these characteristics the basis of the strong sense of egalitarianism in the Scandinavian countries that developed into and led to the foundation of the Nordic welfare state based on ideals of equality and universalism. Chapter II also addresses similarities and differences in the countries’ economic and political systems. This broad comparison shows that the Scandinavian countries have intertwined histories but have also undergone quite different phases in their state formation and country-specific developments over the past centuries. Finally, Chapter II includes an introduction to the European penal-legal framework, as international organizations such as the Council of Europe and the European Union, of which the three countries are all members, have provided important penal-legal guidelines for its member states in the past few decades. As I demonstrate, this European penal-legal framework cannot be ignored in an analysis of Danish, Finnish, and Swedish penal policy implementation.

Chapter III is titled *Scandinavian Penality*. It traces the origins and the development of the country-specific penal policies and their historical development. I explore the origins of the countries’ penal codes (sometimes also referred to as “criminal codes”) and examine when and how imprisonment became a mode of punishment and how it compares to other forms of punishment in Denmark, Finland, and Sweden. I then pay particular attention to late modern developments in the penal policy realm by comparing reported crime trends and imprisonment rates within the three countries as well as the extent of recent penal-legal reforms. I discuss recent societal changes such as increased immigration and the growing importance of the media in shaping public opinion, both of which changes have affected the penal realm. I also address other late modern societal changes such as the increased politicization of penal policy-issues and
the emergence of a victim-centered discourse in recent decades. These late modern societal developments in the penal realm are what I then discuss in more detail in the context of life imprisonment.

Chapters IV to VII focus on the punishment institution of life imprisonment. In order to stress the complexities of that institution, I divide it into three phases: the imposition of a life sentence, penal confinement of life-imprisoned offenders, and release mechanisms pertaining to lifers. In Chapter IV, I focus on the imposition of life sentences. I examine which crimes are punishable with life, how the lifer population in each country has developed over time, what the basic characteristics of offenders sentenced to life are, and what the average length of a life sentence has been. Tables and graphs showing data from the countries’ respective prison administrations and statistical bureaus show annual developments. I also compare and contrast answers to the interview questions pertaining to the imposition of life sentences in the three countries.

In Chapter V, I compare and contrast the second phase of life imprisonment, the conditions of confinement for life-imprisoned offenders. I investigate how a typical life sentence is organized in the three countries and how life-imprisoned offenders compare to prisoners serving definite time sentences. I compare and contrast the answers to the interview questions pertaining to penal confinement. Chapter VI provides an in-depth comparison of the release mechanisms pertaining to lifers. I first pay particular attention to the modification of the governmentally-steered lifer-release clemency process with a new judicial process which happened over the course of the past two decades in all three countries. The judicial processes allow for the reevaluation of a life sentence and allow the life-imprisoned offenders in all three countries to get released after they have served a minimum legally-specified time in prison and
after they have met certain release criteria. In all three countries, the decision-making now involves a court. Yet, there still exist profound differences between the reforms, all of which I carefully lay out in this research. More specifically, I discuss the important differences between these processes that pertain to the type of decision made, the deciding institution, and the status of the lifer upon a positive (release-granting) decision. From there, I infer what these reforms might reveal about the role of life imprisonment in the Danish, Finnish, and Swedish penal policy realms and the punishment’s relationship to society. What were the main reasons behind the legal modifications in the three countries? Were they a reflection of increasing dissatisfaction with the current policies regarding life imprisonment, or more broadly, a reflection of a turn towards more punitiveness that possibly root in larger structural transformations as experienced in other late modern societies? Was life imprisonment in these countries all of a sudden considered as too “lenient?”

By discussing the contemporary understanding and use of life imprisonment in the Scandinavian countries, the question also arises as to what policy and lawmakers specifically and the general public more broadly believe the general purpose of punishment should be and how it has been justified over time to impose a life sentence. The fact that lifers are given the chance to get released from prison after a minimum amount of time served might illustrate seemingly well the relatively moderate penal environment in the Scandinavian countries. Hence, in Chapter VII of this study, I explore more in-depth the contemporary media and political debates regarding life imprisonment. I also include a brief discussion about the extent of the victim (in murder cases: relatives-of-the-victim) concerns in cases that lead to a life sentence.

The concluding chapter of this research presents the findings of my study. I revisit Garland’s theoretical framework and especially his concept of penal welfarism. By reconnecting
the three phases of life imprisonment to highlight the form of punishment’s complexity, I discuss the application and usefulness of the penal welfarist concept for this comparative study. I also address U.S. implications of this study. Finally, I touch upon this research’s limitations and explore the possibilities for future research, of which there will be a guaranteed many.
CHAPTER II:
COMPARING DENMARK, FINLAND, AND SWEDEN

Denmark, Finland, and Sweden are often, together with Iceland and Norway, referred to with the umbrella term Scandinavian or Nordic. This is because these countries share many cultural, social, political, and economic characteristics. These have allowed speaking of a single Scandinavian or Nordic region or cluster. Despite the many similarities between the Scandinavian countries, subtle cultural, social, political, and economic differences should not be overlooked. As punishment in late modern society is a historical outcome, only a cautious comparison of the cultural, social, political, and economic history of the countries examined, will yield crucial insight into the shape and size of contemporary penal policies in each of the countries examined (Garland, 2001). In this chapter, I provide a broad overview of the many similarities and differences in the cultural, political, social, and economic spheres between the Scandinavian countries. I include Norway in this comparison, as much of its history overlaps with that of its neighbors Denmark and Sweden. This background provides the necessary background for a comparative analysis of Danish, Finnish, and Swedish penal policy, which is the basis of the following chapter, and the role of life imprisonment therein, the issue of concern in the remainder of my study.

II.A. Scandinavian Demographics

Situated in the very Northern part of the European continent, the area of Scandinavia is typically considered a fairly isolated collective of countries in both geographic and cultural terms (Alestalo & Kuhnle, 1986). Geographically, the concept of Scandinavia has been applied to the

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20 I excluded Iceland from this comparative study due to its very small size in terms of both area and population and geographical distance from the other Scandinavian countries.
area of the Scandinavian Peninsula surrounded by the Arctic Ocean in the North, the Atlantic Ocean in the West, and the Baltic and the North Sea in the South-East (Kildal & Kuhnle, 2005). On this peninsula, the countries Norway and Sweden are situated. Due to interrelated histories and similar cultural patterns, the countries Denmark, Iceland, and Finland are now also included in the Scandinavian concept (Alestalo & Kuhnle, 1986). Others would apply the term “Nordic” rather than Scandinavian when referring to the region situated in the Northern “margins of Europe” (Tägil, 1995; Takala, 2004; von Hofer, 2004).

Figure 2-1
Map of Scandinavia.

In a European comparison, Finland, Norway, and Sweden are small in population but large in geography. Sweden is the fifth largest country in Europe and largest Scandinavian country by area. In terms of population however, it only ranks fifteenth in Europe (see Table 2-1 below). Similarly, Norway ranks sixth in area in Europe but only twenty-third in population, and Finland ranks eighth in area but only twenty-first in population. In contrast, Denmark is small in both area and population in a European comparison. Denmark is the smallest of the four Scandinavian countries in area but still slightly larger in population than both Finland and Norway (see Table 2-1 below).

Table 2-1

*Scandinavian Population by Country, as of January 1\(^{st}\), 2013.*

<table>
<thead>
<tr>
<th>Country</th>
<th>Population Size</th>
<th>European Rank (of 39 countries)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Denmark</td>
<td>5.6 million</td>
<td>20(^{th})</td>
</tr>
<tr>
<td>Finland</td>
<td>5.5 million</td>
<td>21(^{st})</td>
</tr>
<tr>
<td>Norway</td>
<td>5.1 million</td>
<td>23(^{rd})</td>
</tr>
<tr>
<td>Sweden</td>
<td>9.6 million</td>
<td>15(^{th})</td>
</tr>
</tbody>
</table>


The relatively low population density in the Scandinavian countries has primarily resulted from geography and the historically harsh living conditions in the Northern periphery of Europe. Scandinavia is covered by large forests, mountains, and lakes. Winters tend to be long, dark, and cold. The majority of Scandinavian peoples in the Middle Ages settled in the coastal regions. Hence, it is not surprising that up until today the Scandinavian countries maintain their ties primarily over sea, the North and Baltic Seas, rather than overland (Alestalo & Kuhnle, 1986). Despite not being located on the Scandinavian Peninsula, Denmark, on the continental mainland, has long been oriented as much towards its northern neighbors Sweden and Norway as towards Germany in her South. This orientation towards the North stems from cultural and historical ties with the other Scandinavian countries.
In the late Early or High Middle Ages, kingdoms in Denmark, Norway, and Sweden were formed. The conversion to Christianity and the gradual abandonment of old pagan rituals and cults also played a key role in the establishment of the Scandinavian kingdoms during that time. However up until the sixteenth century, royal power was not centralized in Scandinavia (Sawyer & Sawyer, 1993). Furthermore, Scandinavian people were, by and large, organized into small units, and a powerful land-owning upper class did not form to the same extent as in continental Europe and England. The few towns and even the capitals (Copenhagen, Helsinki, Oslo, and Stockholm) were relatively small and remained sparsely populated. The nobility only amounted to about one percent of the Scandinavian population (Nordstrom, 2000). In early modern Norway, about eighty percent of the land was owned by local farmers. The Crown, nobility, and the Church held only a small amount of land in comparison to the farmers. In contrast, the Church and nobility owned a higher percentage of the land in both Sweden and Denmark, with the Church even being the primary landowner in Denmark (Nordstrom, 2000).

In these small provincial communities in the Northern European periphery, class did not play a vital role in structuring society, such as it did in continental Europe during that time (Pratt, 2007). In all of the Scandinavian communities, small local governments regulated the affairs of their own districts. Overall, the local governments were fairly equal in size and power and were able to make autonomous decisions. While the first provincial law codes date back to around 1200, “national” law codes were only implemented in the thirteenth and fourteenth century in Norway and Sweden (Finland was part of Sweden at that time) and only in the late-seventeenth century in Denmark (Bondeson, 2007). In 1380, however, Denmark and Norway established a dynastic union, in which Norway gradually lost its autonomy from Denmark (Nordstrom, 2000).
In the High Middle Ages, provincial self-governments (*tings*) started developing in Scandinavia (Sawyer & Sawyer, 1993). The *tings* were considered the governing assemblies of their provinces, where selected members from the province would come together to discuss matters important to their region and to establish laws regulating community matters. Although the kings could influence the laws, the assemblies ruled by consent, and if rules were to be changed the assembly required the support of community members. However, as soon as the local governments were expected to implement the legal rules of the provincial assemblies, royal intervention even started to spread to the local communities. Still in turn, the kings in each of the Scandinavian kingdoms had to be accepted or at least recognized by popular assemblies in their respective territories (Sawyer & Sawyer, 1993).

During that time, the Kingdoms of Sweden, Denmark, and Norway formed a political alliance called the Kalmar Union. The main motivation behind the alliance was fear of the Hanseatic League, a Northern German commercial confederation of seafaring merchants (Sawyer & Sawyer, 1993). As German Hanseatic towns tried to gain power through increased shipping activities in the region during the late Middle Ages, the Kalmar Union was established to protect the Scandinavian kingdoms and to challenge the trade monopoly of the Hanseatic League in the Baltic Sea (Derry, 1979). In order to best counter the Hanseatic League’s influence, a single monarch should conduct the Kalmar Union’s foreign-policy affairs, while domestic affairs should remain to be governed by the separate royal entities.

In Pratt’s analysis of the characteristics of Scandinavian penal policy (2008), the sparse populations and the vast territories with unproductive land played an important role in shaping culture. These conditions hindered the establishment of a feudal society and laid the foundation

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21 Finland was then part of Sweden, which meant that it was (indirectly) also part of the Kalmar Union during that time.
of the social structure of today’s Scandinavian society. This organization of pre-modern Scandinavian society had important implications on how the punishment of criminal offenders was later viewed (compare with Pratt, 2007). Pratt’s analyses take me once more back to Nietzsche. In his writings On the Genealogy of Morals, first written in 1887, Nietzsche (1989) traced the origins of the concepts “good,” “bad,” and “evil,” with the latter two often applied as justifications for punishment, in ideas about low social status. He found that in continental Europe and specifically in Germany, the punishment of criminal offenders developed out of mechanisms used to discipline and degrade slaves (also discussed in Whitman, 2003, p. 31). He further highlighted that punishment initially based on social status soon developed into punishment primarily based on moral goodness (Nietzsche, 1989; also discussed in Whitman, 2003). In more egalitarian-based societies, such as the Scandinavian countries, where society has evolved out of an underdeveloped class structure, it can thus be suggested that punishment evolved for different reasons and has served purposes other than consolidating social status.

II.B. Religion

Apart from the basic organization of society which was largely impacted by geography, religion played an important role in defining the purpose of punishment in Europe (see, among others, Pratt, 2008 and Pratt & Eriksson, 2011). In contrast to other parts of Europe, the Catholic Church in the Scandinavian kingdoms remained much more secularized over the course of the Middle Ages. This was not only due to less wealth, which the church primarily received from artistic treasures and the collection of gold and silver but also due to less involvement in politics and royal affairs (Sawyer & Sawyer, 1993). At the beginning of the sixteenth century, however, the entire Northern European region was Catholic, and the church owned quite a substantial amount of cultivatable land in Denmark and Sweden (Nordstrom, 2000).
Over the course of the sixteenth century, Lutheran writings spread from continental Europe to the Christian kingdoms in Northern Europe. Against the backdrop of strong royal support and a lack of resistance of bishops and clergy, the Lutheran Church soon gained a particularly strong foothold in the Swedish and Danish kingdoms. When the Kalmar Union was dissolved in 1523, Gustav Vasa was elected King of Sweden. Through the confiscation of Catholic Church property and the justification of these actions by referring to the teachings of Martin Luther, King Gustav Vasa was finally able to establish a strong centrally-administered state (Bondeson, 2007). Similarly in Denmark, where the power of the nobility and the Catholic Church had increased, Christian II considered Lutheran ideals useful in breaking that power and initiating political reform. A few decades later, his successor Christian III was then able to consolidate these ideals and the king became the head of the national church a few years later (Nordstrom, 2000). With such royal support, the Lutheran Church managed to take over the entire Nordic region by 1600, with the wealth of the Catholic Church and their land gradually being transferred to the kingdoms.

Lutheranism taught that each individual must build a close relationship with God and, in contrast to Catholicism, the church (in the form of a priest or the pope) as an intermediary between God and each individual church member becomes irrelevant. In other words, each individual was believed to hold the same kind of relationship with God. Lutheran teachings thus helped to create a sense of “equality” among citizens that was stronger than in Catholic regions in continental Europe at that time. Lutheran teachings also considered criminal behavior as a “multitude of earthly sins,” and since everyone in society was a sinner to some extent, criminals were not considered dangerous outsiders with whom something was severely “wrong” (Pratt & Eriksson, 2011). For these reasons, Luther rejected the dichotomy between saint and sinner, as he
argued that each individual must be seen at the same time as a saint and a sinner (Pratt & Eriksson, 2011; 2012).\textsuperscript{22} Even though crime was committed, offenders would still remain part of their communities, which they came from and in which they lived (Pratt & Eriksson, 2011). Such thinking would even extend to the most serious criminal offenses, specifically to murder. In a letter to his friend and collaborator Melanchton (1521, p. N/A), Luther remarked that “through God's glory we have recognized the Lamb who takes away the sin of the world. No sin can separate us from Him, even if we were to kill or commit adultery thousands of times each day.”

The Reformation also played an important role in the consolidation of the native languages in Northern Europe (Derry, 1979). In Sweden, King Gustav Vasa who was responsible for converting the Swedes to Lutheranism at the beginning of the sixteenth century, ordered to translate the New Testament into Swedish. Until then, it was only available in Latin. Around that time, translations of the New Testament into Danish and Finnish were also underway. The exception in this context was Norway, as Danish became the language of the New Norwegian church during that time (Nordstrom, 2000). Also, Norway did still not have its own printing press at that time (Derry, 1979).

Finally, against the backdrop of the religious transformation, the authority of the Crown and the wealth of the state were substantially increased at the expense of the Church. This happened not only in terms of property but also political power. In fact, a central idea of Lutheranism as compared to Catholicism was to take any legislative capacity from ecclesiastical bodies and instead provide royals with that power (Wyller, van deen Breemer, & Casanova, 2013). This was exactly what the kings hoped for when supporting the spread of Lutheranism in the Scandinavian region during that time. Meanwhile, the clergy became a royally-dependent

\textsuperscript{22} In Latin, Luther wrote “simul iustus et peccator”.

55
social class, which still remained highly influential in local affairs (Nordstrom, 2000). In short, the Reformation was thus not only a major event in the religious lives of the Scandinavian peoples but it also played a significant role in the establishment and consolidation of the Scandinavian state and the restructuring of society (Nordstrom, 2000).

Starting in the mid-eighteenth century, the European continent then experienced a fundamental societal transformation, both on the ideological and institutional level (Spierenburg, 1984). The Age of Enlightenment progressively shifted the focus from governmental and religious authority to the focus on individuals and individual rights. Instead of religious rule and reason, scientific reason and a strong belief in the perfectability of human beings were introduced into the philosophical debate (see Garland, 2001). Based on the idea of secularism, governmental institutions became more clearly separated from religious institutions, but their authority remained limited. Finally, the separation of power became a doctrine widely embraced across the European continent, following the French Revolution.

This shift of thinking was also experienced in Northern Europe. However, where Lutheran Protestantism had previously already laid the foundation for the secularization of legislation, the transition went more smoothly than on the European continent. Interestingly, Wyller, van der Breemen, and Casanova (2013) refer to Scandinavian political institutions and legislation as having been characterized by “hidden sacrality,” meaning that reference to sacred ideas is not explicit but rather implicitly present.

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23 The causes of the fundamental societal transformation have been discussed by numerous authors and can be, among others, traced in societies’ economic structures (Rusche & Kirchheimer, 1968), the increasing humanitarianism of reformers in modern society (Foucault, 1995), or changing mentalities and sensibilities leading to the “privatization of repression” (Spierenburg, 1984, p. 184).
It is important to note that enlightened ideals about secularism and separation of power led to the first written constitutions in Scandinavia. In Sweden,\(^{24}\) the separation of powers was first introduced in 1772 with the “Instrument of Government” (Regeringsform) which provided the parliament (Riksdagen) and king with shared legislative power (Swedish Parliament, 2012).\(^{25}\) The Norwegian constitution with similar provisions was passed in 1809. The first Constitutional Act of the Kingdom of Denmark (Danmarks Riges Grundlov) was passed in 1849. The political power was separated between the legislative body (Folketinget), the executive, and the courts (see Danish Ministry of Education, 2008).\(^{26}\)

II.C. Societal Homogeneity

Another distinct feature of the Scandinavian countries impacting the culture of the relatively small and equal Scandinavian communities was the lack of immigration to the region up until the twentieth century (Hornum, 1988; von Hofer, 2004; Lappi-Seppälä, 2007; Lappi-Seppälä & Tonry, 2011). As Hornum (1988) pointed out societal homogeneity has lent stability and tranquility to much of Scandinavia’s history, allowing for innovative penal policy experiments. At the same time, recent changes in societal homogeneity have also shown to impact penal policy (Lappi-Seppälä & Tonry, 2011).

Apart from the indigenous people, the Sami, who had settled in the far North of the countries on the Scandinavian Peninsula, the Danish, Norwegian, and Swedish people have long been characterized by a high degree of population homogeneity. As such, population diversity has long been among the lowest in the world (Pratt, 2008; Lappi-Seppälä & Tonry, 2011). The

\(^{24}\) Until 1809, Finland was part of the Swedish empire and therefore also was covered by the 1772 Instrument of Government.


\(^{26}\) See Danish Ministry of Education (2008) for more information about the structure of Danish government and the separation of powers.
exception here is Finland. Resulting from an intertwined history with Sweden, about five percent of the Finnish population (or roughly 350,000 people) are today still Swedish-speaking and consider themselves Swedish Finns (*Finlandsvenskar*). Although their numbers dwindle, their rights flourish, so that sometimes they are described as the “world’s most pampered minority” (Alvarez, 2005, p. N/A). As one example, official Finnish documents (i.e., legal texts) and signs (e.g., traffic and street signs) also have to be translated into Swedish. Swedish is also a mandatory subject for Finnish-speaking students in school. In the Swedish-speaking and bilingual communities, Swedish speakers have their own schools, day- and health-care centers, and local government councils (Alvarez, 2005).

It was not until the second half of the twentieth century and, in particular, the last decade of the twentieth century, that the Scandinavian countries experienced increased immigration into the region (von Hofer, 2002). The countries have since been affected by immigration to varying degrees. The differences stem from the timeframe of immigration, the type of immigration (i.e., guest workers, economic and/or political refugees, or family reunions), and the immigrants’ countries of origins. First, Sweden was the country that experienced immigration earliest and has also received the largest amount of immigrants since (Brochmann & Hagelund, 2012). Following World War II and fast economic development, Sweden started seeing increased immigration of guest workers from Finland and Yugoslavia in the 1950s until the late 1970s. Meanwhile, Denmark was affected by guest worker immigration to a far lesser extent, with a noteworthy amount of Turkish immigrants arriving only during the 1970s (Brochmann & Hagelund, 2012). Finland, on the other hand, has long been a net emigration country, with many Finns moving to neighboring Sweden for work purposes, especially during the 1960s. It was only at the beginning of the 1990s, with the collapse of the Soviet Union, that more people from the Baltic States and
Russia in particular emigrated to Finland for work purposes. More recently, generous asylum laws have facilitated the immigration of refugees from Southeast Asia, Latin America, and the Middle East to all of the Scandinavian countries, but especially to Denmark and Sweden (Nordstrom, 2000).

The varying degrees of immigration to the Scandinavian countries and differences in their immigration regulations can be illustrated by recent Eurostat statistics (see Table 2-2 below). Sweden clearly had the highest percentage of foreign-born inhabitants (15.4%) in 2013. This might indicate higher immigration to Sweden and could also point towards more relaxed naturalization regulations than in Denmark and Finland. The latter assumption becomes even clearer when comparing the percentage of foreign citizens (6.9%) as compared to the percentage of the foreign-born citizens in Sweden. Meanwhile, both the percentage of foreign-born citizens and foreign citizens in the country’s total population are by far the lowest in Finland (see Table 2-2).

Table 2-2

*Percentage of Foreign-born and Foreign Citizens in Total Population, 2013.*

<table>
<thead>
<tr>
<th>Country</th>
<th>Percentage of Foreign-Born</th>
<th>Percentage of Foreign Citizens</th>
</tr>
</thead>
<tbody>
<tr>
<td>Denmark</td>
<td>9.8%</td>
<td>6.7%</td>
</tr>
<tr>
<td>Finland</td>
<td>5.2%</td>
<td>3.6%</td>
</tr>
<tr>
<td>Sweden</td>
<td>15.4%</td>
<td>6.9%</td>
</tr>
</tbody>
</table>

Source: From Eurostat, 2014; own calculations.

II.D. Scandinavian Economic Systems

The sparse populations, vast territories, religious and cultural ideals, intertwined political histories, as well as the historical lack of immigration and population homogeneity, have also impacted the development of the economic system typical of the Scandinavian countries. Although the countries have similar economic histories, especially in the formation of society as
described above, they also underwent some different economic experiences, especially over the course of the twentieth century. The Scandinavian countries had long been predominantly agrarian and, as discussed above, strongly localized. In the latter half of the nineteenth century, all Scandinavian countries experienced increased starvation and poverty, leading to a major wave of emigration, especially to the United States (Bondeson, 2007). Until the beginning of the twentieth century, the economies of the Scandinavian countries were considered peripheral, and it was only then that the countries underwent industrialization, much later than Great Britain and continental Western Europe. Finland was long considered the least economically developed and the least urban of the Scandinavian countries (Nordstrom, 2000). The war experiences Finland underwent and which I describe in more detail below were primarily responsible for the lower economic development. These historical experiences can provide an explanation for the large amounts of Finns emigrating to Sweden following World War II.

By comparing Scandinavian economics with other European countries, these countries have become known for having strong national industries, with booming export markets, and thriving business sectors. In terms of the gross domestic product (GDP) per capita, the Scandinavian countries clearly rank above the Euro area average and EU average (see Table 2-3 below). In 2013, GDP per capita was highest in Sweden with $43,418.81 and lowest in Finland with $38,256.34. Meanwhile, unemployment rates continue to be lower in the Scandinavian countries than in other European countries (Bondeson, 2007). Table 2-3 below also shows that unemployment rates continue to be below the EU average even in January 2014.

Low unemployment rates are a goal that has been a cornerstone of the Nordic welfare state model. Through so-called integration policy, the Nordic welfare states, based on the ideals of universalism and egalitarianism, have also included the growing immigrant population into
the ideal of full employment. In an effort to prevent social and economic marginalization, integration policies have aimed at including immigrants in generous welfare programs and provisions (Brochmann & Hagelund, 2012).

Table 2-3


<table>
<thead>
<tr>
<th>Country/Region</th>
<th>GDP per capita, US $</th>
<th>Unemployment rate in % (Jan 2014 data)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Denmark</td>
<td>42,776.75</td>
<td>7</td>
</tr>
<tr>
<td>Finland</td>
<td>38,256.34</td>
<td>8.4</td>
</tr>
<tr>
<td>Sweden</td>
<td>43,418.81</td>
<td>8</td>
</tr>
<tr>
<td>Euro area (17 countries)</td>
<td>36,979.28</td>
<td>N/A</td>
</tr>
<tr>
<td>European Union (28 countries)</td>
<td>34,256.43</td>
<td>10.6</td>
</tr>
</tbody>
</table>

Sources: From OECD Statextracts, 2014, for GDP; Eurostat, 2014, for Unemployment.

Based on generous and universal benefits, the Nordic welfare states have also been characterized by large social expenditures (Greve, 2007). Historical OECD data from 1980 to 2014, as depicted in Figure 2-2 below, shows that Danish, Finnish, and Swedish social expenditures in percentages of their GDPS were clearly above the OECD total during the entirety of that time period. Figure 2-2 also reveals that social expenditures in all three countries in line with the OECD total increased between 1980 and 2014. While Sweden experienced the most modest increase from twenty-six to twenty-eight percent during that time period, Denmark’s and Finland’s increases were more significant. While in Denmark social expenditures increased from twenty-four to thirty percent of its GDP, Finland’s expenditures rose from eighteen to thirty-one percent.
II.E. Scandinavian Political Systems

As a result of similar cultural patterns and the intertwined histories of the Scandinavian countries, the political systems of the four Scandinavian countries also hold some important similarities. Most importantly, the similarity in the Scandinavian countries’ political systems is reflected by the relationships between the different branches of government and the separation of power between them. The executive branch (the government) emerges out of the legislative branch (the parliament), which is elected in regular intervals, i.e., every four years. The strongest party in the parliament will try to form a coalition government and, if successful, claim the
position of the Prime Minister, the head of the government. All the other ministerial positions (e.g., Minister of Justice, Minister of the Interior) will then be divided up among the coalition members, typically depending on their relative strengths within the parliament and availability of suitable candidates for the various positions. Sometimes, minority governments are preferred for some periods of time. For instance, Social Democratic minority governments have dominated post-World War II politics in Sweden. As the third branch of government, courts are granted independence by the constitutions of all countries. Local trial courts (city or district courts), regional appellate courts, and a single national supreme court form a three-tier judicial system in all three countries (Lappi-Seppälä & Tonry, 2011).

Yet, the Scandinavian countries’ political systems also demonstrate some crucial differences. While Denmark, Norway, and Sweden are constitutional monarchies, where the head of state is currently either a Queen (Denmark) or a King (Sweden), Finland is a parliamentary republic, with the head of state being a publicly elected president. The royal heads of states in Denmark and Sweden do not have any substantial policy-making capabilities but are primarily representing their countries in foreign-policy matters. The royal powers in these countries were significantly limited over the course of the nineteenth century. In Sweden, the King could introduce and veto legislation, appoint ministers, and make foreign-policy decisions, but the Swedish Parliament soon became a more powerful player. It was mandated with the right to initiate legislation, control taxation, and reject and review royal proposals (Nordstrom, 2000). Meanwhile, Denmark remained quite conservative with respect to the powers of the crown (Nordstrom, 2000). Over the course of the twentieth century, the powers of the heads of state in Sweden and Denmark were further limited. In Sweden, the monarch was soon nothing more than a “public relations figure and a symbol of continuity” (Nordstrom, 2000, p. 323).
In contrast to the head of states in the constitutional monarchies, the Finnish president’s powers came to increase over the course of the twentieth century. While from 1918 until 1994, an electoral college elected the Finnish president, the Finnish people have since been directly involved in the election of the president. The president is now elected for a term of six years, and two consecutive terms are possible. The Finnish president’s powers now range from the appointment and discharging of ministers, approving and signing of all legislative acts before they can become law, to conducting foreign policy. Presidential power also extends into the field of criminal justice. The Finnish president appoints both the Chancellor and Vice-Chancellor of Justice, governmental officials who are mandated with investigating the compliance with the law of public authorities, as well as the Prosecutor- and Vice-Prosecutor General. The Finnish president is further authorized to pardon individuals from fine, forfeiture, and imprisonment.

II.F. The Scandinavian Policy-Making Process

A broad overview of the features of Scandinavian society provides the basis for a comparison of the countries’ characteristics of their policy-making processes and, especially relevant for this study, the penal-policy making process. Rooted in demographics specific to Denmark, Finland, and Sweden, the history and development of Scandinavian society, their economic and political systems, the countries have developed a policy-making process quite distinct from other Western industrialized countries.

In the realm of penal policy, Lahti (2000) found that criminal justice policy in general (and this includes penal policy) in Scandinavia has been based on research and rational justifications, where theory and practice are closely interlinked. Similarly, Pratt (2008) avers that penal policy-making in the Scandinavian countries has tended to be expert-driven, research-led, and far removed from the public debate rather than been ad-hoc and drafted by political party
officials. In the penal policy realm specifically, this can be seen by the discussions having revolved around humanitarian and pragmatic principles, as how to best handle conditions of penal confinement (Pratt, 2008).

Largely due to the egalitarian and homogeneous roots of Scandinavian society, there has long existed substantial trust in political institutions and a strong feeling of interdependency and tolerance among members of society. Pratt (2007; 2008) and Pratt & Eriksson (2011) suggested that these basic societal characteristics have become a major building block for Scandinavian policy-making. Political actors and intellectuals have long been able to form and maintain “coalitions of interests,” which has led to significant influence of intellectuals in the policy-making process over time (Pratt, 2007, p. 162). In this respect, policy-making has been first and foremost characterized by consensus building rather than been conflictual in nature.

With strong expert and intellectual involvement, Scandinavian countries have also developed a distinct policy-making process. New laws are frequently the result of long bureaucratic parliamentary processes. In the preparatory phase of new legislation, the government appoints working committees, comprised of experts (or intellectuals) in that specific policy field. The committees are then mandated with drafting reports about certain policy issues, which they have analyzed in depth. This can take several years, depending on the policy field and type of legislation considered. The government then typically uses the working committees’ reports as a basis for the drafting of the actual legislation. More specifically, career bureaucrats in the respective ministries dealing with the legislation closely rely on these reports to draft propositions. The government propositions are then handed to the respective parliaments where the new legislation is debated and voted on.
II.G. The Finnish Path towards Independence

In contrast to Denmark and Sweden, Finland became an independent country fairly recently. Although Finland was shaped by quite different political experiences than Denmark and Sweden from the height of the Middle Ages up until the early twentieth century, its history is still strongly intertwined with the other Scandinavian countries, especially with Sweden. From the middle of the twelve to the beginning of the nineteenth century, Finland was part of the Swedish empire, and it was also through the coastal regions that Finland was first incorporated into the Swedish empire (Alestalo & Kuhnle, 1986; Nordstrom, 2000). When the Swedish first arrived in Finland, they discovered a sparsely populated region without any political organization on its own. During the time of Swedish rule, a vast amount of Swedes settled in Finland. These settlers impacted Finnish culture in some significant ways. The Swedes exported their religion, traditions, language, administration, and laws to Finland. In short, Finland first developed as an integral part of the Swedish political structure (Nordstrom, 2000).

In the eighteenth century, the territory of today’s Finland became increasingly used as a battleground for wars between Sweden and its eastern neighbor Russia (Nordstrom, 2000). At the beginning of the nineteenth century, during a war between Sweden and Russia, Finland was invaded by Russia and eventually fell under the tsar’s rule in 1809. Finland became a grand duchy of the Russian Empire and, in the form of such, started enjoying a substantial amount of political autonomy. The Finnish Senate, a governmental body comprised of a small number of noble Swedish-speaking Finns (Finlandsvenskar), handled daily affairs in Finland. Although a governor-general who was appointed by the Russian tsar oversaw the Senate’s affairs, its actions led to little opposition by the Russian governor-general (Nordstrom, 2000).

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27 As Grand Duchy, Finland was part of the Russian empire and the Russian emperor was ruling over Finland. However, Finland enjoyed substantial autonomy, especially when it came to domestic matters.
Throughout the nineteenth century, the strong Swedish influence in Finland could largely be maintained despite the region being under Russian rule. Swedish laws were largely sustained in Finland. Swedish also remained a widely spoken language in the Finnish grand duchy, especially by the government, church, and educators. It was also around that time that the Finnish people started becoming more politically active and developed a nationalistic sentiment, increasingly pushing for independence from Russia. While Swedish remained the language spoken by officials, the church, and educators up until the nineteenth century, the publication of the national epic *Kalevala* in 1835 contributed to the spread of Finnish nationalism, and the Finnish language gained official status (Nordstrom, 2000; Bondeson, 2007).

At the height of the Russian Revolution in 1917, Finland was able to declare independence. Although the declaration of independence went peacefully, it led to the eruption of a dramatic internal conflict, the Finnish Civil War. This war, which was fought between the socialists, the Reds, and the non-socialists, the Whites, was considered particularly bloody. It led to the death through either execution or prison camp of about 30,000 Finns in a couple of years (Bondeson, 2007). With the end of the war and the Whites’ victory, the Finnish ties to Sweden and the other Scandinavian countries again became stronger. All of the Scandinavian countries joined the League of Nations and became important proponents of international cooperation. In

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28 This included Norway. From 1380 to 1814, Norway was in a union with Denmark. Although the two kingdoms signed a treaty to guarantee equality between them, Norway officially became a Danish province in 1536, shortly after the Kalmar Union was dissolved. In the course of the nineteenth century, the Norwegian middle class gained increased national awareness, lamenting the power dictations from Denmark (Bondeson, 2007). After the Napoleonic Wars in 1814, Norway joined a personal union with Sweden that lasted until 1905. The union is often referred to as a “loose federation,” as Norway enjoyed substantial autonomy from Sweden during that time (Alestalo & Kuhnle, 1986). For instance, Norway passed its own constitution in 1814, which was based on the concept of separation of powers between the legislature, executive, and judiciary. The Norwegian parliament, *Stortinget*, was mandated with full legislative power. Still, Norway’s foreign policy remained to be dictated by the Swedish monarch during that time. Against the backdrop of a growing Norwegian nationalist sentiment, however, the Swedish monarch’s power led to substantial dissatisfaction on the Norwegian side. When the Union between Sweden and Norway was dissolved in 1905, the Norwegians established their own monarchy, with the first king being the grandson of the Danish king (Bondeson, 2007).
fact, the League of Nations managed to peacefully adjudicate a dispute between Finland and Sweden regarding the Åland Islands. These islands, which are located right in between the two countries in the Baltic Sea, were predominantly inhabited by Swedish-speakers but belonged to Finland. In 1921, the League of Nations decided that the islands should remain with Finland but should be granted substantial autonomy, a decision that was accepted by both countries and has kept the islands under Finnish authority until today.

With the League of Nations eventually failing and World War II erupting, the Scandinavian countries, however, started experiencing the war in quite different ways (Bondeson, 2007). While Denmark was occupied by Germany from 1940 to 1945, Sweden was able to uphold the 1939 Non-Aggression Treaty with Germany during the entire war period. Meanwhile, Finland was drawn into the war and suffered accordingly. As a result of two separate wars against the Soviet Union during World War II, Finland lost about 2.6 percent (roughly 82,000 people) of its population and vast amounts of its territory in the east and north-east (Kinnunen & Kivimäki, 2012). These war experiences and the geographical proximity to the Soviet Union can explain Finland’s cautious foreign policy reflected by a very careful selection of approaches to international organizations, and its relative distance to the other Scandinavian countries post-World War II.

II.I. Nordic, European, and International Penal-Legal Cooperation

Another level to the Scandinavian countries’ penal policy apparatuses comes from cross-Nordic and international cooperation. First, the countries knit strong cooperative ties in the 1950s through the establishment of the Nordic Council, an inter-parliamentary body including members from all the Scandinavian countries. The work of the Nordic Council is a good illustration for

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29 Such as Denmark, Norway was occupied by Germany from 1940-45.
how the Scandinavian countries’ political values and attitudes have many similarities, as without these similarities the close cooperation of the countries within the Council would not have been possible in the past few decades. The Council was established in the aftermath of World War II and created a common labor market and passport union, long before the Schengen agreement and the EU undertook similar steps on the European continent. This facilitated the establishment of a common Nordic labor market and migration movements in between the Scandinavian countries. Among other concerns, the Council has also aimed at creating the greatest possible similarities in the countries’ civil laws and at achieving uniform regulations for crime and its consequences (Nordic Council, 2010).

Following World War II, the Scandinavian countries also all became members of the United Nations (UN), with Denmark being one of the first member states in 1945, Sweden joining in 1946, and Finland in 1955. All of the Scandinavian countries have since been very active UN members. Sweden is one of the UN’s major donor countries, and has been particularly involved in the strengthening of the rights of the child and the convention against torture. Furthermore, Sweden has been heavily engaged in debates on the worldwide abolition of the death penalty and taken a lead in the global fight against drugs (Government Offices of Sweden, 2014c). In contrast to the UN, the countries have been divided about participation in an international military alliance. While Denmark was a founding member of the North-Atlantic Treaty Organization (NATO) in 1949, Finland and Sweden are not full members, despite close cooperation with NATO (Bergman, 2004).

On the European level, Denmark and Sweden have been members of the Council of Europe since 1949, and Finland joined in 1989. Established in the direct aftermath of World War II, the Council has since been Europe’s major human rights organization. Basic human rights are
the cornerstone of the European Convention on Human Rights, of which the European Court of Human Rights in Strasbourg (France) oversees compliance. Any individual of a Council of Europe member state can bring a human rights violation complaint to the Court; after all of the appeals on the state level have been exhausted (European Court of Human Rights, 2015).

Finally, Denmark was the first Scandinavian country to become a member of the European Community (EC), now EU, in 1973. Sweden and Finland joined the EU together in 1995, more than two decades after Denmark, partly due to concerns about their traditional non-alliance policies, which led to skepticism about joining any political union that could lead to the establishment of a common defense policy (Bergman, 2004). The EU-membership in particular substantially impacted the political landscape in these countries, with cooperation in many economic and political issue-areas becoming even stronger.30 Table 2-4 summarizes Denmark’s, Finland’s, and Sweden’s membership in and the year of admission to selected international organizations.

Table 2-4

Membership in Selected International/European/Regional Organizations.

<table>
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30 In contrast to Denmark, Finland, and Sweden, Norway is not a member of the EU. In Norway, membership referenda were held twice (in 1972 and 1994) but the voters did not approve of joining the Union. The reasons for Norway’s hesitation to join the EU can be traced to the economic prosperity it gained from its oil industry in the 1970s, the loudly voiced concern among fishermen and farmers about the precedence of EU regulations over national legislation, and a historical resentment of unions (Bondeson, 2007). Although Norway is not a member of the EU, the countries still maintain strong bonds with the organization and are, as a result of the Nordic Council, part of the Schengen-area, the zone of free movement of people within Europe.
While all the Scandinavian countries are actively participating in the Council of Europe-framework, their views on the EU differ and have also changed over time, depending on the parties in political power and policy issues of particular concern to them. An example is the common European currency, the Euro. While Denmark and Sweden have so far opted out from introducing the common currency in their countries, Finland was the first EU country overall to introduce the Euro currency in 2002 (Bondeson, 2005).

In short, the Scandinavian countries have several supra-national platforms available to coordinate their policies with one another. Within the Nordic Council, the Council of Europe, and the EU, the Scandinavian countries have cooperated closely on both judicial and legal issues (e.g., a common passport union, extradition issues). The strong emphasis on international cooperation, especially in the field of human rights, also suggests that international guidelines are external factors that are likely to have impacted national policy. Yet, the brief overview of international cooperation also indicates that the countries have been impacted by historical experiences to varying degrees. For instance, Denmark was particularly concerned about security following the World War II, which led her to join the UN and NATO immediately. Finland, on the other hand, has been more cautious towards membership in international organizations, expressed by delayed membership in the UN (1955) and the Council of Europe (1989) as compared to the other Scandinavian countries. This was primarily due to her proximity to the Soviet Union and the Agreement of Friendship, Cooperation, and Mutual Assistance which the two countries had signed in 1948. For mainly that reason, Finland has also not yet become a member of NATO although recent political debates have moved the country closer to the alliance. Meanwhile, Sweden has been a leader in the fight for basic human rights on the international level but has refrained from joining a military alliance due to its long tradition of
military non-alignment. The brief comparison of the Scandinavian countries’ role in international organizations thus provides an interesting insight into how the countries are similar yet quite different and how historical experiences can again explain these differences.

II.1.1. The European Penal-Legal Framework

Despite the focus on the foundation of the country-specifics of penal policies and the use of life imprisonment in the Scandinavian countries over time within this country-specific context, my study does not ignore the countries’ participation in the larger European political framework, which has to some extent curbed sovereign power to shape penal policy in recent decades. As mentioned above, the countries are all members of the Council of Europe and the EU. Both the Council of Europe and the EU have set standards for conditions of confinement and prisoner release (van Zyl Smit & Spencer, 2010).

Until 1945, an individual’s legal protection against the interference of the state in individual lives in Europe was a clear subject of domestic law (Murdoch, 2006). In other words, international law prior to 1945 dealt primarily with the relationships between states and not with the relationships between states and individuals. However, the traumatic experiences of World War II on the European continent changed this way of thinking and necessitated an increased concern with human rights beyond state boundaries. The UN Charter and the Universal Declaration of Human Rights (UDHR), adopted in 1945 and 1948 respectively, are first reflections of this international development on the global level.

On the European continent, the concern for ensuring basic human rights beyond state boundaries was particularly pressing in the aftermath of World War II. Against the backdrop of concerns for ensuring human dignity, respect for basic human rights, and the rule of law on the continent, the Council of Europe was established in 1949. In 1953, the European Convention on
Human Rights (ECHR) entered into force, a document which would become the basis for “the further realization of human rights and fundamental freedoms” on the European continent in the decades to come (Murdoch, 2006, p. 17). On claims of violations of the ECHR, the European Court of Human Rights, established in 1959, was mandated with providing rulings. Most importantly, the Court’s rulings are binding on countries that have signed the convention. If signatories to the ECHR pass a new law that would be in violation of a clause of the convention, a judicial degree of the Court could strike down such law (van Zyl Smit, 2010). Based on the judgments of the Court, the Council of Europe’s steering and expert committees develop standards for its member states. In addition, the committees use criteria determined by the European Committee for the Prevention of Torture (CPT), and observations and recommendations of the Commissioner for Human Rights (Council of Europe, 2014).

Consequently, the rulings of the Court are followed closely and might even alter the countries’ national laws, shall they comply with the rulings.

As members of the Council of Europe, the Scandinavian countries have all ratified the ECHR. In terms of penal policy, the ECHR has motivated numerous legal reforms in the Scandinavian countries in recent decades. Some of the guidelines provided for by the Council of Europe have found expression in these reforms. Apart from the Council of Europe, the EU has promoted cooperation on penal matters between its member states, yet, its role has remained limited. In 2007, the Lisbon Treaty established a new framework for criminal law. EU institutions have since been able to take measures to promote member states in the field of crime prevention, yet, without aiming at harmonizing national laws (Lisbon Treaty, 2007, Chapter IV (69C)). EU institutions have also been mandated with ensuring that basic rights of individuals in criminal procedure as well as victims are upheld within the union (Lisbon Treaty, 2007, Chapter
Although the EU has been able to strengthen the dialog on criminal justice-related matters between its member states, progress remains limited. This has been primarily due to the unanimity rule required for decision-making on such issues. By requiring all EU governments to agree on the decision-making, the institutions have so far only been able to go with the “lowest common denominator” (European Commission, 2015).

II.I.2. European Rules Pertaining to Conditions of Confinement

The Committee of Ministers of the Council of Europe first adopted the European Prison Rules in 1973 and revised them on two occasions, first in 1987 and then in 2006 (Council of Europe, Rec 2006(2)). These rules are considered a particularly important legal instrument, as they established minimum standards for prison staff, prisoners and pre-trial detainees (Council of Europe, 2014b). Although the rules do not have a binding force, they were “designed to serve as a stimulus to prison administrations to further good contemporary principles of purpose and equity” (Murdoch, 2006, p. 34). In general terms, the Committee has since considered rehabilitation as the central goal of imprisonment, which, the Committee believes, can best be achieved by minimizing the “detrimental effects” of imprisonment (Murdoch, 2006, p. 34).

In the preamble, it is reiterated that, “no one shall be deprived of liberty save as a measure of last resort and in accordance with a procedure prescribed by law” (Council of Europe, Rec 2006(2)). The European Prison Rules then address different aspects of conditions of confinement, such as contact with the outside world, hygiene and nutrition, and programming of prisoners as well as selection and training of prison staff (Council of Europe, 2014a). Most importantly, confinement shall not “infringe human dignity,” and prisons shall “offer meaningful occupational activities and treatment program to inmates, thus preparing them for their reintegration into society” (Council of Europe, Rec 2006(2)).
The establishment of various transnational committees and conferences further facilitated cooperation on penal policy-related issues by Council of Europe members. Among them are the European Committee on Crime Problems, the Conferences of Directions of Prison Administration, and the Council of Penological Cooperation. These bodies aim at offering advice on penal-policy related issues to member states, provide training and support, and to enhance cooperation within and harmonization of penal policies (Council of Europe, 2014a).
CHAPTER III: SCANDINAVIAN PENALITY

Denmark, Finland, and Sweden, neighboring countries with similar demographics, have intertwined histories. This has contributed to the countries sharing many social, economic, and political experiences. Still, as the brief overview of the countries histories showed, some of their historical experiences have also been unique to the countries. Especially for Finland, its proximity to Russia or the Soviet Union has influenced much of its history. Based on Garland (2001; 2010), I consider specific views of punishment, or, as I refer to it in this chapter, penalty, in late modern society a historical outcome. As penalty is shaped by country-specific social, economic, and political conditions, I provide a historical comparison of the countries’ penal policy approaches in this chapter. I examine when and to what extent the Scandinavian countries embraced penal welfarist ideas. In order to understand the complexities of life imprisonment as one punishment institution in Denmark, Finland, and Sweden, I lay out this broader historical overview of Scandinavian penality below.


III.A.1. The First Scandinavian Penal Codes

The first penal codes in the Scandinavian countries were implemented during the seventeenth century. This was the time when Lutheran Protestantism had spread over Northern Europe and was embraced by the Scandinavian empires’ leaders. Clearly, a strong sense of egalitarianism was the foundation for these early penal-legal provisions. Denmark codified its first criminal legal provisions in 1683 as part of Christian V.’s Danish Legal Code (Christian 5.s Danske Lov). This text was the first comprehensive law to provide all Danish individuals with
legal safeguards, both in the public and private realm. It must therefore be seen as the foundation of a distinct and unified Danish legal system (Koefoed, 2012).

One of the main purposes of the 1683 Danish Code was to ensure that criminal legal provisions were separated from other legal provisions. For that reason, Christian V.’s Danish Code was divided into six books. The sixth book of the code was titled “About misdeeds” (Om Misgierninger) and was the part of the code where the first codification of criminal legal provisions could be found. The sixth chapter of the sixth book entitled “About murder” (Om manddrap) held that the penalty for murder should be following the rule of “life for life” (Liv for Liv). This legal provision resembles the biblical notion of retribution from the old testament of “an eye for an eye, a tooth for a tooth.” In addition to these basic criminal legal provisions, the code established a unified Danish court system, which was to cover both civil and criminal cases. It was common up until the eighteenth century, however, that the criminal cases had to be conducted by the parties themselves. Only in serious cases, such as murder, could the mayor act as public prosecutor (Koefoed, 2012).

