ROUTLEDGE STUDIES IN CRIMINAL JUSTICE, BORDERS AND CITIZENSHIP

NORDIC NATIONALISM AND PENAL ORDER

Walling the Welfare State

Vanessa Barker

“This book turns upside-down the assumed opposition between neoliberalism and welfarism by arguing that both are driven by internal logics of exclusion, assimilation and inequality. Developing a compelling theory of penal nationalism, Barker shows us how the criminalization of migrants is used to shore up nationalist agendas, identities, and resources. The example of Sweden – long identified as an open and humane society – underscores how penal power as manifested through border controls is central for understanding the logics of state power in the global north. *Nordic Nationalism and Penal Order* is essential reading for anyone trying to grasp the rise of global authoritarianism and racism in the face of mass movements of people around the world.”

Eve Darian-Smith, *Professor of Anthropology and Law, Director of International Studies, University of California Irvine, USA*

“*Nordic Nationalism and Penal Order* is an important and timely book that provides a comprehensive analysis on how the internal logic of the Swedish welfare state has shaped an exclusion mechanism the author terms penal nationalism. Vanessa Barker’s book is a contribution to understand better the current Nordic border regime that targets non-citizens to be policed and excluded.”

Shahram Khosravi, *Professor of Anthropology, Stockholm University, Sweden*

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Nordic Nationalism and Penal Order

In late summer 2015, Sweden embarked on one of the largest self-described humanitarian efforts in its history, opening its borders to 163,000 asylum seekers fleeing the war in Syria. Six months later this massive effort was over. On January 4, 2016, Sweden closed its border with Denmark. This closure makes a startling reversal of Sweden's open borders to refugees and contravenes free movement in the Schengen Area, a founding principle of the European Union. What happened? This book sets out to explain this reversal.

In her new and compelling book, Vanessa Barker explores the Swedish case study to challenge several key paradigms for understanding penal order in the twenty-first century and makes an important contribution to our understanding of punishment and welfare states. She questions the dominance of neoliberalism and political economy as the main explanation for the penalization of others, migrants and foreign nationals, and develops an alternative theoretical framework based on the internal logic of the welfare state and democratic theory about citizenship, incorporation, and difference, paying particular attention to questions of belonging, worthiness, and ethnic and gender hierarchies. Her book develops the concept of penal nationalism as an important form of penal power in the twenty-first century, providing a bridge between border control and punishment studies.

Vanessa Barker is Docent and Associate Professor of Sociology at Stockholm University, Sweden, and Associate Director of Border Criminologies. Her research focuses on questions of democracy and penal order, the welfare state and border control, the criminalization and penalization of migrants, and the role of civil society in penal reform.

Routledge Studies in Criminal Justice, Borders and Citizenship

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Globalizing forces have had a profound impact on the nature of contemporary criminal justice and law more generally. This is evident in the increasing salience of borders and mobility in the production of illegality and social exclusion. *Routledge Studies in Criminal Justice, Borders and Citizenship* showcases contemporary studies that connect criminological scholarship to migration studies and explore the intellectual resonances between the two. It provides an opportunity to reflect on the theoretical and methodological challenges posed by mass mobility and its control. By doing that, it charts an intellectual space and establishes a theoretical tradition within criminology to house scholars of immigration control, race, and citizenship including those who traditionally publish *either* in general criminological *or* in anthropological, sociological, refugee studies, human rights and other publications.

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Foreword

In this profound and engaging contribution to border criminology and the literature on punishment and society, Vanessa Barker uses a case study and historical institutional approach to scrutinize the relationship between punishment, welfare and mass mobility in Sweden. The book was inspired by a desire to understand the Swedish government's rapid, and dramatic reversal of its policies on refugees in 2015, when, over a few short months it went from receiving asylum seekers at the highest per capita rate in Europe, to closing its border. Why did the government change its response, Barker asks, and how could it do so in a country based on principles of equality and marked by a deep commitment to human rights and humanitarianism?

The answer, she suggests, lies in the welfare state itself. While scholars tend to emphasize the inclusionary logic of welfare over alternative economic models – most obviously neo-liberalism – the welfare state, Barker asserts, is 'a national project first and foremost, and will use its hard and soft power to uphold it'. As such, the government must 'provide and preserve a sense of social security for members, and will do so even if it means producing insecurity for those on the outside'. Concerned about economic, social and cultural challenges of absorbing the mass arrival of people from elsewhere, the Swedish government prioritized members and system survival over asylum seekers.

In line with a growing body of work that is taking a more critical view of so-called Nordic exceptionalism, Barker situates the 2015 events in a series of coercive state practices from forced sterilization campaigns during the pre- and post-Second World War era, to more recent evictions and expulsions of the Roma, among other practices, to critically assess the limits of the inclusionary nature of welfare states. This is not an attack on the welfare state, however. Barker is not advocating its demise. Instead, she is holding it up for critical assessment and examining its inherent dualities, looking to see how it fares under the current conditions of mass mobility. Her diagnosis is mixed. Those who come together to refute the exclusionary logic of their egalitarian society, offer considerable hope. At the same time, the enduring nature of the impulse to expel is disheartening.

In 2015, the Swedish government not only replicated actions of previous historical periods, but also used a distinctive set of powers and agencies that

Barker defines as ‘penal nationalism’. These structures and mechanisms, many of which are legally situated outside the criminal justice system, draw heavily on penal powers and practices, to determine who belongs in the country and who does not. Migrants are often ‘welcomed’ at the border by the police, and may be held in prisons or prison-like institutions if their asylum cases have been rejected while they are awaiting expulsion. The government has been expanding its detention capacity and speeding up removals, all in the absence of criminal offences. In all these examples, the government has significantly expanded their avenues for penal power, and so scholars need to recalibrate their understanding of punishment as well.

