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Karstedt, Susanne; Endtricht, Rebecca

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Crime And Punishment: Public Opinion And Political Law-And-Order Rhetoric In Europe 1996–2019

Susanne Karstedt and Rebecca Endtricht*

*Susanne Karstedt, Griffith Criminology Institute, Griffith University, Brisbane, Australia; s.karstedt@griffith.edu.au; Rebecca Endtricht, Department of Criminal Justice and Criminology, University of Hamburg, Hamburg, Germany

This article explores in which ways politicians' law-and-order rhetoric and citizens' attitudes and concerns about crime engage with each other in European countries. The focus is on the 'constructionist' or 'framing' model which posits that citizens' attitudes about crime and punishment are influenced and 'framed' by political rhetoric. We capture the overall 'tone' of political rhetoric around crime and criminal justice using law-and-order statements in political party manifestos. Our indicators of crime concerns and punitive sentiment among the public are 'crime salience' (crime as the most important problem) and punitive preferences. We link law-and-order statements with survey data from the Eurobarometer and European Social Survey to explore the relationship between citizens and political elites for 26 European countries between 1996 and 2019. In line with previous research, we show that political law-and-order rhetoric indeed provides a framing narrative for citizens but limited to their punitive preferences. In contrast, European citizens' assessment of crime as a problem is shaped by the level of serious violent crime (homicide) in their country during this period. This suggests a risk-based assessment and an 'objectivist' model. We discuss these results in the context of differences between the politization of criminal law in Europe and the United States.

KEY WORDS: constructionist model, crime salience, Europe, law-and-order rhetoric, objectivist model, party manifestos, punitive sentiment

INTRODUCTION

Crime, law and order regularly are major issues of political and public debate. Citizens care about crime and punishment. Crime, its control, and justice are expressions of the internal dynamics of societies (Alexander and Smith 1993) and thus form part of its most important discourses. Political elites and the public can concur on a common core of values relating to public safety, morality and justice. Politicians and citizens can rely on a common language and narrative, and mutual understanding when it comes to crime and justice issues. As such, crime

and justice issues share these characteristics with other ‘morality policies’ like drugs or gambling (Meier 1994), which elicit a high level of interest in the public and engagement of politicians. At face value crime and justice are ‘easy issues’ for public and political debate (Nicholson-Crotty et al. 2009), and present ideal conditions for democratic responsiveness between political elites and citizens (Mooney and Lee 2000). Accordingly, public concerns about crime are seen as a perfect test for the ‘democracy-at-work’ thesis and the reciprocal nature of public-elite linkages in contemporary democracies. Do political elites respond to public concerns about crime, or do they lead public opinion on these matters? Or do policies and public opinion on these matters just concur and feed into each other? All directions are compatible with properly functioning democracy: Politicians adapt policies and outcomes according to voters’ preferences, and equally they might lead voters to change their preferences in addressing new and persistent problems (Inglehart 1990, chapt. 10).

Criminological engagement with the politics of crime and justice developed along different trajectories and themes. As early as in the 1970s, two seminal works explored the relationship between crime, the public and the polity in the United Kingdom. Stan Cohen’s ‘Folk Devils and Moral Panics’ (1972) and Stuart Hall and his colleagues’ ‘Policing the Crisis’ (1978) both started from particular crime incidents and illuminated the ‘authoritarian consensus’ (in the words of one reviewer) between the public, politicians and the media in their response. This tradition has been recently revived with research on crime policies during the Thatcher years and beyond by Stephen Farrall and his colleagues, combining both qualitative and quantitative approaches (Farrall and Jennings 2012; Gray et al. 2019; Guiney and Farrall 2022; Jennings et al. 2020). In the US, the emergence of mass incarceration triggered criminological interest in the relationship between crime, public reactions and criminal justice policies. Katherine Beckett (1997; Beckett and Sassoon 2004), David Garland (2001) and Jonathan Simon (2007) were among the first to analyse this process in terms of the interaction between politicians and the public. Did public opinion inform and drive political decision making on crime and justice, with politicians taking advantage of the high salience of the issues of crime and justice? Or did politicians set the agenda with law-and-order rhetoric and the offer of easy solutions to these problems, thus aiming at ‘governing through crime’, as Jonathan Simon put it? Or did both parties to the democratic political process react in tandem to serious and increasing crime problems and set the US on a path toward mass incarceration, as Beckett (1997) suggested?

The development of mass incarceration in the US raised concerns among European criminologists that a similar development might take hold in Europe. Could European countries resist the combined dynamic of public opinion and political rhetoric that seemed to be so powerful in the US? Would Europe face similar increases of crime and justice spending (Wenzelburger 2014) and finally prison populations on a scale comparable to the US? Garland’s (2001) comparison of the US and UK had indeed raised this possibility. Criminologists explored a range of determinants of penal restraint in Europe. These included political institutions like majoritarian versus proportionate electoral systems (Lacey 2008), regime types like e.g. corporatist democracy, welfare regimes and varieties of political economy and capitalism (overview Wenzelburger 2014), values and the European human rights regime (Snacken 2010; Snacken and Dumortier 2012; Karstedt 2015). However, they rarely explored the interaction between public opinion, political rhetoric and policy outcomes in the area of crime and justice policies from a comparative perspective and with a large sample of European countries (see Wenzelburger 2014; O’Grady and Abu-Chadi 2019). Presently this perspective is pursued with in-depth studies on the UK by Farrall and his colleagues (Farrall and Jennings 2012; Jennings et al. 2017; Jennings et al. 2020) and a comparison including the UK and the Netherlands by Miller (2016), while a more comprehensive comparison of European states is missing.

This article aims at closing this gap. It explores the nature of the interaction between the public and political elites for a sample of 26 European countries across two decades from 1996 to 2019.

We explore these relationships in two studies. In our first study we analyse how political law-and-order rhetoric relates to public assessments of the salience of crime as a problem across elections during this period. The second study uses preferences for more punitive responses to crime among the citizens of 22 out of the 26 countries. Here we contextualize individual-level punitive attitudes within country-level characteristics at a certain point in time, 2010. In both studies the focus is on the exploration of a ‘constructionist’ or ‘framing’ model, which posits that political rhetoric and elite initiatives shape public attitudes on crime and justice (Pickett 2019; Shi et al. 2020). We thus test for a leading role of political rhetoric in shaping public crime and justice concerns.