Roughly fifty years after Denmark, Sweden implemented its first penal-legal provisions as part of the Act of 1734 (Sveriges Rikes Lag 1734). This act replaced medieval laws still in place in the Swedish empire during that time. The medieval influence in the passing of the new provisions was still reflected in the use of the word balk for naming the various chapters of the act. Balk literally means beam or panel, as the use of this word was derived from the common practice of painting laws on the walls of ting-houses during the Middle Ages (Marryat, 1862).

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31 As Norway was under Danish rule at that time but still enjoyed some autonomy, Christian V. was also responsible for implementing a Norwegian legal code in 1687. Although this code was separately implemented in Norway, it still mirrored the legal provisions of the Danish Code (Koefoed, 2012).

32 Hvo som dræber anden, og det ikke skeer af Vaade, eller Nødværge, bøde Liv for Liv…” (Danish Legal Code of 1683, Book 6, §6, I).
The seventh chapter, the penal code (*Missgärningsbalken*) and the eighth chapter, the punishment code (*Straffbalken*) compiled the first penal-legal provisions of Sweden. While the penal code defined crimes and punishment, the punishment code regulated penal confinement and servitude (*Historiesajten, Sveriges Rikes Lag, 2015*). For instance, the twelfth chapter of the penal code (§1) defines the punishment for murder. “If a man or a woman kills another in a premeditated manner, shall the murderer be decapitated” (*Swedish Act, 1734*). 33 Being part of the Swedish empire until 1809, Finland’s first criminal legal provisions were the ones stated in the 1734 Swedish Act.

III.A.2. Eighteenth-Century Enlightenment and Humanitarianism

The eighteenth-century Age of Enlightenment fueled legal and penal reform across Europe (*Rusche & Kirchheimer, 1968; Spierenburg, 1984*). The main objective of these reforms was to more clearly separate legislation from sacred ideals. A new governmental system based on laws was to be introduced, a system in which power was more evenly distributed and not monopolized by a single ruler or the nobles (*Foucault, 1995*). By codifying legal rules, it was believed that governmental power and authority could be limited (*Rusche & Kirchheimer, 1968*). For punishment, this new way of thinking meant that penal measures must be clearly defined and be based on laws, so they would not be applied arbitrarily by the state. 34 In the developing

33 “Dräper man, eller qwinna, annan försåteliga och i löndom; warde mördaren halshuggen” (*Swedish Act, 1734* (XII)).

34 Considering the most appropriate ways of punishing, European enlightened thinkers such as *Beccaria* [1764] (2009) believed that instead of merely seeking revenge, the main goal of punishment should be the prevention of future crime. In this sense, *Beccaria* argued that the certainty and rapidity of the imposition of punishment for a criminal offense was more important than its severity. In *Beccaria’s* words, “the end of punishment...is no other than to prevent the criminal from doing further injury to society, and to prevent others from committing the like offense” (*Beccaria, 2009, p. 34*). *Beccaria* therefore called for the establishment of rationally-functioning state administrations, so that the certainty and rapidity of punishment for criminal offenders could be ensured. However, he still believed that punishment must be proportionate to the offense committed. He therefore advocated for a graduation of punishments based on the type of crime. For this reason, he still found that the death penalty should be imposed for murder (an “eye for an eye”). Yet, for any other crime, it would be a clearly disproportionate form of punishment.
modern societies, some among the political elites also became more and more concerned about caring for the less fortunate (Garland, 2001). The criminal was often considered a “disadvantageous, deserving, subject-of-need,” who should be met with decency and humanity. In short, policy makers started expressing confidence in combating crime and launched penal reforms.

Influenced by these enlightened ideals and calling for less severe forms of punishment, the Swedish King Oscar I (1844 to 1859) launched various social and political reforms in his country. Already prior to his reign when he was still Crown Prince, he was especially concerned about Sweden’s penal-legal provisions and expressed his ideas of reform in the 1840 writing On Punishment and Penal Institutions (Om Straff och Straffanstalter), also known as The Yellow Book (Gula Boken), due to the color of the book cover (Oscar I, 2014). In this book, he called for the abolition of the death penalty and for the replacement of large prison hall-rooms, the way the first places of confinement in Sweden were set ut, with single cells. He strongly believed that criminality was socially conditioned. He therefore found that the success of punishment, measured in terms of crime reduction, depended on increased support opportunities for the prisoner, as the main purpose of imprisonment should be the successful reintegration of the prisoner. In Oscar’s eyes, this goal could only be achieved through the use of solitary confinement (Oscar I, 2014).

Under the new King Carl IV, Oscar I’s efforts towards penal reform led to the implementation of a New Penal Code in 1864 (Strafflagen). The new code replaced the older 1734 penal-legal provisions.35 Among other new provisions, the principle of proportionality when determining punishment was incorporated into the 1864 Swedish Penal Code (Brush, 35 During that time, Norway was in a personal union with Sweden.)
Meanwhile in Finland, Russia had provided its grand duchy with substantial legal autonomy. For that reason, Finland maintained the Swedish penal code provisions for most of the nineteenth century. In 1889, Finland eventually replaced the Swedish penal code provisions of 1734 with its own Finnish Criminal Code (*Rikoslaki*) (19.12.1889/39). This code, which remained heavily influenced by Swedish legislation, is still in use today but has since been amended and reformed several times (Kangaspunta, 1995).

**III.A.3. The Birth of the Scandinavian Prison**

It was during the late eighteenth century in Europe, against the backdrop of the Age of Enlightenment and new ideas about the meaning of punishment that imprisonment became a popular alternative to the death penalty for punishing criminal offenders. Oscar I’s published ideas of 1840 can be seen as a first discussion of the prison and clearly reflected a modern way of thinking about the purposes of punishment. Prison sentences, the punishing of the soul, were preferred over the death penalty, the punishing of the body (compare with Foucault, 1995).

Consequently, the prison became this new social institution built for the sole purpose of housing criminal offenders. It was considered a symbol of civilization and an important humanitarian development in human history (Nilsson, 2003). While some would argue that the prison rose to prominence as a result of the moral critiques of torture, corporal, and capital punishment (the most common forms of criminal punishment at that time) by Enlightenment thinkers, others would also point to specific institutional and cultural circumstances that provided the critical writings of these thinkers with “contextual power” (Garland, 2001, p. 64; see also Spierenburg, 1984; Foucault, 1995).

The rise of the prison as a place of punishment was a phenomenon that was witnessed in the entire Western industrialized world during the late eighteenth century and the first half of the
nineteenth century. However, the prison’s specific role in early modern society, its exact purpose, its underlying goals for punishing criminal offenders, and, related to these ideological issues, its architectural design depended on a variety of country-specific factors: the country’s demographic structure, specific cultural features, the country’s economic and political system, and many other variables that impact understandings and forms of punishment in a certain country (Nilsson, 2003).

The birth of the prison as a separate place of punishment in all of the Scandinavian countries can be dated to the first half of the nineteenth century (von Hofer, 2002; Nilsson, 2003; von Hofer, 2011). Strongly influenced by political discourse about the purpose of penal confinement in the United States, the Scandinavian countries started to gradually set up the institutions and the administration of their criminal justice systems, with the prison, in the form of the penitentiary Pennsylvania-style\textsuperscript{36} taking up a central place in this system (Almquist, 1931).\textsuperscript{37} In Sweden, for instance, the Parliament approved the appropriation of a substantial amount of money for the construction of such penitentiary-style facilities in 1840 (Eriksson, 1954; Nilsson, 2003). Several of these prisons with long hallways and single-cellular design, where prisoners were doing their time in solitary confinement, were also constructed in Denmark, Finland, and Norway between the 1840s and 1880s (Pratt & Eriksson, 2011).

In these early Scandinavian prisons, jurists, prison administrators, and prison chaplains began to exercise strong influence on the daily operations within the prisons (Nilsson, 2003). In other words, the Lutheran Church exercised strong influence on the prisoners. At its onset,

\textsuperscript{36} Several of the first prisons that were built in the United States and Europe fell under the Pennsylvania model or penitentiary-style prison. Penal confinement was based on the principles of “separate and silent:” Prisoners were housed in single cells, were not allowed to speak, and worked in solitude with the goal of finding god and achieving redemption. This was different from the Auburn system where prisoners worked in common areas and where only confined in cells at night. See Hirsch (1992) for more.

\textsuperscript{37} In his article titled “Scandinavian Prisons”, Almquist uses the term Scandinavia narrowly by referring to only Denmark, Norway, and Sweden.
imprisonment was still typically combined with forced labor in common areas in these countries (Peters, 1998). Yet, a belief in the usefulness of imprisonment in transforming the criminal offender into a “law-abiding” citizen through prayer and self-reflection quickly grew stronger. It was deemed more important, as it was the main idea behind the Pennsylvania-style prison model, to keep prisoners in single cells and to not have them talk or work with other prisoners. For example, in the Swedish Länsellfängelset, a prison that was completed in the city of Gothenburg in 1857, prisoners were even prohibited from stamping on the floor or knocking at the walls (Ofrivilliga mötesplatser, 2014). Instead, prisoners should be provided with religious knowledge, and they should be given time to reflect on their sins. “Rehabilitation” from the criminal lifestyle was believed to best be achieved by assisting the prisoners with getting closer to God and in that way make them realize the redeeming possibilities of imprisonment (Pratt & Eriksson, 2011). This meant that labor, especially in common areas, was not considered a path towards reform and redemption in these early Scandinavian prisons.

The emphasis on the Pennsylvania-style model in early Scandinavian prisons reflected societial values of modern Scandinavian society. First, the prisoners were encouraged to concentrate on themselves through self-reflection and redemption. The use of solitary confinement thus reflected individualism, the cornerstone of the Age of Enlightenment. Second, these early prisons were built on religious rituals and belief. Rehabilitation primarily meant for the prisoners to find their way to God. Third, a specific motive to put prisoners to work and use their free or cheap labor as was commonly done in other parts of the Western industrialized world, especially the United States, was absent in the Scandinavian context (compare with Rusche & Kirchheimer, 1968).
III.B. Twentieth-Century Scandinavian Penal Policy

III.B.1. The Scandinavian Penal Welfare State

Largely driven by social democratic governments, the Scandinavian countries developed strong social welfare states at the beginning of the twentieth century. These Nordic welfare states had unique features, which differed from other welfare states in the Western industrialized world. According to Esping-Andersen’s (1990) highly cited categorization of welfare states, a categorization that is also referred to by Beckett and Western (2001) and Lappi-Seppälä (2008) in the context of their analyses of a coupling of social with penal policies, there exist three different types of welfare states in the Western industrialized world. Esping-Andersen distinguishes between social democratic, liberal, and corporist welfare states. The social democratic welfare regimes, under which the Scandinavian countries fall, aim at universalizing benefits and services that are seen as particularly generous. In his analysis of the specifics of the Swedish welfare state, Lindbom (2001) also uses Esping-Andersen’s categorization, emphasizing that the social democratic welfare state provides services that are not only generous but also based on middle-class standards for everybody. The state takes on a particularly strong role in such a regime, as it must provide these generous and universal benefits and services and must force out the market through politics (Esping-Andersen, 1990). Liberal welfare states, in contrast to social democratic welfare states, provide means-tested assistance programs, more modest universal standards, minimal benefits, and strict eligibility rules to its citizens (Esping-Andersen, 1990). The United States would be a prime example for such a liberal welfare regime, according to Esping-Andersen. Finally, a corporatist welfare state is based on the idea of maintaining status differentials, with rights being derived from the specific status (e.g., middle class) which citizens hold. In such a welfare regime, the state plays a very limited role in
redistribution. Examples for this type of welfare regime are Germany and Italy, where the church has traditionally played a stronger role in providing welfare than in the other two regimes.

Through generous and universal benefits, the Nordic social welfare states linked social policy to penal policy, leading to Rusche and Kirchheimer (1968) observing that penal institutions and social institutions became increasingly intertwined. This is what Garland (2001) later referred to as “penal welfarism.” This new way of thinking was soon reflected in major revisions of the countries’ penal codes and the use of new forms of punishment as alternatives to imprisonment. Around the century shift, alternative sanctions became increasingly popular in the Scandinavian countries. In 1905, for instance, the suspended sentence was introduced in Denmark. In Sweden, suspended sentences were introduced in 1907, followed by probationary sentences in 1919 (von Hofer, 2011). For Garland (2001), the increased use of alternatives to imprisonment was a development of the penal welfarist era. What he observed was an increased “adjustment of penal measures” (Garland, 2001, p. 35). What type of punishment an offender would receive depended on personal factors, such as work and family ties.

Meanwhile, the belief in that reintegration of an offender was “desirable,” another integral part of penal welfarism according to Garland (2001, p. 44) also spread rapidly in the Scandinavian countries. Reflecting this way of thinking, Denmark replaced its 1866 Code with the new Danish Criminal Code (Straffeloven). This code entered into force in 1933 and is today still, with a series of amendments, Denmark’s main criminal legal source.38 Denmark’s 1930 Criminal Code was divided into two major parts: the first part (§1-97) laid out general legal provisions regarding criminality and criminal sanctions, and the second part (§98-306) dealt

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38 The 1930 Danish Criminal Code was officially named “New Civil Criminal Code” (Ny borgerlig straffeloven) from the time of adoption in 1930 until 1992.
more specifically with certain aspects of the country’s criminal law and sanctions for specific categories of crime, such as murder, manslaughter, and other types of violent crimes.

In general terms, Denmark’s 1930 Criminal Code was considered to reflect a strong emphasis on individualized punishment (Engbø, 2005). The Code demonstrated awareness of the fact that the time needed for the penal interventions targeted at making offenders into “law-abiding citizens” could not be predicted at the time of conviction in court. The time needed in preparation for successful reintegration would vary from offender to offender. For that reason, the code identified four main tasks of sentence enforcement at that time: the control of offenders (to prevent more crime), the care of offenders by ensuring their basic human needs (e.g., food, clothes) are met, the administration of their privileges (e.g., access to newspapers, free time, correspondence), and, most importantly, steps necessary for treatment and rehabilitation (Engbø, 2005). The focus on individualized punishment in the 1930 Danish Code could further be seen by the vast availability of indefinite time institutions for a variety of offenses, such as workhouses and preventive detention (Engbø, 2005). Consequently, Schiøler (2012) even insinuated that Danish prisoners were treated like “school children” at that time: with the right kind of intervention, it was believed that prisoners could be prepared for “being successful” (for refraining from reoffending and taking care of themselves) upon “graduation” (release from prison).

Similar ideas about the importance of individualized punishment and a focus on reintegrative efforts in prison also spread in Sweden. In 1934, then Minister of Justice Karl J. Schlyter published a new reform plan under the motto of “Depopulate the prisons,” which emphasized the use of alternatives to imprisonment, primarily in the form of fines. In addition, the use of suspended sentence was gradually expanded. New legislation also regulated
conditional release, which should be generally granted after offenders had served two-thirds of their prison sentence (Eriksson, 1954). Finally, a Penal Law Commission (Strafflagsberedningen) under the Chairmanship of Schlyter from 1938 until 1956 prepared a replacement for the 1864 Penal Code to reflect new ideas about punishment in the Swedish law. For Schlyter, it was important to eliminate retaliative notions of punishment and, instead of general prevention, focus on individual prevention through punishment (Sundell, 2000).

In the early twentieth century, also an integral part of penal welfarism, the Scandinavian countries monopolized the imposition of punishment. The centralization of penal policy, reflected by the construction of many almost identical facilities across the countries and the adoption of ever more detailed legal provisions regarding forms of punishment and penal confinement, facilitated the establishment of a uniform penal system during that time (Nilsson, 2003). As Garland (2001) also suggested in line with social contract theory, penal welfarism meant that the state must protect its citizens and must contribute to their well-being. With widespread trust in state institutions to achieve that goal, the punishment of criminal offenders was put under the auspices of bureaucratic control. The thirty-four prisons that existed in Sweden in 1931, for instance, belonged to the state and were either called central prisons (centralfängelser) if they were larger in size, prisons (straffängelser), or crown prisons (kronohäkten) (Almquist, 1931). Meanwhile, the central authority for prisons in Sweden, the Prison Board, had already been established in the first half of the nineteenth century. The Board was a centralized and then independently administered agency that had financial and administrative responsibility over Swedish prisons. This responsibility included the power to appoint and discharge prison personnel. However, the power of the Prison Board was somewhat limited through regular prison inspections by a legal representative of the king, a representative
of the Chancellor of Justice, and a representative of Justice (*justitieombudsmannen*) (Almquist, 1931).  

In Denmark, local detention jails also housed individuals serving prison sentences. As a result, only four prisons had been built at the beginning of the twentieth century (Almquist, 1931). As in Sweden, Denmark’s few prisons were centrally administered. Yet, the prison directorate was housed within the country’s Ministry of Justice. Although the directorate was responsible for prison matters only, it was still under the direction of the Danish Minister of Justice (Almquist, 1931). In contrast to Sweden, the early Danish prisons were thus not administered by an independent agency but their administrations were part of the country’s larger political apparatus.  

Furthermore, the occurring shift in penal thinking in the Scandinavian countries measured efficiency of the prison system by investing in well-trained personnel holding high moral and humanitarian standards (Almquist, 1931). In fact, the prison as a place of punishment should be as decent and as humane as possible in order to be able to perform its rehabilitative tasks in the best way. Prison administrators in particular started to gain great influence in the prison discourse, as it was them who, through frequent visits and observation with the offenders, were considered experts in finding the appropriate type and length of treatment for their prisoners (Nilsson, 2003).

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39 Today, the Swedish Prison and Probation Service (Kriminalvården) is a centrally-organized, governmental agency that is responsible for the enforcement of both community and institutional sanctions.

40 Although the early Norwegian prison system was administered in a similar way than the Danish prison system, with a Prison Board constituting a division of the Ministry of Justice, its origins are somewhat different from Denmark and Sweden. Due to the country’s sparsely populated and geographically separated regions (the country largely consists of mountains and fjords), Norway was divided into various prison districts while still being under Swedish rule in the nineteenth century. It was only in 1902, three years before Norway became a sovereign country, that she passed her own Criminal Code (*Straffeloven*). In 1904, Norway eventually centralized its prison administration (Almquist, 1931). The state housed prisoners with a sentence of less than six months in twelve different district prisons and 106 auxiliary prisons, whereas those with longer sentences were doing time in so-called “prisons of the realm” (Almquist, 1931).
It was also around that time that there appeared to emerge a critical rethinking of the purpose of penal confinement, after the Pennsylvania prison model had dominated construction since the emergence of the prison in Scandinavia in the nineteenth century. During the first part of a longer sentence, each prisoner was held in complete isolation, reflecting the strong belief in penitence and redemption only to be achieved through solitary confinement. In Sweden, the time in solitary confinement was set at a maximum of three years around the century shift. Those that had to serve longer sentences, would then be moved to congregate areas. After World War I, the time in solitary confinement was further cut to a maximum of six months (Eriksson, 1954). In practice all across Scandinavia, prisoners would also still have regular visits from prison personnel, and if solitary confinement appeared to create behavioral problems, it was loosened and work in congregated areas became increasingly allowed (Almquist, 1931).

In Sweden, the excessive use of solitary confinement was further modified with the establishment of a colony system of farm and forest work. This new system differentiated between prisoners, depending on their likelihood of rehabilitation (Brush, 1968). In addition, there emerged a strong belief in that prisons should remain small and not be built in a warehousing-fashion as so commonly done for penitentiaries Pennsylvania-style in the United States during that time. In that way, the administration of each prison would better be able to get to know each individual prisoner and monitor their conduct throughout their confinement (Almquist, 1931). Indeed, the behavior while imprisoned was increasingly considered an important determinant in deciding upon the “right” time for conditional release from prison. However, despite the increasing skepticism towards solitary confinement and slight modifications in daily routines for the prisoners, the Pennsylvania prison model remained the primary system in use during that time.
With growing emphasis on rehabilitation and reintegration, prisons in Denmark, Norway, and Sweden started offering a wide variety of educational and vocational programs. As Almquist (1931, p. 204) noted at the height of the penal welfarism era, “since the purpose of the prison treatment is to elevate the prisoner to a higher ethical place,” the prison should “instill in him a love of life and a feeling for the significant [sic!] in science, art, and nature.” Prisoners received education in many different subjects (even in foreign languages), and were able to listen to lectures and musical programs on the radio (Almquist, 1931). These practical developments in the penal realm were clear indicators the use of individualized punishment ideas within prisons.

While the early Scandinavian penitentiaries focused on redemption and solitude, prison classification systems, especially in Sweden and Denmark, now became increasingly based on “treatment and care” rather than on the inmate’s “religious status” (Pratt & Eriksson, 2011). As such, the connection made between crime and sin started to diminish gradually in the Scandinavian prisons (Nilsson, 2003).

Although rehabilitation was still believed to best be achieved by the isolation of the prisoner during that time, the system of solitary confinement crumbled. This was primarily due to stronger scientific evidence that complete isolation could have very detrimental effects on the prisoner’s mental health that emerged in the first half of the twentieth century. As a result, the Pennsylvania style of imprisonment slowly started to disappear in the middle of the twentieth century. The 1945 Swedish Prison Treatment Act, which built on the 1934 Schlyter Plan, was based on the idea that punishment should merely be the deprivation of liberty and not the prison experience itself (Lindström & Leijonram, 2007). The act read that prisoners “shall be treated with firmness and earnestness and with the consideration due him as human being. He is to be employed at suitable labor and, furthermore, shall receive such treatment as promotes his
adaptation to social life. The injurious effects of confinement must be prevented as much as possible” (Reprinted in Eriksson, 1954, p. 155).

Against the backdrop of the legal changes in the penal realm, with more emphasis on rehabilitation and an increased use of alternative sentences, the absolute number of prisoners changed remarkably in the Scandinavian countries from the middle of the nineteenth to the middle of the twentieth century (von Hofer, 2011). In Sweden, the daily prison population per 100,000 decreased from a peak in the 1860s to a low in the late 1930s. The trend in falling prison inmate numbers was least pronounced in Denmark up until World War II, with only marginal decreases as compared to Sweden.41

In contrast to Denmark and Sweden, both of which embraced rehabilitation and reintegration and managed to reduce their prison populations over the course of the twentieth century, Finland’s prison population experienced an enormous growth from the beginning until the middle of the century. Imprisonment rates surged from 100 around 1900 to roughly 270 per 100,000 in 1945 (Lappi-Seppälä, 2009). Finland’s specific historical experiences, higher crime rates, and economic hardship combined sparked the implementation of harsher, or more “repressive” criminal legislation in Finland than in her neighboring countries in the first half of the twentieth century (Lappi-Seppälä, 2012, p. 348). The country’s historical experiences of a total of three major wars (the 1918 Civil War, and two wars against the Soviet Union during World War II) and the resulting economic hardship especially impacted the way Finland viewed crime and punishment. In the immediate years after the civil war, Finnish imprisonment rates more than tripled from 100 to 350 per 100,000 population within only a year (Lappi-Seppälä, 2009). Many of the offenders had been convicted of war-related crimes such as treason in the

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41 Norway saw a decline in its prison population from the middle of the nineteenth century to the century shift after which the number underwent only small up-and-down movements.
direct aftermath of the civil war. Following these events, the prohibition period and economic recession further contributed to rising imprisonment rates in the mid-1930s. Prior to World War II, when the economy was recovering and prohibition ended, imprisonment rates fell again (Lappi-Seppälä, 2012).

III.B.2. Post-World War II Scandinavian Penal Policy

The typical Scandinavian policy-making process, characterized by the involvement of experts and intellectuals and a long bureaucratic legislative process to draft and adopt new laws, can also be seen in late modern Scandinavian penal-policy developments. Although various smaller penal reforms were undertaken in the first half of the twentieth century in Sweden, among them the 1945 Prison Treatment Act, the first overall major revision of Sweden’s 1864 code was effected in the late 1950s to early 1960s. It was the result of decade-long legislative preparatory work and the involvement of a variety of professional experts (Swedish National Council for Crime Prevention, 1977). In 1965, the old penal code could then eventually be replaced with the New Penal Code (Brottsbalken) (1962:700).

The main purpose of the new code was not only to codify the many legislative amendments to the 1864 Code but to also “compromise between diverse criminal law goals advanced by various scholars and interest groups” (Brush, 1968, p. 74). The division of the New Penal Code into three parts illustrates these purposes: general principles, types of crimes, and punishment, with the term punishment referring to either fines or imprisonment. Interestingly, the third part of the code, which addressed punishment, stressed the importance of individualized treatment, similar to the emphasis on individualized punishment previously codified in Denmark in 1930. When the chances of rehabilitation are high, alternative sanctions to imprisonment (i.e., conditional sentences or probation) should be preferred (Brush, 1968).
Over the course of the late 1960s and 1970s, however, the treatment-based model of punishment came under increased scrutiny all across Scandinavia. One reason for this was rising crime rates. Overall, the Scandinavian countries followed the trend of other Western industrialized countries (or late modern societies) in crime rates. From the 1960s to the early 1990s, crime rates increased across the board (Lappi-Seppälä, 2000; von Hofer, 2003; Tonry, 2004). Lappi-Seppälä (2007) illustrated in historical detail these substantial increases: while offense rates against the countries’ criminal codes increased from roughly 2,000 per 100,000 people in 1950 to about 10,000 in 1998 in Denmark, they rose in Sweden from similar levels even higher, to about 12,000 in 1998. Meanwhile in Finland, rates rose from roughly 1,000 to 7,000 per 100,000 in the same time period and in Norway from 1,000 to about 6,000 per 100,000 people.

Such as before World War II, Finland continued on a quite distinct path in terms of imprisonment rates in the latter half of the twentieth century. In the first half of the 1940s, the time Finland was involved in World War II, both murder and assault rates doubled and theft offenses tripled. The largest crime rate increase emerged with robberies, where a tenfold increase was observed during that time period (Lappi-Seppälä, 2007; 2012).

The war experiences also left a substantial mark on the Finnish economy. While Sweden’s economy started thriving and prosperity spread in the neighboring country, economic hardship led to less financial support for treatment-based punishment. Cavadino and Dignan (2006) also found that Finland’s prisons were far less characterized by rehabilitative efforts than Sweden’s, largely due to a weaker welfare-oriented penal tradition after World War II than noticed in the other Scandinavian countries. In fact, Sweden, in particular, but also Denmark to
some extent, engaged in large expansions of their welfare states directly following World War II. Such a vast expansion was absent in Finland.

In the 1960s, public officials and scholars in Finland became increasingly concerned about the fact that their imprisonment rates were more than twice as high as in other Western industrialized countries, such as in neighboring Sweden and Denmark. The comparison with the other Scandinavian countries’ penal systems led to a new strategic proposal to reform the Finnish penal system (Lappi-Seppälä, 2007). As the large Finnish prison population was considered a “disgrace” (Tonry, 2004, p. 33), Finnish penal policy debate soon shifted from the focus on repressive measures to emphasizing legal safeguards.

This shift in thinking can be seen by the insertion of the neoclassicist ideal of punishment into the country’s penal code. In the 1970s, the social debate primarily revolved around the old criminal legal provisions codified in 1889, which reflected values of the late-nineteenth century class-based society and stood in sharp contrast with the now rapidly developing Finnish welfare state. The reliance on prison sentences was not considered the best way to reduce crime anymore (Lappi-Seppälä, 2012). Against the backdrop of these concerns, ideals of Neoclassicism as a new popular approach to penal policy soon spread among professional experts and criminal justice personnel in Finland. Von Hirsch (1983) first popularized Neoclassicism in the United States by suggesting a “just desert model” of punishment, according to which punishment should not be individualized but should first and foremost be determined by its proportionality to the seriousness of the crime that was committed. Punishment should also be determined by the blameworthiness (or culpability) of the offender (Andenaes, 1983). Finally, there should be a clear separation of treatment from punishment, allowing for social assistance primarily outside the penal institution (Friday, 1988).
As a result of the insertion of neoclassicist ideals, shorter sentences were introduced for some crimes, the conditional release regulations somewhat liberalized, and more use of fines and conditional sentences was made. A sentence of conditional imprisonment (such as a suspended sentence), which can be given instead of any fixed prison sentence of less than two years, meant that the prison sentence would not be enforced as long as the offender did not commit any new offense while on probation. The probationary period should last from in between one to three years (Kaijalainen & Mohell, 2014). As a result of the increased use of alternatives to imprisonment, Finnish imprisonment rates dropped significantly from around 125 per 100,000 people in 1975 to 55 per 100,000 people in 1998. This happened despite increasing crime rates (Tonry, 2001).

III.B.3. Scandinavian Prisoner Activism

Apart from rising crime rates and the growing appeal of “just desert,” another reason for the rethinking of penal policies post-World War II was a wave of prisoner activism starting in the 1960s. Prisoners across Scandinavia started demanding improved conditions of confinement. In Sweden, the organization KRUM (Riksförbundet för Kriminalvårdens Humanisering), established in 1966, took a lead in the call for prison reform. Organizations with similar concerns were founded in Denmark (KRIM) in 1967 and Norway (KROM) in 1968. These organizations found that the prison in its current form was a very expensive, ineffective, and detrimental form of punishment (Mathiesen, 2000; von Hofer, 2003). Overall, the prisoner organizations revolved around three central ideas summarized by the Norwegian prison scholar Mathiesen (2000). First, a general feeling about the prison being a problematic and inhumane institution that did not meet its purposes of rehabilitation and successful reintegration had spread among both scholars and practitioners. Among other things, prisoners began demanding better salaries for their work, the
possibility of starting prisoner organizations behind bars, and better visiting conditions (Ward, 1972; Mathiesen, 2000). Second, the involvement of prisoners (and ex-prisoners) themselves in political action was considered particularly important, leading the organizations to demand more involvement. Finally, the general idea about abolishing the prison gradually spread, the more the prisoner organizations advocated for penal reform. In Sweden, for instance, one of these organizations that called for the abolition of the prison was the movement National Association for the Humanization of the Correctional System (NACS) (Pollack, 2011).\footnote{In Norway, six peaceful work strikes took place in Ullermo, a prison with a capacity of 250 that primarily housed long-term offenders. The work strikes were supported by KROM and demanded better payment for work and more liberal visiting conditions and mail censorship. In the long-term perspective, the conditions of confinement improved as a result of the work strikes (Mathiesen, 2000). Meanwhile, Denmark’s KRIM continues to offer free legal advice to prisoners who have been subject to unfair treatment or brutality (KRIM, 2014).}

Interestingly, the prisoner organizations’ views found support in political parties across the board as well as the administration of justice (von Hofer, 2003). In Sweden, the then-Minister of Justice Lennart Geijer from the Social Democratic Party even considered the idea of abolishing prison, as he found it to be used for revenge purposes only (Pollack, 2011). Guided by these ideas of abolitionism, the Swedish Social Democratic Party inserted their political traditions of emphasizing solidarity, social reform, and therapeutic intervention into the crime policy realm. Crime policy became a politicized topic for the first time in Sweden, yet the issue was only marginally debated (Tham, 2001).

The demands of KRUM in Sweden soon also found expression in legal texts. The Prison Treatment Act (\textit{Lag om Kriminalvård i Anstalt}, 1974) was a particularly important law for prison reform, as it stipulated that imprisonment must be used to promote the re-socialization of offenders, while it must also counteract the “detrimental consequences of the deprivation of liberty” (Swedish Prison Treatment Act, 1974, §3). Ideally, preparations for any prisoner’s
release should already be made upon admission (Leander, 1995). The calls of the activist groups and the implementation of the act further coincided with policy proposals titled “empty the prisons” (Leander, 1995, p. 169).

III.B.4. The Scandinavian-Wide Focus on the “Just Desert” Principle

After Finland had inserted the “just desert” principle into its 1889 Penal Code in 1976, Sweden became increasingly influenced by this new way of penal thinking. The model was discussed in-depth in the 1977 report of the Swedish National Council for Crime Prevention (Brottsförebyggande rådet [BRÅ]) titled New Penal System: Ideas and Proposals (Nytt Straffsystem: Ideer och Förlag). This report stressed that the imposed criminal sanctions should not be determined by the various treatment options available in prison but by the offender’s blameworthiness or “penal value” (Cavadino & Dignan, 2006, p. 156). However, such as in Finland, restructuring punishment around the “just desert” principle did not mean that penal sanctions should become harsher. In order to achieve “just desert,” levels of sanctions should be reduced, shorter prison sentences should be replaced with community sanctions, and a sentencing system built on the principles of justice and humanity should be developed (Lappi-Seppälä, 2007).

The justice model eventually found expression in Sweden in 1988, when the “just desert” principle was inserted into the Swedish Penal Code of 1962. Apart from rehabilitation, just desert must be the main consideration upon sentencing. This meant that the “penal value” of the committed crime (the perceived gravity of the offense) must be an important factor in determining the appropriate sanction for the offender (Lindström & Leijonram, 2007). However,
the Swedish legal reform was considered to have had less impact on the levels of available sanctions than the Finnish reform of 1976 (Lappi-Seppälä, 2007).  

In contrast to Finland and Sweden, the rehabilitation orientation of its penal policy remained much stronger in Denmark, despite some important penal reforms undertaken during the 1970s (Lappi-Seppälä, 2007). Due to a growing concern about the detrimental effects of imprisonment, the proportionality of punishment to the crime committed, and the high costs of imprisonment, Denmark started considering options to reduce its prison population. In 1973, it amended its penal law, eliminating indeterminate sentencing schemes. As Brydensholt, the former General Director of the Danish Department of Prison and Probation pointed out, “the use of indeterminate sanctions had been shown to result in prolonged periods of imprisonment, periods disproportionate to the offense committed” (Brydensholt, 1980, p. 38).

Furthermore, a “depenalization” law was passed during the same year that called for more lenient sentences for non-violent property offenses. Finally, the prison and probation administrations were put together into one department, indicating the need for more corroboration and the need to allocate more funds from the prisons to probation (Brydensholt, 1980). In 1977, a governmental working group published the reform plan Alternatives to Deprivation of Liberty, further indicating the “diminishing role” of imprisonment in the Danish penal system (Brydensholt, 1980). The report laid the foundation for the first Scandinavian

43 Similar to Finland and Sweden, penal reform happened in Norway during the 1970s. The Ministry of Justice presented its report On Crime Policy to the Norwegian parliament in 1978, incorporating the new penal ideals of “just desert.” The goal of Norwegian criminal justice policy in general, as stated in the report, was not merely to combat crime and to balance criminal justice policy costs with its benefits to the Norwegian society but to also comply with the “fundamental principles of justice and humanity” (Brydensholt, 1980, p. 1). Instead of focusing on the treatment of offender, therefore, punishment should meet all the demands for justice (as quoted in Pratt, 2008). Similar to the Swedish BRÅ report of 1977, the Norwegian Ministry of Justice called for the increased use of criminal sanctions other than imprisonment. It further suggested to reduce sentences for non-violent property offenses, and to reconsider indeterminate sentencing schemes. This included a consideration about the use of life imprisonment that resulted in the abolition of the life sentence in 1981 and its replacement with a twenty-one year definite time sentence.
experiment with community service in 1982, a community sanction that became increasingly popular in the years to follow. Furthermore, the trend was towards sentence reductions for crimes other than non-violent property offenses. The report further suggested increasing the use of suspended sentences or other alternatives to imprisonment with the goal of avoiding the detrimental effects that imprisonment was believed to come along with (Rentzmann, 2008).

Although the “just desert” principle thus became the cornerstone of sentencing in criminal cases in all three countries, it was strongest in Finland (Lappi-Seppälä, 2012). This swifter insertion of the “just desert” principle in Finland could have been the result of rehabilitation never being that strong of a justification for punishment there in the first place, due to its different penal experiences following World War II (Cavadino & Dignan, 2006). Furthermore, as I described above, professional experts were particularly concerned about Finland’s large prison population, demanding a rethinking of its penal practices.

In sum, the emphasis on “just desert” led to a reconsideration of the strong focus on rehabilitation and perceived dangerousness of the offender, while allowing for a growing concern with proportionality and predictability of future criminality in all Scandinavian countries in the years to follow. The insertion of the “just desert” principle into the countries’ penal codes meant that the rehabilitative concerns were ranked as a secondary principle for sentencing. In other words, “just desert” in the Scandinavian context meant that the prospect of rehabilitation should not be the prime consideration upon sentencing when determining the appropriate form of punishment for an individual offender. Instead, the nature of the initial crime that was committed should be the main frame of reference. In Sweden, for instance, rehabilitation was now instead seen as an “excuse for forced intervention against deviants” (Tham, 2001, p. 411).
However, the insertion of the “just desert” principle into the countries’ penal codes did not mean the tradition of a penal policy based on egalitarianism and universalism was abandoned. Instead, the tradition of policy based on care and social justice remained (Tham, Rönneling, & Rytterbro, 2011). “Just desert” further did not mean that sanctions in general became more punitive. Instead, Finland and Sweden started experiencing an increased “bifurcation of punishment,” meaning low-level offenders were increasingly diverted into alternatives to prison (such as community sanctions, suspended sentences, etc.), while the prison remained reserved for violent and/or “problematic” offenders, who were not eligible for any alternative sanctions other than imprisonment. In Sweden, the average sentence length was further influenced by legal changes regarding conditional release considerations (von Hofer & Tham, 2013).

III.C. Late Modern Scandinavian Developments in Reported Crime and Murder Rates

The penal reforms across Scandinavia of the 1970s and 1980s and growing prisoner activism show that prison increasingly became considered a punishment of last resort. This is despite the Scandinavian countries following crime trends of the entire Western industrialized world throughout the twentieth century. Several scholars who have analyzed Scandinavian penal policy and compared such to other Western industrialized countries noted that crime rates in the Scandinavian countries as well as other Western industrialized countries steadily increased until the early 1990s. They also found that they have since stagnated in these countries (Lappi-Seppälä, 2000; von Hofer, 2003; Tonry, 2004).

Crime trends are typically reported as either the absolute number of crimes reported to the police or as crime rates (per 100,000 population). A major problem with comparing crime rates cross-nationally emerges, as crimes can have different legal definitions from country to
country. Crimes can also be categorized in quite different ways. Countries can further differ in the numbers on how much crime that has been committed is actually reported to the police. This is often a result of differences in culture, religion, and levels of economic development, among other factors (Soares, 2002). Furthermore, the role of the state within a society and its relations to its citizens may play a role in how much crime and what kind of crime is reported to the police. For these numerous reasons, I refrain from comparing Scandinavian crime rates in this research with other countries or the EU-average and simply provide readers with a comparison of the absolute number of crimes reported to the police between the three countries examined. Figure 3-1 shows the crimes reported to the police in Denmark, Finland, and Sweden for the years 1993 to 2012, data that was collected by Eurostat. While crimes reported in Denmark slightly decreased during that time period, reported crime in Finland remained fairly stable. In Sweden, however, reported crime increased by eighteen percent between 1993 and 2012.

Figure 3-1

*Crimes Reported to the Police in Denmark, Finland, and Sweden, 1993-2012.*

In addition to reported crimes, I chose to compare Danish, Finnish, and Swedish murder rates, a crime category particularly important to consider for my study. I believe that a comparison of such rates cross-nationally can be considered somewhat less problematic, as definitions of murder are more similar than definitions for all crimes put together. Furthermore, murder is also perceived as a particularly serious crime and thus more likely to be reported than less serious, non-violent offenses. Also, murder is more likely to be discovered than any other crime due to a person disappearing. When thus looking more specifically at murder rates in Scandinavia, noticeable similarities but also differences between Denmark, Finland, and Sweden emerge. Figure 3-2 shows the murder rates per 100,000 population in the three countries from 1993 to 2012. I calculated these rates by dividing the yearly number of reported deaths to the police (as collected by Eurostat) with the population numbers and multiplying that with 100,000 population. While the murder rates decreased in all three countries during that time, they experienced the sharpest drop in Finland. The chart also shows that the murder rates have traditionally been higher in Finland than in the other two Scandinavian countries. In fact, for most of the time period, the Finnish murder rates were double the rates in Denmark and Sweden.

Figure 3-2

*Murder Rates in Denmark, Finland, and Sweden, 1993-2012.*
The reasons behind the higher Finnish murder rates are complex and have aroused quite some scholarly attention. By examining the Finnish “problem with lethal violence” from a cultural perspective, Savolainen, Lehti, and Kivivuori (2008), for instance, observed that many murders in Finland were committed by middle-aged and unemployed male perpetrators in semi-rural areas. The authors believed this was partly due to a Finnish drinking culture with a preference for hard liquor and binge drinking, drinking in private rather than public settings, and a social tolerance for drinking. These features resembled the drinking culture in Finland’s eastern neighbor Russia, the authors noted (Savolainen, Lehti, & Kivivuori, 2008). Furthermore, the three authors argue that Finnish welfare state provisions further impacted the Finnish drinking culture. By providing unemployed middle-aged men with housing and income support, the state contributed to the social marginalization of such. This latter finding was confirmed in follow-up research (Kivivuori & Lehti, 2011, p. 167), in which the typical Finnish homicide perpetrator was described as “a marginalized unemployed male, a receiver of welfare benefits, perhaps on unemployment pension.” Comparing these findings with murder in Sweden, the authors noted

that the state has been less tolerant of long-term employment of middle-aged men but that immigration had played a more important role in Sweden (Savolainen, Lehti, & Kivivuori, 2008; Kivivuori & Lehti, 2011). I address these interesting findings in later chapters when comparing the lifer populations in Finland and Sweden.

Comparing murder trends in Finland and Sweden was also part of the first study on the European Homicide Monitor Data (Granath et al., 2011), which was produced by the Swedish National Council for Crime Prevention, the National Research Institute of Legal Policy, and the Institute for Criminal Law and Criminology at Leiden University. This study compared murder trends in Finland and Sweden with the Netherlands and specifically looked at the individual characteristics of the perpetrators. Similar to Savolainen, Lehti, & Kivivuori’s (2008) findings, the authors noted that murders in both Finland and Sweden were often committed by intoxicated acquaintances, with Finland having experienced a particularly large number of cases, where both the perpetrator and victim had consumed a substantial amount of alcohol prior to the crime.

III.D. Late Modern Scandinavian Developments in Imprisonment Rates and Social Expenditures

Despite differences in crime reporting trends, the Scandinavian countries have followed similar trends in their imprisonment rate trends during the 1990s and early 2000s but have since seen some variation. Figure 3-3 shows a direct comparison of imprisonment rates in Denmark, Finland, and Sweden from 1993 to 2012. I calculated these rates by dividing prison population data from Eurostat (the absolute number of remand and imprisoned offenders) with population data from the countries’ statistical bureaus and multiplying the number with 100,000. The figure shows that Danish imprisonment rates increased from sixty-five per 100,000 people in 1993 to a

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44 In fact, Lehti and Kivivuori were co-authors of the European Homicide Monitor Data study.
peak of seventy-four in 2005. In 2012, Danish imprisonment rates were seventy-one per 100,000 people. In Finland, imprisonment rates decreased from sixty-eight to fifty-two per 100,000 people in between 1993 and 1999. The rates then increased to a peak of seventy-four per 100,000 people in 2005, the same level and year as the peak in Denmark. After that, Finnish imprisonment rates decreased again to fifty-nine per 100,000 people in 2012. Swedish imprisonment rates were slightly higher for most of this time period. They peaked in 2004 at eighty-one per 100,000 people, the highest level of imprisonment rates recorded in the three countries during that time period. They gradually decreased thereafter, reaching sixty-seven per 100,000 people in 2012.

Figure 3-3

*Imprisonment Rates in Denmark, Finland, and Sweden, 1993-2012.*
In a European comparison of imprisonment rates, the Scandinavian countries continue to rank at the bottom of a list for twenty-five European countries, the United States, and Russia in 2012 and beyond (International Centre for Prison Studies, 2014). These relatively low imprisonment rates can, as described above, be primarily attributed to low levels of reported crime, an extensive use of fines and other alternative sanctions to imprisonment for most criminal offenders. In addition, several authors examining average prison sentence lengths in a comparative perspective found that the small group of offenders that still is sent to prison in Denmark, Finland, and Sweden also served shorter sentences than prisoners in most other Western industrialized countries (Mauer, 2006; Lappi-Seppälä, 2007; Pratt, 2008).

Meanwhile, however, more recent statistics about the percentage of long-term prisoners in the countries’ total prison populations reveal mixed trends. In Denmark, any prison sentence that is longer than forty-eight months (4 years) is considered long-term imprisonment. The percentage of these offenders in the country’s total prison population has slightly increased in the past decade. While 1.8 percent of all Danish prisoners were serving four years or more in 2004, their percentage had increased to 2.7 percent in 2013 (Danish Prison and Probation Department, 2014). In Finland, the 1889 Criminal Code includes a description of possible penalties for criminal offenses. The most common penalties in Finland are petty fines, fines, community service, monitoring sentences, conditional, and unconditional prison sentences. Unconditional prison sentences continue to be a matter of last resort. They can only be imposed by courts of

45 Monitoring sentences, which require offenders to remain in their homes and participate while electronically monitored in any kind of activities as determined by the Criminal Sanctions Agency, were the latest addition to the Finnish penalty spectrum in 2011. They are now considered the “most demanding community sanction form as regards its enforcement and supervision” (Kaijalainen & Mohell, 2014, p. 8).
law, and district courts (käräjäoikeus) are the courts of first instance in Finland (Kaijalainen & Mohell, 2014). If a prison sentence is imposed in Finland, it is typically fairly short. In fact, eighty-two percent of prison sentences in 2013 were shorter than four years. For the remaining eighteen percent of prison sentences, thirteen percent lasted in between four and eight years, and only five percent lasted eight years or longer. It is also interesting that particularly long prison sentences have been used less in Finland in the past ten years. While only five percent of prison sentences lasted eight years or longer in 2013, their percentage was nine percent in 2004 (Finnish Criminal Sanctions Agency, 2014). In Sweden, the percentage of prisoners serving particularly short sentences of under two months has remained about the same between 2002 and 2013. Meanwhile, the percentage of prisoners serving sentences between two months and two years shrank, whereas the percentage of prisoners serving two years or more increased. In 2013, the average prison sentence in Sweden was twenty-three months (less than 2 years), and only seventeen percent of prisoners served sentences of four years or more (Swedish Prison and Probation Service, unknown author, 2014). Such as in Denmark, a prison sentence of more than four years is considered long-term imprisonment in Sweden.

Despite these mixed trends in short- and long-term imprisonment, the Scandinavian countries (and this includes Finland) have all experienced changes in the composition of their overall prison populations. Most importantly, growing immigration to the Scandinavian region and the higher percentage of foreign-born and/or foreign citizens in the countries has left a mark on the countries’ prison populations in recent decades. A table or figure with a direct comparison of the percentages of foreign-nationals and/or foreign-born individuals in the three countries’ total prison populations, however, would not be feasible. This is due to these individuals being

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46 Appeals of district court decisions first go to the courts of appeals (hovioikeus) and then, in the last instance, to the Finnish Supreme Court (korkein oikeus).
tracked in quite different ways in the three countries. Statistically, in regards to the percentage of foreign citizens versus Danish citizens, the Danish Prison and Probation Department distinguishes between open and closed prisons, a distinction that will be explained in more detail below (in Chapter V). In 2013, roughly fifty-eight percent of offenders in Danish closed jails and prisons were born and raised in Denmark. Another nine percent were born in Denmark, but had at least one non-Danish parent. The remaining thirty-one percent were either immigrants (17%), meaning that these individuals were not born in Denmark but lived there legally or that they were foreigners (14%), meaning that they were either tourists or asylum-seekers or illegally in Denmark when they committed the crime (Danish Department of Prison and Probation, 2014). In Danish open prisons, the percentage of offenders born and raised in Denmark was substantially higher with seventy-eight percent (compared to 58% in closed prisons). Meanwhile, roughly fourteen percent were counted as immigrants, seven percent as Danes with at least one foreign parent, and only one percent as foreigners. In Finland, the percentage of foreign citizens in the country’s prisons and jails has increased substantially in recent years but has remained lower than in Denmark. The Finnish Criminal Sanctions Agency reported in its 2013 Statistical Report that while there were only four percent of imprisoned offenders that were foreign in 1997, their share had increased to approximately fourteen percent in 2013 (Finnish Criminal Sanctions Agency, 2013). In Sweden, roughly thirty percent of the admitted prisoners in 2013 were foreign citizens (Swedish Prison and Probation Service, 2013). However, it is very likely that the number of foreign-born prisoners in Sweden is substantially higher due to the country’s generous naturalization laws.