This is not a purely academic exercise, Barker warns. Rather, penal nationalism, like mass imprisonment, ‘produces a democratic deficit’. It is both individualized and has far reaching consequences, as it is a form of power that ‘is used to punish people for their personhood’, that ‘as it expands and becomes entrenched, not only has violent effects on individuals but it is dangerous for democracy’.

In an era where Europe is beset by disagreements over how best to manage a steady flow of arrivals from the global south looking for sanctuary, and traditional forms of democratic political structures are under threat, this book raises urgent questions about the state of the state and the role and responsibility of citizens. Through this detailed case study, Barker deepens our understanding of the welfare state and the exclusionary nature of its inclusionary logic.

Despite its subject matter, this is not a bleak account. Barker includes examples of counter practices and challenges. She looks for and finds ways in which people are challenging the logic of exclusion, moments when Swedish citizens and migrants come together in actions outside the state, to welcome new arrivals, to expand the idea of belonging, if not the legal pathway to citizenship. In so doing she documents the possibility of thinking and acting otherwise. Above all, she reminds us that the costs of sitting by idly doing nothing, as states close their borders and exclude those among us, are too high to bear.

Mary Bosworth, Oxford

Acknowledgments

This book came about because Sweden closed its border with Denmark. I have tried to understand this puzzle and reflect on its sociological significance and underlying social structures. But this endeavor is wracked by ambivalence as its object of study is based on human hardship and insecurity, which can become quickly abstracted in academic discourse. At minimum this study aims to stand as a record of some of the pains imposed on others for our own security and wellbeing.

This book would not have been possible without the financial support I received from Riksbanken Jubileumsfond. The RJ sabbatical allowed me to spend an academic year in Oxford as a visitor at the Centre for Criminology. My stay at the centre was invaluable. It was here that all of the pieces came together. I have been researching the Swedish case for several years now and it was when I had the time and good company to reflect on the core issues that I could put the proposal together. I am especially thankful to Mary Bosworth and Ian Loader for being such gracious hosts as they have provided enduring intellectual and social friendships. Mary's work with border criminologies has truly been an inspiration. At the Centre, I had the chance to discuss and develop border criminology with Inês Hasselberg, Alpa Parmar, and Sarah Turnbull in the hallways, at seminars, and in the cubicles. Thanks to everyone at the Centre, Caroline Hoyle, Lucia Zedner, for creating a rich environment to work in and to the All Souls reading group on punishment. While in Oxford, I also had the good fortune to overlap with Lisa Miller who has over the years provided steady support and is always game for lively discussions about politics and the state.

At Routledge, I would like to thank Thomas Sutton for initiating our discussions about a book project on Nordic exceptionalism and his continued support as the project developed. Much thanks to Hannah Catterall for her stellar assistance in the production process, the anonymous reviewers for their immensely helpful feedback on the proposal, the series editors, Mary Bosworth, Katja Franko Aas, and Sharon Pickering, for including this monograph in their collection, and all the efforts of the production team. It is sincerely appreciated. Thanks to David Garland for constructive criticism on the project.

When I first arrived at Stockholm University many years ago, Magnus Hörnqvist invited me to coffee to talk about the sociology of punishment. We have

been talking ever since. Both he and Daniel Ritter have both provided a seriousness of purpose and creativity in thinking that I have come to depend on. I write more about them in a place for peers in the Appendix as absolutely essential to the research process. In the last phase, Jelena Jovičić activated her networks and came up with wonderful photos from Refugees Welcome, helping to secure their permission so I could highlight their important work in civil society. Thank you to Jelena and to Rim Alexandra Halfya for sharing the photos and agreeing to be part of the book.

At Stockholm University, I am grateful to Barbara Hobson for her continuous support, good company, and insights into American politics and Swedish society. Special thanks to my fellow Qualitative Working Groups, Mikaela Sundberg, Stina Bergman Blix, Caroline Dahlberg, and Árni Sverrisson for our ongoing discussion and debate about qualitative methods. And thanks to Henrik Tham for his effective interventions on parts of the monograph.

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I also would like to express my sincere thanks to Dario Melossi at Bologna, Richard Sparks at Edinburgh, Katja Franko Aas at Oslo, Maartje Van der Woude at Leiden, Nicola Lacey at LSE, Leanne Weber at Monash, Anna Eriksson at Monash, Anita Dockley at the Howard League, José Ángel Brandariz Garcia at A Coruña, Maximo Sozzo at Santa Fe, David Scott from the European Group, Elena Larrauri at Barcelona, Sappho Xenakis at Kings College, Lia Antoniou at Södertörn, and Peo Hansen at REMESO for invitations to discuss my work and the chance to build a new network in Europe. Also thanks to Jelena Mijanović and the Research Studio at Codesign, for exciting new collaborations about architecture, space, and borders and for permission to reprint the geometry of the fence.

Now to the matter of Lars Trägårdh. For over a year, we have been debating and arguing the border closing and come to radically different conclusions. This has been a source of angst and inspiration all under one roof. As a historian of Sweden and public commentator Lars has been an amazing resource but he has also been an object of contention in the book. At the same time, he made sure the boys were fed, made it to soccer, and gave me space to write. For all of that and more I am forever grateful.

