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David A. Ward

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## INMATE RIGHTS AND PRISON REFORM IN SWEDEN AND DENMARK

DAVID A. WARD\*

Sweden's Osteraker prison outside of Stockholm is a walled, maximum custody facility for 195 prisoners. Confined in Osteraker are men who have committed serious crimes, such as homicide, robbery, and sale of narcotics; recidivists who did not "profit" from terms in open institutions;<sup>1</sup> and men who escaped from open institutions or did not return from home leaves. This prison was the site, in early 1971, of unprecedented bargain-

\* Professor of Sociology, the University of Minnesota. The materials upon which this paper is based were gathered while the author was a Fulbright Research Scholar in Sweden and Denmark during 1971. I wish to express my thanks for their assistance in arranging trips to prisons and meetings with National Correctional Administration personnel and in obtaining printed materials and reports: Gunnar Marnell, Director of the Eastern Correctional Region, Sweden; Norman Bishop, Chief of Research of the Swedish National Correctional Administration; Ulla Bondeson, Department of Sociology, Lund University; Professor Thomas Mathiesen, Institute of Social Research, University of Oslo; Professor Karl Otto Christiansen of the Institute of Criminal Science, University of Copenhagen; Bent Paludan-Müller, Director of the Danish Staff Training School; Superintendents Anderson and Heilbo of the Danish State Prisons at Renbaek and Kragsskovhede; Catherine Djurclou of the Swedish Fulbright office and John Berg of the Danish Fulbright Office; and to Solveig Premack for translation assistance.

<sup>1</sup>"Open" prisons were introduced in Sweden after a revision of the penal code in 1945. Under this "reform":

The cellular system was abolished and treatment in open institutions introduced as a normal form of imprisonment. By open institutions is meant institutions lacking surrounding walls, grill work or other security measures. About a third of the prison inmates are at present in open institutions. There has been no intention of abolishing closed institutions, but the Correctional Administration is making efforts to enlarge the use of open institutions. The serving of longer prison terms is begun in closed institutions, the prisoner being transferred later, if possible, to an open institution. One who misbehaves in an open institution is returned to a closed one. Regardless of the type of institution, the law has specified that the execution of the sanction shall aim at the inmate's re-adaptation to society. Aside from disciplinary measures, no measures may be taken which inflict suffering on prisoners in addition to the mere loss of liberty, which is considered to be afflictive enough. Considering the usually terse and severely factual Swedish style of legal draftsmanship an unusual statement is found in the text of the code, namely that prisoners shall be treated with consideration for their human dignity.

I. STRAHL, *THE PENAL CODE OF SWEDEN* 7 (1965).

ing sessions between inmates representing all Swedish prisoners and representatives of the National Correctional Administration. These meetings were held after the inmates at Osteraker had staged a hunger strike that ultimately spread to half of Sweden's 5,000 inmates.

Several weeks after the list of proposals made at Attica were published in *The New York Times*, I took a copy with me on a visit to Osteraker with an American judge. During the tour we met with the eight members of the inmate council. These men had been elected by their fellow prisoners, and the leader of the group was an articulate black American. The inmates informed the judge and me that the discussion would be tape recorded—"for our records." I proposed a comparison of the complaints made by the Attica inmates with the concerns of inmates at Osteraker, and the council members were enthusiastic about the opportunity to compare notes with some fellow prisoners in America. They were not prepared, however, for the primitive level of some of the Attica prisoners' complaints.

It has been many years since Swedish prisoners were concerned with such problems as "adequate food, water, shelter"; "true religious freedom"; and "adequate medical treatment."<sup>2</sup>

With regard to the Attica proposal that the minimum wage be paid for prison work, the Swedish inmates remarked that their wages also needed improvement and that the National Correctional Administration still had not taken action on a long-standing proposal for inmates to be paid wages comparable to those in the free world. Inmates at Tillberga, one of Sweden's factory prisons, may earn up to \$30 a week, but men in non-factory prisons, of which Osteraker is one, are paid on a piecework basis at about one-fourth of the factory rate.

With regard to other Attica demands the council members agreed that there were some prison administrators who were making an effort to provide "realistic and effective" rehabilitation programs and that progress (with inmate pressure) had been made in bringing about an adequate

<sup>2</sup> N.Y. Times, Sept. 13, 1971, at 71, col. 1.

education program. Approximately 25 per cent of the inmates at Osteraker go to school for which they receive about the same hourly wages as men who work in the prison's shops.

The Swedish prisoners felt that they could have private legal assistance when they wanted it, and they also had the right of all Swedish citizens to bring complaints about prison officials (or any other government agency or official) to the national Ombudsman. Criminal conviction and imprisonment in Sweden does not result in loss of civil rights. Inmates may vote in elections while in prison.

The rights of inmates to have conjugal visits and home leaves will be reviewed in more detail later in this paper, but it can be noted here that Osteraker inmates may have any person as a correspondent and visitor, including ex-prisoners who have been discharged from parole. There are no physical obstructions to separate the inmate and his visitor at Osteraker such as Attica's "visitation screens." While foreign prisoners subject to deportation may not be granted home leaves and furloughs, all Swedish prisoners, including those serving life sentences, have these rights.

Furthermore, Osteraker inmates may communicate by telephone and uncensored mail with members of their families, lawyers, and newspaper reporters. Inmate council members may call and write their counterparts at other prisons.

Another Attica proposal asking for the end of censorship of newspapers, magazines, and other publications has already been implemented at Osteraker.

All Swedish prisoners have the right to establish an "inmate grievance commission which is authorized to speak to the administration concerning grievances and develop other procedures for inmate participation in the operations and decision-making processes of the institution."<sup>3</sup> Members of the Osteraker Inmate Council stated that they met regularly with staff representatives and that legitimate issues for discussion included staff actions pertaining to individual inmates and disciplinary policies and practices.

The council members when questioned further in this particular matter agreed that there is no issue, with the exception of specific security matters, that could not be brought up for discussion with the prison administration. They also have the right to meet with the prison governor (warden) personally on short notice when an issue

requires immediate attention. There was also agreement that they could be "politically active without intimidation or reprisal."

Several of the issues raised by the Attica prisoners were not relevant to the Swedish prisoners. Even where they were engaged in hunger or work strikes, they said they had never felt pressed to the point where they considered taking staff members hostage, let alone injuring them. Neither guards nor inmates carry weapons in Swedish prisons. Perhaps for these reasons the Swedish inmates were not concerned about protection from "physical punishment by the staff," being held "incommunicado," or being "kept in isolation." Since the Osteraker men engaged in no "criminal" actions during the hunger strike, there was no issue of new criminal charges being filed against them.

Another demand involving disciplinary procedures at Attica asked for a "30-day maximum for segregation arising out of any one offense." Confinement in the segregation unit at Osteraker was regarded as rather uncommon by the inmates, but when it did occur, it was usually limited to seven days and generally lasted two or three days.

At the conclusion of our review of the Attica demands when it was evident that virtually none of them applied at Osteraker, there was a brief silence until one inmate council member said: "I'm ashamed of the kinds of problems we have to discuss here compared to the problems the American inmates have."

The inmates at Osteraker realized that compared to inmates at Attica and other American prisons they were well off, but *neither they nor other Swedish prisoners are happy prisoners*, and prison reform is as big an issue in Sweden as it is in the United States. Prison reform in Sweden certainly has a longer history than it does in America, and reform is kept a national issue by KRUM, a well-organized group of some 5,000 ex-inmates, students, and intellectuals. The concept which is useful in understanding why Swedish prisoners who have won the demands being asked by American prisoners feel that they have such problems is "relative deprivation." Swedish prisoners have more, much more, as will be seen, than their American counterparts, but the millennium has not been reached in Sweden. An examination of some of the current controversies over prison reform provides evidence that humane prison conditions and the presence of many rights which are denied to almost all American prisoners has not produced

<sup>3</sup> *Id.*

prisons where inmates are content. In the following section we shall also consider the rights of Danish inmates and the direction that prison reform has taken in that country.

