Four relatively “modern” events have taken place in my life which have changed my work from an emphasis on prisons and criminal policy to generalized political activism. Such events have always been there and been woven into my initiatives in criminal policy, but the four initiatives to be discussed below have made such an impression on me that I find it necessary to tell a little more about them. I was in a sense dragged into them, one by one, and they ended as four major “columns” in my later life.

The first event was the development of the Schengen arrangement within the EU. The Schengen arrangement has a long history, and goes back to the years right after World War II. The Schengen arrangement, which today is falling more or less apart, may possibly be rebuilt in the future. I took part in it from the outside with a long series of newspaper articles and at a number of meetings in Norway and elsewhere. The Schengen arrangement is a key factor in the development of the EU. To be sure, my country Norway is not a member of the EU, but economically and otherwise definitely tied to it. Norway was and is therefore in practice an EU-member, though without formal decision-making power.

In connection with Schengen I have written something about my two children, two twin boys, because they partly belong to that period. But most of what I have to say about them, and especially about their birth and first months, comes later, in Chapter 19.

The second event is the so-called Alta Conflict, which took place towards the end of the 1970s and in the 1980s. In contrast to the Schengen arrangement, which developed into a regional arrangement of great dimensions because it encompassed almost all of the European Union, the Alta Conflict was very much a national conflict in Norway. But it had strong international and certainly Nordic aspects, in which I
participated for a long time. Newspapers in Sweden, Denmark, Finland and also Iceland had large write-ups, in addition to the Norwegian papers, about what took place in Alta.¹

The third events were the mass actions of the police as they took place especially in Oslo during the 1980s. “Mass action” is a word I use to translate “mass service”, because “service” has a double meaning in Norwegian: it also has a kind and helpful connotation. I was a close observer to several of the incidents. It should be mentioned that a mass action of the police also took place during the Alta Conflict, but in several ways, it was rather different from and calmer than the mass actions in the city of Oslo. This goes to show that “mass actions” have several “faces,” perhaps partly depending on who is heading the police force.

The fourth and the last event which I will try to describe is a particular summit in the EU, notably in Gothenburg in Sweden, where I was an informal participant. The summit made a strong impression on me, among other things because the United States’ president George W. Bush was there some of the time.

But, first of all, there were three in a row. This was an expression about me which some people used at the time. The story goes like this: On May 19, 1997 I was interviewed by a journalist from Dagbladet (Daily Mail). A drawing by the illustrator Finn Graff followed the interview. This was not the only interview with me about the Schengen accord, but it did reflect my views rather well. But why were three of them, three in a row?

“Tre i Schlengen” is a pun upon the word, and it cannot be translated. It means three in a row. The point is only that by adding the I to the word, it rhymes with Schengen. “Schlengen” stands for Schengen. It also stands for “three in a row”.

I worked hard with the Schengen accord at the time, but there were three of them – “tre i Schlengen”, “three in a row”. Why? Because I had married a few years earlier, and we had had twins – two boys. One wife and two boys – that makes three altogether. To be sure it was a memorable event, but more importantly it was revelatory for the Norwegian hospital and health care system, and for the Norwegian welfare state. So, I wrote a critical article about it.² I was 56 at the time. The twins are now, at the time of writing, 27. One of them has completed a Bachelor degree and is working on a Masters at the University College in Bergen and is becoming a kindergarten teacher. Earlier it was called førskolelærer (prior-to-school teacher), but according to my understanding they had to drop that title because everything – also the task of training children outside the family during the earliest years – has to be somehow connected to “school” now; so the title “prior to school” is obsolete. He has even been to China for a month, a college excursion to look at kindergartens in Beijing and elsewhere. He has a son of his own, who goes to the elementary school and is 9 years old. The other twin has completed a two-year study at an art school in Oslo, and is into cartooning (often signing his comics as Snorri Smári) and writing. He is working on a book about Max Linder, a French actor and comedian who lived around the turn of 1900. He has also translated several of the chapters of this book into English. My wife is a social worker and the head of one of the municipal institutions for young adults in Oslo. She has taught me a great many things from that field.

The twins are two gems to be with. When they were only school children they came along with me to demonstrations against Norwegian membership of Schengen. They carried posters with “No to Schengen” written on, and had “No to Schengen” t-shirts. Norway did enter Schengen, but stayed outside the EU. But now they are grownups, and fortunately have opinions of their own. To repeat, there is more about their birth in Chapter 19.

Alongside the KROM activity and crime policy, the struggle against Norwegian membership in Schengen of the most important struggle I have participated in. Therefore, I will first say a few words about Schengen.

² Mathiesen, Thomas (1990): Litt fra fødselsossiologien (A Bit From the Sociology of Birth), in Christie, Nils et al. (ed. 1990), “...Den urett som ikke rammer deg selv. Festskrift til Anders Bratholm 70 år” (“...The Injustice which does not strike yourself. Honorary Volumn to Anders Bratholm 70 years”). Universitetsforlaget pp. 383-393. Translated into English and printed in this volumn.
Schengen

Germany built its Atlantic Wall, a long line of fortifications during the Second World War to protect its Germany-dominated Europe against invasion. The Atlantic Wall was 2,685 kilometers long, and went from the north of Northern Spain along the coast of France, Belgium, the Netherlands, Germany, Denmark and Norway. Danish historian and criminologist (now professor of sociology of law Norway) Peter Scharff Smith has, with collaborators, written interestingly about the building of the Danish part of the Atlantic Wall – 100 000 Danes were involved in the project, and the building of the Atlantic Wall was according to the authors the largest building project in Danish history.

Apart from ruins and remnants, the German Atlantic Wall today belongs to history. Instead we have gotten a new “wall,” which is not so visible; an electronic surveillance wall which encircles Europe, also in the south, by the Mediterranean.

The Schengen Information System, called the SIS, had towards the end of 2013, 862,000 people (aliases were as far as I know not counted among them) and over 17 million objects in their central data base.

