

Between street and digital capital? A qualitative study of judicial sentencing of persons convicted of online drug dealing in Sweden

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Abstract

Purpose – Drug sales facilitated through digital communication on the surface web and on darknet cryptomarkets have increased during the past two decades. This has resulted in an increase in drug law enforcement efforts to combat these markets and a subsequent increase in judicial sentencing of people selling drugs online. The aim of this study was to analyze how Swedish courts describe sentenced sellers and how the courts apply case law.

Design/methodology/approach – The empirical material consists of 71 sentencing documents produced by Swedish courts in cases of online drug selling between January 1, 2010 and January 1, 2020. In total, 99 sentenced persons occur in the documents. Using a qualitative research design, the authors analyzed the material through thematic text analysis.

Findings – Overall, in their descriptions of online drug sale operations, the courts' characterizations of the concepts of street capital and digital capital show a dichotomy. These forms of capital are situationally described as both aggravating and mitigating aspects in the application of case law, indicating that it may be fruitful to view both street and digital capital as resources used on contemporary drug markets in general.

Originality/value – Very little research exists into how judicial systems describe and perceive the developing phenomenon of online drug sales. Using a relatively large sample from a decade of sentencing, the authors provide an analysis of how Swedish courts view and value capital forms in the online drugs trade.

Keywords Sweden, Case law, Digital capital, Online drug markets, Sentencing documents, Street capital
Paper type Research paper

Introduction and previous research

During the past two decades, online sales of illicit drugs have become a significant part of the global drug trade, with drug deals facilitated by websites on the surface web, the darknet and social media apps becoming more common (Aldridge and Décarry-Héту, 2016; Demant *et al.*, 2020, 2019; Moeller *et al.*, 2017). Online markets provide both classified criminalized substances and novel psychoactive substances (NPS) that have yet to be classified as illicit drugs (Rhumorbarbe *et al.*, 2016). Online drug markets can have a significant impact on drug use patterns and mortality among people who use drugs. In Sweden, the online sale of unclassified fentanyl analogs has been a significant problem (Moeller and Svensson, 2021) and has caused over 200 overdose deaths nationwide between 2015 and 2018, until a landmark case ruled that persons selling these unclassified substances could be sentenced for causing death by gross negligence. This sentence significantly reduced the number of websites selling NPS in Sweden (Friman Leffler, 2020).

The growth of darknet marketplaces for illicit drugs has gained much media attention as police forces at national and international levels have investigated and arrested individuals and networks involved in large-scale dealing and running of the infrastructure and administration of darknet marketplaces (Rhumorbarbe *et al.*, 2016). Crackdowns on darknet drug markets and major sting operations regarding wholesale-level transactions facilitated by encrypted cellphones and apps such as Encrochat and similar services that were developed specifically to avoid law enforcement have gained much media attention (Daly, 2020). On the receiving end of drug law enforcement is the judicial system, tasked with sentencing online drug dealing and dealers. Criminal justice courts that are presented with cases of drug dealing facilitated through online communications must apply sentencing criteria or case law. This, however, has mostly been developed in relation to traditional drug markets that to a larger extent operate in specific geographical locations (Tollin *et al.*, 2021). These might be open drug scenes in public spaces or home deliveries of drugs to individual users. Online drug dealing and markets therefore present a challenge to the judicial system in the application of case law.

Swedish drug laws state that three main factors determine the penal value in drug offenses: the amount of the drug, the type of drug and other circumstances that may be mitigating or aggravating (Tråskman, 2011). Swedish courts have developed a case law regarding what constitutes mitigating and aggravating factors in drug offenses in which drugs have been sold, where the third category, other circumstances, is considered to a larger extent in more serious drug crimes. The courts pay attention to whom the drugs have been sold, the motive and the conduct of the offender, the level of professionalism of the organization and the role of the sentenced person in that organization. Factors of the offense that show motivation or conduct intended to maximize profit are considered aggravating circumstances, while factors motivated by the sentenced person's own drug addiction rather than economic gains are viewed as mitigating. It is also a mitigating circumstance if the offense was conducted in such a way that drug sales and profit were limited, pertaining, for example, to what kinds of customers the drugs have been sold to. If drugs have been sold publicly to a wider group of persons, particularly young people, this is viewed as an aggravating circumstance, as the offense makes drugs more accessible in society, while selling drugs to a limited group of customers such as friends of the sentenced person is viewed as a mitigating circumstance. In offenses regarding sales of drugs online, the marketing of the drugs is also of importance to the courts, with effective marketing being viewed as an aggravating circumstance, as it is conducted to maximize and increase the customer base (Government of Sweden, 2015).

