

The Public Sense of Justice

- Furthering and developing a Nordic Research Tradition



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Penal policy and public sentiments on justice

- Already in 1979 Ulla Bondeson argued that whenever the *general public sense of justice* was evoked in public debates it was less about facts (the actual sense of justice) and more about how to rationalize political objectives

(Bondeson, U., "Det allmänna rättsmedvetandet – en legal fiktion", in Bondeson, U. (ed.), Rationalitet i rättssystemet, 1979, p. 143)
- Since then we have witnessed a general "politization of the desire for punishment" (Hörnqvist, M., The pleasure of punishment, 2021)
- As a result the public sense of justice has increasingly been evoked in debates on penal policy in the Scandinavian countries during the last two decades

As explained by Minister of Justice in Denmark, Lene Espersen (2001-2008)

- Tougher sentencing is “primarily motivated by considerations for the victims and the public sentiments of justice” (retsfølelsen)
- In an interview Lene Espersen declared that she governed with her own “inner sense of justice”, which she claimed to share with “ordinary citizens” (‘DJØF bladet’ no. 7, 2002)



Putting political statements to the test

- Nordic research

- A big study on public sentiments on justice kicked off in Denmark (2006) and later also in Sweden, Norway, Finland, and Iceland
- Here public sentiments on Justice (“retsfølelsen”) were defined as “the public’s views on punishment” and assessed on three levels (Balvig 2006; Balvig et al. 2015)
 - The general public sentiments on justice
 - The informed public sentiments on justice
 - The concrete public sentiments on justice

DANSKERNES SYN PÅ STRAF

af
Flemming Balvig



2006
ADVOKATSAMFUNDET

Some key findings in previous Nordic research

- General (uninformed) public sentiments on justice demand more punishment
- No support for raising sentences based on *informed* and *concrete* public sentiments on justice – **people punished less than the courts**
- The public generally underestimate sentencing levels in the courts

Penal policy and public sentiments on justice

- raising the maximum sentence in Norway?

- "No matter how many times and how seriously an offender violates the law it will not result in a sentence above the maximum sentence. If one of several committed rapes result in the maximum penalty the offender will in principle not be punished for additional offences. This violates public sentiments on justice ('rettsfølelsen') ... "

- **PER-WILLY AMUNDSEN** (Frp),
VG Debatt, 22. mai 2017



Minister of Justice Per-Willy Amundsen argued that this proposal was in line with «peoples sentiments on justice» and Minister of Finance Siv Jensen declared that »the public» clearly would agree that this was «a sensible proposal»

Denmark: the continuous political use of the general (uninformed) public sentiments on justice has created a destructive dynamic

- The continuous application of uninformed

public
create
increa

“Politics should not be scientificized. There is no one right answer in politics – only emotions and opinions” (“Politik skal ikke videnskabeliggøres. Der findes ikke noget facit i politik – kun følelser og holdninger”, Information 28. July 2017)

- Pur
- Bas
- pre

- Tough and harsh *instead of* human rights based

(Peter Scharff Smith 'Toxic masculinity' og straffepolitik – om den politiske brug af retsfølelsen og konsekvenserne for det danske samfund, Social Kritik 168 / 2023-1)



Peter Skaarup
(Danmarks-
demokraterne)

The public sense of justice in Norway (2023)

- A study of peoples attitudes towards and opinions about law, justice and punishment («Folks holdninger til og meninger om lov, rett og straff»)
 - The general public sentiments on justice
 - The informed public sentiments on justice
 - The concrete public sentiments on justice

Rettsoppfatning i Norge

Holdninger til straff og straffegjennomføring
i den norske befolkningen

LARS ROAR FRØYLAND, PETER SCHARFF SMITH, MAY-LEN SKILBREI,
BERIT JOHNSEN, INGRID RINDAL LUNDEBERG, FREDRIK SIVERTSSON
& KARI STEFANSEN

OSLO METROPOLITAN UNIVERSITY
STORBYUNIVERSITETET



Data collected in Norway in 2022

Tel.
interview
16–74 years
(N = 4 103)
(the general
sense of
justice)

Postal
survey with
cases
16–74 years
(N = 1 064)
(the
informed
sense of
justice)