The beginning of Schengen was a meeting held between five European states – Belgium, France, Luxembourg, the Netherlands and (at the time) West-Germany – in 1985 in the small border-town of Schengen in Luxembourg. There the parties agreed in principle to abolish border control between the states and a parallel strengthening of their common border towards outside states.

Negotiation of a detailed contract between the five states took also place in Schengen in 1990, and may be traced back to The European Coal and Steel Union (ECSC) which was proposed by the French foreign minister Robert Schuman on May 9, 1950, five years after World War II (signed in 1951, in force from 1952). The plan for such a union was formulated by the Frenchman Jean Monnet. All German and French coal and steel production, which was important for military purposes, should be placed in a common administration, presumably in order to stop a new war on the European continent in the future. Super-nationality was a central idea, and the very beginning of the Common Market and later the EU was set in motion. The ECSC-treaty was terminated as late as July 23, 2002.

The contract, or convention, was signed in Schengen in 1990. Gradually, many states other than the original five states signed the convention and were accepted by Schengen, and in 2013 there were 27 states participating in Schengen. Two of these states, Norway and Iceland, were not EU members, but had fully accepted the acquis that was agreed on in Schengen.

I felt there were many arguments against Norway’s participation. I felt there were many counter-arguments. In the first place, we already had a Nordic passport union, and Schengen built on this model. Secondly, in the beginning Schengen was independent of the EU, but was nevertheless a port of entry to the EU, which was something many Norwegians feared.

As noted earlier, in 1972 Norway had held a referendum about EU membership, and a majority had voted “no” (a second referendum with the same result took place in 1994). Thirdly, some people feared that international crime would increase due to open Schengen borders. The borders were to be open for three months at a time.

Increasing Surveillance

During the formative years of Schengen, the world stood at the starting point of the electronic age. It could also be called the digital age. In the years that followed 1985-1990, a whole series of advanced surveillance systems were developed in Europe. The models were partly taken from abroad, especially the US. Edward Snowden’s discoveries had a terrible impact. In 2015, I wrote a whole book in Norwegian about surveillance in

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4 Christensen, Claus Bundegård, samt Niels Bo Poulsen and Peter Scharff Smith (1997): Dansk arbejde – tyske befestningsanlæg (Danish labour – German fortifications), Blåvannshuk Egnsmuseum.

5 House of Lords, European Committee gives figures from 2007. Source for 2013 is http://bit.ly/1DNwAOR. The information here is collected by Statewatch in London. See also Mathiesen, Thomas, op.cit.

the EU, partly based on a book in English which I had published two years previously. I have referred to both before, and there is no need to do so in detail again.7 But a number of surveillance systems may briefly be mentioned:

Schengen Information System I (SIS I); Schengen Information System II (SIS II); SIRENE (Supplementary Information Request at the National Entry); Visa Information System (VIS); Passenger Name Record (PNR, partly a US system); Europol’s Data Systems (TECS); the Data Retention Directive (turned down by the EU-court); the FRA-Act (Swedish, similar systems in England and the US); – and more?; the Prüm Treaty.

The plethora of grand surveillance systems constituted a part of the reason why some of us established an “action group” which would, if possible, bar Norwegian membership of Schengen. Central people in the group were Erik Bye, Kjell Eide, Ståle Eskeland, Boye Ullman, myself and others. Eskeland wrote an interesting book on the Norwegian Constitution and the Schengen accord, in which he was greatly in doubt concerning whether the accord was legitimate in terms of the Constitution.8 He also held many speeches and wrote a number of articles. I wrote many articles as well, especially in Denmark (the Danish law professor Ole Krarup helped organize this) and in England, and in addition four rather different books on the issue – one of them referred to here earlier (in English).

I have to write a few words, over and above the Schengen issue, about Ståle Eskeland (1943–2015, see also Chapter 6). Typically, he was an enthusiast, in everything he worked on. His professional merits were great, from his doctorate on Fangerett (Prison Law) and beyond.9 The last years of his life (and probably also during his last years of health) he spent on the so-called Torgersen Case, where Fredrik Fasting Torgersen in 1958 was found guilty of the murder of a young woman in Skippergaten in Oslo. Torgersen denied his guilt many times, and the case was taken up again several times without positive results for Torgersen. The effort was after a while very heavy, but Eskeland typically never gave up. Eskeland was also for a very long time at the Institute of Sociology of Law, also as department head. After a while we became close friends. An issue between us concerned the relationship between sociology and law. But gradually we overcome this problem.

Back to Schengen: I was deeply concerned with the surveillance systems which Schengen represented. In the beginning the issue was the general surveillance which the citizens of Europe had to face, which concerned me. Regarding Schengen in particular, however, my attention gradually moved in the direction of “the strangers,” who lived outside the common borders of the Schengen states.

Articles were written, open hearings were held, participation with questions in the Committee of Foreign Affairs in Parliament were likewise held. It hardly helped at all. The Labor Party was strongly supportive. Right up to the summit in 1997 on the EU they had “naturally” not at all thought of the possibility of entering the EU through Schengen. Then came the summit, in Amsterdam, where Schengen as a whole – lock, stock and barrel, as the English would put it – became a part of the EU. This was many years before the Brexit decision in Great Britain. Schengen is today one of the EU’s most important political tools. Brexit, where Britain leaves the EU is an important setback to many of the British. We will return to this in Chapter 22. The Schengen accord gives freedom to services, goods, capital and work to move across the internal Schengen borders. European capitalism receives this freedom while the outer borders produce lack of freedom for others.

7 The book in Norwegian was called Overvåkingsstaten (The Surveillance State), op.cit. See above in this chapter.


10 Eskeland, Ståle (1988): Fangerett. En studie av rettsikkerhet ved fullbyrdelse av
The Refugees

Something else has appeared which perhaps was not expected. The streams of refugees.

I will return to this topic, among others, in the last Chapter of this book. It seriously began in 2014-2015; wars in the Middle East, especially in Syria, have led to a notable increase in the number of refugees. The terrorist group IS has been active, and has occupied large areas in Syria and Iraq. The US ended up bombing both the Syrian dictator’s military forces and IS. Russia also went in, with bombing raids against IS but with support for the Syrian dictatorship.

