



ANU KOSKIVIRTA

# The Enemy Within

*Homicide and Control in Eastern Finland  
in the Final Years of Swedish Rule 1748–1808*

Studia Fennica  
Historica

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On occasions it was a taxing task to harness the grim subject matter of the study, homicide and punishment, and the human suffering revealed by the sources to the exigencies of research. And the whole work would have been jeopardized if I had not tried to give it some kind of message or political dimension; I believe that the only way to prevent violence is the internalisation of control, moral standards and the difference between right and wrong, not the imposition of external punishments. The question of the conditions for the civilizing process, the crucial significance of security and safety in the early development of socialization, is equivalent to the care that is familiar to all parents, including me, for their young children. I therefore particularly wish to thank those who have offered the arms of comfort to my beloved daughter Vilja when I have been seated at my desk, her minder Sirpa and the members of my family: my parents Pirkko and Kalle, my parents-in-law Pia and Reijo Vuorinen, and my husband Jan. The completion of this study would have been without significance had it not been for you and your support.

Helsinki, January 2003

*Anu Koskivirta*

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# The Law and Homicide in Eastern Finland 1748–1808





# Introduction

## *The Subject of the Research*

Kirsti Hiltunen, the wife of a dependent lodger,<sup>1</sup> was found bleeding and unconscious in an outhouse of her master's farm in Säyneinen in the parish of Liperi on a February day of 1772. In the evening, she died of her wounds. Her husband, with whom she had lived in a disputatious marriage, was suspected of killing her with an iron key to the granary, a blow from which had fractured her forehead.

Antti Partanen strenuously denied the charge of killing his wife that was laid against him on the basis of Ch. XIV Sec 1 of the Criminal Code (*Misgärnings balk* = MB). He suggested that his wife had either fallen from a ladder, or that she had been butted by a cow. The autopsy revealed that the wounds could not have been caused in this way.

The couple had also quarrelled on the day of the wife's death. The marriage had been over in practice ever since the preceding All Saints Day, since when the partners had slept apart from one another. When the husband had threatened at Christmas that he would be his wife's executioner, she had begun to complain to her acquaintances that she lived in constant fear of her husband carrying out his threats.

Esko Hakkarainen, the farmer of the land on which the couple lived, stated that Antti Partanen had tried to bribe the people who lived on the farm to keep quiet about the circumstances of his wife's death in order that the case should not come to the cognisance of the authorities. The elergy were unable to persuade Partanen to confess to the charge in court. In 1734, the Liperi District Court convicted him without a confession or the testimony of eye-witnesses of the homicide of his wife on the basis of MB XIV:1 and sentenced him to death with mutilation of his body as stipulated by the law. Before the execution, his right hand was to be cut off, and after it his body was to be broken on the wheel and placed on public display.

1 Swedish: *inhysesman*. This was a person who was given food and lodging on a farm in return for doing odd jobs. The term "dependent lodger" is used throughout this work to describe such a person.

Despite the incontrovertible circumstantial evidence, the Åbo Court of Appeal was unable to uphold the sentence because a legally valid proof was missing. The case against Antti Partanen for the homicide of his wife was adjourned sine die.<sup>2</sup>

The characteristic features of Kirsti Hiltunen's violent death lead one to consider the connection between homicide and the legal repression of this form of crime. There are several factors that make this crime symptomatic of a typical homicide committed in eastern Finland and specifically in northern Karelia. First, the act was committed within the family, and its main motive stemmed from conjugal problems. Then, the perpetrator tried to conceal the crime, and he managed to avoid the punishment stipulated by the law purely by denying having committed the deed. In the years following Partanen's release, murder and manslaughter were to increase phenomenally in his home parish.

