

Sentencing Levels are (Still) Unknown

New Knowledge on Public Sentiments on Justice in
Norway

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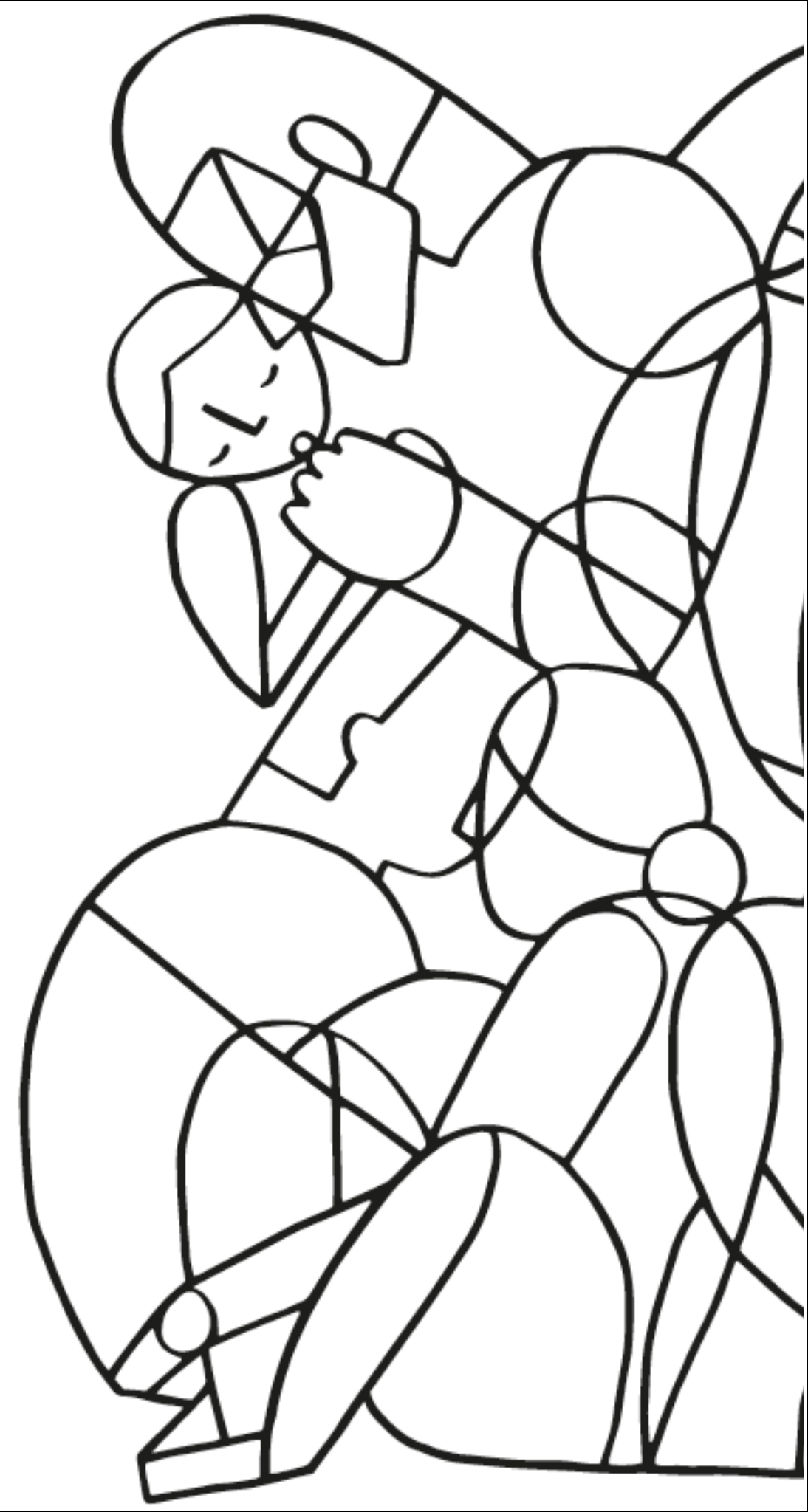
VELFERDSFORSKNINGSINSTITUTTET NOVA