The US and Russia, in other words, partly had interests in common, but also disagreements between them. The two countries negotiated in order not to run counter to each other against IS.

And the refugees? What looked like “an Arabic Spring” a few years ago looks like “an Arabic Hell” right now. For many years refugees from Syria and other countries (Iraq) tried to cross the Mediterranean to the promised Europe in small and dangerous boats. Frontex – the EU’s border unit from a series of European countries – has done little to save refugees, while the Italian Mare Nostrum (now terminated) and the new Triton and individual countries (for example, at last, Norway) have done more.\(^\text{11}\)

In the middle of 2015, it seemed to go from bad to worse. The fundamental rule that returnable refugees are to be returned to their last port of entry, is fundamentally broken. Countries like Germany and Sweden are closing their borders.

As Jon Egeland has recently emphasized,\(^\text{12}\) peace in Syria is a fundamental condition. It is impossible to live under such continual war-like conditions. But it is not a peace that is likely to emerge any time soon. I will write more about this in the closing Chapter 22 of this book.


\(^{12}\)Egeland in Norwegian Television Sunday October 25, 2015.

Civil Disobedience at 70 Degrees North

The other event which has preoccupied me for a long time, is the so-called Alta Case, or the struggle regarding Alta, in the Northern part of Norway. To me the event had a strong slant towards the sociology of law. The role of the law was what preoccupied me.

The Alta struggle lasted for a long time – from about 1968 until 1983. The case concerned the regulation of the Alta/Kautokeino river in Northern Norway for production of electricity. Sami interests and environmental interests went against the widespread construction of hydroelectricity in the area. It was unusual that these interest groups created a common front against the construction.

The Escalation

On the one hand people held that the construction would have significant negative consequences for the reindeer husbandry. The reindeer have particular routes which they use, summer and winter, covering large territories, and these routes would be heavily disturbed. It was in fact proposed to create a dam at the Sami linguistic village Masi.

Environmental arguments turned around the importance of the river as a salmon resource, the damming influence on local agriculture and climate in the Alta region and the special qualities of nature in the Alta valley. Research reports concluded that the extraordinarily rich plant and animal life at the unique ravines of Sautso could be damaged.

The Sami organization NSR and the reindeer Samis’ association NRI were opponents to construction. So were the Alta and Kautokeino municipalities, who made decisions against construction in 1976. Side by side with Sami and local interests were various nature and environmental organizations. To be sure, the damming of Masi was removed from the plans, and given lasting protection against construction in 1973. But at this point he protests had already started.

In 1978, pro-protection interests created a formal organization in the form of the People’s Action Group against the Development of the Alta/Kautokeino Watercourse. At the beginning of 1979 a meeting was held in Alta which warned against future civil disobedience. Construction
work – a construction road had to be built before a dam could be constructed – was begun at Stilla. The construction work was blocked during the Summer of 1979. In the fall of 1979 arrests and the use of fines took place. Environmental protesters sat down to block the road building. They were carried away by the police, but sat down again to continue the construction of the road, and managed to do so more quickly than the police managed to carry them away from the site.

The escalation continued. Altogether thousands of people, also from Oslo and other parts of the country, participated after a while in the Alta area. “Alta” became a great national cause, constantly on the front pages of newspapers. The discontinuation of the construction road did not last; Parliament decided again in favor of construction of the dam, with an installation of 150 MW, and with the construction of a one hundred and ten meters high dam at Sautso. According to my recollection, Parliament in fact discussed the matter three times.\textsuperscript{13}

The Zero Point.

A camp at Stilla was established. It was also called “the zero point,” because the demonstrators said to themselves and to others: “the road can go this far, but no further.” At the zero point, the road was to be blocked. I took part in the demonstrations. The camp was large, it took hundreds of demonstrators. We had collected Finnish military tents, which could be warmed up by ovens with physical heat, in order to prevent frostbites. It was winter time and bitterly cold. The camp was very lively. There were lectures and discussions. There were at least three professors who took part – Arne Naess, Nils Christie and me. Personally, I had a sabbatical leave that year. There were also younger criminologists and lawyers (professor Kristian Andenæs was among them), and a long row of various professions.

The meteorologists made a strong impression on me. They could tell us a lot about the temperature of the river, how the temperature would go a little up and a little down and could change during the construction of the dam, and how even small changes could have great repercussions on the fish in the river. Earlier I had never thought of meteorologists taking part in a civil disobedience action before. Because civil disobedience was the order of the day, we spent quite a bit of time telling each other and more or less teaching each other that attempts at violence could not be accepted. We were only to make ourselves “as heavy as we could” if we were carried down by the police.

\textsuperscript{13} My account of these events is primarily based on my recollections, newspaper clippings and other records. However, the last few paragraphs draw on Store norske leksikon (Norwegian Encyclopedia) and from Wikipedia.

15.1. From an Alta-demonstration, 1979. Me speaking in the middle. (Photo: NTB Scanpix.)
The press was there – they caught on to this, and looked for other news. They also caught on to a statement by a professor – Nils Christie. This was after the police had taken many of our tents, and several of us were chained together in what we called a “chain gang,” which was not easy to take away. At this point, Nils Christie made the point that we felt it “a little awkward here.” It was stated in mild fashion, yet it created a hoard of reactions. The press used war-like letters, and anxious parents were calling (this was well before the time of e-mails) to find out how their children managed, and if there was any danger.

But in this account, I fly ahead of my story. Altogether it was somewhat uncomfortable up there, with all of the ice and snow and the cold, but even so it made for a great and moving time. It also had its artistic aspects. I remember well how several people illustrated in detail what might happen when water was thrown on the snow. The snow would of course turn to ice – very slippery ice, so the police would perhaps stumble and fall. As far as I remember this was frowned on by some, and it was never carried out. It was not entirely in line with the principle of civil disobedience. But the artistic expressions were many. I remember sociologist Gudmund Hernes, with whom I talked about this on the phone, replied that many good artistic expressions can be produced when individuals become a group, and as such stimulate each other. As far as I know, Gudmund Hernes was no “Alta fan,” but he did understand what was going on.