First, some general characteristics of these two prison systems will be described, after which a more detailed discussion of rights considered essential by all prisoners—conjugal visiting and home leaves—will follow. In the last part of the paper, the current status of prison reform efforts in Sweden and Denmark will be reviewed.

#### SOME GENERAL FEATURES OF THE SWEDISH PRISON SYSTEM

The 1970 Report of the National Correctional Administration states that:

Swedish correctional institutions currently have a capacity of 5,923 inmates, 3,979 of them in closed institutions and sections and 1,944 in open institutions and sections.

During the 1960's the number of crimes that came to the attention of the police almost doubled reaching approximately 500,000 per year at the end of the decade. At the same time, however, the number of persons in correctional institutions remained relatively constant—an average of slightly more than 5,000 persons per day. This was due in part to an increased use of sentences other than deprivation of liberty. As a result, there was also an increase in the number of difficult cases among the institutional clientele.

A committee within the Department of Justice is engaged to forecast trends in criminality. The projection for 1976 with 1970 as a base year indicates an increase from 500,000 to 600,000 crimes known to the police or an average increase of 3 percent per year.

The institutional population is expected to be constant. The non-institutional clientele is expected to increase with 1000 clients per year after some years stagnation.

In 1970, 10,546 persons sentenced to imprisonment were admitted to correctional institutions. About 66 percent of the newcomers were sentenced to less than 4 months deprivation of liberty and 10 percent to at least 1 year. The average length of sentence was 158 days. The admitted persons are distributed after principal offense in the following way:

Drunken driving	37%
Larceny	23
Violence	11
Fraud	7
Drug Act	5
Refusing Military Service	4

Aliens Act	3
Others	10
	<hr/>
	100%

... A check of the correctional clientele as of April 1, 1970, revealed that 22 percent of institutionalized offenders were narcotics addicts.<sup>4</sup>

The average daily population of 5,000 prisoners is distributed throughout 48 open and closed prisons, 12 jails, 12 youth institutions, 10 internment institutions (for "habitual" criminals), and one closed prison for women. Drunken drivers are housed in the open prisons, as are some youth offenders. Drug sellers, persons convicted of crimes of violence, and recidivists are to be found in the closed prisons. At any one time approximately one-third of all prisoners are in open prisons. But Swedish inmates in closed prisons, no matter how severe their criminal records, do not find themselves in buildings that have anything like the capacity of American prisons. Kumla prison, built in the mid-1960's, has a rated capacity of 435 (the average population in 1970 was 344) and was constructed with a system of tunnels and T.V. monitors to allow for freedom of movement without guards within the prison. The furor raised by the press and prison reform groups over the size of the prison was such that construction of an identical facility at Osteraker was stopped after half of the prison had been completed.<sup>5</sup> There is an ancient

<sup>4</sup> NATIONAL CORRECTIONAL ADMINISTRATION, *KRIMINAL VARDEN* 1970, 9, 10, 12, (1971).

<sup>5</sup> According to Jorgan Jepsen of the Danish Prison Administration, the Swedish prison reform group, KRUM, played an important part in the struggle to have Kumla rejected as a model for other Swedish prisons.

[V]exed by increasing numbers of escapes from the old institutions, in particular the old and tough "Langholmen" in Stockholm, the former Director-General had designed and built an escape-proof, super-mechanised, work dominated institution at Kumla, soon renowned for its seven-metre tall umbrella-handle wall, its TV camera supervision of doors and walks, and its long, subterranean corridor from the inmates' living quarters to their work places. In the attempt at preventing escapes and saving manpower, the "system" had succeeded in making the logical end product of prison thinking so manifestly absurd, that it had to go wrong. Behind an endless number of doors with signs saying "chief physician," "psychiatrist," "doctor," etc. there was—nobody. Slashing one's wrist became the main access to seeing the region's sole psychologist. And the mixture of drunken drivers, swindlers and petty larceny offenders with tough recidivists in this institution crowned the mistake. The plans for creating four to six such prisons in various regions of Sweden ought to go wrong, but it took a massive attack from inmates, social

prison, Langholmen in Stockholm, with a capacity of 421 (average population in 1970, 437) which has been in the process of being torn down for many years. This prison, however, serves primarily as a jail or holding facility for persons awaiting trial. Hall, the prison for habitual offenders, can hold up to 285 men in its closed sections, and there are four other institutions with capacities of 200-250 men.<sup>6</sup> Swedish prisons holding even several hundred inmates are considered scandalous by prison reformers. The sheer management and depersonalization problems that go with confinement in American prisons which hold thousands of men are not problems for the great majority of Swedish prisoners, particularly when the proportion of staff members to inmates is also considered.

Kumla prison, Sweden's largest closed institution, has a rated capacity of 435 inmates (but an actual population in 1970 of about 340). There are 406 staff members, including 156 guards. Osteraker prison in the summer of 1971 held about 140 inmates, but had a staff of 170, including 75 guards. For example, secretarial work is done by free world personnel rather than by inmates, six free world female staff members work in the kitchen, and the fifty or so inmates who work in the prison shops are supervised by three foremen and five assistant foremen.

In all Swedish prisons, as indicated, there are at any given time upwards of 5,000 inmates. Supervision over them is provided by 4,700 staff members (not including the headquarters staff of the National Correctional Administration) making a nearly one-to-one staff inmate ratio. This is in contrast to the ratio of staff to inmates in the United States. The President's Commission on Law Enforcement and Administration of Justice reported that some 71,000 employees were working in adult prisons in the United States in which were housed some 363,000 inmates, making a ratio of staff to inmates of one to five.<sup>7</sup> The high ratio of staff to inmates in Sweden helps to explain why the cost to maintain an inmate for one year

in a Swedish prison is approximately \$12,000 compared to recent estimates of \$2,500 per year in a California prison and \$1,966 for the United States average.<sup>8</sup>

In 1970, 10,546 persons were admitted to Swedish prisons. Approximately 6,000 of the total were admitted for less than two months. These were mostly drunk drivers. Calculation of average prison terms in Sweden includes this category of prisoners, and thus any comparison of average sentences with United States prisoners is misleading. It can be said that only ten percent (1,039) of those admitted in 1970 had sentences of one year or more and only two percent had sentences of two years or more.

Few Swedish prisoners seem to spend their terms filing appeals and writs in efforts to question their convictions. Part of the explanation for this difference with their American colleagues is that short sentences make the effort less worthwhile, but another part of the explanation seems to lie in the greater belief by Swedish inmates in the justice of their criminal justice system. Compared to American prisoners few complaints are heard about harassment, deception, and discrimination by the police, prosecutors, and judges. The efficiency and speed with which most cases are processed (weeks compared to months in America), the availability of legal counsel for all and ready access to the national Ombudsman for investigation of grievances against any or all of the criminal justice agencies involved in an arrest and subsequent prosecution give inmates a sense that they have some recourse when actions taken against them are felt to be unfair, illegal or discriminatory. Furthermore, charges of racism which prompt Blacks, Chicanos and Indians in American prisons to contend that they are "political" prisoners are not heard in Sweden's all-white prison population.<sup>9</sup>

<sup>8</sup> *Id.* at 5.