47 It is unclear in the Finnish report whether these were foreign citizens or foreign-born nationals.
III.E. Changes in Late Modern Scandinavian Penal Policy

The brief comparison of Danish, Finnish, and Sweden imprisonment rates, average sentence lengths, and the comparison of data on foreign-born and foreign nationals in the three countries’ prison populations shows the challenges that arise when analyzing such secondary data cross-nationally. Even countries with quite similar penal policy approaches over time, such as the three Scandinavian countries, use very different data collection techniques to capture long-term trends and characteristics of their prison populations. This epitomizes my concern with the quantitatively-informed comparative penal policy literature, which has largely measured grades of penality by higher imprisonment rates and longer average prison sentences without paying sufficient attention to these differences in data collection techniques.

Hence, the mixed results regarding these penal indicators from Denmark, Finland, and Sweden do not allow me to draw any conclusions about whether the countries have experienced late modern penal changes that might have led to a dismantling of their penal welfarist states in recent decades. Merely analyzing and comparing numbers cross-nationally, however, is not the objective of my study. I therefore complement the statistical analysis with an analysis of legal texts, media reports, and interviews throughout this study. In the following paragraphs, I broadly discuss recent changes in contemporary Scandinavian penality without taking statistical data trends as indicators for late modern penal policy changes. Instead, I highlight similarities and differences in the countries’ penal policy approaches over the last few years by examining major legal changes, important political debates, and penal policy discussions in media reports.

III.E.1. Recent Penal-Legal Reforms

In recent years, the Scandinavian countries have further engaged in penal reform and have been primarily concerned about how to best enforce prison sentences without adding to the
“detrimental effect” that imprisonment can have on an individual’s well-being. In 2001, Denmark implemented the Sentence Enforcement Act (Straffulbyrdelsesloven) with the purpose of codifying principles of sentence enforcement in one single act. The legal preparatory work for this act was a long process. In 1985, the Ministry of Justice transferred the responsibility of drafting a sentence enforcement act to the Council of the Criminal Code (Straffelovradet), which set up a special working group to draft a report on the issue. The new act should codify the principles of sentence enforcement, specifically addressing conditions of confinement. The act should further include more precise legal provisions on the limitations of an offender’s integrity and rights while imprisoned (Engbø, 2005). With the implementation of the act, the goal was also to give the parliament more say in sentencing enforcement (Engbø, 2005; Schiøler, 2012).

The implementation of the Sentence Enforcement Act in 2001 also led to some revisions of the Danish Criminal Code, especially in terms of regulations regarding conditional release. As a result of these reforms, the Director-General of the Danish Department of Prison and Probation William Rentzmann identified four major developments in his country’s penal policy in the past few decades (Rentzmann, 2008). First, there has been an increased focus on security, expressed primarily by a zero-tolerance approach towards drugs. However, Rentzmann found that there were increased efforts put into providing prisoners with treatment opportunities, especially for drug addicts and alcoholics. There has also been more focus on alternatives to imprisonment, such as on community service, a Danish innovation, and electronic monitoring. In short, most of these Danish developments provide support for the thesis that Denmark still considers imprisonment a punishment of last resort and if imprisonment is the “necessary criminal sanction,” the prison sentence should be guided by the principles of rehabilitation and reintegration.
In Finland, the most fundamental legal reform pertaining to sentence enforcement in recent decades took place in 2006 with the implementation of the Act on Imprisonment (Vankeuslaki), which entered into force on October 1st of that year. This major penal-legal reform was influenced by several United Nations recommendations and was also considered in line with the European Convention on Human Rights (Mohell, 2014). It was further preceded by the Finnish constitutional reforms of 1995 and 2000, in which more detailed legal provisions on prisoner rights and responsibilities were demanded (Lappi-Seppälä, 2010). Most importantly, the 2006 Act on Imprisonment codified many penal practices that had long been used by the various prisons across the country. With its implementation, the Finnish Criminal Code also had to be amended (Ojanperä-Kataja, 2008).

Finally, Sweden passed a very similar law in 2010, the Swedish Imprisonment Act (Fängelselag). This act regulated the enforcement of a prison sentence in regards of placement, work and compensation, free time, personal property, health care, privacy, visitation and other contacts with the outside world, leaves, mechanisms towards release, and other issues pertaining to imprisonment (Swedish Imprisonment Act, 2010:610, 1§). As such, the Imprisonment Act provided the Swedish Prison and Probation Service with clear guidelines as how to enforce a prison sentence and how to best prepare the prisoners for reentry into society.

III.E.2. Punishment as a Political Topic

Penal policy decision-making in Denmark, Finland, and Sweden (not much different to policy-making in other issue areas) has long seen the involvement of issue experts such as judges, lawyers, prison administrators, and criminologists. It has also been characterized by efforts towards reaching consensus (Bondeson, 2005; Cavadino & Dignan, 2006). In all three
countries, the respective Ministries of Justice are required to develop prison policy.\textsuperscript{48} As part of their cabinets, which are primarily comprised of career bureaucrats, the Minister of Justice is thus the public official mainly responsible for penal policy. In Sweden, the daily prison and probation operations are centrally administered by the Swedish Prison and Probation Service (\textit{Kriminalvården}). In Denmark, the Danish Prison and Probation Department (\textit{Kriminalforsorgen}) is primarily responsible for enforcing and implementing both prison and community sanctions. In Finland, issues concerning criminal policy have been handled by professionals such as professors of criminal law and civil servants of the Ministry of Justice and of other authorities. The Criminal Sanctions Agency (\textit{Rikosseuraamuslaitos}) is the government authority working under the direction of the Ministry of Justice, which enforces both prison sentences and community sanctions.\textsuperscript{49}

In recent decades, however, crime and punishment in the three Scandinavian countries has become increasingly politicized. Right-wing populist parties, in particular, which gained foothold in Denmark, Sweden, and Finland, have pushed a tough-on-crime agenda, yet to varying degrees and also on less successful notes than in many other European countries. In Sweden, it was only in the 1990s that crime and punishment became topics of increased interest to the media and parties across the political spectrum (Lahti, 2000; Tham, 2001). Right-wing populism first emerged in Sweden with the party New Democracy (\textit{Ny Demokrati}), when it entered the Swedish Parliament in 1991 with 6.7 percent of the vote. This was also the time when, during the parliamentary election campaign in Sweden in 1991, the largest conservative

\textsuperscript{48} In Norway, the central administrative body is called Directorate of Norwegian Correctional Service (\textit{Kriminalomsorgen}). It is mandated to carry out remands in custody and penal sanctions.\textsuperscript{49} More information on the respective prison administrations can be found on the administrators’ official websites. Information is also available in English. For Sweden: http://www.kriminalvarden.se; for Denmark: http://www.kriminalforsorgen.dk; for Norway: http://www.kriminalomsorgen.no; for Finland: http://www.rikosseuraamus.fi
party, the Swedish Moderate Party, increasingly focused on the issues of “law and order”. The party launched campaigns against criminals with such slogans as “Keep them locked up, so we can go out!” (Leander, 1995, p. 169). Meanwhile, the Swedish Social Democratic Party, almost exclusively in the government seat since the end of World War II, did not have a clear-cut criminal justice policy agenda at that time (Tham, 1995). The Moderate Party eventually won the 1991 elections and formed a conservative government. Consequently, the Swedish Social Democratic party soon started politicizing crime, mainly as a result of more pressure from the media and more conservative parties (Tham, 2001). So did New Democracy, which used tough-on-crime issues during the election campaign, linking immigration with criminality and accusing refugees of depleting the welfare system (Widfeldt, 2000). However, New Democracy was short-lived in the Swedish parliament. It was voted out of the parliament in the following parliamentary elections in 1994. In 2000, New Democracy was dissolved after it had filed bankruptcy.

Right-wing populism was more successful in Denmark due to the Danish People’s Party (Dansk Folkeparti). This party first gained seats in the Danish Parliament in 1998, growing to become the third-largest party in 2001. After the 2005, 2007, and 2011 parliamentary elections, they managed to sustain the third position in parliament. In its party program, the Danish People’s Party stresses that “Denmark belongs to the Danes and its citizens must be able to live in a secure community founded on the rule of law, which develops along the lines of Danish culture” (Danish People’s Party Program of 2002, 2014). The importance of the preservation of law and order is also noted in a separate paragraph of the party program. The party finds it “of

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50 Appendix 2 includes an overview of Sweden’s political parties and their results during the latest parliamentary elections.
51 Appendix 2 includes an overview of Denmark’s political parties and their results in the latest parliamentary elections.
great importance for the public conception of justice that the consequence of crime is rapid conviction and punishment” (Danish People’s Party Program of 2002, 2014). Finally, in a separate party brochure on integration, the party stressed that immigrants should not be free to settle down in Denmark, as the country cannot afford to support more unemployed people or to have its central values of “liberty, legality, and democracy” become undermined (Thulesen Dahl, 2014, p. 1). At the center of the Danish People’s Party’s political program has thus been the issue of immigration, which the party links with not only criminality (“immigrants are criminal”) but also with less availability of services in the social welfare system for the general population (“immigrants drain the welfare state of resources”) (Rydgren, 2004, p. 486).

More recently, the Sweden Democrats (Sverigedemokraterna) have jumped on the tough-on-crime bandwagon in Sweden, calling for stricter penalties for criminal offenders, since they first gained seats in the Swedish parliament in 2010. In the 2014 parliamentary elections, the Sweden Democrats became the third-largest party in the Swedish parliament, by winning 12.9 percent of the votes. According to the party’s official website (Sweden Democrats, 2014), the Sweden Democrats want to be a “party that provides safety,” and their main political topics of concern in 2014 have been immigration, crime, and elderly care. Swedish people should feel safe from immigration and crime and should not have to worry about their retirement (Sweden Democrats, 2014). Regarding crime, the homepage of their political program on their website reads

Crime increases in Sweden. More and more, not only women feel unsafe on the streets and on public squares after dusk. We have to be tough on crime, prosecute more crimes, and make sure the criminals will be locked up. (Sweden Democrats, 2014, own translation)
As with New Democracy and the Danish People’s Party, immigration, crime, and the welfare state system appear to be closely interlinked for the Sweden Democrats. The party notes that immigration must neither constitute “a threat to the Swedish national identity nor to the welfare system and safety” (Sweden Democrats, 2014, own translation).

In Finland, the Finns Party (Perussuomalaisten puolue [PS]), which was founded in 1995, has been classified as a populist party in the West European tradition (Arter, 2010). Previously called the “True Finns,” the party is considered a direct successor party of the Finnish Rural Party (Suomen Maaseudun Puolue SMP), which went bankrupt in 1995. In the 2015 Finnish parliamentary elections, the Finns Party received 19.1 percent of the votes, taking thirty-eight of the 200 parliamentary seats in Finland. According to Arter (2010), the Finns Party has traditionally employed a less extreme anti-immigration rhetoric than the Danish People’s Party but has recently moved more towards right-wing populism. In its party program for the 2015 parliamentary elections, the party called for a more balanced immigration policy which must be prevented from “causing economic or other societal damage to Finland” (Finns Party Program, 2015, p. 1). Yet, the link to the welfare system and crime has not been as clearly established as with the populist parties in Denmark and Sweden. On its official website (Finns Party, 2014), the party makes a reference to the importance of preserving the Finnish culture by noting that Finland is “a nation and culture,” and its primary goal is “to maintain and develop these characteristics in an ever-evolving global framework” (Finns Party, 2014). In contrast to immigration, crime and punishment have traditionally been issues of serious concern for the party. Under the title of “Justice must prevail,” the 2011 party program read that “punishment must be made more severe rather than more lenient. Electronic monitoring is not comparable to

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52 Appendix 2 includes an overview of Finland’s political parties and their results in the latest parliamentary elections.
an actual prison sentence” (Finns Party Program, 2011, p. 8). Although it is stated in the party program that immigrants who have committed a crime should be deported, the Finns Party also wants laws to apply “equally to everyone – equal justice under the law” and that “there should be no recognition of cultural or economic differences in the judicial system” (Finns Party Program, 2011, p. 8).

III.E.3. Increased Media Exposure

In addition to politics, the media has become an important medium for shaping punitive attitudes. Although the media interest in crime has not been discussed as a separate factor signaling increased punitiveness in late modern society for Garland (2001), I argue that media outlets still contribute to shaping an “emotional tone in crime policy,” characterized by sensationalized reporting and a place for including the voices of victims of crimes. This can also be observed in the Scandinavian context. With most individuals not having any personal experience with crime, the media (newspapers, TV shows and news, and Internet sources) play a particularly important role in informing people about crime (Smolej and Kivivuori, 2006). In Denmark, Finland, and Sweden, local and national newspapers and, in particular, tabloid newspapers have been increasingly reporting on crime and punishment issues in recent decades. These newspapers now also have heavy Internet presence. In addition, both public and private television stations report on crime and punishment, and crime television shows, detailing crime investigations, sentencing and sentence enforcement, have become increasingly popular. In quantitative analyses on crime reports in Finnish newspapers, Smolej and Kivivuori (2006; 2008) found that the crime news reporting, especially the non-fictional portrayal of violence has increased substantially in Finland since the early 1980s. Most interestingly, the Finnish tabloid newspapers *Iltalehti* and *Iltaisanomat* have increasingly put crime news on their front pages since
the early 1980s. With the use of Finnish victimization surveys, Smolej and Kivivuori (2006) further noted that the reading of these tabloid headlines was strongly correlated with fear of crime and avoidance behavior.

In an effort to investigate whether the Swedish public has become more punitive in late modern society, Demker et al. (2008) compared surveys from the early 1980s with more recent results. They found that the Swedish public considered sentencing practices of courts now to be much more lenient than previously, which lead them to the conclusion that Swedes in general now demanded more and longer prison sentences. Most interestingly, the authors considered tabloid exposure an intervening variable to explain tougher penal attitudes. In their study, Demker et al. (2008) examined the frequency of reading Aftonbladet (Sweden’s largest tabloid newspaper) and its impact on punitiveness through a survey instrument. As an indicator for “punitiveness,” they used the readers’ opinion about the death penalty as the ultimate form of punishment. They found that regular readers of Aftonbladet (30% of them) were in favor of introducing the death penalty in Sweden for individuals convicted of murder. In contrast, only sixteen percent of the non-regular Aftonbladet readers were in favor of imposing the death penalty on this group of offenders.

Also on Sweden, Pollack (2011) noticed that journalism had become a “social institution” in the mid-1990s and crime one of its major themes. Yet, not only has the media become a “platform for debates about crime, violence, and racial discrimination,” it had also increasingly become an arena for political leaders to discuss “crisis” issues (Pollack, 2011, p. 80). To the popular press and TV reporting, Pollack added that the wave of Swedish crime novelists (i.e. Henning Mankell, Stieg Larsson, and Lisa Marklund, among others) had contributed to making crime a popular and hotly debated theme across Sweden.
III.E.4. The Emergence of Victim Rights’ Organizations

Starting in the 1970s, the Scandinavian countries experienced the emergence of the crime victim as a political topic (Demker & Duus-Otterström, 2009; Tham, Rönneling, & Rytterbro, 2011). The crime victim as a new topic of political interest also became touched by the Nordic welfare state ideals of egalitarianism, care for everybody (universalism), and social justice (Tham, Rönneling, & Rytterbro, 2011). In Sweden, the emergence of the crime victim in political debates found expression in new legislation, the development of social movements, and the establishment of the Swedish Crime Victim Compensation and Support Authority in 1994 (Brottsoffermyndigheten). This governmental agency has since been responsible for the organization of the Crime Victims Fund, for which every offender convicted of a crime that comes with a prison sentence has to pay a certain amount of funds into (Tham, Rönneling, & Rytterbro, 2011). Since the agency’s inauguration, the word “crime victim” has been used much more widely by the parliament and in political debates (Demker & Duus Otterström, 2009; Tham, Rönneling, & Rytterbro, 2011). In addition, non-profit organizations working directly with victims (e.g., Brottsofferjouren) have been established.

In Denmark, the non-governmental organization Victim Support Denmark (Offerrådgivningen) has been established to support crime victims. The agency works independently from the police and courts and volunteers provide free legal advice to crime victims and witnesses of crime. The volunteers give the victims and witnesses space to talk about their experiences under confidentiality (Victim Support Denmark, 2014). A similar non-governmental organization has been established in Finland with Victim Support Finland.

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53 In 1978, for instance, the Criminal Injuries Act (1978:413) was passed in Sweden. Among other things, this act held that crime victims have a right to compensation from the state, especially when the offense committed involved any personal injuries (Tham, Rönneling, & Rytterbro, 2011).
(Rikosuhripäivystys). Not only does Victim Support Finland provide legal advice to crime victims, it also attempts to push for legislation pertaining to victim rights (Victim Support Finland, 2014).

Although victim rights organizations have been established in all three countries, the victims’ legal rights have remained limited as compared to many other Western industrialized countries. Although victims [and relatives of victims in murder cases] receive certain assistance when the crime is under investigation and can request to be informed about sentencing, sentence enforcement, and the expiration of one’s sentence (e.g., through release), crime victims do not take a central role in criminal proceedings in the three Scandinavian countries, do not have a say in the proceedings, and compensation is moderate.

III.F. Conclusion: Scandinavian Penalty

This chapter provided a broad overview of the relationship between Danish, Finnish, and Swedish society and penalty. In order to understand the contemporary characteristics of Scandinavian penalty, I embedded Danish, Finnish, and Swedish penal policy into the broader historical context of Scandinavian society. Penal policy and the relationship between society and penalty have taken on a very specific role in the Scandinavian countries. First, the overview of the countries’ penal histories shows that there has long existed a strong link between their penal policies and social policies. In modern Scandinavian society, a strong sense of egalitarianism\(^{54}\) shaped and reshaped cultural sensibilities. A society’s prevailing sensibilities, a term that I borrow from Elias (1939) but which has also been used by Garland (2001) and Tonry (2004), are shaped by its specific historical, cultural, religious, social, and political circumstances. Egalitarianism has become an overarching sensibility that has characterized the Scandinavian

\(^{54}\) I borrow this central term to understanding Scandinavian society from Pratt (2008) and Pratt and Eriksson (2011).
societies. The emergence of this sensibility, which stresses the need to equally distribute wealth and services as well as political and economic power, was rooted in the Scandinavian countries’ specific cultural, demographic, political, and economic contexts. Sparsely populated territories, a lack of class distinctions, population and religious homogeneity are all factors that laid a fruitful ground for the spread of egalitarianism in these countries. In Finland, the spread of nationalist sentiments on its path towards independence and the devastating war experiences further strengthened the sense of egalitarianism. Over the course of the nineteenth century, the egalitarian sensibility became deeply engrained in all of the Scandinavian cultures and laid the foundation stone for the Nordic welfare state in the late nineteenth and early twentieth century.

Meanwhile, the origins of the Scandinavian penal codes must be sought *before* the establishment of the Nordic welfare state. As such, both the specific penal policies in the Scandinavian countries first developed out of egalitarian sensibilities and only then were coupled with the Nordic welfare state. In this sense, the origins of the Scandinavian penal state, such as the origins of the Nordic welfare state, are not to be traced in distinct (primarily social democratic) political decisions of the late nineteenth and early twentieth century but in the demographic and economic structure of the pre-modern Scandinavian society. Based on egalitarian ideals, the Nordic welfare state became strong, inclusive, and universalist. Nobody should be excluded from its reach, not even those that had violated societal rules. It was thus not surprising that social policy was to be coupled with penal policy, allowing for the spread of penal welfarist ideals. Figure 3-4 lays out these important developments from pre-modern to modern Scandinavian society.

Figure 3-4

*A Historical Account of the Scandinavian Penal State.*
Still, the historical account of the countries’ penal systems has shown how the penal codes were established at somewhat different times and for different reasons but still were influenced by each other due to the countries’ interrelated histories. Yet, the penal codes developed over time, became more nuanced, and underwent major revisions typically after the countries’ internal political, social, or economic conditions had changed fundamentally. This could have been a major change in governmental power (e.g., a new monarch in earlier history or a shift from a social democratic to a more conservative government or vice versa in more recent history), changing economic conditions following war (i.e., the changes brought by the two world wars), influences from the European penal-legal framework, and finally, major societal changes brought by the shift from modern to late modern society.

The prison as a means to rehabilitation and reintegration rather than a place of retribution also has deep historical roots in Scandinavia. The comparison of the history of the prison in the three countries has shown that the prison as a place of punishment underwent several phases that have been fairly similar. Within the first hundred years of its existence, the prison transformed from a place of penitence and redemption into a social institution oriented towards the “rehabilitation” and “correction” of criminal offenders. The consolidation of the Nordic welfare state contributed to the insertion of egalitarian principles into the countries’ penal apparatuses. Several developments in late modern Scandinavian society suggest that penal welfarist ideals as
laid out by Garland (2001) continue to live on. First, the prison continues to be a punishment of last resort that should only be used very selectively. From the onset of a prison sentence until its end, the offender is to be assisted and motivated in order to be prepared for successful reentry into society. Second, recent penal-legal changes have focused on due process and increasing the legal safeguards of the individual offenders. This shows that recent legal reforms have not been driven by a demand for more punitive sanctions. Third, the countries continue to have a penal policy-making process that is primarily shaped by professional experts. Fourth, the countries’ penal policy apparatuses continue to be characterized by strict professionalism of their centralized prison and probation services. Meanwhile, the Scandinavian countries have, such as other Western industrialized nations, however, experienced increased public debate around and politicization of criminal justice issues. They have further seen the emergence of a victim-centered discourse alongside the traditional offender-centered discourse. To what extent these broad characteristics of Scandinavian penality in late modern society apply to the ultimate form of punishment, life imprisonment, in these countries is what I discuss in more detail in the remainder of this study.
CHAPTER IV:
THE IMPOSITION OF LIFE SENTENCES IN THE
SCANDINAVIAN PENAL ENVIRONMENT

In August 2013, the district court of Northern Karelia in Finland sentenced twenty-nine
year-old Pasi Rutanen to life. Rutanen was found guilty of the murder of a forty-nine year-old
man who he stabbed to death at a party in a private apartment the year prior to the sentence. At
the party, large amounts of alcohol were reportedly consumed. According to the district court,
Rutanen committed the murder in a particularly heinous and cruel manner. Rutanen stabbed the
victim who had passed out prior to the attack a total of thirty-one times with a knife, also cutting
the victim’s throat. The primary motive behind the crime could not be determined at the time of
sentencing. Allegedly, Rutanen and the victim had previously been engaged in fights. Rutanen
also had a prior violent history (Helsingin Sanomat, unknown author, Aug 2013, 16; Iltasanomat,

In another case handled by the same district court in December 2014, twenty-year old
Joonas Pajarinen was found guilty of the murder of another man. Also he was sentenced to life.
Similar to Rutanen’s case, the court found that Pajarinen committed the murder in a particularly
heinous and cruel manner. In a summer cabin, Pajarinen hit the male victim, who was sleeping,
several times with a rock after which he dragged the victim to a nearby river. The victim
eventually drowned in the river. According to the district court of Northern Karelia, the prime
motive behind the murder was jealousy. In fact, Pajarinen confessed that he found out about the
victim staying in a nearby cabin with his girlfriend (Turun Sanomat, unknown author, 2014, Dec
12).
The cases of Pasi Rutanen and Joonas Pajarinen are two of roughly ten to twenty murder cases per year that lead to a life sentence in Finland. Upon sentencing, the main national and local Finnish news outlets report briefly, in the style that I used to describe the two cases. Most reports do not provide any other information that the basic facts of the case and the life sentence verdict. Only rarely are more details on the perpetrator and/or victim(s) provided in the newsstories. Most importantly, life sentences in Finland, such as in Denmark and Sweden, are not the only sentencing options for murder convictions. Other types of sentences are possible, depending on the specific case. Informed by the sociology of punishment, I embed a historical analysis of the use of life sentences in the larger context of Danish, Finnish, and Swedish society and penalty. More specifically, I investigate to what extent the imposition of life sentences in the three countries has reflected penal welfarist ideas. For that reason, I attempt to find answers to the following questions. Which factors are considered when a life sentence is imposed in Danish, Finnish, and Swedish courtrooms? How do the penal codes and practices of judges in the three countries compare and contrast with one another? Has the use of life sentences changed from modern to late modern society in the three countries? In order to find answers to these questions, I first compare and contrast the life sentence’s origins and developments in Denmark, Finland, and Sweden. I then examine in more detail its late modern pronouncements.

IV.A. The Origins of the Life Sentence in Scandinavian Modern Society

The life sentence in Scandinavia has a long history that dates as far back as to the establishment of modern society and the drafting of the first penal-legal provisions. In 1866, the criminal provisions of the 1683 Danish Criminal Code were replaced with the General Civil Criminal Code (*Allmindelig Borgerlig Straffeloven*). In Chapter two of this code, capital punishment, penal servitude, imprisonment, fines, or loss of work and suffrage were identified as
possible modes of punishment for criminal offenses. First-degree murder could either be punished with penal servitude from eight years to life, or, under aggravating circumstances, with death (Danish General Civil Criminal Code, 17, §186).

Penal servitude in Denmark could be imposed for life or for a definite time of up to sixteen years for crimes other than murder. In the 1866 Danish Code, penal servitude was further distinguished between work in a “house of improvement” (forbedringshuusarbeide) or a “house of bondage” (tugthuusarbeide), whereas penal servitude for life could only be served in the latter. The 1866 Code also described penal servitude as what would now be understood as imprisonment in a penitentiary, according to the Pennsylvania-style prison model: confinement in a single cell, and work in solitude (Danish General Civil Criminal Code, 1866, 2, §13).

The 1930 Danish Criminal Code brought about the abolition of the death penalty. With that, the life sentence became the harshest punishment available for criminal offenders in Denmark.55 According to Chapter six §33 of the 1930 Danish Criminal Code titled “Forms of Punishment,” provisions that are still valid today, a prison sentence can be given either in the form of a life sentence or in the form of a definite time sentence, where the definite time sentence must not be shorter than seven days or longer than sixteen years. The same paragraph of the Code also specifies that an offender, who was younger than eighteen years of age when the offense was committed, must not be sentenced to life (Danish Criminal Code, 1930, 6, §33, 3).

Prior to the implementation of the 1734 Swedish Penal Code, the life sentence was already in practical use in the Swedish empire. In other words, it was then derived from court and royal practices. First, the life sentence in Sweden was said to have been used in the 1570s, when the Swedish King Johan III transformed the death penalty for some offenders into a life-

55 After World War II, Denmark reinstated the death penalty for several years to prosecute offenders charged with war crimes.
long sentence of penal servitude by granting clemency (SOU 2002:26). In the seventeenth century, it then became common practice that the newly established courts of appeal (hovrätten) rather than the king could transform the death penalty into a prison sentence of forced labor in a fortress. This type of prison sentence could be for a definite time, for life, or for a time not further specified. The latter meant that offenders would remain imprisoned until they showed that they had been reformed and could be released back into society (Rydgren (1989) as cited in SOU 2002:26).

With the implementation the 1734 Swedish Penal Code, the death penalty was affirmed as the main method of punishment for a variety of criminal offenses. The code, however, introduced the prison sentence as a mode of punishment for criminal offenses and “limited” the use of capital punishment to sixty-eight crimes. The death penalty could be carried out through beheading, hanging, burning, or quartering. It was only during the reign of King Gustav III in 1779 that the use of the death penalty was sharply reduced in practice. Not only were the methods of capital punishment restricted, pardons also became more widely used (von Hofer, 2003). Meanwhile, penal servitude for life became a sentencing option for certain criminal offenses. Although penal servitude for life remained in very sparse use in the Swedish empire during that time, it became more widely used over the next few decades (SOU 2002:26; von Hofer, 2003). While there were about 400 prisoners serving life in Sweden in 1800, their numbers increased to about 1,500 by 1850 (Rydgren (1989) as cited in SOU 2002:26). This again led to major discrepancies between the punishments codified in Sweden’s Penal Code of 1734 and the actual penal practices during that time.

In the New Swedish Penal Code of 1864, in which enlightened penal ideals such as proportionality of punishment and humanitarianism were implanted, capital punishment was
maintained as a sentencing option. Yet, its use was substantially reduced to a very few crimes (SOU 2002:26). Meanwhile, penal servitude for life or a definite time sentence of at least two months to a maximum of ten years, imprisonment for a shorter fixed term, and fines were identified as alternatives to capital punishment (Swedish Penal Code, 1864, 2). In the fourteenth chapter of the code, penal servitude for life was codified as a sentencing alternative to capital punishment for offenders convicted of first-degree murder (Swedish Penal Code, 1864, 14). Meanwhile, the new code also specified that for attempted murder, sentencing options were penal servitude for life or a definite time sentence of six to ten years (Swedish Penal Code, 1864, 14§2).

In practice, it happened quite frequently in Sweden during that time that the sentence of those that still received the death penalty was commuted into a life sentence. After the implementation of the 1864 Penal Code, in practice, only one or two executions were carried out in a five-year period (von Hofer, 2003). Between 1865 and 1921, only fifteen death sentences in total were executed (Rydgren (1989) as cited in SOU 2002:26). In 1877, public executions were abolished in Sweden, and the last execution was performed in 1910. Interestingly, the number of life-imprisoned offenders also decreased during that time. After life-imprisoned offenders reached about 1,500 around 1850, their numbers fell to about 600 in the 1870s. Around the turn of the century, there were only about one hundred life-imprisoned offenders in Sweden (Rydgren (1989) as cited in SOU 2002:260).

Capital punishment was eventually abolished in Sweden in 1921 during times of peace and in 1973 during times of war (Kangaspunta, 1995). The clauses regarding the abolition of capital punishment are now part of the Swedish Constitution (von Hofer, 2003). Despite the abolition of the death penalty, the number of life-imprisoned offenders decreased further to about
twenty-five in 1930, which remained more or less the maximum number of lifers in Sweden until the early 1980s (Rydgren (1989) as cited in SOU 2002:26).

The legal provisions in Sweden regarding life imprisonment were again revised with the New Swedish Penal Code (*Brottsbalken*) in 1962. According to Chapter twenty-six §1, a prison sentence in Sweden must be imposed for either a definite time or for life. A life sentence in this context is understood as an indefinite time sentence. According to Chapter twenty-nine of the 1962 Swedish Penal Code, a life sentence must not be imposed on anyone who committed a crime punishable with life before the age of twenty-one.

**IV.B. The Imposition of Life Sentences in Late Modern Scandinavian Society**

**IV.B.1. Denmark**

The 1930 Danish Criminal Code identifies a variety of crimes that could be punished with a life sentence. Murder has been the main crime category that has led to life sentences in Denmark in the past. As of July 2013, Denmark’s entire lifer population was convicted of murder (Danish Department of Prison and Probation, 2013b). In addition to murder, life in Denmark could theoretically be imposed for other types of serious crimes. These crimes include espionage, treason, various types of terrorism, aggravated arson, hijacking an airplane, and aggravated environmental damage (Danish Criminal Code, 1930, 25).

In Denmark, the lifer population has long constituted a particularly small group of offenders. In the past fifteen years, the lifers have been roughly 0.5 percent of the country’s total sentenced population and remanded offender group. When only counting the group of imprisoned individuals, the lifers were counted at only approximately one percent of that group (Danish Department of Prison and Probation, 2013). However, even though the Danish lifer population only constituted this small percentage of Denmark’s total prison population in 2013,
it had increased in absolute numbers in recent decades. Figure 4-1 shows that the number of Danish lifers has more than doubled from ten in 1997 to twenty-five in 2013 (data from July 24th of that year). Two of the lifers in 2013 were females (2%), and one of them had a foreign, and not Danish, citizenship (1%). Calculated from the day of their arrest, the group of the twenty-five lifers counted on July 24th, 2013 had been imprisoned for an average of 10.7 years. The minimum time that was served on that day by an individual lifer was two-and-a-half years. The longest-serving lifer had been imprisoned for 27.8 years on that day (Danish Department of Prison and Probation, 2013b).

Figure 4-1

_Danish Lifer Population, 1997-2013._

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<td></td>
<td>10</td>
<td>12</td>
<td>13</td>
<td>16</td>
<td>17</td>
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<td>16</td>
<td>16</td>
<td>18</td>
<td>19</td>
<td>20</td>
<td>20</td>
<td>23</td>
<td>23</td>
<td>25</td>
<td></td>
</tr>
</tbody>
</table>

Source: Danish Department of Prison and Probation, 2013.

These small numbers in regards to lifers do not mean that only that many individuals have been convicted of murder in Denmark. In fact, life is not a mandatory sentence for murder in Denmark. According to the Danish Criminal Code, the sentence range for murder can lie
between five years and life. Other common sentences for murder are a definite time sentence of twelve to sixteen years (the longest definite time sentence currently possible in Denmark). Under exceptional circumstances, when the offender is deemed particularly dangerous, a sentence of preventive detention (førvaring) can be imposed. Offenders under preventive detention do not have the possibility to get conditionally released like all offenders serving definite time sentences or life sentences have. In 2013, 1.8 percent of offenders in Danish prisons and jails were under preventive detention. The table below shows the percentage of offenders convicted of murder in Danish prisons and jails in the years of 2004 to 2013. The numbers do not only indicate that the percentage of convicted murderers has slightly increased in the past ten years. More importantly for this research, we can now compare these percentages with the percentage of lifers in the Danish prison population above. This comparison reveals that approximately only every fifth or sixth offender convicted of murder is currently serving a life sentence in Denmark. The vast majority of convicted murderers in Denmark, however, serve other types of sentences.

Table 4-1


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</tr>
</thead>
<tbody>
<tr>
<td>2004</td>
<td>6.6%</td>
<td>5.7%</td>
<td>6.6%</td>
<td>7.9%</td>
<td>7.7%</td>
<td>7.3%</td>
<td>8.1%</td>
<td>8.2%</td>
<td>7.9%</td>
<td>7.9%</td>
</tr>
</tbody>
</table>

From: Danish Prison and Probation Department, 2014.

IV.B.2. Finland

The 1889 Finnish Criminal Code holds that an individual offender can be sentenced to either a definite time or a life term in prison. A definite time sentence must not be less than fourteen days and must not exceed twelve years (Finnish Criminal Code, 1889, 2§). The main difference between a definite time and a life sentence is that while prisoners serving the former know the exact date of release, for lifers this date is discretionary (Kaijalainen & Mohell, 2014).
For juveniles, individuals under the age of eighteen, alternatives to imprisonment must be sought, such as conditional sentences. In other words, an unconditional prison sentence cannot be imposed on offenders under the age of eighteen. For young offenders over the age of eighteen, the Finnish Criminal Code does not have any specific provisions regarding an age limit for the imposition of a life sentence. Meanwhile, the age of the adult offender at the time the offense was committed only matters for determining the date of release eligibility (as will be discussed below). The Finnish Criminal Code also holds that under exceptional circumstances, concurrent (or joint) prison sentences, imposed for at least two offenses at the same time, can last up to fifteen years. Furthermore, prison sentences imposed for different offenses that do not run concurrently, must not exceed twenty years (Kaijalainen & Mohell, 2014).

In comparison to Denmark, the Finnish lifer population is significantly larger. While there were only nineteen lifers in 1980 and thirty-one in 1990, their numbers have since increased dramatically. In 2014, there were an unprecedented 208 lifers in Finnish prisons, as Figure 4-2 below shows. The growth in the lifer population can also be seen by comparing data on newly admitted lifers for the past few decades. While from 1970 to 1979, fourteen new lifers were admitted to Finnish prisons, their numbers increased to thirty-one between 1980 and 1989, fifty-eight between 1990 and 1999, and 140 between 2000 and 2009 (Kaijalainen, 2014, Aug).

Reviewing data from March 1st, 2015, the number of Finnish lifers had again slightly decreased to 202. Out of these lifers, fourteen were female (7%) and seven (3%) were foreign citizens (Finnish Criminal Sanctions Agency, 2015; own calculations). In the 2000s, the average life sentence in Finland was 13.4 years (Finnish Criminal Sanctions Agency, 2013; own calculations). From 2010 to 2013, the average life sentence had increased slightly to fifteen years (Kaijalainen, 2014, Aug). These average terms are significantly higher than the average life
sentences during the 1980s and 1990s, which the Criminal Sanctions Agency calculated at eleven years and 10.4 years respectively (Kaijalainen, 2014, Aug).

Figure 4-2


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</tr>
</thead>
<tbody>
<tr>
<td>Data</td>
<td>19</td>
<td>27</td>
<td>28</td>
<td>34</td>
<td>59</td>
<td>66</td>
<td>97</td>
<td>124</td>
<td>144</td>
<td>157</td>
<td>164</td>
<td>175</td>
<td>204</td>
<td>208</td>
</tr>
</tbody>
</table>


According to the Finnish Criminal Code, a life sentence can theoretically be imposed for a wide variety of serious offenses. First and foremost, a life sentence must be given automatically for murder, if the “manslaughter” was 1) premeditated and 2) Committed in a particularly brutal or cruel manner, committed by causing serious danger to the public, or committed by killing a public official on duty maintaining public order or public security, or because of an official action, and the offence is aggravated also when assessed as a whole. (Finnish Criminal Code, 2013, 21, §2)
In the following and separately numbered paragraph (§3) titled “Killing,” the code defines murder under mitigating circumstances,\textsuperscript{56} for which the offender shall be punished with a prison sentence of at least four years to a maximum of ten years. In aggravating murder cases, however, life imprisonment is thus mandatory.\textsuperscript{57} This means that a life sentence in Finland is imposed for different reasons than in Finland and Sweden, where judges have the discretion to sentence an offender convicted of murder to either life or a definite time prison sentence.

In addition to murder, a life sentence in Finland is a maximum sentencing option for crimes such as genocide, crime against humanity, aggravated crime against humanity, any war crime, and an aggravated war crime (Finnish Criminal Code, 11, §1-6), as well as such treasonable offenses as “aggravated treason”, “aggravated espionage”, and “aggravated high treason” (Finnish Criminal Code, 12; 13). A final option for a life sentence is a conviction for “murder with a terrorist intent” (Finnish Criminal Code, 34, §1).

In practice, a murder conviction has almost been the exclusive reason for life sentences in Finland in the past. One of my interviewees who worked in the Finnish Criminal Sanctions Agency described the general characteristics of the Finnish lifers in more detail. The interviewee found that up until about 2000, the Finnish lifers could be divided into two groups. The first group were offenders, typically middle-aged and predominantly male, who committed a murder of an intimate partner, or as the interviewee called it, a “jealousy crime.” Alcohol frequently played a role in the execution of these crimes. The second group were middle-aged, often unemployed, and highly intoxicated males who engaged in fighting with one another with a deadly outcome. For the small percentage of female lifers until 2000, the interviewee averred that the majority of them had murdered their intimate partner. Since around 2000, however, the

\textsuperscript{56} This definition is similar to “second-degree murder” in the U.S. context.
\textsuperscript{57} Such murder cases are similar to what would is typically referred to as “first-degree murder” in the U.S. context.
interviewee noted that a third group of male and female lifers combined had emerged. This group had consisted of younger offenders affiliated with gangs or involved in drug crimes, who had committed particularly “cruel” murders, often with the purpose of revenge. The change is also reflected in the basic characteristics of female lifers who were imprisoned as of October 1st, 2014, to which the interviewee had statistics available and could speak to in more detail. Only one of the fourteen female lifers had killed her intimate partner, she noted. Six of them had been involved with a group who had committed a murder. Another one had killed her mother, and another four of them had murdered their child. The other two females murdered somebody close to them other than an intimate partner (1) or the perpetrator-victim relationship was unknown (1).

While the current Finnish lifer population has exclusively been convicted of murder but life is not mandatory for all types of murders, I examined also in the Finnish context which murder convictions actually lead to a life sentence as opposed to other types of sentences. Table 4-2 shows that in between 2004 and 2014, approximately twenty to twenty-five percent of all Finnish prisoners did time for a murder conviction. This is a much larger percentage than in Denmark and reflects the trend of higher murder rates in Finland as compared to its Scandinavian neighbors, which I discussed above.

Table 4-2


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</thead>
<tbody>
<tr>
<td></td>
<td>20%</td>
<td>21%</td>
<td>21%</td>
<td>21%</td>
<td>22%</td>
<td>22%</td>
<td>24%</td>
<td>24%</td>
<td>24%</td>
<td>24%</td>
</tr>
</tbody>
</table>


While there is a relatively high percentage of offenders convicted of murder in Finnish prisons, the lifers have only constituted somewhere between two and four percent of the
country’s total prison population, depending on the specific year (Finnish Criminal Sanctions Agency, 2013). This means that similar to Denmark, the majority of offenders convicted of murder in Finland have been sentenced to prison terms other than life, a trend that is depicted in Figure 4-3 below. Still, against the backdrop of the substantial growth of the Finnish lifer population in the last two decades, the percentage of offenders receiving a life sentence instead of a definite time prison sentence has also increased. Figure 4-3 below also shows this trend. While only four percent of Finnish prisoners convicted of murder in 1994 were serving life sentences, their percentage had risen to roughly twenty-seven percent in 2014, the largest percentage so far. This trend could indicate that more offenders convicted of murder have been sentenced to life rather than to a definite time sentence in recent years. It could also indicate that there is more turnover among prisoners serving definite time sentences for murder rather than life. Indeed, as Figure 4-3 below also shows, the overall number of offenders convicted of murder as their main type of conviction in Finnish prisons increased slightly from 1994 to 2005 but has remained fairly stable since. Both a more in-depth analysis of the lifer release mechanisms in Finland in Chapter VI and interview results will take up the discussion of this trend once more.
Figure 4-3

**Absolute Number of Finnish Prisoners whose main Conviction was Murder and Lifers therein, 1994-2014.**

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<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Prisoners with Murder</strong></td>
<td>648</td>
<td>696</td>
<td>630</td>
<td>606</td>
<td>683</td>
<td>733</td>
<td>753</td>
<td>766</td>
<td>782</td>
<td>767</td>
<td>781</td>
</tr>
<tr>
<td><strong>Lifers therein</strong></td>
<td>28</td>
<td>39</td>
<td>55</td>
<td>59</td>
<td>66</td>
<td>97</td>
<td>124</td>
<td>144</td>
<td>157</td>
<td>175</td>
<td>208</td>
</tr>
</tbody>
</table>

Source: Finnish Criminal Sanctions Agency (RISE), 2015.

### IV.B.3. Sweden

The 1962 Swedish Penal Code specified the crimes that can lead to a life sentence. Such as in Denmark and Finland, a murder conviction can lead to a life sentence. The code does not, in contrast to the Finnish Criminal Code, identify any specific categories of murder that should lead to life rather than any other type of prison sentence. Such as in Denmark and Finland, however, an offender could theoretically be sentenced to life in prison for crimes other than murder such as aggravated espionage, aggravated arson, kidnapping, gross sabotage, maritime, aviation and airport sabotage, or serious devastation endangering the public. Also similar to Denmark and Finland, all of Sweden’s current lifers are serving time for murder, which includes
attempts, conspiracy, and instigation to commit murder (Swedish Prison and Probation Service, 2014).

At the height of the prison abolitionist movement in the 1970s, the idea of abolishing the life sentence was hotly discussed in Sweden. In a 1977 report published by the Swedish National Council for Crime Prevention BRÅ (Brottsförebyggande Rådet), the actual purpose of the life sentence was questioned. The Council found that, in practice, the life sentence had never been a true-life sentence. Instead, it had typically been terminated through the process of governmental clemency. For that reason, the Council found that there was actually no need for the life sentence in the Swedish penal system anymore and that the life sentence also conflicted with the basic “principles” of rehabilitation and reintegration which had shaped that system (Swedish National Council for Crime Prevention, 1977, p. 37). However, other council members believed that the life sentence still served an important “symbolic function,” traditionally having constituted a fundamental component of the Swedish penal system as the ultimate punishment institution. Council members still agreed that if the life sentence was maintained in the Swedish penal system, provisions should be implemented that would allow for a guaranteed review of the life sentence after a certain amount of time was served (Swedish National Council for Crime Prevention, 1977).

The question of whether to abolish the life sentence in Sweden was again taken up in the mid-1980s. The Prison Sentence Committee published a report entitled “Consequences of Crime” (SOU 1986:13), in which it discussed further arguments for abolishing the life sentence. The Committee found that the life sentence could be considered ”an empty threat,” as “everybody already knows” that lifers will someday be granted clemency. Meanwhile, the ”indefinite time” component of the life sentence would stand against fundamental principles of
justice and predictability” (SOU 1986:13, p. 163). However, the Committee also stated that the abolition of the life sentence would require longer definite time sentences, such as in Norway, where the maximum sentence was set at a definite time sentence of twenty-one years after the abolition of the life sentence. Yet, the Committee, such as the National Council for Crime Prevention previously, found that the life sentence still has great ”symbolic value,” and should as such only be given to the most serious violent offenders. It would further be useful to have a life sentence as a sentencing option available in cases of ”aggravated espionage and other crimes against the country’s security”, because the government would be the one to decide when the release should happen in such cases. Because of these reasons, the Committee believed that the life sentence should be maintained as a sentencing option for these particularly serious crimes.

Despite abolitionist thoughts, the number of life-imprisoned offenders in Sweden started increasing markedly in the 1990s. While only seventy-one individuals were sentenced to life in the twenty-five years between 1965 (the year the latest Swedish Penal Code (Brottsbalken) entered into force) and 1990, a total of ninety-nine offenders got life in the following decade, from 1990 to 1999 (SOU 2002:26). This sharp increase in the number of new life sentences had a marked impact on the absolute number of lifers in prison. While there were only thirty-five lifers in Swedish prisons in 1990, their numbers increased to a high of 159 in 2010. Figure 4-4 below depicts the number of Swedish lifers by the end of the decade, from the end of the 1950s to the end of the 2000s. Interestingly, at the height of penal abolitionism (the late-1970s), the Swedish lifer population was the smallest. As of October 1st, 2014, there were 144 lifers in Swedish prisons, a slight decrease since the peak in 2010. Out of these, four (3%) were female and 37 (26%) were foreign citizens (Swedish Prison and Probation Service, 2015).
Figure 4-4

*Swedish Lifer Population by the End of the Decade, 1950s to 2000s.*

<table>
<thead>
<tr>
<th>Decade</th>
<th>1950s</th>
<th>1960s</th>
<th>1970s</th>
<th>1980s</th>
<th>1990s</th>
<th>2000s</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>17</td>
<td>26</td>
<td>12</td>
<td>47</td>
<td>99</td>
<td>156</td>
</tr>
</tbody>
</table>


Examining in detail the age at the time of intake of new lifers, we can observe that the majority of new lifers in Sweden are in their late twenties. The figure below shows that of the 143 new lifers admitted to Swedish prisons in between 1999 and 2010, about twenty-five percent (35) were in between twenty-five and twenty-nine years of age. Another twenty-five percent (36) were in between thirty-five and forty-four years old at the time of intake. As stipulated by Swedish law, nobody under the age of twenty-one was sentenced to life during that time period.
The sharp increase in the Swedish lifer population in the 1990s and 2000s could either be due to more new admissions (a higher number of newly imposed life sentences per year) or to the lifers serving more time on average. As for the former, statistics from the Swedish Prison and Probation Service show that the number of newly admitted lifers was particularly high in the 2000s. Figure 4-6 shows that in 2004, a total of twenty-four new lifers were admitted to Swedish prisons, the highest number ever in just one year. Since 2010, the number of newly admitted lifers per year has been considerably lower. Since 2010, as shown also in Figure 4-6, no more than six lifers have been admitted per year to Swedish prisons. In between 2003 and 2013, all together, 105 new lifers were admitted to Swedish prisons. Six of them (6%) were female (Swedish Prison and Probation Service, 2015). Meanwhile, a total of twenty-six percent of Swedish lifers were foreign citizens as of October 1st, 2014, a much higher percentage of foreign
citizens than in Denmark and Finland (Swedish Prison and Probation Service, 2015). Of the 105 newly admitted lifers in between 2003 and 2013, twenty-nine percent were foreign citizens. For the general prison population, the percentage is the exact same during the same time period. Of all the newly admitted prisoners in between 2003 and 2013, thirty (29%) were foreign citizens. Figure 4-6


![Chart showing the number of newly admitted lifers to Swedish prisons from 1975 to 2013.](chart.jpg)


The reasons behind the overall increase in the Swedish lifer population in recent decades are manifold and complex. First, a 2005 Swedish government proposition suggested that recidivists and individuals convicted of several primarily violent and drug offenses have recently been punished more harshly with longer prison sentences. With prison sentences in general becoming slightly longer, the life sentence might have become more attractive for offenders convicted of murder (Prop. 2005/06:35). This development would suggest that Sweden has
become more punitive in recent decades, especially when keeping in mind the fairly stable murder rates during that time period, which I discussed in the previous chapter. Since the publication of the government proposition, however, Swedish imprisonment rates have significantly declined from a peak in 2004. While some prisoners might hence serve longer sentences, the general prison population has shrunk. A second explanation for a higher number of lifers is that Sweden has also seen a higher number of murder convictions in the past two decades (see Figure 4-7 and Figure 4-8). Figure 4-7 shows that there were only sixty-six murder convictions in 1990 but a total of one hundred murder convictions in 2000. Out of the sixty-six murder convictions in 1990, only thirty-three (50%) were sentenced to a prison term (28 offenders to a definite time sentence and 5 offenders to life). The remaining half was sentenced to a closed psychiatric institution or received another type of sentence. In 2000, only ten years later, the vast majority of offenders convicted of murder in Sweden (56%) were sentenced to a definite time prison sentence. Fourteen percent were sentenced to life, and twenty-seven percent to a psychiatric institution (see Figure 4-7 below). On average in between 1990 and 2000, then, only thirteen percent of all murder convictions have led to a life sentence in Sweden (SOU 2002:26; own calculations).
The somewhat lower percentage of offenders sentenced to a closed psychiatric institution for murder since the beginning of the 1990s can be explained by the implementation of the Swedish Act on Forensic Psychiatric Care (1991:1129). With this act, the definition of “serious mental disorder” was narrowed and the conditions to send an offender (sentenced for murder) to a closed mental health facility rather than prison were substantially tightened (Swedish Act on Forensic Psychiatric Care, 1991:1129). As Figure 4-7 shows, a higher percentage of offenders...
convicted of murder were sentenced to prison rather than a psychiatric institution following the legal change. Most offenders were sentenced to either a definite time sentence or a life sentence.