An Intermezzo

It was a dark and cold night in Alta. Two men, who were dressed in clothes that appeared to be like the clothes of the demonstrators, with anoraks and large caps, more or less walked in the ditch along the road. A car came closer, swiftly switching on its lights. It drove slowly, and stopped. The police chief in Alta was driving. The two men in the ditch entered the car, and the car moved on. I know what the two men talked with the police chief about – they talked about cancelling the police action which now was in the making. But I promised never to tell who the two men were. I have decided to keep that promise.

They tried to persuade the police chief. Half an hour after the car had stopped, the two men walked away and disappeared in the dark. They did not manage to persuade him. A little later the police came.

The Police

Threatening news began to be formulated. There was talk of Swedish military trucks who would take the police through Sweden to Alta. The police would come from different parts of the country in order not to have attachments to the local population in Alta. It was a proven fact that a large passenger ship was located in the harbor to serve as headquarters for the police.

Finally, the police arrived. As far as I remember some of them came before the action itself, in the evening, to take our tents down. Then the main force came during the morning hours. It took time – they came slowly up the valley. The police chief arrived first. He climbed on an excavator which stood there, and made a brief speech in which he asked us to move away – but we did not. So, after a while, the police began its work to lift and carry us down.

I had a serious influenza around this time, and therefore sat up front to be taken down fast, down to the warmer valley. But at first I had to do my duty – to be leader of the latrines. I had to follow the individual demonstrators who wanted to go to the latrines. When this happened, something the police allowed, the demonstrators would come outside the circle of police officers around us. But they would not be allowed in again – I think I was the only person who was allowed to come and go freely. The important point was therefore to keep away from the latrines for as long as possible. I had no practice as a leader of the latrines before.

Altogether we were about 800 demonstrators at Stilla by this point. As time went on we were carried down in the bitterly cold weather. We were offered a fine instead of a court trial later on (I believe the first fine amounted to 3000 crowns) – if we did not accept the fine, a trial would follow later. I, as many others, refused to accept the fine, and had to face a court trial later.
Aftermath

For me, all of it had an interesting aftermath. My case was first scheduled for Alta. But a KROM-activist, attorney Bjørn Pettersen (see Chapter 8) – who was very critical of the whole Alta construction – found that a formal error had been made: the lay judges (there were to be two lay judges and one professional judge) were not legally chosen, but simply selected by an officer of the court instead. This not only had a possible influence on my case, but also on about 150 other cases. Due to this error, they all had to go through the court system again. A great delay followed.

The next time my case was scheduled in Oslo. But one day, or a few days, before my case was scheduled, I decided to plead guilty after all, and to have it scheduled as planned by the police in Alta. I wrote to the court, arguing that the amount of money which I would have received in Oslo, and which would have been higher than the amount in Alta, would be better spent than as a support to the demonstrators in the Alta Case. A number of hard-line demonstrators had actually taken to the mountains again to continue demonstrations, and were met by much higher fines. I would save much money for the demonstrators from the Oslo trial, and it would save the court much trouble. To be safe, I hired Supreme Court Attorney Ole Jakob Bae on the case.

But it was out of the question. The judge was, as I understood him, greatly provoked by my participation in Alta. In his deliberation, he did not accept my argumentation, and maintained that I had enticed young people to participate in the actions. Despite Ole Jakob Bae’s excellent statement in court, I was sentenced to a considerable fine (6000 crowns – I still have the receipt), which probably would have been much higher had none of this happened. I paid the fine.

Legalization

Professionally, from my point of view one of the most interesting aspects of the whole Alta Case was the legalization of thoughts and acts which took place as time passed on.

What does legalization mean? It is used for different things, and differently by various authors. To me “legalization,” and that a case is transformed into a legal case, means that you to a greater or lesser extent set aside other values, making the court into an overshadowing value. In the most extreme cases, you make the court (and whether you win or lose in court) into the only important victory.

I think that legalization in this sense, in which you set aside other values and look for a win or lose case in court, took place in Alta. Briefly put:

In the beginning of the case I believe few demonstrators thought of whether the construction of the Alta watercourse was legal or not. This value was not on the table. How much would you get for a given number of acres of arable land? Other values – Sami values or environmental values – overshadowed such values. These values were what people talked about. If someone were to come along and claim that construction of the whole watercourse was in the shadow of the illegal, or plainly illegal, they would simply be missing the point. Other values were important.

After a while, however, the courts got a central role. Some, for example, became interested in remuneration. How much in remuneration would you get for reduced arable land? Against this background a heavier emphasis on legal solutions occurred. Heavy emphasis was placed among the demonstrators on the correct legal answer to the question: is it legal, or not legal, to carry out the construction of the watercourse and electrification of the river?

Some lawyers did not go along with such a solution. The lawyer Kristian Andenes was one of them. But he said so on conditions. He said once:

“I am certainly not against legal argumentation in the Alta Case. But as an opponent you must not bind yourself to such an argumentation. It must be subordinated and not come in the way of an argumentation which is based on politically principled basis.”

In other lawyers, legality was more important than the more principled values. It may also be put this way: the original conflict was transformed and received a new legal character.

In Alta at the time, the so-called “namsretten” (“the enforcement court”) had seven judges, four of whom were lay judges, and three were professional judges.14 In a 4 against 3 vote the court decided that the case
was legal. It was a very close race. The result was really favorable to the demonstrators. It was possible to argue against construction with reference to the point that its legal conclusion only had the smallest majority. But the the lawyers who were on the demonstrators’ side decided to appeal the case. In other words, they decided to continue on the legal road, despite the close race.