The recurrence of such cases in the eighteenth-century judicial material led me to an investigation of the dialectic obtaining between homicide – murder (excluding infanticide), intentional manslaughter and violent unintentional manslaughter – and the old state penal system in the last years of Swedish rule in Finland. In my dissertation,<sup>3</sup> I made a general study of the relations between homicide and legal certainty (i.e. the predictability and legality of the justice system) by assessing how the penal system that was applied to homicide in the eighteenth century was reflected in the quantity and quality of this type of crime. The problem was addressed in a region constituting the eastern periphery of the state of Sweden at that time: the northern parts of the Savo and Karelia regions in Finland. The main aim of the research was to investigate the extent to which the various factors that curbed crime – the official, unofficial and psychological elements of control – could explain the changes that took place in the quantity and quality of the killings that were committed. Control was seen as a three-level regulatory mechanism, in which each level prevents crime within its own sphere of responsibility: official control in society, unofficial control in the immediate community, and the actor's own self-control in the personal actions of the individual.<sup>4</sup>

The present work is adapted from the last part of my dissertation, which uses the information obtained from an in-depth analysis of official control to explore the psychological and socio-cultural climate of homicide. However, in order to describe the subject of the research, it is also necessary also to provide an account of the geographical and chronological distribution of this form of crime and a cursory outline of the extent of premeditation behind the deeds, the *modi operandi*, and the social status of the parties involved. The aim of the present work is to estimate the

2 VMA: VHOA, Alistettujen asiain päätöstaltiot, Kymenkartanon ja Savon lääni, v. 1773, Di 9, no 74.

3 Koskivirta 2001.

4 Norbert Elias introduced the idea of an increase in self-control (self-constraint, self-restraint) as an historical fact. Elias (1939) 1994, pp. 7, 45–57, 115–123, 210–211, 443–447, 514–509, 521–523.

extent to which the dimensions which define homicide – quantity, gravity and motivation – are connected to the legal protection of people at the local level and to the ability of the courts to function effectively.

This research examines the connection between the trinity of official, unofficial and psychological control and the features of homicide in eastern Finland. Is it perhaps the case that the killings were more brutal and more premeditated in those areas of eastern Finland where the ability of the authorities to intervene in homicide was weakest? By means of case studies, it is possible to arrive at a detailed analysis of various structural vacuums in the control which shaped the motivation for the crimes in a way that was unique to this particular time and historical situation. What were the deficiencies in control that caused individuals themselves to become the agents of punitive social control? To what extent did people resort to homicide to defend their lives or their property or other benefits that the law failed to protect?<sup>5</sup> Was the internalization of personal control altogether a favourable development? The motives for the killings are examined case by case because in practice the motivation for a crime was determined by how strong a deterrent the killer considered the risk of being punished for his or her crime to be. The factors that led to acts of homicide are traced not only through the direct motives for the deeds but also through the previous court records of the parties involved. This analysis also made it necessary to assess individually the mechanisms by which social control in its various forms actually gave rise to deviant behaviour as a result of a person being labelled a criminal.<sup>6</sup>

### *Definition of Concepts and Delimitation of the Subject*

In modern criminology, with its historical and sociological emphasis, the homicide process is usually reduced to a dynamics created by social *structures* on the one hand and official or unofficial social preventive *control* on the other.<sup>7</sup> In this study, social and economic structural elements are regarded as contributory factors to the mechanism that leads to homicidal crime only in so far as I consider them to have created pressures leading to the implementation of social control, which was manifested in its most extreme form in homicide. The approach of this study, which emphasizes the elements of situation and *control* rather than cultural, demographic or social structures (*pressures* leading to crime), is justified if the process leading to crime is viewed as a temporal continuum in which social control is a preventive factor – and, correspondingly, the lack of social control a factor that generates crime.<sup>8</sup>

5 Black 1984a, pp. 17–18; Kivivuori 1999, pp. 113–115.

6 Gatrell 1980, p. 246.

7 For the pre-industrial period in the Nordic countries see e.g. Ylikangas 1998a; Lindström 1988, p. 71 ff; Sandnes 1990, p. 74 ff; Österberg 1996, pp. 40–41.

8 Laine 1991, p. 89; Laitinen & Aromaa 1993, p. 33.

The area studied here was certainly in a state of socio-economic ferment during the last decades of the eighteenth century, and this undoubtedly affected the motives for the crimes in one way or another. The major element of this upheaval was a growth in the population, which was first manifested in the settlement of the backwoods areas and the cultivation of the outlying plots of land, and which foreshadowed at a later stage a disturbance of the ecological balance of the region: the slow smouldering of a crisis in burn-beating cultivation.<sup>9</sup> As the relative proportion of the landless grew vigorously, this section of the population became the object of ever-increasing surveillance.<sup>10</sup> Certainly, the socio-historical development of the area investigated here and the features of the homicides committed in it lead one to consider whether the control approach is appropriate in view of some elements that were central to the social history of the region: the sore spots of marriage and the extended family and the particular significance of the proximity of the national frontier in the chain of causes that gave rise to homicide. The last mentioned factor also impinges on the problem of shortage that the incipient depletion of the forests created in the society of eastern Finland, the economy of which was largely dependent on burn-beating cultivation.