And finally, I would like to acknowledge the generosity of spirit that my children Karl and Andreas have shown during this book project. Especially in the last stages, they have been patient and understanding when my attention has been drawn elsewhere, asking questions about the book, offering their opinions about the wall and contemporary politics, and carefully adding up the word count. With deep thanks and admiration, I dedicate this book to them.

Vanessa Barker
Stockholm

1 Nordic nationalism and penal order

Puzzle, arguments, and objectives

Border closure: system overload, sociological significance

In late summer 2015, Sweden embarked on one of the largest self-described humanitarian efforts in its history, opening its borders to 163,000 asylum seekers fleeing the war in Syria. In September, Prime Minister Stefan Löfven joined thousands demonstrating for solidarity with refugees in Medborgarplatsen, the Citizens Square in Stockholm. Here he gave his finest speech. Recalling the aftermath of “our own horrible war” and post cold war vows to never again let “walls make a difference between people,” he proclaimed: “My Europe does not build walls” (Löfven in Radio Sweden, 2015). Through the fall, Sweden continued to receive asylum seekers at the highest rate per capita in the European Union (EU), peaking at 10,000 per week (Migrationsverket, 2017). On November 24, 2015, this massive effort was over. Sweden closed its border with Denmark. This closure makes a startling reversal of Sweden’s open borders to refugees and contravenes free movement in the Schengen Area, a founding principle of the European Union. What happened?

This book sets out to explain this reversal. As I will argue, what happened in Sweden is the result of the fractured nature of the welfare state, laid bare in this moment of crisis. The Swedish welfare state is based on a cracked foundation in which the core principles of equality, solidarity, and inclusiveness do not necessarily or always extend to others and outsiders. The principle of equality is foundational to the society and there is a long history of humanitarianism based on this belief. Yet, these core principles bump up against a countervailing logic of welfare state solvency and nationalized membership. The welfare state is a national project first and foremost, and will use its hard and soft power to uphold it. The government is tasked to provide and preserve a sense of social security for members, and will do so even if it means producing insecurity for those on the outside. This first order duty made it difficult to keep the doors open to refugees and poorer migrants, who were perceived to be a drain on the welfare state rather than contributing members, in spite of their human rights. These conflicting positions about the welfare state and human rights animated much of the public debate, which was wrenching at times as participants slowly realized their visions of the good society were not necessarily compatible.

2 Nordic nationalism and penal order

Globalization, neoliberal economic imperatives, and mass mobility have all put tremendous pressure on the viability and sustainability of the welfare state, pressures compounded by the millions of people displaced by war, persecution, and human suffering on a scale not seen since the Second World War (UNHCR, 2015). Faced with these historical conditions and failed cooperation at the EU level, the Swedish government was unable to support this human effort when it was most needed. As the Ministry of Justice (2017) explained: “the situation became untenable, placing a great strain on Swedish society.” On the ground, public authorities, local communes, and city officials were overwhelmed and unable to keep up with the speed and numbers of those in need. At its peak, there were over 10,000 arrivals per week (Figure 1.1). Volunteers all over Sweden rushed to the rail stations, eager to help the people arriving by the thousands in any way they could, offering something to drink, a warm blanket, a kind gesture. Their efforts have been commended by a recent Governmental Commission on refugee reception (SOU, 2017/12).

At the same time, the lack of government coordination, minimal contingency planning, and jurisdictional conflicts made an orderly reception nearly impossible. A “system collapse” was widely feared by political elites. As the Deputy Prime Minister Åsa Romson explained the tension: “Public authorities and municipalities are now finding it difficult to cope with the pressure” and “cannot cope with the strain” (Government Offices of Sweden, November 24, 2015). Säpo, the national security services, were increasingly concerned about threats to order and security, security at the reception centers, security at the border, and threats to the Riksdagen, the Swedish Parliament (Säpo, 2015). By the end of November, the Prime Minister declared with noticeable regret: “We simply cannot do

Figure 1.1 Statistics on asylum seekers 2014–2017, by week.

Source: Migration Board Statistics, www.migrationsverket.se/Om-Migrationsverket/Statistik.html.

any more” (Löfven in Crouch, 2015), and introduced a new set of restrictions on immigration and asylum seekers to take full effect in early January 2016.

The Government would implement “temporary measures to substantially reduce the number of asylum seekers” (Ministry of Justice, 2017). The temporary measures introduced new restrictions on entry and exit, limiting who and how many could enter and stay and under what conditions, all of which would be narrower than previous regulations. The Swedish Parliament would go on to revise the Aliens Act, the main legal framework for immigration, not only reducing the numbers of asylum seekers to minimal EU levels but constraining the conditions of residency and financial support, restricting family reunification to immediate family members, restricting humanitarian grounds of entry, and speeding up removals from the territory. This all makes for a stricter and narrower approach to mobility.

In one of the more restrictive moves, the Government would limit entry on humanitarian grounds. Humanitarian visas have long been a part of the Migration Board’s tool kit but would be scaled back here: “The provision on residence permits on grounds of exceptionally/particularly distressing circumstances will be replaced by a provision allowing a residence permit to be granted on humanitarian grounds in certain very limited exceptional cases” (Government Offices of Sweden, 2015). By constricting humanitarian visas to “exceptional cases,” the government effectively closed off a pressure valve in the system that can be used to provide protection to those in need but who may not qualify under the narrower conditions of asylum. Moreover, while the temporary measures called for improved reception, the Government introduced a series of measures to expand its capacity to remove those without legal authorization to remain, a figure initially proposed at 80,000 (Minister of Home Affairs in Radio Sweden, 2016). To make a better entry for fewer people, the government found ways to make many more exit.

