Let me take a vacation in prison before the streets kill me! Rough sleepers' longing for prison and the reversal of less eligibility in neoliberal carceral continuums

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Abstract
In a steadily expanding carceral landscape, rough sleepers are using prisons in unforeseen ways: namely to escape violence, for survival, to access social or medical care, enhance their prospects or regain housing. Like most neoliberal welfare states, the German aid system is dispersed and based on individual responsibility, but in prison it concentrates due to the prison's duty to rehabilitate which translates into care for the subject position 'inmate' but holds politically unwanted unhoused persons responsible to change their fates. Poor and disenfranchised people who use prisons as lifelines turn the carceral grip into an embrace. Their tactics reveal a reverse cycle of carcerality where the streets are the space of detriment and the prison, trough harnessing the productivity of penal power, offers a break or potential escape from carceral livelihoods. Rough sleepers who seek imprisonment to escape the hardship and confinement of the streets challenge the concept of less eligibility and offer new ways to theorise the carceral and to think through prisons and the iron rules of punishment.

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Ethnography with rough sleepers

On a Sunday evening mid-April 2020, I make my way to Franz's camp behind Leipzig's main station. I am surprised to see that substantially more people have gathered around the plume of smoke that winds, from the campfire upwards, to the sky. Indeed, the two, sometimes three rough sleepers who held out here since the COVID-19 measures began, turned into a crowd of seven, who sit—with appropriate distance between them—on chairs and benches around the fire. Due to the contact restrictions, I can no longer join them at the fire. Instead, I call from my car.

> Where do you come from? I ask.
> Well... they let us out
> Out where?
> Well... out of prison.
> I see
> Ye, cause of corona or something
> And? How do you feel about that?
> What do you think? Its crap. We're just waiting for them to let us back in.

Due to the corona pandemic, Saxony reduced its prison population to ensure that distancing measures can be effectively upheld. New prison sentences of up to three years were postponed and some ongoing sentences interrupted (excluding drug-related sentences, acts of violence and sex offences) (Duhm, 2020; Sachsen, 2020). Those changes disproportionally affected people on substitute custodial sentences who were imprisoned to pay off fines, sentences often issued to people without housing and economically poor people. To incarcerated rough sleepers, this protective measure meant that during a pandemic where self-isolation is crucial, they were sent back out under the open sky where they can impossibly adhere to safety and protective measures. Many cannot enter night shelters or refuse to use them. Because of prior or untreated lingering illnesses, weak immune systems, prolonged malnutrition, and harsh conditions on the streets, a majority belong to high-risk groups (Kirby, 2020). Paradoxically, protecting those at risk by releasing them is the core argument for decarceration used by advocates around the globe in the course of COVID-19 (e.g. Sivashanker et al., 2020). However, what happens after release and whether housing is available to those whose release is demanded is, as Hamlin (2020) points out, often ignored. To those who have no place to go the message 'we are letting you out until it is safe to imprison you again' sounds more like 'we seek to protect ourselves from you and the potential threat you cause.' This pandemic scenario points to a bigger issue: For some rough sleepers spending time in prison is considered beneficial and involves a change of subject position from a rough sleeper, who is politically unwanted to an inmate whose rehabilitation becomes a political project. Being let out seems like being pushed out of one of

the last places were the aid system effectively concentrates, a situation which is particularly life threatening during a public health crisis.

Since October 2018, I have been conducting ethnographic research with rough sleepers in Leipzig. My sample includes little over three hundred rough sleepers. I conducted in-depth fieldwork with twenty-seven between the ages of fifteen and eighty-one from diverse walks of life. To many of them, spending time in prison constitutes a welcome, desired, sometimes lifesaving break from the rough life on the streets. In this article, I therefore take up one of the great unspoken truth of prison research, which many scholars discuss informally, but which is rarely spoken about in publications: that some people seek out imprisonment. I examine the 'imagined images' (Carlbom, 2003: 57) of prison and street which circulate among rough sleepers, trace some of the tactics rough sleepers employ to gain access to prison and then query the implications of this longing for prison. What does it mean for modern welfare states and concepts of punishment, particularly 'less eligibility' (Rusche and Kirchheimer, 1939) if prisons are interpreted as lifelines by poor and disenfranchised people? How does this relate to societal debates about prisons being 'too soft' and not enough of a 'deterrent' to prevent people from committing crimes (*e.g.* Mowat, 2019)? What do rough sleepers who yearn for prison teach us about the expansion of carceral spaces and livelihoods? Are those who cannot escape the streets into housing trying to (temporarily) escape into prisons to protect '*bare* life' (Agamben, 1998)? Is this a manifestation of the power of the carceral grip that turns into a carceral embrace? Is it reinforcing the 'deadly symbiosis' (Wacquant, 2001) between prison and street and the punishment of the poor? Has its violence become so inscribed into the bodies of the politically unwanted that they seek to remove themselves from the public sphere? Is it akin to what Frankl (1962), calls 'the last freedom' the choice to live as if one's plight is one's will? Or is it a form of instrumentalising what prisons have to offer and what streets withhold? And finally, what does this mean for how we understand carcerality and the prison itself?