Looking at more recent data from Sweden, we can see that the trend of more murder convictions leading to prison sentences continued after 2000. Figure 4-8 shows only those convictions of murder, which led to prison terms between 1995 and 2013. The figure thus excludes data on sentences to closed psychiatric institutions and other types of sentences, which offenders received for murder convictions (data which was included for the years 1990 to 2000 in Figure 4-7).\textsuperscript{58} By looking at the more recent data, we can observe that murder convictions leading to a prison term increased in Sweden from seventy in 2000 to eighty-three in 2013. Particularly interesting is that we can see that the majority of offenders convicted of murder was sentenced to a definite time sentence of at least forty-eight months (4 years) but not to life. This clearly resembles the Danish and Finnish sentencing practices. Upon examining Figure 4-8 in more detail, observant readers will also notice that the percentages of the different types of prison sentences in Sweden have varied substantially from year to year. While a higher number of murder convictions leading to prison can be the result of less individuals sentenced to a psychiatric institution for murder, the year-to-year variations are primarily due to political and legal debates about what the appropriate punishment for murder should be and therefrom-resulting penal-legal reforms. To clearly show the immediate impact of political and legal decisions on sentencing practices, I discuss the changes in more detail in the following paragraphs.

\textsuperscript{58} More recent data (data after 2000) on individuals convicted of murder who received sentences other than prison terms could not be accessed for the purpose of this research. The Swedish National Council of Crime Prevention does only keep track of murder convictions which led to a prison sentence.
Figure 4-8

*Persons sentenced to Imprisonment in Sweden for Murder and Type of Prison Sentence Received, 1995-2013.*

<table>
<thead>
<tr>
<th>Year</th>
<th>Under 47 mths</th>
<th>48+ months</th>
<th>Life</th>
</tr>
</thead>
<tbody>
<tr>
<td>1995</td>
<td>15</td>
<td>30</td>
<td>13</td>
</tr>
<tr>
<td>2000</td>
<td>7</td>
<td>49</td>
<td>14</td>
</tr>
<tr>
<td>2005</td>
<td>N/A</td>
<td>50</td>
<td>N/A</td>
</tr>
<tr>
<td>2006</td>
<td>7</td>
<td>64</td>
<td>21</td>
</tr>
<tr>
<td>2007</td>
<td>6</td>
<td>72</td>
<td>12</td>
</tr>
<tr>
<td>2008</td>
<td>11</td>
<td>69</td>
<td>12</td>
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<tr>
<td>2009</td>
<td>8</td>
<td>70</td>
<td>4</td>
</tr>
<tr>
<td>2010</td>
<td>9</td>
<td>63</td>
<td>5</td>
</tr>
<tr>
<td>2011</td>
<td>4</td>
<td>38</td>
<td>6</td>
</tr>
<tr>
<td>2012</td>
<td>40</td>
<td>38</td>
<td>5</td>
</tr>
<tr>
<td>2013</td>
<td>49</td>
<td>38</td>
<td>5</td>
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**What Should the Appropriate Sentence for Murder Be? An Ongoing Political and Legal Debate in Sweden**

In the past few years, a political debate in Sweden on what the appropriate length of the sentence for individuals convicted of murder should be has emerged on several occasions. Until 2009, a murder conviction could lead to either a ten-year definite time sentence or a life

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59 These data from the Swedish National Council of Crime Prevention (BRÅ) show a larger number of life sentences imposed per year than the Prison and Probation Service’s data on newly admitted lifers. There appears to be some kind of lag in the data collection between this two sources of data.
sentence, depending on the specific circumstances of the case. As Figure 4-7 above shows, the majority of individuals convicted of murder in the 1990s were sentenced to a definite time sentence or a closed psychiatric institution rather than to life. In the 2000s, a higher percentage of offenders convicted of murder were sentenced to life rather than to a definite time sentence. For instance, Figure 4-8 above shows that in 2004, twenty-four out of seventy-eight murder convictions (31%) led to a life sentence that year. In 2006, the percentage of life sentences in total prison sentences for murder was slightly lower at twenty-seven percent but still higher than during the 1990s. It thus appeared as if life sentences became more commonly used for murder convictions, as the alternative, a ten-year definite time sentence was considered too “lenient” for murder.

Consequently, the Swedish Supreme Court (Högsta Domstolen) began debating the appropriate punishment for murder on several occasions. In NJA 2007 s. 194, for instance, the Court found that an increasing number of offenders had been sentenced to life since the beginning of the 1990s while at the same time the average length of a life sentence had also increased. In its ruling, the Court thus held that the life sentence appeared to be used disproportionately, especially against the backdrop of stagnating murder rates. Based on these findings, the Supreme Court concluded that the life sentence should only be used in the “most serious cases of murder” (Swedish Judicial Committee, 2013/14:JuU28)

Following this Supreme Court ruling, a new law entered into force on July 1st, 2009, which altered the sentencing options for murder (Swedish Parliamentary Report 2008/09:JuU17). The law was first prepared by penal and legal experts (i.e., lawyers, judges, and criminologists) and then based on the government proposition “Punishment for Murder” submitted to the parliament by the Minister of Justice from the Moderate Party, Beatrice Ask, in 2008 (Swedish
Government Proposition, 2008/09:118). Instead of having to decide between a ten-year definite time sentence and a life sentence, sentencing judges were provided with more discretion. In murder cases, they could now choose between the imposition of a life sentence or a definite time sentence, with a minimum of ten years and a maximum of eighteen years. With the 2009 legal change, the Swedish government hence intended to provide a “more nuanced” punishment for murder but also wanted to give judges the option to impose a longer definite time sentence in cases that do not necessarily demand a life sentence (Swedish Judicial Committee, 2013/14:JuU28). The 2009 legal change is clearly reflected in Figure 4-7 above. Starting in 2010, the percentage of offenders convicted of murder who were sentenced to life as compared to offenders sentenced to definite time sentences was significantly lower than before. This was due to judges sentencing more offenders to longer definite time sentences instead of life for murder. At the same time, the legal change meant that the average definite time sentence, which offenders convicted of murder received, increased substantially. While the average definite time sentence for murder (and this excludes life sentences) was eight years (95.5 months) from 2006 to 2009, the average of such given sentences for murder was 9.6 years for the years 2010 to 2013 (115.5 months) (Swedish National Council of Crime Prevention, 2015).

In the 2008 report (Swedish Parliamentary Report 2008/09:JuU17), the basis of this legal change, the parliament also considered the question about whether to abolish the life sentence or not. Prior to the parliamentary debate on the legal change, the Green Party and Leftist Party submitted opinions to the parliament that proposed the consideration of abolishing the life sentence. In the report, however, a consideration of such was rejected.

The government does not intend to consider abolishing the life sentence. For the government, this type of punishment serves an important symbolic function. It further
serves as the outermost denunciation society can use. The life sentence should therefore remain the harshest form of punishment available in Sweden even beyond the implementation of this law. (Swedish Parliamentary Report 2008/09:JuU17)

The wider discretion given to judges for sentencing offenders convicted of murder in 2009 resulted not only in more variation in the length of prison sentences given for murder. It further resulted in less use of the life sentence. As Figure 4-7 above showed, only sixteen offenders convicted of murder were sentenced to life from 2011 to 2013 (5 in 2011, 6 in 2012, and 5 in 2013). This is a clearly smaller percentage of life sentences for all murder convictions during these years than previously. Recent statistics from the Swedish Prison and Probation Service (2014) show the use of the life sentence as compared to other long-term sentences (10+ years) from 2003 to 2013. The data shown in Figure 4-9 below indicate that the number of prisoners serving definite time sentences of ten to fourteen years has experienced a significant drop since 2009, while the number of those with fourteen- to eighteen-year long sentences and eighteen-year sentences has slightly increased. In comparison, the lifer population has remained fairly constant.

In response to these new sentencing practices, the Swedish Supreme Court submitted another ruling on the issue in 2013. The Court lamented that judges now seemed to use the eighteen-year definite time sentence as a norm for sentencing offenders convicted of murder while using the ten-year sentence much less. The Court therefore held that the “starting point” for punishing murder should be a fourteen-year definite time sentence (NJA 2013 s. 376). Only in the presence of specific mitigating factors, should the definite time sentence be reduced to either twelve or ten years. Only in the presence of specific aggravating factors, should the definite time sentence be increased to sixteen or the maximum of eighteen years. The Court
further held that the definite time sentence of eighteen years should only be applied very restrictively, as a life sentence could theoretically be transformed into an eighteen-year long definite time sentence (the details of which I discuss in the next chapters).

Figure 4-9


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Despite the recent legal changes and the two Swedish Supreme Court decisions, another political debate on the most appropriate length of a prison sentence for murder erupted in 2013.

A new proposal was put on the table by the then-conservative government and Minister of
Justice Beatrice Ask from the Moderate Party. The government suggested to use harsher penalties for murder and to impose the life sentence, rather than a longer definite time sentence, in cases when the circumstances were “considerable.” In other words, the government wanted to expand the use of life sentences over other types of sentences for murder. Following the proposal, the parliament’s Judicial Committee discussed the issue in detail, which led to the detailed publication of the report (*Betänkande*) (2013/14:JuU28), *A Harsher Penalty for Murder (Skärpt Straff för Mord)*, in which further penalty options for murder were discussed. In this publication, the Judicial Committee focused on a 2007 governmental study, which found that the “acceptance of violence within Swedish society has decreased” in recent years. Individuals have become more conscious of violent crime, and it has been found that such crime can cause substantial fear and lead to a feeling of being limited among a wider group of individuals around the victim(s) (Swedish Judicial Committee, 2013/14:JuU28).

Although the penalties for murder have become harsher since 2009, the Judicial Committee lamented that the 2009 legal reform led to less use of the life sentence for punishing murderers. According to the Swedish National Council of Crime Prevention, as cited by the Judicial Committee, a total of eighty-five individuals were convicted of murder between mid-year 2009 and the end of 2011, but only eight percent of those were sentenced to life (Swedish Judicial Committee, 2013/14:JuU28). These sentencing practices, according to the Judicial Committee, stood in sharp contrast to the “important function” the life sentence served in Sweden. The life sentence “as the ultimate form of punishment” must be considered an appropriate response to the most severe crimes that can be committed, which is “depriving somebody else of their life” (Swedish Judicial Committee, 2013/14:JuU28). In the words of the then-Chairman of the Judicial Committee, Morgan Johansson from the Social Democratic Party:
There is certain actions that are so serious that the offender shall be sentenced to life. Furthermore, there are people that are so dangerous, which means that they cannot be released into society without a thorough evaluation of their sentence. (Johansson, 2014, April 17)

The issue and the Judicial Committee’s report was debated in the Swedish parliament on April 29th, 2014. Agneta Börjesson of the Green Party opened the debate by stating that in Sweden, “the issue of punishment is an extremely important and deep political question” (Swedish Parliamentary Protocol, 2013/14:105, 2014, April 29). However, she questioned the need to change the penalties for murder, as she did not only see any indicators that society would demand harsher penalties but also could not locate any signs in a similar direction in any of the other Scandinavian countries. In the debate, the Green Party was joined by the Leftist Party, which advocated for the use of definite time sentences, such as in Norway, due to the importance of having a set release date to facilitate reintegration efforts. If the prisoner did not show any signs of rehabilitation and did not take any steps towards reintegration, the sentence could still be extended (Stenlund, 2014).

Disagreeing with both the Green and Leftist Parties, Krister Hammarbergh from the Moderate Party, also the party of the then-Prime Minister and Minister of Justice, advocated for the life sentence becoming the ”normal” penalty for murder. Hammarbergh found that the advantage of the life sentence, as it was served in Sweden, was that those that ”do not want to be rehabilitated” can still serve ”a true-life sentence” and must not be released after the expiration of their sentence (Swedish Parliamentary Protocol, 2013/14:105, 2014, April 29). On a similar note, Johan Linander, the vice chairman of the Judicial Committee, a parliamentarian from the Center Party which was also part of the government at that time, stressed that in a murder case,
”the victim’s family will also suffer for a life time,” which makes a life sentence an appropriate form of punishment for murderers (Swedish Parliamentary Protocol, 2013/14:105, 2014, April 29). Finally, Caroline Szyber from the Christian Democratic Party, also part of the conservative bloc in the Swedish Parliament, pointed out that the “life sentence responds well to the citizens’ legal consciousness” (Swedish Parliamentary Protocol, 2013/14:105, 2014, April 29).

Following to parliamentary debate, the law entitled A Harsher Penalty for Murder (Skärpt Straff för Mord), which entered into force on July 1st, 2014, was passed with a strong majority of these conservative parties forming the Swedish government at that time. However, the Social Democratic Party, the then-largest party in the Swedish parliament, and the right-wing Sweden Democrats also joined the conservatives.60

Meanwhile, the Leftist Party and the Green Party, both in opposition at that time, were the only parties, which voted against the law. According to parliamentarian Lena Olsson (Leftist Party), the other Scandinavian countries have more moderate punishments for murder than Sweden, and she would have liked her country to use the examples of these countries. Furthermore, she would be in favor of an in-depth investigation on the costs and benefits of abolishing the life sentence (such as was done in Norway). She believed that lifers have it significantly more difficult to rehabilitate and reintegrate after having served their time than prisoners who knew what their release date would be and therefore questioned the sentence’s usefulness (Swedish Parliamentary Protocol, 2013/14:105, 2014, April 29).

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60 The Sweden Democrats have only been in the Swedish Parliament since 2010, when they won 5.7 percent of the votes and thus managed to climb above four-percent threshold required for parliament.
IV.C. Perceptions about the Imposition of Life Sentences in Late Modern Danish, Finnish, and Swedish Society

In Denmark, Finland, and Sweden, the imposition of life sentences has a long tradition. While the life sentence, in the form of penal servitude for life, was first used as an alternative to the death penalty for a variety of different criminal offenses, its use was gradually narrowed to constituting the main form of punishment for murder only. In late modern Scandinavian society, the life sentence remains rarely used, even as a sentencing option for murder. Instead of a life sentence, longer definite time sentences have become more commonly used for the punishment of murderers in all three countries.

Still, all three countries have experienced significant increases in their life-imprisoned populations in late modern society that cannot be explained by higher crime rates in general or higher murder rates in particular. For that reason, I questioned my interviewees about how they perceived the role of life sentences in their countries’ penal environments. I therefore asked them whether they considered the life sentence an appropriate form of punishment and what type of offenders typically receive life sentences over other types of sentences for murder. By comparing the interview results with one another, major differences between the three countries emerged.

Two of my Danish interviewees were judges in Danish courts of first-instance. Both of the judges had decade-long experience with criminal cases in the Danish court system; yet, neither of the judges had ever imposed a life sentence in their courtrooms. Not surprisingly, the judges agreed that life sentences in Denmark are to be imposed only under specific aggravating circumstances, which were rare. The main circumstance, which would have made both judges consider a life sentence, was if the defendant had murdered more than one person. In murder cases with one murder victim, the judges typically decided in between a definite time sentence of
twelve to sixteen years, sentences that both judges had imposed several times during their judicial careers. One of the judges added that a twelve-year definite time sentence had been the most common sentence for murder in his court. Still, both judges found that the life sentence was an appropriate form of punishment that should be considered in exceptional murder cases. One of the judges mentioned the case of Anders Behring Breivik in Norway and noted that Norway might have wished they had a life sentence available for him so they could lock him away forever. “For cases like that, I am glad we have the option of a life sentence on the books,” he said. As an alternative to life, however, both judges would also consider a sentence of preventive detention (førvaring), a sentencing option, similar to Norway, which is available in Denmark for particularly serious and unpredictable offenders. Preventive detention would be an option if the defendant, for instance, was considered mentally ill. Instead of prison, prevention detention meant that the offender would be put into a closed psychiatric unit where he/she would serve an indefinite time sentence, such as if they were sentenced to life. The offenders would not know about when they would be released from preventive detention.

Meanwhile in Finland, all of the interviewees (8) found the life sentence to be a “good,” “appropriate” or “justifiable” form of punishment for criminal offenses as currently specified in the Finnish Criminal Code. An interviewee working in the legal system said that although a life sentence could theoretically be imposed on offenders convicted of war crimes, in practice, she experienced that a life sentence always came with a murder conviction. One interviewee working for the Finnish Criminal Sanctions Agency pointed out that the life sentence was the most severe punishment in her country and had traditionally only been imposed for the most severe murders, for which she absolutely found it was a “justifiable” form of punishment. The advantage of the life sentence was, she felt, that it would still would not give the offender a guaranteed date of
release, which in some particularly serious cases was necessary. Another interviewee from the Finnish Criminal Sanctions Agency believed that the life sentence, also in the future, would only be used for serious murder cases. Nevertheless, according to the interviewee, the main category used for considering a life sentence in Finland was, in contrast to Denmark, not multiple murder victims but a single murder that had been “very cruel in action or resolutely planned.” The recent cases of Pasi Rutanen and Joonas Pajarinen are examples for the former. Still, like in Denmark, the Finnish interviewees stressed that not every murder in Finland would lead to a life sentence and that a life sentence for murder was actually rare, considering Finland’s traditionally high murder rates. These statements made by the interviewees reflect the findings of the statistical analysis above.

The same Finnish interviewee from the Criminal Sanctions Agency had made another interesting observation about recent trends in the imposition of life sentences and murder rates in Finland. She was aware of that the number of Finnish lifers had quite significantly increased in the past decade, while the number of murder convictions had actually remained fairly stable (review Figure 4-3). She suggested that the lifer increase could be either due to a new approach to accountability (changes in penal policies) or she suggested that there might be some qualitative changes in the homicidal crimes. For instance, the interviewee made the assumption that murders might nowadays be more likely committed by multiple actors or that they might have been committed in more cruel and heinous ways as previously, making a life sentence more likely to be imposed. The basic characteristics of the female lifers, who now were more likely than previously to be convicted of murder committed by not a single individual but a larger group, support the interviewee’s assumptions. Her assumptions also echoed some concerns raised by the interviewee working in the legal system who pointed out that there had lately been
more cases of murder that could be linked to organized crime. The interviewee from the Criminal Sanctions Agency, however, suggested analyzing intensively this issue before drawing any further conclusions.

In Sweden, the Prison and Probation Service’s statistical data have also shown a substantial increase in the lifer population in recent decades (review Figures 4-4, 4-8, and 4-9). This increase, however, coincides with an increase in murder convictions (review specifically Figure 4-8). Only since the mid-2000s, the lifer population has stagnated, which has primarily been the result of political and legal decisions. One interviewee working as a prosecutor in Sweden noted that the life sentence, similar to its use in Finland, was a sentencing option for only particularly serious murder cases. Similar to Finland, then, it was possible that there had been qualitative changes in the murders committed in late modern society. According to the prosecutor, individuals sentenced to life were predominantly male and had murdered one other person. In terms of age, the prosecutor estimated the average Swedish lifer to about twenty-five to thirty years of age at the time of the offense, such as also the limited statistical data of the Swedish Prison and Probation Service reflected (Figure 4-5). Substance abuse (either alcohol or drugs) was a factor very common to the murderers, as the prosecutor observed. In terms of motives, the murders leading to a life sentence were committed either between criminals or between intimate partners. In terms of the murder weapon used, the knife was the most common, the prosecutor noted. Although he was convinced that a life sentence became more likely when there was more than one murder victim, he again stressed that the majority of the lifers in Sweden had been convicted of a single murder.

All together, my Swedish interviewees (7) found that a life sentence was a good form of punishment for invididuals convicted of murder. All of the interviewees believed that the current...
use of life sentences for serious murder cases was appropriate and should be maintained. Like the one Danish judge, two of the Swedish interviewees also explicitly mentioned Anders Behring Breivik and found it important to have an indefinite time sentence such as life available for serious cases like his. Another interviewee working in a Swedish prison believed that everybody deserved a second chance. Yet, with the murder victim not getting a second chance either, the interviewee found that the life sentence was an appropriate form of punishment for murderers. At least for some time, lifers did not know when they would get released which was a good form of punishment for them to make them realize that they had committed a particularly horrible crime, the interviewee found. “A sentence like that makes them really think at first what it is that they did,” she said. The member of the Swedish parliament who I interviewed indicated that she did not want to change the length of the life sentence at this point in time or have more or less life sentences in her country. Instead, she personally strongly believed in the independence and discretion of judges and felt that they should look at each individual murder case very carefully. Only a judge, who in the Scandinavian countries is a career bureaucrat rather than a political appointee, can make the right kind of “judgment” about what kind of punishment should be imposed on a specific offender, she found. She also noted that any more changes to the use of life sentences were currently not part of any political debate in Sweden.

Three of the Swedish interviewees, all of which who worked in Swedish prisons, and another interviewee working in the Swedish court system, were somewhat skeptical of the 2009 and 2014 legal reform of harsher penalties for murder (Skärt Straff för Mord). Yet, the interviewees were skeptical for quite different reasons. Two of them had noted the impact of the 2009 legal reform within their facilities in recent years. One of them mentioned specifically the growing number of prisoners serving an eighteen-year definite time sentence as compared to
those serving a life sentence. The interviewee had discovered that the lifers and the eighteen-year long prisoners had very similar needs due to their long-term imprisonment. The growing number of long-term prisoners (prisoners serving eighteen years and lifers together) had led to increasing difficulties with sentence enforcement for the prison administrations. Organizing an eighteen-year long prison sentence as compared to a ten-year long prison sentence, the only alternative to a life sentence that existed for murder until 2009, was much more difficult, the interviewee found.61 Another interviewee found that the eighteen-year prison sentence was now more easily given to individuals who seemed “weaker,” such as women, as an alternative to life. Before 2009, these individuals would probably have received a ten-year long prison sentence, the interviewee found. Finally, two of the Swedish interviewees working in Swedish prisons mentioned that they had been skeptical of the 2014 legal reform in particular. Although the interviewees noted that it was still too early to see any results of the reforms within Swedish prisons in early 2015 (the new law had just entered into force), they believed that the reform would necessarily lead to an increased number of life sentences and thus a larger group of life-imprisoned offenders in their prisons. This would make sentence enforcement efforts behind bars even more difficult for them, the interviewees found.62

Merely looking at statistical data on murder convictions and the lifer populations in the three Scandinavian countries and comparing these numbers with one another, it would be easy to suggest that penal welfarism has diminished and given room to more punitive late modern Scandinavian societies. The historical analysis, which compared of the use of life sentences in Danish, Finnish, and Swedish early modern society with its modern and late modern

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61 What these exact difficulties are is what I discuss in Chapter V.
62 What a larger group of life-imprisoned offenders would mean for the Swedish prison administrations is what I discuss in more detail in Chapter V.
pronouncements, showed two important things. First, the history of the present, which embeds this punishment institution into its historical context, shows that life sentences have been imposed rarely in all three countries. They have traditionally been considered in only a small percentage of murder cases per year in all three countries. While a life sentence is mandatory in aggravated murder cases in Finland, such cases are rare. This means that the life sentence continues to be imposed in only a small percentage of murder cases per year. In Denmark and Sweden, judges have more discretion over what type of sentence to impose in murder cases. The interviewees pointed out that life sentences are considered in only the “most severe” murder cases. Definite time prison sentences have been preferred over life in all three countries.

Before imposing a life sentence over any other sentence, the nature of the murder is a crucial factor that a judge needs to consider. While in Denmark life sentences are imposed on offenders who have killed multiple individuals, Swedish judges tend to impose life when the murder was committed in a particularly cruel or heinous manner. This is a factor, I would argue, that allows for a higher amount of judicial discretion on whether to impose life in Sweden than the multiple-victim threshold in Denmark. In general, however, the imposition of life sentences is a good example to show that judges have substantial discretion about what type of sentence to impose in murder cases. In order to ensure their independence from the political system, judges are not politically appointed. They are career bureaucrats that are not to be held accountable to any political party and their careers are not dependent on re-election. In Garland’s words, they can be considered professional experts that uphold penal welfarist ideals. It is up to the judges to make an independent holistic evaluation of the individual before imposing a life sentence. Apart from the nature of the murder, judges also consider individual characteristics of offenders before imposing a life sentence over any other type of sentence.
Second, the historical analysis shows that the life sentence has repeatedly been considered a problematic punishment institution that should only been imposed rarely. Especially in Sweden, the abolition of the life sentence has been discussed numerous times by professional experts and different political parties, and for some, it continues to be contested. The question has remained on whether to use the life sentence more or less for murder convictions in late modern Swedish society. Still, for some, the option of abolishing the life sentence after all continues to be on the table. Most importantly, governmental working groups have carefully prepared the laws that changed the punishment for murder in 2009 and 2014 and the majority of political parties (except for the smaller Leftist and Green parties) agreed to the change. Clearly, these political discourses point towards what Garland refers to as penal welfarism, with expert and practitioner involvement being more important than politicization in the penal policy realm.

Interesting is also that the imposition of life sentences in Denmark and Finland has not been part of any political debate in late modern society. It therefore appears as if the life sentence and its late modern use has been unquestioned. Political parties have neither called for the expansion of crimes punishable with life or more use of life in murder cases nor for the abolition of life sentences. This brings me to a third important finding of my historical analysis. Despite similarities in the use of life sentences in Denmark, Finland, and Sweden, there have existed important differences in its imposition, especially in late modern society. Studies that treat the countries as a uniform “Scandinavian penal policy region,” tend to overlook these fine yet important differences between the countries, which are embedded in their specific historical contexts.

Lastly, the imposition of life sentences alone does not tell the full story of life imprisonment in Denmark, Finland, and Sweden. Although the number of lifers is a function of a
higher number of impositions of life sentences and more newly admitted lifers to prison, it is also a function of the average time to be served by the lifers. In order to understand the complexity of this punishment institution, of which the imposition is only the first phase of a longer process, I also want to look in more detail at the conditions of confinement for lifers. Penal welfarism also finds expression within the prison walls, where rehabilitation and reintegration are framing the confinement. To what extent these ideals are characterizing confinement for life-imprisoned offenders in Denmark, Finland, and Sweden is the topic of the following chapter. Finally, a higher number of lifers could also be the result of a stricter lifer release process in recent years, which would contribute to an increase in the average sentence length for life and thus in the lifer population. I discuss this possibility in more detail in chapter six of this study.
CHAPTER V:

PENAL CONFINEMENT OF LIFE-IMPRISONED OFFENDERS

Since 2001, Peter Lundin alias Bjarne Skounborg has been imprisoned for life in Denmark. Born in 1971, Lundin’s family migrated to the United States in the late 1970s. As a young adult in 1991, he strangled and killed his mother in North Carolina where he was sentenced to fifteen years in prison in 1992. Lundin’s father also received a short prison sentence. He was found to have been an accomplice in the murder by helping his son bury and hide the victim’s dead body. About eight years into his sentence, Peter Lundin was released from prison in North Carolina and went back to Denmark (Moe, 2014, Apr 28). Only roughly a year after his release from the U.S. prison, Lundin committed another heinous crime in Denmark. He killed and dismembered his new girlfriend and her two teenage sons. Although Lundin eventually admitted to the murders, the victims’ bodies could never be found.

Unquestionably, Peter Lundin’s case has led to a substantial amount of public and media attention in Denmark. Since Lundin has been imprisoned, the media has regularly reported on his time in penal confinement. Most of the sentence so far, Lundin has been imprisoned at the high-security closed prison Herstedvester, just east of Denmark’s capital Copenhagen. The facility in Herstedvester differs from other Danish prisons in that it includes a psychiatric unit where prisoners with a need for psychiatric assistance will be observed. Typically, prisoners who are considered particularly dangerous (some of which are under preventive detention), or prisoners who must be protected from other prisoners for reasons of threats or attempted assaults are housed at Herstedvester. Both of these reasons have led to Lundin being placed in this facility (Axelsson, 2001, Mar 15).
It was also in Herstedvester where Lundin got married in 2011 and awaited the birth of his child in 2015. He had previously married a woman while imprisoned in 2009 but the marriage did not last long (Moe, 2014, Apr 28). Apart from his personal life in prison, specific parts of Lundin’s penal confinement have led to a particularly large amount of media attention. In November 2014, the Danish tabloid newspaper *Ekstrabladet* reported that Lundin unexpectedly had been allowed to leave the high-security prison twice in the past few weeks, first due to his father’s illness and then due to his father’s death (Skov Nielsen, 2014, Nov 24). The article was published online with a profile picture of Lundin in a black sports jacket with a shaved head, slightly narrowed eyes, and smiling open-mouthed, almost ingratiatingly, away from the camera. According to the newspaper article, which referred to a television program, in which Lundin’s defense attorney was interviewed, the lifer, had behaved extraordinarily well during his leaves and might eventually be considered for release from prison (Skov Nielsen, 2014, Nov 24).

The high publicity of Peter Lundin’s case and time in prison has been extraordinary for lifers in Denmark. However, the media reporting on his penal confinement highlights certain problems that arise for the prison administrations in the Scandinavian countries when enforcing penal sanctions for particularly serious and violent offenders. For Garland (2001; recited by Wacquant, 2010) late modern society has become characterized by constant fears and anxieties due to it being an open, porous, and mobile aggregation of strangers (Garland, 2001; recited by Wacquant, 2010). In such an environment, the prison has become a “massive and seemingly indispensable pillar” of social order (Garland, 2001, p. 14). Instead of a focus on the rehabilitation of offenders, the prison has become an incapacitative institution, used merely to
ensure that offenders are locked away, with the goal of reducing crime and increasing public safety.

Therefore, an in-depth examination of conditions of confinement for life-imprisoned offenders in Denmark, Finland, and Sweden can shed light on whether the prison has been reinvented in late modern Scandinavian society, from serving a primarily rehabilitative function during the penal welfarist era to becoming an incapacitative tool. How should offenders that serve long sentences and are considered particularly dangerous be confined? Should they be housed separately or be treated differently than short-term prisoners? How should the prison administrations organize life sentences, when the offenders arrive with an uncertain release date? These are the questions that lie at the heart of this chapter of my study.

V.A. Conditions of Confinement in Contemporary Scandinavian Prisons

In Europe, the Council of Europe’s European Prison Rules (Council of Europe, Rec 2006(2)) provided guidelines for penal confinement in the Council’s member states. According to Article five, “life in prison shall approximate as closely as possible the positive aspects of life in the community” (Council of Europe Rec (2006(2), 1(5)). This abstract principle is further specified, for instance, in regards to the prison regime being responsible for providing the prisoners with “an adequate level of human and social interactions” (25.2), with meeting their welfare needs (25.3), and providing them with meaningful work opportunities (26.7)\(^{63}\) and adequate medical services (40.1).\(^{64}\) Second, as it is stated in the preamble of the European Prison Rules, the purpose of a prison sentence must be the preparation of prisoners for reintegration

\(^{63}\) Article 26.7 of the European Prison Rules (2006(2)) holds that “the organisation and methods of work in the institutions shall resemble as closely as possible those of similar work in the community in order to prepare prisoners for the conditions of normal occupational life.”

\(^{64}\) Article 40.1 of the European Prison Rules (2006(2)) holds that “medical services in prison shall be organised in close relation with the general health administration of the community or nation.”
“through meaningful occupational activities and treatment programmes [sic!].” In the body of the recommendation, the rules further specify that “all detention shall be managed so as to facilitate the reintegration into free society of persons who have been deprived of their liberty” (Council of Europe, 2006(2), 1(6)). More specifically, it is stated that correctional staff shall not be merely understood as “guards” responsible for the security in prisons. Instead, staff should be mandated with facilitating the reintegration of prisoners “through positive care and assistance” (72.3).

In general, “reintegration” must be clearly distinguished from prisoner reentry. While reentry is a short-term process that is going to happen for most prisoners at the time they leave the penal institution, reintegration can be understood as a more long-term process that the prison administrations facilitate but that the offenders themselves experience. Visher and Travis (2003) speak of “pathways” for the transition from prison to society. Many different pathways are possible to be taken and individual success will depend on many different factors. Echoing the wording of Visher and Travis, the European Prison Rules state that correctional staff must be mandated with facilitating these pathways for the transition from prison to society.

The European Prison Rules constitute an important (yet non-binding) framework for penal confinement in late modern European society. In the following section of my study, I examine to what extent these basic principles of confinement have come to bear in Danish, Finnish, and Swedish prisons, and what these countries consider the purpose of penal confinement to be for their general prison population but also the lifers therein. Apart from analyzing and comparing the respective countries’ legal provisions regarding penal confinement, I also include responses from my interviewees who spoke to life in prison in their countries, many of them through first-hand experience of work in prisons. The interviewees focused on discussing the confinement of lifers in the context of their general prison populations.
V.A.1. Conditions of Confinement in Contemporary Danish Prisons

In Denmark, the Department of Prison and Probation has applied a program of principles for the enforcement of prison sentences since 1993 (Rentzmann, 2008). This program has been laid out by the then-Director of the Danish Department of Prison and Probation, William Rentzmann (2008). First, reflecting the principles of the European Prison Rules, he stressed that conditions of penal confinement in Denmark must be as close as possible to life in the community. Interestingly, Director Rentzmann uses the term “normalization” to highlight that the “conditions for inmates must be arranged so as to correspond to conditions in the general community to the extent possible” (Rentzmann, 2008, p. 291).

Later in the text, he uses the term “normality” to describe the same principle when referring to drug addicts in prison who must receive the same kind of treatment as would be “applicable in the general community” (Rentzmann, 2008, p. 291). While the notions of “normalization” and “normality” in this context thus refer to the different aspects of life in prison being as similar as possible to life in the community, the term “normalization” has been used very differently by Foucault (1995) in the penal context. Foucault believed that disciplinary institutions in modern society, which include schools, hospitals, but also prisons, aim at creating the “normal individual” so they can be submerged to the disciplinary society. Specific modes of punishment would take a fundamental part in the project of “normalizing” society, continuously and deeply employed through an “art of punishing” (Foucault, 1995, p. 182). In Foucault’s words, “the perpetual penality that traverses all points and supervises every instant in the disciplinary institutions compares, differentiates, hierarchizes, homogenizes, excludes. In short, it normalizes” (Foucault, 1995, p 183).
Tools so commonly applied in penal institutions in modern society, such as classification systems for prisoners, body searches, disciplinary regimes, and a focus on keeping the prisoners busy and disciplined, were all considered part of this “dressage” project (Foucault, 1995; as reiterated by Wacquant, 2010). With that said, it appears as if this critical interpretation of the principle of “normalization” is important to consider when discussing the character of penal confinement in late modern prisons. Yet, it also appears that “normalization” in Foucault’s sense is not what Director Rentzmann (2008) was referring to in his program description when using the term “normalization.” In order to avoid any confusion with Foucault’s important work with Scandinavian penal confinement principles, I use the term “normality” when referring to the organization of a prison sentence as closely as possible to life in the community.

According to Rentzmann (2008), prison sentences in Denmark must also be guided by openness, which means that prisoners must be given the opportunity to maintain contact with their family and friends while serving their sentences. Prisoners must also exercise some kind of responsibility in prison, which may “improve their chances of a subsequent life without crime” (Rentzmann, 2008, p. 291). In this sense, staff should motivate, counsel, and guide them throughout their prison sentence, a sign of the principle of reintegration, as expressed in the European Prison Rules (Council of Europe, Rec 2006(2) (72.3)). Furthermore, a prison sentence in Denmark must also be guided by an emphasis on security, so that ordinary citizens in the outside world, but also other prisoners, feel safe. Last but not least, the prison sentence, regardless of its length, must be seen as the least possible intervention into the prisoner’s personal life.

Many of these principles were codified in the Danish Sentence Enforcement Act (Straffuldbyrdelsesloven) in 2001. Before this act was passed, only a few provisions in the
Danish Criminal Code regulated the rights and duties of prisoners. The Sentence Enforcement Act provided a more detailed legal basis for the Danish prisoners (Schiøler, 2012). Danish prisoners have since had more rights to bring issues of their concern to the courts. The courts in first-instance (city or district courts) can review such issues, which prisoners request against the Danish Department of Prison and Probation. Such issues include the refusal of the Department of Prison and Probation (and the Ministry of Justice) to release a prisoner conditionally after two-thirds of their sentence were served (Rentzmann, 2008).

As stated in the third paragraph of the Sentence Enforcement Act (SEA, 2001), the Danish Department of Prison and Probation has two equally important and complementary tasks to perform. First, in order to provide public safety, it must exercise the necessary control and security when enforcing the sentences, either in prison or within the community (e.g., in the form of probation). At the same time, the department shall support and motivate the offenders by assisting personal and social development, so they are encouraged to live “crime-free lives” (SEA, 2001, 2 §3). It is further stated that during the enforcement of the sentence, an individual’s life must not be limited in any other way than as it is specified in the law as a result of the sentence (SEA, 2001, 2 §4). In other words, any other interventions into the offender’s life that are linked to the enforcement of the sentence are not part of the punishment and should only be done when absolutely necessary, e.g., for security or order reasons (Engbø, 2005).

In addition to these abstract principles, the Sentence Enforcement Act of 2001 further specified how the Ministry of Justice and the Danish Department of Prison and Probation should enforce a prison sentence. The principles of normality and reintegration run through these legal provisions like a red thread. Reflecting the principle of reintegration, for example, it is stated in the act that the prison administration, in cooperation with the affected prisoner, must draft an
individualized sentence enforcement plan (*afsoningsplan*), including all the necessary steps to take to get prepared for the prisoner’s release. If individual circumstances change, the plan may be revised at any time (SEA, 2001, 8 §31(2)). Reflecting the principle of normality, it is stated in the act (SEA, 2001, 8 §38) that a prisoner has the right and duty to work and/or participate in education programs or any other programs that have been approved by the prison administration. This means that prisoners are not required to participate if they do not wish so. The Minister of Justice may establish certain rules, if the practice or any other special circumstances make it necessary. Regardless of what the prisoners are occupying their time with, they will be compensated financially. In cases of illness or a lack of job opportunities available in the prison, the prisoner must still receive compensation, according to the SEA (2001, 8 §42). With prisoners thus being covered by sickleave, this clearly shows the link between social and penal policy. As part of the principle of normality, the prisoners are further responsible by law for cleaning their living areas and preparing their own food (SEA, 2001, 8 §43).

The centralized Danish Department of Prison and Probation (*Kriminalforsorgen*) runs five closed and eight open prisons that are spread out over the country (*Kriminalforsorgen*, 2015). The majority of offenders are automatically sent to an open prison. While closed prisons are high-security facilities that have strict supervision and limit the movement of prisoners through rigid security measures, open low-security prisons remind more of college dorms. These prisons were built “without walls,” meaning that they did not have any fences that could prevent the prisoners from escaping (O’Brien, 1998). The lack of a perimeter fence is also symbolic. Prisoners are not visibly separated from the rest of society. Prison life in “open prisons” certainly resembles the life on the outside more so than life in closed prisons, with the open prison generally serving as a “transitional” step for the prisoners to readjust to life back in society. The
open facilities provide the prisoners with a substantial amount of freedom. For instance, prisoners can leave the facility for work or programs during that day and only have to return upon curfew for night. However, the prison administration can decide, upon consideration of the nature of an individual’s crime, the length of the sentence to be served, or an escape risk to send the offender to a closed prison instead. Practically, long-term prisoners (with a sentence of four years or more) typically spend the first part of their sentence in a closed facility before they can be transferred to an open prison.

Since January 2015, all prisoners serving seven days or more must undergo a reception process, which have been set up at several Danish prisons. These are the facilities where the prisoners will start serving their sentences. At the reception center, the prisoner will undergo a detailed intake interview and a psychiatric evaluation. Thereafter, a case manager or social worker will detail the prisoner’s individual needs in a separate report, addressing both criminogenic and non-criminogenic needs of the individual offender. The goal is to receive a holistic picture of all prisoners, before placing them in a specific prison unit. The case manager or social worker must provide the prisoner immediately with some feedback. These efforts will then result into the drafting of the sentence enforcement plan. The plan will describe the steps that the prison administration together with the prisoner has to take during the entirety of their sentence (Loppenhin, Engelbrecht Ising, & Esdorf, 2015, Jan).

V.A.2. Conditions of Confinement in Contemporary Finnish Prisons

In Finland, the legal basis for conditions of confinement is to be found in the Act on Imprisonment (Vankeuslaki), which was implemented in 2006. Prior to its implementation, conditions of confinement were not codified in a single act in Finland. The European Prison Rules and other international human rights conventions and recommendations have provided the
legal basis for the implementation of the Act on Imprisonment (Kaijalainen & Mohell, 2014; Mohell, 2014). In addition, some general provisions regarding conditions of confinement are to be found in the Finnish Criminal Code.

According to Chapter 2(c) of the Finnish Criminal Code titled “Imprisonment” (780/2005) and §3 of the Act on Imprisonment (2006), “the content of a sentence of imprisonment is the loss or restriction of liberty.” This means that during the time of their imprisonment, the offenders should merely be deprived of their freedom but their constitutional and civil rights must be maintained (Mohell, 2014). For that reason, the prison administrations must aim at minimizing the detrimental effects of imprisonment (Kaijalainen & Mohell, 2014). Finnish prisoners must be treated “with justice and with the respect for their human dignity” (Finnish Imprisonment Act, 2006, 767/2005 §5). In the 2006 Act on Imprisonment (767/2005 §2), the content of an individual prison sentence is further described. Most importantly, the prison sentence must be organized around the facilitation of reintegration of the offender and around efforts towards providing public safety. Imprisonment in Finland must

Increase the readiness of the prisoner to live a life without crime, by promoting the prisoner's ability to manage his or her life and by promoting his or her adjustment to society as well as to prevent the commission of offenses during the term of sentence.

(Finnish Act on Imprisonment, 2006, 767/2005 §2)

In addition, the principle of normality, which in the Finnish context is used instead of “normalization” and is understood as having prisoners being “entitled to the same services (e.g. health care, work, education) in prison as they would be as civilians in society” found expression in the act (Ojanperä-Kataja, 2008, p. 317).
One of the cornerstones of the 2006 legal reform was the need to provide every Finnish prisoner with an individualized sentence enforcement plan. In order to facilitate the individual prisoner’s reintegration experience, the prisoner’s specific needs must be assessed right at the onset of their sentence. Based on an individual assessment plan, the prison administration together with the prisoner prepares the individualized sentence enforcement plan. The plan will first be drafted at a prison assessment center where every prisoner will be taken right after sentencing. Their individual plans will then be specified and revised at regular intervals in the facility where the prisoner is housed (Kaijalainen & Mohell, 2014). The cooperation of the prisoner when drafting the plan is absolutely required. The individualized sentence enforcement plan will address “the placement of the prisoner, individual needs (e.g., substance abuse issues or mental health needs) his or her planned activities during their time in prison, the prospects of probationary liberty under supervision, and the possibility of granting any permission of leave while imprisoned (Finnish Act on Imprisonment 767/2005 §6).

Such as in Denmark, prisoners in Finland can either be placed in low-security (open) prisons or higher-security (closed) prisons. The responsibility of sentence enforcement lies within the Finnish Criminal Sanctions Agency (Rikosseuraamuslaitos). Three regional offices oversee the enforcement of prison sentences in a total of twenty-six prisons: six for the Southern region, eight for the Western region, and twelve for the Northern/Eastern region (Finnish Criminal Sanctions Agency, 2015). Offenders whose sentence is less than one year and who commit to refrain from alcohol and substance use can immediately be placed in an open prison. Offenders who are to serve longer sentences and/or have substance abuse issues will first be

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65 Finland has three criminal sanctions regions and each has an assessment center.
66 I discuss the prospect of “probationary liberty under supervision,” a specific type of community sanction, in more detail in Chapter VI.
placed in a closed prison but can later be moved to an open prison. This is particularly likely to happen prior to their scheduled release to facilitate the reentry process. At the same time, offenders first placed in an open prison but who do not comply with rules in such prisons or who request themselves to be placed in higher-security facilities may be moved to a closed prison at any time (Kaijalainen & Mohell, 2014).

During their term of imprisonment, Finnish prisoners should participate in any activities as assigned to them by the prison administration (Finnish Act on Imprisonment 767/2005, 8 §2). The assigned activities must either fall into the category of occupational work (activities maintaining the working skills of the prisoner and promoting his or her employment) or rehabilitative work (activities improving the working ability of the prisoner and/or preparing him/her for reentry into society) (Finnish Act on Imprisonment 767/2005, 8 §5). Typical prison work assignments range from duties in the wood and metal industry to agriculture (Lappi-Seppälä, 2012). There also exists the possibility for Finnish prisoners to stay self-employed or to participate in any other activities, such as civilian work, study, or substance abuse programs while imprisoned. These activities can be held outside of the prison. In such cases, the prison director (or another prison official in charge of operations who was appointed by the prison director) must decide on whether to allow such outside activities to the individual prisoner (Finnish Act on Imprisonment 767/2005, 8 §14). For life-imprisoned offenders, different rules apply (see below).

In addition to the participation in activities, leaves from prison for a maximum of three full days (excluding travel time) are considered an important component of the principle of reintegration in Finland. Such leaves are believed to help the prisoners to maintain ties to the community and to “decrease the detriment resulting from the loss of liberty” (Finnish Act on
Imprisonment 767/2005, 14 §1). Typically, prisoners become eligible for leaves after having served two-thirds of their sentence. With the 2006 legal reform, the granting of leave permits was centralized and more tightly linked to the individualized sentence enforcement plan (Ojanperä-Kataja, 2008). The prison director or any other prison personnel in charge of security is mandated with granting or denying leave applications for the majority of prisoners but not lifers (see below). Finally, Finnish prisoners may be allowed unsupervised visits with close relatives or loved ones inside the prison, with the goal of allowing them to maintain personal ties and relationships as much as possible, even at times in between leaves (Kaijalainen & Mohell, 2014).

Mirroring the principle of normality, Finnish prisoners are allowed to wear their own clothes. Prisoners may only be restricted from wearing their own clothes on demands for occupational safety or for a specific supervision concern in closed prisons. Furthermore, Finnish prisoners are responsible for maintaining their clothes and cleaning their private rooms and the common living areas. They also have the right to decide on spending their own money while imprisoned or use any other means of payment that come from outside the prison, as long as there are no restrictions with regards to prison safety (Kaijalainen & Mohell, 2014). Finally, the prisoner’s right to vote is maintained while serving time (Mohell, 2014).

Similar to the Danish Sentence Enforcement Act (2001), the 2006 Finnish Imprisonment Act increased the prisoners’ legal safeguards, allowing them more extendedly to appeal against decisions made by the prison authorities. If prisoners believe that their rights while confined were violated (e.g., they feel that the decision made to transfer them from an open to a closed prison was wrong), they can appeal such decisions to the Administrative Court. Furthermore, and this is also similar to Denmark, prisoners may appeal decisions made to postpone their
conditional release to a district court (Kaijalainen & Mohell, 2014). The 2006 Imprisonment Act also addressed the issue of release from life imprisonment, a topic that I discuss in more detail in the following chapter.

V.A.3. Conditions of Confinement in Contemporary Swedish Prisons

In Sweden, prison sentences fall under the responsibility of the centralized Swedish Prison and Probation Service (Kriminalvården). There are a total of forty-seven prisons in Sweden, which the Prison and Probation Service oversees. This is by far the highest number of prisons in my three countries. Seven of these prisons (15%) are closed high-security prisons (security class 1), and the remainder are either closed medium-security (security class 2) or low-security (security class 3) facilities (Swedish Prison and Probation Service, 2015).