<sup>9</sup> The closest analogy in Sweden is the contention of some inmates and prison reformers that Finns who emigrate or come to work in Sweden are more likely to be harassed and arrested by the police. There is a common Swedish stereotype of Finns as big drinkers who carry knives and consequently get into trouble. Some support for this view may be gained from the fact that of the 1,909 foreign citizens admitted to Swedish prisons in 1970, 1,122 were Finns, the next highest category being Germans with 132 admissions. Sweden's closest neighbors, Denmark and Norway, contributed 116 and 107 prisoners respectively. There are, however, many more Finns in Sweden than other nationalities. Visitors also hear quite commonly that many of Sweden's criminal problems are rooted in the emigration of "Southern

scientists and public debate, all centered around the action planning of KRUM (which also managed to enlist several of the employees of the prison system) to get a public declaration by the Minister of Justice, that Kumla would not be multiplied elsewhere.

Jepsen, *KRIM, KRUM, KROM*, Oct. 1971 PRISON SERVICE JOURNAL 9 (New Series, No. 4; Eng.).

<sup>6</sup> KRIMINAL VARDEN 1970, *supra* note 4, at 52-53.

<sup>7</sup> THE PRESIDENT'S COMMISSION ON LAW ENFORCEMENT AND ADMINISTRATION ON JUSTICE, TASK FORCE REPORT: CORRECTIONS 51 (1967).

Further avenues for pressing grievances of Swedish prisoners in open institutions and in some closed prisons such as Osteraker include communicating by uncensored mail or directly by telephone with the press. Swedish prisoners may, while in prison, work on books or articles which are critical of the prison department. Certainly the most important right won by Swedish prisoners in recent years is the right to organize to advance their own interests. The Director General of the National Correctional Administration has said:

According to Swedish law there is nothing to prevent the inmates of penal institutions from forming their own organization. The general freedom of association applies to them. Likewise there is nothing to prevent them from electing bodies within the institutions to further their demands.<sup>10</sup>

Almost all other rights proceed from this right of inmates to get together, to organize, and to plan strategies for dealing with their own concerns.

The impersonality and dehumanizing quality of life in big American prisons; the long sentences; the brutality and clear commitment to control inmates by arms and physical force; the complaints about inadequate food, housing, medical services, and sanitation are not the issues in Sweden that they are in this country. Prisoners in the great majority of American prisons would say that Swedish prisoners "have it made."

#### SOME GENERAL FEATURES OF THE DANISH PRISON SYSTEM

The same general features described above for the Swedish prison system apply in Denmark—small institutions, short sentences, high staff/inmate ratios, and a variety of inmate rights and privileges that are still on the lists of demands of American prison reformers.<sup>11</sup> The closed prisons

Europeans" to their country. All foreign prisoners, it should be noted, have the same rights as Swedish prisoners to uncensored communication with the Ombudsman.

<sup>10</sup> B. Martinsson, *Prison Democracy in Sweden*, Swedish Information Service Release, April 16, 1971, at 1.

<sup>11</sup> In 1967 there was an average of 924 long term (sentence of three months or more) prisoners in Denmark. Five hundred twenty-eight of these were housed in open and half open prisons. There was an average of 392 juvenile prisoners of whom 224 were in open and half open (that is, an open institution with a closed section) institutions; there were some 477 other prisoners in workhouses, preventive detention institutions, or institutions for "mental deviants." Average terms are reckoned in months for Danish prisoners except for those in the institutions for psychopaths and men-

in Denmark, which house about half of the prison population, are more restrictive than Osteraker prison in Sweden. The open institutions are more open. Some are so "open" that Danes may ask, "Why bother?"

For example, at the state prison of Renbaek on Jutland, there is no evidence whatsoever of the usual accouterments of security found in minimum security prisons in the United States—no fences, not a single room with barred windows or detention sash. It has been agreed that even the traditional uniform for guards will be exchanged for blazers and slacks. (This change will soon apply in all Danish prisons.) Each of the buildings at Renbaek looks like a small motel; inmates may use pay telephones to call anyone at anytime; the communication system from the guards' office to each inmate's room cannot operate without a red light appearing so that the inmate knows that what he says (or does) can be heard; in some buildings there are no guards on duty at night (the doors to the buildings are locked from 10:00 P.M. to 6:00 A.M.); inmates have keys to their own rooms; there are no restrictions on hours for watching television or visiting in the day rooms or rooms of other inmates; food preparation at the prison will soon cease in order to permit a well-known hotel in the nearby town of Ribe to bring cheaper and better food to the inmates; the inmates have their own money and wear their own clothes, but the prison provides work clothes; going to work or school is not required, but a man receives no money from the prison if he decides not to do either; younger inmates attend ordinary evening school in the town, and any man who wishes goes to the church in town; there are no posted lists of rules. The in-prison visiting and home leave arrangements at Renbaek to be described shortly are the most liberal in Scandinavia.

Renbaek's Superintendent Anderson has embarked on a program designed to "remove the drama" from imprisonment by eliminating as

tally disturbed offenders at Horsens and Herstedvester. The two closed prisons for young male offenders (Nyborg) and for adult male offenders (Vridsløselille) have populations under 300. The average cost of maintaining a prisoner for one year in a Danish prison is well over \$4,000.

Data on the Danish prison system may be found in PRISON DEPARTMENT, MINISTRY OF JUSTICE, THE PENAL SYSTEM OF DENMARK, (1968) and in STATSFÆNGSLETS TRYKKERI I NYBORG, BERETNING OM FÆNGSELSVÆSENET I DANMARK, 1965-1966 (1969) (English summary at 114-23).

many of its traditional punitive features as possible. He doubts whether anything done at Renbaek will reduce recidivism—life in the institution is simply more humane. The principal pains of imprisonment at Renbaek appear to be the stigma that goes with a criminal conviction and some limits on a man's ability to come and go as he would in the free world. The average term at Renbaek is, however, only two months, and given the "conditions" of imprisonment, the men in this institution have so far shown little interest in prison reform.

The state prison at Norre Snede, also on Jutland, has a staff of 50 and the capacity to house 92 inmates in buildings of contemporary design. Upon conviction men come to this institution (and other open prisons) on their own, usually by train with the tickets given to them by the police. Inmates at Norre Snede are not, however, permitted to drive in their own cars to the prison and then leave them in the parking lot to facilitate week-end leaves. Inmates are not locked in their rooms at night, and there are pay telephones in each living unit which may be used to call anyone at any time of the day or night. The freedom to use telephones has been accompanied by some problems in that inmates occasionally become upset over conversations with their wives or women friends. In 1970, there were 25 "escapes" from Norre Snede, and there had been 20 more during the first ten months of 1971. Escape is, however, a disciplinary infraction, and the prison superintendent may place an inmate in a segregation unit for a period of up to six weeks; the average stay is judged to range from two to four weeks. In an open prison "segregation" may mean that an inmate is locked up in his own room. This time spent in lockup for escape does not count toward completion of sentence. Inmates escaping from open prisons may be transferred to closed prisons. Under Danish law if an inmate escapes alone it is not a separate chargeable offense. Escape is a crime if two or more inmates leave together. It is assumed the latter involves planning, whereas when one man leaves it is regarded as an unplanned "sudden action." Escapees in a small country like Denmark are, according to the prison superintendent, usually picked up within a week. The job of hunting escapees rests with the police, not with prison staff.

Pornographic books and pictures are permitted at Norre Snede as they are at all Danish prisons, but pictures are not to be displayed on the walls.

Letters to inmates are opened, but only in front of inmates and only for the purpose of examining the contents for drugs. There is an inmate council at Norre Snede which meets monthly with the superintendent and other staff members.