Prison—A palace of rest and plenty

Much of the literature on the relationship between the institutions of the criminal justice system and people without secure housing, albeit primarily North American in focus, talks about the criminalisation and penalisation of unhoused people, about such people being swept from the streets into various coercive institutions, as a uniformly negative experience (see e.g. Wacquant, 2001; Bourgois and Schonberg, 2009). Such scholarship on the prison-street nexus shows how underneath the circulation of people between prison and street lies a continuum of violence which additionally marginalises those members of society who are already least fortunate (Fortes, 2015; Moran, 2015; Schneider, 2020a). Not only are the structurally most disadvantaged sent to prison much more often than other people are. After being released from prison they face further stigma and social, political and legal marginalisation (see Alexander, 2012). This then creates a vicious and

nearly inescapable cycle. The rough sleepers I conducted research with in Germany, agree with this discourse to the extent that for them too prison is an integral part of their lifeworld.

When people where asking about someone's whereabout the answers tended to sound something like this: 'x? I don't know, haven't seen them in weeks. They will either be in prison, in hospital [a term also including rehab and psych wards], maybe they went away, or they are dead.' Yet, how prisons were conceptualized runs contrary to much of the existing literature. Only few feared or rejected imprisonment. Some were indifferent and responded to a new warrant with a shrug. Most, however, appreciated prison, yearned for prison, or tactically sought ways to be imprisoned.

When somebody reappeared after having been missing for a few days, weeks or months and responded to questions about their whereabouts with: 'oh, you know, I took a vacation', you knew they came from prison. At first, I thought this phrasing was sarcastic, a dramaturgy attempted to mock punishment to decrease its power. I thought it might relate to Frankl's notion that 'everything can be taken from a man but one thing: the last of human freedoms—to choose one's attitude in any given set of circumstances, to choose one's own way (Frankl, 1962: 75).' The image of a vacation would then be the embodiment of an attitude of unyieldingness in the face of the carceral system's attempts to bend and shape those it confines. It would point to rough sleepers' indomitability that cannot be subdued by the continuums of violence they are subjected to. It would entail an attitude Frankl summarizes with: 'the one thing you cannot take away from me is the way I choose to respond to what you do to me '(Frankl, 1962: 75).

But there was more at play here than people choosing to live their plight as if it was their will. In autumn, when temperatures dropped, prison became even more central. One conversation between two rough sleepers in their 60 s began with one pulling on his jacket murmuring

> 'It's getting damn too cold.'
> 'True that,' said the other 'time to take a vacation' they laughed approvingly.
> 'Do you want to go south' I wondered? Now the laughter turned to mockery.
> 'No, silly to Leine [Correctional facility Leipzig with hospital]. We want to take some time off at Leine.' 'Time off in prison?' I still did not get it.
> 'This one is not too smart, now is she?' one asked the other and then, turning to me: 'Prison equals total relaxation. You can lie in a comfortable bed all day, watch TV, and wrinkle your toes. They even bring your food right to your bed.'
> 'Room service and what not' said the other rubbing his non-existing belly.

Death and the possibility of dying accompanies winter on the streets. Some rough sleepers ran out of fingers when counting those it had claimed and techniques to stay alive—for instance by frequently getting up and moving around—causes exhaustion, and dependency on others. Winter left marks on the bodies and minds of rough sleepers. By contrast, those who returned from a vacation in

prison were usually well rested. They looked healthy, they had gained weight, they were clean shaven, smartly dressed and re-entered their rough sleeping communities gloating over their looks and possessions. When research collaborators called me from prison they invoked a language of plenty that stood in stark contrast to the scarcity of the street. Many detailed how prison staff had 'spoiled' them and described what they had eaten and what was on the menu. They spoke about how good the food was and how much weight they had gained.

While some mainly rested, others used prison time to remove carceral scars and residues of the streets. Scholars like Moran (2012: 575) wrote about how prison time becomes 'inscribed' on the body, for instance due to 'rotten teeth'. and how 'the experience of reintegration after release from prison continues embodied and corporeal efforts to erase these imprints' (Moran, 2012: 575). For some rough sleepers it was the opposite: prison allowed the erasure of the imprints of street time on body and mind. 'Inside' they had good nutrition, hygiene and beauty facilities, medical check-ups and treatments whereas 'outside' such things were hard, sometimes impossible, to obtain (see also Sbraccia, 2008 for irregular migrants in Italy). In Germany, prison grants access to a psychiatrist and assigns case- and social workers who develop post-release plans. Because social and medical benefits are extended in prison, it is here where some try to erase the markers of carcerality the street imprinted on them, to exit prison with a clean(er) slate, a body that does not allow presumptions about where it has been and how it has lived. Going through the prison then paradoxically enhances the possibility to move beyond confinement.