Rettsoppfatning i Norge

Holdninger til straff og straffegjennomføring
i den norske befolkningen

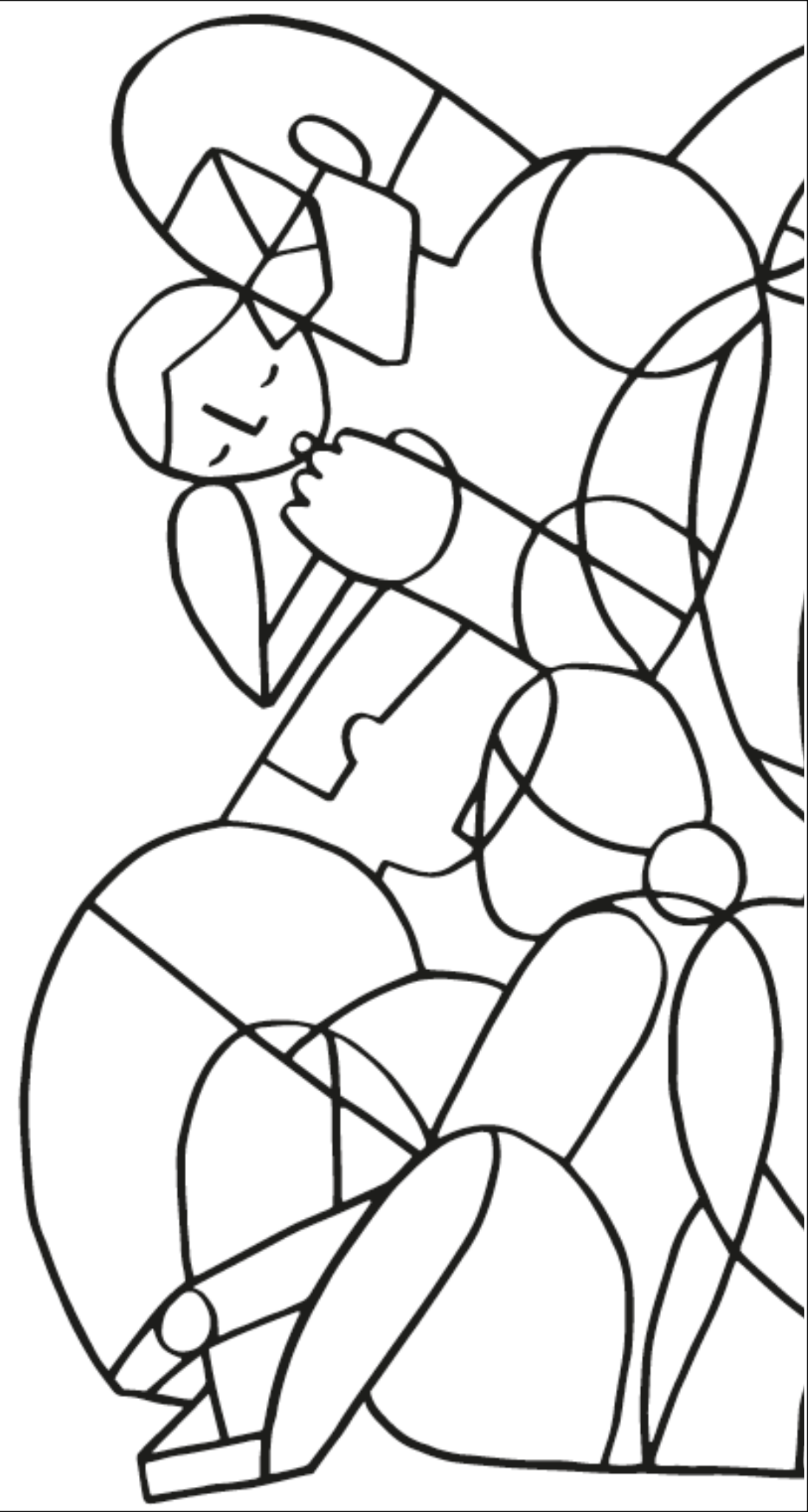
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Theoretical background (1)

- Attitudes signaling a want for tougher sentencing rests on a lack of knowledge about the criminal justice system, sentences, and punishment (Balvig, 2006).
- The general sense of justice as a bottomless reservoir of attitudes proscribing more punishment (Smith, 2007).
- Treat law as a dependent variable – make laws a part of the enquiry (Hertogh, 2018).