At Kastrup Airport in Copenhagen, Denmark, authorities would soon construct a fence. This fence, hardly the Berlin Wall or the razor wire that cuts across Hungary and Serbia, nevertheless created a barrier to prevent those already in Denmark from entering Sweden without an identification check or passport control, the first time in the postwar period. Anyone entering Sweden by rail, car, or ferry would now have to submit his or her papers, a move intended to slow down the flow of asylum seekers reaching Sweden as many travel without documentation or IDs. The Swedish Border Police has since conducted more than 3.2 million ID checks inside the Schengen free movement zone, more than any other EU member (Radio Sweden, 2017). After these temporary measures were introduced, the number of those seeking asylum in Sweden dropped precipitously in 2016 (Migrationsverket, 2017; see Figure 1.1).

The Öresund Bridge, the architectural beauty and engineering feat which graces the cover of this book, is now a site of these mobility controls. What once represented regional interconnection between Sweden and Denmark and a shared globalizing future now stands for law—the jagged edge of law—in which one side imposes its force and insecurity on others for the safety and security of those on the inside.

Photo 1.1 The border fence at Kastrup Airport, Copenhagen.

Source: courtesy of POLFOTO.

This dramatic turn-around in Sweden was contingent upon extraordinary circumstances: the immense human hardship from perpetual war; an overloaded and underprepared reception system; a weakened or indifferent EU; and credible national security threats, which came in the wake of the suicide bombings in Paris in November of 2015. This convergence of factors makes for difficult governing conditions. Sweden closed the border to restore order, gain control of an unruly situation, restore a sense of personal safety and security for those already in and working in reception, and enable asylum claims and eventual integration to go forward. All of this seems reasonable and makes for a pragmatic explanation. No one would dispute these factors played a role in the government's decision.

However, taken together, this system overload explanation is not sufficient. Nor is it particularly sociological. Why was the Migration Board so underprepared? Why did the government lack a master plan or overarching guidelines to help those at reception (SOU, 2017/12)? Why hadn't the state learned to build capacity from the previous refugee crisis in the late 1980s and early 1990s? In the controversial Lucia decision, the government closed the border to asylum seekers from the former Yugoslavia due to system overload. For over ten years, asylum seekers and migrants from Iraq, Afghanistan, Syria, Eritrea, Ethiopia, Somalia, and elsewhere have been making harrowing journeys across the Mediterranean Sea and across the Balkans to escape bloodshed, torture, persecution, famine, slave labor, and now poisoned gas. And thousands have perished. Their deaths and blocked entry into the EU through visa restrictions, asylum policies, and travel restrictions, are the result of particular political decisions and social arrangements (Dauvergne, 2008; Mitsilegas, 2015). As Eric Klinenberg so masterfully showed in his analysis of the 1995 Chicago heat wave, people died in

the heat wave not because it was an unforeseeable natural disaster but because of systematic political failures and weakened social ties, human factors that left the vulnerable cut off from social protection. In other words, the dead bodies were “biological reflections of social fault lines” (Farmer in Klinenberg, 2002: p. 11). The same is true now. This book asks: what are those social fault lines in Sweden?

The border closing in Sweden cannot be explained by system overload alone. Its causes run deeper and through the social fabric. This stark reversal was contingent upon the current context, yet, it was nevertheless entirely consistent with many of Sweden’s long-term migration controls. Rather than see this as a distinctive break, I place these developments squarely in the logic of the welfare state and its drive to preserve a sense of social security for those on the inside, even when it means generating insecurity for those on the outside. The effects of this system overload on the government and on social relations were more profound than technical problems with administrative capacity would seem to suggest. It struck at the heart of the welfare state and necessitated a swift response.

As the Justice Committee’s Report on the crisis explained, the central functions of society were perceived to be under threat:

Under current conditions, the number of asylum applications [...] from a broad perspective still is a serious threat to public order and internal security in Sweden. Migration flows cause acute challenges for many social functions, affecting Sweden’s security. Swedish Civil Contingencies point to high stresses, primarily housing, healthcare, education and social services, but also for other essential services. This applies even if the influx would decrease, because the society currently has great difficulties in dealing with the consequences of such a large number of asylum seekers who have arrived in the country during such a short period of time.

(Justice Committee Report, 2015/16)

In other words, the crisis had created security threats and disrupted core functions of society, a situation that generated further insecurity, for all involved, including the refugees. What is telling here is the perceived strain on the society even if the numbers of asylum seekers would be reduced. The report explains how the society would have great difficulty with the “consequences of such large number of asylum seekers” (Justice Committee Report, 2015/16, emphasis mine). What would the consequence be? The consequences were left hanging in the report but the public debate at the time helps to fill in a range of possibilities, fears, and anxieties. Many commentators worried about the financial burden and its impingements upon the society’s affluence and high standards of living. Others voiced concerns about a more diverse society with unfamiliar people and customs, the majority Muslim trying to settle in a secular society with distinct Lutheran traditions. Would this increased diversity and multiculturalism lead to parallel societies, following different tracks (Sverigedemokraterna, 2017)?