Predictable prisons, uncertain streets

Another point which was made in favor of prison over street related to privacy and policing. I was told that for many of the approximately 48.000 people who sleep rough in Germany the streets are uncontrollable places of uncertainty where they fight for survival and to cover their basic needs. Living on the streets entails a daily struggle for food and a safe place to sleep. Streets cannot restrict access which means that those who dwell there cannot enjoy privacy. They cannot retreat. Anyone could potentially approach at any moment and invade the space a rough sleeper sought out as their temporary shelter. The scripts for these encounters have not been pre-written. They can be friendly or hostile. The streets are therefore a place where good things can, but rarely do happen and where at any moment stigma and discrimination can come from any side. The street is then a form of 'malopticon' where rough sleepers are constantly watched but suffer from 'not being seen' as individuals and instead 'seen badly' (McNeill, 2019: 225) and potentially treated badly as rough sleepers; a space where uncertainty, anxiety and fear end up permeating every fiber of their being. Yet, escaping the streets into shelters is not an option for many rough sleepers. Those who are not officially registered with the municipality and who do not receive benefits cannot stay in shelters. Those who stay in shelters explain feeling policed, controlled and judged′

(Schneider, 2020b: 7). They point to the fact that shelters are impermanent, that what goes on there is highly uncontrollable and uncertain. They explain that there is a high turnover and a concentration of people with addiction and mental health issues who are offered a bed but no in-house care because such aid has to be sought elsewhere. They explain feeling unsafe and being subject to theft and verbal-, as well as physical attacks (see Schneider, 2020b). Overall, many describe that staying in a shelter adversely affects their physical and mental health (see Credland et al., 2004) not least because making the jump from a shelter to independent housing is difficult. Often users end up back on the streets.

By contrast, prison, or so the story goes, is predictable. It is a distinctly demarcated place with rigid rules that are clearly communicated. When I asked Tilo (50 s) who became unhoused after his wife died, if he is not afraid, worried, or anxious about going to prison when he opened the letter with his court date—he had previously spent up to 30 days in prison to pay off fines and was now looking at a sentence between 1–3 years—he just looked at me in disbelief. 'Why? I know exactly what to expect. It is out here I must be afraid.' In prison, encounters follow a script and, while abuses of power happen, there are protocols in place to limit them.

With reference to the United States, scholars like White have argued that in contexts where—

> the material conditions of prison life … have improved significantly-to the point that … prisoners may well experience greater material support and security in prison than is typical of their free world existences … violence constitutes a crucial means by which the prison has maintained its punitive function and with this its relevance as a means of social control. (White, 2008: 739)

However, the physical violence between prisoners and their keepers, White writes about is largely absent from the stories of the rough sleepers I conducted research with. The fact that German prisons were described as safe opposes much of what we know of other prison systems in other places (e.g. South America, United States of America, Africa). Indeed, my research collaborators often juxtaposed prisons conditions in Germany with those in the US. When speaking about his first experience in prison Tilo remembered—

> Sure, I was a bit scared at first. We've all seen the movies … but this isn't America. Here there is nothing to worry about. Maybe somebody might shout or maybe there will be a short altercation, but mostly people leave each other alone cause what's the point really?

Prison comes with a roof over one's head, a cell the walls of which shield from unwanted onlookers and restrict their access. Prisons were then described as safe spaces who come with an extension of rights. When I last spoke to Tilo who is now serving his sentence, he told me: 'I am really doing very well in here. I have work, I have a routine, I am safe. No complaints.' At the end of each call he tells me about

the newcomers of the week, often rough sleepers that had gone 'missing.' When I then tell their communities where they are I frequently hear: 'Puh what a relief. I thought X is in trouble. But if they are in prison, then they are home.'

This relates to the work of scholars like Halsey who showed how for some young men in South Australia, prison 'provided a peculiar kind of sanctuary (emotional security)' so much so that some called it 'home' (2007: 343). This notion arose from the familiarity with this environment which, despite being a totalized and authoritarian space that comes with deprivations takes on the "mantle of a home environment" (Halsey, 2007: 343) Predictability is also attached to temporality. People know how long they will be in prison whereas time in shelters is always uncertain. What is more, capitalism exceedingly annihilates space to ensure its production thereby turning unclaimed places into quicksand between its mills (Harvey, 2009). This means that involuntary movement—due to being uprooted, evicted or driven away—is a condition of sleeping rough (Schneider, 2020b). Prison as a predictable place is then juxtaposed with unknowable streets and shelters. To the rough sleepers I conducted research with this emotional security alongside the security of having a place—even if this place was a cell—and of being placed—even if this followed the deprivation of freedom—was beneficial to the feeling of being 'without a place' and 'out of place' they endured on the streets or in shelters. It is by examining structural conditions of the aid system in and outside of prison and the vastly different demands it makes on personhood that we can understand how, in comparison, prisons came to be fashioned as positive institutions.