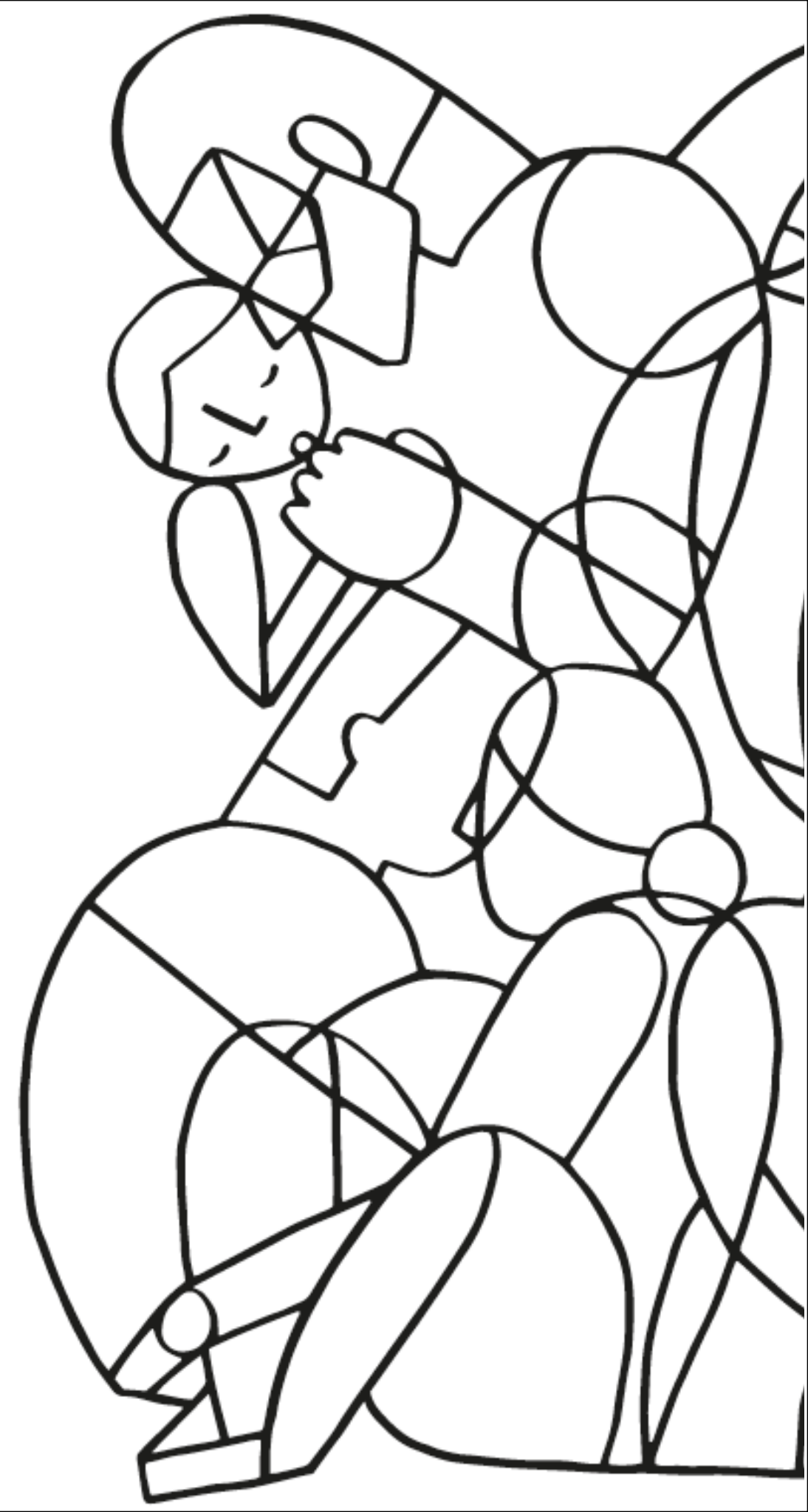
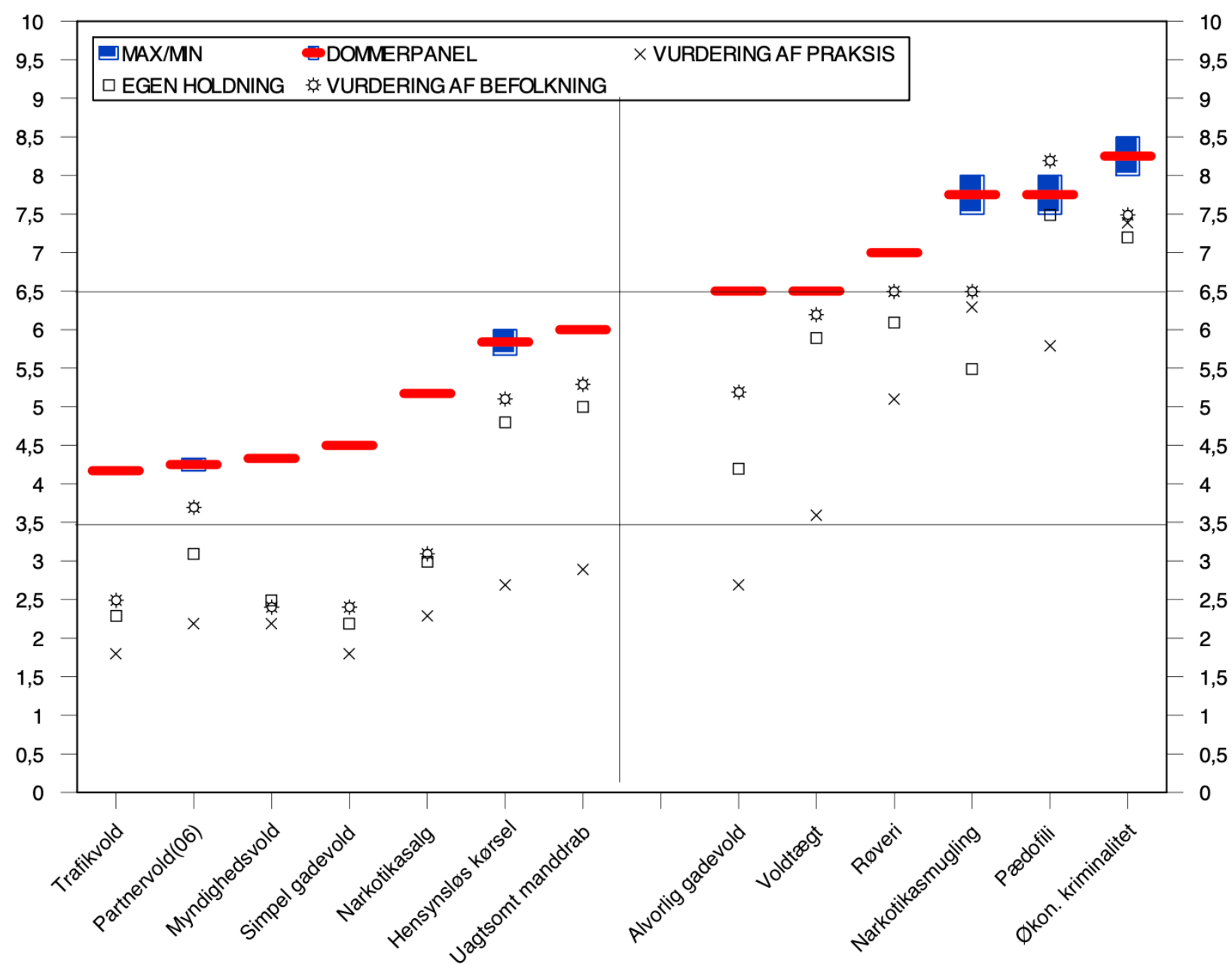


Theoretical background (2)

- Models for the importance of public sentiments on justice (Ryberg & Roberts, 2014):
 - i. A direct importation model
 - ii. An exclusionary model
 - iii. A qualified public input model.
- Aiming to create “a system of punishment that increasingly takes the involved parties and the social context of the crime into account and as a result produces a more lenient and balanced criminal justice system that will cause less harm.” (Smith, 2023).



Opstilling 6.1.5. Befolkningens forestillinger om, hvordan folk flest ville dømme og hvordan domstolene ville dømme, samt egne holdninger til, hvordan man synes, der bør dømmes, i 13 konkrete sager, hvor gerningspersonen ikke tidligere er straffet, sammenholdt med dommerpanelernes vurdering af retspraksis (GMedianer).