The concept of *social control* has been linked by many scholars to the normative dimension of social life. In its earliest use, it referred to all human practices and arrangements the goal of which was to maintain and reinforce social order. In its modern sense, the term is used to indicate the reaction that deviant behaviour encounters. Social control is a mechanism by which an individual or a group reacts to a grievance. It may take on the form of a legal process, personal recrimination or gossip, public protest or violence. Its means are sanctions, both official and unofficial, private revenge, material restitution offered to the victim or arbitration by a third party (mediation).<sup>11</sup>

Unofficial (or unofficial) social control refers to a wide variety of private and communal reactions to crime and other undesirable deviant behaviour. In extreme cases, unofficial social control dons the garb of crime, even homicidal crime; in its more moderate forms it consists of such acts as branding a person a criminal, silencing witnesses or spying on one's neighbours.<sup>12</sup> The subject of this research brings one up against the problems attached to unofficial social control – for example when one tries to estimate the preventive effect on crime of the immediate

9 This form of cultivation predominated in eastern Finland. It involved felling and burning tracts of forest and planting crops in the ashes. After the crop was reaped, the forest was allowed to grow again, and a new tract was burn-beaten.

10 Pulma 1985, pp. 206–208; Aronsson 1992, pp. 183–206.

11 Black 1984b, pp. 4–7 and references. On the first formulation and development of the concept of social control *ibid*; for its application to the Swedish justice system of the eighteenth century, see Furuhausen 1996, pp. 10–12. Numerous scholars, e.g. Aalto 1996, pp. 131–177, have elucidated the concept of control as an explanatory factor for the developmental trends of various forms of crime in the Agrarian Age.

12 On the problemization of the concept of local community, see Aronsson 1992, pp. 15–19.

social network. The down side of weak unofficial social control is also reflected in official (or formal) control by a rise in the threshold level for reporting acts of homicide.

In this work, official social control will be used to refer primarily to administrative and legal procedures connected with the apprehension of criminals, the implementation of the law, and with sentencing and the implementation of sentences. In addition to its penal goals, control also answered the therapeutic, conciliatory and compensatory needs and aspects of normative life.<sup>13</sup> Thus the functions of state arbitration and conflict management also fell within the preserves of official control. The judicial system performed these functions in the area under study by settling land disputes and marital disagreements, for example. The official control is described as weak if it patently fails to accomplish its punitive or conciliatory aims.

One way in which official control is implemented is by the legal repression of crime. Legal repression means the methods used by groups in power in order to keep the populace in order. The real effectiveness of these methods varies. In addition to the implementation of punishments, the concept of repression can be used in a *wider* sense to include the policy of prosecution, the judicial process and the anti-crime activities of semi-official institutions of control like the church.<sup>14</sup> The concept of legal repression is used in this work to refer to punishments that were implemented in order to eradicate crime. Unlike the concepts of sanction or social control, the idea of repression also covers the direct *prevention* of crime. Sanction refers to normative control, the consequences both favourable and unfavourable of a deed.<sup>15</sup>

The term “legal culture” is used to mean the attitudes and values that uphold the system of justice and define its position within the culture as a whole.<sup>16</sup> Legal protection is defined as the safeguarding of life, physical inviolability and property.<sup>17</sup> The concept entails the possibility to successfully defend the infringement of a legal good in a peaceful way in a public forum of arbitration. In the present study, the concept does not embrace the idea of equality before the law. This is because the subject is chronologically limited to a period when the society of the estates with all its privileges still existed.<sup>18</sup>

In my dissertation, two concepts were used to assess the official control of homicide. I studied the *legal certainty* of the juridical practice, in other words the legality of the judgments and the extent and principles

13 Black 1984b, pp. 4–9.

14 The definition has been formulated in this way by Pieter Spierenburg. Spierenburg 1984, p. viii. On the control implemented by priests and teachers, see also Österberg 1991b, p. 21.