Focusgroups
17–24 years
(11 groups,
49
participants)
(the
concrete
sense of
justice)

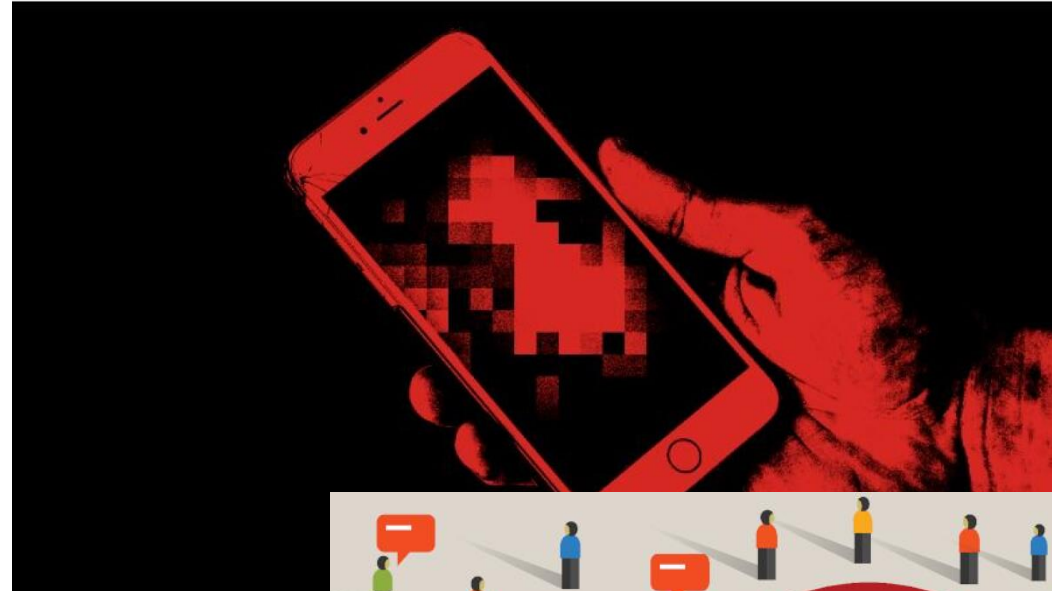
A panel of
judges
(deciding
punishment
level by the
courts)

«Ungdata»
13–19 years
(N = 84 483)