Politically unwanted rough sleepers and inmates as political projects

The aid system connected to the prison is very different from that rough sleepers encounter outside of prison. Outside, aid and benefits rest on the premise 'Fördern und Fordern' (promote and demand) (Aretz et al., 2019). Neoliberalism's mantras of individual responsibility, self-sustenance and self-improvement are resounding, but neoliberal economies cause a tipping of scales between the few who benefit and the plenty who fall out of or are pushed from society's foreseen structure of legal, working, and housed subjects and increasingly unable to find their way back. In Germany around 650.000 people are without secure housing. Being unhoused is understood to be an individual problem to be overcome by an individual, who can invoke the state and seek its support, but who must ultimately climb the stairs and shoulder the demands and responsibilities placed on them. Underneath this principle is a specific, neoliberal notion of personhood which considers people to be inherently lazy and unwilling to improve their lives unless they absolutely have to. Policy makers fear that people who could self-sustain would choose not to if they receive benefits that enable them to live well and that, ultimately, their numbers will increase. Consequently, poor, unemployed, unhoused, rough sleeping or

unregistered people who cannot fulfil neoliberal duties of self-reliance and constant self-improvement and who fall back on the state in helping them became what De Giorgi building on Fanon calls 'the new dangerous classes, the wretched of the metropolis' (De Giorgi, 2006: x) against whom less eligibility principles are directed.

Recent theorisation of the nature of the 'carceral' suggests three carceral conditions, one of which is 'detriment' (Moran et al., 2018). What rough sleepers show us is that in contemporary welfare states, detriment can become attached to the aid system. Being dependent on aid produces a lived experience of harm. Even though people on benefits are not officially punished—unless they do not fulfill all demands placed on them—the conditions produced by the benefit scheme constraints and limits their daily lived experience and places them in an economically and socially precarious and disadvantaged position within civil society (see Moran et al., 2018: 677 for an description of the carceral condition of detriment). For those who do not receive benefits, the conditions are even worse. Much of the assistance available to rough sleepers on the streets is reduced to services that cover basic needs, like food, water and access to a toilet, while assistance that could invoke a change of living situation must be actively sought out and navigated (responsibilisation). The shelter and social housing system is characterized by impermanence and individualisation (see Schneider, 2020b). Unlike countries which understand housing as a basic right and make apartments available unconditionally (housing first approaches see Tsemberis, 2011), Germany operates according to a staircase model. Unhoused people must move through different levels of temporary, and usually shared and supervised accommodation. In Leipzig for instance there are several shelters—for women, for men, for wet alcoholics, for people who are addicted to drugs, for refugees—which are run either by the city, by independent charitable organizations or by a hospital. These shelters offer a place to sleep. During the week they close in the mornings and open again in the evenings. Then there are a few temporary shared apartments which 'should serve as the next step on the 'staircase' before transitioning to independent accommodation' (Schneider, 2020b: 3). In these night shelters, short term accommodations or flat shares, unhoused people are taken care of within the institutional framework of '(re-)learning how to live independently': they are accompanied by various service providers before they can transition to independent housing. An apartment is therefore not understood as the basis for overcoming social issues, but as a reward which must be earned by solving one's social issues. Support is conditioned on the obligation to actively work towards erasing the need to receive support (Mitwirkungspflicht). This means that people, who, in social work termini, have 'complex multiple problems' are faced with complex multiple requirements. Failure to cooperate—which is often not a matter of will but of possibility—results in sanctions and ultimately the withdrawal of all support. This notion of people being fashioned as burdens who should "get it together" and "take their hands out of the state's pocket" as quickly as possible paired with a demanding and often opaque road to self-reliance leads many to get stuck or give up. Many keep being pushed back down the staircase, others stumble and fall. Ultimately, most

unhoused people either get caught in a double bind: impermanence of housing circumstances—in accommodations which offer little more than protection from harsh weather conditions—and permanence of reliance on state support (Schneider, 2020b). Or they withdraw from the aid system and try to get by on the streets, often without benefits and with little chance of obtaining housing again. As a result of this system, many rough sleepers suffer from feeling misunderstood, uncared-for, and ultimately disregarded. And it is these rough sleepers who form the basis of this article; people who have been failed by an aid system which holds them responsible for not making it and who are now treated as 'no one's problem'. If they want to see change, they themselves must change proclaims the carceral welfare state and thus unloads all responsibility on individuals who are already confined in poverty.

