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TIDSKRIFT FÖR RÄTTSSOCIOLOGI VOL 5 1988 NR 2

Innehåll

TIDSKRIFT FÖR RÄTTSSOCIOLOGI VOL 5 1988 NR 2

Inledning

I årets andra nummer av *Tidskrift för rättssociologi* presenterar vi tre artiklar på temat demokrati. Demokratibegreppet står på många sätt i centrum för rättssociologisk forskning och teoriutveckling. I de tre artiklarna är det tre vitt skilda aspekter av demokratibegreppet som diskuteras. I ett fall gäller det demokratin inom en organisation vars mål är att förstärka demokratin för svaga grupper i samhället, i ett annat handlar det om fostran till demokrati inom ett behandlingskollektiv, i det tredje om demokratiska principer för straffrättslig lagstiftning.

Ett område som traditionellt uppvisar stora skillnader mellan tänkta demokratiska ideal och den brutala verkligheten är vård- och omsorgssektorn. I flera västdemokratier har vi de senaste 20 åren sett framväxten av organisationer vars mål är att bevaka deras intressen som är föremål för samhällets vård och omsorg. I Sverige t ex KRUM och RFHL, i Norge ett par organisationer som i Thor Øivind Jensens och Jan Froedals artikel "Interest organizations – a complex answer to political poverty" fått de fingerade namnen CLIENTS' STRUGGLE och CLIENTS' WELFARE. I sin artikel följer författarna dessa bägge organisationer genom tre faser: etableringsfasen, därefter en fas som karakteriseras av ovisshet och inre kon-

flikter, och slutfasen då organisationen når fram till ett klargörande av dess mål och valet av handlingsstrategi. Bl a visar författarna att den interna demokratin är mycket känslig och sårbar i organisationer av och för politiskt och socialt svaga grupper.

Ingela Kåhl diskuterar i sin artikel begreppen demokrati och emancipation och deras inbördes samband, utifrån en studie av ett behandlingshem för narkomaner, hasselakollektivet i Helsingborg. Hasselapedagogiken har under senare år uppmärksammats i vida kretsar, och anses allmänt erbjuda en resultatmässigt god behandlingsform för vård och behandling av narkomaner. Denna speciella vårdform kallas utbildning av dess utövare, och bygger på tvång och aktiv nedbrytning av personligheten för att frigöra narkomanerna från sitt beroende. Kåhl visar på ett övertygande sätt på svårigheterna att förena odemokratiska metoder med verklig emancipation, bl a genom att referera till grundläggande frigörelsepedagogisk teori och till Habermas' kommunikationsteori.

Malgorzata Fuszara är en polsk rättssociolog, verksam vid universitetet i Warsawa och dess institut för social prevention och resocialisering (sic). Hennes artikel är en genomgång av den polska strafflagstiftningens utveckling efter andra världskriget, genom skeden som kan definieras i termer av grad av demokratisering. Såväl lagarnas utformning som deras tillämpning kan i ett samhällssystem som regelmässigt utnyttjar straffrätten som politiskt styrmedel användas som mått på hur demokratiseringen skrider fram – eller tillbaka...

Tidskrift för rättssociologi återkommer i slutet av februari med ett dubbelnummer, 3-4 1988. Första numret av årgång 6 beräknas utkomma i början av maj 1989.

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Interest Organizations – A Complex Answer to Political Poverty

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1. Introduction

In 1967 the Norwegian periodical *Kontrast* discussed the unpleasant differences between ideals and realists in the welfare state under the title of "The invisible Norway". The periodical which had a great circle of readers formed the basis of a book three years later. Knut Dahl Jacobsen wrote the introduction article called "Political Poverty" where he pointed out how the situation of the powerless in society is connected to their invisibility caused by lack of influence: "Poverty is conditioned by poverty of influence of political poverty" (Dahl Jacobsen, 1967, 8).

This phrase has often been quoted but not followed up by much empirical research. An important exception is Martinussen's investigation of the participation of different groups on the political arena (Martinussen, 1973). However, the main focus of the socio-political research has been tied to *description* of the situation of the powerless and, to a lesser degree, to which reforms may relieve their situation. In research work, the powerless have only to a limited extent been presented as *politically oppressed*, as weak in relation to the

public bureaucracies and, as members of groups whose interests are not attended to (Bleiklie et al., 1980; Jensen, 1983).

On the other hand, the processes which exert the political influence has been well examined. We know much about the people who have influence, how and through which channels they use it. Moreover, we have a well-defined picture of the strong actors of the economic sector who, by means of their organization, exert an effective influence through the corporate-functional channel (Moren, 1974; Hallenstvedt and Hoven, 1974; Olsen, 1978, 1983). However, this tradition has in many ways been descriptive as well, in the sense that it is the current situation which has been described and analyzed. Consequently, only to a small degree has research been carried out into the mechanisms that excludes other actors and into the possibilities and counteracting strategies of alteration which exist (Mathiesen, 1980). The public bureaucracies have mainly been regarded from above and within, rather than from outside and below. However, the information which has been gathered and analyzed has nevertheless described the situation of the powerless: they are outsiders without efficient tools and channels in relation to the public bureaucracies.

In this way both public bureaucracies and social research have generated the need for a discussion about how the interests of the powerless can be articulated into public policy (Bleiklie et al, 1980; Jensen 1981, 1983). Thus, it is of special interest to consider *interest organizations* as tools for articulating interests. Our political/administrative system assumes the existence of such an organization to have certain interests of the citizens efficiently attended to. It is therefore obvious that the powerless are in a difficult position with their relative lack of interest organizations. How is it possible for the low status people in society to form organizations, maintain them and use them successfully in relation to the public bureaucracies?

1.2. Organization for low status clients. Dangers on every corner?

In this article we will look at organizations for groups of clients within the health and social sectors.

These organizations deal with different tasks which is unequally stressed. *Work for charity* has a long tradition within the welfare system: in this case it is people's compassion that is appealed to.

Self-help activities are practical therapy for the members of the organizations and emphasize their own resources and therefore threatens the professional welfare system. The third kind of tasks is the essential in our case: Pressure group activities are based on concepts of justified claims and rights which are directed outward. During the last decades this aspect has been strengthened considerably. Two thirds of the Norwegian organizations which exists today, have been founded during the last twenty years, most of them in the last decade (Moren, Hallenstvedt and Christensen, 1976). This growth is connected both with the general development of the political system and the welfare state's legitimation of the rights of the individual.

The client organizations encounter particular difficulties because their members consist of relatively low status people, and it is not difficult to anticipate their problems (Jensen, 1981). The very role as a client which implies the causes that made you a client, created special problems for participation in organizations. In addition to the general problems tied to poverty of resources the clients suffer from lack of self-confidence which often is a result of a long-lasting career as a client. An organization of the powerless will also be more susceptible to influence.

This creates dangers for the growing of oligarchy and different kinds of co-optation from professions, political organizations, bureaucracies and companies. Such processes will result in different kinds of goal displacement (Thompson & McEwen, 1958; Zald & Ash, 1966; Jenkins, 1977; Scott, 1967; Daly, 1969). General assumptions from the organization theory make it easy to predict failure when the powerless attempt to influence politics through the establishment of interest organizations.

On the other hand, several organizations have been established, and some of them seem to have influenced politics in their own field. Consequently, the above-mentioned findings should not be regarded as applicable in every case, but rather as elements of risk. That is why it is essential to specify when these elements (of risk) can be controlled and when they are disastrous.

1.3. Approach

The object of this article is an attempt to analyze some of the processes an organization for and of powerless people experiences

from the very establishment and to the first clarification of organizational goals, structure and pattern of relationships with the environment. Approaching this matter, we presume that any organization must choose an action model for its work (Dahl Jacobsen 1968). The model defines the organization goals and means, and acts as a guiding principle for day-to-day decisions. Also strategic choices of means. Furthermore, an action model will affect the formation of the organization structure and the shaping of the relationship between organization and environment. For an interest organization, the choice of an action model will be a choice of political strategy.

Such a screening policy is not only tied to the member's goals and the internal processes of the organization, but are also closely connected to processes in the environment. The fact that goals are determined in association with other important groups in the task-environment is a well-known finding within the field of organizational theory (Thomson & McEwen, 1958; Etzioni, 1978; Gross, 1969; Cressey, 1958). One of the most important aspects is the relationship of the organization with the administrative and political bodies it wishes to influence.

To the interest organizations, one of the most important elements in an action model will be the degree of conflict or co-operation with the public bureaucracies. The chosen strategies do not only imply that the organization itself ends up by arguing for cleavage or co-operation, but will also effect the frankness of public bureaucracies (Olsen, 1979).

The optimal structure of the organization will depend on the chosen action model. Even though the possibilities are innumerable, we presume that some solutions, some combinations of ideology, co-operation and structure, are easier to cope with than others. It could be said that there is a limited set of well-*balanced* solutions. If an organization is rejected by a public bureaucracy it does not wish to co-operate with, and at the same time has an organizational structure which is unsuitable for co-operation, we have such a well-balanced situation. Another alternative emerges when an organization is accepted by the co-operative public bureaucracy it wants to co-operate with and when it, at the same time, has an ideology which does not differ too much from the prevailing administrative practice or ideology. Olsen (1980) points to the fact that an "exchange relationship1 between "ideological purity1 and participation in govern-

ment is apt to emerge. The entering of the National Federation of Trade Unions into the co-operative channel is described as a parallel process to de-ideologization and a reduction of local branches' tendency to oppose government (Solvang, 1972).

It is one of our hypotheses that the interest organization will be forced into one of the relatively few well-balanced solutions based on the chosen action model. The casual processes in this case have a two-way influence: the structure and the kind of relationship with the environment may force the organization to alter their goals (Messinger, 1955), or, if the organization consider its goal as sacred, a dissolution may be the result (Gusfield, 1955).

Thomas Mathiesen (1971) developed a theory based on the existence of such well-balanced solutions, but where the optimum is to fight for maintaining a situation where no final choice is made. The organization is in a stronger position when it deliberately abstains from defining its strategic attitude too firmly. Otherwise it could result in the organization being expelled, or captured, in both cases rendered harmless by the environment. In the light of our data, we assume that the shaping of an action model will develope through three phases:

a) *phase of establishment,* where the main goal is to found the organization and put it into operation;

b) *phase of ambiguity,* where different attitudes and alternatives to action models are revealed internally and where the environment pushes for a clarification;

c) *phase of decision,* where the different alternatives of action models are put against each other and a final choice is made.

Even though we in the processing have used several concepts which point towards rational processes, for instance "choice", we regard it as an open question whether anyone, or how many of the organizational members or actors in the environment, take part in the processes consciously.

The object of this article is to examine the processes which take place in the interest organization of the powerless concerning the following circumstances:

- What characterizes the phases that the organization passes through from the establishment to an eventual clarification?
- To what extent is choice of action model a result of conscious processes?

- To what extent does the organization drift towards possible models?
- Which consequences will the choice of an action model have to other sides of the organization and its possibilities of goal-attainment?

1.4. Data and method

Studies of organizational processes are best performed by relatively intensive methods, which limit the number of possible cases. We have used data tied to two organizations which approach the same group of clients. The two organizations, which succeed each other in time, have such a different development that they offer instructive contrasts.

Henceforth we will name the two organizations: CLIENTS' WELFARE and CLIENTS' STRUGGLE. In order to avoid recognition of the organizations we have altered some of the quotations and this is marked by brackets.

As far as the latter organization in concerned we use secondary data (Eie, 1978) and our own interviews with most of the key actors. These data capture very well the processes in the executive committee, less well circumstances related to ordinary members and to the relationships between the organization and its environment which includes the central public bureaucracies.

The data concerning the more recent organization CLIENTS' WELFARE are based on our own participant observations for more than four years. These qualitative data are supplemented by interviews with key actors at different stages during the period. In addition, we use more structured data, namely a mailed questionnaire to all the members in one county (N=84), a relatively well-structured questionnaire to all the administrative bodies of the counties and finally a complete examination of the files in the organizational head-quarters.

Because the problems are tied to dynamic processes in the organization, we have to depend on interpretations of observed behaviour and more or less casual manifestations like letters and conversations. The more static and quantitative data are important supplements which may render the hypotheses even more plausible. We want to stress, however, that participant observation, and even participation where systematic observation is only additional infor-

mation, is the method we consider the most vital for the making of hypotheses and for discussion.

We do not want to describe the organizations in every detail, but some features should be mentioned. CLIENTS' STRUGGLE, which was founded a relatively long time ago, has never gained ground to any large extent and it can roughly speaking be said to consist of a few hundred members in the Oslo area. CLIENTS' WELFARE, which is about 5 years old, gained quickly a few thousand members and has continued to grow. There are active local branches in most counties. Executive functions as well as a formal net of communication with central public bureaucracies are being developed.

2. The first phase – organizing and vague enthusiasm

In this section, and the following two, we will describe the development of the two organizations from the foundation until a clarification concerning choice of activity model is reached.

One of the main perspectives within sociology and social science considers the individual as a rational actor.

The "economic man" perspective on the individual's choice of participation in organizations has been much used (Olsen, 1965; Stinchcombe, 1965; Hernes & Martinussen, 1980; Svåsand, 1978). Thus, after having considered the personal gain and loss tied to organizational participation, the individual chooses to participate when realizing that it is to his/her own benefit. One of the assumptions of this view, however, is that the individual fully understands what can be attained from organizational participation.

Our data do not support such assumptions, and below we have quoted some typical answers given at interviews with members of CLIENTS' WELFARE:

> This was just right. I had thought for a long time that organization of (clients) was the right thing to do.

> I was getting well and felt the responsibility for what I had experienced and wanted to contribute to improving the situation for this group.

I participated in order to discuss experiences and to find out what should be done to improve the situation (of the clients).

Very few had any definite expectations that the organization would help them themselves in any way. Neither did they have any clear-cut and definitre opinion about what the organization ought to do. It seems that the most fundamental motive for organizing could be categorized as "idealism", tied to a feeling of loyalty and solidarity to people who are in the same situation as oneself. The value of community and social gathering was the only thing mentioned that could be interpreted into a more rational model.

The above-mentioned mailed questionnaire to members in one county supports the impression we got from the intensive interviews.

Table 1. *Motives given for membership in* CLIENTS' WELFARE

Question: Why did you become a member of the organization?

I hoped it could help me to solve my problems	14,6%
It's important to support the organization	52,4%
In order to meet other people with the same experience	9,8%
Other reasons/combinations	23,2%
	N=82

The alternative that can be interpreted as a "vague, idealistic" reason for membership, were chosen by more than 50% of the respondents. The tendency is almost the same for members with or without personal client experience, and there are no differences of any importance between those who have undertaken a task in the organization and those who have not.

It is complicated to use data from formal questionnaires in order to find out which intentions people have had for their actions, and this will be particularly difficult in the case where they were asked about how strong their understanding had been about the organizational action model. No-one can be expected to be a reliable source of information about consistence and firmness of their own opinions, when answering only one direct question.

Table 2. *Opinions about the work of the organization before membership*

Question: Did you have any definite opinions about what the organization ought to work with when you became a member?

Definite opinions	46%
Not any definite opinions	50%
Don't know/difficult to say	4%

With the above-mentioned reservations in mind, we should like to point out that even though the quantitative data allow us to substantiate the impression of idealistic motives for membership, we get more reserved support for the hypothesis that the members usually had vague ideas about the future formation of the organization.

Those who stated that they had more definite opinions about the organization before joining it, differ from the others also in other ways which may be interpreted as representing an expressive/political profile:

- they had to a larger extent idealistic motives for membership;
- they thought there was too much talk about illness at the meetings, and
- They were considerably more disappointed with the lack of pressure group activity;
- they seemed to be less marked by their role as a client;
- they used less medicine;
- they stated to profit less from and to believe less in activities which can be characterized as self-help, like for instance conversation groups.

Thus, it seems that the members, to a certain degree, may be divided into groups, with slightly different profiles, according to attitudes, expectations and experience. One picture of the situation remains however: there is a relatively low level of understanding as far as tasks and structure of the organization are concerned. This is underlined by the fact that the intensive interviews, which are a more suitable method than the quantitative one, as well as the observations of the development in the executive committee point very clearly in this direction.

Eie (1978) finds parallel characteristics in CLIENTS' STRUGGLE.

> If one questions the individual motives among the members of the executive committee for involving themselves in organizational work, it is difficult to give an exact answer. A common characteristic or the motives is an idealistic one. The members wish to improve the conditions or the people in society who are characterized as...

In the period shortly after the establishment, the executive committee in CLIENTS' STRUGGLE attached importance to publishing information about the organization through newspapers and public meetings. They even tried to bring about a television program. The very purpose of the organization is in these situations presented rather vaguely, in line with the answers shown in tables 1 and 2.