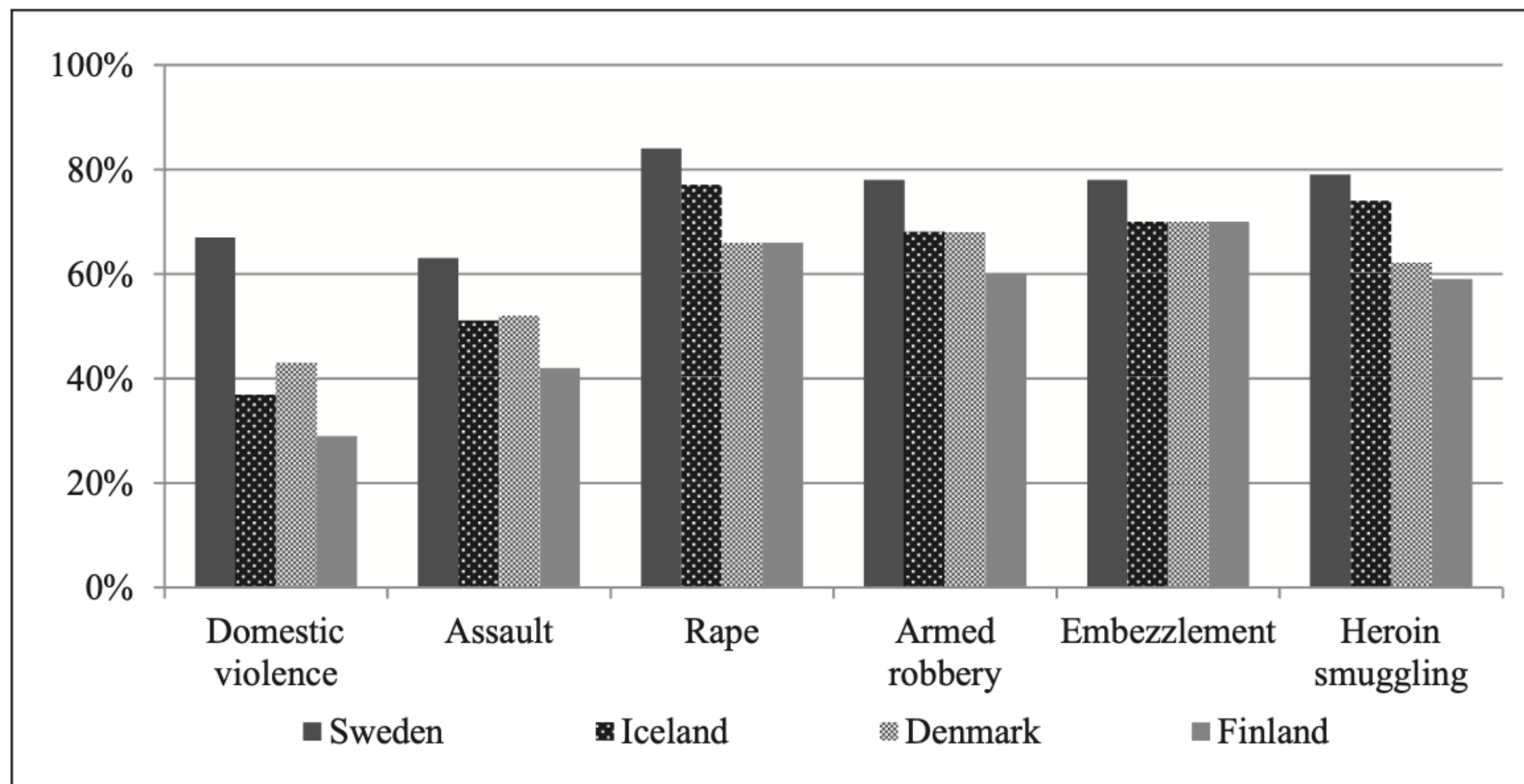


Figure 1. Informed attitudes towards sanctions in Denmark, Finland, Iceland and Sweden: Percentage who feel that the sanction in six criminal cases for individuals with no prior convictions should be a prison term. Postal questionnaires.



Public sentiments on justice: Data material

Telephone interviews
(16–79 years old)

N = 4,103

Vignette-based postal
survey
(16–79 years old)

N = 1,062

Youth surveys
(13–19 years old)

N = 84,483

Focus groups
(16–24 years old)