By contrast, an inmate is seen as a creation of the carceral system and therefore becomes its 'problem.' In 'Punishment and Social Structure', Rusche and Kirchheimer (1939) argue that the main role of punishment is deterrence. According to the principle of less eligibility prisons must impose on their subjects worse living conditions than those outside to prevent them from breaking the law. The barometer is with the conditions of the socially most marginalised and materially deprived within society who face the highest social pressure and constraints to legally satisfy their needs (see also White, 2008: 739–740). However, since the prison Act (StVollzG)—enforced in 1977 in the GDR and in 1990 nationwide—Germany began shifting the focus of punishment to resocialisation (§ 2 para 1.). As a result, prisons began countering less eligibility with three principles: by adapting the living conditions in prisons to those on the outside as far as possible (*Angleichungsgrundsatz* [approximation principle] Section 3 (1) StVollzG); by counteracting the harmful effects of the deprivation of liberty (*Gegenwirkungsgrundsatz* [counteraction principle], § 3 Para. 2 StVollzG); and by formulating help and support for prisoners on the path to re-integration (*Eingliederungsgrundsatz* [integration principle] (section 3 (3) StVollzG). Prisons now justify the withdrawal of freedom not only by recourse to punishment and deterrence but also to rehabilitation. There is as Lewis remarks a 'moral duty to undertake rehabilitative work with offenders' (2005: 121). And, while participation is voluntary, section 4(1) StVollzG holds 'the prisoner participates in the organization of his treatment and in the achievement of the goal of execution. His willingness to do this must be awakened and encouraged.' Consequently, aid-workers must not be approached. They come on their own. No proactive steps, no knocking on doors of institutions and organizations without being let in, no cruising the system required. Hence, responsibilisation on the streets and within the aid system is being replaced by a logic of care in prison. As a result detriment can be felt more harshly outside of prison than inside its walls.

Judy, a middle-aged rough sleeper explained the transaction between the withdrawal of freedom and the duty to care in this way:

> Out here you are always a supplicant. Whether with others from the street or social workers or passersby. You feel like a waste of space, like a misplaced object and everyone makes you feel like anything you get is a gift, a courtesy. You don't deserve anything. You must beg for everything. It's like my back won't even straighten anymore from all the humble looking to the floor I am doing. But prison turns this whole thing right around. They put you in there. They took away your freedom. Now you deserve certain things, you can demand them. You become a person with a certain space, with a case, with rights.

What Judy points to is a strategic transaction: some rough sleepers are trading their freedom of movement for the security and care available to them in prisons. For others the apparent freedom outside was confinement too. I vividly remember a conversation I had with a group of young rough sleepers on the steps of a squat which was about to be torn down.

> 'For society we are disposable waste, scum which needs to be washed away for clean streets. Out of sight out of mind the story goes. At least we have prison.'

> 'What do you mean by that' I asked?

> 'Simple. Prison is there for us. They can't take it away. If you cannot stand it anymore, you can take a vacation there.'

> 'But doesn't vacation require freedom?' I wondered. 'Can there be a vacation with bars?'

> What? You think there's no bars here? Dude, our whole life is a cage, but in prison the bars are known. Someone thought up this idea to put people behind bars, probably thought what a genius way to get rid of folks. But they fucked up big time. It became a whole system, an expensive system. To justify that it works, that it's needed, people need to get better in there. That's why they work really hard with you. It's for them not for you but who cares? At least its care.

> In prison you can lean against the bars. They support you; they hold you up. Out here [street] they do two things. They move in on you until you cannot breathe anymore, until you see nothing but bars. And when you try to lean on them, they give way and you fall flat on your face. Out here it's a wasteland where they left you to fend for yourself or die. In there your death becomes their problem.

This shows that while rough sleepers may be free to move around they often do not feel free at all. Confinement moves with them. The unreliable bars that confine but fail to support are a consequence of—

mutations in the neoliberal landscape, inclusion of criminal justice systems in industrial systems for the generation of value, criminalization of poor and othered communities, the mobility and agility of finance capital and the expedient generation of surplus populations. (Gill et al., 2016: 184)

By revealing detriment we cannot readily see rough sleepers teach us about the effects of a political economy of punishment where confinement spills over known carceral spaces, flows through society and ends up permeating the lifeworlds of those 'surplus populations' (Gilmore, 2007; Tyner, 2013: 704) it brings to the fore. This creates a new form of the carceral whereby less eligibility becomes imprinted on certain 'imagined others' (Carlbom, 2003)—e.g. unemployed, unhoused, unregistered—which means that confinement is no longer contained in places. It moves with the growing numbers of marginalized and impoverished people that are treated as a 'surplus' who cause a burden and against whom post-disciplinary strategies of social control and subjectivation are directed (De Giorgi, 2006: xiii). Here, my findings unequivocally support social scientists who show how the policing and punishment of those deemed politically unwanted can be so extensive that they result in penal and carceral states (Besteman et al., 2018; Fassin, 2017). In a world of expanded carcerality, the choices of those confined to the streets are radically limited. While Halsey showed how confinement in prison takes away the pressure of having to make ongoing choices, for rough sleepers, becoming an inmate changes the quality of choices. Inmates must no longer make choices about how to preserve bare life but can turn to choices about the direction and quality of their lives. Hence, the persistent supervision they experienced on the streets to 'keep from' was interpreted as more painful than penal discipline which seeks to 'change into' (stasis versus motion). It is the subject position of the inmate that turned rough sleepers from politically unwanted objects into political projects; into distinct persons with individual problems to tackle and goals to achieve.