The report from the establishment of CLIENTS' WELFARE, and interviews with the informal groups preceding the actual forming of the organization, give a similar impression. There is a general dissatisfaction with their situation in society as well as with the treatment system, and there is agreement about the organization being a useful tool. The members may have different opinions, but as far as the organization is concerned they have "an open mind", without definite ideas on how the organization line of action should be.

One of the reasons for this is that neither the ordinary members nor the originators have much experience with organizations and political activity.

Both the constitutional meeting and the first set of object clauses of CLIENTS' WELFARE were characterized by general formulations which could be interpreted in many directions. The files from the first period show, as for CLIENTS' STRUGGLE, that the activity of the organization is tied to necessary division of labor in the executive committee as well as to making the environment acquainted with the organization. CLIENTS' WELFARE succeeded to a greater extent in their efforts and they even entered into preliminary negotiations with other organizations and institutions in the task environment.

Consequently, as far as both organizations are concerned, it is difficult to find evidence in support of participation being based on rationality for personal gain. Neither can it be said that the various members, including the individuals initiating the organizations, had clear ideas of which action model to choose. Most of the members state that the entering into the organization was connected with enthusiasm. In parenthesis it can be mentioned that the many inter-

viewed members in CLIENTS' WELFARE stated that they now, some years later, have a feeling of "vague frustration", because nothing much happened, they have not learned very much and they are still uncertain about what they themselves can do for the organization.

Conclusively, we may say that the first phase with its vague enthusiasm is characterized by great tolerance and ambiguity with regard to choice of action model, a choice which was not an item on the agenda of the organization, or of the individual member.

3. Second phase – ambiguity and conflicts

The very establishment of an interest organization contains elements of protest based on dissatisfaction with the situation (Mathiesen, 1973; Eckstein, 1971). What distinguishes interest organizations from charity and self-help oriented organizations is precisely the fact that they define an adversary that they want to influence.

The second phase is characterized by the fact that they have to make a decision about how they best can exert an influence. During this phase conflicts develope as it becomes evident that the members have different opinions about this issue.

3.1. Conflicts in CLIENTS' WELFARE

After having spent some months on technical organizational tasks and activities which aim at introducing the organization to the environment, members of the executive committee felt a need for settling argument about how to exert an influence most effectively. The first issue of the informative periodical to the members selects the formation of "the future profit and policy of the organization" as the most important task of the executive committee, and several working committees were formed.

The leader of the provisional executive committee is in many ways an exception to the vagueness which was predominant in the first phase. He had long organizational experience and had from the very beginning a definite opinion about which action model he preferred. On the constitutional meeting he stressed that the organization ought to present opinions that were based on "constructive pro-

posals" and choose a "sincere organizational appearance". The leader was interviewed by the news media the same day, and he was asked whether he supported the criticism of the institutions which had emerged:

> ...I think the criticism is too badly nuanced and not well-founded – and it goes beyond us who use the system, and not to forget the relatives, and it is not exactly fitted for creating confidence in the treatment system.

When we interviewed the leader, he gave further details about the policy the organization in his opinion ought to choose.

> The most important thing for us is to be accepted as a serious adversary. It is necessary to be accepted by the political authorities, because we are dependent on them to have our opinions heard. In order to achieve this, we have to build an organizational and administrative framework. Our attitude towards the authorities must be businesslike and confrontations ought to be avoided. This is also important for avoiding internal split.

Gradually, the interest of the other members of the executive committee turned in a different direction. Many of them were concerned about the treatment in the institutions and reacted negatively to the strong priority of mere administrative tasks.

> The leader was mostly concerned about the organization and how to build it up, while we were concerned about the situation of the clients. We did not, on our opinion, need a big organization. The problems concerning maltreatment of clients were again, for us, the most important tasks the organization ought to work with. The leader disagreed strongly with this. (A member of the executive committee.)

The files show that several members of the executive committee had the same reactions. One of them expresses this view in a letter to the leader:

> When the stay in institutions in itself is the cause for loss of self-preservation, there must be SOMETHING VERY WRONG! IT

> IS NOW TIME FOR THE ORGANIZATION TO MAKE IT CLEAR TO THE AUTHORITIES THAT... I am fully aware of the fact that it is not possible to use the conflict-strategy of the CLIENTS' STRUGGLE, but we must not be afraid of obvious truths.

Consequently, the leader's co-operative model, with a wish to avoid confrontations and with emphasis on organizational structure, came into conflict with the wish of the majority in the committee to involve the organization in work for helping the clients in the institutions. At an early stage, the leader interpreted this to be expressions of fundamentally different views, and he was of the opinion that it was not possible to combine his view with the others' wish to involve the organization in cases where the clients were subject to maltreatment. He had an understanding of the "opposition" in the committee not wanting to follow the rules and "representing a fighting line that only wanted to destroy". The others were of a different opinion:

> We also agreed that we had to co-operate with the authorities and behave politely. But we were at the same time in favor of the organization representing a critical line which cracked down on errors and maltreatment. That is why we thought it was important to focus on the activity or the treatment system. (The secretary of the executive committee.)

> We were all in favor of a sane dialogue with the authorities. The most important was to point out the errors which were committed at the institutions and how inefficiently the protection boards were working. But the leader was afraid of criticizing too heavily. (A member of the executive committee.)

Several of the members in the committee wanted fundamental discussions in order to define the profile of the organization. Six months after the establishment, this item appeared on the agenda for the first time, but the meeting was closed before the issue had been properly discussed. The secretary regrets this in a letter to the leader:

> As far as the last committee meeting is concerned, I have a depressing feeling that we did not make any progress... it is also

> frustrating that we can only discuss a matter up to a certain point before it becomes controversial. And then the disagreement tends to be minimized. I hope this is an unconscious process...

A study of the notices of the committee meetings shows repeated attempts to raise such fundamental issues, but the book of minutes from the same period indicates that little was achieved, and gradually it becomes obvious that the majority of the committee represents "an opposition" to the leader.

> We, in the opposition, wanted a fundamental discussion about the policy of the organization. It never took place. There was always something else to be discussed first. The leader talked and talked and suddenly the meeting was closed. I think this is how the conflicts in the committee started. (A member of the executive committee.)

> He presided at the meetings in a nice, easy way and it ended pleasantly after a lively discussion. The differences were, in one way or another, manipulated, and eventually they were lost. Only after the meetings, I started wondering what really had happened. (The secretary of the executive committee.)

Little by little, this situation created aggression in the executive committee. The conflicts were intensified and gradually the leader's external functions were criticized as well. He had dominated the external work from the beginning and the others thought originally that it was all right to be relieved of work in this way. The leader's great organizational experience, his acquaintances and possibilities of travelling had made him the dominant one as far as contact with the environment was concerned, and this was also the case when new local branches of the organization were to be established. In addition, he had mail to the organization sent to his place and had direct contact with the local branches.

As the conflicts increased, the committee wanted stronger control of the actions of the leader. The book of minutes shows that the leader was constantly reproached for acting single-handed.

> He often neglected to inform us about important issues. He wanted to be sovereign. He travelled around on his own and estab-

> lished local branches and did other things without telling us. When we suggested that another member of the committee could join him, he answered that he did not want any watch-dog. (A member of the executive committee.)

Consequently, the disagreement assumed the form of conflicts concerning the democracy in the committee. However, these conflicts were based on political dissension about which policy and action model the organization ought to choose. Our data give, at the same time, the impression that "the opposition" did not realize where the dividing lines virtually went. First and foremost, they were frustrated because the organization was not involved in matters which they found important. A greater involvement in these matters was, in their opinion, not conflicting the leader's emphasis on co-operation and a diplomatic style. Because the differences were not clearly expressed and because the members had not succeeded by fundamental discussions to lay bare the causes for the conflicts, the problem took another and derivative form: the democracy in the executive committee was called in question. The political dissension became even more nebulous by the personal differences, especially between the leader and the secretary, that emerged.

As the conflicts gradually became more intense, the opposition found that the leader's considerably larger organizational experience was becoming more problematic and impeded the activities. The following quotations may illustrate this feeling:

> The rest of us were too weak. We lacked organizational experience. The leader was sovereign, and we had no other candidate comparable to him. It was the secretary who most often spoke his mind, but he had no organizational experience. (A member of the executive committee.)

In a letter to the leader we can see how intense this antagonism had become:

> It seems that (the secretary's) experiences from the treatment system are so traumatic and his opinions about how to run the organization so subjective that he simply is not suited to have an important position in the organization. I think this meeting was a strain to him and I pity him, but in this case we have to be hard-

> handed...Therefore – let us have it out next Wednesday. I am sorry to have to make such a heavy attack on a man's opinions... but desperate diseases need desperate remedies.

The final confrontation in the executive committee took place at a meeting for which two agendas were prepared, one by the leader and one by the secretary. In reality, neither of them was followed. Instead a discussion arose about the practice that the leader had followed when establishing a journal for the organization, and the opposition insisted on a voting as to whether the leader's candidate for editor should be present at the meeting, whereby the leader left and resigned his office, interpreting the critic as distrust.

Then the phase of crystallization of different alternatives to action model had arrived at a stage where there is an explicit break between the leader and one of the committee members on the one hand, and the rest of the committee on the other.

It is obviously a disagreement as to choice of action model that is underlying the antagonism which presents itself as a conflict of democracy in the executive committee. The two alternatives are on the one hand a clearly defined line of co-operation and on the other a line which stresses the discussion about maltreatment, with the implied potentials for conflict. Only the leader described the differences in such political terminology. The others rather experienced a vague political disagreement without any distinct dividing lines, but they were distressed and irritated because they were not allowed to work with the subjects they thought were important, and focused on the leader's undemocratic behaviour.

3.2. The conflicts in CLIENTS' STRUGGLE.

In the organization CLIENTS' STRUGGLE a similar development took place. However, in this case it became clear at an earlier stage in which direction the differences developed. On the one side there was a strong and conflict-oriented attitude towards political legal-protection work, and on the other a line which stressed social work among the members. Such a contrast is more fundamental than the one that arose in CLIENTS' WELFARE. In this case it is the characteristics of the organization as interest organization or as self-help organization that are being discussed (Gordon and Babcheek, 1959; Rose, 1954; Maciver, 1936; Mathiesen, 1973). Relatively soon after

the establishment of the organization, a committee member accused the assistant secretary for wanting to "canalize the activity of the organization into forms which implied a co-operation with the established psychiatry" as well as for having applied for public funding. The leading representative of the conflict-oriented line stated:

> We are not able to accomplish anything at all until we have the public opinion on our side, unless we turn to the Health Authorities and that is a dangerous way to go. The risk is that the Health Authorities get a certain hold over the organization.

The organization towards work for legal protection had such a strong position that special positions were tied to this – "Consultants of legal protection". There were two such consultants, both of them belonging to the most conflict-oriented. The activities of these consultants were external and several matters were dealt with. Also in CLIENTS' STRUGGLE the conflicts in this phase had to a great extent the appearance of personal antagonism.

> Because the members are not conscious of the conflict, and have not taken a definite stand on the question, the conflict usually manifests itself indistinctly on the executive meetings of the organization: the committee members lack confidence in themselves and in the others, and the criticism often seems unfair because it is person-oriented and not task-oriented. (Eie, 1978, p 71)

> Conflicts will always arise between people who work according to two different goals. The tug of war will always be there, often covered by personal antagonism and hostility. (A member of the executive committee.)

The member who gave this statement is relatively resourceful with degree in criminology. He and the leader of the faction of legal protection, both "consultants of legal protection", are the members who are most conscious of an attitude of legal protection and of conflict. Several years passed without any essential alterations in the situation. The secretary was the most important exponent of social welfare among the clients and the two consultants the most important representatives of an extrovert legal protection-orientation.

The conflict was intensified by a single case in which one of the consultants had been involved. In a letter to a mother of a client, she wrote among other thing:

> I am shocked to hear that you as a mother has allowed him to be put under tutelage... Don't you have a feeling, yourself, of having done something wrong? I enclose a letter to the controlling body at the hospital, which you are to sign and send... If this is not done, we have to use other methods, for example the press.

As a result of this, the mother of the client sent a letter to the controlling body and asked them to discharge her son immediately. This led to a conversation between the medical officer of health and the mother, and the doctor was shown the letter from CLIENTS' STRUGGLE. He complained to the Ministry of Health through The Norwegian Medical Association. The Ministry of Health sent a sharp letter to the organization saying among other things:

> ...Your letter has an unfortunate shaping and contains a formulation which says that your organization "will have to use other methods, for example, the press", to get the mother of the client to sign...and we strongly request your organization to use a more human procedure in the future to promote its causes.

The secretary who received the letter, quickly sent a regret to the Ministry of Health, which answered that "the content of the letter, had been registered" and that they awaited "information about the result of the handling of the case in the executive committee". Consequently, the secretary sent out notice of an executive meeting. At the meeting, two proposals were submitted for the members' opinion. One of them further condemned the action of the involved consultant, and the other one, which was formulated by the consultant herself, implied that the organization supported the procedure. The proposal, that condemned the action was carried against one vote.

Now the conflict became open and strong. The involved consultant sent her own letter to the Ministry of Health where she dissociated herself from the statement of the organization and defended her own action. This resulted in another letter from the secretary to the Ministry of Health and to the members of the executive committee

which referred both to the current conflict and to the underlying antagonism.

> It is the majority of the executive committee that make binding decisions for CLIENTS' STRUGGLE. "XX" will have to put up with this democratic arrangement. To arrange social gatherings, briefing conferences, meetings, to pay visits and to talk to clients; isn't that to do something positive for the clients as well?... I think CLIENTS' STRUGGLE will achieve just as much for their clients by trying to co-operate and by negotiating with the authorities – instead of forcing its way through. The reputation of CLIENTS' STRUGGLE will be bad and ridiculous if the authorities are our adversary:

The consultant involved declared on her side that "the executive committee attacks me by pure fear of authorities and by fear of losing the financial support of the Ministry".

The quote is from the consultant's letter to the Ministry of Health and should throw light upon the intensity of the conflict. After these incidents, the conflict emerged clearly. The two consultants who most strongly articulated the line of conflict were now in minority and were less involved in committee-work. The executive committee gave higher preferences to social work, but the final clarification of the conflict turned out to reverse the power structure.

3.3. The conflict phase in sums

The conflicts started as a vague disagreement about action model. As the discrepancies gradually were enlarged, they were perceived differently, and assumed to a great extent the form of antagonism between organizational practice and internal democracy on the one hand and mere personal conflicts on the other. Both organizations had, from the beginning, some members in the executive committee with relatively definite opinions as to which strategies to choose, but this was articulated only after some time and thereby created conflicts. In addition to personal antagonism, the conflict takes the form of different opinions concerning democracy and freedom of action in committee work. In both cases, it was the faction that had relatively strong and clear-cut opinions that ended up in opposition to the rest of the committee and was reproached for undemocratic

behaviour. However, the content of the underlying conflict was different in the two cases, but the attitude towards co-operation with the authorities as well as the attitude towards maltreatment of the individual client are joint themes. It is also worth noticing that the conflict in CLIENTS' STRUGGLE was provoked by the direct intervention of the Ministry of Health that was understood to be a support of one of the factions. As far as CLIENTS' WELFARE in concerned, we have not well-defined indications of the importance of the environment, but the leader stresses several times that his personal contacts in the Ministry and in professional organizations mentioned to him that it was important for the organization to act reasonably, and not the way CLIENTS' STRUGGLE did.

Since the conflict resulted in a break in the executive committee, we have now come to the phase in which a clarification took place.

4. Third phase – clarification

In order to influence political circumstances the interest organizations need an action model that defines which tasks are essential, why they are important and which means to use. Choice of action model determines the organizational structure and the relationships between an organization and its environment. Both internally and in the environment, there is a need for defining a clear action model. The situation for both organizations in this phase indicates that it seems impossible to cope with several action models at the same time, and the choice seems to lie between different versions of co-operation – and conflict models.

4.1. Clarification in CLIENTS' WELFARE

After the break in the executive committee of CLIENTS' WELFARE where the leader in protest resigned his office and left the meeting, there was confusion as to this position. He sent a letter to the committee saying that he was willing to continue if they agreed with his view. The committee answered that they wanted him back if he conformed to certain conditions, for instance that "the leader does not act on his own without consulting the committee". The leader did not show up on the next committee meeting where the agenda had

the item: "Who is the leader of the organization?" It said in the notice of the meeting:

> ...the total confusion that seems to rule. I will mention that the leader has partly said that he resigns in protest, partly that he wants welfare or sick leave, partly that he will come back; together with the fact that he goes to Arendal as representative of the organization....

This confusion and ambiguity lasted for several months, actually up to the first regular national conference of the organization. The leader continued to act on behalf of the organization.