Kragsskovhede, a prison with a staff of 175, most of the time contains some 280 recidivists in the 21-30 age range. The average time served at Kragsskovhede is between five and six months. An eight-foot-high wire fence surrounds the institution, but the main gate is unmanned and open each day until 10:00 P.M. Despite eight-hour leaves and furloughs, there were 130 escapes from Kragsskovhede during the first ten months of 1971, and the superintendent estimated that there would probably be 150 by the end of the year. Inmates generally climbed out the windows of their rooms, went over the fence, and hitched rides on a nearby highway.

The number of escapes in 1971 from Kragsskovhede attracted the attention of a newspaper in the nearest large city, Aalborg. A reporter visited the prison, interviewed staff and inmates, and wrote an article expressing sympathy for the problems that the inmates were having that caused them to escape. There was no criticism of security measures at the prison or of the staff, and those interviewed agreed that the inmates were not trying to get away from events or problems in the prison, but were escaping *to* something—usually to try to deal with some marital or other personal problem. In a discussion with several members of the inmate council the inmates noted the problems that have come with installation of telephones. Anxiety, they said, is aroused if a wife or woman friend does not answer the telephone late at night or if she is drunk and "what if somebody (a man) answers?" One inmate remarked, "The guy who has nobody is better off in prison than the guy who has somebody because he has no worries—he only has to think about what he'll do when he gets paroled, the other man has to worry about his wife."

Inmate concern about the effects of their imprisonment on their relationship with family members and women friends is the major issue for many Danish prisoners. American inmates and certainly American prison administrators will be disappointed to learn that the extensive visiting and home leave rights to be described in the following sections have not resulted in prisoners serving trouble-free time.

IN-PRISON VISITING AND FURLOUGH RIGHTS  
IN SWEDISH PRISONS

The hunger strike which occurred at Osteraker in October, 1970 was staged because the prison administration and the inmate council were unable to come to agreement over several matters, including in and out of prison visiting. The main reason for the strike was not complaints about local conditions, but to get the National Correctional Administration to agree to negotiate matters of concern to all Swedish prisoners. That point was accepted, and unprecedented national negotiations in early 1971 resulted in the granting of more home leaves or furloughs and improved visiting conditions at all prisons. At Osteraker, for example, the twelve rooms in which inmates received their visitors had been furnished with three chairs and a table. After the bargaining sessions, it was agreed that couches would be placed in each room. Until the recent negotiations, the doors to visiting rooms were unlocked and guards could enter the rooms without prior warning. At present if an officer needs to speak to an inmate in a visiting room, he is to knock and wait at least five minutes for the inmate to unlock the door. Inmates are allowed two visits per month of up to two hours each, and visits may not be cancelled as a result of the in-prison behavior of the inmate. Any person may visit Osteraker except, in the words of the regional prison director, "people who are obviously inebriated, known drug pushers, and children between the ages of two and fifteen." Former inmates who have completed their parole terms are to be received as visitors like any other citizen. Girlfriends are allowed to visit as well as wives.

The matter of whether the inmate engages in sexual activity with his visitor is not an issue as such in Swedish prisons. The former Swedish Prison Director, Torsten Eriksson, has described the policy regarding visits as follows:

In Sweden we generally allow unsupervised visits in the open institutions. An inmate may take a visitor to his private room, whether it is his father, mother, brother, sister, wife, fiance, or someone else close to him. Since the inmate has a key to his room, nobody pays any attention if he locks himself in with his visitor. Moreover unsupervised visits in special rooms may be permitted in closed institutions also. I do not know whether sexual intercourse occurs during such visits, although I can always hazard a guess. In our opinion, sexuality is strictly a personal matter. We do not ask questions, we make no special provisions. We merely

decide whether the individual inmate can be trusted to receive a visitor without supervision.<sup>12</sup>

In-prison visiting in closed prisons is important for long-term offenders who may not be granted home leave until a year or more has elapsed from the time they entered the prison; it is also important for foreigners who may not receive any furloughs during their entire terms; and it is important as a supplement to home leaves. But some inmates report that their wives or women friends are not comfortable visiting in the prison even though private rooms are provided. They feel embarrassed when they pass guards who "know what they are there for" or who they think may regard them as "whores." Most staff members agree with the inmates that the best place for an inmate to visit with his family and friends is outside the prison in his own home or a setting of his choice in his own community. No matter how comfortable prison visiting accommodations, "conjugal" visiting is already seen as a second choice for use in special cases such as those cited above.

The 1970 Osteraker strike also was a protest over the restrictions placed on home leaves or furloughs. The 1971 bargaining sessions resulted in the inmates obtaining more frequent leaves, longer leave periods, and a shorter period before the first permission was granted—seven months after arrival instead of ten months. (In open prisons the first permission comes four months after commitment. Lifers are eligible for furloughs after having served two years.) The first permission is for a 48-hour period, and furloughs come every two months after the first leave and may be extended to 72 hours. Inmates housed in open prisons who do not come back from a furlough on time or in some way violate the leave privilege may be sent to a closed prison when they are apprehended.<sup>13</sup> Inmates in closed prisons who violate the furlough privilege can expect a more difficult time in obtaining their next permission for leave

<sup>12</sup> T. Eriksson, *The Treatment of Criminals in Sweden* 5, Sept., 1967 (mimeo, Adelaide).

<sup>13</sup> Buss reports that among those who "misused" their leave privilege are men who returned to prison . . . in a condition of advanced inebriation. This, the facts reveal, is not a rare occurrence.

When one takes this into account, it becomes understandable why a ban on furloughs exists around the Swedish midsummer, Easter, Whitsun and Christmas holiday periods, at which time more Swedes than normal manifest a particularly strong thirst.

H. Buss, *Sweden's Penal Experiments* 3, Royal Swedish Ministry for Foreign Affairs, Information Service, March, 1970.



and may have their parole date postponed for one month; a second such violation may result in the parole date being further postponed for six weeks. ("In 1968 a total of 10,639 furloughs were granted. There were 983 [9.2 percent] failures to return and 448 [4.2 percent] other violations such as late return or non-avoidance of intoxicating liquors."<sup>14</sup>)

"Regular" furloughs may be supplemented with "special" furloughs which permit inmates to leave the prisons to visit "... a seriously ill relative, to attend the funeral of a relative, to appear as a witness before a court or to safeguard other civil rights, for job-hunting shortly before release and occasionally for apartment or house hunting, in order to receive visitors outside the prison (i.e., to go for a Sunday dinner and drive), and in connection with transfers from one prison to another. In such a case one actually does not speak of furlough, for in order to simplify matters transportation is left to the prisoner himself."<sup>15</sup>

In addition to the furlough system and the arrangements made in most open and closed prisons for private visiting, a growing number of Swedish prisoners have been permitted to have several weeks of paid vacation with their families in special "vacation institutions" at the sea coast and in the mountains. One "family" prison consists of a large farm located about six miles from an open prison. The inmates work on the farm or at jobs in a nearby town. Periodic supervision of the inmates is provided by a staff member from the open prison. Another facility to be activated in spring 1972 is, according to Deputy Superintendent Clas Amilon of the National Correctional Administration, "a deserted village where a shopkeeper and a vicar are waiting for us," that is, the arrival of some twenty inmates and their families who will live in separate cottages. Residents of this village will include several husbands and wives who are both serving time (in one case the couple's child will come to live with the parents) and serve as vacation homes for inmates serving long sentences. The men will work in agriculture, and women prisoners will do piecework sent to the village from the women's prison.