From carceral grip to carceral embrace

This notion of taking a vacation in prison can be understood as the completion of power of a carceral system which made public space so uninhabitable and daily life for poor people so impossible that it no longer needs to find inmates but has them run straight into its lap. It could be seen as an invisible hand clearing the streets of those bodies who are said not to belong there. It could be seen as a completion of the carceral grip where carceral bodies place themselves in the carceral space par excellence: the prison

However, by turning this grip into an embrace, rough sleepers regain agency. Hence, this idea of the prison can be interpreted as a means through 'which subordinates reaffirm or subvert power' (Mbembe, 2001: 133). By focusing on the 'benefits of prison' some rough sleepers attempt to turn punishment into opportunity. By embracing prison as a vacation, as a place one cannot wait to get to they choose not to take on the subject position of the inmate who dreams of being free,

but deciding instead to treat imprisonment as a lucky break. If we take seriously how detrimental the carceral space outside of prison can be for those who have been fashioned as the dangerous underclass of welfare states, prisons may indeed turn out to be more eligible than the streets not only emotionally but also structurally.

It would, however, be a mistake to interpret these findings as supportive of those social and political discourses which claim that the conditions in prison are far too good to still uphold prisons main purpose: punishment. It is exactly the other way round. Punishment has become a condition of some people's life-worlds so much so that the loss of freedom in prison is a continuity of the confinement they experience outside of prison rather than a newly felt detriment. However, rather than despairing at this 'confinement beyond site' (Weegels et al., 2020), at the structural disadvantages they are faced with in their everyday lives, the fines which sent them to prison and the staircase system which keeps them dependent, the rough sleepers I conducted research with and alongside focus not on what is taken from them but on what can be gained through the prison. By treating prison as a vacation, rough sleepers take away the power of its primary purpose: punishment. By treating prison as an extension of freedom and care, they strip it of its primary features: the deprivation of freedom as a means to pay a debt to society for their wrongdoing.

Despite prison's status as one institution in a carceral mesh that spans the lifeworlds of many rough sleepers, my research collaborators would never confuse prison and street. And yet, it would be wrong to uncritically reproduce the binary they created between the streets—negative, harsh, unforgiving, unpredictable—and the prison—positive, caring, placable, predictable. We should not examine these descriptions, this imaginary of the prison as a positive place, without re-embedding it into the bigger picture which gives rise to this image.

First, most rough sleepers have done time and were certain that they will do time again. Doing time was something that comes around regularly and that is as much part of one's lifeworld as seasons are. It is not accurate that rough sleepers knock on prison gates demanding to be let in and that they would not encounter the prison would they just stay away. Prison would collect them from the streets in regular intervals even without their doing. The cost of public transport, food items and access to basic provisions alongside delays in receiving benefits make prison time a fact, not a possibility for almost all rough sleepers. Let me just provide two examples. Riding the tram without a valid ticket, a must for most rough sleepers who must traverse the city since aid services are dispersed, is 'Erschleichen von Leistungen' (fraudulent acquisition of services) and fined with 60€. Enforced evictions of up to a year from shopping malls, places of consumption or transport hubs, which rough sleepers depend upon to cover basic needs and for additional income streams, are issued for sitting down on a blanked or falling asleep on a bench. This and similar regulations lead to an accumulation of fines which send poor people to prison without having to commit a crime.

One example of this is Tomte (60 s) who was first sent to prison and subsequently ended up choosing and preferring prison over the street. Tomte was a lecturer at a university in the south-west of Germany. When his wife died, he grieved so deeply that he stopped going to work and paying bills. He did not confide in his children who were adults and who lived elsewhere because he did not want to worry them. After he lost his job and was evicted, he was so ashamed that he moved to Leipzig where he knew no one. He was considered too wealthy for the shelter and ended up sleeping in a park. During winter, it got so cold that he rode the tram throughout the night to stay warm. He never had a ticket and chose imprisonment as an alternative to paying his fines. He was caught 15 times without a valid ticket and thus had to repay 900€ which equals 90 days in prison. After his release, it took eight weeks for his paperwork to be processed and for him to receive benefits again. By that time, he had already been re-arrested for stealing food items. He then circulated between prison and street always longing for prison because as he put it:

> A guy like me—an ex long-term employee— is not accepted in the homeless system. The shelter does not want me, the soup kitchens barely tolerate me. Prison is the only place to have some privacy, to eat well, rest up and get off the streets.

Over the summer, Tomte had tactically accumulated so many fines that he was sure he would be able to spend winter in prison, but this time the judge ordered community service instead to help him escape what she called a vicious cycle, That Tomte was one of many using such a tactic became apparent once more in the Judge's reaction to his plea to be sent to prison instead. According to Tomte she had said: 'What are you all thinking? You cannot go in whenever you deem fit.' By keeping him out she exacerbated the carceral conditions of his every day. Her decision put additional pressure on Tomte who now had to find a way to be sent to prison and fast because winter was coming.