The leader wrote a press release which stated that the organization was taken over by an "extreme sect" and that he withdrew because of the policy which had become prevailing in the organization. The press release was never sent out, or it was withdrawn before being published, but it was used actively towards the rest of the committee. The remaining faction in the executive committee ("the opposition") did not make any serious attempts to take a common action and take command of the organization in the period before the national conference. They were frightened by the leader's threat to send out the press release and leave the organization for ever. They did not know what to do and hoped as long as possible for a reconciliation. In connection with the summon to and organizing of the national conference, the majority of the executive committee was outdistanced.

The preparations were administered from another part of the country, and the papers concerning the national conference were sent out from this place as well. The leader was together with "his" committee member and selected representatives from a few county-branches. The majority of the committee knew about this, but had their own planned executive meeting, without doing anything about it.

The notice of the national conference was therefore signed by only two committee-members, and in the notice, it was argued for the line the leader represented. A draft to a general activity program was enclosed. The idea of a detailed and concrete activity program that would commit the executive committee was turned down:

> ...the organization is still new. That is why it will be entirely wrong to plan a detailed activity program... We are not strong

> enough, and neither do we benefit from confrontations with the authorities. Nobody profits from our isolating ourselves in a fighting organization... We will suggest that the new executive committee is authorized to work on this basis.

Furthermore, the proposal called in general wording attention to which tasks the committee should work with. It was a list of several types of tasks connected with development of the organizational framework and the secretariat, but nothing was mentioned about tasks tied to the clients' situation and interests. The proposal was in favor of a clear co-operative line. It was in addition not particularly concrete and gave much authority to the executive committee. At the same time, the proposal gave the impression that other members supported a fighting line that would isolate the organization. This interpretation of the leader is not confirmed by interviews and data from files.

The majority of the executive committee did not consider themselves as representing any clear fighting line. In the first place, they dissociated themselves explicitly from the line represented by the consultants in CLIENTS' STRUGGLE, and they also often stressed that they wanted "co-operation and a sound dialogue". However, it is nevertheless obvious that the leader and the majority of the committee had different opinions as to co-operation/conflict.

The day before the national conference, the leader was interviewed in a paper. Here he pointed to the danger of cleavage and to the difference of opinion which unfortunately had arisen in the executive committee, and he hoped that support to the distributed proposal would make a cleavage unnecessary and secure the organization against infiltration by political groupings thatwant to transform it into an "extreme sect".

4.1.1. The national conference

At the national conference it was the leader's faction that dominated the very procedure of the meetings. In his introductory speech, the leader stressed the danger of the organization becoming a "sectarian fighting organization".

During the handling of both the agenda and the annual report, the majority of the committee and other members tried to have the differences in the committee discussed. This resulted in long discus-

sions where several people claimed that "the members ought to know what had been going on as there is so much mess we do not know anything about". The discussion did not end in any clarification, partly because the majority was insecure and cautious about bringing up the conflicts in all its bearings and partly because the chairman and the leader were quick about cutting the debates before a possible proposal or clarification was made.

During the debate concerning the dispatched proposal for "activity program" the secretary of the committee suggested that the report from one of the subcommittees should be treated at the same time. It was the secretary who led the work with this report. Its content was much more critical to the treatment system than what was expressed in the leaders proposal. It recommended, among other things, that CLIENTS' WELFARE ought to participate in arrangements the 1st of May and the 8th of May together with other organizations of oppressed groups. This resulted in a long debate with contributions for and against the principle of a "soft" line, but without clarifying what actually was behind the disagreement. The people in charge of the meeting avoided putting the report of the committee to the vote and it all ended with the leader's proposal being accepted as general lines for future work of the executive committee. The report from the subcommittee was forwarded to the executive committee for further processing and for distribution to the members (which never took place).

The proposal concerning organizational rules was approved as suggested. This was the most extensive document of the national conference and strengthens the impression of the leader's priority to a "formally correct" organizational system.

The recommendation of the electoral committee was more or less adopted. No-one from the previous majority of the executive committee had been suggested, asked to stand for election or informed. The national conference on the whole, resulted in a complete clarification where the leader and his line assumed control over the organization through an executive committee that consisted of his own adherents, and which is an approval of a vague co-operative line and extensive authorities given to the executive committee. Whether or not this gives a picture of the attitude of the members present at the conference is difficult to know. The conference in general appeared chaotic. However, the decision-making processes seemed efficiently directed from the table of the chairman as far as

the above-mentioned cases are concerned. The handling of a proposal for a resolution which criticized the Ministry of Health in a public conflict matter, indicated that the delegates were not consolidated on a consistent co-operative line. The leader was reluctant to the critical proposal as it was important not to "upset anybody". From the floor, it was argued that "the organization must be allowed to express an opinion in such matters, if it should express opinions about anything at all". The resolution was carried in a somewhat reduced form against the votes of the faction of the leader. One case concerning the distribution of subscriptions between central and local unities, was also lost for the faction of the leader in a way that strengthened the economy of the local unities. However, this is two exceptions to a definite victory for the leader's line.

It is important to stress that this clarification concerned relations of power. After the national conference there was no doubt as to which faction won or in which direction they framed the organizational action model. On the other hand, it is not possible to find a clarifying process where the possible action models are formulated, discussed, and eventually put on the vote.

After the national conference "the opposition" has on the whole continued in the organization as common members. Six months after the conference they tried, in vain, to submit a statement to the organizational journal. It says among other things:

> (In the minutes of the national conference) we were alarmed to see that there are (were) sectarian attitudes within CLIENTS' WELFARE. Since it is publicly well-known that there was disagreement in the provisional committee, it is natural to conclude that "the sect" must be us, 5/6 of the executive committee. It has been said that the soft line won. But what does that mean? The five of us do not form a unity. Nevertheless, we go in for the soft values, but not at the expense of sacrificing the courage of one's convictions. If the organization shall do anything for our groups, we must be allowed to take a firm standpoint towards the authorities. No-one wins without fighting for what they believe in. But this fight shall of course be fair and the form possibly "soft" in the sense of diplomatic. If we become so "soft" that the contours are erased and if we surpass the authorities in bureaucratic complexity, CLIENTS' WELFARE has no future. The intention was hardly that the organization should be some kind of guarantor for the

> policy which is prevailing at any time in the Ministry of Social Affairs. We have complied to the rules to the best of our abilities. And what's more – we have acted openly. That is why we expect that this statement will be published immediately in the organizational journal in an unabridged form.

This quotation is probably the closest "the opposition" ever came to a unification and an articulation of a joint standpoint.

The development of CLIENTS' WELFARE after the national conference may be summarized as follows:

- development of a central secretariate, to some extent at the expense of local activities
- formal representation in public bodies
- recruitment campaigns executive from central quarters, training of delegates, but little importance attached to the mobilizing of members locally
- the external initiatives are concentrated to after-care, housing and other subjects about which there are general agreement.

4.2. Clarification in CLIENTS' STRUGGLE

We know less about the phase of clarification in CLIENTS' STRUGGLE. After the break in the committee and up to the general assembly the faction of legal protection consolidated its position. They still controlled the most important external work (consultant activities) which contributed to strengthening their position. Some months before the general assembly the secretary, who dominated the faction of "welfare work" made it clear that she wanted to resign because "after conversations she understood that several members of the organization wanted to transform it into a direct pressure group". At the general assembly the whole faction around the secretary supported this standpoint and resigned "in protest". The exception was a committee member who let herself be elected as secretary of the new executive committee. Later on she resigned owing to "difficulties in co-operating with the new committee".

The process of clarification ended with the organization getting rid of the supporters of a "co-operative line" and advocating a clear "line of conflict" concerning matters of legal protection. The organization as a whole had obviously stagnated and was not able to compete when CLIENTS' WELFARE was established. Some of the

members who left the organization in protest to the "line of conflict" later joined CLIENTS' WELFARE, where they belong to the "opposition" which is regarded as "conflict-orientated".

In both organizations the clarification resulted in a choice of action model, and the new executive committee was completely formed by the line that had won. As far as CLIENTS' WELFARE is concerned, we have a clear view of this phase, and we can see that the clarification in many ways took place without the choice of action model, or the premises of this choice, having been discussed at the national conference. Consequently, we can say that there was a clarification without disclosure of underlying political alternative. The opposition that comprised the majority of the executive committee felt slighted and found that their standpoints were caricatured, and they lost completely. They seemed almost incapable of acting in this process. This was due partly to lack of organizational experience and inconsistencies in their own opinions, but mostly to the fact that they were incapable of acting because they did not dare to take the responsibility for the resignation of the leader and builder of the organization and were afraid they would be characterized in public as an "extreme sect".

Externally there are surprisingly many common features in the two winning factions:

- they articulate their view at an early stage
- they had greater organizational experience and resources than the others
- they controlled central external functions
- they were accused of being above the democracy in the executive committee
- they ended up in a minority position and became isolated (in the executive committee) in the period prior to the definite clarification.

Parts of the joint characteristics may be coincidental and the next paragraph will discuss possible systematic feature.

5. Discussion and conclusion

The three different phases: (1) establishment, (2) ambiguity and conflict, and (3) clarification can be seen in both of the organizations we have studied. We presume that organizations of low status clients which are established with the general purpose of serving the interests of the group will go through these phases.

5.1. Establishment

In the first phase we found that members possessed a vague enthusiasm in the sense that they did not have any definite preferences as to organizational action model. Neither were they concerned about what they personally could obtain by participation, but stressed that they were motivated by idealistic goals, like wanting to improve the situation of their own group.

This finding is in opposition to the tradition which looks at organizational participation as rational for the individual according to the principle of maximizing utility, borrowed from micro-economic theory. However, we would like to call attention to the fact that this finding may have moderate generality. Clark and Wilson (1961) claim that interest organizations may be divided into two (ideal) types. On the one hand, there are *utilitarian* organizations whose purpose it first and foremost the attainment of material benefits for their members and which use this kind of advantages as part of their recruitment policy (Olsen, 1965). Modern trade-unions may be examples of such organizations. On the other hand there are *purposive* organizations wanting to improve the social conditions of the groups they work for and they are concerned about the life situation of their group.

Interest organizations for the powerless come within this last category. It is natural to assume that members of organizations belonging to the first group make rational decisions according to loss and gain, while it is less obvious that members of purposive organizations take this into consideration. Furthermore, a purposive organization will find "the problem of non-paying passengers" (Olsen, 1965; Hernes & Martinussen, 1980) more or less irrelevant. It can be added that the motives of the organizations in the phase of establishment are to a greater extent built on idealism.

A well-established, bureaucratic organization, rich in traditions, is to a lesser degree capable of creating an ambience where the idealism flourish (White, 1969).

5.2. Ambiguity and conflicts

In the second phase the issue concerning choice of action model is on the agenda. It was a joint feature in both of our organizations that this took the shape of personal antagonism and discussions about democracy and freedom in the executive committee. Only after that could the alternatives to action models be formulated so distinctly that they gave rise to contradictions. It would be wrong to conclude that all the members took part in choosing an action model. It might just as well be said that the *organizations* were driven towards a choice and that these processes to a certain extent took place independently of the members' conscious participation (March, 1981). In these cases the organization drifted towards important decisions more or less behind the actors' back. This is another tendency to be expected in organizations for the powerless since few members have any particular organizational experience or definite models for organizational work. The process, however, is far from blind, since important actors in the environment (The letter the Ministry of Health sent CLIENTS' STRUGGLE) as well as members with definite ideas and organizational experience may influence the process considerably (Selznick, 1966; Komarovsky, 1949).

5.3. Clarification

In the third phase a choice of action model took place. In both organizations it was the faction controlling important external functions that won. In CLIENTS' STRUGGLE it was the consultants, and in CLIENTS' WELFARE it was the leader of the executive committee, who dominated almost all the external connections, also where the local branches were concerned. This is in accordance with a main finding in the organizational theory which stresses that:

> Power adheres to those who cope with the critical problems of the organization. (Pfeffer & Salancik, 1974)

As far as an interest organization is concerned, its relation to the members and to the authorities will be "critical problems". In our cases it is those who have this control who are victorious even though they have been in minority for a period. We see very clearly the advantage of an "early starter" as the victorious factions comprised the members who first formulated their mission. The members with most organizational experience were also found in these factions. We assume that all these elements very easily will be influential especially in organizations of low status clients, both because their members in general have little organizational experience and because many of them lack self-confidence. Consequently, they tend to be submissive in relation to their own organization, a fact which point to another basic issue, that is not discussed here, namely the dangers tied to development of oligarchy in organizations of powerless people (Michels, 1962; Blau & Scott, 1963; Jensen, 1981; Froestad, 1982).

5.4. The search for a well-balanced action model

We suggested initially that there were action models more well-balanced than others. These may be well-balanced according to two different aspects. Firstly, they ought to be consistent and predictable seen from within the organization as well as from the task environment. In this connection it is worth noticing that the people who were considered too co-operation-oriented in CLIENTS' STRUGGLE, and who left the organization, were the same people that later on were regarded as too conflict-oriented in CLIENTS' WELFARE. This may signify that there were three action model involved in the process totally. The two models which actually won had a clear and unambiguous attitude, while the one that was rejected in both organizations was more indistinctly structured and laying somewhere between the other two. This model is probably too unbalanced and ambiguous for an organization to cope with.

Secondly, the action model ought to be well-balanced so that there is concord between the mission on the one hand and organization structure and relationships to the environment on the other. The organizational structure that goes together with one type of ideology, does not necessarily fit another.

If the action model is based on assumptions about persuasion and information being the most important means, it is natural to try to

build a organization with many members. This provides economy and bargaining power. Furthermore, it is essential to have a smooth organizational system with an efficient secretariat and well-trained representatives/employees who have enough competence to maintain their ground in the co-operative channel (Hallenstvedt & Hoven, 1974; Mitchell, 1975). It is not considered to be a weakness of any importance that the members are submissive. On the contrary, "undisciplined activities" between the rank and file members may represent problems, because the bargaining power is also dependent on the management's capacities to control these members (Michels, 1962; Daly, 1969; Warner, 1955). Besides, such an organization is apt to be formed by the structure of the public bureaucracies as it will attempt to resemble the organization it wants to influence (Eckstein, 1971).

If, on the other and, the action model is based on the assumptions that impact on decisions in public bureaucracies is a result of political power in an antagonistic setting, the strategies will be connected with the development and the use of means of power. The low status groups have few means of enforcing their will. Most commonly these groups reveal their intense feelings and their situations through actions and demonstrations of different kinds. In this case they need a "politically efficient" organization with many loyal and active members who are enthusiastic and willing to take part in actions. This strategy will imply that the *number* of members will be of less significance in relation to the more qualitative characteristics of the members.

In this perspective it is easy to see that the action model which emerged after the clarification in CLIENTS' WELFARE was a well-balanced one. Not only did this organization want to co-operate with obliging public bureaucracies, but they developed the secretariat and mobilized the members in number as well, while the activating of the members were not given particular priority of tasks. We may expect this organization to be well-adapted and "successful" for several years.

The situation is obviously more problematic for CLIENTS' STRUGGLE. There is little doubt that they have chosen an action model whose philosophy is conflict and fight for power, but they have certainly not built an organization suitable for this fight. The executive committee did very little to motivate the members to active participation in "the fight". We therefore presume that CLI-

ENTS' STRUGGLE in all probability will not be a great organization. We rather expect a continuing dissolution. The organization is just as dangerous as one angry lemming.

CLIENTS' WELFARE seems in our opinion, to have chosen the model which is the easiest one to handle for the organization, but which, in the long run might imply great dangers for ending up in a situation where the organization is regarded as "successful", but has lost its mission on the way. Such processes will easily evolve in purposive organizations with vague and general goals (Warner and Havens, 1967; Olsen, 1979).

The dangers tied to the model of CLIENTS' STRUGGLE are the opposite. Its organizational structure and pattern of relationships invite to a small extent to co-operation processes and goal displacement, but it doesn't seem capable of creating a great and forceful organization. In this model there is a danger of maintaining the mission but loosing the organization.

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Demokratin i Hasselapedagogiken

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Hasselapedagogiken och hasselaverksamheten kan undersökas utifrån begreppsparen demokrati och emancipation. Dessa två begrepp hör intimt samman. Demokrati kräver ett frigörande av såväl individuella som samhälleliga resurser, och emancipation utan demokratiska grundvalar torde vara svårt att uppnå. Begreppsparens analys i förhållande till hasselapedagogiken/verksamheten är påkallad för att belysa om det föreligger en motsättning inom socialtjänstområdet.

Socialtjänstlagen understryker mål såsom trygghet, jämlikhet, frigörande och demokrati. I ett vård- och behandlingsområde där man arbetar utifrån en målsättning om trygghet och demokrati, kan det uppstå skillnader i hur individen som är föremål för vård uppfattar dessa begrepp i förhållande till samhällssynen kring begreppen. Hasselaverksamheten/pedagogiken med en blandning av tvång och behandling är lämplig som undersökningsobjekt för både möjligheter och förhinder i att uppnå lagens målsättning.