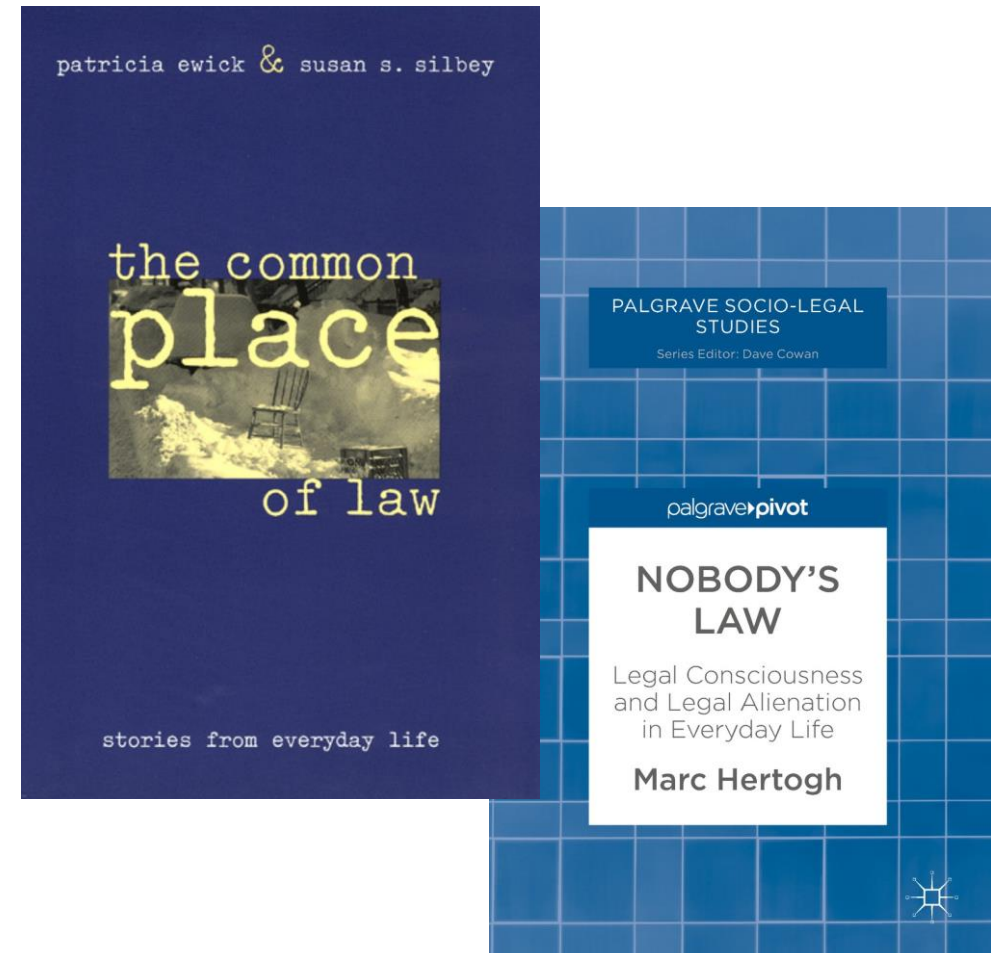
Types of criminal acts

- Sexual offences
 - Rape
 - Image-based abuse
- Drug offence
- Hate speech
- Violence
 - Intimate partner violence
 - Street violence



New elements in the 2023 study – compared to previous research

- New categories of offenses
 - Image-based abuse
 - Hate speech
 - Cannabis case (not hard drugs)
- Focus groups inspired by legal consciousness research
 - Looking at trust in the criminal justice system