Prominent players warned against threats to gender equality from more traditional societies, a particularly salient issue in Sweden, which became even more so after the widely reported sexual assaults on women in a public square, committed by men with “foreign background,” coming on the heels of similar assaults in Cologne, Germany, another EU country that took in the second highest number of refugees per capita. Still other influential opinion makers emphasized the duty of the nation-state to prioritize its citizens and take steps to protect their interests (Trägårdh, 2015). Popular opinion expressed low support for the government’s approach and a vast majority expressed strong assimilationist views, with 80 percent expecting newcomers to adapt to Swedish values, such as gender equality, children’s rights, and religious practices (Trägårdh 2017; Ahmadi *et al.*, 2016).

Up against these concerns, volunteers, civil society actors, and cultural elites continued their whole-hearted support for opening borders and welcoming refugees, appealing to global solidarity and human rights. Deputy Prime Minister Åsa Romson, co-leader of the Green Party, continued to advocate for humane migration policies: “We are a small country that is making an enormous contribution and the Swedish people are showing great solidarity in a difficult time. We stand up for the international right of asylum” (Government Offices of Sweden, 2015). The Greens rejected the notion that refugees were a burden, as Maria Ferm, spokesperson on migration explained: “We all make up our society, we are all a resource and not a burden” (Green Party, 2017). But by January 2016, public opinion had already shifted, the Red-Green government lost favor and the Sweden Democrats, the anti-immigrant party, surged in public opinion polls. Across the range of opinions, the public debate shared a common concern about the potential impact of ethnic diversity on social cohesion, whether it was living up to Sweden’s solidarity principles or the inability to tolerate deep difference (Trägårdh, 2016, 2017).

Penal nationalism: welfare state, membership, and penal order

The border closing itself was not a new strategy. Sweden, like all affluent societies of the Global North, has been shutting itself off from unwanted mobility for years. While surprising in light of Sweden’s international humanitarianism and solidarity, it was less surprising in light of the changing nature of border practices, particularly as migration control has become intermeshed with crime control in the twenty-first century. Affluent and democratic societies have come to rely increasingly on the tools and methods of criminal justice to manage, regulate, and ultimately punish unwanted migration. This development, which Juliet Stumpf (2006) first identified as “crimmigration,” and Katja Aas and Mary Bosworth (2013) pioneered as border criminology, relies on the criminalization and penalization of unwanted mobility. This complex intermesh, its legal underpinnings (Aliverti, 2013; Bosniak, 2006; Chacón, 2009; Stumpf, 2006), institutional practices (Bosworth 2014; Fabini, 2017; van der Woude and van der Leun,

2017), political discourse (van der Woude *et al.*, 2014), economic dynamics (Cheliotis, 2017; Cheliotis and Xenakis, 2010; de Giorgi, 2010; Melossi, 2015; Wacquant, 2009), and distortions of justice (Aas, 2014; Zedner, 2013, 2016) have come together in a toxic brew to limit if not outright block and punish the mobility of poorer, ethnic, and racial minorities from the Global South (Fekete, 2001; Krasmann, 2007; Weber and Bowling, 2008). These developments not only made the border closing more likely, they provided the tools, institutional capacity, and symbolic resources to make it happen.

I build on these insights to advance a theory of *penal nationalism*. Penal nationalism relies on coercive tools such as expulsion, eviction, criminalization, and penalization to respond to mass mobility, which is perceived to be a social threat to order rather than a political expression of rights. Lynne Haney (2016) first used the term “penal nationalism” to explain the rise of populist law and order politics in Central Europe that sought to reassert national sovereignty in the face of encroaching EU integration and mass mobility. I expand and deepen this term, connect it to my previous work on welfare nationalism (Barker, 2013), integrate it with core concepts from border criminology and the sociology of punishment, to develop its explanatory power from particular cases to a more general phenomenon.

Penal nationalism entails two formative dimensions of penal power, namely: (1) its structural capacity to produce and reproduce political authority; and (2) its communicative capacity to classify wrongdoing and membership like no other public authority (Duff, 2001). Penal nationalism relies on this structural capacity for specifically nationalistic purposes such as shoring up national identity (Bosworth, 2012; Kaufman, 2015), national sovereignty (Bosworth and Guild, 2008; Haney, 2016), and in the Nordic cases, a nationalized welfare state (Aas, 2014; Barker, 2013, 2017; Tham, 2005; von Hofer and Tham, 2013).

Penal order serves the national order and national interests. Under the conditions of globalization, its structuring role becomes even more important to this national project. As philosopher Nancy Fraser (2008) explains, globalization has challenged, if not undone, many of the underlying structures of meaning that help us organize and make sense of the world around us. Key concepts such as the nation-state, citizenship and belonging, and justice all have multiple and sometimes countervailing points of reference. Those who advocate global justice or open borders, for example, may be invoking a moral authority and forms of solidarity that are outside the nation-state. At times, a globalizing economy seems to be operating by separate rules than those within the national economies. Under these unsettling conditions, penal nationalism seeks to reset the frame of reference as a national frame where the nation-state maintains its authority over population and territory. Penal nationalism relies on its structural and communicative capacity to affirm state authority and national membership, two concerns that are especially salient at the border, the site or threshold where they are validated and legitimated.

Penal nationalism is a common feature in democratic societies in response to mass mobility. In highly developed welfare states such as Sweden, it is particularly

acute and visible. It is this visibility and its unexpectedness that make Sweden an ideal site to examine. Sweden's response is significant and illustrative of these developments but is not exceptional. Hungary and Austria similarly restricted borders during the height of the refugee crisis and the UK voted to leave the European Union partially in response to the union's more porous borders. Yet, a close investigation of Sweden, its particular logic and social meaning, changes our understanding of the case, its causal dynamics, and has resonance beyond its own borders.