I believe this was a wrong decision. They should rather have pointed out that with a majority in favor of lawfulness, it was a close race. In addition, it was decided that the appeal would not go via the intermediate court, “lagmannsretten,” but straight to the Supreme Court. As a compensation for going straight to the Supreme Court, the Supreme Court decided it would be handled in a full plenary session. This, at least, would have made the warning signals light up. At least at this point the demonstrators’ attorneys should have cancelled the appeal – they should have replied which road the court would follow, and turned back to the environmental values and the interests of the Samis. In any case I – and many others – followed such an argument.

The Supreme Court’s verdict came, and we were right. Not only was there a majority for the lawfulness of construction. There was unanimity for lawfulness, and all the way a support for the argumentation of the State (Rt. 1982 p. 241).\footnote{The enforcement court has now been abolished (by the Act of August 30, 2002 No. 67 amending legal procedure. The district court now performs this function. The district court is the lowest of three levels in the ordinary court system. Above comes the Court of Appeals and the Supreme Court).}

I think this contributed heavily to the movement’s collapse which in fact took place on the demonstrators’ front – in addition, of course, to the fact that people were worn out, and that the costs were so high (certainly with high fines for those who wanted to try once more and who went up the mountains in order to sit down and make themselves heavy).

\footnote{Professor of law Erik Boe has characterized the sentence of the case with the following words: “The sentence will remain in legal history partly because it decided as a matter of principle between the construction of energy in relation to protection of minorities and environmental matters, and because the case was treated in the Supreme Court in a plenary session after the most extensive and longest civil case which the Norwegian Supreme Court has handled”. See Boe, Erik (1983): “The Alta Sentence – a Legal Solution of Conflicts between Energy Supply, Environmental Conditions and Minority Protection.” Refjær, pp. 76-77.}

\footnote{This book was translated into German (Macht und Gegenmacht – Überlegungen zu Wirkungsvollen Widerstand, AG Spak Verlag 1986). There is far less talk about power and counter-power than power and powerlessness. Counter-power may be understood as action in common against power. The Alta Case is a good example, with strong tendencies towards counter-power in the local population, among experts of various}

\footnote{First edition i 1984, 2011 edition is the 6th edition.}

\footnote{Mathiesen, Thomas (1982): Power and Counterpower, Pax Publishers 1982.}

Last Words.

At the same time, everything is not said about the role of the courts with these words, and about “legalization” in this book. I have discussed one aspect of legalization. There are other ways in which to look at it, and I refer in this context to my textbook Retten i samfunnet (Law in Society) from 2011, which provides an extensive discussion.\footnote{First edition i 1984, 2011 edition is the 6th edition.}

I would like to call attention to the fact that in the long run the Alta Case created a long and lasting up-swing in favor of Sami interests, with important reports – a Sami Act from 1987 and a Sami Parliament from 1989. Important institutions for minority protection in Norway have taken place, which Norway today also benefits from.

You could say that these new gains have come in spite of, and not because of, the legalization which at that time occurred.

A final word on another issue: A book I once wrote which has some links to the Alta Case. It may now be in order to dwell a little on that book.

Much has been written and discussed about power, and a great deal about power and powerlessness. I have tried to counter the interest in powerlessness with my book Power and Counter-Power, which was first published in Norwegian by Pax Publishers in 1982\footnote{First edition i 1984, 2011 edition is the 6th edition.}, right after the high point of the Alta Case, even though it does not deal directly with the Alta Case.

The book was translated into Swedish (also in 1982, by Korpen Publishers), and into Danish (by SOCPOL, 1983), then again in Swedish in a one-volume publication with Silently Silenced and Power and Counter-Power (contrasting the two types of power) in 1983. It was also translated into German (Macht und Gegenmacht – Überlegungen zu Wirkungsvollen Widerstand, AG Spak Verlag 1986).

There is far less talk about power and counter-power than power and powerlessness. Counter-power may be understood as action in common against power. The Alta Case is a good example, with strong tendencies towards counter-power in the local population, among experts of various
sorts, among the Sami population with their reindeer herds. In the preface of that book, I said among other things:

The main message of the book is this: Despite difficulties, resistance and opposition is possible; despite difficulties it is possible to be braver than we often are.

I went on to say:

In more detail, in this book I wish to give new vitality to a perspective which I believe is beginning to be neglected in political analysis and sociology, the perspective which gives emphasis to the will of people to resist and to oppose power.

In broad chapters I give a description of the alterations and the maskings of power; the condition of counter-power and action in common as a possibility in principle; the normative element and the public arena as an arena of action; and how we inspire each other and counteract exclusion.

A final word on original peoples like the Samis. In our own time, 2017, the Sioux Indians in the United States are doing something very similar – protesting for all the world against a pipeline planned for oil going across in the Missouri river, under water. The Sioux maintain that their water supply is in grave danger of pollution, and that their holy places are disturbed. Masses of Americans are right now joining the Sioux’s struggle.

There are also other examples. The Norwegian paper Dagsavisen (Daily News) is presenting this as a historical environmental struggle: “This is the Alta Case of the world,” the paper writes on its front page.18 Are we finally witnessing a “revolt of the masses” from indigenous peoples and environmentalists? To be sure, five days after his installment on January 20, 2017, United States President Donald J. Trump signed orders smoothing the passage of the controversial Keystone XL and Dakota Access oil pipelines in a move to expand energy infrastructure and roll back Obama administrative environment actions.19 But a trigger of opposition has perhaps been initiated.

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18 Dagsavisen December 9, 2016.
19 http://www.bbc.co.uk/news/world-us-canada-38734450

The Police in Mass Action20

The great police gathering in Alta, which we discussed above, was an example of mass action by the police. It did not concern individual acts of police officers, and it concerned actions towards very large groups of people. The actions were very well organized – among the demonstrators but also among the police. Everyone behaved in an excellent way – even if our side lost the case in the short term we probably won something in the long term.

It is necessary to point this out, because it is not always the case. At times the police does not behave in an exemplary way – on the contrary, they sometimes behave extraordinarily badly. I will describe such examples in a summary fashion. The 1980s showed many of them. I was there – as an observer and partly as a participant – at several of these instances.