On consumer markets, the sale of drugs is facilitated by online communications on the surface web, on darknet markets, on social media platforms such as Snapchat and Instagram (Demant *et al.*, 2019) and through encrypted apps such as Wickr (Moyle *et al.*, 2019). The overall tendency on darknet drug markets is that once a marketplace is shut down by the authorities, new ones are launched, and trade continues (Ladegaard, 2019), although some sellers retire because of police crackdowns (Décary-Héту and Giommoni, 2017). Darknet marketplaces have been modeled after legitimate e-commerce sites such as eBay and Amazon, for example by allowing customers to rate and review the sellers in terms of customer service, delivery times and overall satisfaction with the delivered product (Nurmi *et al.*, 2017). Nurmi *et al.*'s study found that high levels of seller reputation indicated higher daily sales of drugs (Nurmi *et al.*, 2017). However, an older study of the Silk Road darknet market by Aldridge and Décary-Héту (2014) found that in prices and quantities, this marketplace was characterized by transactions made to stock up for street-level operations, which indicates that darknet markets are used both by wholesalers and individual consumers. This finding suggests that a dichotomy between offline and online markets can be arbitrary. A recent phenomenon is the notion of direct dealing via cryptomarkets, which means that dealers leave these online markets after initial contact, to

conduct drug transactions directly between seller and buyer (Childs *et al.*, 2020). This indicates evidence of segmentation *within* online drug markets.

The growth of online drug dealing has put pressure on the police and the justice system to develop new ways of countering the trade. Frequent use of encrypted communications and cryptocurrencies such as Bitcoin between dealers and buyers is a somewhat new development that diverges from practices used in traditional drug markets (Munksgaard and Tzanetakis, 2022; Van Hout and Bingham, 2013). Another important aspect of the online drug trade is that the substances sold are sent to customers through the postal system and advertised in both open and hidden online channels of communication (Broséus *et al.*, 2016).

Considering the growth of online drug markets in recent years, and the increasing number of sentences related to online drug dealing, it is important to gain new knowledge about the people who are sentenced and how courts apply case law. The aim of this study was to investigate how the Swedish courts describe persons sentenced for participating in the sales of illicit drugs online, and how the character of the offense and how it was conducted are described. The study has been guided by the following two research questions:

RQ1. How do Swedish courts characterize persons sentenced for online drug dealing?

RQ2. How does the Swedish justice system apply case law criteria when sentencing online drug dealers?

Street and digital capital

Discussions about forms of capital that are used by criminal networks to succeed in criminal activities have a longstanding history in criminology (Nguyen, 2020). Nguyen discusses criminal capital as a construct based on the categories of criminal social capital and criminal human capital, where the first is based on social relations and the latter on personal experience and knowledge. These capital forms may be mobilized in various settings to succeed in criminal enterprises (Nguyen, 2020). Additionally, inspired by Bourdieu's theory of different forms of capital, Sandberg and Pedersen (2011) have developed the concept "street capital" to understand the resources that are used by street-level drug dealers as they participate in street culture. Sandberg defines street capital as: "knowledge, competence, skills, acquisitions and objects given value in a street culture" (Sandberg, 2008). This form of capital is valued on traditional drug markets and can be further defined as the "tricks of the trade" needed to conduct face-to-face transactions on physical open drug markets (Sandberg and Pedersen, 2011). In this conceptualization, the street constitutes a field where different forms of capital can be used to the advantage of an actor (Shammas and Sandberg, 2016). While the notion of street capital focuses on face-to-face interactions in the drug trade, different kinds of skills are needed to conduct drug dealing online. In relation to Bourdieu's theory, Ragnedda defines digital capital as "the accumulation of digital competencies (information, communication, safety, content-creation and problem-solving), and digital technology" (Ragnedda, 2018) and places it in relation to the societal digital divide that is based on the transformation of digital resources into social resources by some individuals and not others. According to Bakken and Demant (2019), digital capital in fields such as online drug markets consists of the technical knowledge of encryption, self-presentation, customer relations and the ability to act according to the norms of the digital drug trade. Although digital capital is specific to the digital drug markets, it is similar to what is valued in mainstream society, as it puts an emphasis on well-written communication, marketing and technical knowledge (Bakken and Demant, 2019).