"Vacation" institutions were established on an experimental basis after the National Correctional Administration gave recognition to the fact that

inmates were wage earners in a manufacturing enterprise which produces more than \$16 million in goods each year. Since all Swedish wage earners receive a four-week vacation each year, the question was soon raised by the inmates about their "right" to a vacation. The first vacation experiment was introduced in 1967 and applied to a carefully selected group of nine inmates from open prisons. All nine men were serving long sentences, including several lifers, and had served at least four years of their sentences. The then Prison Director-General Eriksson describes in a rather idyllic manner his view of this program:

[The inmates] were given the opportunity to rest for three weeks, which is one week less than the statutory vacation for free workers. Various types of recreational activities were organized in the open installation. The inmate could swim, fish, row, play various games and take walks in the forest. They had long visits by relatives. One man had his wife with him the whole time. She lived in a neighbouring farmhouse, and he was allowed to spend the nights with her. When we began the experiment, we wondered whether the inmates would be bored, and we made arrangements for employment for those who wanted it. But it turned out that all the men were badly in need of the rest. The inmates were paid their usual wages for the three weeks, and judging by the visit I paid to the institution, I can assure you that never in my long experience with different kinds of institutions have I experienced a better atmosphere or a better relationship between the inmates and their guards. We therefore plan to continue along the road we have begun, and our next experiment will be with vacations in closed institutions for inmates who cannot be trusted in an open one.<sup>16</sup>

Finally, in the northern prison region where distances are great between the towns from which inmates come and the prisons, a "visiting hotel" has been established on the grounds of one prison where an inmate and his visitor may rent a room at cost and spend a weekend together.

Descriptions of in-prison visiting, home leaves, "family" prisons, "vacation" institutions, and a hotel for inmates and their visitors are likely to turn the heads of most Western prison reformers. Yet in some institutions in Denmark, Sweden's next door neighbor, even more "liberal" visiting and leave provisions have been instituted in open prisons.

<sup>14</sup>The Swedish Correctional System 4, in Facts Sheets on Sweden, Swedish Information Service, June, 1970.

<sup>15</sup>Buss, *supra* note 13, at 2.

<sup>16</sup>Eriksson, *supra* note 12, at 6.

### IN-PRISON VISITING AND FURLOUGH RIGHTS IN DANISH PRISONS

In-prison unsupervised or conjugal visiting is permitted in only two open prisons and in none of the closed prisons in Denmark. Rather prisoners in open prisons see visitors during eight-hour and weekend leaves. The first eight-hour leave may be granted three weeks after commitment to the prison, and the first weekend leave may be granted after four or five weeks depending upon the policy of the prison superintendent. Weekend leaves, called "permissions," must be requested by someone outside the prison, such as a member of the inmate's family or even a friend. The open prison administrators seem to be willing to regard any request as legitimate, and the requests serve largely as a "cover" so that the prison can avoid charges that they release, with "a good reason," men who go to towns nearby, get drunk, and make themselves a nuisance to the citizens. Prisoners who fail to return from eight-hour or weekend leaves, as indicated earlier, may be transferred to closed prisons or have their sentences "prolonged" by the prison for a period of up to six weeks. "Permissions" generally run from 4:00 P.M. Friday to 9:00 P.M. Sunday, and their frequency depends on the policy of individual prison directors. At Renbaek, for example, the inmates were asked by the director if they wished to have leave every weekend. According to the director, they rejected the proposal, citing as reasons the efforts that would be required to continually make arrangements and the cost of travel. The inmates did, however, ask the director to announce to their families that it was *his* policy that leaves could be granted only twice each month. Inmates at Renbaek are entitled to an eight-hour visit away from the institution every other week, but they can elect to take a two-day weekend once a month provided that they return to the prison for the night between the two days. (Two-day visits are helpful for inmates whose visitors come from Copenhagen or other distant locations.) In addition, three-hour visits in the prison are permitted every Sunday. The number of men who now go to the nearby town of Ribe has been decreasing since the in-prison visiting policy was initiated. This was made possible because the new buildings had more privacy and comfortable accommodations for the inmates and because in-prison visiting is less expensive than getting a hotel room. Some inmates combine a Saturday visit in a

hotel and a Sunday visit in the prison. Visitors to Renbaek may include parolees as long as there is some relationship to the inmate, and children may visit. Visits by a different girl each time to one inmate is frowned upon, although not necessarily denied, because it is felt that such an arrangement makes wives and family members uncomfortable.<sup>17</sup> What inmates and their visitors do is their own business, but for those who wish to use them, contraceptives are available from machines located in the main toilet facilities in each building.

In Denmark's two closed prisons, furloughs for men are granted "only under very extraordinary circumstances and generally under escort." Serious illness or the funeral of a family member would be such a circumstance.<sup>18</sup>

In contrast to the open institutions, then, Denmark's closed prisons may be regarded as more "traditional" in regard to inmate visiting and home leave rights. It should be noted, however, that several of the directors of the open prisons view the two more restrictive closed prisons as necessary reminders of what can happen to men who violate the privileges that go with confinement in an open institution.

Given the fact that some big walled prisons with limited privileges for the inmate exist in Denmark, the question may be asked about the status of prison reform as an issue for both inmates and citizens in that country.

### PRISON REFORM IN DENMARK

Perhaps because there are only five hundred or so inmates in the closed prisons of Vridsloselille and Nyborg and a lesser number of inmates in the two preventive detention institutions, there is not a large enough constituency for prison reform efforts designed to improve prison "conditions" and increase inmate rights. Prison reform is not an important issue in the open prisons in Denmark because the social control mechanisms imposed on the inmates are more like those encountered in a boarding school. At Renbaek and to some extent at the other major open prisons at Norre Snede, Horserod, and Kragsskovhede not

<sup>17</sup> Furthermore, at Kragsskovhede two inmate council members interviewed by the author stated that most inmates did not want either their wives or their girlfriends to visit them in their rooms in the prison. One commented, "I don't want to bring her in there with twenty of my comrades looking and knowing what is going to happen."

<sup>18</sup> PRISON DEPARTMENT, MINISTRY OF JUSTICE, THE PENAL SYSTEM OF DENMARK 38 (1968).

only the physical deprivations of imprisonment, but many of the psychological pains of imprisonment have been eliminated. "Reform" of these institutions cannot easily be based on complaints about prison "conditions"; it must be based upon a philosophy of societal reform which views prisons, no matter how they may be disguised, as control mechanisms exercised by the political power structure over certain groups or strata of the society.

In his article comparing the national prison reform organizations in Norway, Sweden, and Denmark, Jorgen Jepsen noted that the Danish group KRIM has argued for improved correspondence and visiting rights and increased pay for inmates. Jepsen contends, however, that any changes in prison department policy and in public opinion were influenced more by "public statements of individual offenders, the upsurge of several inmate institutional newspapers and, more importantly, articles and comments by journalists with growing insight in criminal policy problems"<sup>19</sup> than by KRIM. Furthermore, the Danish prison administration has been more innovative in regard to some reform than KRIM and instead of fighting a defensive battle has, according to Jepsen, taken the initiative away from KRIM:

The Danish system has shown considerable openness to KRIM, putting information at its disposal, allowing visits to the institutions, listening to its proposals and facilitating communication between the inmates and KRIM, even to the point of covering a considerable part of the expenses for the production and distribution of the inmate press, with its criticism of the system. . .