‘DEMOCRACY-AT-WORK’ ON CRIME AND JUSTICE: REPRESENTATION, RESPONSES AND PREFERENCES

The democracy-at-work thesis implies that public opinion matters to public officials, that they take notice and that they react to it. On the other hand, it implies that what politicians say and do matters to the public whether they react to statements or actual policy change. Finally, democratic polities need to respond to real-world problems and produce outcomes, which are then voted upon by the electorate. The democratic process thus involves ‘responsiveness’, ‘leadership’ and ‘counter movement’ where the public moves into the opposite direction of established policy (Hakhverdian 2012: 1388). All three processes capture the dynamic processes of democracy, whether as citizens’ reactions to policy positions or statements, or in relation to actual policy outcomes. There is not only evidence for all causal directions, but also that ‘top-down’ processes work in tandem with ‘bottom-up’ processes (Steenbergen et al. 2007). Whether one or the other takes precedence seems to be predicated on the issue and problem type, as well as on conditions for public information and responsiveness that the issue provides. Crime and justice problems are generally deemed ‘easy issues’ for public engagement and debate.

The dynamics of the democratic process include a feedback loop or counter movement of the public in response to actual policy and political action. As Page and Shapiro (1992) state, a ‘rational public’ moves in its sentiments and assessments in response to changes in actual policy. Wlezien (1995) has captured the nature of this feedback in the notion of ‘the public as thermostat’. The public adjust their preferences in relation to government spending in specific policy areas, to the level of activity and policy output, or general political positioning (overview Hakhverdian 2012); crime as a policy issue is no exception to this (Jennings and Wlezien 2015). Further, the democratic process is shaped by the tension between majority and minority preferences and voices. In the policy arena of crime and justice policies, politicians will respond mainly to broader trends rather than to those positions that might represent a more measured approach to these policy problems, as exemplified by responses to an overall punitive ‘mood’ in contrast to more ‘pragmatic’ positions (Pickett 2019: 417). Notwithstanding a preference for general moods and majority opinion, actual policies conform with majority opinion only less than half of the time. This applies to all policy issues, including crime and justice issues; politicians do not by default follow the public’s mood (Lax and Phillips 2012).

Pickett et al. (2019; Shi et al. 2020) identify two major models for the democratic process relating to crime and justice. According to the ‘objectivist’ model, public opinion reflects actual crime rates and trends, and respective changes of the former mirror changes in the latter. This relationship between crime rates and public opinion is driven by personal and vicarious experiences (e.g. victimization) or other ‘fact-based changes’. According to the objectivist perspective, crime rates were the ultimate cause that drove the democratic process towards the punitive turn in US criminal justice policies (Pickett 2019: 415; Enns 2016): the public reacted to rising crime with increasing fear and punitiveness, and politicians responded accordingly. In contrast, the ‘constructionist model’ assumes that public opinion reacts to and is shaped by ‘elite initiatives’, i.e. both media and political rhetoric (Shi et al. 2020: 569; Pickett 2019: 413–14). This

perspective is predicated on the assumption of a deficit in the democratic process, as political elite and media interests manipulate rather than educate the public (Shi et al. 2020: 570), most clearly stated by Jonathan Simon (2007).

However, in this juxtaposition a third possibility is omitted that political rhetoric might just tap into the common narrative that crime and justice issues provide. In the words of Katherine Beckett (1997:80), the author of the earliest and most influential studies: ‘... officials have played a crucial role in framing the crime and drug issues ... the success of the conservative campaign for law and order reflects the fact that this discourse makes sense of and provides a “solution” for pressing social and personal problems ... compatible with ... cultural beliefs and values.’ This provides a different account of the constructionist model that stresses possible processes of framing rather than manipulating public opinion (Nicholson-Crotty et al. 2009) and suggests a consensual movement ‘in tandem’ between politicians and the public. Further, as Page and Shapiro (1992) point out, public opinion moves in response to actual changes in public policy, i.e. to policy outcomes rather than rhetoric. In any case, the assumption is that public opinion moves into the direction that political elite rhetoric points to.

Evidence supporting either the objectivist or constructionist model is inconclusive and seems to be predicated on the measurement of public attitudes toward crime and justice. Pickett (2019: 415) concludes that crime rates are a ‘consistent predictor’ of punitive preferences and support for being tough on crime among US citizens (see also Enns 2016). Studies of public opinion, political rhetoric and criminal justice policy provide evidence for an impact of citizens’ punitive preferences on actual policy outcomes (Jennings et al. 2017; Nicholson-Crotty et al. 2009; but see Nicholson-Crotty and Meier 2003), but also report a decisive role for political elites in framing public opinion in the UK (Jennings et al. 2020). However, a US study by Ramirez (2013) supports earlier research (Beckett 1997) that political rhetoric has a significant and stronger impact on shaping citizens’ punitive preferences and ‘sentiments’ than crime rates. Similarly, evidence for public ratings of crime as the most important problem for the country (‘crime salience’) has been mixed (overview Shi et al. 2020: 571). Most recently, Shi et al. (2020) found robust support for an impact of political rhetoric on crime salience across a wide range of cohorts and social groups in the US, and thus for the constructionist model.

Evidence for public concerns about crime and justice is scarce for European countries. O’Grady and Abou-Chadi (2019) find no evidence that European political parties respond to citizens’ shifts in their ideological positions, including those related to crime and justice issues. Wenzelburger (2014) analysed criminal justice policies for OECD countries which include a majority of European countries. He finds that the relationship between government ideology and law-and-order spending is contingent on institutional barriers that differ widely between European countries. Haney’s (2016) study of the politics of punishment and the public mood focuses on post-communist countries and the long shadows of penal histories in this region. Miller (2016: 195–7) contrasts two European countries (the UK and the Netherlands) with the US. She finds evidence for both the constructionist and the objectivist perspective. On the one hand the public assess (violent) crime risks correctly, but on the other hand political rhetoric plays a role in the overall politization of crime. Combined these findings lend support to a framing or consensual model of interaction between the public and political elites.