The enforcement of prison sentences in Sweden is regulated in the 2010 Imprisonment Act (Fängelselag SFS 2010:610). Similar to Danish and Finnish prisoners, the Swedish prisoners receive a sentence enforcement plan (verkställighetsplan) upon arrival to the prison. This plan regulates how the prisoners must carry out their prison term (SFS 2010:610, 1 §5). The Swedish Prison and Probation Service must provide prisoners with work opportunities or they must be given the opportunity to participate in any kind of education or treatment programs or any other kind of “structured” duties during the entire time of their imprisonment (SFS 2010:610, 3 §1). In a Ministry of Justice report written prior to the implementation of the act, Lindström and Leijonram (2008) noted that prison sentences in Sweden must be based on the principle of normalization, “that is, the same rules concerning social and medical care and other forms of public service should apply to prisoners just as they apply to ordinary citizens” (Lindström & Leijonram, 2008, p. 564).
Again, the term “normalization” was used in the same manner as in Denmark, just with a slightly different meaning. While in Sweden the term was used narrowly to describe equal accessibility of social, medical, and public services for prisoners and ordinary citizens, the term was used more broadly in Denmark by referring to the requirement of life in prison being as close as possible to life in the community (and this, of course, includes social and medical care and other forms of public service). Instead of “normalization,” I again prefer the notion of “normality” to describe this principle even in the Swedish context. In fact, the term “normalization” actually suggests a process, aimed at changing the character of the prisoner, something that is not meant in this context. Instead, I consider “normality” a condition and therefore a better term to describe the goal of life in Swedish prisons.

Typical work assignments in Swedish prisons range from packaging, installations, mechanics, to carpentry, and laundry duties (Emma Ekstrand, personal communication, March 31, 2012). Some Swedish prisons also offer specific work trainings in cooperation with the Swedish Employment Service Agency, a sign that reflects the principle of normality in the Swedish sense. Prisoners are given the opportunity to study, especially to complete their high-school requirements in any of Sweden’s prisons. Typically, prisoners choose to combine work and studying to remain occupied (Emma Ekstrank, personal communication, March 31, 2012). Many also participate in treatment programs, primarily for alcohol and drug addiction, but some programs are also specifically targeted for offenders convicted of crimes of a domestic violence or sexual nature. In whichever way the prisoners seize their time, they will be financially compensated. The normal wage is eleven Swedish crowns (roughly $1.55) per hour. In case of illness or when the prison cannot offer any meaningful work or programs to the prisoners, they
still have the right to a lower amount of compensation (Emma Ekstrand, personal communication, March 31, 2012).

In an effort to facilitate the process of reintegration, the offenders must participate in the process called *utsluss* (SFS 2010:610, (11)). *Utsluss* aims at gradually preparing the prisoner for release and should therefore be carefully prepared and taken slowly. Typically, prisoners are first moved from a high-security to a lower-security facility and they are likely to be granted more frequent leaves from prisons (*permissioner*). These leaves may last from a few hours to three full days and are typically granted for weekends. The Prison and Probation Service distinguishes between normal and special leaves. Normal leaves aim at allowing the prisoners to maintain family and community ties while imprisoned. Special leaves may be granted, e.g., for a hospital visit or the funeral of a family member (SFS 2010:610, (10)).

**V.A.4. Comparing Conditions of Confinement in Contemporary Scandinavian Prisons**

Through this comparison of the conditions of confinement in Denmark, Finland, and Sweden, I observed that the prison as a place of punishment in the three Scandinavian countries is based on very similar principles. The Council of Europe’s European Prison Rules have provided important guidelines for the codification of these principles. First, the principle of normality, not to be confused with the principle of normalization as used by Foucault (1995) in the penal context, means that life in prison shall be as close as possible to life in the community. In all three countries, this principle means that prisoners shall be given the same work, education, and treatment opportunities as individuals in the community. They shall further offered the same kind medical and social services, as they would receive in the community. An exception shall only be made in cases of general safety concerns. For instance, prisoners could be denied to work in a specific kind of occupation outside the prison facility, if they had been placed in a higher-
security prison due to a major disciplinary infraction. This does not allow the prisoners to leave the premise at any time. Second, prison sentences in all three countries should be guided by the principle of reintegration, which means that prison administrations must take all necessary steps to facilitate the individual prisoner’s reintegration experience. In all three countries, specific steps such as the drafting of an individualized sentence enforcement plan at the onset of a prison sentence, work, education, and/or substance and alcohol treatment opportunities, the possibility of unsupervised and supervised leaves, and the transition from a higher-security to a lower-security facility closer to release are all possible pathways that prisoners can take and that can facilitate their individual reintegration experiences.

By organizing prison sentences around the principles of normality and reintegration in Denmark, Finland, and Sweden, it is clear that imprisonment should not be more than the mere deprivation of liberty or the loss of freedom. Why should this matter and what specifically can this mean for an individual’s prison experience? In order to find answers to these questions, I extend this analysis beyond the late modern European context to the work of the American sociologist Gresham Sykes (1958). The deprivation of liberty is, according to Sykes (1958), only one out of five different kinds of deprivations, which prisoners tend to experience behind bars and which cause the so-called “pains of imprisonment.” In addition to the deprivation of liberty, prisoners are typically deprived of autonomy, which means that they cannot make independent decisions and that they have very few choices for organizing their daily lives. Prisoners are further deprived of basic goods and services, allowing them to own a very limited amount of personal property (i.e., basic clothing, books, and selected food items). The deprivation of heterosexual relationships is another result of imprisonment, which Sykes found to be contributing to the “pains of imprisonment,” as prisoners are not experiencing affection and
touch for extended periods of time. Finally, prisoners tend to be deprived of security, with penal institutions making them feel insecure and worrying about their own safety. In sum, Sykes (1958) argued that all of these deprivations together caused increased stress, and, because of that, prisoners were more likely to gradually develop their own rules and regulations to deal with that stress. Institutional aggression, problems with reentry, and thereof resulting negative integration experiences are often the long-term results of this development. Of course, reintegration success can be defined in numerous ways. It can be narrowly seen as a lack of recidivism upon release, but it can also be seen more broadly as providing the prisoner with sufficient skills to not only not reoffend but to also make a “decent” living upon release. This can mean that prisoners find and maintain decent housing, work, and friendly relationships.

Many of the specific steps taken in the Danish, Finnish, and Swedish prisons reflect the attempts to restrict the pains of imprisonment to the deprivation of liberty. The opportunities to work or study throughout a prison sentence, the importance of engaging in substance abuse programs (if applicable), the preparation of the prisoners’ own meals on a daily basis, authorities allowing prisoners to take care of their own finances, and the possibility of regular family visits and leaves are all mechanisms implemented to restrict any other forms of deprivations. As a whole, these efforts aim at providing prisoners with a sense of responsibility that will help them get through a positive reintegration experience.

With the goal of limiting the pains of imprisonment, the focus on the principles of normality and reintegration in contemporary Danish, Finnish, and Swedish prisons suggests that penal welfarism has remained the overarching framework for penal confinement in late modern Scandinavian society. With Garland (2001) characterizing a penal welfarist regime as emphasizing the individualization and re-educative purposes of punishment, this is clearly what I
observed in the Scandinavian context. In other words, penal confinement in contemporary Danish, Finnish, and Swedish prisons can inextricably be linked with penal welfarism. Recent penal-legal changes in all three countries (in Denmark in 2001, in Finland in 2006, and in Sweden in 2010) have reinforced penal welfarist ideals. For instance, the individualized sentence enforcement plans in all three countries are clear expressions of these ideals. As such, penal confinement in Denmark, Finland, and Sweden continues to not be considered as punishment *per se* and thus an end in itself. Instead, I consider penal confinement in these countries, reflected by relatively short prison sentences as compared to other Western industrialized countries, as a means to an end. This end is the “successful” reintegration of a prisoner into society, however “success” in each individual case is defined.

**V.B. Normality for and Reintegration of Life-Imprisoned Offenders**

Sykes’ deprivation model (1958) further holds that the pains of imprisonment are likely to be increased with longer prison sentences. In other words, long-term prisoners are more likely to experience pains of imprisonment and thus experience reintegrative difficulties upon release. In a fundamental study conducted with both American and British long-term prisoners, for instance, Flanagan (1980, p. 155) found that long-term prisoners perceived the loss of relationships with individuals outside the prison and the knowledge that “time waits for no man” as particularly severe deprivations. On a similar note, Porporino (1990) found that the deep immersion into the prison culture and increasing distance from the outside world over time would have detrimental effects on a long-timer’s reintegration efforts.

In Denmark, Finland, and Sweden, long-term prisoners are considered the individuals that serve fixed sentences of four years and above (Danish Department of Prison and Probation, 2015; Finnish Criminal Sanctions Agency, 2015; Swedish Prison and Probation Service, 2015).
Life-imprisoned offenders constitute a specific group of long-term prisoners, due to them being kept uncertain about their exact release date. Meeting the principles of normality and reintegration might thus be a particularly challenging task for the respective prison administrations when dealing with lifers. Aware of these challenges, the European penal-legal framework of the Council of Europe has recently paid increased attention to the specific role that life imprisonment plays in its member states, which have life sentences as a criminal sanction in their penal codes. First, the European Prison Rules make a brief reference to lifers as a specific category of prisoners in the paragraph on “Sentenced Prisoners.” Council of Europe member states are encouraged to treat the lifers and other long-term prisoners as a special segment of the prison population and provide them with appropriate prison sentence enforcement plans and regimes (Council of Europe Rec 2006(2), 103.8). Furthermore, the European Prison Rules hold that “in the case of those prisoners with longer sentences in particular [and this includes lifers], steps shall be taken to ensure a gradual return to life in free society” (Council of Europe Rec 2006(2), 107.2).

In addition to the European Prison Rules, reference to penal confinement for long-term prisoners is made in the 2003 specific recommendations regarding life-sentenced and other long-term prisoners, adopted by the Committee of Ministers of the Council of Europe (Council of Europe, Rec 2003(23)). The main objective of these recommendations was to not only ensure the safety of these prisoners and those who work with them but also to “counteract the damaging effects of life- and long-term imprisonment” and to facilitate reintegration of such prisoners (Council of Europe, Rec 2003(23), p. 4). In this section of the research, I compare conditions of confinement for life-imprisoned offenders in Denmark, Finland, and Sweden and contrast them with the penal conditions for the general prison population (as described above). In this respect, I
want to determine to what extent the principles of normality and reintegration are upheld in the countries’ penal regimes regarding lifers.

V.B.1. Denmark

The Danish Sentence Enforcement Act (2001), which provides the legal foundation for conditions of confinement for all Danish prisoners, also covers the rights and duties of life-imprisoned offenders. Throughout the act, life-imprisoned offenders are not treated as a separate category of prisoners but instead are included in the act’s general provisions. In fact, lifers are not mentioned as a separate category of prisoners in any legal provisions pertaining to conditions of confinement in the 2001 Act. This means that the prison administrations must provide efforts towards sentence enforcement and reintegration for all prisoners, regardless of whether they know about their release date or not.

Like any other Danish prisoner, lifers will therefore receive an individualized sentence enforcement plan upon arrival to the prison facility, which will include a discussion of steps to take to facilitate their reintegration and to prepare them for release from prison. The Danish prison administrations must also provide the lifers with opportunities to work or to allow them participate in any kind of education or treatment programs, for which they will be compensated financially. The only time lifers are mentioned as a separate category of prisoners in Denmark’s 2001 Act is under the legal provisions for conditional release. These I discuss in great detail in the following chapter.

While these legal provisions would suggest that theoretically there is no difference between prisoners serving definite time sentences and life sentences, I was curious to find out whether there were any practical differences between the lifers and other Danish prisoners. For that reason, I asked my Danish interviewees, who could speak to the work of the prison
administrations, how penal confinement of lifers compared with the penal confinement of other prisoners in their country. Three of the Danish interviewees mentioned that lifers in particular frequently struggled with using their time in penal confinement effectively and thus often had negative experiences with reintegrative efforts. Two interviewees who had directly worked with Danish prisoners found that even for long-termers, reintegrative efforts must start on day one in prison in an effort to avoid these negative experiences as much as possible. Such as any other Danish prisoner, the prison administrations together with the lifer draft a sentence enforcement plan that would address the lifer’s specific confinement needs. Due to the expected long-term confinement, however, programming efforts were often kept at a minimum at the onset of the sentence, the interviewees said.

One of these Danish interviewees further believed that the penal conditions could be improved with more focus on intensive work towards release. For instance, long-term prisoners, including lifers, often had more difficulties learning new skills and receiving proper work training prior to release. They could theoretically also go to university, but the interviewee found that the prisoners were often not really supported and that there was just not enough individualized training available for those serving longer sentences. Interestingly, the other Danish interviewee who could speak to conditions of confinement found that long-termers often were easier to work with, as they were typically more “mature.” She had experienced that many long-term prisoners, and this included lifers, were typically of older age and had families that they care about and wanted to support. This provided them with more incentives to participate in reintegrative efforts throughout their sentences, she found.
V.B.2. Finland

The 2006 Finnish Imprisonment Act includes legal provisions that are applicable to all prisoners, regardless of what type of sentence they serve. This means that such as any other prisoner in Finland, lifers must be encouraged to participate in any activities assigned to them by the prison administration. These activities can consist of work, study, or participation in treatment programs, depending on the individual prisoner’s background and their specific needs. However, instead of the prison director (or any official in charge of operations who was appointed by the prison director), the central administration of the Criminal Sanctions Agency decides on whether to give lifers a study permit, allow them to pursue civilian work, or whether to place them in an outside institution (Finnish Act on Imprisonment, 2006, 767/2005 (8) §14).

Like any other Finnish prisoner, lifers are immediately taken to one of the country’s prison assessment centers after sentencing. At these centers, the lifers’ individualized sentence enforcement plans are drawn up, and the prison administration decides on the prison facility that should house the lifer. One of my Finnish interviewees had many years of experience of working in one of these assessment centers. She had observed that the cases of the lifers she had received had all been very different in terms of the lifer’s specific treatment needs, medical, mental, but also personal needs (e.g., placement close to families). Due to them serving particularly long sentences, the lifers were typically evaluated very carefully at the assessment center before they were sent to a specific prison facility and their sentence enforcement plans could be implemented. The interviewee also mentioned that the sentence enforcement plan follow-ups for lifers were recently strengthened. Follow-ups now happened more frequently, the closer the possible release of the lifer was getting. She stressed that the follow-ups were done as an

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67 The prison director can also be referred to as the prison governor or prison warden.
interactive process. The lifer would be part of the discussion and relevant information about the lifer’s reintegrative efforts was also received from the prison facility where the lifer was housed.

Lifers in Finland are also eligible for leaves. Yet, leaves are considered a privilege and not a right, and the rules for lifer leaves are somewhat different than for any other prisoner in Finland, as stated in the Act of Imprisonment (767/2005 (14)). While the prison director or any other prison personnel responsible for security is authorized to either grant or deny a leave application of a prisoner, lifer applications have to be reviewed by the headquarters of the Finnish Criminal Sanctions Agency (Finnish Act on Imprisonment 767/2005, 14 §11). Also, while Finnish prisoners in general are eligible for leaves after having served two-thirds of their definite time sentences, the Finnish Act on Imprisonment (2006, 767/2005, (14) §3) holds that due to the life sentence’s indefinite character, the sentence should be treated as a fixed term of twelve years (or ten years if the prisoner was sentenced to life for a crime committed under the age of 21) when determining leave eligibility. This would mean that leaves become possible after having served at least eight years (two-thirds of a twelve-year sentence). If Finnish lifers are not granted a leave after having served the minimum amount of time for leave eligibility (as stated in § 3), they shall still be granted a leave under escort (supervision) at least once every year (Finnish Act on Imprisonment 767/2005, 14, §6).

Several of my Finnish interviewees working in the Finnish Criminal Sanctions Agency spoke to the specific conditions of confinement for lifers as compared to other prisoners. One interviewee indicated the participation in programs was entirely voluntary and that the prison administration cannot force lifers to engage. However, the administration would attempt to motivate the lifers in particular to participate throughout their sentences, as the prison administration strongly believed that successful and engaged program participation was a key
component for the opportunity of getting released. The same interviewee noted that leaves were commonly allowed for lifers and were, as for every other prisoner, considered an important component of their sentence. She further stressed that a successful completion of leaves was also considered a prerequisite for a grant of release from prison later on. Lifers tended to start with a twelve-hour leave at a time and would be escorted. Lifers would only be allowed unsupervised leaves if they had successfully completed supervised leaves. Only closer to their possible release from prison, they would generally be allowed longer, unsupervised leaves.

Another interviewee working in the Finnish Criminal Sanctions Agency spoke to general reintegrative efforts, based on the lifer’s individualized sentence enforcement plan. The interviewee noted that the ideal would be to prepare the lifers in a step-by-step manner to more open prison conditions, with the goal of gradually making them used to these conditions before release from prison. If the lifer did well, e.g., the lifer had met the expectations as set out in the initial sentence enforcement plan, had not had any serious disciplinary infractions and had not committed any new crimes while imprisoned, the transfer to an open prison could be possible after about seven to ten years spent in a closed facility. The interviewee stressed that this meant that the release process for lifers actually started many years before the release decision would eventually be made. In short, reintegrative efforts were to guide even a life sentence in its entirety.

In regards to any changes to current conditions of penal confinement for lifers, one interviewee from the Finnish Criminal Sanctions Agency thought that it would be a good idea to expand the reintegrative work in prison and to give lifers specifically more opportunities to process their criminal thinking through specific psychological treatment. With that, she found, their likelihood of reoffending after release might be reduced. For instance, she suggested that
lifers should be given more access to psychotherapy early on in their sentences. There should also be more specific programs available that could address their violent behaviors. Lifers should also receive more professional help to neuro-psychological action control problems. These suggestions echoed a comment of another interviewee from the Criminal Sanctions Agency who found that lifers typically only received intensified psychological support both during the final part of the prison term and right after imprisonment. Instead, the interviewee suggested that the lifers should be offered more psychological support throughout their prison sentences, as she considered reintegrative efforts a serious “long-term project.” With that, the lifers would be more adequately prepared for the final part of their prison term and re-entry, she suggested.

V.B.3. Sweden

In 1999, the directorate of the Swedish Prison and Probation Service took another critical approach to the life sentence. After the abolition of the life sentence was discussed several times during the 1970s, the Prison and Probation Service pointed out in its 1999 opinion report (debattskrift) that the lifers continued to pose a particular challenge to their work. As the Service’s legal statutes were directed towards preparing prisoners for return to society, which could be achieved, among other things, through meaningful work, the lifers constituted an obstacle to achieving this objective. Without knowledge about a lifer’s exact release date, the Prison and Probation Service deemed it impossible to motivate the lifers to participate in any programs early in their sentence.

All of my interviewees from Sweden who worked within the Swedish Prison and Probation Service (4) stressed that lifers must be treated the same as all other prisoners. Interestingly, all of the interviewees referred to prisoners in general (and lifers specifically) with the term “clients” (klienter) rather than prisoners (fängar or intagna) throughout our
conversations. The use of the term “client” in the context of prisoners suggested to me that the individual offenders were understood as being in prison for a certain period of time to participate in services from which they would “benefit.” The term also suggested to me a fairly close and respectful relationship between the prison personnel and the offenders, in which the offenders’ individual needs are well known.

Although Swedish lifers are to be treated the same as all other prisoners who have a set date of release, there exist some procedural differences pertaining to the initial intake. In order to assess the specific needs of each long-term prisoner (4 years and up), this group of prisoners go through a specific process at the onset of their sentence. If offenders receive a prison sentence of four years or more (and this includes a life sentence), they are taken to the Prison and Probation Service’s reception center (Riksmottagningen) at Sweden’s largest prison, Kumla, just outside of the capital of Stockholm. At the reception center, the long-term prisoners undergo a six- to eight-week long assessment process, in which prison personnel together with a psychologist and an investigator run a variety of tests and interviews in an effort to assess the individual offender’s needs. Based on the test results, the team establishes a personal profile for them. When drafting the individual sentence enforcement plan, the Prison and Probation Service also takes into consideration the nature of the lifer’s initial crime, the role of the lifer in the crime that was committed, the lifer’s insight into his/her own criminality, and any behavior results of previous times in prison (if applicable) (SOU 2002:26). The Prison and Probation Service then uses these “special conditions of confinement” to allow to have some kind of outlook to offer to both the lifer and the prison administration during the time of their sentence. For instance, it is assessed whether the lifer has specific needs in terms of substance abuse, violence, and/or has specific mental or medical service needs. The Prison and Probation Service headquarters then
receives the report and decides on whether the lifer is in need of any “special conditions of confinement.” This can refer to the location of confinement, the types of leaves allowed, whether the lifer needs substance abuse treatment, or whether the lifer must receive any specific mental health services. Two of the Swedish interviewees working in prisons noted, however, that these special conditions could be changed at any time during imprisonment, if any individualized needs changed.

Such as any other prisoner in Sweden, lifers shall remain occupied during their entire time of imprisonment through work, study, or the participation in any kind of treatment programs. One interviewee who worked in one of the high-security prisons in Sweden, where several lifers were housed, mentioned that prisoners were either working with ceramics or engaged in the manufacturing of plastic cups and plates in her facility. Only those prisoners that were housed in the psychiatric unit of the prison or were in short-term isolation were not required to work.

To slowly prepare the lifers for release, they may also be granted leaves from prison. These leaves can be done in the form of so-called short *lufthalspermissioner* or in the form of longer leaves (*permissioner*). The *lufthalspermissioner* are given specifically to long-term offenders to reduce the damage of long-term imprisonment. These permissions, which may only be granted after the offender has been imprisoned for at least two years, are supervised, with prison personnel accompanying the lifer outside the prison walls. *Lufthalspermissioner* should not exceed four hours (SOU 2002:26). One interviewee working at a Swedish prison mentioned that lifers needed to have had a clean prison record for at least six months in order to be eligible for *lufthalspermissioner*. The lifers typically are accompanied by three officers and do not have a choice about where they will be taken.
In order to become eligible for longer leaves from prison, lifers must have served at least four years and six months in prison (Swedish Imprisonment Act, 2010:610, 10§1). Lifers, such as any other Swedish prisoner, may be granted either normal leaves or special leaves. According to the Swedish Prison and Probation Service, there are many limits to lifer leaves and not every lifer is granted such (SOU 2002:26). Similar to practices in Finland, it is up to the central administration of the Prison and Probation Service rather than the individual prisons to decide about whether a lifer should be granted such a leave or not. Normal leaves may either be supervised or unsupervised, and some lifers are not granted any unsupervised leaves, until right before they are about to be released from prison. One interviewee pointed out that lifers were generally not granted unsupervised leaves if they were housed in a high-security prison. In order to be granted an unsupervised leave, lifers first had to be moved to a lower-security facility. For example, Leif Axmyr, who was sentenced to life in 1982 for a double-murder and is considered the Swedish lifer imprisoned the longest, only got his first unsupervised leave in 2013, shortly after he was moved from a high- to lower-security facility (Tagesson, 2013, Jun 10). Overall, the Swedish Prison and Probation Service was reported to have granted him three leaves during the first half of 2013, all of which were granted for four hours. During one of these leaves, Axmyr was spotted by eye-witnesses outside of the prison. They reported to tabloid news that they saw him sitting outside a coffee shop with two friends, “enjoying the sun and a pastry” (Micic, 2013, April 17).

Although lifers thus have many of the same rights as other prisoners in Sweden, the fact that they, in contrast to all other prisoners, do not have a set date of release, has led to some

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68 In reports on the lifers, all of the Swedish media outlets I reviewed provide the lifers’ full names. Due to the extensive media reporting on some of these lifer cases, which I refer to as “high-profile cases,” their names have become general household names.
implementation problems of the principles of normality and reintegration over time. These were already mentioned in the parliamentary report SOU 2002:26, written between 1999 and 2002, and were reaffirmed by several of my Swedish interviewees (4) in early 2015. First, by not knowing for sure when the lifers would be released, they have been “immune” to disciplinary penalties, “as they already have as much as they can get” (SOU 2002:26). In other words, the Prison and Probation Service cannot postpone their release after any disciplinary infraction, as the release is unknown. One interviewee working in a Swedish high-security prison mentioned that she had observed that lifers, such as other long-term prisoners, often tend to feel that they did not have “anything to lose,” if they engaged in prison conduct violations. This most commonly happened at the onset of their prison sentences, as they seemed to feel that their releases were “far away in the unknown future,” the interviewee said.

Furthermore, the four interviewees working in Swedish prisons stressed that they had found it difficult at times to plan the work and treatment programs in any meaningful way for this group of offenders, targeted towards facilitating their reintegration into society. They found this primarily to be due to the uncertainty of their exact release date. One interviewee working in one of the high-security Swedish prisons noted that it often proved difficult to organize the lifers’ participation in work and treatment programs effectively. She found that it was important to spread out the programs somewhat evenly over their long sentence “in an effort to keep them sufficiently engaged” over the entirety of their sentence. Specifically, when it comes to work programs, she mentioned that the prison administration would do everything to organize participation in adequate work programs closer to the lifers’ release, in order to make them “fit for the job market.” Sometimes, however, she had experienced that lifers were particularly motivated to participate in programs at the onset of their sentence, yet the prison administration
rather wanted them to engage in an increased amount of programs closer to their release for reasons mentioned. In order to avoid, however, that the motivation of the lifer to participate in work or treatment programs would fade over the course of their sentence, the administration would attempt to meet their specific needs as much as the availability of programs allowed. Another interviewee mentioned that she had noticed that, as compared to prisoners serving definite time sentences, it appeared to her as if lifers typically took longer to accept their “fate.” They therefore often took “some time” to come to terms with their sentence, before they started participating in programs. For that reason, she found it important to wait before “overwhelming” the lifers with too many programs early on.

Another interviewee was speaking specifically about treatment programs in the high-security prison where she worked. She mentioned that although there existed a wide variety of treatment programs that the lifers could participate in, she had experienced a few cases in her career as a prison administrator where there was not a good fit of programs for some of the lifers. For instance, she noticed a lack of programs for offenders who had engaged in child molestation or domestic violence in homosexual relationships. She also found that there were no adequate programs for very young offenders who had engaged in sexual violence.

Speaking to problems specific to lifers other than the implementation of programs, one Swedish interviewee working at a prison found that a major challenge she had noticed lately arose out of the housing situation for lifers and other long-term prisoners. Prisoners who were serving long sentences in her facility were typically housed together with offenders who only had to serve a few months. The interviewee suggested that she could imagine it to be a good idea to put lifers and other long-term prisoners together in a separate “long-termer” unit. She had observed that the “long-termers” tended to get annoyed with the “short-termers,” as the latter
“come in and only want to talk drugs and crime.” The long-termers, including the lifers, as she had experienced it over the years, often “just want to do their time in peace.”

The same interviewee noticed that she wished that long-term prisoners and, again specifically lifers, would be allowed to keep more personal property in their private rooms than short-term prisoners. “The prison becomes their home,” she noted, and because of that the lifers should be allowed to accumulate more books, records, clothes, pictures, letters, and other personal belongings over the years. The long-term prisoners became particularly attached to these personal items over time, she observed, as these items are often “all they have.” She had noted that getting rid of their personal items due to tight regulations on personal property was sometimes particularly stressful for the lifers.

V.B.4. Comparing Conditions of Confinement for Lifers in late modern Denmark, Finland, and Sweden

According to the European Prison Rules, the penal confinement of lifers, like the confinement of any other prisoner, shall be guided by the principles of normality and reintegration in Council of Europe member states. Such as for any other prisoner, the prison administrations in Denmark, Finland, and Sweden have therefore been encouraged to facilitate the reintegration experience for lifers throughout the entirety of their indefinite time sentences.

In all three Scandinavian countries, lifers are not treated as a separate category of prisoners in terms of penal confinement. Upon arrival to prison, the prison administrators carefully assess the needs of all prisoners, including lifers. While the penal codes of the three countries do not make any practical difference between various categories of prisoners and regulations pertaining to penal confinement, my interviews revealed that there exist minor practical differences in the enforcement of definite and indefinite time sentences. Lifers in
Danish, Finnish, and Swedish prisons are a specific category of long-term prisoners due to the uncertainty of their release. This uncertainty of release exacerbates the enforcement of the life sentences for the prison administrations and lifers to some extent. The interviewees mentioned a lack of adequate programs available throughout a lifer’s sentence and the difficulty of motivating the lifers to participate throughout their sentences.

Being aware of the detrimental effects long-term imprisonment can have on an individual’s reintegration experience, the prison administrations in Denmark, Finland, and Sweden apply specific methods to help long-term prisoners with reintegration and to allow for a gradual transition back into society. These are, among others, the thorough assessment of their specific confinement needs at the onset of their sentence, short hour-long leaves with supervision as a first step towards reintegration, longer leaves that can either be supervised or unsupervised as a second step, a propensity of spreading out programming throughout the prison sentence but increasing programming efforts closer to their release, and the movement from higher-security to lower-security facilities over the course of their sentence, typically also closer to release.

Regardless of the specifics in terms of sentence enforcement between Denmark, Finland, and Sweden, the penal confinement of lifers thus reflects penal welfarist ideals. Deeply engrained in national legal provisions, the deep concern for adhering to the principles of normality and reintegration suggests that the Danish, Finnish, and Swedish prisons have not become reduced to an incapacitative institution but instead continue to emphasize rehabilitation.

The prison as an institution of punishment, therefore, is believed to “work,” not because it incapacitates criminal offenders but because of the hope that is put into the facility to rehabilitate. Rehabilitative efforts are believed to best be achieved through the indefinite character of the life sentence (not giving the lifer a guaranteed date of release) and individualized
treatment (reflected in the individualized sentence enforcement plans). The involvement of psychologists, psychiatrists, social workers, or specifically trained prison personnel in the offender’s assessment further reflects penal welfarist ideals in the initial confinement phase. Nevertheless, how the individual lifers experience efforts towards reintegration, will also depend on their prospect towards release and the reentry process (compare with Visher & Travis, 2003). For that reason, I compare and contrast the specific lifer release mechanisms and the reentry process in Denmark, Finland, and Sweden with one another in the following chapter.
CHAPTER VI:
PRISON RELEASE MECHANISMS FOR LIFE-IMPRISONED OFFENDERS

In 2003, Swedish Foreign Minister Anna Lindh went shopping in a popular department store in downtown Stockholm. Lindh, a beloved social democratic politician during that time, was without a bodyguard when a masked individual attacked her from behind in the department store and stabbed her multiple times. Although Lindh was immediately rushed to the hospital, where she underwent emergency surgery, her life could not be saved. She died in the early morning after the attack, leaving a nation shocked and in urge of finding the perpetrator. Shortly after the murder, the alleged perpetrator Mijailo Mijailović was arrested. The press soon claimed that his attack was “motiveless,” simply being the “result of a random attack” (Green & James, 2004). Others believed that Mijailović, who was of Serbian descent, was driven by hatred for Lindh due to her supporting the NATO attack on Serbia in 1999 (Green & James, 2004).

Mijailović was sentenced to life in prison in 2004. Yet, the Swedish life sentence, similar to the Danish and Finnish life sentence, does not mean that offenders will remain imprisoned for the rest of their natural lives. In all three countries, there exist mechanisms that allow life-imprisoned offenders to apply for release after having served a legally-specified minimum time behind bars. In Mijailović’s case, where a politician was murdered and a political motive could have been behind the crime, the question arose as to which agency or institution should make the decision about lifer release.
Traditionally, granting mercy, clemency or pardon to a prisoner falls under the executive powers of the state. When performing this task, heads of states or designated political officials have a substantial amount of discretion. In terms of a life sentence, in the Scandinavian context rarely and very selectively imposed, such a task would seem to give states a substantial amount of power. With the life sentence being an indefinite time sentence, the state could theoretically keep the offenders deprived from liberty for the rest of their lives (van Zyl Smit, 2002). Surprisingly, Garland (2001), in his book *Culture of Control*, did not address the power of a state to reduce an offender’s penalty through pardon or clemency. Indirectly, however, Garland (2010) noted that penal welfarist ideals, which spread with the rise of the bureaucratic state in the late nineteenth to early twentieth century in the Western industrialized world, meant that decision-making about punishment during all phases (and this would include prison release decision-making) involved criminal justice professionals rather than political appointees. In late modern society, however, Garland noted that criminal justice professionals became increasingly removed from the penal policy process and gave place to increased politicization of such issues.

I therefore consider the lifer release process a particularly important subject to discuss in a separate chapter to determine the extent of penal welfarist ideals in late modern Scandinavian society. To what extent does the lifer release process in late modern Denmark, Finland, and Sweden reflect penal welfarist ideals? Should a political body, like the Head of the State or the Minister of Justice, be mandated with deciding about lifer release? Or should it be an independent judicial body, like a designated court, which has sentenced the offender to life

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69 Mercy, clemency, and pardon are different terms used to describe the power of an authority to relieve somebody from punishment. Clemency and pardon, in particular, refer to a chief executive order that grants a convicted offender the release from prison and/or from other penalties that were part of that same conviction (Bergman & Berman, 2009). In the Scandinavian context, either of these terms is used to describe the same kind of order (pardon in Denmark and Finland, and clemency in Sweden). I therefore continue using both terms in their country-specific contexts in the remainder of this study.
initially? Who, in general, should be involved in the decision-making process, and which factors should be weighed against each other when deciding about the release of such offenders? And when, after all, should lifers be given the chance to get released from prison? These are the main questions that I address in this chapter.

VI.A. European Prison Release Mechanism Standards

Not only has the Council of Europe provided its member states with important legal guidelines for establishing minimum standards for conditions of penal confinement. It has also provided states with legal guidelines for prisoner release. According to article 33(1) of the European Prison Rules (Council of Europe Rec, 2006(2)), “all prisoners shall be released without delay when their commitment orders expire, or when a court or other authority orders their release.” In 2003, the Committee of Ministers of the Council of Europe adopted Recommendation on Conditional Release (Rec 2003/22). The goal of this recommendation was to get member states, which have not already conditioned this form of release mechanism, to adopt “conditional release” in their penal codes. Conditional release must

Aim at assisting prisoners to make a transition from life in prison to a law-abiding life in the community through post-release conditions and supervision that promote this end and contribute to public safety and the reduction of crime in the community. (Council of Europe Rec 2003/22 (3))

Conditional release is a term commonly used in Europe instead of parole. Conditional release means that the prisoners will do a “test period” within the community, in which they must refrain from committing any more crimes. During this test period, offenders are either supervised or unsupervised. If the offenders are supervised, regular meetings with a supervisor will be scheduled and the offenders may be required to attend programs or follow any other
specific rules, depending on their individualized sentence enforcement plans. The offenders may be required to live in a certain place, work at designated hours, or participate in specific treatment programs as assigned to them.

According to the Sentence Enforcement Act (SEA, 2001, 14 §79), prisoners in Denmark can be released either conditionally, upon termination of their sentence, or through the use of pardon. Conditional release from prison is the main method of release. Prisoners become eligible for conditional release after two-thirds of their sentences have been served behind bars (SEA, 2001, 14 §80). The Sentence Enforcement Act further mandates the Minister of Justice with establishing rules for deciding on conditional release for prisoners (SEA, 2001, 14 §81(2)). Meanwhile, the Danish Queen is responsible for deciding about pardon. Typically, pardon in Denmark is only given under very rare circumstances (e.g., terminal illness).

Such as in Denmark, the main release mechanism for prisoners in Finland is conditional release. This means that prisoners will be released early after having served a legally-specified percentage of their sentence. According to Finland’s Criminal Code (19.12.1889/39, 5 § (23.9.2005/780), conditional release means that offenders sentenced to an unconditional prison sentence may serve the remainder of their sentence back in the community. Typically, those serving a definite time sentence qualify for conditional release after having served two-thirds of their sentence. If an offender committed the crime under the age of twenty-one, he/she qualifies for conditional release after having served half of the sentence in prison. Following early release, the offenders will remain supervised in the community. All other ex-prisoners, who serve at least one year or who themselves request so, also remain supervised for a period of time that even for long-term prisoners must not exceed three years. Supervision typically means that the ex-prisoners will have regular meetings with a supervisor from the Criminal Sanctions Agency, and
they may attend programs to further facilitate their reentry. There are also a small number of recidivists in Finnish prisons who were ordered by the court to serve their full sentences behind bars. If they are not considered particularly dangerous anymore, the Helsinki Court of Appeal may decide to release them, after five-sixths of their sentence have been served in prison (Kaijalaïnen & Mohell, 2014).

In 1989, Finland became a member of the Council of Europe and ratified the ECHR. The ratification of the ECHR immediately impacted, among other things, the rules regarding conditional release revocation. While the prison administration could decide to revoke conditional release prior to 1989, the decision-making power was then transferred to the courts (Lappi-Seppälä, 2010). In case of a serious conditional release violation, the Criminal Sanctions Agency might forward the matter to a prosecutor. The prosecutor would then present the matter to a district court for the purpose of ordering the remaining sentence to be enforced (Kaijalaïnen & Mohell, 2014).

In Sweden, conditional release is considered the “last component of measures to facilitate reintegration in society” (Lindstrom & Leijonram, 2008, p. 570). Similar to Denmark and Finland, prisoners with a definite time sentence may be conditionally released after having served two-thirds of their sentence. Yet, conditional release is never guaranteed at the time of one’s sentence. If the prisoner’s conduct is assessed negatively (e.g., through an assault, the possession and/or use of contraband while imprisoned), the conditional release may be postponed. Conditional release in Sweden typically lasts one year (Swedish Prison and Probation Service, 2014).
**European Standards Regarding Lifer Release**

The Scandinavian countries’ release mechanisms available to lifers have also been influenced by pan-European penal debates. According to Council of Europe recommendation Rec 2003(22) (4.1), “the law should make conditional release available to all sentenced prisoners, including life-sentence prisoners.” Conditional release is considered a tool for all prisoners, and especially long-term prisoners, to help them minimize the “harmful effects of imprisonment and to promote the resettlement of prisoners” within their communities (Committee of Ministers Council of Europe Rec 2003(22) (4.1)).

In recent years, the debates within the Council of Europe around life imprisonment have primarily revolved around the “appropriate” length of a life sentence and whether an “irreducible” life sentence should be an acceptable form of punishment. Article III of the ECHR holds that particularly long and disproportionate sentences could violate the prohibition against inhumane and degrading punishment. In 2007, the European Committee for the Prevention of Torture thus recommended that individuals sentenced to life should be provided with a regimen that prepares them for release (van Zyl Smit, 2010). This section of my research examines how the release mechanisms for lifers compare in the Scandinavian countries and to what extent they have been influenced by the European penal-legal framework.

**VI.B. Lifer Release in Scandinavia: Governmental Clemency vs. Judicial Release Process**

Historically, lifers in Denmark, Finland, and Sweden could only be released from prison after they had served a minimum amount of time of their sentence and if their respective governments granted them clemency. According to this tradition, it was up to either the Head of the State (the President in Finland, the Queen in Denmark) or the government (typically the
Minister of Justice in Sweden) to decide whether or not to grant the lifer release from prison. This historical tradition clearly indicates the central role of the executive alongside the legislature in determining the length of a life sentence.

The decision about whether to release a lifer was thus considered a political rather than a legal or criminological question. This had important implications for political power. The highest levels of authority were provided with a tool used to exercise discretion over whom to release or keep imprisoned. Such practices can be considered problematic. For instance, Hay (1975) found that the power of the ruling authorities to grant or deny mercy was far removed from the poorer segment of society (often those that were facing the punishment). As the ruling authority enjoyed a substantial amount of discretion in the decision-making and the poorer segment of society did not know about the reasoning behind the release decision-making, the power of mercy contributed to reinforcing the structure of authority. The “prerogative of mercy could be presented as something altogether mysterious, more sacred and more absolute in its determinations” (Hay, 1975, p. 47).

In the late 1990s, a process of legislation began in all three countries with the mandate of reviewing the governmentally-steered clemency process and with proposing new ways as how to regulate lifer release. These legislative processes, set in motion by the respective governments, carefully prepared by governmental working groups, and finally decided on in the parliaments, resulted in new legislation in all three countries. These laws, either exclusively dealing with life-imprisoned offenders or being part of broader penal reforms, substantially modified lifer-release mechanisms. In this section of the study, I first discuss the basis of these reforms in the three countries and then compare and contrast the new legislation regarding lifer release.

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70 Hay (1975) was specifically speaking about mercy, but I find that his argument also applies very well to pardon and clemency.
VI.B.1. Lifer Release in Denmark

The Governmentally-Steered Clemency Process

Until 2001, the only possible way for a life-imprisoned offender to get released from prison in Denmark was pardon in accordance with Section 24 of the Danish Constitutional Act. Pardon meant that the King (or Queen) as the Head of the Danish State had the right to exempt individuals from any sentence or parts of a sentence (Danish Constitutional Act with Explanations, 2013). In other words, the monarch had the sole authority to pardon a prisoner. In practice, the pardoning process took place by royal decree upon a recommendation from the Danish Minister of Justice (and the Danish Department of Prison and Probation). The question of a pardon for lifers was in general considered after approximately twelve years of imprisonment (M.D. Dahm-Hansen, personal communication, June 25, 2013).

Reforming the Governmentally-Steered Clemency Process in Denmark

During the 1990s, life imprisonment and the governmentally-steered pardoning process came under increased scrutiny in Denmark. Yet, the debate did not revolve around whether to abolish life imprisonment all together but rather on how to reform the clemency process (SOU 2002:26). The case of Palle Sørensen, an offender sentenced to life in 1966 after killing four police officers and who thereafter remained imprisoned for thirty-two years and eight months, contributed to putting the governmentally-steered clemency process up on the political agenda. As the Danish Minister of Justice is also the Head of Police, clemency was automatically not considered for Sørensen, merely on the grounds of the particularly serious nature of his crime (SOU 2002:26).

While Sørensen’s case might have triggered the reform of the governmentally-steered clemency process, it must also be seen in the broader European penal-legal context. Especially
within the Council of Europe and the European Court of Human Rights, a discourse concerned with the legal safeguards for prisoners had formed. On several occasions, the Court found that there was an increasing need for having mandatory but also regular evaluations of the life sentence, initially imposed as an indefinite time sentence, after having served a legally-specified minimum time in prison. Continued imprisonment beyond the minimum time should involve a new decision that carefully weighs the costs and benefits of continued imprisonment to maintain public safety (van Zyl Smit, 2010). Another European penal-legal debate revolved around the requirement of a court to be involved in one way or another in evaluating the pardoning or clemency decisions for lifers. This was primarily to avoid a possible intermingling of political interests in the release decision-making process.

**2001 Legal Changes Reforming the Lifer Release Process in Denmark**

Due to these major concerns, the lifer pardoning process was eventually codified in Chapter fourteen of the 2001 Sentence Enforcement Act and new provisions in the Danish Criminal Code (5 §41). Both legal texts hold that lifers should become eligible for conditional release after a minimum of twelve years served. This is a different time frame than for prisoners serving definite time sentences. For them, conditional release becomes possible after two-thirds of their sentences were served (SEA, 2001, 14 §80).

The main reason for setting the possibility of conditional release after twelve years served was that the longest definite time sentence in Denmark is sixteen years. This means that offenders serving such a long definite time sentence would typically be released conditionally after having served eleven years (two-thirds of their sentence). In order to maintain the life sentence as the country’s harshest penalty, the “shortest” life sentence should hence not fall below the minimum term to be served for an offender with a sixteen-year sentence.
The Minister of Justice (or anybody the Minister mandates with this task) must decide on the lifer suitability for conditional release (Danish Criminal Code, 5, §41). This happens after the lifer together with the Department of Prison and Probation has applied for conditional release to the Ministry of Justice at around twelve years into the life sentence. Conditional release should only be considered, if the lifer’s behavior appears to meet the criteria required for such release, if the lifer is deemed to be able to care for him/herself, and if the lifer states that he/she will follow all the requirements for conditional release (Danish Criminal Code, 5, §41). It is further stated that a lifer should not be considered for conditional release, if the individual is connected with a group of people who are actively involved in a violent conflict and when it appears likely that the lifer will continue engaging in violent behavior upon release (Danish Criminal Code, 5, §41).

One of my interviewees from the Danish Ministry of Justice who has been directly involved in the lifer release decision-making process for several years stressed that the Ministry does not make the decision alone but instead needs to closely cooperate with the Danish Police and the Department of Prison and Probation. Together, she stated, these institutions are carefully attempting to make a holistic evaluation of whether the lifer must still be considered dangerous to society and should thus not be released conditionally or whether the lifer could be released conditionally without jeopardizing public safety. When deciding about the release, she indicated that the Ministry typically considers what the lifer “has done and not done” while imprisoned. Furthermore, the Ministry strongly considers annual psychological reports, which were conducted in the prison where the lifer was housed. It also relies on a more detailed psychiatric evaluation, which is conducted when the lifer was close to being considered for conditional release (typically just short of the twelve years minimum time). Finally, the Ministry considers whether the lifer presents a plausible release plan. Employees from the Ministry of Justice visit
the lifer over the course of the decision-making process in order to learn more about him/herself and his or her future plans.

If the initial evaluation for conditional release after twelve years served is denied, the life sentence is reevaluated the following year (SEA, 2001, 14 §80(2)). The requirement for yearly reevaluations can be considered one component of the legal safeguards increase for the offender, as envisaged by the Council of Europe. If the offender was deemed not “ready” for reentry after the initial twelve years, a yearly reevaluation of that decision gives the offender more time to prepare for release. Furthermore, the Danish courts have also become involved in deciding about the release of lifers, adding to the wide spectrum of criminal justice professionals alongside the Minister of Justice, Danish Police, and the Danish Department of Prison and Probation that are involved in decision-making pertaining to lifers. If the Ministry of Justice (or on their behalf the Danish Department of Prison and Probation) still decides to not release the lifer after fourteen years served, the lifers are able to appeal the administrative decision to Danish courts of first-instance. In cases of court review, Danish lifers may first appeal to the district court closest to the facility where they are located. The losing party in the district court case may then appeal to a Danish appeals court. 71 This means that the court involvement regarding lifer release is based on a two-instance principle, i.e., appellate process involving checks and balances.

In terms of caseload, the same interviewee noted that the Danish Ministry of Justice handles about five to ten lifer application per year. She averred that hardly ever is a lifer application granted after the initial twelve years served. The majority of Danish lifers have to apply at least two to three times before the ministry grants conditional release. The interviewee

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71 The losing party is either the lifer, in cases when the application for conditional release is also rejected by the district court. The losing party can also be the Ministry of Justice, in cases when the district court grants the lifer release.
mentioned that this is primarily due to many of the lifers not yet having taken a sufficient amount of reintegrative efforts towards release. She also pointed out that court involvement has so far been rare. Only once since the legal change has a court overturned the ministry’s decision. In this 2014 case, the district court initially decided to grant the lifer conditional release, after which the ministry appealed the decision to the appeals court. However, the higher court reaffirmed the lower court’s decision and granted the lifer release.

In addition to conditional release as granted by the Ministry of Justice, the Danish Queen still has the power to pardon Danish lifers. However, since the 2001 legal reform, no lifer has been pardoned by the Queen. Instead, conditional release through administrative decisions has become the sole method of release for lifers. The main reason for why lifers would rather go through the administrative rather than the pardoning process is that if the Ministry of Justice grants the lifer conditional release, the probationary period within the community would be set at a maximum of five years. With pardon, the period could be longer than five years. If lifers were to commit another crime during their probationary period, they would return to prison and “continue serving their life sentence” (Danish Criminal Code, 5, §42).

Overall, all of my Danish interviewees (6) found that the Ministry of Justice release process with court involvement worked more efficiently than the pardoning process for various reasons. First, one interviewee who had worked in Danish prisons for several years found that the prisoners really had to prove themselves to show they were “fit” for reentry. This was due to the Ministry of Justice making a much more holistic evaluation of the prisoner than was previously done by the state when giving pardon. Second, the same interviewee together with the interviewee working in the Danish Ministry of Justice stressed that the requirements for release were much clearer than previously. They gave both the lifer and the prison administration
sufficient time to prepare for the application. In addition, the decision-making process had become more transparent, the two interviewees said. This made it easier for all individuals involved (the lifers, the criminal justice professionals, and society) to discern what specifically was required for release. The interviewee working in the Ministry of Justice also felt that those that had not improved and continued posing a danger to society could remain imprisoned. “There are some that I am glad about that they are not released automatically. With others, I have been very happy about that they were able to receive a second chance,” she said. Finally, both of the interviewed Danish judges found it important that the courts had the “last say” in the process, with the lifers being able to appeal the administrative decision to the courts after fourteen years served. The possibility to appeal had substantially increased the lifers’ legal safeguards, the judges found. Still, neither of the judges, despite decade-long experience, had yet had a case of an appeal of lifer release in their courts. This again mirrors the very small number of lifers in the Danish context.