KRIM in Denmark has had no hard and clear enemy to fight. "The system" quietly has changed itself at a pace somewhat ahead of the imagination of most KRIM members, and open conflict has therefore been avoided. Aggression seems to have been turned inward into the organisation itself, so it has been characterised by disorganisation, intra-organisational conflict.<sup>20</sup>

The failure to date of the prison reform movement in Denmark to establish itself as spokesman even for the inmates, let alone the larger constituency of such movements, including students, criminologists, lawyers, and other citizens, may be viewed by some as lack of political sophistication or, as indicated above, the mark of a politically astute National Correctional Administration.

Prison reform in Sweden, for example, is considered by its proponents to be at a more advanced stage. The politicization of prison reform in Sweden presents an opportunity for Americans to look into another possible future for the prison reform movement in this country.

#### PRISON REFORM IN SWEDEN

"Sweden is Leader in Prison Reform" writes a *New York Times* correspondent.<sup>21</sup> In a feature story titled, as usual, "The Shame of the Prisons," *Time*<sup>22</sup> magazine cites the Swedish system as "a fascinating model" for the American prison system to follow. An Associated Press release which appeared in the *New York Times* under the heading "A Prison in Sweden is more like Hotel" reported:

A new prison unit that opened here has 20 cells with carpeting and telephones.

The unit is primarily for prisoners under temporary detention. Soft lighting floods the cells. Meals are brought in from a nearby restaurant.

The exercise yard has architect-designed "bars" of stainless steel circles with vertical steel stringers. There is a pleasant view over meadows and woods.

Alf Johansson, the head warden, says: "It's wonderful to get away from the usual gray prison atmosphere."<sup>23</sup>

A commentator on the cultural and social structure of Sweden, Paul Britten Austin, cites the

. . . humane, non-moralistic attitude [which] is reflected in Sweden's prisons which, by comparison with most European or American prisons are almost homes away from home . . . Just how liberal they are can be inferred from the type of complaints brought before the ombudsman by their inmates: petitions that a prisoner has not been allowed full privacy when visited by wife or sweetheart; has not been given his regular furloughs (if in an open prison); or has suffered from too great a diet of TV and wants more film shows instead. The type of punishment meted out to drivers found by the police to be under the influence of alcohol is probably excellent for such persons' health—a spell of wood-cutting in the forest. . . The motto when building new prisons nowadays is "build the workshops first, and the prison afterwards." Such prisons as Tillberga, where 120 inmates live what can only be called a normal life, are fully comparable with any ultra-modern Swe-

<sup>21</sup> *N. Y. Times*, Oct. 30, 1970, at 9, col. 1.

<sup>22</sup> *TIME*, Jan. 18, 1971, at 53.

<sup>23</sup> *N. Y. Times*, Oct. 15, 1971, at 42.

<sup>19</sup> Jepsen, *supra* note 5, at 8.

<sup>20</sup> *Id.* at 8, 10.

dish factory. In another prison, near the university town of Uppsala, persons with scholastic aptitude can simply continue their education.<sup>24</sup>

In *The Scandinavians*, Donald S. Connery includes a section on Sweden's "Friendly Prisons."<sup>25</sup> Articles with titles such as "In for Repairs"<sup>26</sup> and "Prison Democracy"<sup>27</sup> released by the Swedish Information Service and reprints of speeches usually made at international conferences by the former Prison Director, Torsten Eriksson, have guaranteed Swedish penal policy a place in any treatise on what should be done in, to, or with American prisons. From the general description of the Swedish prison system and the rights of Swedish prisoners, it might be argued that many American prison administrators would contend that prison reform as they define it has been achieved in Sweden. In contrast to even the most "progressive" American prisons, Sweden does look advanced, but all prisons in Sweden are not as Torsten Eriksson and the Swedish Information Service have described them, and the prison reform movement is alive and well. Relative deprivation accounts in part for the discrepancy between what Americans think of Swedish penal policy and what Swedes think of it, but there are other parts to the explanation.

For one thing there are important differences between comparable prisons. The Swedish prison system is divided into five geographical regions, each with a central closed prison and a variety of other open and closed institutions. The prisons in each region adhere generally to national correctional administration policies, but they also reflect the philosophy of each regional prison director and the local prison superintendents. For example, Osteraker is the central prison in the Eastern Region which includes Stockholm and environs. Earlier in this paper it was said that the eight members of the Osteraker inmate council agreed that they could bring up any topic for discussion with the prison administration, including disciplinary actions taken against an inmate. The latter is in marked contrast to the range of topics permitted for discussions between inmate councils and prison administrators in American prisons. But the same

<sup>24</sup> P. AUSTIN, *THE SWEDES* 49 (1967).

<sup>25</sup> D. CONNERY, *THE SCANDINAVIANS* 409-10 (1966). For one of the few critical views of the Swedish treatment of criminals, see R. HUNTFORD, *THE NEW TOTALITARIANS* 194-97, 247 (1972).

<sup>26</sup> H. BUSS, *In for Repairs, in Sweden Now*, Swedish Information Service, March, 1970.

<sup>27</sup> Martinsson, *supra* note 10.

question, "What limits if any are placed upon the issues that you may bring up for discussions with the administration?" asked of the inmate council at Kumla, the central prison of the Inland Region, brought the response that like inmate councils in America they could discuss "only things like having more fruit on the menu." The inmate council at Osteraker saw the regional director as working for many of the changes that the inmates wanted—sometimes against the opposition of the rank and file prison staff. The inmate council at Kumla saw the regional director as allied with the rank and file staff to oppose their efforts at change.

The central closed prison in the Southern Region, at Malmo, is constructing facilities for conjugal visiting, but the visiting time allowed is only one hour compared to two hours at Osteraker. (The strain of a one-hour limit on "conjugal" visits on wives and girlfriends would seem to make this an issue with the inmates.) In Malmo prison, again unlike Osteraker, there is censorship of mail for 100 of the 120 prisoners, and inmates' telephone calls are "monitored" by the staff, including those made by inmate council members to their counterparts at other prisons. The interpretation of national policy in regard to censorship, telephone calls, inmate council communications, and other matters thus varies between regions.

Second, much of the publicity given to innovative aspects of penal policy applies to only one institution or a small number of inmates. The well publicized open prison, Studiogarden, located near Uppsala University where inmates attend the university houses only 20 of Sweden's 5,000 inmates, and not all of these young men actually leave the prison to attend classes at the university but study instead in the prison. Inmates at Osteraker, at Kumla, and at all closed prisons in Sweden are locked in their rooms for the night at 7:45 P.M. Since all inmates work from 8:00 A.M. to 4:30 P.M. (with an hour for lunch), leisure time activities, such as sports, television, card playing, and group counseling, are limited to a two-hour period after the evening meal. In the closed prisons Swedish inmates cannot take advantage of the long, light summer nights in recreational or leisure activities because the guards do not wish to work an evening shift, and without the need to supervise inmate activities, few men need be on duty. The payment of wages to inmates at Tillberga prison which are equal to those of free world workers, described in many Swedish government releases, is

still a proposal that has not been fully implemented.

Langholmen prison, the old 19th century bastille which serves primarily as the jail for the city of Stockholm, is an anachronism in the light of official Swedish government statements about prison design and penal policy. Langholmen has long been regarded as a disgrace by many Swedish prison officials, but it has been in the process of being closed down for many years. Some sentenced prisoners are now housed in Osteraker, but in 1970, the average population at Langholmen was 445. (Langholmen's rated capacity is 429 inmates.)<sup>28</sup>

Prison sentences for all crimes are considerably shorter in Sweden than they are in the United States, but Sweden has a preventive detention system which calls for indeterminate sentences for "dangerous recidivists who are not deemed receptive to other corrective measures."<sup>29</sup> "Internees," as they are called, are confined in some ten prisons, the largest of which is Hall with a capacity of 285 men in closed sections and 68 in open sections. Perhaps because Hall inmates have careers as prisoners and because they must serve longer average terms than other prisoners, they have been more consistently active for a longer time in promoting prison reform than inmates at other Swedish prisons.