METHODS

This study comprises two analyses, each focusing on one dimension of public crime and justice attitudes across 26 European countries. First, we analyse how political law and order rhetoric relates to public assessments of the salience of crime as a national problem across election cycles during the time period 1996–2019. The second study focuses on preferences for more

punitive responses to crime among the citizens of 22 out of the 26 countries; here we contextualize individual-level attitudes with country-level characteristics in 2010. In this way we combine a country-level analysis across time with an in-depth study of individual attitude formation nested within countries at one point in time. The 26 European countries represent all regions of Europe.¹ Western Europe is represented with the largest number of countries (Austria, Belgium, France, Germany, Ireland, The Netherlands, UK), followed by South-East Europe (Bulgaria, Croatia, Cyprus, Hungary, Romania, Slovenia). The South is represented by Greece, Italy, Portugal and Spain, Central/ East Europe by Czech Republic, Poland and Slovakia, Scandinavia by Denmark, Finland and Sweden, and the Baltic States by Estonia, Latvia, and Lithuania (Table A1 in the Appendix).

For the first analysis, we use the Eurobarometer (EB; European Commission 2020) for measurement of our dependent variable, for the second analysis we use the European Social Survey (ESS; European Social Survey European Research Infrastructure (ESS ERIC) 2018). The Comparative Manifesto Project (CMP) dataset provides information about the prominence given to crime and law-and-order topics in party manifestos issued for national elections (Burst et al. 2020; Volkens et al. 2020). Accordingly, the sample of European countries mirrors the inclusion in the two surveys and their coverage in the Manifesto data set during the time period from 1996–2019.

Measurement and analyses

Crime salience: A time-series analysis

The first study is based on longitudinal measurements of public opinion and political rhetoric in the 26 countries included. Our dependent variable ‘crime salience’ is retrieved from the Eurobarometer survey, which is conducted twice every year in EU member states. Crime salience is measured by the question: ‘What do you think are the two most important issues facing our country at the moment?’ We then aggregated the respective proportion of respondents who had named crime for each country and year of the election cycle.²

Our indicator of political rhetoric is based on the Manifesto data set. These data have been used for analyses of criminal justice policies by Miller (2016) and Wenzelburger (2014) in comparative studies of European countries. The ‘Manifesto Research on Political Representation Project’ (MARPOR; also Comparative Manifesto Project (CMP), Burst et al. 2020) collects data on policy statements of more than 1,000 political parties in over 50 countries worldwide. The content of party manifestos is coded according to issue domains (e.g. welfare, education, or society) and the specific position of the party on that issue within several categories. The party’s position is measured as the proportion of quasi-sentences for each issue-category in each manifesto. This is done for all significant parties in the included countries at the time of an election when such manifestos are issued. We use the issue ‘law and order’, which is part of the issue domain ‘Fabric of Society’. This includes statements regarding ‘favourable mentions of strict law enforcement, and tougher actions against domestic crime’ (Volkens et al. 2020: 19). We aggregated the original data and created a variable that measures the mean level of the proportion of favourable law-and-order mentions across all parties for each country for the respective election years. In this way, we capture a collective and more non-partisan response of all political actors and assess the overall ‘tone’ of law-and-order rhetoric in a country. We thus mirror Ramirez’ (2013) and Enns’ (2016) usage of annual presidential addresses for capturing a nationwide political ‘tone’ on crime issues in the US. However, we do not calculate a ‘net law-and-order

¹ Definitions of European regions for the purpose of crime and criminal justice analyses differ (e.g. Karstedt 2015; Schaap and Scheepers 2014).

² To assess for divergent non-response biases and non-response errors across different countries, we use the post-stratification weights that are provided by EB.

tone' (Ramirez 2013: 343; Enns 2016) of political rhetoric by discounting favourable law-and-order statements with statements against such policies, as the latter were extremely rare across countries during the entire period.

We followed O'Grady and Abou-Chadi (2019; see also Adams et al. 2004; 2006) and matched citizens' assessment of crime salience with the most recent election in each of the countries, which mostly follow four-to-five-year election cycles. Our data comprise 26 countries, each observed over an average of 5.8 elections, with all 26 countries having five elections and 21 having six elections between 1996 and 2019. We then matched data on violent crime and economic performance to the country's elections in the same way. In order to control for the impact of violent crime on citizens' ratings of crime salience, we used homicide data from the UNODC 'Global Study on Homicide 2019' (UNODC 2019) which gathers information on homicides worldwide, covering the years 1995 to 2018. We use the homicide rate per 100,000.³ As the public salience of crime is a relative measure and might be affected by emerging problems like e.g. economic hardship during the European financial crisis 2008/2009, we include controls for the country's economic performance (see Shi et al. 2020: 575). Data on GDP growth rates were retrieved from World Bank data for the European Union and matched to the election years. The World Bank calculates growth rates as the annual percentage growth rate of GDP at market prices based on constant local currency.⁴ This created a time-series cross-sectional data set which also allowed for including change between election years as independent variables into the analyses. We included the difference between the homicide rates of the most recent and previous election year. For GDP growth rates we calculated the mean growth rate between the most recent and previous election year, including the year of the previous election (see Table A2 in the Appendix). For the time series analyses we use fixed-effects models rather than random-effect models, based on a significant Hausman-Test including all variables ($p < 0.001$; available with authors).

Punitiveness: A multi-level analysis

The second study is based on individual-level data on European citizens' preferences for punishment as measured in 2010 (ESS Round 5), which are then contextualized within country-level data on political rhetoric and crime. The analysis uses data from 22 out of the 26 countries.⁵ Punitive preferences were measured by the question 'Take the case of a 25-year-old man who is found guilty of house burglary for the second time. Which one of the following sentences do you think he should receive?' Respondents could opt for a prison sentence or non-custodial alternatives. We created a variable which contrasted the choice of a prison sentence with all less harsh sentences. On the individual level we included feelings of safety, trust in police and victimisation as independent variables from the same round of the ESS. The former was measured by the question 'How safe do you feel walking alone in the area where you live after dark?', with answer categories ranging from 'very safe' to 'very unsafe'. A measure of trust in the national police was included as part of the question 'For each of the following institutions, please tell me if you tend to trust it or tend not to trust it?' (1 'tend to trust' and 2 'tend not to trust'). Information on individual victimization experience was measured by the question 'Have you or a member of your household been the victim of burglary or assault in the last 5 years?', with

3 We initially included crime data from the European Sourcebook between 1996 and 2016, namely theft, burglary, and total crime rates. As there was inexplicable fluctuation for time series on assault in England and Wales, and Northern Ireland (see also Enns et al. 2022 in this issue), and for burglary in the Baltic states, we only used the rates for theft and total crime. As none of these had any impact, homicide rates were used as the most robust indicator for crime.