VI.B.2. Lifer Release in Finland

The Governmentally-Steered Clemency Process in Finland

Considerations about the length of a life sentence and the institution deciding about lifer release date back to early Finnish history. The Finnish Criminal Code of 1889 included legal provisions regarding release procedures for life-imprisoned offenders. It was possible for lifers to get released conditionally, after they had served twelve years in prison. The time period was shortened to eight years in 1921 (Finnish Government Proposition RP 262/2004 rd). If the lifers were to be granted conditional release, however, they would remain under community supervision for the remainder of their lives (Kaijalainen, 2014). In the early years of Finnish statehood, there were also changes in the institution responsible for deciding on whether to grant
conditional release for lifers. While until 1918, the year of the Finnish Civil War, the judicial department of the Senate was mandated with the task, the Finnish Supreme Court was responsible for reviewing cases from 1918 until 1931 (Finnish Government Proposition RP 262/2004rd). This practice was changed with the Conditional Release Reform in 1931, which left the release of lifers exclusively to the pardoning discretion of the Finnish president (Lappi-Seppälä, 2010).\textsuperscript{72}

The Finnish president was thus equipped with the constitutional power to reduce the sentence of life-imprisoned offenders. The reform stipulated that the lifers themselves apply to the president and ask for pardon. Before making the decision, the president typically requested the input of a few different criminal justice professionals, who were more directly dealing with the life-imprisoned offender. For instance, the president would consult with the prison where the offender was housed, the Criminal Sanctions Agency, and the Ministry of Justice. However, the president was not required to take into consideration the opinion of these actors. This wide presidential discretion made it difficult for any actors involved as well as for the life-imprisoned offenders to know why pardon was granted in one case but not in another (SOU 2002:26). If the president decided to release a lifer conditionally, they would remain under community supervision for another eight years (Kaijalaïnen, 2014).

With the presidential pardon, especially in the aftermath of World War II, the average life sentence in Finland increased significantly. While the typical life sentence lasted eight years prior to the Conditional Release Reform of 1931, its average in the 1970s was calculated at 16.5 years (SOU 2002:26; Henriksson, 2013, Oct 10). After the 1970s, however, the average life sentence decreased again. This decrease coincided with the major penal reforms that Finland

\textsuperscript{72} Some scholars who have written about this act in English have referred to it as the Parole Reform Act of 1931 (see Lappi-Seppälä, 2010).
undertook to reduce its prison population (see Chapter III). At the end of the 1980s, the average Finnish life sentence lasted eleven years and over the course of the 1990s, it was estimated at 10.4 years (Kaijalainen, 2014).

Reforming the Governmentally-Steered Pardoning Process in Finland

Against the backdrop of these developments and the European penal-legal discourse around long-term imprisonment and conditional release, the Finnish Ministry of Justice established an Imprisonment Committee (Vankeusrangaistuskomitean) in 1999. In general terms, the Committee’s task was to review the country’s current imprisonment practices. Among these was also the task of drafting an act that would become the legal basis for imprisonment and conditional release mechanisms for all Finnish prisoners (which then resulted into the 2006 Imprisonment Act). Included in that was also the task to explore alternatives to the presidential pardon for lifer release from prison.

In its report, which was published in June 2001 (Finnish Imprisonment Committee [KM 2001:6]), the Committee suggested that lifers, such as all other Finnish prisoners, should be eligible for conditional release. Absorbing the European penal-legal discourse, the Committee further found that a designated court should be mandated with the decision-making. Consequently, it suggested mandating the Helsinki Court of Appeal with an initial evaluation of the life sentence, after a minimum of twelve years of the sentence were served. Under special circumstances (e.g., a closely-followed sentence enforcement plan by the individual offender during their time in prison), an evaluation after ten years should be made possible. In practice, life sentences lasted roughly ten years on average at that time (see the numbers above). While the Committee thus mandated a court with the lifer release decision-making duty, the presidential pardoning process should remain as an alternative.
In 2004, the Finnish government published proposition RP 262/2004 rd, which was based on the Imprisonment Committee’s report. In the eighty-page long proposition, the government provided an overview of conditional release mechanisms and the use of life sentences in other European countries (RP 262/2004 rd §3.11). Not only were countries discussed that had abolished the life sentence, most importantly Norway, but the situation in other countries that still used life sentences, especially Sweden, Denmark, the United Kingdom, Germany, and the Netherlands was also discussed in detail. The government further noted that the European Court of Human Rights had been influential in the drafting of legislation in this realm and that it had encouraged court involvement in the decision-making process in regular intervals.

As stated in the government proposition (RP 262/2004 rd), the biggest concern about the presidential pardoning process was the uncertainty it left both the lifer and the Criminal Sanctions Agency with about the exact time of release. According to the government proposition, this uncertainty would affect both the sentence enforcement and lifer’s reintegration experience negatively. Another problem that the government highlighted was the pardoning itself. It had become such common practice in recent years that it did not fit with the basic principles behind the pardoning regulations anymore. In fact, pardoning was supposed to only be used in exceptional cases and not on a regular basis. It is important to remember here the noticeable increase in the Finnish lifer population, which started in the 1980s, and therefore led to more lifers becoming considered for release over the course of the 1990s. This would leave the Finnish government and parliament with two options for legislative reform, to either abolish the life sentence or make the date of release more predictable. The latter could first and foremost be implemented, such as it was recently done in Denmark with the 2001 reform, by legally defining a minimum time to be served before considering conditional release.
Accommodatingly, the Finnish government proposed to make conditional release possible after a minimum of twelve years served. The twelve-year time period was chosen, as it was the time to be served before a lifer would become eligible for release, according to the 1889 Criminal Code. The minimum time should be ten years for offenders who had committed the crime under the age of twenty-one rather than for offenders who could show exceptional prison conduct, as first suggested in the Imprisonment Committee’s report. Finally, the government proposed to mandate the Helsinki Court of Appeal with deciding about the conditional release for lifers, such as was suggested by the Imprisonment Committee in its report (RP 262/2004 rd).


The government proposition (RP 262/2004 rd) was passed on to the parliament and eventually resulted in a new law. This law was implemented in 2006. The Act on the Procedure for the Release of Long-Term Prisoners (Laki pitkäaikaisvankien vapauttamismenettelystä, 23.9.2005/781) modified release procedures for life-imprisonment offenders, as suggested by the Imprisonment Committee and the government. Meanwhile, the presidential pardon was maintained as a second option for lifers to be released from prison in Finland.

The new law resembles the wording of the government proposition. First, lifers must apply for conditional release to the Helsinki Court of Appeal, after they have served twelve years of their sentence. Offenders sentenced to life for a crime they committed under the age of twenty-one, and not offenders who had exceptionally well followed through with their sentence enforcement plan (as initially suggested by the Imprisonment Committee) may already apply after ten years served. A release decision-making process is initiated by an application of the lifer. Under exceptional circumstances (e.g., due to severe illness), the Criminal Sanctions
Agency may file the application to the court on behalf of the lifer. The administrative unit of the Criminal Sanctions Agency must attach a written statement in reference to the lifer’s application to the Helsinki Court of Appeal. In its statement, the unit must show how it stands on the issue and whether it would support the lifer’s conditional release at the time of the application, according to the provisions of Finland’s Criminal Code (39/1889, 2).

In addition, the court must also take into consideration any other reports on the lifer’s case (23.9.2005/781 §1). Most importantly, the court must consider a report on the risk of relapse conducted by the prison mental hospital. A risk of relapse assessment is now required by law through the provisions in the Act on the Procedure for the Release of Long-Term Prisoners (781/2005) and the changes which have been made in first section of that act in the year 2011 (by the act 737/2011). The risk of relapse assessment is conducted in the prison mental hospital, which is part of the health care unit of the Criminal Sanctions Agency, in either the city of Turku or Vantaa. The lifer’s risk of relapse is determined by a forensic psychiatric examination, which will assess the likelihood of committing another violent offense in the future, based on a three-level scale. One Finnish interviewee indicated that the psychiatric examination takes about two weeks. In addition to the risk of relapse assessment, the court will review a report from one of the three Criminal Sanction Agency’s assessment centers. The purpose of the assessment center’s report is to provide an opinion on the qualifications of the lifer, in terms of the legal prerequisites necessary for supervised probationary freedom. This is a specific reentry mechanism in use for long-term prisoners in Finland, which I discuss in more detail below.

If the Criminal Sanctions Agency does not support the release of the lifer, an oral hearing on the matter will take place at the Helsinki Court of Appeal. An oral hearing could also be arranged in other situations. This primarily happens at times the lifer requests it despite the
supporting statement of the Criminal Sanctions Agency. In 2014, for instance, the Helsinki Court of Appeals handled thirty-six lifer release cases. Out of these, nineteen (53%) were decided, after the lifer had made an oral statement in the court. The remaining seventeen cases (47%) were decided without an oral argument. According to an interviewee from the Finnish court system, these numbers resemble the cases the court handled in previous years. During the court hearing, both the lifer and a representative of the Criminal Sanctions Agency must be allowed to make statements if they so wish, statements which the court must consider in the decision-making process. If the lifer, however, wishes to not attend the court hearing, a decision can still be made despite his/her absence (23.9.2005/781 §3). Furthermore, the court may request any other expert opinions on the issue and may also call witnesses. Experts and witnesses are to be compensated by the state for any costs arising out of their court appearance (23.9.2005/781 §3-5).

If the Helsinki Court of Appeal denies conditional release after the minimum of twelve years served, the lifer may reapply every year that has passed (23.9.2005/781 §2). Similar to Denmark, the Finnish provisions resemble the Council of Europe’s suggestions on appeal possibilities in regular intervals. The Finnish Criminal Code (19.12.1889/39, 10 § (10.12.2010/1099)) also specifies the factors the Helsinki Court of Appeal shall consider when making the decision as whether to grant or deny conditional release for a lifer. First, the court shall consider the nature of the initial crime or crimes committed that led to the life sentence, and any other crimes that may have been committed by the lifer while serving time. The court shall also take into consideration whether the lifers carried through their individualized sentence enforcement plans and how the prison personnel have assessed their overall prison conduct. The court may also consider to what extent the lifer adhered to any drug treatment or any other type of treatment, which might be required for conditional release.
The court decision has to be made by a three-judge panel. All of the lifer cases are handled by the third unit of the court. While different judges participate in the lifer release decision-making process, all of them deal regularly with lifer cases. In the case of that the judges cannot agree, a new vote has to be taken (23.9.2005/781 §6). The court decision must be made within thirty days after the hearing and can only under very exceptional circumstances be postponed (23.9.2005/781 §7). Such as in Denmark, despite the different instances involved, the decision of the lower court (Helsinki Court of Appeal) can still be appealed to a higher court (Finland’s Supreme Court) (23.9.2005/781 §8).

Figure 6-1 shows the number of terminated life sentences in Finland from 1992 to 2012. We can first observe that the number of terminated life sentences in the first ten years (1992-2002) has been substantially lower than in the following ten years (2002-2012). This can be seen primarily as a result of the increase in the number of lifers in Finnish prisons in recent decades and a thereof resulting increase in lifers eligible for conditional release. Furthermore, the figure shows that since 2007, the sentence of the majority of Finnish lifers had been terminated by a court rather than governmental decision. Presidential pardon, despite still being an option, has not been used anymore. Finally, the figure shows that occasionally, lifers also die in prison. For those few (16% of all terminated life sentences from 1992 to 2012), the prison sentence actually turned into a true-life sentence.
If the Helsinki Court of Appeals decides to release the lifer conditionally, it must set the exact date of release from prison. One Finnish interviewee from the court system and one from the Criminal Sanctions Agency stressed that most lifers have to apply at least twice before the court grants them conditional release. The interviewee from the Criminal Sanctions Agency added that only foreign citizens, who are to be deported after release, are quite likely to be released after the twelve-year minimum term. After release, the time the lifer is on conditional release is set for three years (19.12.1889/39, 13 § (23.9.2005/780)). This is a substantially shorter time than previously after a presidential pardon. The Criminal Sanctions Agency is responsible for supervising conditionally-released lifers. While on conditional release, the offender has to meet regularly with a supervisor from the Criminal Sanctions Agency and may be required to participate in certain kind of programs (23.9.2005/782, 5 § (17.6.2011/738)).
The Finnish Criminal Code further holds that long-term prisoners, including lifers, may be put on supervised probationary freedom before being released conditionally (19.12.1889/39, 10 § (10.12.2010/1099)). Supervised probationary freedom, which was introduced with the 2006 legal reforms, is a more intense type of supervision within the community, which can last up to six months and can be allowed prior to the time when either conditional release is possible or before the whole prison sentence (rather than two-thirds of it) has been served (19.12.1889/39, 8 § (23.8.2013/628). The goal of supervised probationary freedom is to provide long-term prisoners with more support and more intensive supervision and programming, with the hope of facilitating the reentry process (Lappi-Seppälä, 2010). As one Finnish interviewee from the Criminal Sanctions Agency mentioned, the content of the supervised probationary freedom (when seen as possible which is usual) is prepared, only after the Helsinki Court of Appeal has granted the lifer release. This is done by the prison administration in cooperation with one of the prison assessment centers. The prisoner will also take an active role in the process, according to the interviewee.

After the maximum of the six months of such intensive supervision, conditional release will begin and supervision will become more intermittent. Several of the interviewees from the Criminal Sanctions Agency (3) considered supervised probationary freedom an important tool to help facilitate the reentry of long-term prisoners, and especially lifers, back into the community. Through more intensive supervision and programming, the interviewees found that the immediate needs of the lifer back in the community could be more closely monitored. One interviewee from the Criminal Sanctions Agency further believed that the main advantage of supervised probationary freedom over regular conditional release is that if the lifers violated their probation conditions, they could be re-imprisoned without a new court decision.
For professional experts, the 2006 Finnish reform has resulted from the positive experiences that Finland has so far had with reforming conditional release (Lappi-Seppälä, 2010; among others). Several studies have been conducted showing that early release from prison had particularly beneficial effects on recidivism rates. Conditional release has been conceived as the “last step on the long road of turning a hardened criminal into a fully rehabilitated member of society” (Lappi-Seppälä, 2010, p. 143).

All of my Finnish interviewees (8) agreed on that the judicial lifer release process in their country worked more efficiently than the presidential pardon. The interviewees working in the various components of the criminal justice system, the courts (4), and the Finnish Criminal Sanctions Agency (3) as well as the interviewee from the Ministry of Justice (1) spoke to that issue in particular. They used different criteria for judging the judicial process over the governmentally-steered pardoning process. First, they found that a major advantage of the judicial process over the pardoning process was that both the lifer and the prison administrations could predict the time until release better. For the prison administrations, better predictability of the time of the release meant that the prison sentence could now be enforced more efficiently towards release. With the presidential pardon, there was no real preparing for release and the reentry process. One interviewee mentioned that release was often seen a “shock and simultaneously an origin of euphoria to the lifer without meeting any real life demands.” On the same note, another interviewee from the Criminal Sanctions Agency, who had long-time experience working with Finnish lifers, indicated that prior to the 2006 reform, it happened more than once that there was not enough time to get all the application papers to the government. She had experienced that there sometimes was only a one-day notice or sometimes there was only a one-month notice in between the initial notification and the time that the government considered
pardon. This meant that the prison administration did not feel the lifer’s application could be adequately prepared. As another advantage of the judicial process over the governmentally-steered pardoning process, the same interviewee noted that she found it was now easier to motivate the lifers to participate in programming than previously. Closer to the twelve-year mark (or ten-year mark for offenders under the age of twenty-one when the crime was committed), the prison administration would typically intensify the programming efforts, knowing that the lifer was up for the judicial review. Lifers would typically feel more motivated participating in programming efforts, the closer they would get to the twelve-year mark, she said. Another interviewee added that the lifers themselves now have more time preparing their application packages together with counsel, who they can request at no cost. Lifer release now meant a “preparing project of many years where the actors are the lifers themselves, the prison, the assessment centers, and the community.”

Yet another interviewee from the Criminal Sanctions Agency pointed out that what she liked about the judicial release process in particular was that the central administration of the Criminal Sanctions Agency compiled a comprehensive account of the lifer and that the release decisions were centralized in one court of appeal. This echoed the opinions of the interviewees working in the Finnish court system (4). This meant that it could be ensured that the release process was uniform for all Finnish lifers. In the Helsinki Court of Appeal, the same unit with the same judges was involved in the decision-making process. This allowed them to apply the same criteria in all release cases and to carefully weigh them against one another. The interviewees working in the Finnish court system added that for the lifers, the current process was preferred over the governmentally-steered pardoning process, as the lifers could be heard in court. Furthermore, the court process was perceived as more transparent as compared to the
governmental pardoning process, which would have advantages not only for the lifers and the prison administrations (they know exactly what to expect) but also for the relatives of the victims and society as a whole (the court decisions are now more openly accessible to anybody, while the governmental pardoning process was not transparent).

The interviewees working in either the Finnish Ministry of Justice or Criminal Sanctions Agency (4) also stressed the benefits of using supervised probationary liberty for lifers before conditional release. They found that supervised probationary liberty should be an integral part of lifer release, as they deemed such intensified supervision necessary for transitioning the lifers back into society after the long prison sentences they served. One of the interviewees, however, remarked that currently, supervised probationary liberty for lifers on average lasted about four months rather than the maximum possible of six months. Instead of just having the lifers go through the maximum of six months, she even suggested extending the maximum of supervised probationary liberty for lifers only to nine instead of six months. She found that, from experience, the first year after release from prison was the most difficult for lifers to transition back to life in the community, and because of that, it would be beneficial for them to have a more intense amount of supervision during that time so they could receive all the housing, employment, and service accessibility help they would need.

The same interviewee also addressed some other smaller concerns with the judicial release process. She first mentioned that the court process could be made more efficient, if the lifers could move somewhat quicker through the process. At the time of the interview, she noted that it took about one year before the court typically made a decision. Such a long timeframe was difficult for the lifers, she found, as they theoretically would be able to reapply to the court on an annual basis. With that delay, they only managed to apply every other year on average. The
interviewee also noticed that sometimes the lifers did not understand why their application had been rejected, especially if it was their first application. She hoped that the prison personnel who had made the assessment of the lifer’s behaviors, which the court relied on in the decision-making process, would take the time to sit down with the lifers after the court decision and explain the decision. This would help the lifers to know what is expected from them at the next court appearance, the interviewee found.

Meanwhile, one Finnish interviewee working in the legal system raised some concerns about lifer release in general (regardless of the specific release mechanism). She found that in most cases, the murder was committed in circumstances that would make it unlikely for the offender to commit a new murder after release. For that reason, she found release after about fourteen to fifteen years on average appropriate. In cases, however, where the murder was linked to organized crime, she believed that there was a higher risk for serious new crimes after release. She was not convinced that a life sentence “should always be as short as it was,” as not all murders were alike. Especially murderers linked to organized crime might pose a very high risk of reoffending upon release from a life sentence. She therefore advocated for a more case-by-case approach, which would come with longer life sentences in some cases.

VI.B.3. Lifer Release in Sweden

**Sweden’s Governmentally-Steered Clemency Process**

Since the introduction of the life sentence in the 1734 Swedish Penal Code, the lifer’s only opportunity to get released from prison has been governmental clemency. As part of the Swedish constitution, the Swedish monarch (as the Head of the State) was given authority to grant clemency and reduce a life sentence to a definite time sentence. Before making the decision, the monarch should consult with the Supreme Administrative Court of Sweden (until
2011 called *Regeringsrätten*) or the Swedish Supreme Court. It was then up to the offender to accept the clemency or serve the remainder of the sentence in prison (SOU 2002:26, p. 42).

Granting clemency to life-imprisoned offenders was a rare occasion but increased over the course of the Seventeenth and Eighteenth century. With the implementation of the 1864 Penal Code, which reduced the use of the death penalty to clearly specified types of crimes, it became common practice for the king to transform a death penalty into a sentence of penal servitude for life. However, the times after which clemency was granted varied widely back then, but typically lied somewhere between twenty and thirty years. Meanwhile, those offenders, who were directly sentenced to a life term of penal servitude after a murder or manslaughter conviction, were typically granted clemency after about fifteen to twenty-five years served (SOU 2002:26).

Despite its long tradition, the governmentally-steered clemency process for lifers in Sweden has long been an issue of political and legal debate. In 1955, for instance, the Swedish Ministry of Justice drafted a memorandum about the clemency process, which it released to the parliament. It specifically addressed the role of the Swedish Supreme Court in the decision-making process and found that an advisory board should be established, which should become responsible for drafting the opinion for clemency applications instead of the Swedish Supreme Court. Although the proposal was discussed in the parliament, it did not lead to any legislation back then (SOU 2002:26).

In 1974, the Swedish Instrument of Government (*Regeringsformen*), the country’s fundamental law for defining the rights and freedoms of the Swedish citizens, was revised. The revision also affected the clemency process, as it was addressed in Chapter twelve §9 of this instrument. With the reform, the power to grant clemency was transferred from the Swedish head
of the state (the king) to the Swedish government. With the revision, the Swedish government was mandated with the authority to reduce the penalty that was received from another governmental institution for any criminal offense or misdemeanor. Such penalties are typically given in the form of a fine or prison sentence. The mandate further included the authority to grant clemency. It was also stated that the government may even order to not investigate or prosecute a certain crime any further, if there existed any specific reasons for the government to believe that the individual should not receive any penalty.

The Act on the Processing of Clemency Matters (Lag om Handläggningen av Nådeärenden, 1974:579) regulates clemency issues for all Swedish prisoners and is, with only two paragraphs, very short and concise. In the first paragraph, it refers to the governmental clemency power as regulated in Chapter twelve §9 of the Swedish Instrument of Government. It then holds in the second paragraph that before the government decides about clemency and if it deems this step necessary, it should request an opinion from the Swedish Supreme Court or, in cases where the government, an administrative court or administrative institution is the highest authority, from the Supreme Administrative Court. Although the consulting role of these courts was thus confirmed, these opinions had in practice been requested less and less from the government (SOU 2002:26).

When a rare matter of lifer clemency came up, the Ministry of Justice was responsible for preparing the decision on behalf of the king. The Ministry of Justice could request a statement from the Prison and Probation Service, and it was possible to also take other expert opinions into consideration (e.g., medicinal proof from a doctor regarding the offender’s health, court records). The Minister of Justice then presented the issue to the king (Government Offices of Sweden,

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73 Compare this with the low number of lifers which Sweden had imprisoned before the 1980s.
If clemency were to be granted in cases of life imprisonment, it would typically lead to the commutation of a life sentence into a definite time sentence. This meant that the lifer would remain imprisoned but would know the exact time of release.

In general terms, the governmentally-steered clemency process in Sweden was considered very simple and informal (Swedish Government Proposition 2005/06:35). It was particularly interesting that anybody, on behalf of the offender, could apply to the government for clemency. The 1974 Act did also not specify any minimum time to be served before an application should be possible (Act on the Processing of Clemency Matters (1974:579)). This meant that the offenders did not know at what time into their life sentence they would become eligible for commutation. The governmentally-steered clemency process was further described as very discrete in practice, as the act regulating the process did not specify any criteria that the government needed to consider when deciding whether to grant or deny clemency. As a result, the main reasons for why the government granted clemency to lifers were typically quite different than the reasons given for offenders serving definite time sentences until the 1990s (SOU 2002:26). The latter were granted clemency primarily due to medical concerns (e.g., very serious illness) or social concerns (e.g., severe social hardship for the offender and/or their family). Meanwhile, several other reasons or combination of reasons had been used to justify the granting of clemency for lifers. The government also considered the offender’s behavior and development while imprisoned, their risk of relapse, the “dangerousness” of the offender, the nature of the crime for which they were sentenced to life, and the time they had already served in prison.

Due to its simplicity and informality, the Swedish governmentally-steered clemency process was considered fast and flexible. Yet, the lack of clear criteria as specified by the law,
which the government must consider when deciding on clemency in each individual case, became to be seen as increasingly problematic. The clemency process not only curtailed the offender’s legal safeguards. It also exacerbated the task of the Swedish Prison and Probation Service to best prepare the lifer for release (Prop 2005/06:35).

**Reviewing the Governmentally-Steered Clemency Process: SOU 2002:26**

In the mid-1990s, the clemency practice of the Swedish government became stricter. While the government granted release after about an average of fourteen to sixteen years served, the average life sentence lasted eighteen to twenty-five years in between the mid-1990s and 2000 (SOU 2002:26). Due to these concerns, the Swedish government in 2000 established a working group, designated with the task of reviewing the governmentally-steered clemency process for lifers. The working group with the official name Working Group Regarding the Evaluation of Release Procedures for Life-Imprisoned Offenders (*Utredningen om Frigivningsprövning av Livtidsdömda*) was mandated with finding a clemency process that would ameliorate the predictability of a prison term for both the Swedish Prison and Probation Service and the lifers. The process should also strengthen the lifer’s legal safeguards. Finally, the working group should exploring the possibilities of extradition of individuals sentenced to long prison terms abroad and with investigating whether the lifer release procedures should also apply to such individuals after extradition (SOU 2002:26).

More specifically on the first task, the working group was mandated with finding answers to the following questions; 1) what are the advantages and disadvantages of the current system in place, 2) which institution or agency should be put in charge with evaluating life sentences, 3) at what time during the life sentence should the first evaluation take place, 4) on whose initiative (the lifer’s, the Prison and Probation Service’s, or any other’s) should the evaluation be based, 5)
which criteria should be used in the process to achieve the most thorough evaluation possible, 6) how much time should pass between evaluations, 7) should a legal appeal be possible, and finally, 8) how could the system be set up so it meets the demands of the Council of Europe and the legal instruments of other international organizations (SOU 2002:26). Staffan Leven, a court of appeals judge and legal expert headed the working group. Other legal, criminal justice, and medical professionals (two attorneys, an associate professor, the Director and Head of the Swedish Prison and Probation Service, a prosecutor, a justice of the Supreme Administrative Court, a senior physician, and a court of appeal deputy judge) were called in to participate in the working process from time to time.

In the governmental mandate addressed to the working group, it was stated that the working group should not make any suggestions on whether the life sentence should be abolished or not (SOU 2002:26). The Swedish government at that time found that the life sentence was useful, especially in times of war and occupation. However, the government saw the need to provide lifers with stronger legal safeguards through increased court involvement in the review of their indefinite time sentence. In the mandate, the Swedish government referred specifically to Denmark, which had just established a court review process for life sentences after fourteen years served (see above).

In its more than 200-page long report, published in March 2002, the working group concluded that the life sentence in its current form comes with a lot of problems in Sweden. First, the group noted that the debate about reforming the clemency process might not even be necessary, if the sentence range possible for murder convictions would be altered. With either

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74 From 1994 to 2006, both the Swedish Prime Minister and Minister of Justice were from the Social Democratic Party.
75 As discussed in Chapter IV of this study, the prison sentences possible for a murder conviction prior to 2009 were either ten years or life.
ten years or life for murder, the group felt that ten years often seemed to be perceived as too lenient for murder convictions. As a result, the life sentence was imposed more frequently than it would, if there was a wider range of possible prison sentences for murder.76

Responding to its clear mandate, the working group concluded that there were major disadvantages with merely relying on a governmentally-steered clemency process for lifers. Furthermore, it found that there were no constitutional limitations to having another institution than the government decide on the release of lifers. On the basis of these general findings, the working group determined that the criteria necessary for release must be clearly specified within the law in order to improve the lifer’s outlook on the sentence and the Prison and Probation Service’s plan for the enforcement of the life sentence. What this meant was that the indefinite character of the life sentence exacerbated the reintegrative efforts for both parties significantly, which would make it difficult for the lifer to become “adequately” prepared for re-entry into society. The lifer, for instance, was deemed “immune to further punishment,” primarily due to the fact that a release date could not be postponed (as it was simply unknown in the first place), making it difficult to distinguish between “well-behaved” lifers and those that were deemed “troublemakers” (SOU 2002:26, p. 130). For the prison administrations, it was considered difficult to assess the lifer’s progress towards reintegration, as their individualized release plans would simply not have a set date for release included, thus lacking deadlines and target dates that the prison administration could rely on when enforcing the sentence.

For these reasons, the working group suggested applying a holistic approach when evaluating a life sentence after a legally-specified minimum term was served behind bars. Criteria that should be used when deciding about lifer release should also be clearly specified by

76 This suggestion was taken up by the government a few years later and led to a major legal change in 2009. The reform was discussed in detail in Chapter IV of this study.
law. Table 6-1 below shows the criteria that the working group suggested as a basis for the evaluation of life sentences. Although all of these points should be considered when deciding on the release, the nature of the crime and the time the lifer had already served should be the central criteria used for determining the release of the lifer (SOU 2002:26).

Table 6-1

**SOU 2002:26 Criteria Suggested Using When Evaluating Lifer Release.**

<table>
<thead>
<tr>
<th>#</th>
<th>Suggested Criteria</th>
<th>Examples</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Behavior and development while imprisoned</td>
<td>Participation in enforcing sentence plan, lack of disciplinary infractions</td>
</tr>
<tr>
<td>2</td>
<td>Situation upon release</td>
<td>Strong family relationships, work and housing prospects</td>
</tr>
<tr>
<td>3</td>
<td>Risk of relapse</td>
<td>To be determined by the National Board of Forensic Medicine</td>
</tr>
<tr>
<td>4</td>
<td>Nature of life sentence crime</td>
<td>Based on criterion: “punishment must fit the crime”</td>
</tr>
<tr>
<td>5</td>
<td>Time already served</td>
<td>2nd criterion for “punishment must fit the crime,” e.g., more time for multiple murder victims</td>
</tr>
<tr>
<td>6</td>
<td>Other factors</td>
<td>Possibility of expelling in some cases</td>
</tr>
</tbody>
</table>


In regards of which institution should be mandated with deciding on lifer release, the working group pointed towards provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms (1953). This Convention was ratified by Sweden in 1953 but was only incorporated into Swedish law in 1995. The most relevant article of the Convention for the working group’s mandate was 5:4, which states that

Everyone who is deprived of his [sic!] liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful. (European Convention on Human Rights, 2010)
According to the European framework, an impartial and independent court should make the decisions. Considering the small number of lifer cases that the designated court would have to deal with per year, the working group determined that there was no need to establish a new court that would exclusively be mandated with deciding about lifer release but that these cases could instead be handled by a single, already existing court. From that court, it should also be possible to appeal decisions, in an effort to give the offenders more legal safeguards. Because of the latter requirement, the working group recommended to mandate the district court of Stockholm with reviewing lifer release. Stockholm was considered the best option, as it is a large city, the country’s capital, which already had responsibility over other single court cases, and also had a high-security room (SOU 2002:26).

Finally, the working group suggested that the first evaluation should take place after ten years served and should, in case of denial, be reviewed every year thereafter. The main reason for this time consideration was that the governmentally-steered clemency decisions had on average been made after about ten years were served. Yet, the working group cautioned that the shortest life sentence should not be less than the longest definite time sentence available, which was eighteen years at that time. With these considerations in mind, the court recommended that in cases of granting release, the court should not only set an exact date for conditional release but also the exact time that should remain for conditional release (SOU 2002:26).

**Implementation of the Act on the Commutation of Life Sentences (2006:45)**

Based on the working group’s 2002 report, the Swedish Ministry of Justice drafted the text for the proposed law. The government then asked the Swedish Council of Legislation (Lagrådet), a governmental agency comprised of former and current justices of the Swedish Supreme Court and Administrative Court, to check the legal validity of the text (Swedish
Council of Legislation, 2014). Overall, the Council of Legislation approved of the proposition, pointing to its legality in nature and the fact that it met all the legal safeguards required for the evaluation of a commutation of a life sentence to a definite time sentence, the more proper term that became commonly used for describing the process of lifer release in Sweden. Despite the overall approval, the Council found that the victim’s role in the court procedure still had to be clarified, as the concerns of any “counterparts” in the court should not be overlooked. Furthermore, the Council stressed that in cases, when the Prison and Probation Service applied to the court instead of the lifer, their application should not be able to be appealed to avoid any “unnecessary bureaucracy” (Swedish Government Proposition 2005/06:35, Appendix 7).

In October 2005, the governmental proposition was handed over to the Swedish parliament (Swedish Government Proposition 2005/06:35). It constituted a compromise between the Social Democratic Party, the Leftist, and the Green Party. Upon discussion in the parliament, the Swedish law, the Act on the Commutation of Life Sentences (Lag om Omvandling av Fängelse på Livstid, 2006:45) was enacted in 2006. As the working group recommended, it established a judicial process, by which a court should decide whether a life sentence should be transformed into a fixed term of imprisonment that would include a set date of release. Instead of the district court of Stockholm, however, the smaller district court of the city of Örebro was mandated to review the life sentence.

In the law, the new decision-making process in regards of lifer release was described in more detail. Typically, the offender must submit an application to the district court after having served at least ten years behind bars. Under specific circumstances, the Prison and Probation Service may also submit an application on the offender’s behalf (Swedish Act on the Commutation of Life Sentences, 2006:45). Attached to the application, the Prison and Probation
Service submits a detailed report, in which the lifer’s prison conduct and progress towards reintegration are described. For instance, the prison administration will describe the lifer’s successful participation in and completion of programs and their behavior while imprisoned and during permissions (if applicable). In the district court, a two-party procedure is then applied. A prosecutor opposes the lifer, who is entitled to public counsel. The district court judge may request any other reports/statements it deems necessary to make a holistic evaluation of the lifer’s application.

The participation of the National Board of Forensic Medicine (Rättsmedicinalverket [RMV]) has become a particularly important component of the lifer release decision-making process in Sweden. The main purpose of including the recommendations of the Board was considered to “protect potential future victims and society from the offender committing more crimes” (SOU 2002:26, p. 133). The participation of the Board has been deemed invaluable, as the Board is an agency independent of the government and the Swedish Prison and Probation Service. It was thus believed that no economic or political interests would intermingle in the Board’s opinion on the suitability of the lifer for release. The Board uses scientific methods to come up with a recommendation, and interestingly, it was not mandated with assessing the offenders’ “dangerousness” but rather their “risk of relapse.” The latter category allows for change over time, whereas the “dangerousness” criterion does not (considering that these individuals had been capable of committing serious crimes before).

The importance of any RMV’s recommendation should not be underestimated. Under no circumstances may the court commute a life sentence into a definite time sentence, if the RMV assessed that there existed a risk of relapse (Government Offices of Sweden, 2014). My interviewee from the Örebro District Court mentioned that the RMV’s participation in the
decision-making process has become absolutely necessary. Another interviewee working in the Swedish court system also stressed that a high or moderate risk of relapse as determined by RMV has become the most common reason for rejecting a lifer’s application in recent years.

On another note, the working in the Örebro District Court mentioned that the time between the submission of the application and the actual court decision was typically six to eight months. If any of the parties requested a trial, the decision-making process could last up to ten months, the interviewee added. In nine out of ten cases, a trial was indeed requested. This is a much higher number than in Finland, where about half of the applications lead to a trial (see above). In case of a trial, the lifer has the right to appear in court together with his/her attorney. Meanwhile, the interviewee pointed out that the relatives of the murder victims did not have any legal say during trial. They would not participate in the court proceedings, and neither did they have the right to be heard in any other way. However, lifers could request to have their own family members heard and in quite a few cases, these were actually relatives of victims. For instance, it had happened, the interviewee said, that a lifer killed an intimate partner and then requested a statement from his children (also the children of the murder victim) in court.

If the court accepts the lifer’s application, the indefinite time sentence of life will be commuted into a definite time sentence. In the majority of cases, and this is similar to Denmark and Finland, lifers apply at least two or three times before their life sentence is commuted, the interviewee working in the district court system. When deciding on the length of the definite time sentence, the court must first consider the amount of time that the lifer had already served. Under no circumstances may the total sentence (time served as lifer before being granted the commutation plus the definite time sentence added by the district court) be less than eighteen years, the longest definite time sentence currently available under Swedish penal law.
(Government Offices of Sweden, 2014a). In addition, the court will determine whether the time already served can be considered proportionate to the life sentence crime committed. For instance, if there were more than one murder victim, the life sentence before its commutation should be longer than if there was “only” one murder victim. Finally, the legal provisions regarding the conditional release, and the lifer’s specific needs in an effort to facilitate the transition from prison to life outside will also be considered, the interviewee stated.

**Lifer Release in Late Modern Sweden**

While the Act on the Commutation of Life Sentences (2006:45) moved the prime responsibility for evaluating life sentences from the Swedish government to the district court of Örebro, the governmentally-steered clemency was still maintained as an alternative to the judicial process. In other words, the Act should not affect the government’s right to grant clemency in any way (Government Offices of Sweden, 2014a). Yet, clemency has since only been used “for strictly exceptional cases” (Government Offices of Sweden, 2014b). It may also only apply to a criminal judgment that has become final and is non-appealable, and the individual offender must apply before the full sentence has been served. Furthermore, it is clearly stated on the Government Offices of Sweden website that clemency must not be considered a right of the prisoner, but is merely a privilege. The government considers clemency an

Extraordinary examination focusing primarily on circumstances that have arisen after the [criminal] judgment and could not reasonably have influenced the court's decision.

Usually it is a matter of facts relating to the convicted person's personal circumstances that the court was unaware of at the time of the judgment. (Government Offices of Sweden, 2014b)
Meanwhile, the Örebro District Court reviews several life sentences each year. Table 6-2 shows that in between February 15\textsuperscript{th}, 2007 and February 15\textsuperscript{th}, 2012, the district court received a total of 122 lifer applications (an average of 24 applications per year). Some lifers, whose initial applications to the court were denied, managed to reapply during that time period and are thus counted more than once. As seen in Table 6-2, the majority of applications during that time were rejected (74%), either for technical reasons before the judicial process even started (17%), e.g., the lifer had applied earlier than ten years into the life sentence, or due to negative findings over the course of the judicial process (57%). In the following chapter, I discuss several of more recent lifer applications and the reasons behind either denying or granting their applications in more detail in order to provide more insight into which factors the court weighed particularly heavily or less so when making the decisions.

Table 6-2

| Applications accepted prior to judicial process | 21 |
| Change to definite time sentence (application granted) | 32 |
| Applications rejected due to findings during judicial process | 69 |
| Total Number of Applications | 122 |


All of my Swedish interviewees (7) found that the judicial release process worked more efficiently than the governmentally-steered clemency process for numerous reasons. These resemble many of the reasons addressed by the Danish and Finnish interviewees on the same topic. The interviewees all stressed the transparent and open nature of the court process and the positives of allowing the lifer to be more directly involved in the process than previously. One interviewee working in the Swedish court system put it bluntly by saying that “nobody really
understood” the governmentally-steered clemency process. This interviewee and the other working in the Swedish court system (1) found the 2006 legal reforms particularly important for strengthening the lifers’ legal safeguards and providing them with the possibility of appealing the district court’s decision to a higher court. The interviewees working in Swedish prisons (4) all found that the current lifer release process also helped the prison administrations to enforce the life sentences in a more efficient manner and to prepare the lifers more adequately for release. Especially after an application was rejected, the prison administrations would now know better what was expected from each individual lifer.

Some of the interviewees, however, also raised minor concerns about the current decision-making process. One interviewee from a Swedish prison mentioned that some lifers do not really understand why they do not get out after the first application. According to the interviewee, some lifers believed that if they behaved well in prison, they would automatically get released. However, for some, it needed to be made clearer early on that they were required to participate in exactly those programs that would aim at reducing their risk of relapse. This comment reflects the central role of the RMV report as a basis in the district court’s decision-making process. For instance, it would not be enough for a domestic-violence offender to complete drug treatment programs or sex offender programs. Instead, the interviewee used the example of an individual convicted of a domestic violence-related murder. He would have to actively participate and complete domestic-violence programs and all phases of it, because this is what both the RMV and the district court would take into consideration when deciding about whether to grant or deny release from prison.
VI.C. Lifer Reentry in Denmark, Finland, and Sweden

Although the prisons in all three countries stress the importance of having sentence enforcement plans with specific reintegrative steps to take for all of their prisoners (including lifers) in place from the first day of imprisonment, the actual reentry of the prisoners often poses a particular challenge for the prisoner and the prison administrations. While my study does not discuss the long-term reintegrative challenges life-imprisoned offenders may face after release, due to the exclusion of lifers and probation personnel from my interview process, many of my interviewees still alluded to the difficulties of preparing especially long-term prisoners adequately for reentry into the community. Preparatory measures such as "utsluss" in Sweden and the six-month supervised probationary liberty period in Finland are specific tools targeted towards facilitating reintegration of long-term prisoners into society.

In Denmark, an interviewee who had worked as a victim’s advocate for several years found that what needed to be done to facilitate reentry was not only to prepare the lifers for release but also the community. She found that especially for lifers, who might reintegrate in smaller rural communities upon release, the community should be prepared to have a better reception of the released prisoner. With an ongoing “debate,” the interviewee found, the community might feel more comfortable about the lifer release. Similarly in Finland, one interviewee suggested developing more ways to give control and support from the community to newly-released lifers. She noticed that lifers had suffered from severe substance abuse, which could be very difficult to control following release, especially without any help from the community. She found that a lack of community support contained a high recidivism risk. If the lifers managed to refrain from using drugs, she found it important that they received continuing support from their communities. Some lifers, especially those who have had a “chaotic
addiction,” needed help with receiving support with housing and living after release, but she found that currently this kind of help was “not easy to get.” Finally, the Member of the Swedish Parliament who I interviewed pointed out that the reentry process proved to be particularly difficult for lifers. No wonder, lifers would struggle with reintegration, if they did not receive adequate agency and community support with finding housing and a job, she lamented.

Focusing on the transition from prison to the community, prisoner organizations have recently been founded in all three countries with the goal of assisting prisoners with reintegration. An important and critical role in the offender’s transition from imprisonment to society reintegration in all three countries plays the international non-profit organization C.R.I.S. (Criminals’ Return into Society). Ex-prisoners first established C.R.I.S. in Sweden in 1997. The organization’s basic principles were used to set up C.R.I.S. Denmark in 2002 and C.R.I.S. Finland in 2003 (KRIS, Denmark, 2015; KRIS Finland, 2014). The need for the organization arose out of the difficulties in trust, which many prisoners experience with criminal justice authorities while doing time. This leads to difficulties in working together, especially upon release, although many prisoners are determined to change their lives to the better (KRIS Finland, 2014; KRIS Sweden, 2015). According to C.R.I.S. Denmark, everybody deserves a second chance (KRIS Denmark, 2015). The founder of Swedish C.R.I.S., Christer Karlsson, noted that many prisoners do not have any friends left when they are released and often times, the actual “punishment” only starts with the release (Lapidus, 2014, Jun 11).

Based on these observations, the goal of C.R.I.S. in all three Scandinavian countries is now to facilitate reentry into society through regular and intensified contacts between the prisoner and ex-prisoners working on behalf of C.R.I.S. The contacts should start prior to release and continue after release from prison. A particular emphasis is also put on helping prisoners to
refrain from substance abuse upon release. On the date of the scheduled release, a member of C.R.I.S. will pick up the offender from prison and the rest of the day will be “celebrated with cake” or anything else C.R.I.S. can organize to help make the day a special one for the newly released. This process is what Swedish C.R.I.S. refers to as muckhämtning, the picking up from prison (KRIS Sweden, 2015). The newly released prisoner will also be given contact information for social service providers and will be assisted with any other matters that are needed to maintain a life without drugs and crime. Assistance from C.R.I.S. does not happen automatically. In order to become eligible for muckhämtning, the prisoners themselves need to contact C.R.I.S. at least three months prior to the scheduled release date. A C.R.I.S. member will then visit the offender in prison and determine whether he/she is really determined to live a drug- and crime-free life. Only then, C.R.I.S. will agree to organize muckhämtning. Contacts between C.R.I.S. and the offenders can continue via phone or in person at any time after release, e.g., when the ex-prisoner feels helpless or faces difficult situations (KRIS Finland, 2014). In addition, C.R.I.S. organizes all kind of activities (e.g., soccer matches, theater visits, yoga, and parties for special occasions) for its members. C.R.I.S Denmark even runs a café, where interested people can meet to play pool or dart, watch sports, or simply eat breakfast and have a cup of coffee together (KRIS Denmark, 2015).

In addition to C.R.I.S., there exist other prisoner organizations in Denmark, Finland, and Sweden, all of which assist prisoners, in particular long-term prisoners with reentry. In Denmark, for instance, The Learning Prison (Det Lærende Fængsel) aims at teaching prisoners who are serving definite time sentences of at least four years behind bars and life-imprisoned offenders mental training skills with the goal of “freeing them from their own mental prison” (The Learning Prison, 2015). In addition, this non-profit organization, which was, similar to C.R.I.S.,
founded by a former prisoner, organizes classes on entrepreneurship, so prisoners will feel ready for reentry and be prepared for finding a job.

Another Danish organization, which aims at helping prisoners with reentry, is Café Exit. This organization offers guidance to prisoners out on leaves or who have already been released. Through informal time together in Café Exit, employment and education guidance, assistance with debt issues that arise out of imprisonment, and talk therapy with counselors, among other things, the goal is to help the prisoners or ex-prisoners build up a social network that will help them refrain from a criminal lifestyle. Of particular importance for Café Exit is to help the individual prisoners and ex-prisoners regain control over their own lives and to assist them with becoming responsible members of society upon release. The assistance goes beyond simply avoiding relapse but includes assistance with finding an adequate job, place to live, and building up a new social network (Café Exit Denmark, 2015).

VI.D. Conclusion: Lifer Release in Late Modern Danish, Finnish, and Swedish Society

Release from prison is an integral part of the punishment institution of life imprisonment in Denmark, Finland, and Sweden. In all three countries, all lifers become eligible for either conditional release (in Denmark and Finland) or for a commutation of their life sentence into a definite time sentence (in Sweden), after they have served a legally-specified minimum time in prison. While traditionally the government was mandated with deciding about lifer release in all three countries, the decision-making power was transferred to designated legal, criminal justice, and/or medical professionals in recent years. While in Denmark, the Ministry of Justice now makes an administrative decision about whether to release the lifer conditionally, after he/she has served a minimum of twelve years, the release decision is made by designated courts in Finland.
and Sweden. Still, even in Denmark, courts become involved in the decision-making process, after the lifers have served a minimum of fourteen years.

Regardless of the specifics of the release decision-making, penal welfarist ideals pervade the process in all three countries. Most importantly, the prospect of release that lifers have shows that the prison in all three countries clearly has a rehabilitative and reintegrative focus, even for the most serious offenders. It also shows that the prison continues to be seen as a problematic institution, even giving the most serious offenders a prospect of release from it. As one Finnish interviewee working in the legal system put it so well: “The lifer release process in its current form serves important ideological purposes for us. It shows that the prison in Scandinavia continues to be seen as a place that is very likely to turn prisoners into career criminals and should therefore only be used very carefully, even for our most serious offenders.” Still, lifers could theoretically remain imprisoned for the rest of their lives, but only if legal and criminal justice professionals together with psychiatrists and other mental health experts have made a careful evaluation of such a sentence. More specifically in Denmark, the Ministry of Justice relies on the input of the police, prison administrations, and prison psychiatrists when deciding about lifer release. In Finland, the prison assessment centers, the prison mental hospital, the various prison administrations, and other "experts" provide input during the court’s decision-making process. Similarly in Sweden, the prison assessment centers, the National Board of Forensic Medicine, the prison administrations, and other "penal experts" provide input. Most importantly, in all three countries, it has become very clear from the interviews that lifers are particularly unlikely to be released, if their psychiatric evaluations show a high to moderate risk of relapse.
The involvement of the various actors with different backgrounds in the release decision-making process has not diminished in late modern society. Instead in all three countries, recent legal reforms codified and thus strengthened the involvement of these actors. This is a clear indicator for the three countries not having abandoned penal welfarist ideals, as this would have meant that political actors rather than criminal justice professionals would have become increasingly involved in the decision-making process. Still, the expert authority has in late modern Danish, Finnish, and Swedish society, become increasingly based on law, reflected by the most recent penal-legal reforms pertaining to lifer release. Although the professionals enjoy a substantial amount of discretion when deciding about lifer release, the legal basis with a clear set of criteria to look at and the transparency of their decisions curtails some of it. In fact, the professionals are now required to make decisions as uniformly as possible. For that reason, a single actor (the Ministry of Justice) in Denmark and a designated court in Finland and Sweden were mandated with decising about lifer release.