In the Nordic cases, penal nationalism seeks to reassure members of their material and social wellbeing. It promises to preserve a sense of social security, a sense of belonging and place. Membership takes on a heightened significance in the welfare state context as it involves a social and economic component. By closely guarding access to material resources and affirming national identity, penal nationalism seeks to preserve these precious goods for those with the right set of attachments, identities, and citizenship. This type of penal power is mobilized to keep the welfare state solvent, for members.

This form of power is coercive since it imposes power over another's will, autonomy, free movement, and self-determination. Yet, it is specifically penal since it depends on the means of criminal justice to carry it out and render it meaningful. The means of criminal justice—its staff, institutions, laws, concepts of justice, censure, sanction, and its reservoir of symbolic violence—are used to decide who belongs in the country and who does not. By doing so, it imputes wrongdoing on those who are unwanted and subjects them to sanctions, specifically penal harms such as deprivation of liberty and deprivation of security (Sykes, 1958) that are considered justified and legitimate by the state.

To develop penal nationalism, I analyze the interrelationships among the welfare state, membership (e.g. incorporation of immigrants and ethnic difference), and penal order. As this book will argue, it is by investigating how these three fields intersect that generates new meanings and new understandings about the welfare state and its relation to penal order. The intersections change the meaning of the whole. In a kind of “chemical causality,” in John Stuart Mill's terms (Mill [1843], in Ragin, 1987), their presence together creates a different entity, in this case, penal nationalism. I outline the central elements in turn below. Figure 1.2 illustrates the crisscross among the three central fields, which together produce penal nationalism.

With the predominance of neoliberalism as a general explanation for exclusion, the staying power of the welfare state has been overlooked and underestimated (see critique in Garland, 2015; Lacey, 2008). Far from being retrenched, the welfare state has been restructured (Morel *et al.*, 2012) and its governments are determined to keep it solvent. As I argue throughout the book, the welfare state has been a generator of social exclusion rather than a reservoir of social inclusion, across a range of social fields (Hammar, 1964; Hirdman, 2000). To understand this dual dynamic, we need to reexamine the internal logic of the welfare state, asking again how it works and why does it work rather than accept the border closure as a novel iteration of trends elsewhere. Like Foucault's

Figure 1.2 Complex causality: penal nationalism.

(1977) examination of the internal workings of the prison to understand power, I want to investigate the internal logic of the welfare state to understand state power. It is an approach based on abductive reasoning (Swedberg, 2014) rather than on the application of existing arguments and theories to a new case. I elaborate the methodological choices below and in the Appendix.

The welfare state, as David Garland (2015) has recently written, is a way of governing society, a way of structuring state/society relations that is irreducible to a set of policies or programs subject to expansion or retraction. In Sweden, the welfare state continues to be guided by core governing principles of social investments and social protections, even as some benefits have been eroded and inequality has increased (OECD, 2015). I take up more particulars in Chapter 2. For now, I want to highlight how the welfare state is governed by a structuring internal logic that is deemed meaningful and legitimate to members. In Sweden, this internal logic is driven by the need to provide *trygghet*, security to members. *Trygghet* is a thick and resonant term in Swedish that conveys a sense of personal security, economic wellbeing, and a sense of belonging or attachment to society. I call this configuration *social security* to signal the centrality of economic and social dimensions. John Pratt and Anna Eriksson (2013: p. 75) similarly identify *trygghet* as central organizing principle of the Nordic welfare state in their comparative analysis of penal regimes, with an emphasis on economic security. I emphasize the social dimension and membership. Welfare state formation set the precedent and promise to provide security for everyone as a way to realize equality, eliminate class differences, rectify gender power imbalances, and eschew traditional hierarchies (Berggren and Trägårdh, 2006). At formation,

its founders prioritized productivity and sustainability as key virtues and obligations, helping to create a society in which everyone is expected to contribute, and everyone benefits (Pratt and Eriksson, 2013). The welfare state has been remarkably successful in realizing these promises as it tied the fate of the individual to the fate of the nation. As a consequence, when the welfare state is perceived to be under threat, when its viability appears uncertain, these challenges pose an existential threat, as well as a political or economic one. The state will respond in kind. It will use its soft and hard power for national interests, even when it means blocking borders and removing people from the territory. This is when equality drives exclusion. It is central to understanding the border closure and the broader phenomena of penal nationalism.

If we accept that equality can drive exclusion, we still need to ascertain who will be excluded or who is vulnerable to exclusion. Sweden is well known for its humanitarian approach to refugees, its history of mass migration, and is one of today's most ethnically diverse societies in the European Union, with over 20 percent of the population with "foreign background," including older waves from southern and eastern Europe, the former Yugoslavia, and newer refugees and migrants from Iraq, Iran, Turkey, Syria, and Afghanistan. Yet, these and other common indicators of Sweden's relatively open migration policies present a partial and incomplete view. Critical migration scholars such as Thomas Hammar, Shahram Khosravi (2009), and political scientists such as Borevi (2012), have exposed the country's long history of restrictive migration policies from 1917 through 2017 (also see Jansson, 2016). Internationalism, a strong and important building block in Sweden, has never been able to outrun or outmaneuver Nordic nationalism and the politics of belonging. National interests such as welfare state solvency and national belonging can outweigh other allegiances, including global solidarities and commitments to human rights.