Prison is an institution of confinement in a web of confinements where the streets are treated as the absolute bottom, which allows prisons to be fashioned as a step up. Among rough sleepers, agency is regained by influencing when one is sent to prison. The trick isn't to escape doing time. The trick is doing time at a specific moment in time. And here, rough sleepers and criminal justice personnel have opposing agendas. This 'vicious cycle' the judge identified in Tomte's case is sought to be broken by offering alternatives, such as suspended sentences, community services or probation. For those to whom the cycle is a lifeline, attempts at breaking it are not welcome. While judges can control the length and start date of prison sentences, rough sleepers keep the upper hand in choosing prison over its alternatives. If they run out of money, options or if they suffer from ill health and desperately want a time-out, they can decide to violate their probation or reject community service which leaves judges little option but to send them to prison. What is more, rough sleepers can and do commit misdemeanors if they are desperate to spend some time in custody something

which will be possible so long petty offences are not decriminalized and social support rethought.

Prison as a way out

Prisons are not only used to take a vacation and thus a short break from life outside. No, for those people who served sentences longer than three months, they are also used as a potential way to permanently escape the streets. This does not undermine the fact that in Germany too confinement extends beyond site keeping rough sleepers in a spiral of poverty and debt. Rather, it is a matter of when and how a potential exit becomes possible. Prison certainly exacerbates deprivation (Halsey, 2007). Those who cycle in and out of prison are indeed caught in a deadly symbiosis which holds on to them and barricades access to mainstream society. The longer one's record, the longer the list of 'complex multiple demands' one needs to satisfy before qualifying for housing; thus the staircase gets longer and longer and options to stumble and fall amass. Despite all this, prison is considered one of the only institutions through which an escape from being unhoused becomes possible.

Due to prisons duty to rehabilitate, doing time becomes a way to potentially re-enter mainstream society. Completing the ritual of imprisonment and the rites that go with it—social, bureaucratic etc.—entails help. One gets a social worker, a parole officer, a release- and re-integration plan. Dennis (30 s) explained this in the following way:

> No in prison they care dude. There's like an army of people who try to figure stuff out for you, set you on the path to a different life. You can only hope that you can hold on to some of these relationships when you get out because once you're out you're on your own again. They couldn't give a shit about a rough sleeper, but they do care to do right by a prisoner, to transform him into a grade-A citizen. You know why? Cause it is secretly about them. When I am out on the street, I am my problem. If I don't make it it's because I haven't tried hard enough, because I failed. In there [prison] I become their problem. If I fail now it's because they haven't tried hard enough.

'Reclusion permits inclusion through exclusion . . . detention aims to produce, to transform and to forge the inclusion of the disciplined subject' writes De Giorgi (2006: 13) in his summary of Foucault's work on the productivity of penal power. Similarly, rough sleepers might get 'lost in the system' on the streets, but in prison they can use the system to escape the system. While rough sleepers do not think of these politics of care as selfless, they nevertheless treat them as resources to be tapped into in order to pave the way for a different life. Instead of struggling individually or having to seek out support in various places, in prison an otherwise fragmented aid system comes together. Those who want to can set the course for an exit from the circuit between prison and street, so that after prison the plan

must only be followed not created. Housing can be searched in prison, even apartments visited and reserved. The prison is then a way in which those people who have become imagined others in the social model of the welfare state are escaping the stasis they had been confined to by using one of the very institutions responsible for their disposability to escape their larger confinement, to move out of the 'material and immaterial' bars drawn around them (De Giorgi, 2006: xi)

Analysis: Less eligibility and a reversal of prisons main functions in a confining welfare state

Among rough sleepers, an image of prison circulates that prevents death, offers rest, fattens the malnourished, treats the sick, enables the accumulation of money ... Prisons, so the story goes, control against abuse of power and preserve basic rights while the postmodern street is one marked by entrenched unpredictability where surveillance and policing know no bounds (see Lyon's 'surveillance societies' (2001)). Street policing achieves little but confinement to the streets whereas prisons turn opaque policing and surveillance into reshaping mechanisms which can be operationalised. Consequently, the quality of penal power changes from senseless to purposeful. Prisons are fashioned as institutions not only of confinement but also of opportunity which can do both: preserve bare life and enhance the prospects and quality of life. Prisons are one of few places where alternatives livelihoods can be forged, and regaining housing made possible.

At a first glance these findings seem to suggest that the public and media discourse about prisons offering too much to still resemble places of punishment and that prison has lost its repulsive effect is right—at least for specific groups of inmates. Yet, if we dig a little deeper we realise that these are not findings which give credibility to debates about benign confinement or soft prisons. Instead they unmask the incredible harshness of the aid systems of contemporary welfare states and of our neoliberal fetishization of individual responsibility. Some impoverished and marginalized people feel the powerful hand of the state pushing them down so much so that they prefer prison. If the mere fact that prisons offer a bed, regular meals, access to medical check-ups and basic social support are enough to lead some people to embrace the severe limitations that accompany imprisonment in one of the richest countries in Europe; this should make alarm clocks go off in the heads of practitioners and policy makers.