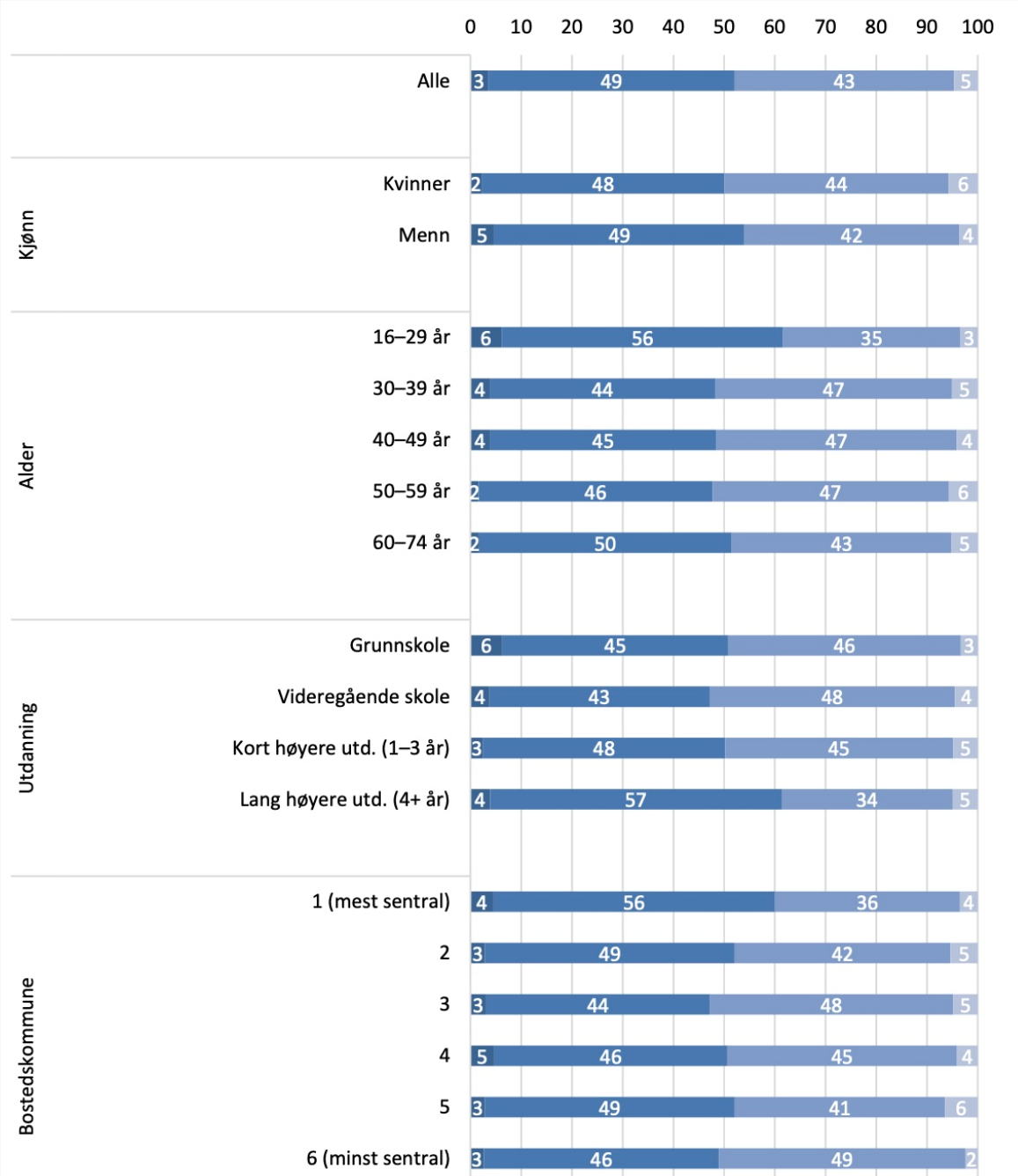


Tabell 2.1: Utvalg i befolkningsundersøkelsen etter individuelle kjennetegn.

	Telefon-undersøkelse (N = 4 103)		Brevbasert undersøkelse (N = 1 064)		Norge pr. 1/1-2022 ^a
	%	n	%	n	%
Kjønn					
Kvinne	45,2	1 855	51,6	548	49,0
Mann	54,7	2 244	48,3	513	51,0
Annet	0,1	4	0,1	1	–
Alder					
16–29 år	33,6	1 379	19,0	202	23,9
30–39 år	22,3	917	20,2	215	18,7
40–49 år	14,3	585	15,3	163	17,9
50–59 år	16,8	690	22,4	238	18,1
60–74 år	13,0	532	23,0	244	21,3
Utdanning ^b					
Grunnskole	5,3	216	4,0	40	24,0
Videregående skole	35,4	1 451	28,2	299	37,3
Kort høyere utd. (1–3 år)	32,4	1 331	35,2	374	26,6
Lang høyere utd. (4+ år)	26,6	1 092	32,5	345	12,1
Ønsker ikke svare	0,3	13	0,2	1	–
Bostedskommune ^c					
1 (mest sentral)	21,0	858	21,4	227	19,0
2	28,4	1 162	28,8	306	25,3
3	24,9	1 019	25,3	269	25,7
4	14,1	576	13,7	146	16,5
5	7,9	322	7,4	79	9,4
6 (minst sentral)	3,8	156	3,3	35	4,5
Landbakgrunn					
Norge	86,1	3 524	90,7	963	79,2
Resten av Skandinavia	3,3	134	2,9	31	1,6
Resten av Europa, Nord-Amerika og Oseania	5,0	204	4,2	45	8,7
Resten av verden	5,7	232	2,2	23	10,5

Note: ^aData viser til befolkningen i alderen 16 til 74 år, med mindre annet er angitt. ^bData for Norge for personer mellom 16 og 66 år per 1/1-2021. ^cKommunene er fordelt etter Statistisk sentralbyrå sin indeks for sentralitet (Statistisk sentralbyrå, 2020). Data for Norge viser til hele befolkningen per 1/1-2019.