4 Retrieved from <https://data.worldbank.org/indicator/NY.GDP.MKTP.KD.ZG?locations=EU> (accessed January 2022).

5 Austria, Italy, Latvia and Romania are not included in ESS Round 5.

answer categories ‘yes’ and ‘no’.⁶ We used all original survey data as dichotomous variables. In addition to trust in police, and victimisation, which were dichotomized in the original survey data, we contrasted those feeling safe (‘very safe’ and ‘fairly safe’) with those who did not (‘a bit unsafe’ and ‘very unsafe’). As controls we included age, gender and education, which is measured by the years of full-time education (Table A3 in Appendix).

On the country-level we included both political rhetoric and homicide rates as independent variables. Law-and-order data are included for the most recent election before 2010 (the survey year), which took place between 2005 and 2009 in the 22 countries. We further included law-and-order rhetoric change between this election and the previous one in order to test for potential impact of a longer time frame.⁷ Homicide data are included for 2010, as well as the difference of homicides between 2010 and 2006. The intraclass correlation coefficient (ICC) for our model is 4.4 per cent; however, log-likelihood tests indicate significant differences between the basic individual single-level and the null-model for all models. We therefore proceeded with a two-level logistic multilevel regression. Random intercept models are used instead of fixed or random slope models; testing of differences with the likelihood-ratio test indicated no significant improvement of the model when using slope models, implying that the country effects tend to differ only in their intercepts. With 22 European countries included this is a comparably small number of observations at the context level. However, the usage of multilevel models with small context level *N* is a standard procedure in European comparative political research in order to distinguish effects between countries, even with samples as small as ten observations on the context level (Maas and Hox 2004).

RESULTS

Crime salience, political rhetoric and violent crime in Europe 1996–2019

We start this section by illustrating patterns and trends for public crime concerns, political rhetoric and violent crime for five countries, each representative of different regions, political institutions, and general historical trajectories. Figures 1–3 show trends between 2000 and 2019 for crime salience, level of law-and-order rhetoric, and violent crime (homicide rate). Public concerns about crime in the country are generally highest around 2000 and become more divergent until 2010. However, a downward trend in all countries is clearly noticeable and levels of public crime concerns converge in the following decade. The UK stands out with the highest level of public crime concerns at the beginning of the period, and a distinct increase at the end. In contrast, the overall tone of law-and-order rhetoric in the five countries varies more widely, though we find a common downward trend across the time period (Figure 2). Law-and-order rhetoric peaks in Italy between 2005 and 2010, in Denmark we find a curvilinear development with high levels at the start and towards the end of the period; both trends are not in line with public concerns about crime in the respective countries. The Czech Republic is the country where concurrence between the public and political rhetoric seems to be most distinct. In sum, across the selected countries we observe a decline in the importance of crime both among the public and the political leadership, as indicated by their political rhetoric. This general trend seems to follow the development of serious violent crime throughout most of the period (Figure 3). Countries converge on a downward slope of homicide rates until 2015, after which countries like the UK, Germany and Denmark experience an increase in lethal violent crime.⁸ Public opinion and political rhetoric in European countries thus develop against a backdrop of continuously declining serious violent crime.

6 To assess for divergent non-response biases and non-response errors across different countries, we use the post-stratification weights that are provided by ESS.

7 Previous elections took place between 2001 and 2007; Greece was the country with an election in 2007 and 2009.

8 See Rogers and Pridemore (2018) for convergence of homicide rates within and across European regions.

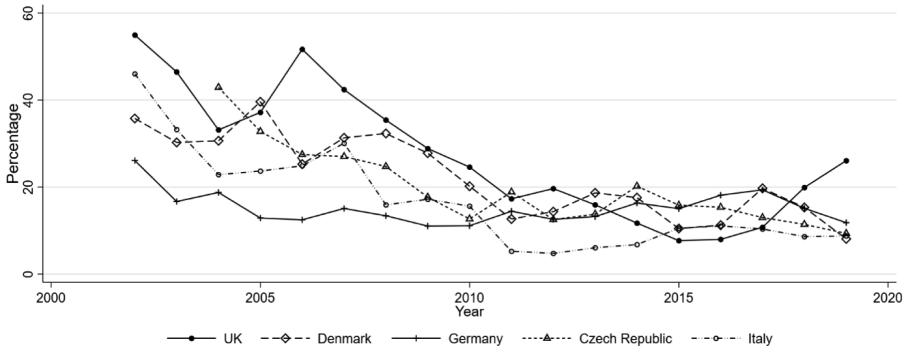


Fig. 1 Crime salience in Europe (crime most important problem for country, % of population): Selected countries 2000–19.
Source: Eurobarometer (2002–19)

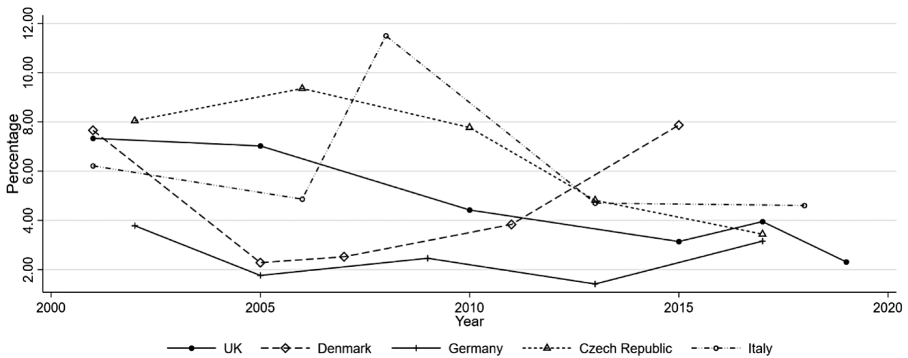


Fig. 2 Law-and-order statements in Party Manifestos (% of statements): Selected countries 2000–19.
Source: Volkens et al. (2020): The Manifesto Project Dataset

