

1. Introduction

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In 1989, the German author Hans Magnus Enzensberger wrote an article about the heroes of the retreat. Statues of kings and generals who have bravely fought battles, sometimes winning, sometimes losing, can be seen in most large European cities. However, not much praise has been bestowed on those who organized the retreat of a lost campaign. In politics, this means negotiating, making compromises and showing compliance. This might even include violating your own earlier principles and admitting the ambivalence of a new situation. To take such a position is hardly seen as heroic but, nevertheless, often as more important and healthier for society than the stand of the celebrated firm warrior (Enzensberger 1989).

Nils Christie took this article as a starting point for the application for a research project. In the 1980s he had already, together with Kjetil Bruun, written *Den gode fiende (The Good Enemy)*, criticizing the repressive drug policies of the Nordic countries (Christie & Bruun 1985). Christie now wanted to study the drug policies in Norway and Sweden, but not their construction but rather their *deconstruction*. These two countries, both ‘hawks’ in European drug policy, were being criticized by other countries and had drug policies that did not deliver.

Christie was convinced that Norway and Sweden had to revise their policies and retreat. If so, what forms would the retreat take? How would it be justified? Would the costs of the drug policy now be put forward as being too high? Would scapegoats be pointed out? Would organizations disappear or just reorganize,

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re-interpreting the old policy? Or would there be no change – would the two countries just continue the war, e.g. stick to their old drug policies?

The research application did not get any funding, possibly because Christie was ahead of his time when the question was formulated. Today the situation is different. A drug policy based on penal legislation, police and prisons has now even more clearly shown its limits. At the same time, the costs of violated legal principles, police resources, imprisonment and suffering for the drug users have increased. The same development outside the Nordic sphere has caused a number of countries to rethink their drug policies. The question is then: Have the Nordic countries started a retreat, and if not, why?

In an analysis of a possible change in drug policies in the Nordic countries the prevalence of drugs and problematic use as well as existing penalty levels should be taken into consideration. Depending on the situation, different policy reactions could be expected. Some indicators can be compared to the situation in other countries. In the European School Survey project on Alcohol and Other Drugs (ESPAD 2015) the life-time prevalence of the use of cannabis in the Nordic countries is markedly below that of the other European countries. Last year prevalence of cannabis use among adults, 15–34, in the Nordic countries was, on average, about the same as in Europe as a whole. In all five Nordic countries there has been an increase among young adults who use cannabis (Nordic Welfare Centre 2019a: 11). Problematic use cannot be compared due to lack of data. However, all the Nordic countries report high numbers of drug-related deaths (EMCDDA 2019).

The drug policies in the Nordic countries have been described as relatively repressive. Per Ole Tråskman (2004) has noted how drug use has been reidentified from a medical problem to a criminal problem, how consumption has been criminalized in most of the Nordic countries, and how police control of drug users has developed with the goal of being annoying and stressful. This development also leads to an inconsistency in relation to the general criminal policy, whereby the Nordic countries have been characterized by relative leniency and small prison populations (op. cit.). Sten Heckscher (1985) has pointed out that the punishment scales

for drug crimes were raised sharply in all the Nordic countries early on. In contrast to other crimes, where the lower part of the penalty scale is usually used for punishments, the whole scale was applied to drug crimes. The countries have also referred to each other when increasing the severity of sanctions and justified it in the name of Nordic harmonization (op. cit.).

In relation to the overall penalty scales in the Nordic countries the maximum penalties for drug crimes are high. The highest maximum is found in Norway, at 21 years, which is the maximum for any crime in the country. This doesn't mean that Norwegian courts mete out the highest sentences among the Nordic countries. Such a comparison must be based on the data on actual punishments for drug crimes of the same seriousness.

Some data for such a comparison can be found in a Nordic project on the general sense of justice, where data were collected in 2009 and 2013. The project included vignettes where persons in nationally representative samples indicated what sanctions they found appropriate after reading a description of a specific crime. The sanctions were chosen from a pre-formulated list. The same forms were sent to a panel of judges who, on the basis of the vignettes, were asked to indicate what they believed would be the sentence given in those cases. One of the vignettes concerned a young man who had smuggled 250g of heroin. The results from the evaluations of judges in the five countries are shown in Table 1. The highest penalties are meted out in Sweden, where the maximum sentence for a drug crime is 10 years. Denmark has the lowest penalties for the same crime among the Nordic countries.