Given the development of online drug markets, where traditionally "street based" products in the form of psychoactive substances are sold through digital and encrypted means, and physical money is replaced by cryptocurrency, increased attention to how capital forms are understood by the juridical field is needed.

Methods

To study how the courts describe people sentenced for online drug sales and how they apply drug law criteria to online drug dealing operations, we used a qualitative research design. The empirical material consists of sentences from Swedish district courts and courts of appeal. As such, the material consists of naturally occurring unsolicited data that can be used to gain new insights into drug use in society (Enghoff and Aldridge, 2019). The sentencing documents are unsolicited by way of not having been created to fulfill research activity aims. In Sweden, sentencing documents are public records and are available to all citizens through the Public Access to Information and Secrecy Act.

The district courts are the courts of first instance for the proceedings of criminal cases in Sweden. If the case is appealed, the second instance is the Court of Appeal, with the Supreme Court the last instance and reserved for cases of precedential value (Jareborg and Zila, 2017). The sentences provide information on the verdict of the court, the criminal investigation by the police and the personal investigation of the sentenced individuals by the Probation Service. As such, the sentences are a documentation of the process of the trial containing a summary of the main hearing and information on the verdict, the name of the accused, the classification of crime and the sanction.

The sentences were acquired through the juridical database Juno, owned by the Karnov Group, a private company with a semi-official standing in Sweden. The keywords used for searching the database were “narcotics” and “internet” (in Swedish *narkotika* and *internet*). In total, 6,089 hits were found in the database from January 1, 2010 to January 1, 2020. The summary and crime classification of all the hits were investigated for relevance to the study. The sample criterion used was that the sentenced person had been involved in sales of drugs online, according to the statement of the criminal act given in the sentence. After careful reading, 71 sentences that met the sampling criteria remained, from a total of 99 sentenced individuals. The sentencing documents vary in length from 8 to 330 pages, amounting to 3,948 pages in total. Of the 71 sentences, 32 were from district courts and 39 were from courts of appeal. None of the sentences from the Supreme Court met the sampling criteria. According to Karnov, the database includes all sentences from the Supreme Court and Court of Appeal but not all sentences from the district courts, and summary penalty orders are not included (Karnov Group, 2019). Minor offenses are underrepresented in the sample, while serious drug offenses are probably overrepresented as they are more likely to be appealed and as summary penalty orders are only used for minor drug offenses and personal use of drugs (which is criminalized in Sweden).

Analytical strategies

Sentences are documents that have the clear rhetorical function of arguing for the sentencing of the accused as guilty or not guilty, and for the justification of a specific sanction. The rhetorical function of the sentences gives the study an opportunity to analyze how the courts argue for a sentence by describing the sentenced persons and their ways of acting in the drugs trade. It is important to acknowledge that sentences attempt to describe objective facts about events, organizations and individuals, but that they also have a specific function of creating accounts of reality through their rhetorical function. This means that sentencing documents cannot be treated as firm evidence of what they report, regardless of their official status. In the analysis of documents, reflexivity is required in understanding the limitations and possibilities of the documents (Coffey, 2014).