Despite the many substantial advances made in prison reform in Sweden, reformers point out that a variety of factors indicate there is much work to be done: inmate activists at Hall have

<sup>28</sup> See C. AMILON, SWEDISH PENAL INSTITUTIONS 8 (1960) where the author, current Deputy to the Director-General of the National Correctional Administration, states that Langholmen "... is now out of date, it will be closed as soon as new institutions can be built to take its place." 1970 population figures are reported in KRIMINAL VARDEN 1970, *supra* note 4, at 52. In Denmark, the old Copenhagen city prison is analogous to Langholmen.

<sup>29</sup> The indefiniteness of internment lies in the absence of a specified date for release. What the court does instead is to fix a given minimum term of at least one and at most 12 years for institutional treatment. When the minimum period expires, it devolves upon another national body, the Internment Board, to decide whether the internee is ready for the outside treatment which the Code stipulates as a compulsory follow-up of institutional care. If the Internment Board rules against an internee the first time, it must regularly reconsider the question of his transfer to outside care. However, the internee may not be kept in custody for longer than five years after expiration of the minimum period without court consent. The court may then order the extension of institutional care by three years at a time. The Swedish Correctional System, *supra* note 14, at 2. See also I. STRAHL, *supra* note 1, at 67-8.

been subject to reprisals for their efforts; news releases and speeches made by public officials about a new prison program may mean that an experiment is being tried out in one prison but not extended to others; new national policy may be implemented in different ways in different prisons according to the conflicting interpretations of regional directors; too many inmates, according to KRUM, are still confined under maximum custody conditions. Finally, prison reform is an issue in Sweden because important elements of the leadership of the national prison reform organization, KRUM, contend that improvement of prison "conditions" and inmate rights is of secondary importance to using prison reform as a means of forcing confrontations with the political power structure.

A brief review of the "demands" made by inmate and KRUM representatives at the Osteraker and Kumla national bargaining sessions may be of interest to American prison reformers for at least two reasons. First, an answer of sorts may be given to the question, "What improvements or rights might be asked if and when the current demands of American prisoners are satisfied?" and second, we may have an opportunity to see what happens when a prison reform movement is "captured" by those whose interest in reform goes beyond prisons.

In January 1971, Sweden's National Correctional Administration agreed, after a series of strikes in the prisons, to "negotiate" with inmate representatives and representatives of personnel groups a variety of issues including the following:<sup>30</sup>

1. That there be a shorter period of time between commitment to prison and the first furlough or home leave.
2. That violations of furlough rules, such as a late return or "having a few beers," should not affect future leaves.
3. That jail time should count as part of the period required before the first leave from prison.
4. That internees serving longer sentences should receive "good behavior" leaves in addition to regular leaves.
5. That the rule prohibiting home leaves over holiday periods be abolished.
6. That visits in the prisons be permitted twice

<sup>30</sup> Information om Osteraker-Overlaggningarna 11-13 Januari 1971, in Kriminalvardsstyrelsen [National Correctional Administration], Feb. 8, 1971.

a month with two hours allowed for each visit.

7. That there be no staff supervision of visits in open prisons and "minimal" supervision in closed prisons (for example, in a case where the visitor is suspected of smuggling contraband into the prison).
8. That visiting in an inmate's room be allowed unless the inmate had a roommate "who had no place to go or the other inmates in the corridor were against it."
9. That long termers or those who for one reason or another were denied home leaves be given a visit in the prison for 48 hours "without disturbance."
10. That couches be placed in the visiting rooms and that privacy be insured by covering windows and requiring guards to give notice before entering a room.

In addition to furlough and in-prison visits, other topics for discussion were placing telephone booths in the institutions, the function of the inmate councils, the end of all censorship of mail to family and relatives, the "tone" of interaction between inmates and personnel, the need for half-way houses, increased pay for inmate labor, more pay and opportunity for study in prison, improved library facilities, and an inmate contention that psychologists should be allowed to take inmates away from their prison jobs for counseling.

The inmates won promises for improvements on a number of these issues, and the phrase "prison democracy" appeared several months later in a news release of the Swedish Information Service. In that statement the Director-General of the Swedish National Correctional Administration, Bo Martinsson, reviewed the events leading up to and at the Osteraker conference and looked to the future:

The discussion is now centering on the value of the negotiations and the possibilities to proceed towards increased prison democracy. It has been of great value to the National Correctional Administration to hear the views of the inmates directly, and not through personnel at various levels. The work in the advisory councils, in elections and in the delegation itself should have had an educational and improving effect on the inmates. In the Swedish prisons' advisory councils, the pros and cons of the prison system and correctional treatment are now being discussed rather than plans for new crimes after discharge. A further democratization might speed up this development.

In my reasoning I have taken for granted that participation in democratic organizations and cooperation in democratic forms would have an improving effect on the inmates. It can be hoped that the inmate experiences a new identification—as member or leader of a social movement aiming at the reforming of the prison society—and leaves his old criminal identification behind. This might help him to take a new look at himself at his discharge. If he engages in social and political activities this might keep him from committing new crimes. This idea is perhaps too optimistic and there is the risk that an active member of an advisory council will be identified with his institution. In the institution he is the leader who sits in negotiations with the warden—after his discharge he is the unskilled worker with no education, insufficient experience and low status. This might give rise to severe tensions.

The advisory councils can be of great value to the general atmosphere within an institution. Minor grievances previously were likely to cause unrest, demonstrations and even hunger strikes. Now the inmates have become accustomed to bringing their grievances to the advisory councils. The complaints are discussed by the council and if the council finds them justified they are taken up in negotiations with the prison administration. Many disputes have been settled in this manner.

It is very important, however, that the elections to the advisory councils are conducted under adequate democratic forms. The prison administration must assist in arranging the elections. The inmates are to vote by ballot, and the ballots should preferably be collected in the morning when the cells are opened in order to prevent any form of coercion. It must be kept in mind that many of the inmates are individuals who are not above solving their problems by resorting to violence. In the prison society there is always the risk of threats and violence. . . .

According to those who are learned in law, the negotiations which started November 30, 1970, at Osteraker prison are unique in history. They placed on an equal footing the delegates of the country's 5,000 prisoners on one side and representatives of the correctional authorities and the personnel organizations on the other. Naturally they were met with apprehension by some people, but they will no doubt prove useful in many ways to the National Correctional Administration—not the least in our efforts to prevent criminality.<sup>21</sup>

Mr. Martinsson did point out in the same article that rank and file staff response to the discussion between the inmates and the regional and national

<sup>21</sup> Martinsson, *supra* note 10, at 3-5.

correctional administrators was not entirely supportive. Many prison guards felt that the inmates held a threat (strikes) over the prison administrators and that concessions should not have been given under such circumstances. Some lower echelon personnel felt threatened by the ability of inmates to go over their heads with grievances. The Director-General also reported that "... the National Correctional Administration has also been criticized for promising the inmates costly improvements such as better visiting quarters without making corresponding commitments to the staff who in many cases need better canteens and changing-rooms etc."<sup>32</sup>

The grumbling of guards and representatives of personnel organizations which were heard after the Osteraker conference was soon followed by the grumbling of inmates who began to contend that some of the concessions won from the correctional administration were being implemented too slowly or incompletely. The improvements, it became clear, were dependent upon new appropriations or the addition of more staff members. The inmates said that while they did not win much at Osteraker in the way of real changes, the National Correctional Administration was boasting about "prison democracy" in Sweden. Thus, when the second conference between the correctional administrators and the inmate representatives was scheduled for November, 1971, there were issues unresolved from the first meeting plus new demands for the inmates to raise. Furthermore, KRUM had determined that "prison democracy" was one more euphemistic term like "rehabilitation" or "treatment" designed to justify the same old repressive, social control function of prisons.