These are words by way of introduction. The three most common techniques of power used against political demonstrators, social unrest, and other mass action situations, are not possible to find in the Alta actions. The three most common techniques are:

- rendering people unpredictably harmless and frightened by arbitrary mass arrests and fines;
- rendering people unpredictably harmless and frightened by arbitrary remand, sentencing and imprisonment;
- rendering people unpredictably harmless and frightened by arbitrary police violence and arbitrary physical persecution.

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20 Parts of this section, about The Police in Mass Action, is taken from one of my Chapters (“A Police in Rearmament – police power on the ‘grass roots’”, in Heiberg, Turid et al (1989) Malt og langfeld. Søkelys på politiet. Tiden Norsk Forlag (Power and batons. Search Light on the Police). Tiden Norsk Forlag. A long row of authors participated. Parts of the section are also taken from my own and attorney Harald Stabell’s article in the press in connection with police activity at the South African consulate at Jar in Bærum in 1988. Even though the data of the book are somewhat outdated, they do say something about police practice of our time. As far as I know, this section has never been listed in any curriculum in criminology.
Context

Through the 1980s we saw a series of political demonstrations and confrontations between police and demonstrators which showed such tactics of the use of power. I illustrate this by bringing out some examples where the techniques were used. But first a few words about the context.

The so-called “Blitz-environment” was established in Oslo in 1982 with the occupation of a building in the city. Later the occupants moved to another empty apartment house, very close - incidentally - to the building where the Department of Criminology and Sociology of Law was and is housed, and next to the dwelling where the famous painter Edvard Munch had lived as a child. The building still stands as “the Blitz House”. A range of activities were started in the house; a vegetarian restaurant with excellent and cheap sandwiches, a small private radio station for women, book sales and activities for left oriented radicals, and so on. A contract was entered between Blitz and the municipality of Oslo in which Blitz were to pay a symbolic sum in exchange for upkeep of the building.

Through the years a number of conflicts arose between the left oriented Youth House Blitz and the municipality of Oslo. I will relate some of those conflicts as examples of mass actions out of control:

- **Casper Weinberger’s visit.** On May 12, 1987 mass demonstrations took place against the visit by the then USA Minister of Defense, Caspar Weinberger’s, to Oslo. During an earlier demonstration at Akershus castle on May 11, 1986, during prime minister Margaret Thatcher’s (from GB) visit to Oslo, the police had been less well prepared, and the demonstration had been successful from the demonstrators’ point of view. Now – on May 12, 1987 – it was clear that the police wished to stop the demonstration effectively. From several police reports we know that the Terrorist Squad (Beredskapstruppen, a specialized squad to combat terrorism and other serious crimes) was activated. In one police report it was stated that: “Earlier in the day there had been an encouragement to a mass demonstration with aid of leaflets. I was as U 06 entrusted 4 sections with about 28 men. In addition, we had 8 riders and D preparing.” “D” here stands for delta, the nickname of the Terrorist Squad. The Terrorist Squad was also set in motion, because further on in the same police report it was stated: “...I then gave D a message to use gas, partly to protect our own men, partly to have the front of the building cleaned up.” In another report, from the car patrol of the Terrorist Squad itself, D-30, we were told what kind of gas and how much gas was to be used: “In this connection we were told by U-06 to use gas. NN and I brought with us two-kilos of Aerosol CS-gas. We started right away to spray gas against the demonstrators. ... Altogether we used two kilos of gas at the place.”

- **Stortorvet’s Guesthouse.** At Stortorvet’s Gjestgiveri [Stortorvet’s Guesthouse, a local restaurant] on May 14, 1987 the police moved in with dogs, shields, helmets and long batons to apprehend NN, who was thought to be a leader in connection with the preceding demonstrations. The equipment of the police was pictured in several newspapers, and clearly showed the marks of the Terrorist Squad. This was corroborated also through a series of internal police reports. In an undercover report which tells of the undercover work towards NN minute by minute, from 12.40 that morning through to the apprehension at 20.17 that afternoon, to the end of the demonstrations in the evening, it says among other things: “Informs that NN is walking towards Grensen [a street]. Delta is kept informed,” and further on, at 20.07: “Informs that the people involved now have moved from the place. One then moves towards the Guest House. There is action against the Guest House. Cooperation Delta”; and at the end conclusively at 2017, “NN apprehended by Delta.” In a police report from the Terrorist Squad itself, it is stated among other things: Thursday 14. 5. 87 on duty 1445-2300 I drove an extraordinary police car D-30 together with constable XX. All are doing duty in the Terrorist Squad. The patrol was set up as an apprehension group ... We then began to prepare ourselves to apprehend the main man. In cooperation with two other units from the Terrorist Squad, civilian undercover men, dog patrols and transport units we prepared an action. At about 2010 we entered the Guest House ...” In a police report from a civilian undercover man we are told in more detail how the Terrorist Squad acted. The civilian was discovered by the people in the restaurant, and therefore was not “relevant for further undercover work”. Nevertheless, he could help the Terrorist Squad: “Contact was established with Charlie 01 and I was then told to escort the Terrorist Squad to the place where the charged person was seated. I then established contact with the man watching the door of the restaurant. He agreed to enter through the back door. I then showed the Terrorist Squad the entry through the kitchen and into the restaurant where the charged man was sitting. I pointed to the charged man and left the place ...” The Police Chief later justified the use of dogs during what had taken place presumably by claiming that it was impossible to enter on horseback! This was a youthful left wing political demonstration with a contract to rent a house owned by the municipality to express their views. At Stortorvet’s Guesthouse elderly people are often sitting, having their coffee and talking with friends. The
Action was followed by a demonstration against the police with thousands of participants.21

- **Queen Margrethe’s visit.** On June 12, 1988, a group from Café Blitz in Oslo demonstrated against Oslo Municipality’s dinner party for Queen Margrethe, to throw light on the contrast between this dinner and the budget cuts in the municipality. The dinner was indeed very costly. The police had as usual shields, helmets and long batons. The demonstrators were this time equipped with a burning car tire and a home-made battering ram. It was heavily televised in the evening news. Five demonstrators were charged and sentenced among other things for violence against the police. The demonstrators said in court that the police had started the confrontation, while the police maintained the opposite. The court believed the police. Again, the police showed pictures of the Terrorist Squad or units from it.