Table 1. Judges' assessments of the sanctions that would be awarded in connection with smuggling 250g of heroin in Denmark, Finland, Iceland, Norway and Sweden for an offender with no prior record in surveys in 2009 and 2013.

	Denmark	Finland	Iceland	Norway	Sweden
5 years +					X
3-5 years		X	X	X	
2-3 years	X				

Source: Balvig et al. 2015: 348; Olaussen 2013: 52 f.

Table 2. The size of fines for possession of cannabis in Denmark, Finland, Iceland, Norway and Sweden.

Denmark	Hashish < 10 gram/marihuana < 50 gram	€270
Finland	Hashish < 10 gram/marihuana < 15 gram	€420*
Iceland	Cannabis 15 gram	€700
Norway	Cannabis 15 gram (average)	€600
Sweden	Cannabis 15 gram	€2000*

* Finland and Sweden use day fines, here converted to an amount based on median wage in 2017.

Source: Nordic Welfare Centre 2019a: 139 ff.; Borgeke & Månsson 2018: 1120.

A study of the praxis of penalties for possession of cannabis has been carried out by the Nordic Welfare Centre (2019a). The figures are presented in Table 2. The data given are not always directly comparable. Sanctions will vary with the type of cannabis and if the lawbreaker is a previous offender. Some of the countries also have the possibility of issuing a caution as an alternative sanction. On the whole, the figures seem to reproduce the results in Table 1. Sweden has the highest fines for possession of small amounts of cannabis while Denmark has the lowest.

The European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) supplies some comparisons of data on drug use and criminal justice reactions to drugs. Table 3 shows a somewhat higher consumption of cannabis, which is by far the most commonly used drug, in Denmark. Sweden and Iceland have the highest number of drug-related deaths. The high Icelandic figures can be attributed to an ongoing opioid crises and were previously lower. Finally, in the comparison of the number of drug crimes reported to the police, Sweden again is in the lead.

The Nordic countries also show both similarities and differences when it comes to other legally defined policies and practices concerning drugs. Table 4 shows that all the countries have syringe exchange programs and substitution programs. Only one country, Denmark, has a heroin maintenance program. For Iceland, such programs are not relevant since heroin consumption has not been a problem in the country. Denmark and Norway have supervised consumption rooms for self-administrated injections, and

Table 3. Cannabis use, reported drug crimes, and drug-related deaths in Denmark, Finland, Iceland, Norway and Sweden, 2016–2018.

	Denmark	Finland	Iceland	Norway	Sweden
Cannabis use, last year, 15/17–34, %	15.4	13.5	9.1	10.1	9.6
Drug deaths per 100 000	4.15	3.63	8.3	5.36	6.26
Reported drug crimes per 100 000	462	502	600	633	1004

Source: EMCDDA 2019; Iceland: cannabis use in 2017, 18–44 old and drug-related deaths; National Commissioner of the Icelandic Police 2020.

Table 4. The existence of different drug programs and penal practices in Denmark, Finland, Iceland, Norway and Sweden.

	Denmark	Finland	Iceland	Norway	Sweden
Substitution treatment	yes	yes	yes	yes	yes
Syringe exchange	yes	yes	yes	yes	yes
Heroin maintenance	yes	no	no	no	no
Supervised drug-consumption rooms	yes	no	yes	yes	no
Criminalization of consumption	no	yes	no	yes	yes
Body liquid tests	no	no	no	no	yes

permission for such a practice was granted in Iceland in 2020. Denmark and Iceland have not criminalized use as such. Finland and Sweden are the only countries in 2021 that in practice sanction the use of cannabis. The fines are the same as that for the smallest possession, which in Finland is €420 and in Sweden is €880. Sweden is, however, the only one among the Nordic countries that uses body liquid tests to establish use.

A similar pattern emerges from the four tables. Denmark is relatively more liberal in terms of harm reduction and penal sanctions, while Sweden occupies the opposite position with the

severest sanctions and most intrusive police practice. Other indicators, particularly ‘the law in action’, might show a partially different picture, but here the pattern seems clear. These differences, both between the Nordic countries and in relation to other countries, provide the starting point for an analysis of the possible retreat to a drug policy less marked by criminal control and more by treatment or non-intervention. If the countries are to retreat, they will retreat from different positions. Today’s positions have, however, not always been the same. The drug policies have changed over time and the development in the direction of an expansion or contraction of penal and other compulsory measures have not been unambiguous.