Då vår nuvarande socialtjänstlag kompletterades av två tvångslagar inskränktes omedelbart dess mål om emancipation och demokrati. Socialutredningen som arbetade fram den nya socialtjänsten menade att i vissa extrema situationer när människor befinner sig i

nöd skulle tvång kunna vara förenligt med den målsättning socialtjänslagen ger uttryck för. Samtidigt betonade utredningen att tvång inom behandlingsarbete skulle reduceras för att man i möjligaste mån skulle finna lösningar genom frivilliga vägar.

Socialtjänstlagen trädde i kraft 1 januari 1982, och fem år senare, 1987, lade socialberedningen fram ett nytt förslag om tvångsvård för vuxna missbrukare och i juni 1988 biföll riksdagen det av socialberedningen utarbetade tvångslagförslaget. Den nya lagen skiljer sig från den tidigare, LVM (lagen om vård av missbrukare i vissa fall) genom att grunderna för omhändertagande har vidgats, tvånget skall kunna tillämpas i ett tidigare skede, bli aktuellt för en bredare personkrets liksom att det skett en utökning av tvångsvården från två månader (fyra månader krävde särskild ansökan) till sex månader.[1]

I lagförslaget lyfte socialberedningen i olika sammanhang fram hasselapedagogiken som förebild för hur tvång ger goda behandlingsresultat för ungdomar och att denna pedagogik skulle kunna vara tillämpbar även på vuxna.[2]

Då hasselapedagogiken användes som ett av argumenten för genomförandet av en genomgripande tvångslag för människor, framstod det som viktigt att titta närmare på hasselakollektivens verksamhet. Detta förstärktes av de skilda uppfattningar om kollektivet som framförts i olika sammanhang i massmedia.[3]

Utifrån djupintervjuer[4] med fem ungdomar som vistats på hasselakollektivet utanför Helsingborg[5], hasselas[6] egna skrifter och andra teoribildningar har jag sökt analysera verksamheten.

Vad som är en bra verksamhet eller som i detta fall bra behandling är begreppsmässigt svårt att fastställa. Dock kan ledtrådar för bra behandling belysas utifrån pedagogikens och andra teoriers syn på t ex begreppen demokrati och emancipation. I denna artikel kommer jag att begränsa mig till demokrati och emancipation. Denna begränsning innebär att helheten i min studie liksom bilden av hasselakollektivet i vissa delar går förlorad. Dock tycker jag att min behandling av demokrati- och emancipationsbegreppen för studien är centrala och kan ge ett mått på verksamheten.

Att jag valt att behandla hasselaverksamheten utifrån teoribildningar inom olika områden såsom utbildning, pedagogik, behandling etc, härrör ur problematiken att hasselakollektiven kallar sin verksamhet utbildning medan socialberedningen beskriver verksamheten som behandling.[7]

Socialtjänstlagen, inbegripet LVU (lagen med särskilda bestämmelser om vård av unga), uttrycker också att tvångsomhändertagna ungdomar skall beredas vård och behandling.[8]

Hasselakollektivets verksamhet

För den i hasselapedagogiken oinvigde, och för att här kunna behandla demokrati- och emancipationsbegreppen, måste jag, om än i all korthet, beskriva kollektivets verksamhet.

Hasselakollektivet som är ett Hem för vård eller boende[9] skall enligt ideologin i socialtjänstlagen erbjuda enskilda vård, behandling, omvårdnad eller tillsyn i förening med ett boende.[10]

I hasselakollektivets skrifter liksom i socialtjänstlagen betonas begrepp som demokrati, solidaritet, jämlikhet och frigörande (medvetandegörande).[11]

De flesta ungdomar som kommer till kollektivet anländer med stöd av LVU.[12] Syftet med LVU "är att tillgodose barns och ungdomars behov av omsorg, vård och skydd då deras hälsa och utveckling är i fara och frivilliga lösningar inte är möjliga".[13]

Helsingborgskollektivet tar emot tolv ungdomar (viss över-, under- eller akutinskrivning kan ske). Ungdomarna vistas på kollektivet under en sextonmånadersperiod, för att därefter kollektivt flytta till Helsingborg och ingå i kollektivets uppföljningsverksamhet i ytterligare ett år. Kollektivvistelsen innebär ett medlevarskap där personal och ungdomar lever tillsammans dygnet runt (personalen turas om att ha två veckors ledighet var sjätte vecka).

Ungdomar och personal är uppdelade i olika arbetslag (kökslag, utelag, reparationsgäng) och skolundervisning bedrivs på kollektivet av en utifrån kommande lärare. Personalen bedriver på kollektivet och för ungdomarnas föräldrar en ledarutbildning som mycket grovt skissat behandlar: individen, gruppen, ledarskap, föräldraskap och samhället.

Ungdomarna har ingen kontakt med föreningslivet i Helsingborg under kollektivvistelsen, idrott utövas tillsammans med kollektivmedlemmar. Kontakt med övriga samhället sker på helgerna då kollektivmedlemmarna gemensamt beger sig till något dansställe.

Hasselapedagogiken är en metod för förändring av identitet och beteendemönster, och tar sin utgångspunkt i arbetarrörelsens ideal.

Nedbrytningen av ungdomarnas missbrukar-/avvikaridentitet sker genom konfrontationer under arbetets gång eller i speciella gruppsittningar.[14]

Kollektivvistelsen börjar med en inskolningsperiod där ungdomarna kraftigt konfronteras. Meningen är att deras missbrukaridentitet skall brytas ned, för att en ny identitet därefter skall återuppbyggas av hasselapedagogerna. Under dessa konfrontationer kallas ungdomarna vid namn såsom "din jävla hora", "fitta", "knarkarjävel", "tjackluder", "tjuv", "alkoholist" mm. Vid konfrontationerna har även våld förekommit, någon har tryckts upp mot väggen, knuffats, nypts eller sparkats.[15]

I början av kollektivvistelsen är ungdomarna styrda av de vuxna för att i ett avslutande skede av vistelsen få ett allt större medbestämmande. Ett av kollektivens mål är att styrningen skall leda över till att ungdomarna själva skall förvalta kollektivet.

Om ungdomarna inte lyder bötfälls de. Böter består av nedskärning av deras veckopeng och döms ut om t ex sängen lämnats obäddad eller om någon glömt ett par strumpor på golvet. Ungdomarna vet inte i förväg för vad de kan få böter för, utan nya böter kan utdömas i för dem nya situationer.[16]

Demokrati och emancipation[17]

Några ungdomar sade sig ha upplevt en viss begränsad demokrati. En svårighet här måste vara demokrati under tvång, både formellt och informellt tvång. Det formella innebär naturligtvis själva placeringen på hassela, det informella att ungdomarna i stort sett är tvungna att underordna sig hasselaregimen under en stor del av vistelsen. På samlingarna är de tvungna att berätta allt som de samtalat med varandra om, de är tvungna att klippa sig, köpa nya kläder, tvungna att vistas tillsammans – de kan inte dra sig tillbaka till sina rum när de så önskar.

Frågan är om demokratin sakta men säkert växer fram, eller om "demokratin" på slutet är påtvingad. Kan man skapa demokrati, en demokratisk anda, hos en grupp ungdomar som förnedrats och tryckts ned (okvädesorden, våldet, hotet om våld)?

Jag skall nedan presentera några teoriers syn på demokrati, uppfostran, utbildning och emancipation.

I boken *Terapeutiskt samhälle – demokrati eller skendemokrati?* av Håkan Jenner m fl, belyses i ett schema olika ledarformer och dess konsekvenser för en grupp. Schemat (figur 1) anser jag vara applicerbart på flera typer av grupper för behandling och utbildning, inklusive hasselakollektiven.[18] Då ett schema alltid är en mycket begränsad modell av verkligheten, får den i detta sammanhang ses som ett hjälpmedel. I modellen står att utläsa att det med en auktoritär ledning skapas tryck i en grupp, medan laissez-faire skapar osäkerhet i gruppen. Osäkerhet kan uppstå också i grupper med auktoritär ledning. I ungdomsgruppen på kollektivet fanns både ett tryck och en osäkerhet bland ungdomarna. En av ungdomarna berättar att om inte personalen använt våld så hade ungdomarna själva utövat det mot varandra. Motionen (idrotten) ansågs av en ungdom att vara ett sätt att få utlopp för sina aggressioner, vid lagsporter var det alltid mycket bråk och när det var innebandy passade man på att slå varandra på benen med klubborna.

Figur 1

LEDARFORM	KÄNNETECKEN	PSYKOLOGISK ATMOSFÄR I GRUPPEN
Auktoritär	För många ingrepp För många krav	Skapar tryck
Demokratisk	Grupporienterade ingrepp Utvecklingsorienterade krav	Skapar säkerhet och en upplevelse av frihet
Lassiez faire	Inga ingrepp Inga krav	Skapar osäkerhet i gruppen

Det fanns hos ungdomarna en osäkerhet om när och hur och varför man skulle konfronteras. Ungdomarna själva kunde inte förutsäga när de skulle bestraffas, eftersom det förekom kollektiv bestraffning. De visste inte heller för vilka handlingar de kunde få böter.

En demokratisk ledarform skapar enligt schemat en säkerhet och en upplevelse av frihet.

Med vad är då demokrati?

Jenner m fl skiljer med utgångspunkt från andra författare mellan formal- och innehållsdemokrati. I begreppet formaldemokrati får

demokratin betydelsen av ett rättsligt och ett formellt begrepp medan innehållsdemokratin innefattar både beslutsform och innehåll, och innehållet är då socialistiskt.[19]

Grönwall och Nasenius förklarar i *Socialtjänstens mål och medel – motiv och lagar* innebörden av demokrati inom socialtjänsten på följande sätt:

> Väsentliga element i demokratin är förverkligandet av medborgarnas vilja och självständig åsiktsbildning bland medborgarna. Ett annat element är medborgarnas aktiva deltagande i beslutsprocesser som har betydelse för deras egen situation i olika avseenden.[20]
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> Klienterna: För deras del måste demokratikravet innebära att de får insyn i premisserna för socialtjänstens engagemang, dvs information om innehållet i lagar och regler som påverkar deras rättigheter och skyldigheter samt information om socialtjänstens resurser och förutsättningar i övrigt att medverka till lösningen av deras problem. Vidare bör klienten om möjligt ha full insyn i de uppgifter som socialtjänsten inhämtar om honom och lägger till grund för sina ställningstaganden.
>
> Demokrati förutsätter också att klienten tillsammans med socialtjänstens representanter får utforma förslag till åtgärder som rör honom själv och att han därvid även har tillfälle att bedöma olika alternativ. Vidare bör han ha rätt att komma i direkt kontakt med beslutsfattaren.[21]

För att kunna förverkliga medborgarnas vilja och självständiga åsiktsbildning måste demokratiska former skapa möjligheter för utvecklandet av denna process. Rörande förverkligandet av en demokratisk process i samhället redogör Jürgen Hartmann och Sylvia Trnka i sin bok *Democratic Youth Participation in Society – a concept revised* om slutna och öppna samhällen och om vilken status ungdomar får i respektive samhälle.

Öppet respektive slutet samhälle

I det stängda samhället som kan ses som paternalistiskt, repressivt och manipulativt får ungdomarna en status av maktlöshet. I det öpp-

na samhället som beskrivs som humanistiskt, demokratiskt, emancipatoriskt och autentiskt får ungdomarna en status av ett deltagande bemyndigande.[22] I respektive samhälle kan den interna socialiseringen hos ungdomarna ta sig i uttryck i vad schemat i figur 2 visar:

Figur 2

INTERN SOCIALISERING	STÄNGT SAMHÄLLE	ÖPPET SAMHÄLLE
Underkastelse	Integration genom anpassning	Passivitet el intern eskapism
Frigörande	Revolt el regression eskapism	Deltagande innovation

A.S. Neill som 1921 grundade en internatskola ett femtontal mil utanför London stöder med sin pedagogik synsättet att en uppfostran måste ske inom demokratins former. Hans idé var att "göra en skola som passade barnen – istället för att få barnen att passa skolan".[23] Neill var en pedagog som starkt trodde på framgång om eleverna uppfostrades i frihet.

Erich Fromm har sammanfattat de principer som han anser ligga i Neills system. De är – i stark förkortning:

- Han hyser en stark tro på det goda hos barnet och hävdar att det föds till världen med alla möjligheter att älska livet och bli intresserad av det.
- Syftet med uppfostran – och livet – är att arbeta med glädje och finna lycka.
- Uppfostran måste vara både intellektuell och emotionell.
- Den måste rätta sig efter barnets psykiska behov och förmåga.
- Dogmatiskt påtvingad disciplin och bestraffningar skapar fruktan, och fruktan skapar hat.
- Frihet är inte detsamma som självsvåld – respekten för individen måste vara ömsesidig.
- En lärare måste sträva efter en äkta uppriktighet i sitt arbete tillsammans med eleverna.
- Ett barn måste så småningom skära av de band som binder det till

föräldrar och t ex lärare. Det måste lära sig att komma i harmoni med världen, snarare än att hitta trygghet genom underkastelse eller översitteri.

- Skuldkänslan är ett hinder för självständighet. Den skapar fruktan, och fruktan föder fientlighet och hyckleri.[24]

Risker med en auktoritär uppfostran/utbildning kan enligt pedagogen Paulo Freire leda till en förtryckarsituation som hämmar individens utveckling och emancipation, vilket formar människan till ett objekt som anpassas istället för att hon aktivt är med och formar samhället. Freire säger om relationen mellan förtryckaren och den förtryckte:

> Ett av de grundläggande elementen i förhållandet mellan förtryckare och förtryckta är föreskriften. Varje föreskrift betyder att en människas val påtvingas en annan människa, vilket förändrar medvetenheten hos den människa som får föreskriften till en medvetenhet som formar sig efter föreskrivaren... Därför att de förtryckta har internaliserat bilden av förtryckaren och accepterat hans riktlinjer, är de rädda för friheten.[25]
>
> Integration med ens sammanhang, till skillnad från anpassning, är en specifik mänsklig aktivitet... Den integrerade personen är person som subjekt. Den anpassade personen är däremot person som objekt.[26]

Förändring eller anpassning?

Med det underlag jag har om hassela idag kan jag utläsa likheter med det stängda samhället som Hartmann och Trnka beskriver. Kollektivet har inslag av paternalism – personalen bestämmer och föreståndaren "går igen" genom alla intervjuer. Repression förekommer där även kollektiv bestraffning utövas och likaså manipulation vid nedbrytandet av missbrukaridentiteten.

Detta innebär att ungdomarna i hasselakollektiven anpassas istället för att "förändras". En målsättning för alla samhällsmedborgare bör vara den som beskrivs i figur 2, deltagande innovation (nydaning).

I en av punkterna Fromm sammanfattat om Neills pedagogik står att läsa att dogmatisk påtvingad disciplin och bestraffningar skapar fruktan och att fruktan skapar hat. Freire tar i det sammanhanget upp risken av att de förtryckta internaliserar bilden av förtryckaren, vilket leder till ett accepterande av den situation man befinner sig i. I samband härmed vill jag nämna att ungdomarna i början av deras vistelse genomgående var kritiska mot kollektivverksamheten. En av ungdomarna uttrycker sig så här:

> Då tänkte jag, det är fan vad dom [ungdomarna] är styrda, kan dom inte tänka vad dom egentligen tänker. Så jag var sen på att haka på gruppen, för jag var envis på ett negativt sätt om man säger så. Jag kunde inte fatta att det var lika bra att jag hängde med, då blir det ju bättre, känslan och förnuftet kommer inte av sig själv, men hänger man med så kommer det sen, när man väl börjat sköta sig och slutat ha egna åsikter som dom [personalen] tycker är bänga och utflippade.

Freire sätter anpassning hos människan i likhet med att hon ses som ett objekt istället för ett subjekt. Målet med en behandling/utbildning bör vara en förändring hos individen och inte en anpassning, vilket i sig kräver en subjektsyn på människan, insikten om att människan är en aktiv självtänkande individ.

Jürgen Habermas sätter begreppet emancipation i förhållande till flera nivåer i vårt samhälle och poängterar kommunikationens betydelse. Habermas har utvecklat en kritisk teori kopplad till Marx' materialism och psykoanalysen. Han menar att emancipation ligger i kommunikationen och säger att hermeneutik är riktad mot förståelse av aktörers deltagande i en intersubjektiv form av liv och ett försök till att förbättra mänsklig kommunikation och självförståelse.

Den kritiska teorin är knuten till ett frigörande intresse och vill göra människor fria från dominans, inte bara från dominans av andra utan från dominans av krafter man inte förstår eller kan kontrollera.[27]

Liksom i den kritiska teorin finns också hos Marx och psykoanalysen ett frigörande intresse.