10 focus groups

Panel of judges

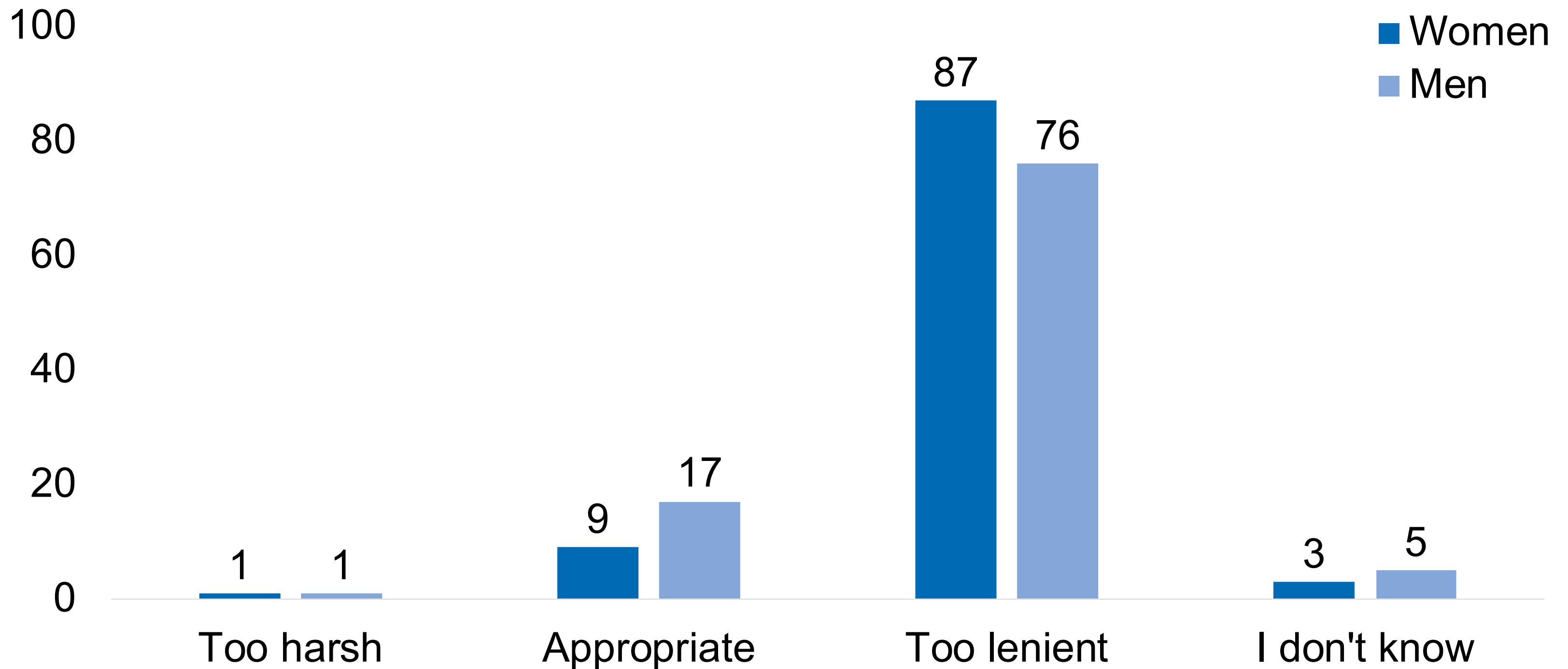


A panel of judges

- Five experienced judges from different district courts and appellate courts.
- Contributed to:
 - Vignette developing
 - Sentencing of the vignettes



Are the current sentencing levels in Norway for rape too harsh, appropriate, or too lenient?



The rape vignette (1)

"Siv, aged 20, was at a party at a friend's house with both acquaintances, friends, and strangers partaking. There was a lot of alcohol at the party, and Siv drank heavily. Late in the evening, Siv started talking to Brian, whom she had not met before. They danced and talked for a while. Siv left Brian to go to the bathroom. Siv was heavily drunk and threw up in the toilet. After going to the toilet, she felt very dizzy and went into an adjacent bedroom to lie down. She fell asleep immediately. A friend saw that Siv went into the bedroom, looked in at her, and saw that she was sleeping so heavily that she seemed almost unconscious."

The rape vignette (2)

“After a short while, Brian went to look for Siv. He did not find her at the bathroom, but when he looked through the bedroom door, which was ajar, he saw that Siv was lying in bed. Brian then went into the bedroom. When he got into bed behind Siv, he noticed that she had vomit residue in her hair. He felt her breasts, not inducing any reaction from Siv. He then took off her pants and panties and had sexual intercourse with Siv, before falling asleep next to her. Siv didn't open her eyes while the intercourse took place and was completely limp in her body.”

The rape vignette (3)

"When Siv woke up the next day, she was confused to discover that she was partially naked. She was sore in her pubic region and noticed that liquid was leaking from her vagina when she sat up. She realized it was semen. She had no memory of what had happened. Brian had left the bedroom and the house where the party had taken place before Siv woke up. Siv was nervous and worried that she had been infected by a sexually transmitted disease and called a friend for advice and comfort. The friend came and picked up Siv and took her to the emergency room for sexual abuse victims. After considering the matter for three days, Siv decided to report the incident to the police."

A reaction form

1 **HUSK:** Du kan sette inntil to kryss ved de opplistede alternativene per kolonne (nedover). Hv på begrepene, se forklaring på side 2 og 3.

	Hva tror du reaksjonen fra samfunnet ville bli?	Hva synes du selv at reaksjonen skal være?
	1.	2.
Ingen straff	☐	☐
Påtaleunntatelse	☐	☐
Bot		
Under kr. 10 000,-	☐	☐
Mellom kr. 10 000,- og kr. 50 000,-	☐	☐
Over kr. 50 000,-	☐	☐
Betinget fengsel		
Under 2 måneder	☐	☐
2-5 måneder	☐	☐