Chapters 2 to 6 give overviews of the development of drug policies in the respective countries. The presentations cover, to different extents, indicators of recreational use and problematic use, police interventions, sentences and drug-related deaths. The indicators are discussed in relation to whether the drug policies can be judged as successful or not. The analyses show a fluctuation of focus on the big shark and organized crime, and the user as the only indispensable link in the drug market pyramid. The drug user, in turn, has switched between a person who is seen as sick and in need of treatment and a criminal who is responsible for his drug use. There has, in the Nordic countries, been an increase in treatment for use of the most common drug, cannabis. The reason for this increase is, however, not obvious (Nordic Welfare Centre 2019b).

The different chapters also address the question of the actors in drug policy. Ultimately it is the political parties, and particularly those in government, that decide the policy. The policies, however, must be justified. References are made to the public, which is claimed to demand a strict control of drugs. Media plays an important role in describing a problem that most people do not have first-hand knowledge of. The police force is also a central actor in all the countries. An important role in the policy debates has been played by different non-governmental organizations (NGOs) – arguably a particularly strong agent in the Nordic context. These NGOs have, however, taken quite different positions, as have experts, civil servants and different professional groups.

Part II contains five chapters from four of the countries dealing with specific drug policy issues. The first study, Chapter 7, concerns Denmark, traditionally the most liberal of the Nordic countries when it comes to drug policy. Lately, there is a change in the direction of moralization of the drug user, not the one with a problematic use but the young, recreational user. This change is interpreted as a result of perceiving drug use in a neo-liberal framing. The drug user is seen as selfish, not regarding the negative consequences of drug use in a wider sense while at the same time being able to make a choice to use or not to use drugs. In line with this new way of interpreting drug use, legislation has been sharpened.

The relatively strict Finnish drug policy is in the next study, Chapter 8, described as a paradox. After the Second World War, Finnish criminal policy, in terms of the use of prison, deviated from the other Nordic countries that had much lower levels of inmates. Finland set a goal to reduce the size of its prison population, to mark its belonging to Western rather than Eastern Europe. This effort was successful, and Finland today resembles the other Nordic countries. However, in relation to the overall goal to liberalize Finnish criminal policy and reduce the use of imprisonment, drug policy developed in the opposite direction.

The third special study in Chapter 9 concerns the possible change of drug policy in the direction of care and help for the drug user, illustrated by an analysis from Norway. The drug policy debate in the Nordic countries, as well as elsewhere, has focused on the question of punishment or treatment. Particularly for the Nordic welfare states, an approach of care would seem natural to put forward rather than a criminal, policybased control. An abolitionist or non-interventionist policy, on the other hand, would seem unnatural. A treatment or welfare state approach to drugs can, however, be as controlling as a policy based on legal punishments. This is particularly important to observe in a situation where earlier drug policies based on criminal law are becoming criticized and where changes in the direction of a welfare-based policy is instead proposed.

Traditionally, the Nordic countries have had quite strict alcohol policies. This concern has now, however, ended up in the

background, being replaced by the issue of drugs. The fourth of the special issues that are covered in Part II, Chapter 10, asks why the issue of two intoxicants, alcohol and narcotics, have been constructed so differently in Sweden. While narcotic drugs have led to increasing control, the control of alcohol has decreased. Different restrictions on the sale of alcohol are lifted and taxes are reduced. A prognosis is made about the future of drug policy in Sweden based on the development of alcohol policy – the market will ultimately decide.

The fifth and final of the chapters dealing with special issues, Chapter 11, is also a study from Sweden. It can be said to be concerned with the question of an evidence-based drug policy. Three groups are interviewed: treatment staff, youth cannabis users and adult cannabis users. Representatives of the three groups discuss the risks of taking drugs. They all mobilize arguments for their standpoints, including references to scientific studies, and arrive at quite different conclusions. Different perspectives clash and the position on drug policy becomes ‘a matter of concern rather than a matter of facts’. The study clearly shows the problem of arriving at a consensus even when the most needed facts are brought into the issue of drug policy. That facts are used differently and selectively will, of course, have a bearing on the issue of a changing drug policy.

In the concluding Chapter 12, an attempt is made to draw the lines together. A clear prediction of the development of the drug policies of the Nordic countries will not be possible to make. Different and even contradictory developments are demonstrated, as well as differences between the five Nordic countries. What is quite clear, though, is that the situation is much more open than just a few years ago. The question that inspired this comparative project, ‘will there be a change in the Nordic drug policy?’, has clearly become relevant.

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