The coding of the material was carried out by the second author with a subsequent joint analysis of codes and themes together with the first author. The analyses are based on a compilation of 99 sentenced persons described in 71 sentences. The descriptions of the sentenced persons were coded in SPSS version 28.0.1.1. We analyzed the sentences by searching for keywords using the advanced search function in Adobe Acrobat, following

principles applied in thematic text analysis (Braun and Clarke, 2006). The following keywords were used relating to digital capital: encryption, bitcoin, Swish, cash, service, customer service, review, rating and vacuum sealer. The following keywords were used relating to street capital: organization, professional conduct, violence, threats, assault, drug abuse. In further thematic text analysis, we coded the sentences with attention to two main themes, namely, digital capital and street capital, which were constructed from more detailed subthemes. The subthemes encryption and cryptocurrency use, reviews and ratings and marketing and customer service were considered to be in alignment with digital capitals emphasis on well-written communication, marketing and technical knowledge (Bakken et al., 2022; Bakken and Demant, 2019) and the subthemes criminal organization, access to drugs, violence and intimidation and drug addiction were considered to be in alignment with street capital (Sandberg, 2008).

Ethics

This study has been approved by the Swedish Ethical Review Authority (Dnr. 2020–03320). As sentences contain sensitive personal information, it was of importance to the study to handle the material in a safe manner both in terms of data storage and presentation of excerpts. To avoid identification of individuals, we have altered names and other potentially identifying information, and we have assigned pseudonyms to individuals mentioned by name in the sentences.

Results

Characteristics of the sentenced drug dealers

As seen in Figure 1, the sentenced persons diverse in terms of age, with a range from 19 to 63 years. The mean value in the sample group is 31 years, and the median value is 29 years. Almost half of the sentenced persons have previously been convicted, and almost one-third have previously been convicted of drug offenses. A considerable percentage of 17 have been sentenced for possession of illegal firearms. The majority of the offenses were classified as serious drug offenses, while a large group (33%) were classified as offenses of ordinary degree (Figure 2). Only a very small minority of offenses were classified as exceptionally serious, and none of them was classified as a minor drug offense. The distribution of the crimes means that the majority of offenses were in the middle to higher end of the spectrum of punishments, with few offenses considered to have an exceptionally high penal value.

Figure 1 Age of sentenced person

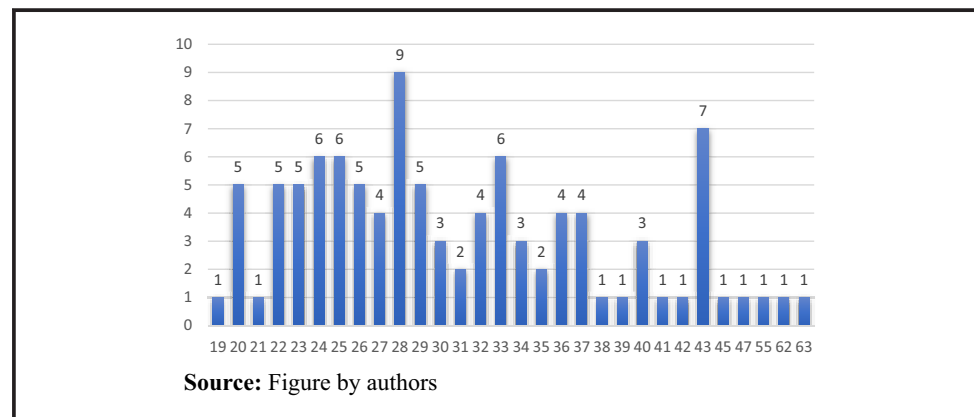
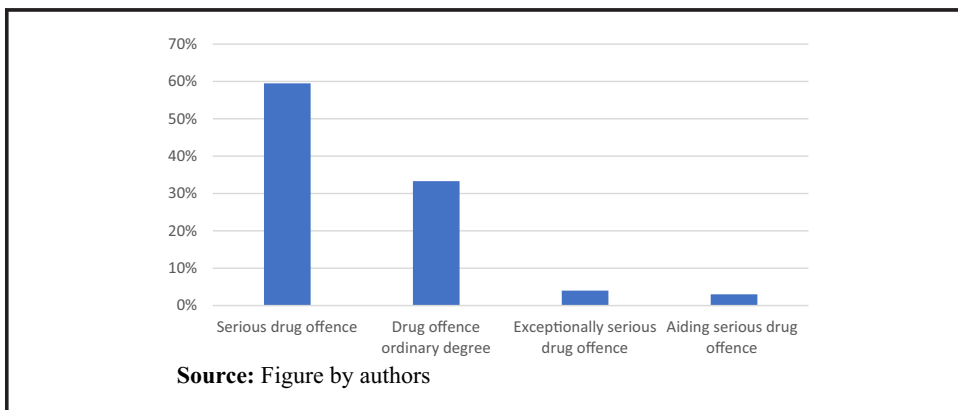