15 Cf. Laine 1991, p. 16; Laitinen & Aromaa 1993, p. 186 ff.

16 Hans Andersson has used this concept, which was thus formulated by Lawrence Friedeman. Andersson 1998, p. 2.

17 Cf. e.g. Laitinen & Aromaa 1993, pp. 13–14.

18 Cf. Andersson 1998, p. 63; for a contrary view, Karonen 1998a, pp. 584–590.

of the superior courts' arbitration, i.e. how far they deviated from statutory justice. On the other hand, I made a parish-by-parish analysis of the punishments that were meted out for homicide in order to estimate the extent of *penal certainty*, that is the actual dimensions of the implementation and range of the judicial consequences of homicide. I explored the symbiotic interrelationship between homicide and the control of this form of crime by locating the problems in the legal repression of homicide and estimating how the quality of the repression determined local differences in homicidal crime. These concepts will not be analysed any further in the present study, although, for example, the concept of penal certainty is to some extent problematic because it is a later construction. The use of the term is justified, however, because the debate initiated by Cesare Beccaria in the 1760s concerning the risk of being punished had spread during the period studied here to the circles of jurisprudential scholars in Sweden.<sup>19</sup> In the same way, the idea of the predictability of justice has to be understood in a pre-modern sense; otherwise the use of the concept would involve the danger of being unhistorical. Predictable justice in the sense of the concept as used by Max Weber refers to the pure universality of modern, i.e. formal and rational, justice, irrespective of the object of that justice.<sup>20</sup> There is no point in trying to assess the consistency and the extent of justice in the society of the estates,<sup>21</sup> because the implementation of reliability and predictability in western Europe would have required among other things a clear, public, written code of laws and the abandonment of the existing requirements of the statutory presentation of proof. Nor, according to Michel Foucault, can justice be predictable in the modern sense as long as the king has any significant power to pardon. It is also difficult to realize legal certainty without an organ subordinated to the justice system, such as a police force.<sup>22</sup> Some of these elements were still in their infancy in the system of justice that existed in Sweden in the eighteenth century.

It was necessary to assess the predictability of the justice meted out for homicide in eastern Finland purely on the basis of the conditions that prevailed there and of the objects of that justice. In my dissertation this entailed a consideration of the following questions: How far were judgments based on statutory law, and to what extent was the content of positive law available to the public? What kind of factors undermined the predictability of justice in the eyes of the people, and what role did the long unbroken historical traditions of the dispensation of justice take on in this respect? In the present work, however, I have excluded these questions.

19 Calonius 1800, 1801, 1802, pp. 43–34.

20 Nousiainen 1993, pp. 28, 38 and notes, also pp. 4, 11–17. Nousiainen is referring here to Weber 1956, p. 128.

21 On the question of the extent and the consistency of justice in the Law of 1734 see e.g. Nousiainen 1993, p. 348.

22 Foucault 1977.



This work explores the quantitative and qualitative development of homicide in eastern Finland in the second half of the eighteenth century and the early years of the nineteenth. The area studied comprised northern Savo and northern Karelia in eastern Finland. At that time, these were completely agricultural regions on the periphery of the kingdom of Sweden. Indeed the majority of the population still got their living from burn-beating agriculture.

The analysis of homicide there reveals characteristics that were exceptional by Western European standards: the large proportion of premeditated homicides (murders) and those within the family is more reminiscent of modern cities in the West than of a pre-modern rural society. However, there also existed some archaic forms of Western crime there. Most of the homicides within the family were killings of brothers or brothers-in law, connected with the family structure (the extended family) that prevailed in the region. This study uses case analysis to explore the causes for the increase in both familial homicide and murder in the area.

One of the explanatory factors that is dealt with is the interaction between the faltering penal practice that then existed and the increase in certain types of homicide. Despite the fact that it focuses on a particular region, the study and the questions it poses have both international and current relevance. This work builds a bridge between research into legal history and the sociologically oriented study of the history of criminality.



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