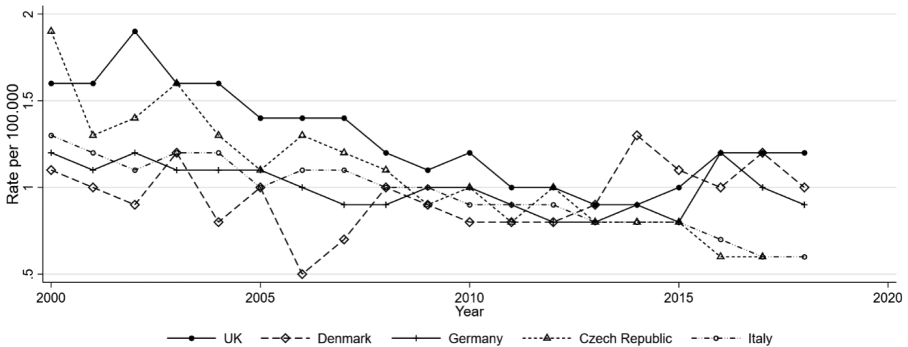


Fig. 3 Homicide rate (per 100,000): Selected countries 2000–18.
Source: Global Study on Homicide (UNODC 2019)

Table 1 Predictors of crime salience in 26 European countries 1996–2019

	(1)	(2)	(3)
Law&Order (t)	2.317 ⁺ (1.04)	1.280 (0.98)	1.307 (0.95)
ΔLaw&Order (t–1)	–0.909 (0.76)	–0.570 (0.71)	–0.772 (0.69)
Homicide rate (t)		9.881 ^{***} (1.72)	8.531 ^{***} (1.90)
ΔHomicide rate (t–1)		0.989 (1.93)	1.653 (1.91)
GDP growth rate			–0.409 (0.42)
Mean of GDP growth rate (t–(t–1))			1.161 ⁺ (0.46)
Constant	7.870 ⁺ (4.55)	–3.829 (4.62)	–2.925 (4.51)
N (obs.)	114	110	110
N (Countries)	26	26	26
R ² (within)	0.058	0.328	0.379
R ² (between)	0.022	0.004	0.008
R ² (overall)	0.036	0.044	0.070

Standard errors in parentheses;

⁺ $p < 0.10$,

^{*} $p < 0.05$,

^{**} $p < 0.01$,

^{***} $p < 0.001$.

The results of our fixed-effect models are shown in [Table 1](#). Generally, we find that law-and-order political rhetoric at the most recent election (Law&Order (t)) increases the extent of subsequent public perceptions of crime salience; however, this effect becomes non-significant as soon as violent crime is included. Crime salience is significantly driven by the level of homicides in the most recent election year (Homicide rate (t)), while changes of the homicide rate are non-significant, even if having a positive effect. Controlling for the impact of other important problems that might result from the economic situation, we find that in contrast to the growth rate in the election year (GDP Growth Rate (t)) the mean growth rate over the past years between elections has a significant impact on public perceptions of crime as an important problem. When growth rates have been higher over the past years, indicating a favourable economic situation, crime concerns rank higher on the public's agenda, however when low growth rates indicate mounting economic problems, crime concerns wane as they are crowded out by other concerns. Thus, across the time period the level of crime concerns in the 26 countries is affected by the economic situation of the country ([Wlezien 2005](#)). Our fixed-effect model explains within-country variance ($R^2 = 0.379$), however overall explained variance is small ($R^2 = 0.070$).

The result mirrors Miller's explorations of two European countries ([2016:195](#)), who stated that 'the public are better at assessing the risk of violence than generally assumed'. As was

equally found for early research in the US, political rhetoric of law-and-order does neither provide assurance nor promise that the country's crime problem is addressed (Beckett 1997; Scheingold 1984). Our results however substantially differ from most recent research in the US, which found robust evidence for the 'constructionist model' (Shi et al. 2020). We therefore tested for the possibility that both the public and political elites react to increasing crime problems in tandem by analysing law-and-order rhetoric as a dependent variable in an OLS model. We included homicide rates, previous change of homicide rates, law-and-order rhetoric at the previous election and the two measurements of economic performance (GDP growth rates) as predictor variables, as the amount of political rhetoric devoted to crime might also be affected by other more urgent problems taking precedence (Table A4 in appendix). Change in violent crime between elections is a significant predictor of the level of law-and-order rhetoric, as is law-and-order rhetoric at the previous election. This indicates that political elite rhetoric is informed by trends in violent crime, but also highly path-dependent on previous policy statements. In European countries the 'objectivist model' seems to apply for both political elites and the public; public opinion is reflective of the presence of violent crime, even if less attentive to changes, while political rhetoric seems to be more sensitive to changes in violent crime rather than to contemporaneous levels. Taken together, these results would support a framing model and common narrative rather than a constructivist model with an emphasis on manipulation.

Citizens' punitive preferences in 22 countries 2010: A multi-level analysis

We now turn to a comparison of European countries at a 'single point in time' (Enns 2016: 42) with a focus on punitive preferences among the public. We start by exploring the cross-sectional relationship between the level of punitive preferences in 2010 and preceding political rhetoric for 22 countries, using both the level of law-and-order rhetoric of the most recent election (between 2005 and 2009) as well as the change between this election and the previous one (between 2001 and 2007). Figures 4 and 5 demonstrate a significant relationship between law-and-order rhetoric and subsequent punitive preferences in 2010; this applies to a strong

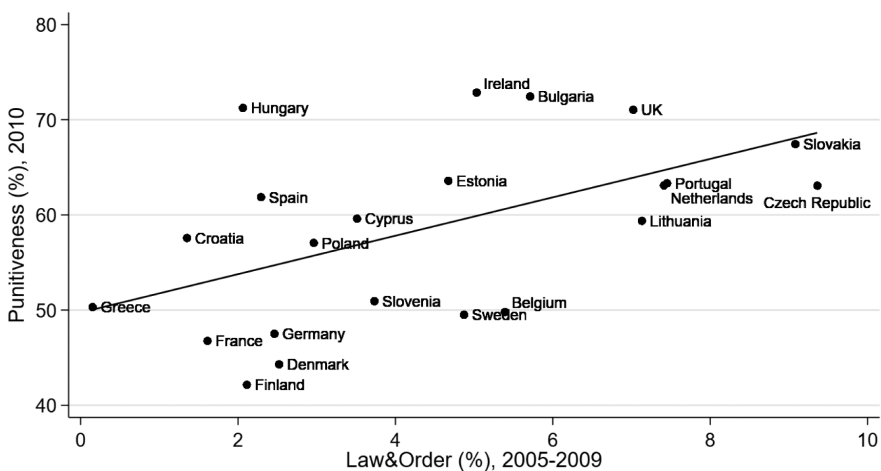


Fig. 4 Punitive preference (% preference for prison sentence) and law-and-order rhetoric (% mean of all statements) at most recent election: 22 European countries, 2005–10.