Figure 2 Classification of crime



Regarding which substances that were sold, the most common were substances that are relatively cheap, while more expensive drugs such as heroin and cocaine were less common. The five most common substances sold were cannabis, benzodiazepines, amphetamines, MDMA and tramadol. Figure 3 contains the ten most common substances sold, based on the number of individual sentenced persons who sold each respective substance. About 70% of the sentenced persons had sold more than one substance, which might be a strategy to attract customers with a variety of substance preferences.

The darknet was the most common platform used by the sentenced persons, followed by the surface web and social media and bulletin boards, as seen in Figure 4. Sentences with several persons sentenced may affect the distribution in Figure 3 and 4 as the figures reflect the numbers of sentenced persons, not the number of sales operations.

Digital capital

In this section, we analyze how the courts document and present valuations of digital capital among the sentenced persons. We discuss three themes that relate to this kind of capital:

1. the use of encryption and cryptocurrencies to avoid law enforcement;
2. seller reviews and ratings on darknet marketplaces; and
3. marketing and customer service strategies used by the sellers.

Figure 3 The ten most common substances

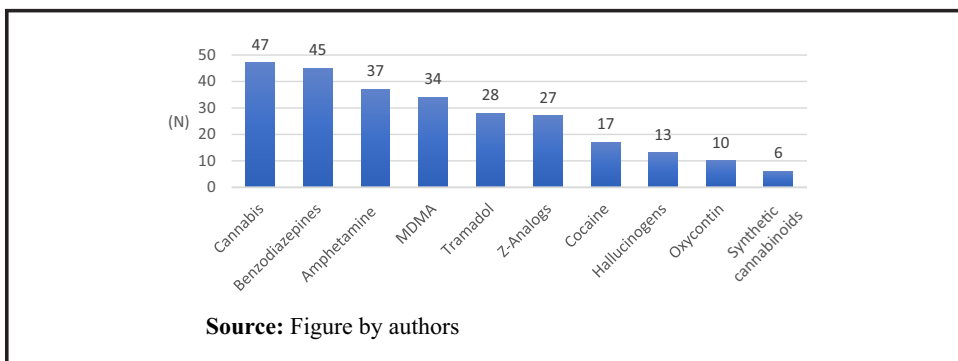
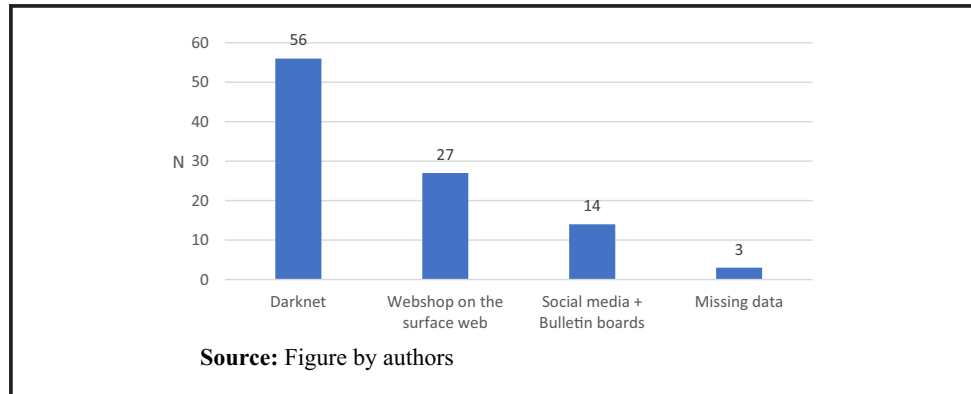