For these reasons, it is critical to examine how immigrants and ethnic minorities are incorporated into the society (also see Anderson, 2013; Hellgren, 2014; Schall, 2016). How well are they attached or fused to the national narrative? How well are they defined, imagined, and counted as part of the nation? As border criminology and the sociology of punishment have theorized, how societies define themselves as a people through law, policy, and administration has major structuring affects on penal order (Durkheim, [1893] 1983/1902; Melossi, 2015; Stumpf, 2006). We know from criminology that those with weakened attachments are perceived to be racialized "others" or "strangers" outside society (Simmel, [1908] 1964) are more vulnerable to exclusion than others (Anderson *et al.*, 2011; Parmar, 2017; Solivetti, 2010). Ethnic and racial hierarchies can inhibit fellow feeling (Roth, 2009), closing off a sense of shared responsibility and common purpose (Bauman, 1989). In Sweden, I examine a series of institutional mechanisms that routinely cut off those who are perceived to be different from the national narrative, making ethnic minorities and immigrants more vulnerable, but not predetermined to exclusion.

And what of the nature and character of this exclusion? The border closures, initially justified as temporary measures, but which have been renewed and in

place for over a year and half, came with a host of restrictive elements, including: temporary instead of permanent residency; limits on financial support; limits on family reunification; and the stated goal to reduce the number of asylum seekers to lower EU levels (Government Offices of Sweden, 2015; Lag, 2015). The way to reduce the numbers would be to slow down the flow into the country and speed up removals out of the country. In order to increase removals, the government expanded its law enforcement capacity to detain and deport those without legal authorization to remain in the country. In its “Measures for more Efficient Returns,” the government proposed several law enforcement techniques, including “Expanded opportunities to confiscate passports or identity documents” and “Greater opportunities to place detainees in facilities other than special detention centers” (Government Offices of Sweden, 2015; Ministry of Justice, 2016a, 2016b). Looking for ways to expand capacity at reception, the government found ways to make space by removing people.

To understand this dynamic, it is necessary to place this striking event, the border closing, in the changing landscape of criminal justice and migration control, as introduced above. This merger, particularly in the form of penal nationalism, is used to classify and clarify who belongs and who does not. It is used to signal the legitimacy of their exclusion and eventual removal, which is much harder to justify in a context in which the principles of equality and solidarity are foundational principles to the nation. Deportation, expulsion, detention for migrants, the overrepresentation of foreign nationals in prison, migration violators in prison, the criminalization of migration offenses, the penalization of migration offenses, the intermeshing of domestic policing with border control and national security, and the imposition of penal harms such as the deprivation of security, the deprivation of autonomy, and the deprivation of liberty on migrants (Bosworth, 2014; Hasselberg, 2016; Longazel *et al.*, 2016; Turnbull, 2016), are all examples of these penal configurations. They target specific populations, namely foreign nationals, migrants, paperless, unwanted migrants, and failed asylum seekers and tend to operate with nationalistic purposes rather than exclusively crime control goals. It comes at the expense of those who are not fully fused to the nation.

What is the meaning of penal nationalism? What are the implications? In addition to developing a new explanatory framework, this book will also engage in a set of questions about how this approach relates to or changes conventional understandings of Nordic welfare states and punishment. Penal nationalism, for example, changes our conception of Nordic exceptionalism, the idea that generous welfare states based on inclusion support more mild and humane punishment regimes (Pratt, 2008; Pratt and Eriksson, 2013; for critique, see Barker, 2013; Johansen, 2013; Shammas, 2014; Ugelvik and Dullum, 2012). Nordic exceptionalism may no longer be a tenable characterization of the welfare state and its relationship to penal order. Penal nationalism, moreover, follows an expansionist rather than reductionist logic, and it too changes our understanding of the principles of European penality. Reductionism had been central to the governing features of most European penal regimes for most of the twentieth century in an

effort to protect human dignity and use prison or confinement as a last resort (van Zyl Smit and Snacken, 2009). Penal nationalism seriously erodes the core tenet of human dignity as it imposes extraordinary penal harm on some of the least protected people.

Moreover, penal nationalism not only changes our understanding of punishment, it changes our understanding of welfare states as well. Conceived of as integrative and inclusionary, welfare states generate exclusion. We usually think of exclusionary means as the result of social inequality, but in this context exclusion comes from equality. The border closing, restrictions, and penal power are used to uphold equality, for those on the inside. The welfare state depends upon repressive forms of penal power that have not been fully understood. In the sociology of punishment, it has long been assumed that generous welfare states lead to mild and humane penal orders. Yet, this association does not take into account the internal logic of the welfare state (Barker, 2013, 2017; Ugelvik, 2013), the use of repressive means within Nordic prisons (on solitary confinement, see Scharff Smith, 2012), or how new forms and sites of punishment such as detention and deportation erode this apparent affinity not only in the Nordic countries but in other parts of Europe, such as the Netherlands and Germany. Likewise, it is often taken for granted that welfare state retrenchment and neoliberalism are the driving forces behind the expansion of penal power.

Yet, in the Nordic case as in many other European contexts, welfare state preservation rather than its retraction is the driving force behind penal power. In the US, the prison itself has been argued to be a “welfare delivery” service for the poor, providing healthcare to thousands who would otherwise be uninsured. Punishment and welfare are not always already inversely related. Rusche and Kirchheimer (1939/2003) compelled us to break the bond between crime and punishment if we wanted to understand the social and economic dynamics of punishment. Likewise, this book asks us to remake the bond between punishment and welfare if we want to fully understand how penal power is being transformed in the twenty-first century. And how and why an open society such as Sweden could so swiftly close its doors.