The transparency in the process of lifer release decisions in the Scandinavian countries is still a factor that I want to investigate in more detail. In fact, Garland (2001) found that the relationship between society and punishment in late modern society has been characterized by 1) an increasingly “emotional tone” of criminal justice-related issues, 2) more politicization of penal practices, 3) and a focus on victim concerns as opposed to offender concerns. I therefore want to examine whether life imprisonment is part of any political debate in late modern Danish, Finnish, and Swedish society, to what extent and how the media reports on lifers, and whether the late modern lifer discourse shows any concerns for the relatives of the victims.
CHAPTER VII:

POLITICAL AND MEDIA DISCOURSE AROUND LIFE IMPRISONMENT IN LATE MODERN SCANDINAVIAN SOCIETY

In Chapter III of this study, I discussed broad penal developments in late modern Scandinavian society. I observed that recent penal reforms were first and foremost characterized by growing concerns about regulating penal confinement and enhancing legal safeguards for prisoners. I then reviewed the relevant scholarly literature, which had discovered that penal policy had increasingly become a topic of political debates in all three countries, especially of political parties on the right-end of the political spectra. I also found that penal policy, as a result of late modern structural changes, had become increasingly exposed to media reporting in recent decades. Finally, I observed that the crime victim had become a topic of growing political interest alongside the criminal offender. In this chapter, I am now returning to these broad observations made by numerous scholars about late modern penal developments in Scandinavia. Specifically, I investigate to what extent life imprisonment in these countries has been affected by the increased politicization and media exposure of penal issues, commonly observed in late modern society (compare, among others, with Garland, 2001; Wacquant, 2009; Wacquant, 2010). I further explore to what extent the relatives of victims have become a topic of concern in the context of life imprisonment.

VII.A. Life Imprisonment as a Political Topic

One interviewee from the Finnish Criminal Sanctions Agency found that as the life sentence in practice hardly ever exceeded twenty years in prison, it would be a particularly appealing topic of political debate, especially for politicians who tended to demand harsher forms of punishment. Against the backdrop of increased demand for harsher forms of
punishment in late modern society, I thus assume as a starting point that life imprisonment in its current form and enforcement in the three Scandinavian countries arouses some kind of political debate. I therefore decided to specifically ask my interviewees whether they believed that life imprisonment in their country was a topic of political debate or whether they found it was a topic that had become increasingly politicized in recent years.

Against my initial assumption, all of my Danish interviewees (6) agreed that there did not exist any political debate about the imposition and enforcement of life sentences and lifer release in their country. One interviewee working for the Danish Department of Prison and Probation noted that there had neither, to his knowledge, been any debates among politicians about whether to abolish life imprisonment in Denmark or not. The interviewee found that politicians seemed to agree that life imprisonment in its late modern form was an appropriate form of punishment in Denmark and its use should be continued. If there was any kind of political discussion about life imprisonment, it was more about specific high-profile cases and whether the life sentence should be considered in these cases. Overall, the Danish interviewees seemed to agree on that there appeared to be political consensus about maintaining the life sentence as the harshest penalty in Denmark. Two of the interviewees added that this consensus was reinforced with the Breivik attacks in Norway in 2011. Three Danish interviewees also mentioned that the political debate about punishment was broader than narrowly focused on life imprisonment and primarily had to do with harsher punishments for other violent crimes than murder, e.g., rape. Some would like to see longer definite time prison sentences for these types of crimes, the interviewees stated. One of these interviewees added that the debate about demands for harsher punishment occasionally covered all types of crimes and had been primarily driven by the Danish People’s Party, which tended to link crime with immigration.
Similar to Denmark, the Finnish interviewees (8) found that the life sentence and current sentencing options available for offenders convicted of murder had not been discussed widely in Finland in recent years. Furthermore, life imprisonment and release mechanisms available to them had not been part of any political debate in Finland. One interviewee working in the Finnish court system added that the debate tended to revolve more around the appropriate length of a definite time prison sentence for offenders convicted of rape and other types of violent crimes. It is important to note here that my interviews were conducted just before the 2015 parliamentary elections in Finland, which is why my Finnish interviewees in general were well aware of political debates around issues of crime and punishment. One interviewee working in the Finnish legal system specified that there were still some candidates who tried to get attention and votes with the current status of prison sentences, which were considered too lenient in the opinion of many candidates and voters, but the “big” political discussion prior to the election was more about drunkdrivers and what to do with them. However, the life sentence occasionally still was of some concern for certain parliamentarians, especially the question about the appropriate length of a life sentence. On September 27th, 2013, James Hirvisaari (the single parliamentarian from the party Change 2011 (Muutos 2011), submitted a written question (851/2013 vp) to the Finnish Minister of Justice Anna-Maja Henriksson from the Swedish People’s Party (Suomalainen Ruotsalainen Kansanpuolue). Hirvisaari was concerned about the current release practices in place for lifers, worrying about that “the most heinous and cruel murderers in Finland could get out after twelve to thirteen years” (Hirvisaari, 2013, Sep 27). He added that clemency for lifers in Poland would only be possible after twenty-five years and that in Estonia, “life” really meant life. He therefore pondered whether the Minister was aware of the

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77 Parliamentary elections in Finland were held on April 19th, 2015. The opposition Center Party emerged as the main winning party, ending a four-year government coalition led by the center-right National Coalition Party.
discrepancy between Finland and these countries and why it was necessary to allow an automatic review of life sentences, after the minimum term of twelve years had been served.

In her response, Minister of Justice Henriksson pointed out that the judicial release process had actually lengthened the life sentence. While the average life sentence with presidential pardon was ten to twelve years from 1980 to 2000, the average life sentence for those released by the Helsinki Court of Appeal since October 1st, 2006 (31 individuals had been released since then) was fourteen years and four months. Depending on the nature of the crime committed, a recidivism risk assessment as conducted by the prison mental hospital, and the perceived dangerousness of the lifer, these most recent life sentences ranged from twelve to twenty-two years. By providing these statistics, the Minister highlighted that lifers were not automatically received, after they had served their minimum term but that their release eligibility would carefully be evaluated and would depend on considerations on the sum of these factors rather than on a specific time frame to be served. The Minister added that most European countries nowadays use definite rather than life sentences to punish particularly serious offenders. For European countries, the Minister said, it was particularly important nowadays to review life sentences in regular intervals rather than have irreducible life sentences in place.

In Sweden, all my interviewees (7), including a member of the Swedish Parliament, agreed that there currently was not any political debate revolving around the imposition and enforcement of life sentences and lifer release. They found this primarily to be due to the current process (ranging from the imposition of a sentence to release mechanisms) working more

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78 These numbers are the same as those reported in Kaijalainen’s report on life imprisonment in Finland, published by the Finnish Criminal Sanctions Agency in August 2014: Life-imprisoned Offenders 1980-2013 [Elinkautisvangit 1980-2013 ja heidän uusintarikollisuutensa].
79 We can note here the difference in the wording between Finland and Sweden: while in Finland, the perceived dangerous of the offender is assessed, in Sweden the assessment of “relapse risk” is preferred.
80 Here the Minister alludes to the Council of Europe recommendations.
efficiently than the governmentally-steered clemency process. The member of the Swedish Parliament added that if the topic of life imprisonment was addressed in parliament, it primarily had to do with the release process and when the release should happen in individual cases. The member of the parliament further highlighted that it was very much up to the composition of the Swedish government (whether it was a conservatively or social democratically led government) about how the political debate around punishment could be characterized. While conservatives tended to demand harsher punishments and longer prison sentences, the more left-wing parties (social democrats, leftists, and greens) tended to look more critically at the prison and penal practices.

The majority of the Swedish interviewees (4) also noted that instead of a political debate about life imprisonment, there existed a broader debate about whether punishment for certain crimes (e.g., drug offenses, rape) should become harsher. Yet, they found the debate not to be bitter or polarized. One interviewee working in a Swedish prison pointed out that some political parties were talking more about the different scales of punishment than others. She found that the right-wing Sweden Democrats, in particular, were known for highlighting a link between immigration and crime. Indeed, the Sweden Democrats had recently become particularly known for their right-wing populism, reflected by their tough stand on immigration and crime (see Chapter III). When it comes to the use of the life sentence, the Sweden Democrats advocated for imposing a true-life sentence on certain offenders. As mentioned during a parliamentary debate, the Sweden Democrats would also want to abolish leaves for life-imprisoned offenders, as, according to parliamentarian Richard Jomshof, it had already happened once that a lifer killed

The interviewee working in a Swedish prison found that the Moderate Party, the largest conservative party in Sweden, had been primarily concerned about the deployment of more police officers rather than about introducing harsher punishments for criminal offenders. The interviewee also mentioned that the political debate and composition of governments affected her work in the prison. Every year, the government submits appropriation directions (Regleringsbrev) to the Swedish Prison and Probation Service, which, for instance, discuss what kind of programs should be established in the prisons. These directions could vary substantially by government, depending on whether the Swedish government was primarily composed of social democrats or conservatives, the interviewee said.

VII.B. Life Imprisonment as a Topic of Public Debate and Media Exposure

In the previous three chapters, I pointed out that although Denmark, Finland, and Sweden impose life sentences on offenders convicted of murder, a life sentence typically does not mean that the offenders will remain imprisoned for the rest of their lives. For that reason, I have been particularly interested in exploring whether the general Danish, Finnish, and Swedish public is aware of that a life sentence is reducible. For that reason, I asked my interviewees whether they believed that the general public in their country was aware of that most lifers will get released from prison. Interestingly, all of my interviewees except for one Danish participant (20) did not hesitate answering that the general public in their country “knew about it,” or was “absolutely aware,” “very aware,” or “generally aware” of that a life sentence was reducible. More

81 Here, Jomshof must have referred to the previously mentioned case of the Swedish lifer who killed his girlfriend while on a leave back in 2011.
specifically, the majority of these interviewees even believed that the general public in their countries was aware of that a life sentence rarely exceeded fifteen years. The one Danish participant still believed that the Danish public did not know that lifers would typically be released from prison at all. In Finland, one interviewee found that even before the implementation of the 2006 Act, the Finnish public was very familiar with the punishment institution, as the possibility of pardon by the Finnish president had been in use long time before the reform and the public was well informed about the pardoning power of the Finnish Head of the State. In Sweden, all of the interviewees (7) agreed that the public had become well informed about the involvement of the Örebro District Court in deciding about the commutation of a life sentence.

The majority of my interviewees saw the reasons for the general public awareness about the typical length of a life sentence in some media reporting on the issue. A Danish interviewee mentioned that because life sentences are very rarely imposed, most cases that led to a life sentence can be considered high-profile and thus remain in the memory of the general public. One Finnish interviewee working in the legal system pointed out that life-imprisoned offenders were a topic of some interest to Finnish newspapers. Another Finnish interviewee added that punishments and “experienced problems” in them were the focus, especially when there was lack of “other kind of sensational” news that the media could report on. Within that, she found that lifers had a “great opportunity to make sensational headlines,” primarily due to the nature of their initial crimes and the often times relatively long time they had to spend in prison as compared to other prisoners. There existed some kind of “myth” around long-term prisoners that the media liked to focus on once in a while, the interviewee said. Meanwhile, a Swedish interviewee pointed out that “especially when something horrible happened,” the media would report on
these cases and question how the country dealt with life-imprisoned offenders. This is what the general public would remember about life imprisonment. For instance, the interviewee recalled the case of an individual serving a life sentence since 1997 who the National Board of Forensic Medicine assessed to have a low or moderate risk of relapse in 2009. He was scheduled to be released from prison in 2010. Yet, while on a leave from his life sentence, he immediately committed another murder. The case and the new trial resulted in major debates launched by the mass media. The offender was sentenced to life for the second time in 2011.

While the media appears to generally report on life imprisonment in all three countries, the question remains as to whether the reports have an underlying emotional tone (see Garland, 2001). In the following part of my study, I complement my interview results with an analysis of selected media reports to explore in more detail the tone of these reports in regards of life imprisonment in Danish, Finnish, and Swedish media outlets. I ponder whether the tone can be characterized as “emotional” by examining the conjured image of the life-imprisoned offender as either a dangerous or “deserving” individual. I explore whether the focus of the reports is on incapacitation over reintegration, whether relatives-of-victim concerns are included, and whether the reports express trust in the criminal justice institutions dealing with the life-imprisoned offender.

VII.B.1. Media Reporting on Life Imprisonment in Denmark

In Denmark, media reporting on life imprisonment has been focused on the imposition of a life sentence. Several of the Danish interviewees (4) mentioned that this was primarily due to the very few court cases per year that came with a life sentence. One Danish interviewee, a judge, found that the media and the public “quickly forget about the sentenced after the

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82 This case was the same as previously mentioned by parliamentarian Jomshof.
sentence.” After sixteen years in prison, nobody was still going to be interested in reporting on that old case, the interviewee said. Another Danish interviewee had noticed that there had been a general interest in harsher sentences by some media outlets, especially the tabloid papers, but he strongly believed that the majority of the Danish people would still choose to have all prisoners released after a certain amount of time, even the life-imprisoned offenders. Another interviewee believed that the little interest in life imprisonment as compared to other criminal justice issues was primarily the result of the media generally being more interested in police conduct rather than prison-related issues. This could be due to the police operating in the community, closer to the general public, and the fact that cameras could easily record police work. Meanwhile, prison work was not as transparent due to the nature of the prison being a “closed” institution.

Meanwhile, the Danish interviewees pointed out that the media liked to focus on the facts of a select few particularly serious and heinous murders prior to and during trial (the so-called high-profile cases). The interviewees pointed out that these were the cases that would keep the public informed about the typical length of a life sentence and life imprisonment. The majority of the Danish interviewees (4) mentioned the same select few high-profile cases by the name of the offender immediately, when they were asked about the extent of media reporting on life imprisonment in their country.

The first of these was the above-mentioned case of Palle Sørensen. Sørensen is widely known in Danish criminal history as the “police murderer” (Bruun, 2007, Nov 18). It was only in 1998, thirty-two years into his life sentence, that Sørensen was released conditionally from prison. At that time, he was already more than seventy years old. According to Trine Baumbach, an associate professor in the Faculty of Law at the University of Copenhagen, the purpose of

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83 Sixteen years in prison is an approximation of a typical life sentence in Denmark
Sørensen’s prison sentence had been fulfilled at this point in time: “In this case we can assume that he had become an old man with a totally changed living situation, who was no longer posing any danger to society” (Vigsø Grøn, 2011, Dec 20). Still, with his priors, time he served for robbery, among others, he became the longest-serving prisoner in recent Danish history. In a 2007 newspaper interview with the tabloid *Ekstra Bladet*, he described his life after prison, which he had spent in a small district in Copenhagen. Due to his technical skills (his dream was to become a technical engineer), he had become an important source to fix minor mechanical problems in his neighborhood. “There is only one person I can thank that I have wasted my life,” he said in the interview, “and that is myself” (Bruun, 2007, Nov 18). In another newspaper interview with *Jyllands Posten* (2012, Jan 22 [no author]), he stated, “The time in prison certainly had a deterrent effect on me. Even if I find that I was in there for far too long.” Referencing Sørensen’s life sentence, two of the interviewees mentioned that the Danish public was generally aware that his life sentence was particularly long and not typical in the length to the majority of Danish lifers, who were released “much earlier” than that.

Another case that had aroused a substantial amount of media attention in Denmark is the previously mentioned case of Peter Lundin (see introduction to Chapter V in this study). Since 2001, Lundin has served a life sentence in Denmark. Lundin had previously been imprisoned in the United States for allegedly killing his own mother. Due to his long criminal history, both in the United States and in Denmark, the seriousness of his many offenses, and his unpredictability, one interviewee was certain that Lundin would be one of the very few criminal offenders in Denmark, who would serve a true-life sentence. “I would be surprised if he ever got released from prison,” the interviewee said.
Finally, one interviewee mentioned the case of Elisabeth Wæver, which he considered to be another high-profile lifer case in Denmark. Wæver was convicted of a triple murder, after she killed her lover’s wife and their two children in a summer home in 1995. She allegedly first drugged the woman with morphine before setting the house on fire. The children were inside the house at that time. Upon conviction, Wæver was the first female who was sentenced to life in Denmark in fifty years. In 2010, the Ministry of Justice decided to release her conditionally, after she had served fifteen years in prison (Madsen & Steffens Nielsen, 2012, Mar 11).

VII.B.2. Media Reporting on Life Imprisonment in Finland

The brief descriptions of the cases of Pasi Rutanen and Joonas Pajarinen, which I summarized in the introduction of the fourth chapter of my study, are typical media reports pertaining to life imprisonment in Finland. For most newly imposed life sentences, I observed that the main Finnish newspapers report on the basic facts of the cases and the main reasons behind the imposition of a life sentence over a definite time sentence. The majority of the media reports does not include anything other than the basic facts of the case and are therefore very brief. Some Finnish newspapers, however, especially the tabloid papers Iltalehti and IltaSANOMAT, report more in-depth on some of the individuals that are facing life sentences in court, especially when the case is considered particularly cruel and heinous. Some of the news reports include pictures that show the defendants in court, either right before or after they received the verdict. Interestingly, the pictures of the various defendants tend to resemble one another. Several times in the news reports, the offenders are shown sitting in the courtroom at the defense table together with their attorneys, wearing a black hooded sweatshirt, leaning over with their heads covered by the hood and only their hands being exposed on the table. Some of the
pictures show the defendants from behind in similar positions, with the faces not being recognizable. Only sometimes are the faces of the defendants shown in the pictures.

When asking my Finnish interviewees about the extent of media reporting on life imprisonment in their country, all of them but one (7) stated that the media reported to “some extent” on some aspects of life imprisonment. More specifically on the phases of life imprisonment, two of the interviewees pointed out that the focus of the Finnish media lied on the actual trial and the verdict rather than on the process of lifer release. The interviewee working in the legal system, on the other hand, found that the Finnish media tended to report extensively on lifer release, which she thought was the main reason for why the general public was well aware of that a life sentence typically meant no more than fifteen years in prison. Another interviewee noted that the Finnish media had two basic themes: either that the imposed punishment was too lenient or that the imposed punishment was too harsh. This statement confirmed the previously mentioned statements that the Finnish media focused on the sentencing rather than the actual prison sentence or release process. Lately, the same interviewee found, the focus on considering the punishment as too lenient had been the more popular approach taken by the media. This and another Finnish interviewee had also observed that “only when something serious or conspicuous happens,” then the media would report on the latter. In November 2013, for instance, Iltalehti reported on the case of a forty-eight year old lifer, who had been sentenced to life a second time. This happened when he was released from prison after twenty-two years in 2012 and shortly thereafter committed another murder (Iltalehti, unknown author, 2013, Nov 8). Similar to the previously mentioned Swedish case, one Finnish interviewee mentioned that this recidivist case was followed by a large national media debate and eventually led to some changes in legislation, which concerned the releasing of repeatedly violent prisoners with a high recidivism risk.
(referring to a group that is actually not comprised of life-imprisoned offenders). Another Finnish interviewee added that the newspapers and local television stations might report on prison escapes or prison leaves of lifers, only if they were not successfully completed.84

Meanwhile, one Finnish interviewee working in the legal system noted that although the media took an interest in cases involving life sentences and the cases were well covered in the media, she found it important to note that she had not detected any criticism toward the sentence itself in the media, meaning the fact that it was limited in time. Another Finnish interviewee also found that there was hardly any debate about life imprisonment per se. She found that however surprising, because the average time for a life sentence was estimated at approximately fourteen to fifteen years,85 and in practice twenty years had been considered some kind of maximum for anybody. As “all of this is well-known,” the interviewee noted that she could understand if there was “someone” who criticized the actual time that lifers spend in prison.

VII.B.3. Media Reporting on Life Imprisonment in Sweden

In contrast to the Danish and Finnish interviewees, all of my Swedish interviewees (7) immediately recognized upon asking that there was quite a bit of media reporting on life imprisonment in their country. However, one interviewee, similar to a Danish interviewee, added that there was comparably less media reporting on prisons and court decisions and much more on police work and arrests in Sweden. More specifically on life imprisonment, the interviewees noted that the Swedish media liked to report on the imposition of life sentences but also, surprisingly, quite excessively on lifer release. Two interviewees, one working in the Swedish court system and the other in a Swedish prison, remarked that the lifer release, in particular, had

84 “Unsuccessful completion” primarily means that the lifer did not return to the prison on time.
85 These were the numbers the interviewee mentioned.
been a topic of interest since the 2006 legal reform. The first of these interviewees added, however, that the media used to report on all court applications but had since about 2009 or 2010 focused more on the reporting on a handful of high-profile cases. The latter of these two interviewees found the media interest in the lifer release process to be due to court decisions in general being public record. The media could access court records and write about the reasons for the decision, while previously, the governmentally-steered clemency process was less transparent and the actual reasons for either rejecting or granting lifer release often remained unknown. “The media simply did not have anything to report on before 2006,” she said. On a similar note, another Swedish interviewee working in the court system pointed out that the Örebro District Court drafted public statements, after a decision about lifer release was made. These were statements that the media liked to base their reports on. To have the media use these statements was beneficial, she found, as it would give the media the chance to write accurate reports on the decisions made behind the lifer release. The same interviewee pointed out that the court’s public statements were used to ensure the general public would be well informed about the court’s decision-making process and the reasons behind granting or denying a lifer release.

I found it particularly interesting that all of my Swedish interviewees (7) were aware of the extensive media reporting around the lifer release process, especially on several, what I refer to as high-profile cases. Several of the interviewees mentioned a few of these lifers by name, also stressing that they had become general household names in Sweden over the past few years. In fact, both the Swedish print media and TV stations had frequently reported on lifers going through the judicial release process and had provided the general public with many details on these high-profile cases over the past few years. For instance, the popular Swedish newspapers, Dagens Nyheter, Svenska Dagbladet, and the tabloids Aftonbladet and Expressen tended to
report about the entire process from the lifer’s application to the district court’s decision in a select few of these cases. The tabloids further detailed the lifers’ utsluss, and the reports often included direct quotes of the lifers, their attorneys, the involved prosecutors, and sometimes even quotes of some relatives of the murder victims. Many of the media reports further included pictures or short video clips of the lifers in either the courtroom, behind bars, or out on leaves. The tabloids in particular included many paparazzi-style pictures of the lifers out on leaves. Only one of my interviewees, who worked in a Swedish prison closely with some of these lifers, lamented that the Swedish media tended to report in detail about the lifers. She found that the media nowadays seemed to think only about the relatives of the victim(s) rather than the offender. She noticed on several occasions that the lifers had become quite upset, after they had read the media reports about their criminal cases, leaves, and/or application processes.

For the purpose of this study, I examined print media reporting in four Swedish newspapers (Dagens Nyheter, Svenska Dagbladet, Aftonbladet, and Expressen) on five high-profile lifers between 2010 and 2014 in more detail. These were the reports on the applications of Jackie Arklöv, John Ausonius, Leif Axmyr, Mattias Flink, and Tommy Zethraeus, all of which were mentioned by at least one Swedish interviewee in the context of asking them about the extent of media reporting on life imprisonment in their country. My media report analysis was not exhaustive. I purposefully selected a few of the media reports from different Swedish media outlets, which captured some facts about the lifer’s case. Other reports were short and often provided the reader with the basic ”facts” of the case, e.g., the nature of the life sentence crime. Table 7-1 briefly summarizes these cases, which have all involved numerous victims. My brief media report analysis should, however, not lead to the conclusion that these are typical lifer cases in Sweden. As mentioned previously, most of the offenders serving life sentences in
Sweden have been convicted of murder with a single victim. The media has not reported to a similar extent on these “more regular” cases. This is another reason for why I refer to the cases I selected for the media report analysis as ”high-profile” cases.

Table 7-1

<table>
<thead>
<tr>
<th>Name</th>
<th>Case</th>
<th>Start of Sentence</th>
<th># of Applications</th>
<th>Scheduled Release Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jackie Arklöv</td>
<td>Murder of two policemen after armed robbery</td>
<td>1999</td>
<td>3</td>
<td>None yet</td>
</tr>
<tr>
<td>John Ausonius</td>
<td>Murder and ten attempted murders of immigrants</td>
<td>1995</td>
<td>3</td>
<td>None yet</td>
</tr>
<tr>
<td>Leif Axmyr</td>
<td>Double murder</td>
<td>1983</td>
<td>13</td>
<td>2016</td>
</tr>
<tr>
<td>Mattias Flink</td>
<td>Murder of seven people</td>
<td>1994</td>
<td>3</td>
<td>2014</td>
</tr>
<tr>
<td>Tommy Zethraeus</td>
<td>Murder of four people</td>
<td>1995</td>
<td>3</td>
<td>None yet</td>
</tr>
</tbody>
</table>

In 1999, Jackie Arklöv and two companions were charged with murdering two police officers and attempting to kill another while on the run after an armed bank robbery. Arklöv was twenty-six years old at the time of the murders and was described by the media as a ”Neo-nazi” (Hildebrandt, 1999, Nov 27; Lindqvist, 2014, Jun 26). He previously served prison time in Bosnia for war crimes, which he committed in 1993, yet returned to Sweden in 1996. The trial of the 1999 police murders case was highly publicized in Sweden, and the crime was described as “one of the worst” in the country’s history at that time (Hildebrandt, 1999, Nov 27). In the news, Arklöv’s attorney himself was cited as having said that the police murders must be considered ”an attack on society as a whole” (Hildebrandt, 1999, Nov 27).

Since 2010, Arklöv has applied three times to the Örebro District Court to get his life sentence commuted into a definite time sentence, yet withdrew one of these applications (Lindqvist, 2014, Jun 26). The court has rejected his other two applications. In its latest decision (June 2014), the court found that a twenty-three-year sentence (equalling 15 years in prison) was
not sufficient for Arklöv and that he had to serve additional time, before his life sentence could be commuted into a definite time sentence. In addition, the court found that there was also still a risk of relapse in this case (Lindqvist, 2014, Jun 26; Haddäng, 2014, Oct 1). As quoted in *Expressen* (Lindqvist, 2014, Jun 26), Arklöv participated in his second court hearing and reportedly said:

> Whenever I am forced to talk about it [the crime], I start feeling sick, and to say that I feel remorse feels like not enough to say, considering how serious it was. I would do whatever it takes to make the crime undone. (Lindqvist, 2014, Jun 26)

However, the court also stressed positive developments in Arklöv’s life. Not only did he have overall good conduct while imprisoned, he had also obtained two master’s degrees, one in sociology, and the other in history (Johansson & Hellberg, 2014, Apr 4). He had also been given the opportunity to have supervised leaves on regular occasions (Dahlen Persson, 2014, Jun 18; Lindqvist, 2014, Jun 26). In addition, Arklöv had reached out to the community and taken steps towards fighting Neo-nazism, specifically by working with the non-profit organization *Fryshuset*’s project ”Exit.” This project has aimed at assisting those who wish to withdraw from any nationalistic, racist, or nazi-oriented groups or movements (Fryshuset/Exit, 2014).

After Arklöv’s second application was denied, he was again granted supervised leaves. The tabloid newspaper *Expressen* caught Arklöv on camera while “enjoying the spring sun” in the city center of Borås (Lindqvist, 2014, Jun 26). According to the news report, the mother of one of Arklöv’s murder victims received a letter in the mail from the Prison and Probation Service informing her about the leave. She was cited as having responded to that letter by saying, “I do not have any respect for the Prison and Probation Service, this is frustrating” (Lindqvist, 2014, Jun 26). In another news report, she was cited with the words, “It is awful to know that he
gets out so much,” referring to the letters she received from the prison administration, which have notified her about the leaves (Dahlén Persson, 2014, Jun 18). Meanwhile, Arklöv’s case went to the court of appeal in Gothenburg and even to the Swedish Supreme Court. However, both courts agreed with the district court and rejected the lifer’s latest application for conditional release (Haddäng, 2014, Oct 1).

Another dramatic murder leading to a life sentence in Sweden was the case of John Ausonius. In 1995, Ausonius was convicted of a murder and ten attempted murders of immigrants in Sweden, who he randomly picked and shot at with a laser gun. He has since been known as the “Laserman” (Lasermannen). His case sparked major political debates about immigration in Sweden and was captured by the journalist Gellert Tamas in his bestselling book Lasermannen—en berättelse om Sverige [The Laserman-A Story about Sweden].86 In this book, first published in 2002, Tamas used Ausonius’ shooting spree as a case study. Yet in his book, Tamas also described instances of increased xenophobia and hatred toward immigrants, which he had observed in Sweden in the early 1990s. This was also the time when a tough-on-crime sentiment in the political debates in Sweden was first noticed (see Chapter III). With his book, Tamas aimed at putting Ausonius’ case into this broader framework of societal changes in late modern Swedish society. He interviewed numerous individuals involved in the case. Among these were politicians, journalists, police, victims of Ausonius’ crimes, and even Ausonius himself.

In 2008, Ausonius appeared for the first time in the district court of Örebro. This was shortly after he had applied to the court to get his life sentence commuted into a definite time sentence. While his defense attorney stressed Ausonius’ changed attitude towards violence and

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86 Since its publication in 2002, the book Lasermannen has been translated into several languages and was also made into a movie, which was broadcasted by Swedish Television in 2005.
his good behavior while imprisoned, the leading prosecutor in the case found that Ausonius had not yet served a sufficient amount of time to be considered for release, primarily due to the cruel nature of his life sentence crime (Vidlund & Österberg, 2008, Apr 30). Ausonius himself stated that he felt remorse for what he had done and noted that his attitude towards immigrants had changed substantially.

I am sitting in a prison block here at the Kumla prison, where half of the prisoners are immigrants. I have realized that people must be paid with respect, regardless of where they come from. Even I have now been met with respect by people, who actually really would have good reason for hating me. (Vidlund & Österberg, 2008, Apr 30)

Despite his expression of remorse at the hearing, the Örebro District Court found that Ausonius was not ready for getting his life sentence commuted into a definite time sentence at that point in time. The court based its decision primarily on the fact that the length of Ausonius’ sentence was not yet proportionate to the many crimes he had committed. His 2010 and 2012 applications were also rejected, primarily because of the National Board of Forensic Medicine’s assessment that there continued to be a “moderate” risk that Ausonius might reoffend if released (Dagens Nyheter, unknown author, 2012, Nov 2).

The individual who has served the longest time in Swedish prison and is frequently referred to by the media as the “record-prisoner” or “Sweden’s most dangerous prisoner” is Leif Axmyr (Hellberg, 2013, Jun 10; Hellberg, 2014, Jun 5). In 1982, Axmyr murdered his ex-girlfriend and her new husband by stabbing them both multiple times and by then setting their apartment on fire. He was convicted of double murder and arson and sentenced to life in prison in 1983. While imprisoned, Axmyr continued to engage in criminal conduct. This led to further
convictions, ranging from drug offenses to threats and bribery. In addition to these convictions, Axmyr has dealt with substance abuse and anger issues while imprisoned.

In 2010, the Örebro District Court decided to commute Axmyr’s life sentence into a definite time sentence of forty-six years. Shortly thereafter, however, a court of appeal reversed the decision, primarily due to the National Board of Forensic Medicine finding a substantial and concrete risk of relapse for Axmyr (Svenska Dagbladet, unknown author, 2013, Jun 10). The appeal’s court decision meant that Axmyr had to remain imprisoned for life. In 2013, the Örebro District Court decided again to commute Axmyr’s life sentence into a definite time sentence of fifty-one years. “I regret what I have done and I am a different person now than I was thirty years ago,” Axmyr stated in court, “I also understand what it means to get out into freedom” (Tagesson, 2013, Jun 10). After the decision was made, his attorney said that it was the right decision, “as he [his client] was now done with the Prison and Probation Service,” and that he had a substantial amount of support from the community, in particular from the prisoner support organization K.R.I.S. (Hellberg, 2013, Jun 10). “I will have a place to live and work when I get out,” Axmyr stressed at the court hearing, “I want to live with a woman, have dogs, and just enjoy my old age” (Tagesson, 2013, Jun 10). This time, the district court’s decision was not overturned.

The district court’s decision meant that Axmyr would get released from prison in 2016, after having served two-thirds of his sentence (34 years of the 51 years). In its decision, the court stressed Axmyr’s improved behavior, the fact that he had become calmer since he had been diagnosed with bipolar disorder and that he had received adequate medication for it. The court also lauded Axmyr’s very detailed release plan. Finally, his high age of seventy-five years was
also taken into consideration (Tagesson, 2013, Jun 10; Svenska Dagbladet, unknown author, 2013, Jun 13).

Upon the commutation of a life sentence into a definite time sentence, the *utsluss* efforts on behalf of the Swedish Prison and Probation Service must intensify. Knowing the exact date of release, moving prisoners to lower-security facilities and more frequent leaves are common. This is exactly what happened with Leif Axmyr. The district court found that Axmyr needed an *utsluss* period of three years to facilitate reentry, due to his long time in prison and to giving him time to gradually readjust to society (Tagesson, 2013, Jun 10). Meanwhile, Axmyr was moved from the high-security prison Tidaholm to a lower-security prison in Halmstad and was allowed several supervised and even unsupervised leaves (Hellberg, 2014, Jun 5).

Another case that shocked the entire country of Sweden was the serial killings of Mattias Flink in 1994. The then twenty-four-year old military officer was intoxicated, when he shot, without any clear motive, seven innocent bystanders in the small rural town of Falun. He was sentenced to life for the murders he committed, the most murders committed by a single individual in modern Swedish history (Tures & Tanaka, 2011, Dec 20). In prison, Flink soon became known for ”excellent conduct,” as he tried to keep to himself and refrained from drinking and using drugs (Tures, 2008, Jun 1). In a 2008 interview with *Aftonbladet*, Flink stated:

I do not know whether the prison experience has harmed me in any way. I have avoided to go out but rather stick with myself. It is worse for substance abusers who frequently get involved in fights...If I ever get out of prison, I will feel relief, but I won’t be happy. Instead, life will become really serious. Where will I live? What kind of work will I find? How will I be able to move around? My dream is to live a modest and quiet life and do
something that I really like, perhaps small-scale handicraft. What I know for sure is that I will always be in a bad place, because I will have to pay millions in restitution. I also know that I will feel bad for the rest of my life (Tures, 2008, Jun 1).

In 2011, the Örebro District Court decided to commute Flink’s life sentence into a definite time sentence of thirty years. The Göta Court of Appeals, however, overturned the district court’s decision, and Flink’s sentence was set at thirty-six years instead. Thereafter, the Supreme Court overturned the court of appeal’s decision and reset Flink’s sentence to thirty years in prison. This meant that Flink would be released in 2014, after having served twenty years in prison (equaling two-thirds of his sentence). According to Dagens Nyheter, the Supreme Court’s decision was primarily motivated by Flink’s low risk of relapse and his excellent prison conduct (Tures & Tanaka, 2011, Dec 20). In an interview with TT News Agency in Sweden, Flink seemed surprised about the Supreme Court’s decision:

First I had a hard time believing it, I would probably have been happy if they [the Supreme Court] simply affirmed the court of appeal’s decision. I will now be busy with doing everything that needs to be done [before I get released]; getting a driver’s license and finding a job and a place to live. I understand that some people won’t be happy today and I would probably have felt the same [if I was in their shoes]. (Tures & Tanaka, 2011, Dec 20)

The decision of the Supreme Court and the actual release in summer 2014 sparked an unprecedented media debate in Swedish newspapers and on television about lifer release, with politicians, court officials, and relatives of the murder victims commenting on the events. Some of the relatives found that Flink’s sentence was too short considering that he had committed seven murders.
“We parents and siblings have been punished long-term. We have been sentenced to life, but now he gets out after just two-thirds of his time in prison,” the mother of one of the murder victims said, shortly after receiving the notification that Flink would be released from prison conditionally (Forsberg & Stenquist, 2014, June 6). While another relative of a victim claimed that the decision must be considered a failure of the Swedish legal system, another bemoaned that “although I still think it is wrong, the Swedish law is that and we cannot do anything about it” (Forsberg & Stenquist, 2014, Jun 8). Other relatives to the murder victims maintained that Flink should remain imprisoned for the rest of his life. “A life sentence should really mean life,” one relative said (Forsberg & Stenquist, 2014, Jun 8). Another one was reported to have said, “I feel hate and I will never stop feeling that hate. An individual who cold-bloodedly killed seven people can never atone for the crime” (Tures & Tanaka, 2011, Dec 20). Some of the relatives to the murder victims even criticized the Swedish Prison and Probation Service for a lack of communication concerning Flink’s leaves and his actual release. “All the information we got was from the newspapers,” lamented one relative (Forsberg & Stenquist, 2014, Jun 8).

The prisoner reentry organization C.R.I.S. has been particularly active in assisting life-imprisoned offenders with reentry. Both Leif Axmyr and Mattias Flink have been involved with C.R.I.S. Leif Axmyr, for example, indicated that he had received support from Swedish C.R.I.S. and that he intended to stay involved with the organization upon release (Tageson, P., 2013, Jun 10). C.R.I.S. Sweden also offered to help Mattias Flink with reentry. “We welcome Mattias Flink to C.R.I.S. Sweden,” C.R.I.S. founder Christer Karlsson said, “We offer him help, support, and a social network. At C.R.I.S., he can meet role models and mentors, individuals who have been released and who have made it” (Lapidus, 2014, Jun 11).
In 1994, another high-profile murder case shocked the entire country of Sweden. Tommy Zethraeus killed four people and wounded several others, by shooting a gun outside a restaurant in Stockholm. The year after, Zethraeus, twenty-five years old at the time, was convicted of the murders and attempted murders and sentenced to life in prison. Since the 2006 legal reform, Zethraeus has applied three times to the Örebro District Court to get his life sentence transformed into a definite time sentence. In his latest application to the court in 2014, Zethraeus wrote:

Today I have served roughly nineteen years. This means that I have done time for what would equal a thirty-year prison sentence. I am very aware of the seriousness of the crime which I was convicted of in 1995, and I am today deeply remorseful and ashamed. The crime which I committed was neither premeditated nor a lead to any systemic criminal behavior. I have now been married for ten years and am also the father of four children (5-20 years old). This should be an indicator for that I have a very positive outlook in life.

(Stambro & Forsberg, 2014, Feb 11)

Such as with the other high-profile cases, Zethraeus’ applications to Örebro’s district court gained substantial media attention. In one Aftonbladet article, the sister of one of the murder victims was interviewed and cited with the words, ”Sure, life continues. Yet, he should not be released after all” (Stambro & Forsberg, 2014, Feb 11). The Örebro District Court granted Zethraeus’ latest application, setting his sentence at thirty-three years. The court found that Zethraeus had good prison conduct after 2006 (before that he actually committed minor crimes while imprisoned), successfully completed a treatment program, and finished a master’s degree (Svenska Dagbladet, unknown author, 2014, Feb 11). In a statement made after the application, the lead investigator of the 1994 murder did not seem surprised with the decision, noting that
"we should still believe that things have changed even for him [Zethraeus]. He should get a 
second chance, just like everybody else” (Svenska Dagbladet, unknown author, 2014, Feb 11).

The 2014 district court decision would have meant that Zethraeus would have been 
released in 2016. Yet, after an appeal by the prosecutor who was outraged by the commutation, 
the Göta Court of Appeal reversed the lower court’s decision in the latter half of 2014. This 
happened on grounds that the thirty-three-year sentence could not be considered proportionate to 
the crime committed and that Zethraeus had to serve additional time before his life sentence 
could be commuted into a definite time sentence.

This overview of the news reporting on these six lifers’ court applications illustrates 
several important features of life imprisonment in late modern Swedish society. First, the judicial 
process in place to commute a life sentence into a definite time sentence has gained some 
popularity for media reporting. This is somewhat different to the lifer release mechanisms in 
place in Denmark and Finland. The Swedish tabloids in particular detail the application process, 
add pictures of the lifer either in the courtroom, in prison, or out on permissions to their reports, 
and include interviews with the defense attorneys, prosecutors, the lifers themselves, and family 
members of the victims in many of the reports. At the same time, however, it is also important to 
note that most reports go beyond expressing relative of victims-concerns and instead include the 
voices of many different individuals involved. In fact, most reports build on the Örebro district 
court’s public statement and seem to provide a balanced account of the release decision-making 
process. Hence, I cannot conclude that the media reports in a tone tilted towards emotions.
Second, the media report analysis showed that numerous applications by the lifers are common, 
before the court grants a commutation. Of course, the cases, which I analyzed, were all high-
profile cases with the offenders having been convicted of particularly heinous crimes. These
crimes gained substantial media attention, when they first were committed. Yet, the media report analysis of the lifer applications shows that the court carefully evaluates each individual application and that the decisions can still be and often are appealed. In three of the five cases analyzed, a court of appeal actually reversed the lower courts’ decision of commuting the life sentence. In Flink’s case, the Supreme Court then again overturned the court of appeal’s decision. This shows that the legal safeguards for any side in the release process have become important and are also a focus of media reports. Finally, the reports also give some idea about the decision-making process by the court. In each of the five high-profile cases, the court made different considerations and weighed different release criteria against one another. The nature of the life sentence crime and the proportionality of the punishment (length of the sentence) to the life sentence crime committed was considered in each case and weighed against factors such as prison conduct, risk of relapse, substance abuse, and reentry plan.

In addition to the reporting on lifer release, some Swedish tabloid newspapers, similar to the Finnish equivalents, have shown clear indications to report about “when something goes wrong,” rather than positives in the lifer’s reintegration efforts. In February 2014, Aftonbladet published a report titled “Do it again – After they have been released” (Tagesson, 2014, Feb 26). This article noted a thirty-three percent recidivism rate of those lifers, who had been released since 2007.87 Tagesson reported that of the fifty-three offenders whose life sentence was commuted into a definite time sentence between 2007 and early 2014, thirty-seven had already been released from prison. The others (16) were still serving the remainder of their definite time sentence in prison. Approximately one third of those released (33%) had since been convicted of new crimes, ranging from drug and weapon offenses to drunk driving and rape. The report

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87 Recidivism here refers to the committing of another crime.
included pictures of a handful of lifers, who allegedly reoffended after their release from prison. The report also provided details about the new crimes and types of sentences of four of the reoffending lifers. Yet, one of these lifers shown on the pictures was actually Leif Axmyr, the prisoner serving the “longest” in Sweden, whose life sentence was commuted into a definite time sentence at the time the article was written but who had not been released from prison yet.

One of the individuals whose crimes are described in detail in the report was also mentioned by two of my Swedish interviewees. The individual served life for murder from 1997 to 2009, when his life sentence was commuted into a definite time sentence with a scheduled release in 2010. One month after his sentence was commuted, however, he was allowed to leave the prison for an unsupervised leave. During the leave, he stabbed his girlfriend to death. He was then sentenced to life a second time for this murder (Tagesson, 2014, Feb 26).

VII.C. Life Imprisonment and Relatives-of-Victim Rights

With life-imprisoned offenders exclusively being convicted of murder, a discussion of victims’ rights necessarily involves the relatives of the murder victims only. I therefore decided to also ask my interviewees on how they perceived the role of the relatives of the victim(s) in the sentencing and release process of life-imprisoned offenders. Interestingly, those that responded to that question in all three countries did not have much positive to say and saw substantial room for improvement.

Half of my Danish interviewees (3) pointed out that Denmark had so far been very weak on the question of victims’ rights. One of my Danish interviewees even was a victim rights’ advocate. She found that the relatives of the victims did not have any legal rights in the court proceedings. Another interviewee from the Danish Prison and Probation Department noted that there were no “formal steps” that involved the crime victims and their relatives. While they
might be informed about the offender’s release, if they so wished, many of them were not. This echoed the words of an interviewee working in the Danish Ministry of Justice. She found that the Danish Prison and Probation Department could inform the relatives of the victims about leaves and releases, yet only if the relatives explicitly expressed their wish to be informed.

The concerns of the Danish victim advocate were similar to those of one of the Danish judges who I interviewed. He found that victims in general (and relatives of the victims in murder cases) should be given the opportunity to meet the offender in court and to make a statement about their concerns. He also found that the relatives of the victims should automatically be notified before the offender was released from prison. In general, the Danish interviewees who spoke about victims’ and relative-of-victims’ rights seemed to agree on that it would be a good idea if the relatives were to automatically be informed about the offender’s potential movements, leaves, and release.

Three of the eight Finnish interviewees voiced very similar concerns about relative-of-victims’ rights than those raised by the Danish interviewees. One of the interviewees working for the Criminal Sanctions Agency mentioned that relatives of the victims were not typically notified about the offender’s movements, leaves, or release. She had experienced on several occasions, however, that relatives called the prison administration and said, “They were afraid.” In particular, the relatives were concerned about leaves, which could be granted “fairly early” into a lifer’s prison sentence, she said. Another interviewee from the Criminal Sanctions Agency echoed her colleague’s concerns. She noted that it happened occasionally that the (relatives) of the victim(s) were not satisfied with their position in the process and that they might even be afraid of the prisoner. She highlighted that during the typical releasing process, the relatives’ opinions were not taken into consideration. When supervised probationary freedom was
prepared, the conditions of the relatives were, however, taken in account whenever known. The prison might then provide any information about the time of the release to the relatives. If there was severe threat of violence from the side of the prisoner, certain help could be given to the relatives by police, for instance a secret address, a new identity, and priority of emergency in police tasks. Another of the Finnish interviewees working in the Ministry of Justice noted similar limitations to the role of the relatives in the current process. She found that in some cases, the relatives of the victim might “feel fear” and think that the prisoner had been released too soon.

Finally in Sweden, five of the seven interviewees, three of whom worked in Swedish prisons and two who worked in the court system, also noted some limitations about the relatives’ role in the current process. The other three interviewees from Sweden either declined to comment on the victim question, as they did not know too much about the issue, or simply wanted to skip the question. The interviewees working in the legal system pointed out that the relatives did not have any legal right to be heard in court. This included the court proceedings at the district court in Örebro, when decisions about the commutation of life sentences were made. Still, the relatives could make a statement in the court, if they so wished. One interviewee working in the legal system, who had decades-long experience in the district court, mentioned that he only recalled one occasion when a relative of a murder victim wanted to make a statement in court. Interestingly, this relative was a person from the United States who wanted to comment on the murder that was committed by a Swedish national in California. The offender, who was extradited to Sweden in 2009 after having served twenty-eight years of a life sentence in California, was up for a possible commutation of her life sentence at the district court that same year (Holmberg, 2010, Aug 8). Despite the relative’s statement, the life sentence was commuted into a definite time sentence, with her release from prison scheduled for summer
2011. Referring to another case, the other interviewee working in the Swedish court system mentioned that the lifers themselves could request to have family members heard and in some cases these could ironically also be victims. For instance, the interviewee mentioned that it had happened once that a lifer had killed his intimate partner and then requested to have their common children be heard in court.

The interviewees working in the Swedish prisons (3 out of 4) pointed out that the prison facilities must inform the relatives of the victims about moves, leaves, and release of the lifers, but only if the relatives wished to be informed. When the lifer first arrived in an institution, the prison would typically get in touch with the relatives and ask them whether they wanted to be informed about these occasions. The prison would make sure to keep them informed, only if they wrote back. One interviewee working in a Swedish prison mentioned that her prison typically sent any kind of information pertaining to the lifer’s application to the Örebro District Court to the victim’s relatives. The relatives are typically also informed about the prospects of release through the media, especially local media, when it was not a high-profile case, which typically arouses national attention.

VII.D. Political and Media Discourse around Life Imprisonment in Denmark, Finland, and Sweden

In late modern Danish, Finnish, and Swedish society, life imprisonment as the ultimate penalty plays an important yet marginal role in political and media debates. Some aspects of the specific institution of punishment have been discussed in some countries more widely than others. While the Danish media has captured a select few high-profile cases, keeping the general public informed about the enforcement of life sentences, a political debate about the ultimate penalty has been largely absent. In other words, whether to expand or abolish life sentences has
not been a topic of particular political or media concern in Denmark. Similarly in Finland, the life sentence in its late modern use has not been a topic of political concern. Although the media tends to report briefly on newly imposed life sentences and sometimes mentions lifer release, the lack of media debates appear to largely coincide with the lack of any political debates surrounding life imprisonment. Sweden has been a case by itself. The media, kept up-to-date and informed by the Örebro District Court, has reported regularly, excessively, but also in a balanced manner on the court’s decisions pertaining to the commutation of life sentences in a select few high-profile cases. This has led to a public believed to be generally well informed about the lifer release process.