> I Marx' teori är det mänskligheten frigörelse genom proletariatets historiska uppgift som uttrycker detta intresse, i Freuds psykoanalys är det individens frigörelse från psykisk sjukdom genom insikt och självmedvetande.[28]

Habermas menar att det är i kommunikationen man kan finna den frigörande möjligheten.

> Precis som det för Marx är klasskonflikter som utvecklar produktivkrafterna är det också för Habermas konflikter, men i form av värde- och normkonflikter, som utvecklar den kommunikativa kompetensen.[29]

I hasselas skrifter talar man om ett frigörande, ett medvetandegörande av ungdomarna.[30] De säger vidare att "de utstötta måste skaffa sig upprättelse varigenom de hotar grundvalarna för den bestående samhällsordningen",[31] samtidigt som de står på den demokratiska arbetarrörelsens grund.[32]

Enligt Habermas kan inte frigörandet ske endast på en nivå, den politiskt-ekonomiska; den måste också ske på en individuell och en intersubjektiv nivå. Ett frigörande av kommunikationen kräver objektiv kunskap och moralpraktisk insikt.[33]

> Kommunikativt handlande strävar mot konsensus och det blir genom symbolisk interaktion, språket, möjligt att definiera behov och att komma överens om normer för beteenden. En väg att nå fram till detta är via diskursen, vilket bl a innebär att varje individ får tillfälle att definiera sina behov. När väl behoven blottlagts tar ett nytt moment vid – sökandet efter sanning. Härvid får inget annat mål aktualiseras än det gemensamma sökandet efter sanning och inget annat tvång utövas än "det bättre argumentets.[34]

Om ungdomarna kritiserar personalen så får de sig en diskussion. Personalen uppfattas som duktiga på att "snacka ner ungdomarna", "som politiker", "slängda i truten", ungdomarna "hade ingen chans" mot dem, och tyckte ungdomarna att något var fel skulle de "hålla käften".

Det måste ha varit svårigheter för ungdomarna att definiera sina behov. Personalen har argumenterat "omkull" ungdomarna. Här kan det inte ha varit fråga om "det bättre argumentets" överlägsenhet, då ingen dialog förekommit och ungdomarna själva inte fått uttrycka deras vilja eller det de tyckt varit fel.

Här måste det förekomma ett dialektiskt förhållande i utvecklandet av den kommunikativa kompetensen och möjligheter att finna "sanningen." Men för ett utvecklande till detta högre stadium så måste konflikterna få möjlighet att komma upp till ytan.

Hasselapedagogiken lägger, liksom Habermas, vikt vid kommunikationen. I boken *Fostran för framtiden* står att läsa:

> I samverkan mellan människor spelar kommunikationen en avgörande roll, det är genom den vi får förbindelse, kan beröra och påverka varandra. Via kommunikationen kan kunskaper, åsikter, attityder, ja, hela kulturmönster överföras från en individ till en annan.[35]

Dock skiljer sig hasselapedagogernas och Habermas uppfattning om hur frigörandet skall ske. Medan Habermas talar om *dialog* talar hasselapedagogerna om att *påverka* och om att *överföra*.

Avslutande kommentar

Utifrån en analys av intervjumaterialet och Hasselakollektivets litteratur framgår det att deras syn på pedagogik och människa skiljer sig från det synsätt som andra teoretiker ger uttryck för.

Både Neill och Freire beskriver de konsekvenser som är förenade med en hård disciplinär fostran. En frigörelseprocess kan, utifrån deras synsätt, knappast förväntas komma igång eller avslutas i en social situation som karakteriseras av en grupps (ungdomarnas) totala underkastelse i förhållande till en annan (personalen). Utveckling mot frigörelse kräver yttre demokratiska former och fri kommunikation. Mina egna forskningsresultat pekar entydigt mot att dessa förutsättningar inte är uppfyllda i det undersökta hasselakollektivet

Hasselakollektiven kan beskrivas som slutna samhällen, som förtryckets öar mitt i ett fritt demokratiskt samhälle, och kan inte sägas motsvara de intentioner om demokrati som uttrycks i Socialtjänstlagen. Mina forskningsresultat avslöjar också en påtaglig diskrepans mellan de arbetarrörelsens ideal man säger sig omfatta och den verklighet som möter de intagna ungdomarna: paternalism, repression och manipulation.

Socialtjänstlagen innehåller en i mitt tycke olösbar motsättning, mellan å ena sidan de allmänna proklamationerna om frivillighet, och å den andra de i lagen inbyggda tvångsåtgärderna. Också mellan Socialtjänstlagen (inklusive LVU) och hasselarörelsen finns det

en motsättning, nämligen den mellan lagens tal om vård och behandling, som hassela tar avstånd från, och det man sätter i dess ställe: "utbildning". Denna omdefiniering av verksamhetens mål gör det svårt att mäta verksamheten med traditionella mått på "god" vård och behandling. Det kan emellertid anses vara fullt klarlagt att hasselakollektivet i Helsingborg varken motsvarar kravet på vård och behandling enligt Socialtjänsten, eller erbjuder en utbildning för frigörelse enligt gängse pedagogiska teorier och metoder.

Hasselapedagogikens frigörande är inriktat på den politisktekonomiska nivån och utifrån en snäv beteendeteoretisk synvinkel. Frågan är om inte frigörande, som Habermas uttrycker det, även måste inbegripa den intrapsykiska och intersubjektiva nivån.

Noter

1 SOU 1987:2; *Riksdag & Departement* Nr 22 s 21; Allmänna råd från Socialstyrelsen 1982:6; Holgersson 1981 s. 269 ff
2 SOU 1987:2 s 269 ff
3 *Socialt arbete* nr 1-4 1988
4 Djupintervjuernas längd varierade mellan tre till fem timmar och kompletterades med ett frågeformulär där ungdomarna svarade på frågor rörande tidigare och nuvarande förhållanden.
5 Hasselakolektivet i Helsingborg lyder under stiftelsen Hassela Solidaritet med "moderkollektivet" Frans Hammars Gård som "vägledare". Det är pedagogiken som vuxit fram ur Frans Hammars Gård som ingår i min studie.
6 "Hassela" används här som begrepp för hasselapedagogik, hasselakollektiv, kollektivpersonal etc.
7 SOU 1987:2 s 269 ff
8 Socialstyrelsen Allmänna Råd 1981:2, 1982:5
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The Law - A Special Or Normal State?

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In recent years the law in Poland has undergone an exceptionally large number of changes. Some of them were only slight modifications of the actual legal system whereas others resulted from an introduction of a number of regulations either entirely new or aimed at transforming in depth the legal institutions used so far. Deep changes of the law are always connected with changes more general in character – first of all political and economic – and this has been the case in Poland in the last few years. The law has been used either to alleviate the effects of the economic crises or to cope with the newly arising phenomena or developments, regarded as pathological, that were gaining momentum at the time. It was also used to present, in an organized form, the radical changes of the politics at that time. All these transformations are too broad a subject to be presented in a single paper. I shall present some of them only, i.e. those related to penal law.

I shall begin with institutions that came into being during the 1980's or were, after years of oblivion, resumed at that time. Not all of them are directly connected with penal law but their link is that each of them comprises some orders or prohibitions which, when violated, result in applying legal sanctions. The scope of punishabil-

ity was broadened and hitherto unrecorded deeds and behaviors came to be regulated by law and became subject to legal prosecution.

Rationing

As regards curbing the negative effects of the economic crisis in Poland, one such attempt was the implementation of goods rationing. This naturally involved a modification of many traditional legal institutions and called for a different definition of the sale-purchase contract.

Most interesting of all seem to be the changes in legal consciousness that were brought about by the disturbance of the supply-demand relationship. Before the crisis legal consciousness was, broadly speaking, in accord with the civil code which stated that "the display of a commodity to the general public in a place of sale with a price stated shall be regarded as an offer of sale" (Article 543, Civil Code). The rationing period, however, made people feel that displaying a commodity, price or no price, did not necessarily imply an offer for the customer, since a commodity might be sold for coupons or special "tickets" allowed for some categories of consumers only. To purchase such a commodity a consumer might have been required to show his/her identity document, childs' health record book, pregnancy record, or a credit card for newlyweds.

It can be said that the new way of perceiving the sale-purchase contract as well as the emergence of additional conditions that allowed such a contract to be made, preceded, in the legal consciousness of the people, law-regulated food rationing as such. Meat shortages and meat purchase problems had made people seek solutions that could alleviate the inconveniences. Rationing had sounded reasonable and had found its way to the Gdansk postulates. It was introduced into the life of the society prior to acquiring legal status be means of various procedures. Thus it was ordered that only a limited quantity of goods should be sold when a situation required it and the decision would be made by the salesperson and the purchasers who, at times, organized themselves to form a queue committee. A survey conducted in 1981 showed that people were

against allowing an individual to buy a quantity so large as to make the commodity unavailable for others.

Shortages also made people not only accept rationing and other such measures but also agree to penalties imposed on those who bought amounts regarded as excessive. People at large approved of punishing customers and sellers who took part in such purchases despite the fact that, from the legal point of view, no offense would have been committed. Penalties were suggested, which, in most cases, were to be admonitions or fines but a prison sentence was occasionally proposed. A vast majority of people were of the opinion that an individual should be allowed to make use of his/her entitlements only to such an extent as not to make it impossible for others to take advantage of their rights or have them limited. Otherwise, the respondent claimed, the buyer deserved to be admonished or even punished.

The way people at large agreed so readily to goods rationing as well as the changes in the legal consciousness, caused by the disturbed supply-demand ratio, seem to have resulted from the fact that the society had somehow expected it all to happen. Ever since World War II rationing of some kind had been in operation. Some had been well known, e.g. limitations of sales of imported citrus fruits, and there were others less known, e.g. "tickets" that enabled purchase of a car. It was not until rationing began to cover staple commodities that its effects on the legal institutions and public consciousness became considerable. Implementing rationing on a large scale and with regard to goods of everyday use had far-reaching consequences, which were to change the traditional sale-purchase model.

Rationing, especially with coupons, resulted in people buying more goods than allowed. This caused further changes in the legal regulation and thus inspections, at various levels, and, more importantly, penalties were introduced. The ensuing regulations aimed at punishing those who obtain a ration coupon under false pretences, take possession of one in a way forbidden by law or obtain, alienate or help hide an illegally obtained coupon (act of 25 sept 1981 on profiteering control). Thus in face of the economic situation the society had to accept the regulation as well as the new sale-purchase model.[1]

Rules that regulated rationed sales and imposed various forms of punishment were not the only rules implemented as a result of the

disturbed sale-purchase relationship. An act on profiteering control was also passed. Its explanatory part says that owing to the growth of economic crisis and disturbance of the supply-demand equilibrium on the market, profiteering has increased and this has necessitated the passing of a special bill to control it. Legal regulations of this kind had already been applied in Polish post-war legislature. Similar laws were in force from 1944 to 1970, in some parts, up to 1972. In the 1970's such offenses could be punished by law by virtue of the general regulation of the penal code and the petty offenses code.

In the period of economic crisis that followed, the existing general rules were considered insufficient and on September 25, 1981 a law on profiteering control was passed (Law Journal of 1981, it 124). Apparently the legislator hoped for a quick solution of the economic problems that had brought the law about, because it was to remain in force for about fifteen months, i.e. till the end of 1982. When the period drew to a close the legislator probably regarded the situation as still unsatisfactory because the law was updated and made valid for an indefinite period of time. Thus it cannot now be regarded as a transient law, but has become a permanent component of Polish penal law. It lists specific offenses together with the resultant penalties (Law Journal 1982 No 36 it 243).

Some of these offenses are worth mentioning if only to help one realize that they are not forbidden by law in other countries and the perpetrators are not liable to prosecution. Thus, according to the profiteering control law, a person is liable to prosecution if, for instance, he/she sells to a catering establishment or a processing factory a commodity that has not been processed. Also, anyone hiding or refusing to sell a commodity that ought to be displayed in a shop, as well as anyone selling, outside the shop, a commodity that is to be sold in a shop will be prosecuted. Penalties for offenses like these and others listed by the profiteering control bill are very severe. Besides restriction of liberty and a fine there is also imprisonment up to five years.

Laws of this kind were implemented, first of all, to discourage people from committing certain offenses. They aimed at general deterrence. They made Polish penal law, undoubtedly very severe before, even more severe.

New legislative areas: Drugs and work evasion

In Poland of the 1980's legal regulations were implemented to deal with phenomena which had hitherto been ignored by law or defined with much less precision. The law on preventing drug addiction passed on January 31, 1985 can serve as an example (Law Journal No 4, it 5). It is debatable, of course, whether passing any law can help to prevent or control the phenomenon. This law, despite a number of conflicting views, did pass and resulted in defining a number of deeds as punishable by the legal system, for instance a ban of growing poppy or hemp and another on producing intoxicating agents and apparatus used for that purpose, a ban on bringing intoxicants into Poland etc. Severe penal sanctions are attached to breaches of the ban, ten to fifteen years of imprisonment inclusive.

The law has been in force for a short time now and it remains to be seen whether it will result in a significant increase of judicial penalties as the scope of its application is not yet known. The 1982 bill on evading work is also worth mentioning for several reasons (Sept 26, 1982, Law Journal No 35, it 229). Its specific legal regulation was made for citizens who pursued neither work nor studies. The law introduces some legal regulations and in instances where international agreements ratified by Poland do not allow imposing orders or bans directly or using penalties, quasipenal measures are adopted. It seems worthwhile to present this law as it has given rise to legal institutions hitherto unknown in Poland.

The law applies to males of 18-45 who do not take up work or studies for at least three consecutive months. They are obliged to report to an administrative organ in order to be registered in a special registration book. After registering they are directed to a place of work or a school. Those who can prove the existence of circumstances that justify their evading work or studying can be exempt. In other cases the person has to take up employment or studies. If they refuse to do so, they are registered in an index for those who persist in evading work. In the course of the procedure the administrative organ has to ascertain the sources of the registree's upkeep, whereby the latter may become subject of thorough scrutiny. Persons so registered may be obligated to do work for the community which may not exceed sixty days a year. If a registree takes up employment or

continues to go to school for at least a year he is crossed out of the register.

The bill contains several strictly legal provisions. Those who, although pursuing neither work nor studies, fail to report to an administrative organ, and those who refuse to report when summoned, are liable to restriction of liberty up to 3 months or a fine.

Legal institutions called forth by the bill on "a procedure applied with regard to those who evade work" are constructed in a very specific manner. They do not say that work is compulsory, nor do they establish penalties as such for evading work; that would be at variance with the international conventions Poland has signed. Instead, they introduce a number of duties imposed on individuals who neither work nor study. The duties are penal in character although they are not included in any catalogue of penalties. Penalties of fine or restriction of liberty are not imposed for evading work but for failing to fulfill additional duties imposed on an individual by the law.

Repressive measures within the criminal justice system

The texts of normative acts drawn up in Poland in recent years indicate that the legislator still regards the present-day situation in Poland as special and requiring legal solutions. It is reflected, primarily, in the growth of the repressiveness of the penal law system.

Let me quote the law of May 10, 1985 on "special criminal responsibility". As the preamble says its aim is to strengthen the protection of the socialized economy, the interests of the citizens and to heighten public law and order". It is explained in the same excerpt that the growth of delinquency necessitates the implementation of legal changes intended to enhance lawfulness. The explanation is somewhat weak when one realises that the statistics are not very clear and the statistically ascertained rise of delinquency is at least partly caused by a new legal regulation according to which some deeds, not regarded as offensive before, are now criminal offenses. Whatever the justification of the changes, it must be admitted that the criminal responsibility statute reflects the rise of penal reprisal in Poland as compared with the 1970's, although it must be added that it is more lenient than some laws passed during

the martial law period. The act is to be valid until 1988 so I think it worthwhile to discuss its more important provisions.

Special criminal responsibility rules bring about a number of judicial decisions. Which in consequence causes an increase of prison sentences. The first decision of this kind is contained in the opening lines of the statute. It restricts considerably the possibility of suspended prison sentences. The restrictions are to be effected regardless of the perpetrator of the crime or the circumstances under which the crime was committed. They only depend on the offense. And thus, again, it is general and not individual crime prevention or resocialisation that is made primarily important.

The increase in the number of persons serving prison sentences in penal institutions is also due to provisions of conditional release. This has been restricted and also, owning to an increased number of conditions introduced, the capacity of a court of justice to withdraw a conditional release has been enhanced. A third provision which accounts for a larger number of persons in penal institutions has to do with detention. The range of instances where detention is applied has been broadened.

In order to make the existing penal system more stringent some special measures have been adopted. The capacity of the court of law to mitigate punishment in specific cases has been limited. The court has been obligated to decree, in a number of cases, additional penalties alongside the principal penalty, e.g. interdiction to occupy specified posts, prohibition to exercise a profession, complete or partial forfeiture of property, or announcing publicly the judicial decree. Such penalties used by Polish legislature in the past have now become extended in scope and application.