Themes and objectives

This book examines how and why Sweden is walling the welfare state and how the state relies on a new form of penal power—penal nationalism—to do it. In developing an explanation of this phenomenon, the book will explore several interrelated themes and engage in major theoretical debates that shape the fields of the sociology of punishment, border criminology, welfare states, state theory, immigration, and globalization.

It is by focusing explicitly on the merger of penal power with border control in Sweden that the book seeks to challenge several key paradigms for understanding punishment and welfare in the twenty-first century. By doing so, it aims to turn conventional understandings about punishment and welfare upside down and proposes a new way to understand this relationship that better fits with

empirical patterns and historical development. Specifically, this book has several objectives:

- 1 It develops a new theory for understanding the criminalization and penalization of migrants based on the internal logic of the welfare state. It argues that the welfare state is a national project for nationals and is dependent upon the exclusion of perceived others to keep solvent. Welfare state preservation is what drives exclusion. Those who are not fully fused to the national narrative of belonging, such as ethnic minorities, foreign nationals, noncitizens, perceived others, and strangers are more vulnerable to exclusion.
- 2 It advances the concept of penal nationalism to highlight the structuring role penal order plays in upholding national interests, particularly around issues of welfare state solvency, national belonging, social security, and mobility control. Penal nationalism relies on penal power's structural capacity to produce political authority and its communicative capacity to infer wrongdoing and membership to sanction unwanted mobility and justify its exclusion, decoupling crime and punishment.
- 3 It examines the penal harms imposed through border controls to show how migration controls do not simply exclude people from the territory but impose pain and insecurity on others for the security of those on the inside, with destabilizing effects on the society at large. The social security promised by the welfare state is dependent upon the exclusion and insecurity of others, an asymmetrical relationship that may be unsustainable in democratic societies.
- 4 It provides an overview of how these penal harms are contested through civil disobedience, migrants' rights movements, and the volunteerism of civil society. By contesting the pain of perceived others, I argue that civil society challenges the state's monopoly over violence, the state's monopoly over citizenship, and by doing so, civil society asserts a duty of care and sovereign responsibility for others where the state has faltered. Civil society's assertions pose serious challenges to state sovereignty but have led to mixed results.

Taken together, the arguments and evidence presented in this book question two central paradigms in the sociology of punishment. First, by "bringing the state back in," as Theda Skocpol (1985) implored sociologists to do over 20 years ago, this book takes the state seriously as a formidable actor in its own right, with its own set of logics, institutions, interests, and path dependencies that facilitate particular courses of action rather than others, an insight incorporated into the sociology of punishment (Campbell and Schoenfeld, 2013; Garland, 2013; Lacey, 2008; Savelsberg, 1994) and extended here to border criminology. By doing so, my central claims about the internal logic of the welfare state counter the predominance of neoliberalism or political economy as blanket explanations for the criminalization and penalization of others and migrants. Exclusions and

insecurities are not imposed by purely global economic interests but are driven by state actors operating within a particular historical institutional context driven by its own internal logic. Who belongs to a society is historically contingent and nationally oriented. Second, by taking membership, particularly racial and ethnic hierarchies seriously, the book subverts the assumed inverse relationship between punishment and welfare. It is simply not the case that more generous welfare states always already support more mild and human penal regimes. When we examine the site and scale of penal nationalism, for example, particularly how it disparately impacts ethnic minorities, foreign nationals, perceived others and outsiders, a different system emerges than the one associated with Nordic exceptionalism. The number of those expelled, 27,000, or in detention, 3500, is four times the number imprisoned (Global Detention Project, 2017; Kriminalvården, 2016; Migrationsverket Årsredovisning, 2015, 2016). It is one that is expanding and imposing insecurity on nonmembers for the safety and social security for members only.

This book seeks to develop a theoretical framework that integrates the internal logic of the welfare state with the politics of belonging, what I am calling Nordic nationalism. The analytical approach offers a better understanding of the interrelations of state, nation, and penal order. It not only provides building blocks for two explanations, the border closing and penal nationalism, it may have implications for a broader set of phenomenon outside the Swedish case. The building blocks help to explain a dramatic event, the border closing, and they provide a more general framework for understanding penal nationalism. They help to explain how and why penal order serves national interests such as welfare state solvency. Figure 1.3 simplifies the pathway toward the border closure. It is meant to show how the key factors—the welfare state, membership, and penal order—converge to produce penal nationalism, which is a precondition for the border closing. The border closing was not an inevitable outcome but it was made much more likely because of penal nationalism.

This way of thinking of these interactions may provide analytical tools for further development and comparative research. As such, the book strives to contribute to and advance a research agenda that puts border controls and penal order at the center of our understanding of state power and state structures. This is critical given the proliferation of analyses that privilege economic engines or racial animus as drivers of mobility controls far and wide. Nordic nationalism is not a story about white-power movements, right-wing populism, or global elites, it is instead about the welfare state and its internal logic, perhaps more mundane but devastating for those subjected to its sharp edge. As such it requires attention to the sometimes subtle and sometimes obvious social structures and historical institutions that set certain courses in motion and make them meaningful to the actors involved and subjected to them.

The stakes are high and it is imperative we get this analysis right. Sweden is often put forward as an aspirational model, in welfare, in punishment, in humanitarianism, in gender relations. And there is much to be admired and emulated. Its initial open door response to refugees is one such example, the firm belief in

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