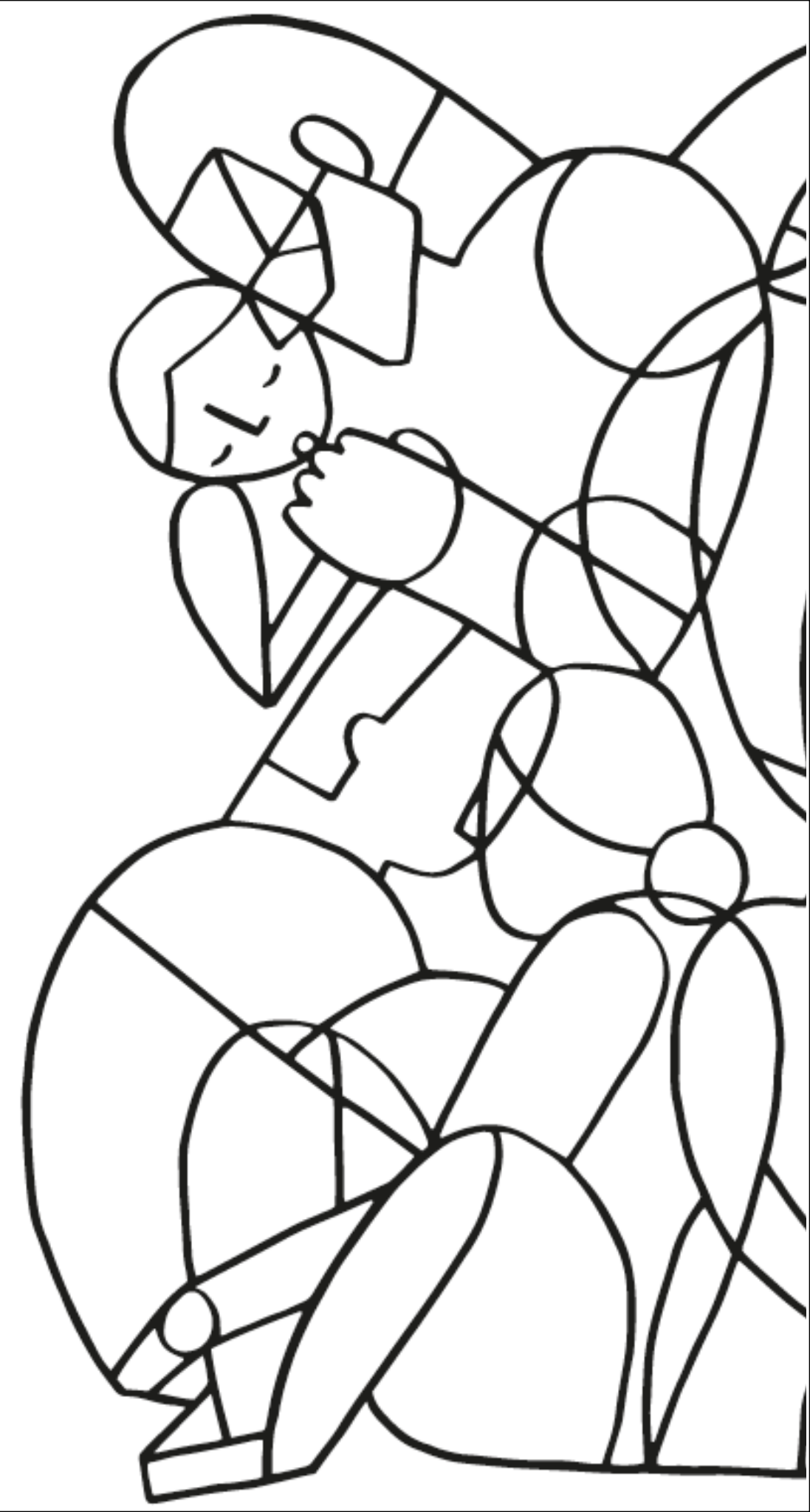
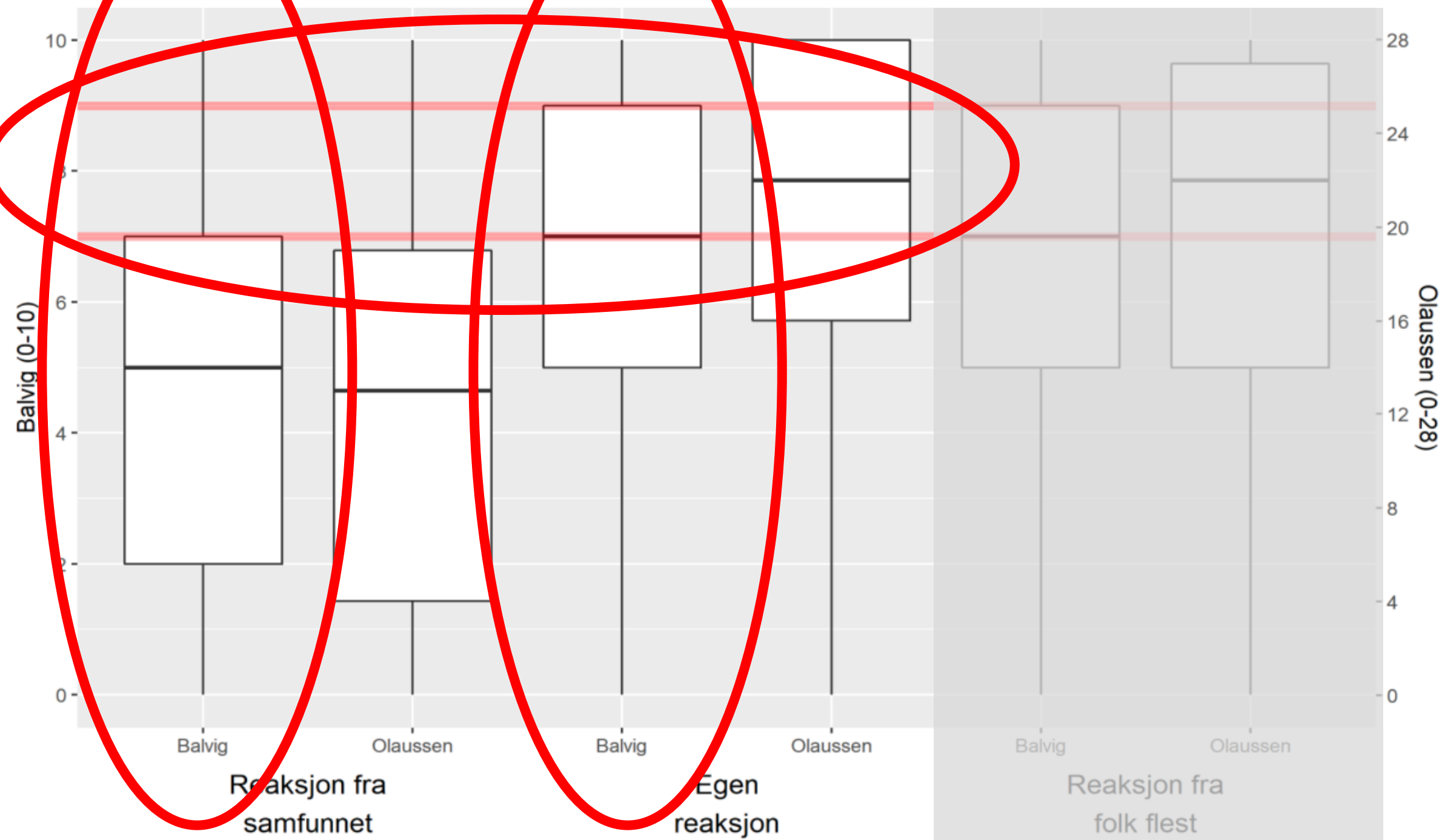
1 **HUSK:** Du kan sette inntil to kryss ved de opplistede alternativene per kolonne (nedover). Hvis du er usikker på begrepene, se forklaring på side 2 og 3.