$R^2 = 0.309$; $p < 0.001$; $N = 22$ (countries not included: Austria, Italy, Latvia, Romania).

Source: European Social Survey 2010; Volkens et al (2020): The Manifesto Project Dataset (2005–9)

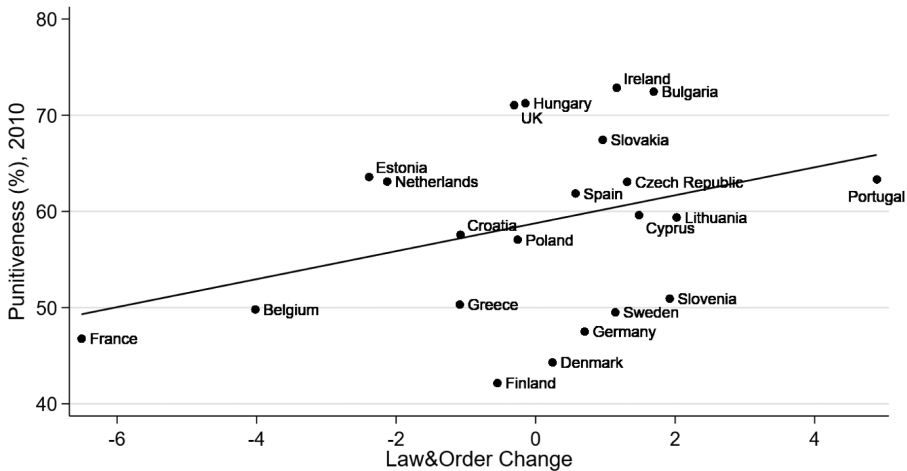


Fig. 5 Punitive preference (% preference for prison sentence) and change in law-and-order rhetoric (% mean of all statements) between the two most recent elections: 22 European countries, 2001–10. $R^2 = 0.114$; $p < 0.001$; $N = 22$ (countries not included: Austria, Italy, Latvia, Romania). Source: European Social Survey 2010; Volkens et al (2020): The Manifesto Project Dataset (2001–9)

relationship ($R^2 = .309$) between public preference for a prison sentence and law-and-order rhetoric at the most recent election, and a very modest one for change between the recent and the previous election ($R^2 = .114$). Figure 4 shows that countries at the higher end of public punitiveness and law-and-order rhetoric range from East to West Europe, while those at the lower end are more often located in West Europe and Scandinavia. As Figure 5 demonstrates, the overall ‘tone’ of law-and-order rhetoric was reduced in a small number of countries between elections before 2010, while it stayed the same or slightly increased in the majority. Very little previous change in political law-and-order rhetoric is observed for countries where punitive preferences dominate public opinion, among them Ireland, Hungary and the United Kingdom. In France, Belgium and the Netherlands, political parties reduced their overall tone of law-and-order, however at considerably different levels of public punitiveness.

With the multi-level model (Table 2) we situate individual preferences for a prison sentence within the country’s overall tone of political rhetoric and level of serious violent crime. On the individual level, feeling safe from crime significantly reduces punitiveness ($OR = 0.792$, $p < 0.001$). This result differs from microlevel cross-sectional research, which finds no relationship between perceptions of risk and support for tough anti-crime policies (Beckett 1997: 25). Experiences of victimisation have a minor but not significant impact (approaching significance at $p = 0.08$). Nonetheless, taken together both results indicate that European citizens’ punitive preferences reflect their experiences with and anxieties about crime (see Enns 2016 for the United States). We did not find a relationship between trust in police and punitiveness, similar to findings for the United States (Unnever and Cullen 2010; Ramirez 2013). Among our controls, women significantly tend towards less punitiveness, as do European citizens with higher levels of education.

Moving to the country level, we find that overall law-and-order rhetoric in the most recent election (Law&Order (t)) significantly increases the likelihood that European citizens have a preference for a prison sentence rather than a non-custodial sentence ($OR = 1.064$; $p < 0.05$). A change in the political tone of law-and-order (Δ Law&Order (t–1)) between the most recent and the previous election has no impact on citizens’ punitive attitudes. Levels of violent crime in the country shape citizens’ attitudes; this applies both to the homicide rate

Table 2 Punitive preference (prison sentence) in 22 European countries 2010

	Preference prison
	Odds ratio
<i>Individual level</i>	
Trust in police (1 = trust)	1.034 (0.033)
Feeling safe (1 = safe)	0.792*** (0.030)
Victimization (1 = victim)	1.048+ (0.029)
Age (years)	1.000 (0.002)
Gender (1 = female)	0.804*** (0.027)
Education (years)	0.973*** (0.007)
<i>Context level</i>	
Law&Order (t)	1.064* (0.027)
Δ Law&Order (t-1)	1.019 (0.029)
Homicide rate (2010)	0.897+ (0.055)
Δ Homicide rate (2006-10)	0.666* (0.133)
Constant	2.116*** (0.334)
Intraclass correlation	0.044
Residual intraclass correlation	0.028
Wald test	χ^2 (10 df): 196.61; $p < 0.001$
N (obs.)	39,671
N (groups)	22

Robust standard errors in parentheses;