At Kumla the first issue raised by the inmates and KRUM was a demand that decisions be made at the table, not referred on for further study or effected later on by fiscal limitations. Specific issues for which binding agreements were to be reached at the conference table included the following:<sup>33</sup>

1. Inmate newspapers should be uncensored

<sup>32</sup> *Id.* at 7.

<sup>33</sup> This list of issues was compiled from a hall letter from inmate Harri Miekkaalinnä to Clas Amilon, National Correctional Administration, (F.F.C.O. Informationscentralen, Fangelset); National Correctional Administration, Forslag Till Dagordning, Nov. 19, 1971 (press release); and National Correctional Administration, Nov. 23, 1971 (untitled communique).

and published with no limit on the number of copies.

2. Reports in inmates' prison record files which relate to personal history and characteristics should be abolished.
3. Inmate file information related to parole decisions should be limited to that data which does not make the prisoner a "marked man."
4. Inmates should have access to all statements written about them.
5. Parole supervision should be abolished.
6. Telephone booths should be placed on every floor in the prisons.
7. Guards and inmates should wear civilian clothes.
8. Visiting and furlough rights should be extended.
9. Punishment within the prison, such as isolation or transfer of inmates to specific security sections, should be ended.
10. Inmates should be free to move around within prison.
11. Forced work should be abolished.
12. Every inmate should be given the opportunity and facilities for study.
13. The geographic isolation of the women's prison should be ended.
14. The construction of new prisons should be stopped.

These demands were not taken up for discussion at Kumla because the National Correctional Administration could not agree to the primary conditions for the talks. Administration officials asserted that some of the items proposed for discussion would require action by Parliament or that large amounts of money would have to be appropriated and that the most that they could do was to promise that if agreement was reached on an issue, that an effort would be made to change the law or obtain the funds. The inmates countered by arguing that the National Correctional Administration had the power to make penal policy (agree to the changes) and that it was foolish for the inmates to think that they had an "equal" vote in determining that policy, so the discussions should be terminated.

The breakdown in negotiations at Kumla was immediately followed by a wave of food and work strikes in Swedish prisons. The strikes were stopped after the Swedish Minister of Justice announced that representatives of the inmates would be given

an opportunity to meet with representatives of a royal commission planning for new prison programs. The inmates returned to work, and in early 1972, prison reform issues in Sweden turned on such questions as whether negotiations should be resumed on a regional basis and whether "radicals" have captured the prison reform movement and are attempting to force confrontations between the inmates and the prison system by raising "impossible" demands.<sup>34</sup>

Swedish citizens read about the violence at Attica, Soledad, San Quentin, and other American prisons with dismay, and, based on U.S.-Swedish comparisons, take pride in the more humane character of their prison system. Yet that system also is in a state of upheaval and, as we have said, calls for reform are just as loud. One of the Swedish prison officials who attended the Kumla conference told the author: "We have gone as far as we can go in giving things to inmates, the ordinary Swedish citizens won't stand for more." A public opinion poll of citizen views towards crime, punishment and correctional treatment taken in one part of Sweden is cited which in the words of a National Correctional Administration official indicated that, "the concept of retaliation was dominating. A common comment was, 'Well, they asked for it.'"<sup>35</sup> Whether KRUM's proposals have reached the limits of public tolerance in regard to treatment of law breakers remains to be seen. KRUM's proposals have, it appears, reached the limits of tolerance of the National Correctional Administration. The hope of some Swedish correctional officials is that the inmates will come to the conclusion that the "radicals" are willing to sacrifice improvements in prison conditions and inmate rights for the sake of larger political inter-

ests and that the inmates will then disassociate themselves from the "radicals." Some evidence for this possibility may be the newly formed prisoners' union (FFCO) established by the inmates at Hall prison. The tactics of KRUM, the response to the prisoners union FFCO, and the courses of action to be taken by the National Correctional Administration and the Minister of Justice, as well as any reaction from the Swedish "public" will bear watching by Americans who are interested in looking into the future of reform activities in their own country.

#### SOME LESSONS FOR AMERICAN PRISON ADMINISTRATORS AND PRISON REFORMERS

The prison reform movement in Sweden is many years, perhaps decades, ahead of similar efforts in the United States. In fact, there is not one national reform movement in America, but many movements often competing with each other for the same support and constituency. Continuance of this situation will certainly give aid and comfort to the protection of the status quo and vested interest of the American correctional establishment. The issues discussed at the Osteraker conference are low on the priority lists drawn up at Attica, Folsom, Walpole, Rahway, and other American prisons. Furlough and in-prison visiting rights come after brutality, extortion, and violence committed by staff and inmates have come to a halt; after the food and physical living conditions become bearable; and after inmates are granted the right to organize and communicate their needs to the prison administration, the press, and the public. The proposals advanced at the conference at Kumla have not even been thought of by American inmates and prison reformers.

It should be noted, however, that "rights," once granted, often continue to be issues unless complete freedom to exercise them is given to the inmates at the outset. For example, if it is agreed that two months after arrival an inmate should be permitted to go on home leave, it can then be argued that the waiting period should be reduced to six weeks, or a month, or two weeks after arrival or that the leave period should be extended. It can be argued that visiting in prison for two hours every two weeks should be changed to four or six or overnight visits every week and in improved visiting facilities. American prison administrators

<sup>34</sup> In the Nordic countries, we have experienced in recent years the creation of special organizations for contact activities within the institutions. I am referring to the type of organization which in Sweden is known under the name of KRUM (National Association for Humanizing of the Correctional System). Unfortunately, this organization has adopted a political and ideological course in a rather radical way. I say unfortunately because organizations of this kind undoubtedly have a big mission to accomplish as an intermediary of contacts and also from the public opinion point of view. There are, however, a number of other organizations able and willing to contribute. The Red Cross has given us a most valuable assistance. The same applies to other associations, sports clubs, and religious communions. All of them have their given position within a correctional administration. C. Amilon, *The Prison and the Environment 5* (1971) (National Correctional Administration, mimeo).

<sup>35</sup> *Id.* at 2.



should not expect that meeting the demands at Attica or any other current list of inmate demands will see the end of inmate discontent.

In the operation of their open prisons, particularly Renbaek, the Danes may have something to show to their Swedish neighbors and everything to show to the United States.

A look at the Danish prison system gives an indication that if the criminal justice process is seen as "just" (and if those arrested believe they have recourse if actions taken against them are seen as unjust); if imprisonment is in fact used as a last resort; if prison terms are for week and month instead of year periods; and if most of the physical and psychological pains of imprisonment are removed so that the social stigma of arrest and confinement and some constraints on individ-

ual movement are the major punitive aspects of imprisonment then peace and quiet may prevail in prisons which are small and open. In the operation of closed prisons, Osteraker contains more "advanced" features than other Swedish closed prisons, and for this category of institutions the Danes have some things to learn from the Swedes, and again, the Americans have just about everything to learn.

From the Swedish prison reform organization, KRUM, American prison reformers may learn how to move from prison reform to the next level where the task is reform of the criminal justice process and those aspects of the political, economic and social structure of American society that permit prisons like Attica and San Quentin in our most "advanced" state systems.