	Hva tror du reaksjonen fra samfunnet ville bli?	Hva synes du selv at reaksjonen skal være?	Hva tror du at folk flest synes at reaksjonen skal være?
	1.	2.	3.
Ingen straff	☐	☐	☐
Påtaleunntatelse	☐	☐	☐
Bot			
Under kr. 10 000,-	☐	☐	☐
Mellom kr. 10 000,- og kr. 50 000,-	☐	☐	☐
Over kr. 50 000,-	☐	☐	☐
Betinget fengsel			
Under 2 måneder	☐	☐	☐
2-5 måneder	☐	☐	☐
6-11 måneder	☐	☐	☐
1-2 år	☐	☐	☐
Mer enn 2 år	☐	☐	☐
Konfliktråd			
Ordinær megling i konfliktrådet	☐	☐	☐
Ungdomsoppfølging/ungdomsstraff	☐	☐	☐
Samfunnsstraff			
Under 50 timer	☐	☐	☐
50-150 timer	☐	☐	☐
Over 150 timer	☐	☐	☐
Elektronisk fotlenke			
Under 2 måneder	☐	☐	☐
2-3 måneder	☐	☐	☐
Over 3 måneder	☐	☐	☐
Ubetinget fengsel			
Under 2 måneder	☐	☐	☐
2-5 måneder	☐	☐	☐
6-11 måneder	☐	☐	☐
1 år-1 år og 11 måneder	☐	☐	☐
2 år-2 år og 11 måneder	☐	☐	☐
3 år-4 år og 11 måneder	☐	☐	☐
5 år eller mer	☐	☐	☐
Behandling av gjerningsmann			
Under 2 måneder	☐	☐	☐
Mellom 2 måneder og 1 år	☐	☐	☐
Over 1 år	☐	☐	☐
Økonomisk kompensasjon til offeret			
Under kr. 50 000,-	☐	☐	☐
Mellom kr. 50 000,- og kr. 100 000,-	☐	☐	☐
Over kr. 100 000,-	☐	☐	☐

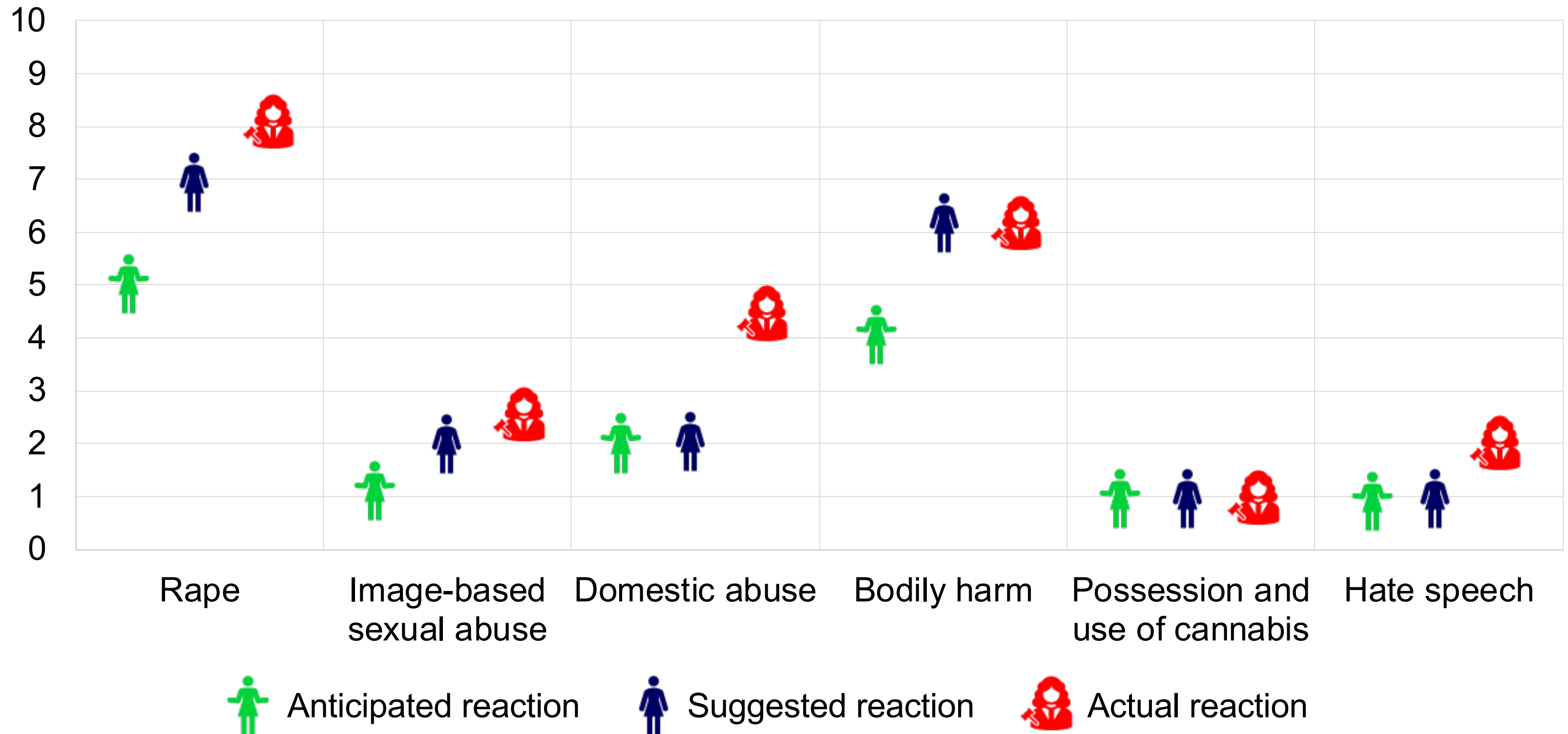
A sentencing scale (Balvig, 2010)

Points	Reaction
0	No reaction
1	Fine, economic compensation, treatment, conflict resolution board, conditional discharge
2	Conditional imprisonment
3	Community service
4	Custodial sentence < 2 months
5	Custodial sentence 2–5 months
6	Custodial sentence 6 months – 1 year
7	Custodial sentence 1–2 years
8	Custodial sentence 2–3 years
9	Custodial sentence 3–5 years
10	Custodial sentence > 5 years

Figur 4.2: Deltakerne i befolkningsundersøkelsen sin vurdering av reaksjon for voldtekt etter Balvigs og Olaussens straffeskalaer. N = 1 064.