+ $p < 0.10$,

* $p < 0.05$,

** $p < 0.01$,

*** $p < 0.001$.

in the year of the survey, 2010 (approaching significance at $p = 0.07$), as well as to change between 2006 and 2010 ($p < 0.05$). However, we find that with increasing homicidal violence the likelihood of punitive preferences decreases respectively with decreasing homicidal violence the likelihood of punitive preferences increases (Δ homicide rate: OR = 0.666). This

result might reflect the fact that in most European regions and countries homicide rates had indeed decreased (see [Figure 3](#)), while public support for punitive crime policies remained stable (see also [Enns et al. 2022](#) in this issue; [van Kesteren 2009](#)). While we cannot test this with our data, our findings connect with recent research showing that awareness of decreasing crime increased support for punitive criminal justice policies ([Shi 2022](#)). Citizens might perceive the decline of serious violence as a signal that previous punitive measures had been successful and indeed ‘worked’ bringing crime under control; consequently, they should therefore be continued and potentially enhanced. As such the result points to an inversion of the ‘thermostatic model’ of public reaction as suggested by [Wlezien \(1995\)](#) and [Jennings et al. \(2017\)](#), according to which the public react to (successful) policies with decreasing demand and less emphasis on the respective problem status. Our results suggest that demand for punitive sentencing in European publics might not follow this model. Given an intraclass correlation of 0.044, the model has a residual intraclass correlation of 0.028. The Wald test ($p < 0.001$) indicates that the inclusion of country-level variables significantly improves the predictive value of the model.

Our findings support a role for political law-and-order rhetoric in shaping citizens’ punitive preferences throughout Europe. With such statements, politicians directly address a range of concerns about crime and simultaneously offer solutions like tougher sentences, ‘truth in sentencing’ or ‘three-strike-laws’. At the other end, citizens might easily identify with the framing and solutions on offer. Law-and-order statements seem to capture and address a range of public sentiments, which coagulate in preferences for harsh punishment (see also [Enns et al. 2022](#) in this issue), and thus have the potential to shape individual punitive preferences. Our finding is in line with early ([Beckett 1997](#)) as well as recent research in the United States on the impact of law-and-order political rhetoric on ‘punitive sentiment’ among the population ([Ramirez 2013](#)). Since we only have data on punitiveness for 2010, we are unable to discern whether this effect is particular to this period or can be generalized across longer periods of time ([Farall and Jennings 2012](#); [Ramirez 2013](#); [Enns 2016: 68](#); [Jennings et al. 2017](#)).

CONCLUSION

Crime, justice and democracy-at-work in Europe

Are European citizens’ concerns about crime and their attitudes and preferences for criminal punishment an important component of their countries’ criminal justice policies? We would expect that such vital concerns about crime and justice illuminate how ‘democracy works’ in European countries. We explored the interaction between political elite rhetoric and citizens’ concerns about crime and justice informed by two perspectives: the ‘objectivist model’ and the ‘constructionist model’, which we also describe as a ‘framing’ model’ ([Shi et al. 2020: 569](#)). We analysed two different dimensions of European citizens’ crime concerns: the importance that citizens assign to crime problems in their country (crime salience) and their punishment preferences, here imprisonment versus non-custodial sentences. We used an overall, non-partisan measurement of law-and-order rhetoric for each country that represents a general law-and-order ‘tone’ and ‘temperature’ of crime problems in political discourse.

Our findings suggest that the relationship between citizens’ crime and justice concerns and political rhetoric depends on the type of concern, i.e. whether it is about crime as a problem or punishment of offenders. Publics in European countries turn out to base their assessment of the problem status of crime on the actual level of most serious violent crime in the country. Generally, trends in public opinion on crime as an important problem follow trends in homicidal violence across a range of European countries and regions. However, when rating the

problem status of crime, citizens are not influenced by political law-and-order rhetoric. Our large sample of European countries reflects Miller's (2016: 195) findings for two European countries that 'the public is better at assessing the risk of violence than generally assumed'. As we also find an impact of homicide rates on the overall tone of law-and-order rhetoric during this time period, we assume that the public and political elites' reactions to violent crime problems concur and move 'in tandem' without directly influencing each other. This suggests a common narrative and framing of crime problems in European countries that is directly driven by violent crime rates.

A different pattern is found for punitive preferences among citizens in 22 European countries. The results of the cross-sectional multi-level model show a significant impact of law-and-order rhetoric at the most recent election on citizens preferences for carceral sentences. Similar to the United States (Beckett 1997; Oliver 2002; Ramirez 2013), European citizens' punitive attitudes are influenced by political rhetoric which indicates that criminal justice political rhetoric has a stronger 'agenda-setting' effect on public opinion (Farrall and Jennings 2012). It seems to be the particular narrative and framing of law-and-order statements that capture the concerns and worries about crime in a more encompassing way as they make sense of and offer solutions to elemental concerns (Beckett 1997: 80). Law-and-order political rhetoric might capture an 'offer of reassurance to citizens' (Jennings et al. 2017: 473) that not only directly addresses punitive sentiments across different political and legal cultures in Europe, but also a wider range of concerns. As Haney (2016) has pointed out, in post-communist countries such rhetoric might be linked to other strong and compelling narratives like anti-immigration policies and nationalistic rhetoric. Further, law-and-order rhetoric might present ready-made solutions to citizens, in particular more punitive policies (Miller 2016; Jennings et al. 2017). Though we did not analyse these statements in detail, they might include propositions on tangible policy action on criminal justice that seamlessly translate into citizens' punitive sentiments. Law-and-order rhetoric in European countries seems to evoke specific cultural values and beliefs that easily connect with images and preferences of criminal punishment among the public (e.g. Karstedt 2015).

However, a cautious interpretation of these findings is advisable as they are based on a cross-sectional analysis at 'one point in time'. We can show that law-and-order rhetoric provides a common frame for citizens' punitive preferences, however, we cannot give a conclusive answer to the question 'who leads whom' (Enns 2016) on punitive responses to crime. Taken together with our results on crime salience and in the light of these, we suggest that a common frame and narrative bring politicians and the public in European countries together and synchronize their reactions to problems of crime and punishment with none of them directly leading the other. Miller's (2016) differentiated conclusions about the relationship between crime, its different perceptible dimensions, and the politicization of crime seem to apply equally to our large sample of European countries. Why are European countries presumably less 'governed through crime' than the United States (Simon 2007)? We argue that an answer to this question can be found in the difference between criminal law and justice systems and their relation to the political process, rather than in the particular mechanisms of the democratic process.