Figure 4 Platform



Encryption and cryptocurrency use. Encryption is mentioned 75 times in 28 of the sentences, and Bitcoin is mentioned 997 times in 55 sentences. The focus on electronic currencies could be explained by the fact that law enforcement largely focuses on the economy of the drug trade to gather evidence about the quantities of drugs sold as well as to seize financial gains from the drug trade. Cash is, for example, mentioned 536 times in 54 sentences, and the mainstream electronic payment system Swish is mentioned 270 times in 22 sentences. In the excerpt below, the court describes how the use of encryption affects the classification of crime in a sentence regarding sales of MDMA, cannabis and illicit medications with an unknown revenue on a darknet cryptomarket:

Use of encrypted web solutions for sales and payment with cryptocurrencies are legal measures. It is possible that prosecutors and police lacked resources to discover when and where sales and payment took place. The fact that whoever commits a crime legally conceals his identity or criminality is not sufficient to classify the crime as serious. [...] Concerning the quantity of drugs, it corresponds to the total penal value [of] 12 months imprisonment. Furthermore, it has not been established that the offense was part of any greater [drug sales] operation, even if there were professional elements [in the offense].

In this excerpt, the court states that the use of encryption by itself is not an aggravating circumstance. Rather, the court focuses on the number of drugs sold and the lack of professionalism of the drug sales. However, there are also sentences in which the sentenced person's use of encryption and cryptocurrency is considered evidence of a particular cunning practice to avoid detection by law enforcement. In the excerpt below, the court describes the level of professionalism in a drug sales operation on the darknet. The case involves the sale of pharmaceuticals as well as different types of illicit drugs with a value estimated by the court to be SEK 4.2m:

The operation has been professional. It has involved a very large number of transfers and quantities of drugs over a long period of time. The drug trade has been cunning in the way that it was conducted on the darknet, which requires special software to visit, and that it is surrounded by security measures such as encryption of PGP keys. The operation has primarily been conducted purely for profit purposes.

In the excerpt, the court argues that encryption is described as a cunning tactic, and it is worth noting that it is described as one factor that, combined with a large number of transactions and an organized distribution aimed at profit, defines the operation as professional. There are considerable similarities between what the courts consider professionalism in an offense regarding online drug sales and digital capital, but also criminal human capital in terms of capabilities and skills, as well as criminal social capital that relate to communication and criminal organization. However, the courts are mainly

interested in the sentenced person's possession of digital capital, such as knowledge of encryption, when this is exchanged for benefits such as increased sales and profits or when the sentenced person's lack of digital capital limits the sales of drugs and the revenue obtained from these sales. We interpret the courts' emphasis on the effectiveness of the organization as a focus on what [Nguyen \(2020\)](#) calls mobilization of criminal capital.

Reviews and ratings. Reviews are mentioned 276 times in 33 sentences and ratings 20 times in seven sentences. The courts seem to have a greater interest in the number of reviews than in the ratings of the sales operation, as reviews are considered to reflect the numbers of transactions as well as the quantities of drugs sold. The number of reviews is summoned by the police by data confiscated from raided cryptomarkets or by data collection from cryptomarkets during the time period when the number of reviews as well as type of drug and amount were present. This allow courts to calculate the revenue as well the amounts of transactions and drugs sold. In the excerpt below follows a description of the role of the number of reviews when determining the seriousness of the drug offense from a sentence regarding a darknet amphetamine sales operation with an estimated revenue of SEK 7m:

Taking into account the number of reviews that have been submitted about Johan Svensson's sales, the limited opportunity to submit [fake] reviews, the link between the review and what was purchased and paid and the circumstances in general, including the large seizure of drugs and packaging materials [...] the Court of Appeal [...] assesses, after a certain security deduction for incorrect shipments and possible fictitious purchases, [that it] constitute sufficient proof of what has been sold [by Svensson].