- **The budget cut.** On June 22, 1988, a legal demonstration walked from Youngstorget (usual meeting place for social democrats and socialists who planned a demonstration) to the Oslo town hall, to demonstrate against the Municipal board’s decision to cut the budget. The police had cut off the town hall with large police forces with horses, dogs, long batons, shields and helmets. Most of the demonstrators sat down on the square. One demonstrator jumped over the fence which the police had put up and was quickly taken care of, whereupon the police asked people to move away. After a couple of warnings, the police defined the demonstration as illegal – after which they, in an outright manner, attacked the sitting people with horses flanked by men on foot with batons, shields and helmets (observed by this author). The photo material of the newspapers again showed the Terrorist squad or parts of it.

- **The budget cut again.** On June 30, 1988, a demonstration – which had not asked for permission, but which the police had said publicly that they considered legal – walked from Youngstorget to Oslo Town Hall. The theme was a debate of confidence in the city board, in connection with the budget cut a week before. The demonstration went on to Oslo prison. The demonstrators sat down at the downward side of the prison and listened to the appeals; a demonstrator burned a doll portraying the Police Chief of Oslo (who was experienced as a sworn enemy of the youngsters). The police chose to block the road for the demonstration as it was walking to the upward side of the prison to repeat the appeals, whereupon it planned to dissolve the demonstration (the five arrested demonstrators from June 12, see above, were imprisoned in different parts of the prison, and the demonstration was held in solidarity with them). A delegation went to the police building, which was close by, to ask for a free pass, but did not get it. It was then decided to shout slogans and then dissolve the demonstration, whereupon a message which was impossible to understand was given from the police through a useless loud speaker. Then the police right away attacked the people standing there, beating them with batons and driving terrified people down the street. The author observed this directly. The author’s wife, who participated with him, received a hard blow from a police baton. Again, the photo material shows that the Terrorist Squad or parts of it must have been in action.

- **The South African Consulate.** On November 25, 1988, a demonstration was organized from Café Blitz to the then South African consulate at Jar in Bærum, a little outside of Oslo. The consulate had its building in a small road going from the larger Voldsvieen at Jar. At 18.30, about 250 demonstrators found their way to the dwelling of the consul. It was beginning to get dark and rather slippery and difficult to walk the small road. The demonstrators were met by solid police fences. After the demonstrators had held their appeals against the apartheid system, and demanded the consul leave Norway, it was clear that the demonstrators would leave. They got 5 minutes to disperse. They did not manage to finish the appeals within the five minutes, but it was clear that they would disperse when the appeals were soon over. However, the police took action against them before they had finished, and pursued them with sharp torchlights and strike weapons down to the small road towards the larger and broader Voldsvieen. In Voldsvieen, which was rather far away from the consulate up the small road, it was quite clear that the demonstration had reached its end. Even so, at that point the police finally terrorized the demonstrators with their batons, using them freely as the demonstrators ran downwards and towards Jar tram station at the Bærum Line. The wounds clearly showed that people were hit in the back of their heads while they were running downwards. A 15-year old girl received a skull fracture as a result of a police baton stroke. She said the following afterwards to Klassekampen (The Class Struggle, a daily paper): “I had not provoked or done anything at all. Suddenly the police attacked without warnings.” This author was present during the whole time of the demonstration, and I said to Klassekampen that:

> Once more, the police started the provocations. It was very clear that the reading of appeals had not finished when the police initiated began a terrifying discharge of smoke, which people believed was tear gas. … This type of provocations from the police have after a while become a pattern”, Mathiesen refers to the demonstrations outside the Town Hall this summer.

21 The last two sentences of this account are taken from https://no.wikipedia.org/wiki/Stein_Lillevolden.
It is tempting to repeat these allegations today, but I will refrain from doing so. What I do want to say is that, in sum, the police set forth its attacks precisely when the demonstrations were coming to an end, or when they, in all probability, were coming to their end.

This is not a particularly wise way to end a conflict; it is in fact counter-productive, in that it does not create less resentment and conflict – but rather more resentment and conflict. In my opinion, also the demonstrators may take part in this – but the police have the main responsibility.

We may strongly hope that the 1980s, which had police actions of this type in Norway, have come to an end. What we do know is that in many parts of the world this is hardly the case.22

22 A participant during the demonstrations gave me copies of the reports from the Terrorist Squad which I quote. Though some of the events in the 1980s were extensively covered in detailed reports from the Terrorist Squad itself, the incidents are only mentioned in passing and very briefly on page 82 in Stensønes, Malin (2017): På vår vakt. Beregninger fra politiets beredskapstrupp [On our Watch. Reports from the Terrorist Squad.] Aschehoug Publishers. The reason may be that the incidents covered by me are not particularly favorable to the police. But it may also be due to the fact that other incidents – captures of planes, Israeli-Palestine conflicts, etc. which I did not observe – did receive extensive coverage in Stensønes’ book. Also, it should perhaps be mentioned that the Terrorist Squad has according to the head of the Terrorist Squad been altered significantly since the 1980s, the decade during which I made my observations given above. According to him there have been improvements in training programs and other fundamental aspects after the major Norwegian terrorist incident in Norway in 2011 (source: The head of the Terrorist Squad on NRK TV1 Saturday 25th March 2017; about the Terrorist incident see Chapter 22). On the other hand, a report which has been kept secret by the Government, but leaked to Dagens næringliv (The Daily Business), indicates that neither the Police nor the Defense is able to secure vital goals against terror. Source: https://www.nrk.no/norge/hemmelig-rapport-lekket-sikerheten-i-norge-er-for-darlig-1.13442360 The Labor Party and others try to pressure the Government to publish the report.