The late modern political and media discourse around life imprisonment in Denmark, Finland, and Sweden therefore shares several similar and important characteristics. Most importantly, the political debates surrounding life imprisonment, have remained minimal. Primarily due to the many professional experts involved in the decision-making process, ranging from the imposition of life sentences to lifer release, the process has remained largely insulated from any political interferences so commonly observed by both Garland (2001) and Wacquant (2010) in late modern society. Still, the internal workings of the process have become more visible in late modern society. As Garland (2001) observed, the rise of the electronic mass media in late modern society brought about greater transparency of public institutions. Transparency pertaining to the lifer release process in all three countries, especially in Sweden, deliberately increased with the recent legal reforms, which mandated courts with the release decision-making power at different stages into the life sentence. In this sense, increased transparency of the decision-making process pertaining to lifer release did not coincide with an increased politicization of the topic, as Garland (2001) would have suggested.
Meanwhile, the political and media discourse around life imprisonment cannot be characterized as victim-centered in late modern Danmark, Finland, and Sweden. In terms of legal rights, the relatives of the victims do not have any legal say in the lifer release process. While victim rights have gained some more political attention in recent years, it still remains to be seen to what extent victim rights will be codified in the three countries in the years to come. Looking more closely at the role of victims in the media reporting, there is no doubt that the media has provided an outlet for relatives-of-victims concerns in all three countries. Yet, the in-depth media report analysis of a select few high-profile lifer cases also revealed that the media has tended to provide a quite balanced account of the lifer release process. While relatives of victims are heard, so are professional experts and the lifers themselves.
CHAPTER VIII:
RESULTS AND FINDINGS

VII.A. The Sociology of Life Imprisonment as an Institution of Punishment

Life imprisonment as the ultimate form of punishment has a long tradition in Denmark, Finland, and Sweden. While it has long been a punishment option for particularly serious offenders, it has gained complexity over time. David Garland’s Sociology of Punishment, which emphasizes the importance of analyzing complex institutions of punishment in historical detail, has undoubtedly provided a fertile framework for my analysis of life imprisonment in Denmark, Finland, and Sweden. It has shown that life imprisonment in its late modern form must be derived from a collection of social, economic, and political forces, all of which have been deeply embedded in their historical contexts. The punishment of offenders, therefore, not only has an instrumental purpose, but it also has a historical tradition and thus a cultural style. The comparative and historical analysis of life imprisonment as the ultimate institution of punishment in Denmark, Finland, and Sweden revealed just that.

The punishment institution’s complexity specifically began to show when I broke up life imprisonment into three phases: the imposition of a life sentence, penal confinement for life-imprisoned offenders, and release mechanisms available to them. Dividing life imprisonment into these three phases in Denmark, Finland, and Sweden, however, did not allude to that life imprisonment must be understood as consisting of different and separate institutions. Instead, the three phases depict the historical tradition and cultural style of imposing and enforcing life imprisonment and the process that has been constructed behind it. Not only have different criminal justice professionals been involved in enforcing the punishment, the experiences of the lifers in going through the three phases, as well as the experiences of the criminal justice
professionals and the community, differ, too. Yet, the three phases are interdependent and decisions made in the first (the sentence imposition phase) and the second (the confinement phase) necessarily impact the third (the release process). In this final chapter of my study, I first summarize how the imposition of life sentences, conditions of confinement for life-imprisoned offenders, and release mechanisms available to them have compared between Denmark, Finland, and Sweden. I then look more broadly at the role of life imprisonment in these countries in late modern society and what its late modern form can uncover about the country’s traditionally moderate understandings of punishment. I end this chapter by discussing research limitations and future research opportunities.

1) The Imposition of a Life Sentence

By analyzing its imposition in Danish, Finnish, and Swedish modern and late modern society, I found that the life sentence has been a sentencing option that could theoretically be imposed for a variety of serious crimes. Table 8-1 below shows that apart from murder, a life sentence can be imposed for very serious crimes against the state in all three countries (e.g. espionage). So far, the life sentence has, in practice, almost exclusively been imposed on individuals convicted of murder in all three countries, resulting into the lifers only constituting a marginal percentage of the countries’ total prison populations (In 2014: 1% in Denmark, 3.2% in Finland, and 3.3% in Sweden). Still, although the life sentence can be imposed for murder, it is not a mandatory sentence and has actually only rarely been imposed in all three countries.

When looking more in detail at the imposition of life sentences in all three countries, important differences emerge. First, the countries have quite different sentencing options available for offenders convicted of murder. While a convicted murderer could theoretically be sentenced to anything from five years to life in Denmark, the majority of them are sentenced to
either a twelve- or sixteen-year definite time sentence. If the offender is considered particularly dangerous, Danish judges could resort to a sentence of preventive detention (førvaring). In Finland, the life sentence is mandatory, when there are aggravating circumstances. A definite time sentence of four to ten years is also an option for murder without aggravating circumstances in Finland. Meanwhile, the minimum sentence for murder in Sweden is ten years. While previously, judges had to decide between either a ten-year sentence or life with a murder conviction, a 2009 legal reform provided judges with a wider spectrum of sentences available. Murder can now lead to any prison sentence from ten to eighteen years or life. In 2014, the political debate erupted once more as to what the most appropriate sentence for murder should be. This debate resulted into a new law that made the life sentence the “normal” sentence for murder. The effect that this law will have on the number of Swedish lifers as compared to offenders serving definite time sentences for murder remains to be seen. For a direct comparison of the sentencing options for murder in the three countries, see the table below.

Second, I found that, in practice, the life sentence has been used quite differently in the three countries. In Denmark, a life sentence has typically only been considered when there have been multiple murder victims. In Sweden and Finland, on the other hand, one murder victim is sufficient for triggering a life sentence. In Finland, a life sentence is mandatory when the murder has been committed in a particularly heinous and cruel manner. In Sweden, the penal code gives judges substantial discretion about when to impose a life sentence over another possible sentence for murder. Still, the Swedish law prohibits sentencing any offender to life who is under the age of twenty-one at the time the crime is committed. In contrast, individuals in between the ages of eighteen and twenty-one could theoretically be sentenced to life in Denmark and Finland.
Third, the lifers themselves, speaking in very broad terms, not only differ somewhat between the countries but have also changed from modern to late modern society within the countries. Most importantly, the number of lifers has increased substantially in all three countries during the 1990s and 2000s. This increase does not result from higher murder rates but rather appears to stem from changes in the way murders have been committed in late modern society. While life in Denmark is typically only imposed on offenders convicted of killing multiple people, it is likely that more murders with multiple victims happened during the 1990s and 2000s than previously. In Finland and Sweden, more murders must now be committed in a particularly heinous and cruel manner, the main aggravating factor that can lead to a life sentence over another type of prison sentence. Interesting is also, as Table 8-1 below shows, that the percentage of foreign citizen lifers is twenty-six percent in 2013, by far the highest in Sweden (4% only in both Denmark and Finland). This high percentage in Sweden also reflects late modern societal changes of increased mobility and migration in the traditionally very homogenous Scandinavian societies.
Regardless of the different sentencing options available for murder convictions by law, I found that the life sentence as the ultimate form of punishment in practice continues to be imposed only rarely in all three countries. Only a small percentage of convicted murderers are actually sentenced to life, while the majority serves definite time sentences of different lengths. Despite its rare imposition, none of the countries appears to currently consider the abolition of the life sentence and its replacement with a long definite time sentence, such as was done in neighboring Norway in 1981. In its current use, carefully considered by judges and weighed against other sentencing options in each individual case, the life sentence appears to serve the broader penal functions of just desert and rehabilitation well. Still in Sweden, a political debate about the “appropriate” use of the life sentence continues until today. In Denmark and Finland,
on the other hand, any general political debate about the use of the life sentence has been absent.

2) Penal Confinement of Life-Imprisoned Offenders

In my comparative analysis, I considered the penal confinement of lifers as the second phase of life imprisonment. The analysis of the penal confinement of lifers as compared to other (definite time sentence) prisoners showed two important things. Not only are the lifers treated similarly in all three countries, they also are treated similarly to other (definite time sentence) prisoners. In general, conditions of confinement for prisoners in Denmark, Finland, and Sweden are strictly based on the same values of life, liberty, and human dignity, regardless of what type of sentence a prisoner serves. These values have been codified in the Council of Europe’s European Prison Rules in 1988, which are recommendations that the council’s member states should incorporate into their national laws.

When analyzing penal confinement in contemporary Denmark, Finland, and Sweden in more detail, two essential characteristics of the prison as a penal institution stand out: first, penal confinement in Denmark, Finland, and Sweden strictly revolves around the principle of normality. The loss of liberty is the sole rationale behind imprisonment, while human dignity must be preserved in every aspect of the prisoners’ lives. Life in prison must be as close as possible to life out the outside in order to avoid the detrimental effects imprisonment could have on the individual offenders. Apart from being deprived of their liberty, the prisoners should maintain daily responsibilities as much as possible and be granted access to the same medical, mental, and social services as individuals in the community during the entirety of their sentence.

Second, the prison administrations should use the entire prison sentence, regardless of its duration, to facilitate the prisoner’s individual reintegration experience. For that reason, the wall between the offenders in prison and the rest of society in the Scandinavian countries is thin.
Imprisonment does not mean that offenders must be clearly separated from society until they might have the chance to be “successfully” reintegrated in society. Instead, through reintegrative tools such as the individualized sentence enforcement plan, work assignments, education, and treatment program participation, work releases, leaves (permissions), and the use of open prisons over closed prisons for transitional purposes, the ties between the prisoner and society are never completely severed. The punishment is the sentence, but during the entirety of the sentence, the goal must be to prepare the offender for reentry into society, regardless of its specific length.

Still, penal confinement of life-imprisoned offenders poses some particular challenges in all three countries. First, the indefinite character poses challenges on the prison administrations. While the individual sentence plan is based on the offender’s exact release date and preparations towards release are derived thereof, the unknowns of such a release date have occasionally exacerbated the enforcement of the individual sentence plans. With reintegrative efforts intensifying closer to release, the indefinite character of the life sentence does not allow a gradual preparation towards reentry. Second, the enforcement of life sentences also imposes challenges on the lifers themselves. Not knowing about when their release will happen, they often perceive efforts towards reintegration early on as “useless.” Finally, relatives of the victims are frequently negatively confronted with some of the efforts taken by the prison administrations towards normality and reintegration. Unsupervised leaves and work releases of the offenders from open prisons have been reported as being considered particularly stressful to the relatives.

3) Lifer Prison Release Mechanisms

The penal confinement principles of normality and reintegration extend to the possibility of release from prison and release mechanisms available to the lifers. By preparing all prisoners for reentry, lifers have traditionally had the possibility to get released from prison when they are
deemed sufficiently “rehabilitated” and ready for release. The traditional state power of deciding on the release of lifers has recently been curtailed in all three countries through legal reforms. The legal safeguards for the lifers have been significantly expanded through the establishment of a judicial mechanism installed to decide on the release of the lifers.

Traditionally, a life sentence in all three Scandinavian countries has rarely meant that the lifers would actually spend the rest of their lives in prison. Instead, the respective governments have been mandated with deciding about the release by granting the lifers pardon, the term used in the Danish and Finnish context, and clemency in Sweden. However, the governmentally-steered release process in all three countries lacked clarity and transparency. The process exacerbated the work towards release with lifers for the respective prison administrations and did not give the lifers any legal rights in the process. Lifers were not involved in the process. The countries became increasingly concerned about that a life sentence does not meet the principles of normality and reintegration behind bars. Consequently, on behalf of the respective governments, the Ministries of Justice in all three countries ordered a review process of the release practice in all three countries in the late 1990s to the early 2000s. Governmental or parliamentary working groups comprised of a variety of professional experts thoroughly prepared a legal reform. The detailed reports that these working groups published were the base for the legal reforms in all three countries.

Despite these similarities between the preparatory works of these reforms in all three countries, a more in-depth comparative examination of the respective lifer release mechanisms in my study revealed that there are also important differences. More specifically, as Table 8-2 below shows, these differences are striking in terms of the type of release decision made (administrative vs. court decision), the specific institutions involved in the lifer release process...
(Ministry of Justice vs. designated courts), and the “status” of the lifer upon a positive (release-granting) decision (conditional release vs. commutation of a life sentence into a definite time sentence).

On the first difference, lifer release in Denmark is an administrative decision of the Ministry of Justice, first possible when the lifers are twelve years into their sentence. Only after a minimum of fourteen years in prison, can the lifers have their life sentence evaluated by courts. Meanwhile in Finland and Sweden, specific courts are now mandated with evaluating a life sentence. In Sweden, this can happen earliest after ten years into the life sentence. In Finland, the court involvement depends on the lifer’s age. While those who were sentenced to life for a crime they committed under the age of twenty-one can apply for conditional release after ten years served, those that were older, can only apply after twelve years served.

The second important difference between the three countries is the instance of court that is mandated with reviewing a life sentence. In Denmark, any district court may review the life sentence after fourteen years and when the Ministry of Justice previously rejected conditional release. In Sweden, the district court in Örebro has been the sole court mandated with the task of reviewing a life sentence since 2006. In Finland, on the other hand, a specific court of appeal (the Helsinki Court of Appeal) and not a district court, was mandated with the task of deciding about conditional release of a lifer in 2006. In all three countries, the lifers may reapply on an annual basis, another step taken with the recent reforms to increase their legal safeguards.

Third, the “status” of the lifer after the deciding institution has granted release differs between the three countries. While in Denmark and Finland the lifer is released conditionally, the Swedish offender’s life sentence is transformed into a definite time sentence. This means that the lifer is not released conditionally following the court decision but will have to serve additional
This allows the Swedish prison administration to take further steps towards reintegration, e.g., with a movement to a lower-security (open) prison and intensified leaves. Meanwhile in Finland, lifers are frequently released through supervised probationary freedom. This short-term program of up to six months, which offenders serve with intensive supervision back in the community, is geared towards slowly preparing the long-term prisoner for life back in society.

Table 8-2

*Direct Comparison of the Recent Legal Reforms Regarding Lifer Release*

<table>
<thead>
<tr>
<th></th>
<th>Denmark</th>
<th>Finland</th>
<th>Sweden</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum time to be served before release eligibility</td>
<td>12 years</td>
<td>12 years (10 years for under 21-year olds)</td>
<td>10 years</td>
</tr>
<tr>
<td>Type of release decision</td>
<td>Administrative decision</td>
<td>Court decision</td>
<td>Court decision</td>
</tr>
<tr>
<td>Deciding institution</td>
<td>Ministry of Justice with input from Department of Prison and Probation (DPP)</td>
<td>Helsinki Court of Appeal</td>
<td>District Court of Örebro</td>
</tr>
<tr>
<td>Appeal possible?</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>Appeal institution</td>
<td>Any district court (after 14 years)</td>
<td>Finland Supreme Court</td>
<td>Any court of appeal</td>
</tr>
<tr>
<td>Complementary to governmental process?</td>
<td>Yes</td>
<td>Yes</td>
<td>Yes</td>
</tr>
<tr>
<td>After positive judicial evaluation</td>
<td>Conditional release</td>
<td>Conditional release</td>
<td>Commutation of life sentence into definite time sentence</td>
</tr>
<tr>
<td>After negative decision</td>
<td>Annual reevaluation, two-instance court involvement after 14 years</td>
<td>Appeal or annual reevaluation</td>
<td>Appeal or annual reevaluation</td>
</tr>
</tbody>
</table>

Regardless of the differences between the specifics of the release mechanisms, my interviewees agreed that court involvement in the decision-making process has so far been perceived very positively in all three countries. It has not only increased the lifers’ legal
safeguards, but it has also made the actual length of a life sentence more predictable for the respective prison administrations. This has allowed for a more efficient enforcement of the lifers’ sentence plans, geared towards a successful reintegration experience into society. The reforms have also had positive effects on the relatives of the victims. Although they still do not have any legal say in the decision-making process in neither of the countries, they can request to be informed about all stages of the reintegration process. In sum, the legal reforms have made the lifer release process clearer and more transparent as compared to the traditional governmentally-steered release process.

In all three countries, therefore, prison release is understood as an integrated rather than a separate phase of imprisonment. Release plans in all three countries guide an individual’s prison term through its entirety. The release is already to be prepared behind bars, regardless of whether the prison sentence is short and definite or long and indefinite. Furthermore, the centralization of prison and probation services within one department in all three countries (the Department of Prison and Probation in Denmark, the Criminal Sanctions Agency in Finland, and the Prison and Probation Service in Sweden) illustrates the efforts towards viewing institutional and community sanctions as one. In fact, lifers remain supervised within the respective communities upon release for a clearly specified period of time. The role of the state in the context of lifer release remains ambivalent, however. The transfer of the decision-making power from the state to judicial bodies in the release process indicates that the state has removed from some spheres of traditional governmental influence in all three countries.

In conclusion, I observed that when comparing and contrasting the three phases of life imprisonment in Denmark, Finland, and Sweden, important similarities and differences emerged. While penal confinement of lifers in all three countries was organized around the principles of
normality and reintegration, despite the uncertainty about their exact date of release, the imposition of life sentences and release mechanisms differed noticeably between the countries.

**Penal Welfarism and Life Imprisonment**

The comparison of life imprisonment in Denmark, Finland, and Sweden showed that penal welfarist ideals continue to shape the institution of the ultimate penalty in late modern Scandinavian society. First, a life sentence is not a mandatory sentence for murder in any of the countries. Judges have a substantial amount of discretion to decide about whether the life sentence should be imposed on an individual offender or whether a definite time-sentence should be preferred. Judges in all three Scandinavian countries are career bureaucrats and not politically appointed, which is why I consider them criminal justice professionals rather than political players, a clear indicator for penal welfarism. The continued rare imposition of the life sentence in all three countries over other sentences for murder further suggests that an expansion of life sentences would contradict with the penal welfarist ideal of considering long-term imprisonment, even for particularly serious offenders, as counter-productive to rehabilitation and reintegration.

Second, the ultimate punishment in Denmark, Finland, and Sweden is never automatically understood as a true-life sentence. Instead, by sentencing an offender to life, the door back into society is not shut. A life sentence in these countries does not automatically mean “life in prison” but refers to “uncertainty of the exact date of release from prison.” In addition, the prison administrations enforce the life sentence through rehabilitative efforts by concern for both normality and reintegration. Clearly, in the guise of life imprisonment, punishment thus continues to be based on rehabilitation. To use Garland’s words (2001, p. 54), life imprisonment as one institution of punishment in late modern society still reflects the “orthodox ideology” of rehabilitation, embraced by both professional experts and policy-makers. Just the observation
that life-imprisoned offenders despite the uncertainty of release from prison are, in theory, not to be treated any differently than other prisoners is another indicator of penal welfarism. Prison administrations emphasize the rehabilitation and successful reintegration of the lifer into society throughout their sentence, despite the lack of knowledge about an exact release date. The lifers are to be prepared for reentry through a sufficient amount of rehabilitative programs and individualized transitional steps taken towards reintegration. A prison sentence should never automatically be the last step in an offender’s life, regardless of how serious the committed crime was. Prison administrations in all three countries also strongly involve psychologists and psychiatrists throughout the enforcement of the life sentence. Such involvement, which has been considered another characteristic of penal welfarism for Garland (2001), can be, among other things, seen by the thorough assessment of long-term prisoners in prison assessment centers and the importance of risk of relapse evaluations conducted by psychiatrists when deciding about conditional release of lifers from prison. Penal welfarist ideals thus also guide the prison release mechanisms pertaining to lifers.

Still, I observed that life imprisonment in Denmark, Finland, and Sweden has experienced some politicization and increased media exposure, developments which Garland observed in the penal policy realm in late modern society. Yet, both the politicization and media exposure have reached different extents in the three countries. By far, the political and media debates around life imprisonment have been strongest in late modern Swedish society. While the media reports have focused on a select few high-profile lifers that went through the release decision process at the district court of Örebro, the political debate has primarily revolved around the imposition of life sentences and finding the most “appropriate form” of punishment for murder. Recent legal reforms pertaining to punishment options for murder suggest that the
imposition of a life sentence continues to remain controversial, even though considerations about its abolition have more or less disappeared in the Swedish context.

These findings stand in sharp contrast to Garland (2001), who believed that penal welfarist ideals were dismantled in late modern society in the entire Western industrialized world. This would include the Scandinavian countries. Being part of the Western industrialized world, the Scandinavian countries also experienced late modern structural transformations, like less permanency in work and living arrangements, more mobility, precarious wage labor, rapid changes in technologies and communication patterns, resulting into higher levels of anonymity. Garland then suggested that these changes incited less trust in governmental and social institutions. Individual fear and anxiety about the unknown spread and replaced that trust. Fear of crime and criminals became particularly prevalent, precipitating a perception of the state’s failure in dealing with crime and criminals. Most importantly for Garland, these societal changes appeared to reinvent the relationship between society and punishment. While penal welfarism was based on large trust in and reliance on governmental and social institutions in dealing with criminal offenders, late modern penality reflected a reconfiguration of these traditional societal-state relations.

Interestingly, recent nationally- and EU-wide conducted surveys show particularly high trust in criminal justice institutions in Scandinavia. The annually conducted Swedish Crime Survey,\(^{88}\) captures the continued trust of the Swedish population in criminal justice institutions. According to the 2014 Annual Report, the percentage of the general public with a high degree of

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\(^{88}\) The Swedish National Council for Crime Prevention (BRÅ) has administered an annual crime survey. The year 2006 serves as the base for comparison with more recent years. In the 2014 survey, roughly 12,000 individuals provided responses to the survey. This equaled a response rate of sixty-one percent. Most of the individuals participated in a telephone survey. A smaller percentage of the participants responded via mail (Swedish National Council for Crime Prevention, 2014).
trust in the Swedish criminal justice system as a whole rose from fifty-four percent in 2006 to sixty percent in 2014. Looking more specifically at specific criminal justice institutions, it is most noteworthy that the trust in the Swedish Prison and Probation Service experienced the highest increase in the said time period. While only twenty-nine percent trusted in the Service in 2006, their share increased to forty-two percent in 2014. Meanwhile, trust in courts increased from forty-three to forty-nine percent during the same time period (Swedish National Council of Crime Prevention, 2014). Similar to the detailed annual crime survey in Sweden, the cross-national comparison survey *Eurobarometer* showed particularly high levels of trust in justice institutions in Denmark and Finland as compared to the EU average. In 2013, Danes and Finns reported the highest level of trust in their “national justice” systems with eighty-five percent each. The EU average of trust was significantly lower at fifty-three percent that year (European Commission, 2013, Nov).

Now, what is different in the Scandinavian countries than in other Western industrialized countries? What can explain that even the institution of life imprisonment, the countries’ ultimate penalty, continues to be guided by penal welfarist ideals in late modern Scandinavian society? Garland's sociology of punishment provided me with a good lens to conduct this historical and comparative analysis. Yet, I could not find support for his observations that the demise of penal welfarism and the reconfiguration of the penal state and society relationship in late modern society would also apply to Denmark, Finland, and Sweden. Instead, the historical and comparative analysis of life imprisonment in the wider context of Scandinavian penality showed that penal welfarist ideals have already been rooted in pre-Nordic welfare state political and legal

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89 The European Commission coordinated the justice survey in twenty-eight EU member states between 30 September and 2 October 2013. Interviews with a total of 26,581 individuals from different social and demographic groups were conducted via landline and cell-phones. The interviewees were able to respond in their mother tongues.
arrangements. Rooted in the strong sense of egalitarianism of pre-modern and modern Scandinavian society, as so fittingly discussed by Pratt (2008) and Pratt and Eriksson (2011), this cultural tradition became deeply engrained in Danish, Finnish, and Swedish societies at the time of the establishment and consolidation of the Scandinavian state. The lack of a strong upper class, and particularly high levels of religious and societal homogeneity provided the necessary input into the development of egalitarianism and into the establishment of the Scandinavian penal state (Pratt & Eriksson, 2012). Adding to Pratt’s (2008) and Pratt’s and Eriksson’s (2012) argument, I argue that specific historical circumstances have further shaped and reshaped the strong sense of egalitarianism in Scandinavian society and contributed to the formation of social cohesion. For instance, Finland’s geopolitical proximity to Russia (the former Soviet Union) and especially nineteenth-century Finnish nationalism in reaction to its status as a Russian grand duchy strengthened its social cohesion. In Sweden, on the other hand, long periods of peace and security since the early nineteenth century and particularly high-levels of economic prosperity early after World War II due to a lack of involvement in the war, contributed to Swedish social cohesion.

It is also the strong sense of egalitarianism that led to the establishment of the specific Nordic (or social democratic) welfare states, based on generous and universal benefits and services provided by a strong and centralized state. In this context, it is important to return to and reconsider Esping-Andersen’s categorization of different types of twentieth-century welfare states. The social democratic welfare state, as it was established in the Scandinavian context, is indeed quite different to the liberal welfare state of the United States and the corporatist-style welfare state in continental Europe. While a substantial amount of research remains divided over the extent to which the traditional social democratic welfare model in Scandinavia has changed
due to the large structural late modern societal transformations, a topic that goes beyond the scope of my study, I do not have any doubt that the specifics of the social democratic welfare state, rooted in egalitarianism, continue to form the basic structure of the Scandinavian penal policy apparatuses. Although Garland provided a detailed overview of what he meant by penal welfarism, a clear conceptualization of the “welfare state” and its different moldings in both modern and late modern society have been absent in Garland’s conceptualization of “penal welfarism” (compare with Garland, 2001). When comparing the extent of penal welfarist ideals in Western industrialized countries with one other, a more thorough discussion of the different types of welfare states that have existed appears to be an absolutely necessary foundation of such. These welfare states, which inform the penal states, differ in the role the state plays in a society (weak or strong) as well as in the reach of benefits and services (selective, especially targeting the poor, rather than universalist benefits and services).

Through a consideration of the specifics of the social democratic welfare state rooted in egalitarianism as compared to other types of welfare states, I also challenge Beckett and Western’s (2001) and Wacquant’s (2009; 2010) main assumptions about late modern penality in the Western industrialized world. In the U.S. context, Beckett and Western (2001) suggested that less welfare spending necessarily leads to an expansion of the penal state, reflected by higher imprisonment rates. Similarly, Wacquant believed that the penal states in late modern society were expanded at the cost of the social welfare states to “assuage popular discontent over the dereliction of its traditional economic and social duties” (Wacquant, 2010, p. 211). Instead of the social welfare state, it was now up to the penal state to deal with the socially-marginalized

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90 On perspectives whether the Nordic welfare state has reoriented itself in late modern society and to what extent that happened see, among others, Kauto (2001); Lindbom (2001); Nygård (2006); Greve (2007); Kvist, Fritzell, and Hvinden eds. (2012);
(Wacquant, 2009). Again, these authors appear to generalize from the liberal welfare state to all welfare states in Western society while ignoring the specifics of the social democratic welfare states. In the Scandinavian egalitarian societies, where social expenditures increased in between 1980 and 2014, the social democratic welfare state has traditionally aimed at correcting market inequalities. This also contributed to the reordering of social relations (Esping-Andersen, 1990; as cited in Lindbom, 2001). In these Scandinavian societies, it was thus never a prerogative of the penal welfare state to control the marginalized groups at its bottom. I am not arguing here, however, that the Scandinavian societies have not undergone substantial change in late modernity. As I pointed out earlier in my study, the societies have indeed become more heterogeneous and have experienced more politicization of and media interest in crime-related issues. Yet, what I am arguing here is that these late modern changes still have not shattered the foundations of the Scandinavian penal welfarist ideals with their deep roots in egalitarianism, so that we could speak of a dismantling of penal welfarism in the Nordic context.

In short, the traditionally strong Scandinavian welfare state continues to frame the relationship between the Scandinavian penal state and late modern Scandinavian society. Instead of growing fear and distrust with governmental institutions, as generally observed by Garland in late modern society in the Western industrialized world, trust in criminal justice institutions in late modern Scandinavia could actually been largely maintained in recent years. The interview discourse about life imprisonment provided particularly strong support for my thesis. By emphasizing reintegration efforts and reentry for all prisoners, the individuals working in the Danish, Finnish, and Swedish criminal justice institutions clearly upheld penal welfarist ideals even for life-imprisoned offenders. None of the interviewees believed that the institution of life imprisonment should be abolished or was in dire need of reform. Instead, the interviewees in all
three countries pointed out that life imprisonment as an indefinite time sentence with the prospect of release served an important societal function in the late modern Scandinavian states.

With life imprisonment lingering in their penal systems as the ultimate penalty, only imposed in rare and particularly serious cases, it still serves an important function by reinforcing social cohesion while still upholding the central penal welfarist ideals of rehabilitation and reintegration.

VIII.B. A Scandinavian or Nordic Life Imprisonment Model?

With this study, I attempted to show why I consider life imprisonment a particularly interesting topic for comparative penal policy research. In the European context, life sentences, indefinite at heart, are disputed as they appear to jeopardize the penal cornerstones of rehabilitation and reintegration due to their unknown length and uncertainty of release. Rehabilitation and reintegration have framed the European penal-legal framework and are now deeply engrained in European penal codes and punishment practices. This has led to the abolition of natural life sentences, or what in the United States is referred to as life-without-parole, in almost all European countries (van Zyl Smit, 2010). Due to this development, the study of life imprisonment in the European context now necessarily involves an in-depth discussion of release mechanisms available to this group of prisoners. In fact, release of lifers has become a focal point of interest in the European context (Padfield, van Zyl Smit, & Dünkel, 2010). The recent judicial (or in the case of Denmark first administrative) legal reforms of the release mechanisms available to lifers in Denmark, Finland, and Sweden, which I compared with one another in my study, thus provide a particularly interesting approach to lifer release. As discussed throughout my study, the new lifer release mechanisms have so far been perceived well by criminal justice practitioners in all three countries, as they added clarity and transparency to the process for all
actors involved. They further allow to keep those offenders imprisoned who might have a continued chance of reoffending upon release. What also makes these release mechanisms unique is the involvement of a variety of criminal justice professionals (judges, prison personnel, psychologists, and psychiatrists) and the lifers themselves in the release decision-making process. Despite this broad involvement of different actors, relatives of victims still do not have a formal say in the decision-making process, something that the interviewees in all three countries lamented.

Meanwhile, the lifer release process must be viewed in the context of the small lifer population in all three countries. Despite a growth in recent decades, the lifer populations in Denmark, Finland, and Sweden continue to be small both in a European and especially in a transatlantic comparison. Simply put, the holistic reevaluation of the life sentence by a court, after a legally-specified minimum prison time was served, is an event that does not happen frequently in these countries. Furthermore, only a small percentage of prisoners serve long sentences (+4 years) in these countries, allowing prison personnel to focus more closely on rehabilitation and reintegression for this group of offenders. U.S. journalist Benko (2015, Mar 26) recently visited a Norwegian prison, which is similarly structured as the prisons in the other three Scandinavian countries. In her news report, in which she pondered about whether American prisons could invest as much in rehabilitative programs and efforts to achieve normality to counteract high recidivism rates, she concluded that such a system simply seems to be “logistically and financially out of reach” in the United States, just because of the country’s much larger prison population and overcrowded facilities. The U.S. lifer population quadrupled between 1984 and 2012 and reached the unprecedented level of roughly 160,000. Yet, it is not only the number of lifers that marks the difference between the U.S. and the Scandinavian
countries. It is also the character of the life sentence. Almost seventy percent of the American lifers (110,000) have the prospect of release through parole, while the remaining lifers are serving their sentence without the possibility of parole (Nellis, 2013). While for the former a discretionary parole board typically decides about their release, release from prison is not an option for the latter. This automatically ostracizes the LWOP population from reintegration efforts while imprisoned.

Meanwhile, the process of discretionary parole in the U.S. has been considered controversial since the 1970s. Oddly enough, the process has come under attack from both liberal and conservative legislatures and political decision-makers. While liberals found that discretionary parole practices contributed to wide sentencing disparities between individuals convicted of the same crime, conservatives argued that offenders often “got off too easily” and did not “do” enough time for serious crimes. Furthermore, parole boards, typically comprised of political appointees, have used their discretion in deciding about whether to grant or deny parole in a political context. In times of prison crowding and a shortage of correctional dollars, discretionary parole has been more commonly granted to empty prison beds, while in times of higher demand for harsher punishment by the general public and politicians, parole has been more commonly rejected.91 In short, political pressure appears to have impacted the discretion of parole board members in the U.S.

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91 For my master’s thesis in Applied Criminology (Schartmueller, 2014), I analyzed the lifer populations in four U.S. states, Alabama, California, Massachusetts, and Nevada. These were the U.S. states, which the Sentencing Project (Nellis, 2013) identified as having the largest lifer populations in percentages of the states’ total prison populations in 2012. I found that to some extent, the size of the lifer populations has been driven by the use of the discretionary power of political actors. For instance in California, the governor has the power to veto the parole board’s decision to grant parole to a lifer. While in the 1990s and 2000s, the respective governors have overturned the majority of grants, the latest governor, Jerry Brown, has upheld most of the parole board’s grants. This development must be seen in the context of severe prison crowding and lawsuits pertaining to inhumane prison conditions in the past few years.
Having courts become involved in the lifer release process instead of parole boards would not really take away the political pressure from the decision-making process. In fact, most judges in the U.S. are under local political pressure, as they are also politically appointed and not career judges such as in Scandinavia. Furthermore, court involvement in the lifer release process would add to the already heavy court caseloads, especially in states with particularly large lifer populations. Yet, court involvement seems feasible for certain segments of the U.S lifer population. More specifically, I believe that courts could and should become involved in cases of juvenile life sentences. In 2012, the U.S. Supreme Court ruled in *Miller v. Alabama* that mandatory life sentences without parole for juveniles who have committed capital crimes were unconstitutional. Since the ruling, twenty states have passed new laws that replaced mandatory juvenile LWOP for murder with mandatory minimums with parole eligibility after a legally-specified time served behind bars, ranging from 15 to 40 years (Rovner, 2015, May). Meanwhile, some states have also reconsidered the LWOP sentences of juveniles who were sentenced prior to the *Miller v. Alabama* ruling. In cases like that, parole boards could become involved in deciding about parole. Court involvement could also be possible. This could resemble the release decision-making process for lifers in the Scandinavian countries. Such a step was already taken in California with the “Fair Sentencing for Youth Act,” which was passed in September 2012 and applies retroactively to juvenile LWOP prisoners sentenced before 2012. This act holds that juveniles sentenced to LWOP can submit a petition to a sentencing court to get resentenced after they have served a minimum of fifteen years and if they can show remorse and that they have undertaken efforts towards rehabilitation. If their petition is accepted, they could then be resentenced to a definite time of twenty-five years with eligibility for parole. Similar steps have been taken in other states or are expected to be taken in the aftermath of the *Miller* ruling.
strongly believe that court involvement that takes into consideration statements from prison personnel who have worked with the lifers, medical and psychiatric personnel that can assess their risk of reoffending, police officers, statements from the relatives of the victims, as well as statements from the juvenile lifers themselves can contribute to achieving a fairly holistic evaluation of the lifer’s case and their time in prison in the decision-making process.

VII.C. Research Limitations

I conducted this comparative historical study, which turned into my dissertation, from 2010 to mid-2015. Over the course of this time, I gradually collected legal texts, statistical data, and interview data, which left me with a substantial amount of information. Yet, there exist several important research limitations that arose from the choice of my topic and the specific data collection techniques. Due to this study being a historical comparative analysis, major challenges arose over the course of conducting it. First, the complexity of the theoretical framework, Garland’s sociology of punishment, has led me to collect a substantial amount of information and data on my three countries. However, acquiring historical information and data that is comparable from three different countries has been an enormous undertaking. Some difficulties arose when comparing and contrasting the historical legal texts. As I was not able to do field research for the purpose of this study, I could not conduct archival research in the countries themselves. Instead, I had to rely on legal texts that were either readily available on the Internet, that were cited in other literature, or that were recommended by my interviewees.

Difficulties, for instance, also arose when I compared the national data, as the three countries used different categories or collected their data at different times or with different time periods in between. For example, Denmark only had data available starting in 1997, where Sweden and Finland have data available from 1980 onwards. I did my best to mention these
differences in the footnotes and/or figures and tables, which I created. However, interpreting heterogeneous results, especially in the transnational setting of this research, must certainly be recognized as a major limitation to this study (compare with Feilzer, 2010).

Furthermore, I solely relied on governmental agency data that was secondary and thus not collected for the purpose of this research in the first place. In particular, this research focused on a small part of the countries’ prison populations, the lifer populations, for which specific data was not readily available in all countries. For instance, due to the small number of Danish lifers (25 in 2013), data with more details on their age, type of crime committed, and average sentence length was not available.

More on methodology, the interview process itself has limited this research to some extent. First, I recruited my interviewees by email to targeted organizations. The response rate was very good and I was surprised by how much time many of my interviewees took to respond to my questions and provide me with further information about their work and countries. Whether my initial recruitment request was forwarded to a potential interviewee was, however, beyond my control. I did not receive responses at all from some organizations, although I initially considered them important to be included in the interview process. I contacted several other organizations multiple times before an interview could be set up, which in some instances made the interview recruitment process very time consuming. As I only had a short timeframe for the conducting of the interviews, I therefore had to leave the number of interviewees at eighteen. Another research limitation was that I initially considered conducting interviews with lifers and ex-lifers themselves in order to get an idea of their interpretations of what prison meant to them and how it prepared them for re-entry to society. I felt that a view from the bottom up would add depth to the current analysis which focused more on the perspective of "experts" on
life imprisonment. However, due to the complex IRB issues involved in conducting such interviews, I decided to dismiss the idea of involving lifers in the interview process. Yet, I was able to get a slight idea about the perspectives of some of the lifers on the reforms, as several of them made statements to the media about their lives and experiences in prison and their paths of reentry into society. These statements were plenty and were publicly available in the form of newspaper articles.

Another final difficulty that arose over the course of my study was the language barrier. Although I speak Swedish fluently and understand written Danish and Finnish fairly well, I do not possess the same level of understanding of Danish and Finnish as of Swedish. It was certainly helpful that Finnish legal texts typically come with official Swedish translations, as Swedish is the second official language in Finland. For the reason of language, however, there were a couple of interviews, which I could not conduct in Denmark and Finland, while there were no problems to communicate with participants in Sweden.

A specific language problem also arose through my reliance of texts in different languages. I noticed that texts translated from Danish, Finnish, and Swedish into English often used different terminology despite referring to the same concept. For instance, different authors used terms like parole and conditional release, pardon and clemency, normalization and normality, leaves and permissions to describe the same concepts in their country-specific contexts. Other concepts, such as sentence enforcement plans and the concept of utsluss in Sweden were difficult to translate adequately into the English language. Whenever the translation fell under my discretion, I added the native term in italic and brackets behind my translation.
VIII.D. Future Research

This study has left me with many ideas about future research. More research could be conducted on the topic of life imprisonment in Scandinavia and beyond. First, I excluded a thorough discussion of the Norwegian approach to life imprisonment and the abolition of this form of punishment in 1981. As the main emphasis of my study was an analysis of the role and use of life imprisonment in Scandinavian countries in late modern society, I deliberately excluded the Norwegian approach. Yet, I deem a more in-depth examination of the use of life imprisonment before 1981, a discussion of the reasons for abolishing it, and a comparison with current penal approaches dealing with particularly serious offenders, particularly valuable in the context of Scandinavian penality.

Remaining with the topic of life imprisonment in Denmark, Finland, and Sweden, I would further find more detailed research on the reasons behind the increase in the lifer population in all three countries particularly fascinating. Especially in Denmark and Finland, no recent legal changes can explain the larger number of lifers. Has the character of murders changed in recent decades? Is the percentage of murders that have been committed in a particularly cruel and heinous manner now higher than in the 1970s or 1980s? Or have judges become more punitive in recent decades, making the life sentence more attractive for punishing offenders convicted of murder? These are important research questions that could be attempted to be answered through an in-depth examination of court records. Through a historical analysis of murder cases, qualitative changes in the murders could be determined and it could be assessed whether the increase in the number of lifers has been primarily due to policy changes or changes in the way the murders have been committed.
In Sweden, further research could focus on life imprisonment as compared to the now more commonly imposed ten-to-eighteen year time sentences for murder. How do the offenders sentenced to either one or the other for murder in terms of their individual characteristics (gender, age, criminal history, nature of committed crime, etc.) compare with one another? How does the penal confinement between these groups of prisoners compare? How do their efforts towards reintegration and their success rates with reentry compare? These are research questions that could be answered by the use of a variety of different data collection techniques. Again, it would be possible to analyze court records or to conduct a survey with a basic questionnaire, either with the prisoners themselves or the prison administrations housing these prisoners. Obviously, the sample size would be small, but including the growing number of prisoners serving ten to eighteen years would allow for basic comparisons.

Finally, this study invites to conduct further comparative analyses of the imposition and enforcement of life sentences in other European countries and beyond. To what extent are life sentences imposed in these countries and how do they compare to Denmark, Finland, and Sweden? How do the conditions of confinement compare with one another? What types of release mechanisms are available for lifers? In terms of the last question, additional comparative research would be particularly valuable. A comparative study involving several different countries could investigate the different approaches taken to facilitate reentry for lifers right before release. I would find it interesting to examine whether other countries than Finland use short-term intensive supervision to facilitate reentry, how they use such programs, or whether there exist alternatives. Interviews with individuals going through such programs or personnel facilitating the implementation of such could be conducted to learn more about program success but also daily challenges. While sentencing and confinement in general have long been topics of
particular research interest, the processes of release and reentry have been explored to a far lesser extent.
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APPENDIX 1:
List of Relevant Laws in Original and English Translation

### Denmark

<table>
<thead>
<tr>
<th>Original Name of Law</th>
<th>English Translation</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Almindelig Borgerlig Straffelov Ny Borgerlig Straffeloven (Straffeloven)</td>
<td>Danish General Civil Criminal Code New Danish Civil Criminal Code (Name changed to Criminal Code in 1992)</td>
<td>1866 1930</td>
</tr>
<tr>
<td>Staffuldbyrdelesloven</td>
<td>Danish Sentence Enforcement Act</td>
<td>2001</td>
</tr>
</tbody>
</table>

### Finland

<table>
<thead>
<tr>
<th>Original Name of Law</th>
<th>English Translation</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rikoslaki</td>
<td>Finnish Penal Code</td>
<td>1889</td>
</tr>
<tr>
<td>Vankeuslaki</td>
<td>Finnish Act on Imprisonment</td>
<td>2005</td>
</tr>
<tr>
<td>Laki pitkäaikaisvankien vapauttamismenettelystä</td>
<td>Law on the Procedure for the Release of the Long-time Imprisoned</td>
<td>2005</td>
</tr>
<tr>
<td>Laki valvotusta koevapaudesta</td>
<td>Law on Supervised Parole</td>
<td>2013</td>
</tr>
</tbody>
</table>

### Sweden

<table>
<thead>
<tr>
<th>Original Name of Law</th>
<th>English Translation</th>
<th>Year</th>
</tr>
</thead>
<tbody>
<tr>
<td>Missgärninsbalken</td>
<td>Swedish Penal Code</td>
<td>1734</td>
</tr>
<tr>
<td>Strafflagen</td>
<td>Swedish Penal Code</td>
<td>1864</td>
</tr>
<tr>
<td>Brottsbalken</td>
<td>New Swedish Penal Code</td>
<td>1962</td>
</tr>
<tr>
<td>Lag om omvandling av fängelse på livstid</td>
<td>Swedish Act on the Commutation of Life Sentences</td>
<td>2005</td>
</tr>
<tr>
<td>Fängelselag</td>
<td>Swedish Imprisonment Act</td>
<td>2010</td>
</tr>
</tbody>
</table>
### Denmark

<table>
<thead>
<tr>
<th>Original Name of Political Party</th>
<th>English Translation</th>
<th>% in 2011 Elections and percentage change to previous elections (2007)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Venstre, Danmarks Liberale Parti</td>
<td>Denmark’s Liberal Party</td>
<td>26.7% (+0.5)</td>
</tr>
<tr>
<td>Socialdemokraterne</td>
<td>Social Democratic Party</td>
<td>24.8% (-0.7)</td>
</tr>
<tr>
<td>Dansk Folkeparti</td>
<td>Danish People’s Party</td>
<td>12.3% (-1.6)</td>
</tr>
<tr>
<td>Det Radikale Venstre</td>
<td>Radical Left</td>
<td>9.5% (+4.4)</td>
</tr>
<tr>
<td>Socialistisk Folkeparti</td>
<td>Socialist People’s Party</td>
<td>9.2% (-3.8)</td>
</tr>
<tr>
<td>Enhedslisten</td>
<td>Red-Green Alliance</td>
<td>6.7% (+4.3)</td>
</tr>
<tr>
<td>Liberal Alliance</td>
<td>Liberal Alliance</td>
<td>5.0% (+2.2)</td>
</tr>
<tr>
<td>Det Konservative Folkpartiet</td>
<td>The Conservative People’s Party</td>
<td>4.9% (-5.5)</td>
</tr>
</tbody>
</table>

### Finland

<table>
<thead>
<tr>
<th>Original Name of Political Party</th>
<th>English Translation</th>
<th>% in 2015 Elections and percentage change from previous elections (2011)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Suomen Keskustapaikka</td>
<td>Finnish Center Party</td>
<td>21.1% (+5.3)</td>
</tr>
<tr>
<td>Kansallinen Kokoomus</td>
<td>Finnish National Coalition Party</td>
<td>18.2% (-2.8)</td>
</tr>
<tr>
<td>Perussuomalaiset</td>
<td>Finn’s Party</td>
<td>17.7% (-1.4)</td>
</tr>
<tr>
<td>Suomen Sosiaalidemokraattinen</td>
<td>Social Democratic Party of Finland</td>
<td>16.5% (-2.6)</td>
</tr>
<tr>
<td>Puolue</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vihreä Liitto</td>
<td>Green Alliance</td>
<td>8.5% (+1.3)</td>
</tr>
<tr>
<td>Vasemmistiliitto</td>
<td>Left Alliance</td>
<td>7.1% (-1.0)</td>
</tr>
<tr>
<td>Suomalainen Ruotsalainen</td>
<td>Swedish People’s Party of Finland</td>
<td>4.9% (+0.6)</td>
</tr>
<tr>
<td>Kansanpuolue</td>
<td>Finland</td>
<td></td>
</tr>
<tr>
<td>Suomen Kristillisdemokraatit</td>
<td>Christian Democrats of Finland</td>
<td>3.5% (-0.5)</td>
</tr>
</tbody>
</table>
# Sweden

<table>
<thead>
<tr>
<th>Original Name of Political Party</th>
<th>English Translation</th>
<th>% in 2014 Elections and percentage change from previous elections (2010)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Socialdemokratisk Arbetarparti</td>
<td>Social Democratic Party</td>
<td>31.0% (+ 0.3)</td>
</tr>
<tr>
<td>Moderata Samlingspartiet</td>
<td>Moderate Party</td>
<td>23.3% (-6.7)</td>
</tr>
<tr>
<td>Sverigedemokraterna</td>
<td>Sweden Democrats</td>
<td>12.8% (+ 7.1)</td>
</tr>
<tr>
<td>Miljöpartiet De Gröna</td>
<td>Green Party</td>
<td>6.8% (-0.4)</td>
</tr>
<tr>
<td>Centerpartiet</td>
<td>Center Party</td>
<td>6.1% (-0.4)</td>
</tr>
<tr>
<td>Vänsterpartiet</td>
<td>Leftist Party</td>
<td>5.7% (+0.1)</td>
</tr>
<tr>
<td>Folkpartiet Liberalerna</td>
<td>Liberal Party</td>
<td>5.4% (-1.6)</td>
</tr>
<tr>
<td>Kristdemokraterna</td>
<td>Christian Democrats</td>
<td>4.5% (-1.0)</td>
</tr>
<tr>
<td>Feministisk Initiativ</td>
<td>Feminist Initiative</td>
<td>3.1% (+2.7)</td>
</tr>
</tbody>
</table>
APPENDIX 3:

Interview Questions

Before we start with the actual questions, I quickly wanted to ask about your work. In what way is your work affected by life imprisonment?

1) A life sentence in your country currently means that most lifers will be released after having served a certain amount of time and meeting specified release criteria. According to your knowledge, does the current process work?
   1A) How is the life-imprisoned offender served in the current process?
   1B) How is the victim served in the current process?

2) Do you think the public is generally aware that a life sentence in your country typically does not mean that the individual will remain in prison until their natural death?

3) How does the media report on life imprisonment in your country?

4) Do you think that the life sentence and life-imprisoned offenders are part of a political debate in your country?

5) What do you personally think were the main reasons for modifying the release mechanisms for lifers in recent years? What do you personally see as the main advantages and/or disadvantages of the recent legal reform regarding the release of life-imprisoned offenders?

6) If you could make any kind of changes to the current approach to the imposition of life sentences, conditions of confinement, or release mechanisms for lifers in your country, what would those be?