By virtue of the statute on special criminal responsibility and another law passed simultaneously which changed the penal code and the petty offenses code (act of May 10, 1985 on changing some provisions of the penal code and the petty offenses code, L J 23 it 100) economic repression was made more stringent. The rate at which the maximum and minimum fines rose was higher than that of the average national wage.

Other provisions of the act refer to penal proceedings and here the scope of application of two special procedures was extended. The binding force of these procedures had always been questioned and now met with criticism too. The first of these procedures was the simplified procedure which can be defined as the one where the

formal requirements are not very strict. Under this procedure an indictment can be drawn up by the Militia and the prosecutor's role is merely to approve it and bring it into court. A case can be heard with the prosecutor and the defendant absent because judgment by default can be passed.

The other procedure whose binding force was extended a great deal is the "speeded-up" procedure. As its name indicates it aims at shortening the time between the commitment of the offense and the punishing of the offender. In the speeded up procedure indictment is replaced by a notice of an offense, submitted orally or in writing by a police functionary. The court begins examining a case with a bench composed of one judge. The sentence is delivered, the reasons stated and the parties receive the sentence within three days. An appeal can be lodged within 7 days and the case is reexamined by an appeal court within 21 days at the latest. If the court's decision is that the penalty is to exceed 3 years of imprisonment or a 500 000 zloty fine, the case will be transferred to the prosecutor.

A similar speeded-up procedure was applied by virtue of the 1970 code and the special criminal responsibility act extended its scope considerably. The changes went in two directions. Firstly, the range of offenses where the speeded-up procedure could be applied was expanded and, secondly, the procedure itself was made binding nationwide, unlike in the past, when it had been in the Minister of Justice's discretion to implement it within well defined areas.

As mentioned before, the speeded-up procedure has always met with controversy. The contentious issue is the compatibility of the procedure with the defendant's right to have a barrister of his/her own choice. The act holds that the Minister of Justice, after consulting the Council of Barristers, shall define the way of ensuring help to the defendant during the trial. On passing the law it was decided that barristers would have compulsory duty hours during which a defendant, informed by the person presiding over the proceedings, could seek a barrister's aid (the Minister of Justice decree of June 20, 1985 on ensuring council to defendants in speeded-up procedures, L J 28 it 125). Another barrister could be consulted only in cases where this did not disturb an immediate hearing of the case (§4 in the above-mentioned decree).

Obviously, the reason for the broadened scope of the speeded-up procedure was general prevention. In practice this kind of judicial procedure often results in restrictions of the security of proceedings

and the rights of defendants. As textbooks on the law of criminal proceedings indicate, a right to defense includes, among other things, one's ability to prepare for defense, which, with so short a time between the offense and the hearing, becomes difficult. The right also includes the possibility of help from a barrister of choice. Practice shows this is also hard to acquire as the accused often has no time or opportunity to find a suitable barrister and resorts to the one he consults during duty hours in a court of law. All these principles, traditionally regarded as primarily significant in the law of legal proceedings, have now, in my opinion, given way to the immediacy of taking judicial measures.

The special criminal responsibility statute is meant to be an "incidental statute", i.e. its validity extends over a specified time period. It came into force in July 1985 and is to remain binding until June 30, 1988. However, in the past, quite a number of "incidental" statutes have remained in force longer than planned due to extension of their updating, or because new provisions were included in the codes used. Thus it is hard to predict how long the provisions of the special criminal responsibility statute will remain in force.

Another interesting problem is the way incidental statutes affect legal consciousness. Apparently it is their instability that accounts for the poor knowledge, on the part of the general public, of the actual legal system.

The martial law period – and after

The severe penal legislature referred to earlier in the paper was made even more severe during the martial law period.

First and foremost, a great deal of penal law provisions were promulgated. They were included in the decree on martial law (chapter VI of the decree of Dec. 12, 1981 on martial law L J 29 it 154). They contemplated penalties on those who refused to desist from participation in associations or unions whose activity had been suspended, as well as those who organized, presided over or took part in a strike. There were also penalties imposed on those who, as the decree put it "acted to the benefit of the enemy or to the detriment of the security of the defense readiness of the Polish People's Republic" (art 47) or else spread false information which might

cause "public unrest and riots" (art 48). The decree also defined penalties for those who were found guilty of breaking orders or restrictions, imposed in the martial law time, as regards changing the place of temporary residence, prohibition to use motor vehicles or disobeying the order which obligated citizens to carry an identity document in public places, etc. Penalties included in the decree varied. They contemplated a fine, restriction of liberty or imprisonment up to ten years.

On the same day, December 12, 1981, another, even more severe decree was issued on a special procedure in cases of crimes and offenses committed during the martial law period. (L J 29, it 156). Simultaneously, a very strict procedure, i.e. the summary procedure was decreed. It ranged an enormous number of offenses as it could be applied to cases resulting from offenses listed in over eighty articles of the penal code, to which some other offenses, forbidden by other legal acts, were added (peace defense, the penal-financial statute, state statistics organization, and those named in the above, mentioned decree on martial law, art 1). The most characteristic feature of the summary procedure is the possibility of meting out very harsh punishment by virtue of respective penal statutes. The most severe punishment, i.e. the death penalty and twenty-five years of imprisonment, could have been adjudicated in cases where the uppermost punishment had been eight years of imprisonment. This was very common indeed, as most cases heard under the summary procedure were of that kind. As regards the death penalty it was required that the judges be unanimous as regards both the guilt and the penalty. Another characteristic of the summary procedure was that no appeal could be lodged once a sentence had been passed. The procedure was intended to be severe and quick. Preparatory proceedings were to take fifteen days at most and it took another five days for the case to be brought into court.

The decision to apply summary procedure rested with the prosecutor and then, when the case was heard in court, with the court. The decree provided that summary procedure cases should be heard by a regional (voivodeship) court composed of three judges. It must be added that by virtue of a special decree a number of offenses were transferred to the competence of military courts (decree of Dec. 12, 1981 transferring cases dealing with some offenses to military courts and military administrative units of Polish People's Republic during the martial law (L J 29 it 157).

The 1981 decree on special procedures, apart from introducing the summary procedure, extended largely the scope of applying simplified and speeded-up procedures. The above-mentioned regulations were in force until December 1982.

Together with the suspension of martial law, some penal law provisions were changed too. Thus the decree of December 18, 1982 on "special legal regulation in the period of suspended martial law" (L J 41 it 273) contains some decisions restricting the scope of the summary procedure. This was to be adopted only in a dozen-odd serious offenses under the penal code as well as three offenses by virtue of the penal-financial statute.

The administration of justice was, in practice, much more lenient than the postulates of the respective legal regulations. The most severe of the penalties contemplated were never or hardly ever imposed. It now looks as if they were implemented because it was believed that the severity of the penal code provisions would be discouraging for prospective offenders.

After the abolishment of martial law in July 1983 another legal act was passed. It was the statute of July, 21 1983 on "special regulation for the period of overcoming socio-political crisis and on changing some statutes" (L J 39 it 176). The act was not strictly penal in character. It dealt with decisions on entering into and breaking off an employment contract in a period referred to as "overcoming crisis", as well as a number of decisions concerning faculty members and students at institutions of higher education. By virtue of these statutes the Minister of Higher Education could suspend or dismiss a faculty member or a student whenever they engaged in activities "forbidden by law or contrary to the didactic and educational tasks of the school". Under this statute, the activity of collective agencies became liable to suspension and the Rector could be appointed or recalled from his post. These decisions restricted self-government of universities and entitled state administration to interfere in matters traditionally dealt with by the Rector himself.

The statute also changed the Polish legal institutions. Although not strictly penal in character, it allowed to adopt very harsh measures, e.g. suspension of the rights of a faculty member or a student, which functioned as penalties for unacceptable conduct.

Penal law in postwar Poland – a concluding comment

Legislature and administration of justice are always strictly related to a country's social situation and politics at large, and it is the specific social situation in the Poland of the 1980's that was being referred to when far-reaching changes of the Polish legal system were being implemented. In order to better understand the changes one ought to compare those regulations with those included in Polish law in the whole post-war period. Therefore it seems worthwhile to conclude the paper with a description of the legal regulations of the time-periods preceding 1980's. I shall confine myself to penal law only.

First of all, there were periods when legal regulations were meant to be long-lasting and were designed for a country whose situation was stable. There were also times when the assumption, whenever legal regulations were implemented, was that these were temporary solutions only, necessitated by the specific situation Poland was in. Using this criterion, the whole post-war era can be divided into three main periods. The first spans the years from the end of World War II until 1970, the second is 1970-1981 and, finally, there is the most recent period, from 1981 up to the present.

The first period was the longest. As regards legal regulations, what binds the period together is the penal law legislature adhered to at that time. The system was founded on the pre-war penal code of 1932 and the penal procedure code of 1928. Even if some new statutes and decrees, changing or supplementing pre-war legal acts, were promulgated in the post-war years, it was not until 1970 that a new codification was made.

Three sets of regulations modifying the pre-war penal code seem worth mentioning. The first set contains a decree on offenses which are especially dangerous in a period of state restoration (decree of June 13, 1946 Law journal No 30, item 192 and amendments made in late years). The decree was in force until 1970 and was a modified version of decrees passed in earlier times. It extended the pre-war code by adding provisions on espionage, sabotage and illegal possession of firearms. It included a number of provisions that can be defined as intended to overcome difficulties in a state restoration period, incidentally, provisions regarded as shocking in latter years.

The second set of provisions was aimed at controlling profiteering. From 1944 onwards laws and regulations concerning profiteering control followed one another in rapid succession. They ceased to be binding in 1970, when the general provisions of penal law came to be regarded as sufficient. It took another ten years to bring them back again.

The third set of provisions was concerned with social property. Under special decrees and laws, responsibility for offenses against social property was more severe than for those against private property. The law was in force until 1970.

The tendency to administer measures harsher than those used in pre-war codes can also be observed in penal proceedings. The 1945 decree on summary procedure gives ample proof for that (Law Journal 1949 No 35 it 244). The proceedings dealt with cases where offenses defined in this decree were committed, and characteristically, regardless of penalties contemplated for such offenses in the respective statutes, the punishment could be the death penalty, a life sentence, at least three years of imprisonment, and, additionally, a fine. The decree was not only particularly severe, its other specific characteristic was promptness. A case was to be heard within twenty-four hours from the time the indictment was made and the accused was allowed three days to present evidence. It was required that the accused had a barrister. When he failed to find one, a barrister was appointed ex officio. The hearing and deliberation over, the judgment was delivered and reasons for it were given in the next twenty-four hours. No appeal against a judgement could be made. The decree was in force until 1970, i.e. till another penal proceedings code which annulled the summary proceedings decree came into effect. It was resumed then years later, that is, when martial law was imposed.

The above-mentioned legal acts were by no means the only acts implemented in the period under discussion. They contained, however, the fundamental rules of the penal law, which were introduced at that time to modify the pre-war system. They had a great deal in common, first of all, severity of regulations. This was intended and was regarded by the legislator as expedient because of the current situation in Poland. The opinion was that the circumstances were specific enough to justify an adoption of harsh sanctions. What is characteristic of specific situations is their impermanence. So, together with the cessation of causes, one would, naturally, have

expected special legal regulations to be abolished too. They remained in force for over twenty years, though.

The year 1970 brought about deep changes in the Polish penal law system. Two new codes came into effect; the penal code (L J 13 it 94) and penal proceedings code (L J 13 it 96). The period that followed was also distinct as regards the policy of administering justice. However, different theses were propounded.

While in the post-war time, especially in the early years, the strict repression rule was considered necessary, in the 1970's and in the few years that proceeded them new codes were being made and the thesis of making the penal code more liberal was advocated. The socio-political system in Poland was referred to as stabilized and thus justifying abolishment of any "special" legislature. It was emphasized that more lenient measures ought to be adopted. The restriction of liberty penalty was introduced as a substitute to short-term prison sentences. Fines became more widespread. Delinquency was said to be decreasing although the statistics were far from reliable as they ignored the fact that legal changes had involved shifting whole groups of deeds previously categorized as "offense" into the "petty offense" category.

A need for a liberalized penal system emphasizing "individualized" repression and resocialisation – these were values commonly referred to in those days. No doubt the extend to which they were effected was far from satisfactory, for, in later years, the period was characterized as follows: "As early as in the second half of 1980 both the mass media and specialized publications began to denounce the goals and methods pursued by the penal policy. The blow was aimed at the allegedly too frequent imposition of penalty of imprisonment and excessively high fines. The administration of justice was blamed for having become fiscalized". It was pointed out that the Polish penal system was strikingly repressive – both in its legislative measures and in the practical application of them. Comparisons were made between Polish penal policy and that pursued in socialist countries and in Western Europe. The resultant thesis was that Polish penal policy was unduly punitive" (Z Jankowski, J Michalski Statute of May 10, 1985 on special criminal responsibility. Commentary, Warsaw 1985, Introduction). The authors claim that the criticism of the penal system of the 1970 resulted, in 1980, in true liberalization of the penal law system. "It manifested itself", Jankowski and Michalski say, "primarily, in considerable mitigation

of punishment imposed on those who committed very serious crimes and the general lessening of economic repression. As compared with the years preceding the 1980's the number of person sentenced to imprisonment dropped, from 48 413 in 1978 to 32 053 in 1981). It was the first time in ten years then that the fine figures had dropped, both in real terms and in terms of average natural wage. At the same time, the percentage of conditional suspended prison sentences showed a considerable rise – up to 63,8 per cent (53,1 in 1979). The penal policy adopted, as well as the widespread practice of conditional release from serving the full sentence are responsible for the drop in the number of the imprisoned down to 51 436 (80 451 in 1979)."

The administration of law changed the moment martial law had been imposed. As early as 1982 the recorded number of prison sentences was greater by 13 000 and the number of people serving sentences in penal institutions increased a great deal. Fines were raised and criteria for release from serving the full sentence were made more stringent. More and more behaviors became subject to order or ban, liability to prosecution was extended and penalties were made harsher. The purpose was regarded as right – it was referred to as general prevention or discouragement. The large number of various legal acts issued in recent years proves that the law can contribute to the achievement of adopted goals and is efficacious in exerting influence on society.

It is worth remembering that about the only period when "special" legislature was not in use and the need for liberalization was propounded, was the 1970's period. After true liberalization in the years 1980-1981, in December 1981 the situation in Poland was, again, regarded as special and thus calling for legal solutions that differ from those adopted in times of stability. Hence enhancement of repression in the penal law and resumption of the severe repression thesis. It is hard to predict how long, this time, the situation in Poland is going to be regarded by the legislator as "special" and demanding special legal regulations to overcome "transient" difficulties.

Note

1. The subject-matter is dealt with more specifically in a paper edited by Jacek Kurczewski et.al. entitled "Umowa o kartki" (The Rationing Coupon Agreement), Warsaw 1985.

TIDSKRIFT FÖR RÄTTSSOCIOLOGI VOL 5 1988 NR 2

Recensioner

Bengt Furåker
STAT OCH OFFENTLIG SEKTOR
206 sidor
Stockholm: Raben & Sjögren 1987

Bengt Furåker är docent i sociologi, och har tidigare skrivit boken *Stat och arbetsmarknad.*

Föreliggande bok har sin bakgrund i de föreläsningar som Furåker 1984 höll i Polen. Han blev därvid ombedd att skriva en uppsats för publicering i Polen. Föreliggande bok, *Stat och offentlig sektor*, är en utveckling av detta arbete.

Furåker börjar med att poängtera att det under efterkrigstiden skett en rejäl expansion av staten och den offentliga sektorn, men att det i dag finns starka krafter som kräver besparingar och nedskärningar. I detta sammanhang påpekar Furåker att den reformistiska arbetarrörelsen har kritiserats för sin övertro på statens möjligheter att lösa allehanda samhällsproblem – det är en kritik som kommit från vitt skilda politiska läger. I detta sammanhang har det bl a talats om den offentliga sektorns frihetsinskränkande och förkvävande effekter, om byråkrati och förmynderi snarare än om solidaritet och rättvisa.

Furåker anser dock inledningsvis att den socialdemokratiska politiken stått i samklang med kapitalismens funktionssätt och utvecklingstendenser, och att staten i den reformistiska tappningen kommit att utgöra en "motsägelsefull enhet", där staten både har samhällsbevarande och omfördelande funktioner.

För att Furåker ska kunna betrakta staten som en "motsägelsefull enhet" anser han det nödvändigt att avvisa den dogmatiska marxismens totalitetsanspråk och dess facit över

sanningen. I stället förespråkar Furåker en strukturfunktionalistiskt inriktad och pragmatisk samhällsvetenskap, i vilken empirisk prövbarhet måste vara en central strävan.