It may be added that the report from Bevængingsutvalget for politiet (the Commission on the Armament of the Police) published its major report on the 29th of March 2017. Very briefly put: A majority of five members of the Commission (including the chairwoman) recommended a continuation of the arrangement with an ordinary unarmed police, having certain firearms available in automobiles but securely stored (so-called fremskutt lagring), an arrangement which was usual until the Fall of 2014. In the interim period, until today, the ordinary police had loaded weapons on their hips. This temporary arrangement is now withdrawn. One member of the Commission had another view – unloaded guns on their hips. There will no doubt be a major debate in Parliament on the issue.

An EU Summit in Gothenburg

A large political summit took place in Gothenburg, Sweden, in 2001. In connection with the summit, then-president of the United States George W. Bush visited the city. This led to “The Gothenburg-Action 2001,” which organized a counter-conference with various activities and demonstrations – a total of 81 organizations were behind this counter-conference.

Hvitfeldska Gymnas [the hvitfeldska high school] was to function as a rallying point. That is where the counter-conference was to take place. 800 people were to stay overnight there. Fritt Forum [the Free Forum] was the gathering point downtown. There the seminars etc. were to be held between between June 12 and June 17, 2001.

George W. Bush was to meet with the EU leaders on the day before the summit, on a Thursday. Around 15,000 participated in demonstrations against Bush, while 500 or so were holed up at Hvitfeldska Gymnas. By morning the school was encircled by around 100 containers filled with sand, and terrorist police. This ended in mass arrests on the school’s premises. Outside, and after the Bush demonstration, spontaneous demonstrations took place in support of releasing those held inside Hvitfeldska Gymnas.

Friday morning several thousand people gathered at Götaplatsen [the Göta Square]; there were rallies against the EU. After the rallies, around 2000 demonstrators participated in an anti-capitalist march against the police road blocks, which had been put up to stop the demonstrators. The march was soon dissolved by the police who forced the demonstrators down towards Götaplatsen. For about half an hour Gothenburg’s main street, Avenyn, was taken over by angry demonstrators. Great material damages ensued. Later the police tried to take Fritt Forum, but were stopped by peaceful demonstrators who organized blockades.

In the evening 2500 people took part in demonstrations under the banner “Sweden out of the EU.” A Street Party in the Vasa Park ended in a street fight where several police officers shot with loaded guns. Three people were hit.

“For a Different Europe” was the banner slogan during Saturday’s demonstration with 25,000 participants. In the evening a non-violent
spontaneous action took place at Järntorget [the Iron Square] against police violence, after the shooting incident on Friday. The Square was quickly surrounded by police who prevented everyone from leaving. Several of those who lived at the school, mainly Swedish youngsters and people using their free time on first aid, had to spend hours outside in the rain.

I observed many of these occurrences, but was prevented from seeing all of them because the taxi which took me from the airport to town consciously made a long detour in order to avoid some of the events. I held an open seminar for a number of listeners at Fritt Forum on the second day of the events, and participated in a series of discussions. The whole thing was a series of events linked together which began peacefully, but ended as an outright “police war” where the police was the powerful party. It reminded me much of what I wrote in the prior section of this chapter – the mass action of the police, as a result of which the whole thing developed into a serious spiral of violence.

A number of Norwegians were involved. They had met in Gothenburg as nothing but participants in peaceful demonstrations, and were partly arrested by Swedish police and taken back to Norway, some by air to Gardermoen. They were partly called “Schengen-people” who had no business to be in Sweden. They were also labeled as “terrorists.”

15 of the extradited Norwegian citizens have written up their concrete experiences with the Swedish police, which are published in “Gothenburg 14 to 17 of June 2001”.23

A series of people were arrested after the events, and several of them were sentenced to long imprisonments, as though all of it was due to the demonstrators and none of what took place had to do with the behavior of the police.


15.2. During the battle against Schengen, May 1997. (Photo: NTB Scanpix.)

A whole little library of books/booklets have been published in Sweden (and Norway) on the events. I wrote “The Criminalization of Political Resistance” as a fairly long introduction to the publication of our booklet. One of the many books which came out in Sweden was Erik Wijk’s “Göteborgskravallerna och processerna” with Manifest Publications in 2002.24 But the most important publication was another report which also appeared in 2002 – “Göteborg 2001,” SOU 2002: 122. It had altogether 799 pages.25 The large SOU had the prior Prime Minister Ingvar Carlsson as chairman, and central Swedish individuals as members. They also studied the events at four other international meetings in the Fall of 1999, in September 2000, at the meeting of the European Council in Nice in December 2000, and at the G8 meeting in July 2001 (note that the G8 meeting took place after the summit in Gothenburg). The Committee took

24 Wijk, Erik (2002): The Gothenburg Struggles and the Processes, Manifest Publications. It is as far as I know not translated into English, only in this note; the original title, I Swedish, appears in the text above.
trips abroad, *inter alia* to Oslo to interview Norwegian demonstrators, and study the large masses of documentation which then were available. The Committee wrote in its summary on p. 18 as follows:

In our report of the event we have been able to conclude the following:

We have not found any evidence to the effect that what happened had been decided ahead of time, which has been a speculation among demonstrators and others.

We have not found that the restrictions on a whole block was proportional with the disturbance which took place in the beginning. Due to the actions of the police the freedom of demonstration for close to 300 participants in the demonstrations was seriously limited.

Regarding the actions, much is to be said in favor of the individual actions which should be followed, but which were not undertaken. The violence which certain police officers used appears to us as excessive. Language certain police men are claimed to have used, particularly towards female demonstrators, is unacceptable.

It is quite clear that the police have broken their communication towards the leaders of the demonstrators and others. The failure of police communication is probably the cause of the speculations which have occurred.

The criticism of the Administration of the National Board of Police [Rikspolisstyrelsen] continues on p. 19-20. This is where the committee says by way of conclusion (page 20):

The Administration of the National Board of Police, must take a greater responsibility for the coordination of the planning before great international events where various police authorities will be implicated, than we saw before the summit in Gothenburg.

The report also contains objections to the police treatment of individual events. Altogether clear speaking, if you ask me.