Our sample of European countries includes very different democratic regimes, while their legal systems are nearly exclusively embedded in the civil law tradition (exceptions are the UK and Ireland). Criminal law regimes in civil law countries are more immune to the political process, in particular when compared to the US. According to Whitman (2017: 159) 'contemporary American criminal law is unique, in the advanced economic world, in the extent to which it is shaped by the political process'. Besides tough-on-crime legislation, Whitman identifies the practice of directly electing judges and prosecutors, 'unheard of in the rest of the world'. The 'insulation' (Zimring and Johnson 2006) of criminal law and justice institutions from the political process in Europe has the potential to put brakes on political projects of getting

tough-on-crime, even if according to our findings such projects might concur with public opinion. In the United States, the ‘punitive tone’ of presidential addresses sets the scene for a common sphere where politicians, judges, prosecutors and the public interact from the local up to the national level. Given this wide-ranging potential of influencing the public, the political process is powerful in shaping both public assessments of the importance of crime problems and ‘punitive sentiment’ without much restraint. Consequently, while the constructivist model represents the process of criminal justice policy in the United States, it is not unequivocally supported for a sample of European countries. We find support both for the objectivist and constructivist model. Resistance to punitiveness in European countries might be entrenched in their legal systems rather than in political processes.

We briefly address several limitations to our study. We used an exceptionally large sample of more than 20 European countries across all regions, which represent substantive differences in terms of crime levels, criminal justice institutions and political and government institutions. The diversity of our sample might impact the robustness of measurements of dimensions of citizens’ crime and justice concerns across Europe. We controlled our measure of crime salience as (crime ‘the most important problem’) for economic problems taking precedence over crime in particular after the financial crisis of 2008/2009. We only used economic growth rates as controls, however other problems like immigration might have had a stronger impact (O’Grady and Abou-Chadi 2019). We used stand-alone indicators for both dimensions of citizens’ crime and justice concerns rather than aggregate measurements or ‘mood’ indicators (Nicholson-Crotty et al. 2009; Ramirez 2013; Jennings et al. 2017). Combined and aggregated ‘mood indicators’ might work less well for highly diverse and large samples as ours across a long period of time. We used policy statements rather than policy output like e.g. spending on law and order (Wenzelsburger 2014), or outcomes like e.g. incarceration rates (Nicholson-Crotty et al. 2009; Jennings et al. 2017). Criminal justice outcomes as e.g. measured in terms of incarceration rates might be suitable for one or comparable jurisdictions (Jennings et al. 2017: 473), however given the diversity of polities, institutions and legal processes that shape criminal justice outcomes across Europe, this might be hardly feasible for a large and diverse sample like ours.

Finally, we use two different modelling approaches, which affects an assessment of evidence for one or the other model. We analyse crime salience based on a time series model, following research on the democratic process in European countries (O’Grady and Abou-Chadi 2019). Based on this model we find robust evidence for the ‘objectivist’ model. For punitive preferences of the public, we use a cross-sectional multi-level model for one point in time due to the lack of period data. Results show that political rhetoric is more a precursor than a consequence of public punitive preferences (Beckett and Sassoon 2004: 8). However, taken together, both results give reason to assume that political rhetoric, public perceptions of crime problems and punitiveness move in similar directions and in tandem. While a longer time series is needed for decisive evidence, we conclude that a ‘framing’ model, as originally proposed by Beckett (1997), seems best suited to capturing political processes and the formation of public opinion in European countries.

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APPENDIX

Table A1. Countries

Country	European region
Austria*	West
Belgium	West
Bulgaria	South-East
Croatia	South-East
Cyprus	South-East
Czech Republic	East
Denmark	Scandinavia
Estonia	Baltic
Finland	Scandinavia
France	West
Germany	West
Greece	South
Hungary	South-East
Ireland	West
Italy*	South
Latvia*	Baltic
Lithuania	Baltic
Netherlands	West
Poland	East
Portugal	South
Romania*	South-East
Slovakia	East
Slovenia	South-East
Spain	South
Sweden	Scandinavia
United Kingdom	West

* These countries are not included in the European Social Survey 2010.

Table A2. *Descriptive statistics: Crime Saliency 1996-2019 (time series model)*

	Mean	SD	Min	Max	N (Obs.)
Crime saliency (% most important problem in country)	18.02	12.43	2.76	61.2	115
Law&Order (t; % of manifestos)	4.28	2.32	0.15	11.5	151
Law&Order change ($\Delta t-1$)	-0.05	2.11	-6.8	6.64	125
Homicide rate (t; per 100,000)	1.98	2.17	0.5	11.2	147
Homicide rate change ($\Delta t-1$)	-0.30	0.67	-3.6	1.2	121
GDP growth rate (t; %)	2.58	3.0	-6.58	13.0	151
GDP growth rate (mean between elections)	2.13	2.69	-6.72	9.8	125

Table A3. *Descriptive statistics: Punitive preferences (multi-level model)*

	Mean	SD	Min	Max
<i>Individual level</i>				
Punitiveness (1 = prison sentence)	0.59	0.49	0	1
Trust in police (1 = trust)	0.72	0.45	0	1
Feeling safe (1 = safe)	0.75	0.44	0	1
Victimisation (1 = victim)	0.16	0.37	0	1
Gender (1 = female)	0.55	-	0	1
Age (years)	48.82	18.74	14	101
Education (years)	12.2	4.07	0	25
<i>Country level</i>				
Punitiveness (% prison sentence per country, 2010)	58.84	9.61	42.17	72.87
Law&Order (t; most recent election)	4.51	2.65	0.15	9.36
Law&Order change ($\Delta t-1$; to previous election)	0.05	2.23	-6.51	4.89
Homicide rate (2010)	1.65	1.4	0.7	7
Homicide rate change ($\Delta 2006-10$)	-0.24	0.46	-1.7	0.5

Table A4. Predictors of Law-and-order statements in 26 European countries 1996–2019 (pooled time series, OLS)

	Law&Order
Law&Order (t–1)	0.620*** (0.08)
Homicide rate	0.166 (0.11)
Δ Homicide rate (t–1)	0.642* (0.30)
GDP growth rate	–0.0571 (0.07)
Mean of GDP growth rate (t– (t–1))	0.113 (0.08)
Constant	1.373*** (0.40)
N	121
adj. R ²	0.35

Standard errors in parentheses;

+ $p < 0.10$,* $p < 0.05$,** $p < 0.01$,*** $p < 0.001$.

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