Stat och offentlig sektor kan sägas innehålla tre tema: den offentliga sektorns utveckling, staten som producent, samt tjänsteproduktionen och klasstrukturens omvandling.

Den offentliga sektorns utveckling: Detta avsnitt utgörs av en omfattande sifferexercis i den offentliga sektorns inkomster och utgifter, och i dess sysselsättningsstruktur. När det gäller den offentliga sektorns inkomster är de viktigaste typerna skatter (direkta och indirekta), socialförsäkringsavgifter och medel från olika avgiftsbelagda verksamheter. Den offentliga sektorns utgifter hänför sig till transfereringar, konsumtion och investeringar. När det gäller såväl inkomstkällor som utgifternas tyngdpunkt visar Furåkers statistik att det skett förändringar över tid. T ex har transfereringen, överföringen av pengar till hushåll, ökat under senare år.

När det gäller sysselsättningen får vi primärt veta att andelen anställda inom den offentliga sektorn har stegvist ökat under 60-, 70- och 80-talet – och det framför allt när det gäller kvinnlig arbetskraft. Furåker redogör även för hur detta fördelar sig på olika verksamhetsgrenar.

I detta avsnitt gör Furåker dessutom en internationell utblick, vilken visar att inte ens Thatchers nedskärningssträvanden har lyckats vända på den offentliga sektorns tilltagande utgifter. Det innebär inte att det under olika högerregeringar à la Thatcher inte förekommit omprioriteringar i den offentliga sektorn. Men faktum kvarstår dock, den offentliga sektorns utgifter ökar i den kapitalistiska världen.

Sverige har en stor offentlig sektor. Furåkers statistik visar att i ett internationellt perspektiv företer Sverige de största procenttalen när det gäller såväl hälso- och sjukvård som inkomstuppehållande åtgärder (sjukersättning, barnbidrag, socialbidrag och arbetslöshetsunderstöd).

När det gäller förklaringar till den offentliga sektorns expansion studerar Furåker produktivkrafternas utveckling, produktionens församhälleligande, förändringar i efterfrågan, det yttre politiska trycket, och till sist ett inre tillväxttryck i den offentliga sektorn. Argumenten rörande produktivkrafternas utveckling hänför sig till konsekvenserna av den olikartade produktiviteten och rationaliseringen mellan å ena sidan varuproduktionen och å andra sidan tjänsteproduktionen. Kort sagt, "i och med att att priset på en t ex (icke subventionerad) teaterbiljett blir relativt dyrare blir det svårare att sälja dem på marknaden". Det kan innebära att verksamheter förläggs eller överförs till den offentliga sektorn. Det yttre politiska trycket kan enligt Furåker bl a spåras till borgerlighetens strategiska tänkande och dess ambition att "utveckla statens institutioner för att länka in arbetarkampen i mindre hotfulla banor". En annan förklaring som kan nämnas finner Furåker i den ökade efterfrågan av t ex barnpassning.

Staten som producent: I detta avsnitt behandlar Furåker i nämnd ordning offentliga bolag, affärsverk, icke affärsdrivande verksamheter,

offentligt ägande, behovsorientering, cental planering och samordning, monopol- eller monopolartad ställning, politisk styrning, och skattefinansiering. Dessa rubriker ger en bra överblick över avsnittet. Furåker har här gjort en bra genomgång av statens produktiva sida.

Tjänsteproduktionens och klasstrukturens omvandling: Furåker påpekar här att det ofta sägs att ett nytt tjänstesamhälle har ersatt eller håller på att ersätta industrisamhället. Enligt Furåker är det svenska samhället ett tjänstesamhälle, om man med detta avser ett samhälle där en majoritet av de förvärvsarbetande sysselsätts med annat än direkt materiell produktion. Men, vilket Furåker poängterar, fullt så enkel och rätlinjigt är inte utvecklingen. Dessutom beror det på vad vi lägger för innebörd i begreppet tjänsteproduktion. Furåker talar här om "komplexitet", och om "tvånget att acceptera att begreppet tjänsteproduktion förblir något oklart".

I detta avsnitt behandlas även de olika krafter som antingen vill att man inför mer marknadsmekanismer i den offentliga sektorn, eller att tjänster produceras för en marknad. Dessa marknadsanpassade lösningar framför bristen på effektivitet som argument. Furåker håller med den nyliberala kritiken – det är möjligt att privatisera. Men han menar samtidigt att det är en annan sak huruvida det är en önskvärd utveckling. – "Här står som så ofta fåtalets frihet att ordna det bästa för egen del mot flertalets möjligheter till goda och jämlika lösningar.

Avsnittet avslutas med att Furåker summariskt diskuterar vad den offentliga sektorns expansion innebär för klasstrukturen och därmed för begreppet "klass". Efter en litteraturgenomgång (av bl a Erik Olin Wrights "motsättningsfyllda" positioner, Poulantzas' "småbourgeosie" och Therborns "mellanskikt") anser Furåker det svårt att finna vilka kriterier som är de lämpligaste för att spegla skiljelinjen bland de "löneanställda", och vad som bör betraktas som centrala kriterier för att bestämma de sociala grupperingarna inom den offentliga sektorn. Klart är dock att det kan föreligga en "intern differentiering" inom den offentliga sektorn. I detta sammanhang behandlar Furåker löner, makt och autonomi i arbetet, utbildning samt fackligt medlemskap. Furåkers slutsats i detta avsnitt är att "de löneanställda och inte minst de offentliganställda är socialt och klassmässigt heterogena och för att kunna analysera klasstrukturens utveckling måste man i högre grad än hittills ge akt på deras interna differentiering. Det är vidare Furåkers uppfattning att det "i flera avseenden har skett en utjämning mellan olika kategorier av löneanställda, men att det finns många svårfångade dimensioner att beakta". Dessutom, skriver Furåker, "kan gamla klyftor återuppstå och nya växa fram".

I en avslutande diskussion poängterar Furåker att trots att staten tilldelats åtskilliga nya uppgifter har detta inte ändrat på det faktum att den ekonomiska grundvalen är kapitalistisk. Men enligt Furåkers förmenande är det svenska samhället varken enbart kapitalistiskt eller enbart statsstyrt. "Den förra tolkningen bortser från kapitalismens begränsningar; den senare innebär en underskattning av dess överlevnadsförmåga". Man kan fråga sig i

detta spänningsfält vilken utveckling som är att vänta. På detta svarar Furåker att det ännu är för tidigt att uttala sig om huruvida vi kommer att få uppleva ytterligare en period av snabb tillväxt i den offentliga sektorn. Däremot är den offentliga sektorn och välfärdsstaten av strukturella skäl (sysselsättning och fördelning) svår att rasera.

Furåker spårar – tvärtemot nyliberalismen – dessutom en positiv och emancipatorisk möjlighet i statens tillväxt. Han skriver: "Kanske är förutsättningarna för en demokratisk socialism bättre i Sverige än någon annanstans. Här finns redan demokratiska politiska strukturer som visserligen behöver utvecklas... (Men) Staten är inte genomdemokratiserad utan präglas i hög grad av ett funktionärs- och expertvälde och därtill knutna privilegiestrukturer. Ändå innebär en utbyggnad av den offentliga sektorn åtminstone större möjligheter till folkligt inflytande. Därför är det rimligt att stödja en sådan utveckling samtidigt som man kritiserar de offentligt organiserade verksamheternas brister".

En kommentar till Stat och offentlig sektor: Trots att det förekommer en mängd kända namn (t ex Marx och Lenin, Altvater, Poulantzas, Therborn och Erik Olin Wright) saknas namn som Habermas och Offe – kritiska teoretiker som enligt recensentens förmenande kunnat bidra med en ökad förståelse för den offentliga sektorns struktur och expansion. Detta kan naturligtvis förklaras av Furåkers utgångspunkt: den strukturfunktionalistiska.

Min övergripande uppfattning är att boken inte innehåller några påtagliga nyheter eller några mer djupsinninga analyser. Boken kan dock förtjänstfullt användas som lärobok i statskunskap och i angränsande ämnen.

Bo Carlsson

Thomas Mathiesen
KAN FÄNGELSET FÖRSVARAS?
285 sidor
Göteborg: Korpen 1988

Sju böcker av denne författare finns nu på svenska. Kanske är det en för mycket. Författaren är anställd som professor i rättssociologi vid Oslo universitet och har gjort sig känd bl a genom sitt stöd till fångarnas rättighetskamp och protesterna mot Alta-dammen. I samtliga tidigare arbeten har just *politiken* stått i centrum. Mathiesens teoretiska bemödanden har alltid varit relaterade till en praktisk politisk strävan. Den här aktuella boken skiljer sig inte från de övriga i detta avseende. *Kan fängelset försvaras?* är samtidigt i stora stycken en omtuggning av gamla teman, särskilt berättelsen om Thomas Mathiesen och ett engagerat fåtal mot en värld av utstuderat onda.

Mathiesen inleder med en fängelsets historia, som han indelar i tre faser – 1600-tal, 1800-tal och 2000-tal. I den första fasen ansluter han till Foucaults tes om 'den stora inspärrningen', som ett ordningsskapande företag. Den andra fasen förläggs till 1750-1825 och här parar Mathiesen Foucault och en grov materialism. Fas tre skulle utmärkas av nya förändringar i internationell skala. Framförallt skulle det vara

fråga om ett ökat bruk av fängelset.

Som för att styrka detta hänger sig Mathiesen åt en omfattande sifferexercis och förklaringarna blir av en ny typ. Nu handlar det mindre om kapitalism och mer om ändrade värderingar och legitimationskris. Man skulle annars tro att kapitalismen skulle ha större strukturell inverkan när den är *etablerad* än i det embryonala och genombrottsskedet. Nåja. Mathiesen är hur som helst förhäxad av tillväxtfaserna. Under inflytande av denna förtrollning kommer han helt att förbise *kriminologiens* avgörande betydelse för utvecklingen efter 1890.

Efter nära en femtedel av boken får man några upplysningar om hur den är disponerad. Det kan ju vara bra att veta för den som inte börjar med innehållsförteckningen. Den senare avslöjar tydligt Mathiesens religiösa övertygelse, leninismen. Också stilmässigt bär boken prägel av en devot hållning till Vladde. Mathiesen kan således inte avhålla sig från den klassiska 'kluven tunga'-ritualen. Flera av kapitlen avslutas med en recitation ur någon 'auktoritativ källa' – en regeringsproposition eller en statlig utredning. Även Mathiesen blir till slut uppmärksam på att detta *kan* bli tjatigt. Han tar dock denna "risk", som han uttrycker det.

Inte heller har Mathiesen kunnat avhålla sig från den rådande samhällsvetenskapliga mode som består i att referera till Thomas Kuhns vetenskapshistoriska arbete och att använda begreppet 'paradigm' så slappt som möjligt. Så blir samhället fullt av paradigm, sida vid sida flockas paradigm som straffets allmänpreventiva funktion och marxismen. Med Mathiesens terminologi blir troligen *Tidskrift för rättssociologi* ett paradigm, vi tar den ju för given. Faktum är att Mathiesen tillfört paradigm en *gradvis* dimension. Det finns sånt som är mer "paradigmatiskt" än annat. Jag när en svag förhoppning om att det är fråga om en utstuderad parodi på *Djurfarmen.*

Mitten av boken upptas av en genomgång och kritik av olika straffteorier. Den är ganska tröttande. Det är de gamla vanliga argumenten fram och tillbaka och en del internt norskt gläfs. Mathiesens resonemang totalhavererar dessutom med en besvärande regelbundenhet. När han skall sätta in fängelset i sitt funktionella sammanhang blir resultatet lika befängt som när Lorenz Lyttkens orerar om det hjälpande skiktet. Således skriver Mathiesen om fängelsets *renoveringsfunktion,* en funktion i vilken fängelset tjänar till att ta hand om 'våra' improduktiva – liksom ålderdomshem, mentalsjukhus och behandlingshem. Anstaltsväggarna skulle skilja de improduktiva från det välmående produktiva samhället. Men var tillbringar våra sjuka, pensionärer och biståndstagare i allmänhet sina dagar? Jag bara frågar.

Innan tryckningen borde man korrigerat internreferenserna. Det står t ex "(se ovan s 000ff)". Ibland får man intrycket att Mathiesen lämnat ifrån sig ett ofärdigt manuskript eller drabbats av trötthet inför sina egna skriverier, som om han inte fann det mödan värt. Efter en längre uppräkning av argument kommer i slutet på ett stycke meningen: "Och så vidare."

Slutkapitlet, som typiskt heter 'Vad bör göras?' innehåller ett program för nedmontering av fängelset

som institution. I detta ryms *en allmän livförsäkring* som utfaller 'utan komplikationer' till brottsoffer. Detta initiativ kommer säkert att tas emot med tacksamhet av de alkoholister och narkomaner som i pressade situationer och under rusets inflytande bankar skiten ur varandra. Mathiesen har förutsett att det kommer att vara svårt att avskaffa fängelserna, därför krävs det enligt honom både propaganda för nya värderingar och ett antikvariskt program för bevarande av *värdefulla* fängelsebyggnader. Kulturrevolutionär och bildstormare är han i varje fall inte, professorn. Dessutom krävs det sociala insatser. Mathiesen förespråkar arbete, bostad och frivillig behandling. Det vet vi redan att det inte förslår. Mathiesen vill också bygga ut 'offerhus', på linje med kvinnohusen.

Men dessutom skall det finnas hus för gärningsmän som begått sådana brott som möts av utbredd avsky. Det gäller våldtäkt, barnamord och sådant. Denna 'typ' av gärningsmän förföljs ju också av fångarna. Det kommer att krävas en hel del propaganda för att få folk att acceptera att barnamördare inte bara skall få hållas (i 'frihet') utan dessutom skall förses med fristad.

Vanligt folk och jag själv – oaktat Dantons ord om vilket avstånd detta 'och' lägger mellan oss – har en tendens att generalisera om kriminalitet och om brottslingar. Resultatet blir inte alltid så lyckat, vi får den sorts krycka som benämns *fördom*. När Mathiesen tar i kan det utfalla som på sidan 271: "Kriminalitet är ett urspårat försök att säga någonting". Och jag som trodde vårdideologin var död.

Sven-Erik Olsson

Jan Odhnoff &
Casten von Otter (red)
ARBETETS RATIONALITETER. OM FRAMTIDENS ARBETSLIV
143s
Stockholm:
Arbetslivscentrum 1987

Produktionsväsendets radikala förändringar påverkar alla samhällsområden, och är därför en fråga av högsta vikt. Det som främst karakteriserar omvandlingen är datoriseringen. Frågan är vem som behärskar denna teknologis utveckling eller om den skenar ut i samhället som Frankensteins monster. Då hela det kapitalistiska systemet karakteriseras av planlöshet och kortsiktighet är det inte förvånande om samma sak även gällde datoriseringen. Den har inte tillkommit på grund av behov hos arbetarna utan från toppen av hierarkin för att få till stånd inbesparingar. Därför har man från fackligt håll känt datoriseringen endast som ett hot och inte sett de möjligheter som finns. Då datoriseringen skett oberoende av arbetarnas önskemål, har man inte heller tagit till vara de erfarenheter dessa har. Den kompetens som arbetarna har, får nu stiga åt sidan för experternas teoretiska kunskaper. Men denna teknokratiska och byråkratiska rationalitet har i praktiken ofta visat sig orationell och direkt negativ. Man har därför vid Arbetslivscentrum gett ut en samling artiklar där, man angriper detta synsätt och försöker skapa en annan, demokratisk rationalitet, som bättre kan tjäna framtidens arbetsliv.

I inledningen till boken betonar Odhnoff och von Otter den ofria ställning individen har såväl i arbe-

tet som i politiken. "Människan uppvisar alltfler likheter med de vita möss som betytt så mycket för mänsklighetens framsteg i vetenskapens laboratorier. Likt möss, ser vi varandra, jagande i gångarna efter ostbitar som lagts ut av experimentets kontrollör. Likt den senare litar överheten mer på sina medmänniskors reflexer än reflektioner". Men det är inte bara hos överheten denna inställning vunnit gehör, utan även hos arbetarrörelsen. "Av fackets traditionella rikhaltiga argument om förnuft, rättvisa, medkänsla eller hot och protester, kvarstår ett tjänstemannamässigt utbyte av paragrafer".