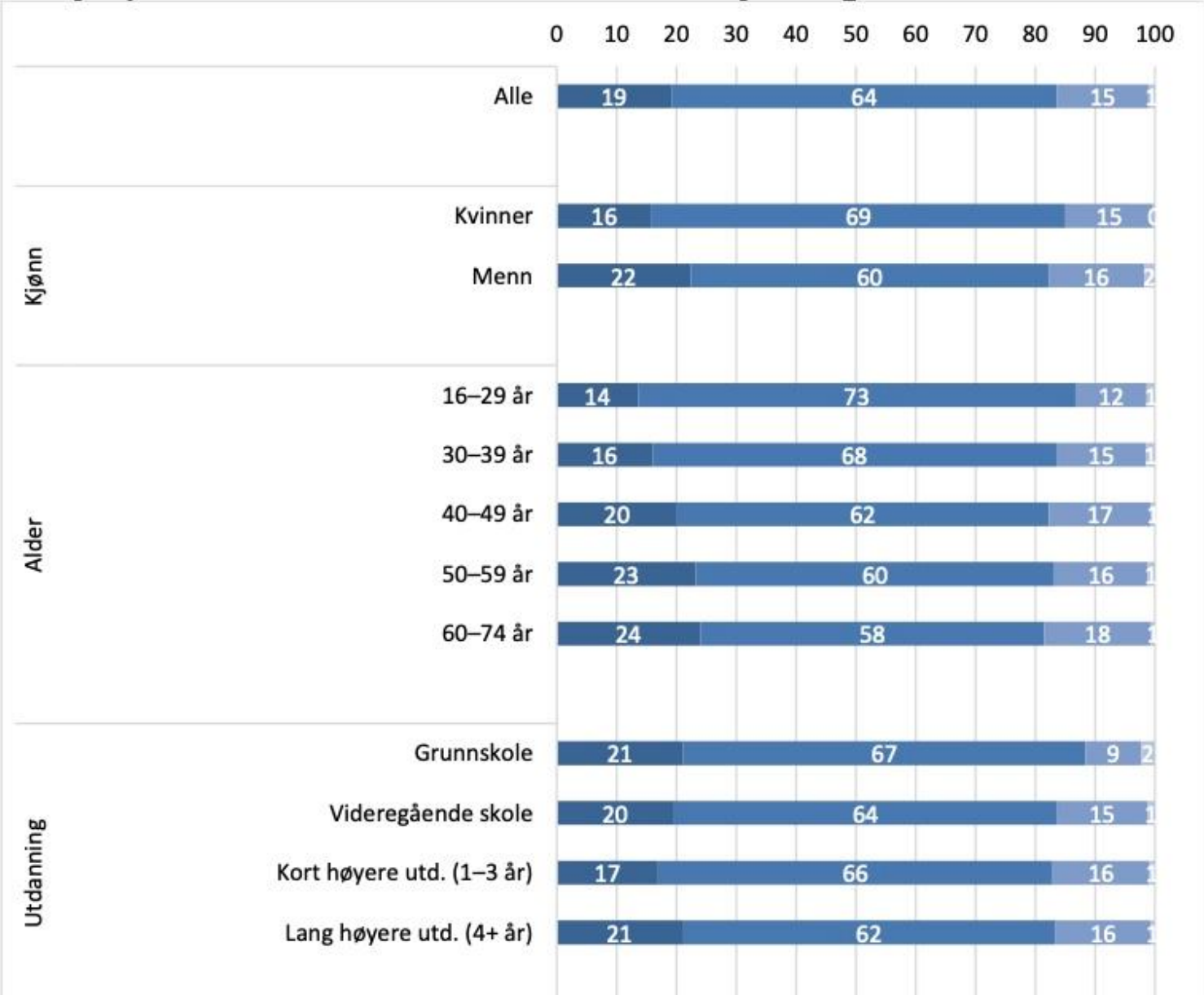
Figur 3.1: Deltakerne i befolkningsundersøkelsen sitt syn på om straffene i Norge generelt sett er for strenge, passende eller for milde etter individuelle kjennetegn. Prosent. N = 4 103.



Overall findings

- General sentiments on justice: A large group (43 %) want harsher sentencing – but this is significantly less than in previous studies and uniquely the biggest group (49 %) thought the level of punishment was adequate
- People think that the level of punishment is much lower than it actually is – they generally underestimate the level of punishment significantly
- General sentiments on justice: people support alternatives to imprisonment
- General sentiments on justice: people think that the aim of punishment should be rehabilitation and not revenge
- A significant desire to punish especially sexual and violent offenses
- Very split opinions on cannabis use with around half (the biggest group) favouring no punishment

Figur 3.7: Deltakerne i befolkningsundersøkelsen sitt syn på hva formålet med samfunnets reaksjon på kriminalitet burde være etter individuelle kjennetegn. Prosent. N = 4 103.



The aim and purpose of punishment
- the general sense of justice