In the excerpt above, the court considered reviews as evidence of the seriousness of the offense, although the reviews are not described as sufficient evidence by themselves of the number of transactions. The use of fake reviews is of importance to the courts, as fake reviews could falsely inflate the number of drug transactions. Previous research indicates that reviews and ratings are of importance to vendors on darknet cryptomarkets as customers favor vendors with a high rating ([Przepiorka et al., 2017](#)), but also that the use of fake reviews is common ([Moeller et al., 2017](#)).

In the excerpt below, a person who was sentenced for participating in the sales of cannabis and MDMA on the darknet with an estimated revenue of SEK 580,000 describes the value of fake reviews in marketing:

Marketing is done through fake purchases to leave reviews to get up as the best-selling domestic [seller of drugs]. When he was taught this, it was said that one might feel bad about making fake reviews, but that they had compared those who had fake reviews [and they] had sold better than those without, so it was worth it even though it felt bad.

Although the courts pay less attention to the rating of the sales operation than the reviews, there were examples where they argued that the rating was considered evidence of professionalism. In the excerpt below regarding a darknet sales operation selling cocaine and amphetamine with an estimated revenue of SEK 1.5m, the court argues that a good rating is evidence of professional conduct:

The content of the compilations of reviews from buyers and information about average reviews reported by the prosecutor also show that buyers almost in every case considered themselves to have received the goods [drugs] they had ordered [...], and they also expressed themselves very positively about the quality of the products.

In the excerpt, the court argues that the rating of the sales operation is evidence of the transaction of drugs, as the customers had confirmed the delivery of the drugs and expressed satisfaction with the product. One could interpret the excerpt as expressing that a high rating is an aggravating circumstance, as it is viewed as increasing the number of drug transactions. The courts seem not to be interested in the high ratings themselves, but

rather in how the ratings represent a form of evidence of the effectiveness of the criminal organization, which can be understood as a valuation of the mobilization of criminal human and social capital (Nguyen, 2020).

Marketing and customer service. Marketing was mentioned 38 times in 16 sentences and service mentioned 44 times in 15 sentences, while customer service specifically was only mentioned in one sentence. In the excerpt below, the court describes the conduct of the previously mentioned darknet amphetamine and cocaine sales operation as providing good customer service:

[. . .] the operation of drug trafficking appears to be as well-organized [and as] service- and customer-oriented as any other e-commerce site. Orders before 15.00 were sent by post the same day. Deliveries were vacuum sealed with computer printed address labels and often even false return addresses. Great care was taken to ensure that customers were satisfied and provided good references in support of further sales.

In the excerpt, it is worth noting that the court argues that the purpose of the customer service is to support further sales, which means an increase in the numbers of transactions. The excerpt also describes the typical *modus operandi* of sellers of drugs on the darknet described in the sentences. The drugs are packaged with vacuum sealers, and then address labels printed with a label printer are attached. "Vacuum sealers" were mentioned 84 times in 22 of the sentences. The security levels described vary among the sentenced persons, as some are described as taking no precautions at all, while others are described as taking extreme measures to avoid detection by law enforcement. They use gloves to avoid fingerprints, spray the packages with alcohol to destroy traces of DNA and use different letterboxes to avoid surveillance, while other sellers do not take the same precautions to avoid forensic evidence or surveillance. The sentence mention that the security measures used by the vendor was fronted in their marketing:

[. . .] it was further emphasized that no drugs were sent in blister packs and that the deliveries were sent with "very high stealth", i.e., with masking of the packaging delivered to the customer in such a way that it appeared to come from a completely legal supplier.