Författarna står dock inte pessimistiska inför detta problem, utan försöker visa vägen till ett annat, mänskligare synsätt. Boken belyser problemet ur olika synvinklar och visar på alternativ. Idealet för forskarna är en demokratisk dialog där alla berörda parter deltar. På så vis kommer såväl teoretisk kunskap som praktisk erfarenhet till nytta vid planeringen. Pelle Ehn visar, med utgångspunkt i Marx, Heidegger, Wittgenstein och med ett nordiskt forskningsprojekt om facklig utveckling av och utbildning i datateknik och arbetsorganisation (UTOPIA) som plattform, att en syn på datorerna som verktyg, skulle kunna ha positiva möjligheter. Detta perspektiv skulle utgå ifrån den yrkesskicklighet och de kunskaper som finns på arbetsplatsen, i detta fall hos grafiker. Datoriseringen skulle då kunna utveckla arbetarnas yrkesskicklighet och få till stånd en förbättring av produkterna. Ehn anser att den tysta kunskapen har en stor betydelse för yrkesskickligheten och att denna kunskap inte direkt kan överföras till en dator. För att datorerna skulle kunna förbättra produkterna och inte försämra dem, skulle det krävas såväl ett yrkesperspektiv som en dialog mellan datorexperter och yrkesarbetare inom branschen.

I bokens övriga bidrag exemplifieras vikten av den tysta kunskapen och dialogens betydelse bl a inom vårdsektorn. von Otter betonar speciellt vikten av att dialogen är icke-auktoritär: "Det finns belägg för att auktoritära organisationer inte bara präglar relationerna vertikalt utan även mellan arbetskamrater och till patienter." Den rationalitet som teknokrater och byråkrater står för och som huvudsakligen styrt datoriseringen är endast en rationalitet på kort sikt, om ens det.

Slutsatsen som bokens författare drar, är att alla parter skulle vinna på en demokratisk, icke-auktoritär dialog, där de olika viljorna och kunskapstyperna skulle utvecklas i mötet med varandra.

Tom Karlsson

Anders Östnäs
SOCIALTJÄNSTEN OCH UNGA LAGÖVERTRÄDARE
Lund: Meddelanden från Socialhögskolan 1987:6

En sorts enighet om att den sociala ungdomsvården inte klarar sina brottsförebyggande uppgifter är på väg att växa fram. Det började i samband med Socialtjänstens ikraftträdande och hävdandet att domstolarna inte tror på Socialtjänsten. Den hotande följden av detta var att fler ungdomar skulle förpassas till kriminalvården, där de

får skyddstillsyn eller förpassas i fängelse. Snart därefter tematiserades samma sak beträffande ungdomar och narkotikadebuter, d.v.s. de sociala myndigheternas åtgärder framställdes som kraftlösa och otillräckliga. I det senaste ledet har en koppling gjorts till det angivet uppblommande tonårsvåldet och möjliga åtgärder mot detta.

Från såväl Lunds som Stockholms horisont verkar det emellertid som förhållandena i Skåne är särskilt intressanta. Hur det nu än förhåller sig med den saken så beviljades sociologen Anders Östnäs medel för en studie av de allmänna domstolarnas val av påföljd för brott – efter socialtjänstreformen – begångna av unga lagöverträdare. En studie som bl.a. skulle ge en bild av utvecklingen genom statistik över domar mot unga lagöverträdare vid Lunds och Malmös tingsrätter åren före och efter socialtjänstens införande. Långt om länge har detta projekt avgett en delrapport. Eftersom anslaget är förbrukat är det samtidigt egentligen en slutrapport som har ingivits. Det finns skäl att ta upp denna rapport till närgranskning.

Även vid Rättssociologiska institutionen i Lund bedrivs forskning om effekter av åtgärder mot unga lagöverträdare och om åtgärdssystemets utveckling. Det har över åren också författats uppsatser i området av grundstudenter. Med stor förvåning tog jag därför del av några av mina elevers arbete, av Östnäs utnämnt till *rapport* och *60-poängsuppsats*. Förvåningen hade två källor. Östnäs är för det första studierektor vid en Högskola och borde ha en grundläggande kunskap om vad elever vid samhällsvetenskaplig fakultet vanligen uträttar på tre-betygsnivå. De skriver ett *självständigt arbete*. För det andra hade jag haft tillfälle att utförligt diskutera uppsatsen med Östnäs och därvid presenterat den som det den var: ett arbete på nivån 1-20 poäng, som i väsentliga hänseenden är lättviktigt.

Det var i och för sig inget *tunt* arbete som mina elever presterade. Det överskred med bred marginal det rekommenderade sidantalet för en uppsats på den aktuella nivån. När sociologen Anders Östnäs fick tag i grundkursuppsatsen, *Dömd till kriminalitet*, tog han fram stora saxen. Den redovisas således närmast okommenterad. Grafiskt sker det dessutom på ett sätt som innebär en klar försämring jämfört med originalet. Tabeller har efter urklipp förminskats till ett format där läsbarheten är mycket låg. Östnäs har dessutom tatt sig för att kladda dit kompletteringar för hand. Ett liknande öde drabbar en annan, till rapport utnämnd, uppsats. Det är ett elevarbete vid Socialhögskolan i Lund, *Barn i kriminalvården*.

Mer än 20 procent av den rapport Östnäs avgivit består av direkta utdrag ur uppsatserna. Östnäs har dock inte nöjt sig med att låta saxen gå i elevarbeten; ur en BRÅ-rapport har Östnäs rivit närmare sex sidor rakt av. En-14 årig ungdomsbrottslings 'bekännelse' överräcks beledsagad av en försäkran: "speglar i övrigt väl våra erfarenheter". Men var det en antologi Östnäs fick medel till? Svaret på den frågan är rimligen ett nej.

I inledningen får vi veta vad som ursprungligen planerats; statistikinsamling och intervjuer. Vad är då gjort av detta? *En* intervju. Mer än

tio procent av rapporten åtgår för att redovisa den. Östnäs har ersatt planerade intervjuer med en enkätstudie med *kvalitativt* inriktade frågeställningar. Östnäs redovisar ett bortfall på mer än 60%. Östnäs låter sig dock på intet vis avskräckas.

Han deklarerar att "det skulle föra för långt att alltför mycket fördjupa sig i bortfallsproblematiken". Jag misstänker att Östnäs inte vet vad *bortfall* är. Då menar jag bortfall som *statistiskt begrepp,* inte som något man tappat bort eller inte fått tag i i största allmänhet.

Östnäs har distribuerat sin enkät till de "vi bedömde hade kunskap och erfarenhet av våra frågor". Det ligger efter en genomläsning av rapporten nära till hands att översätta detta till *ett godtyckligt antal personer som föll honom i smaken.* Hela tillvägagångssättet vid enkätens distribution ger ett oengagerat intryck. Enkäter har lämnats till andra att distribuera vidare. Byråföreståndare har fått 20 enkäter (två var) att fördela "bland socialsekreterare med insikter i våra frågor".

Östnäs tar sig emellertid runt allt detta med en originell etikett. Han kallar sin undersökning *explorativ och inte av konventionell natur.* Den skall "ge uttryck för tendenser utifrån kvalitativt utformade frågeställningar". Med ett, som det verkar, suveränt förakt för sociologisk metodologi försvarar Östnäs sitt misslyckande att följa projektplanen och sin undermåliga ersättningsundersökning.

Socialhögskolan i Lund har gett ut Östnäs rapport *Socialtjänsten och unga lagöverträdare* i sin meddelandeserie (1987:6). Östnäs är att gratulera till att ha fått den publicerad. Det ger samtidigt anledning till oro för vad det skall bli av ämnet Socialt arbete. Om Östnäs' arbete får sätta standarden är det inte bara i Stockholm som det finns anledning att ha temadagar om socialhögskoleutbildningen.

Det är fortfarande en angelägen forskningsuppgift att granska vilket öde de unga lagöverträdarna går till mötes efter att de *åtgärdats* och om konflikten mellan dessa ungdomars beteende och samhällets krav och önskan om laglydnad kan lösas med humanare medel.

Sven-Erik Olsson

Litteratur

Ds S 1984:15 *Socialtjänstens insatser för ungdomar – Vissa frågor i samband med missbruk och kriminalitet*

Colleen/Olsson/Osbeck/Pettersson *Barn i kriminalvården?* Stencil. Uppsats i Socialrätt SL 152 Socialhögskolan (1983)

Arne Dalteg *De omöjligas möjlighet – situationen för elever på hem för särskild tillsyn (f.d. ungdomsvårdsskola)* Lövsta Skolhem (Arlöv 1983)

Ed/Ingfeldt/Lindell-Frantz *Dömd till kriminalitet* Stencil. Uppsats i Rättssociologi RÄ 001. Rättssociologiska Institutionen (1984)

Föreskriftens comeback – soppa på en spik SSR-tidningen 38•1986

Antoinette Hetzler *Rättens roll i socialpolitiken* (Liber 1984)

Owe Larsson *Samhällets olycksbarn – Om vård i hem med särskild tillsyn* BRÅ Utredningsenheten (Stockholm 1986)

Sten Levander *Brev till Statsrådet Gertru d Sigurdsen, Socialdepartementet 12 sept 1983* Stencil. Lövsta Skolhem (1983)

Sven-Erik Olsson *Minskad tilltro till SoL dömer unga till fängelse* SSR-tidningen 3•1985

Ulla Pettersson *LVM – En uppföljningsundersökning* Socialtjänstprojektet Rapport Nr. 3/Rapport i socialt arbete 12 1984

Jerzy Sarnecki *Ungdomsbrottslighet* Liber Publica (Uddevalla 1981)

Anders Östnäs *Socialtjänsten och unga lagöverträdare* Meddelanden från Socialhögskolan 1987:6

Anders Östnäs *Mycket skiftande inställning till socialtjänsten och unga lagöverträdare* Social Forskning Nr 2 1987 Årg. 2

Nordiskt kriminalistmöte

År 1989 är det Svenska kriminalistföreningens tur att vara värd för det nordiska kriminalistmötet, det tionde i ordningen. Evenemanget äger rum den 12-14 juni i Stockholm i riksdagshuset. De diskussionsämnen som kommer att behandlas är:

Plenarämnen

Fängelsets plats i den moderna kriminalpolitiken - står fängelsestraffet inför en renässans? (Referenter: Överdirektör *K J Lång*, Finland, Avdelningschef *Thorsteinn A Jönsson*, Island, Justitierådet *Bo Svensson*, Sverige)

De mänskliga rättigheternas betydelse för straffprocessen och straffverkställigheten. (Referenter: Førsteamanuensis *Jan Helgesen*, Norge, Professor *Lars Nordskov* Nielsen, Danmark)

Sektionsämnen

Straffrättsliga reaktioner för psykiskt störda lagöverträdare. (Referent: Landsdommer *Holger Kallehauge*, Danmark, Korreferent: Professor *Raimo Lahti*, Finland)

Brott mot yttre miljön. (Referent: Riksadvokat *Georg Fr Rieber-Mohn*, Norge, Lektor *Ellen Margerethe Basse*, Danmark)

Behandlingen av anhållna och häktade - ändamål, innehåll och verkningar. (Referent: *Klaus Helminen*, Finland, Korreferent: Ass riksadvokat *Tor Aksel Busch*, Norge)

En effektivisering av straffprocessen i enklare brottmål. Jourdomstolar - åklagare och polis som domare - försvarets ställning. (Referent: Justitierådet *Inger Nyström*, Sverige, Korreferent: Professor *Jonatan Thormundson*, Island)

Kriminalvård eller socialvård för unga lagöverträdare - reaktionsmöjligheter och rättssäkerhetsgarantier. (Referent: Overlege *Helge Waal*, Norge, Konferent: Departementsråd *Christina Kärvinge*, Sverige)

Kriminologi och kriminalpolitik. (Referent: Docent *Leif G W Persson*, Sverige, Direktör *Patrik Törnudd*, Finland, Professor *Knud Waaben*, Danmark

Mötet avslutas med en festbankett på Operaterassen. Deltagaravgiften blir 900 kr, 300 kr för ledsagare och 200 kr för studerande.

Anmälningstiden utgår den 31 mars 1989.
Anmälningsblanketter kan rekvireras från föreningens sekreterare Nils Rekke, Justitiedepartementet, 103 33 Stockholm, Tel 08 - 763 46 25.

TIDSKRIFT FÖR RÄTTSSOCIOLOGI VOL 5 1988 NR2

Aktuell information

ETT NYTT NUMMER

Den amerikanska Law & Society Association's kvartalstidskrift *Law & Society Review* har från och med i år berikats med ett femte nummer, som uteslutande ska innehålla recensioner. Vol. 21 No. 5 1988 innehåller 37 kombinerade debatt- och recensionsartiklar som sammanlagt behandlar 56 böcker utgivna under de senaste fem åren. Ämnesvalet är brett, från "Glasnost and the Soviet System of Justice" till The Best of Times and the Worst of Times in the Sociology of Law".

Vi ska bjuda på ett par godbitar

"KÖPEDOMARE"

I sin artikel "Another Brief for Business" riktar **Joel Rogers** skarp kritik mot **Richard Neely** och dennes bok *Judicial Jeopary: When Business Collides with the Courts*, som han finner mycket obehaglig.

Neely vill förbättra näringslivets ställning i domstolarna, vilket för honom innebär att de ska vinna fler mål i domstol än de gör för närvarande. För att åstadkomma detta, menar Neely, måste näringslivet agera framgångsrikt i domstolarnas politiska forum, så som tidigare skett genom lobbyverksamhet gentemot lagstiftaren och vissa tillämpningsmyndigheter.

Ett av Neelys förslag till hur näringslivet ska uppnå en bättre ställning i domstolarna är, inte oväntat, att vifta med checkhäftet. Domarna är nämligen inte speciellt välavlönade, och för att få råd med semesterresor tvingas de åka på allehanda slags konferenser, medförande frun. Näringslivet bör tillvarata denna situation genom att bjuda domare och deras fruar på lyxsemestrar till åtråvärda semes-

terorter där man håller seminarier om olika aspekter av näringslivets förhållande till rätten. Därmed ges möjlighet att förklara de olika problem som de stora företagen upplever i domstolarna.

Enligt Rogers är denna form av lobbying i viss utsträckning redan en realitet i USA; det finns redan en del "köpedomare". Trots det anser han att man sannolikt, och förhoppningsvis, kan förvänta sig av domarkåren att de använder sin makt på ett mer ansvarsfullt sätt än det Neely uppmanar till i sin bok.

Regleringsteori

Missa inte heller **Robert A. Kagans** artikel "What makes Uncle Sammy Sue?", som bygger på en recension av **David Vogels** *National Styles of Regulation: Enviro nmental Policy in Great Britain and the United States*. Kagan, som själv svarat för väsentliga bidrag till ökad kunskap om regleringars teori och verklighet, pekar här på några centrala punkter i jämförelsen mellan regleringsstrukturen i länder med olika politisk struktur och rättslig kultur.

Hans iakttagelser är viktiga för en förståelse av samspelet mellan rätt, politik och reglering. Ett land kan inte tillgodogöra sig regleringsstrategier, t ex för miljöproblemen, som utarbetats i annat land, utan att ta hänsyn till de stora skillnader som kan finnas mellan länderna i avseende på rättslig kultur och politisk struktur.

Statssekreteraren och de tre vise männen

Rättssociologiska institutionen har under höstens seminarieserie gästats av ett antal bemärkta personer.

Först ut var den norske rättssociologen **Hans Petter Graver**. Han är för närvarande engagerad i ett projekt tillsammans med **Torstein Eckhoff**, med målet att tvärs emot rättskällelärans heligaste axiom visa att det inte finns *en* gällande rätt.

Den 19-22 oktober besöktes institutionen av Dr **Joost Kuitenbrouwer** från Institute of Social Studies i Haag, Holland. Dr Kuitenbrouwer berättade om den programverksamhet som han sedan flera år bedriver och som kallas "A Special Teaching Programme on Human Rights", med kurser i Holland och Chile. Under besöket fördes preliminära diskussioner om uppläggningen av en liknande verksamhet i Lund, som komplement till det holländska programmet. Här samarbetar institutionen med Tredje världen-seminariet på Sociologiska institutionen och avdelningen för internationell rätt på Juridiska institutionen.

I november kom professor **Aulis Aarnio** från Helsingfors universitet. Aarnio, som är en framträdande rättsfilosof och rättsteoretiker, höll ett föredrag på temat rättsvetenskapens paradigm och rättssociologi.

Sist i raden kom statssekreteraren i justitiedepartementet **Sten Heckscher**, som under ivrigt förnekande av att han någonsin varit en forskare talade om hur lagstiftning skapar behov av (rättssociologisk) forskning och hur forskning kan initiera lagstiftning. Inte minst gäller detta forskning om lagstiftaren själv och om tolika tillämpningsmyndigheter. Hans anförande gav upphov till flera livliga debatter, bl a om kriminalvården. Inte en enda gång under seminariet nämndes Ebbe Carlssons eller Anna-Greta Leijons namn.

SKUGGOR UR DET FÖRFLUTNA

BAKNUMMER AV TIDSKRIFT FÖR RÄTTSSOCIOLOGI TILL LÅGA PRISER.

Enkelnummer SEK 25:-, dubbelnummer SEK 40:-. Beställ genom att sätta in beloppet på pg 6 96 88-0, Tidskrift för rättssociologi. Ange önskade nummer på talongen.

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