What, we must ask, does the upending of the less eligibility thesis, in the case of rough sleepers, actually mean? How does it impact on our understanding of prisons and the carceral? Rough sleepers set prison opposite of street but understanding the role and meaning of prisons requires 'setting them into analytical continuity' (da Cunha, 2008: 346). In so doing, we learn that the positive image of prison has to do with the image of rough sleepers as waste in public space or burdens in shelters versus that of prisoners as persons to be rehabilitated and reintegrated into society and therefore, as persons states can and want to work with. Two different notions of personhood result. In one individuals are

responsible for their own fates. In the other, those confining them have a duty to assist. This helps to understand why rough sleepers rejected their temporary release from prison during the pandemic: it re-transformed them from inmates to be protected to rough sleepers whose safety and wellbeing becomes a personal problem at a time when states must decide whom to protect. It is in relation to their ungrievability (Butler, 2004) their disposability, dispossession and displacement that the prison arises as a possible way to refashion how they are seen and which place they occupy in society.

Rough sleeper's lives are caught in the mesh of a seemingly inviting prison and a hostile every day on the streets and in shelters. And it is this dynamic which exposes an aspect of the deadly symbiosis in which prisons no longer needs to come down heavy on certain marginalized groups to fill its cells but can instead lean back for they will come knocking themselves.

Individually, turning towards the prison may be choosing the lesser of two evils. It can mean giving into the pull of the prison and stop resisting the push of the streets. But it can also be a conscious attempt to seek change and to use prison's ideal of rehabilitation to one's own advantage.

Collectively, this treatment of prison as a place of plenty, protection and vacation or as a helping hand which makes reintegration possible can be seen as a form of resistance which undermines all of prisons main functions: retribution loses force if prison is treated as a gift. Incapacitation is turned on its head if prison is seen as protective of the harsh life outside of prison. Deterrence is mocked completely if one prison stay makes a rough sleeper want to come back again and again. Indeed, less eligibility may turn into more eligibility due to the contradictory logic between support in prison and responsibilisation outside. In his work with irregular migrants in Italy Sbraccia noted that he—

> found hard to accept . . . that prison can be described as an institution which replaces itself to a selective and more and more weakened welfare state; and, therefore, in this paradoxical way, more eligible than what is outside.' (2008: 16)

Indeed, that prisons became safe havens for the most radically unprotected persons; that being locked up constitutes a way up and, in some cases, a way out of carcerality, exposes not so much the positive side of prisons as it does the ugly underbelly of neoliberal welfare states.

Through this collective resistance and reconfiguration of prisons, rough sleepers show us what is wrong with the prisons and with the streets.

And, while judges change ruling tactics and activists use these dynamics to question the role and meaning of prisons, such efforts focus on an institution when what should be under scrutiny is a system. Prison is one institution in a carceral nexus which holds rough sleepers firmly in its grip: an institution central to the power of oppression of the carceral sphere and to upholding continuums of confinement. The notion of the idealized prison can be understood as a systemic critique of the failure of the welfare state and of its focus on individualization/

responsibilisation. Underneath this responsibilisation lies a view on humanity which asks of us to be maximizing individuals who can 'maunder through any scenario victoriously' (Schneider, 2020c: 185). It asserts that opportunities are available and can be claimed through hard work and persistence thereby blinding out that this maximizing individual is not and cannot be every-body. No, he has arisen from the subjection of many who became no-body—and who can no longer improve their situation without the state's help—so that the few could become some-body. He is the product of a historical conjuncture of—

> 'continuing "expulsions" (Sassen 2014)...the increasing denial to migrant and racial-ized populations of the right to have rights,...the corporate financialization of loans to the poor and the debt-collection industry,...the housing of the urban poor, and the multiple additional forms of accumulation through dispossession that lead to economic and social displacements' (Glick Schiller, 2016: 141).

Rough sleepers' perspectives offer a critique of an aid system which is unapproach-able at best and impenetrable at worst. They critique a notion of care which becomes proactive only to serve its needs and a system of carcerality which con-fines them indefinitely to the streets and which leaves prison as the only viable choice. Rough sleepers actions critique a system which leaves already marginalized people that are confined to the streets of one of Europe's wealthiest welfare states only three options: try to make it on their own, wait until the prison collects them or embrace the prison as a last resort to escape the web of confinement their livelihoods are embedded in and tap into the state's care.

What then is the carceral in this context? It is the marriage between a location and a situation that confines, controls and renders stagnant. It is one of emotional, social, legal and medical insecurity that is marked by opaque barriers which dif-ferentiate one's position from that of mainstream society. Carcerality then results from a feeling of unbelonging and from a lived experience of extended confine-ment. By contrast, prison for people on substituted custodial sentences is a place which deprives those it confines, *inter alia*, of the freedom of mobility and limits contact to those outside its walls, but which simultaneously openly communicates its procedures. Through the concept of rehabilitation, the possibility of change and advancement is written into prison's very fabrics in Germany. The tactics of rough sleepers reveal a reverse cycle of carcerality where the streets are the space of detriment and the prison, trough harnessing the productivity of penal power, offers a break or potential escape from carceral livelihoods.

Acknowledgments

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