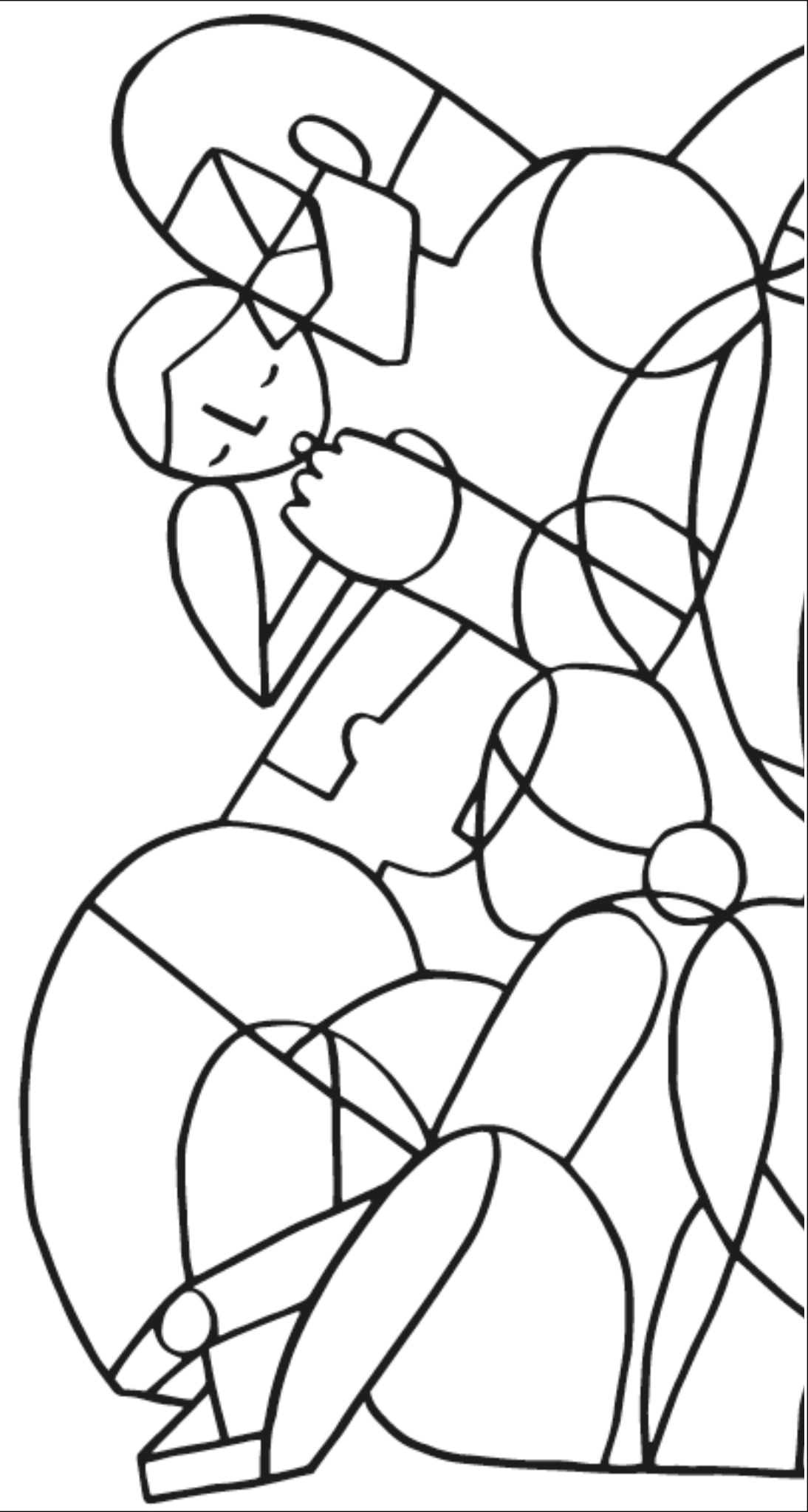


Sentencing for different offences



Conclusion

- People have little knowledge about sentencing levels.
- Sentencing levels are underestimated (and often to a great deal).
- Suggested reactions to crimes are closer to actual sentencing levels than anticipated reactions (but usually still below).
- Misconceptions on sentencing levels vary according to the type of crime.



References

- Balvig, F. (2006). *Danskernes syn på straf* [The public sense of justice among Danes]. Advokatrådet.
- Balvig, F. (2010). *Danskernes retsfølelse og retsfornuft – et forspil* [The public sense of justice among Danes – a prelude]. Københavns Universitet.
- Balvig, F., Gunnlaugsson, H., Jerre, K., Tham, H., & Kinnunen, A. (2015). The public sense of justice in Scandinavia: A study of attitudes towards punishments. *European Journal of Criminology*, 12(3), 342–361. <https://doi.org/10.1177/1477370815571948>
- Frøyland, L. R., Smith, P. S., Skilbrei, M.-L., Johnsen, B., Lundeberg, I. R., Sivertsson, F., & Stefansen, K. (2022). *Rettsoppfatning i Norge. Holdninger til straff og straffegjennomføring i den norske befolkningen* [The public sense of justice in Norway. Attitudes towards punishment and the execution of punishment in the general public]. NOVA Rapport 9/22. <https://hdl.handle.net/11250/3051102>

References

- Hertogh, M. (2018). *Nobody's law. Legal consciousness and legal alienation in everyday life*. Palgrave.
- Ryberg, J., & Roberts, J. (Eds.) (2014). *Popular punishment. On the normative significance of public opinion*. Oxford University Press.
- Smith, P. S. (2007). Straf, retsfølelse og reality TV [Punishment, public sentiments on justice and reality TV]. *Social Politik*.
- Smith, P. S. (2023). Public sentiments on justice, legal consciousness, and the study of marginalized groups. In H. Hydén, R. Cotterrell, D. Nelken, & U. Schultz (Eds.), *Combining the legal and the social in sociology of law. An homage to Reza Banakar* (pp. 429–440). Hart Publishing.