In the excerpt, the court describes that the security measures of the operation were not just a means to avoid police detection but also to ensure satisfied customers, as those running the sales operation have emphasized their security measures in their marketing. It is an example of how criminal human capital such as skills and techniques are understood as increasing criminal social capital by way of creating satisfied customers on online drug markets. The use of techniques to avoid detection by law enforcement, such as vacuum sealers and label printers, are viewed by the courts as a cunning tactic but also as evidence of professional conduct by the sentenced persons.

Street capital

In this section, we analyze how the sentencing documents narrate aspects relating to the access to street capital among the sellers. We discuss three themes that were especially prevalent in the empirical material, namely:

1. organization of the selling operation in terms of a structured hierarchy;
2. access to drugs through traditional drug markets; and
3. use of violence and intimidation.

Criminal organization. Organization of the drug sales constitutes an aggravating circumstance according to the courts, as it makes drug sales more professional and drugs more accessible to potential customers. Organization is mentioned 106 times in 32 sentences, and professional conduct is mentioned in 35 sentences a total of 106 times. The courts pay particular attention

to drug sales that involve several persons and argue that the involvement of several persons with different roles in the sales operation is an indication of professionalism. The organization of the sales operation could be viewed as a mobilization of criminal human capital where social relations are used to conduct the offense more efficiently (Nguyen, 2020). When several persons have been involved in the dealing operation, the courts pay particular attention to the hierarchy of the organization. “Headman” occurs 28 times in ten sentences and “subordinate” 47 times in 12 sentences. Almost half of the drug sales operations are viewed by the courts as organized, while only a small number of groups are viewed as hierarchically organized. The descriptions of the organization of the sales operations vary from hierarchical to partnerships and networks. We found that sales operations on darknet cryptomarkets and shops on the surface web were described as more hierarchically organized compared to operations based on social media platforms, which is confirmed by previous research that suggests technically advanced markets are more hierarchical (Moeller, 2022).

If the sentenced person has a role as headman in a hierarchical organization, it is viewed as an aggravating circumstance by the courts. In the excerpt below, the court describes the role of the headmen in a web shop selling illicit medications with an estimated revenue of SEK 45m on the surface web:

Mikael Karlsson has been part of the criminal organization's management by being, together with others, one of those, who has designed and was responsible for the management of the criminal organization and continuously controlled other participants' actions [...] [Mikael] also had an influence on decisions relating to every moment of importance for the implementation of the crimes.

The courts describe the role of the headmen as including the purchasing of the drugs and marketing them on the internet, but also setting prices and organizing the distribution. The headmen are also described as earning the majority of the revenue from the sales of the drugs. The way that the courts value the actions of the headmen relate to the way criminal human capital can be used to mobilize the social relations in the drug sales operation to harvest the benefits of the offence.

In the excerpt below, the court argues that it cannot conclude that a person sentenced for selling MDMA and cocaine with a revenue of SEK 4,000 on Facebook is not a headman, as he had direct contact with the customers:

[...] there is no evidence to support [that] Mustafa Mohammed has had any established cooperation with a particular wholesaler or other supplier of drugs [...]. However, it is quite clear that he himself had direct contact with buyers, which is usually not characteristic of a person centrally located within a drug network.

In the excerpt, the court thus describes some online drug sellers as not being professional, on the grounds that they interact directly with customers, while non-interaction with customers is reserved for headmen. The courts usually describe the role of subordinates to include the packaging and sending of parcels, and in some cases, undertaking customer service duties, providing bank accounts for money laundering or receive parcels with drugs that the headman has ordered on international online drug markets. One sentence quotes an email from a headman to a subordinate containing a sentenced person's work schedule in a web shop selling pharmaceuticals on the surface web: “Receive orders and answer emails every day. Send payment instructions to customers [...] Check that payment is received; both via account and bitcoin. Send finished orders to the packer.” This is a common division of labor described in the sentences, in which the headman acts as an employer and directs the conduct of the subordinates.

Access to drugs. The courts pay attention to the sentenced persons' access to drugs, as it is essential to the drugs sales operation. Access to drugs is primarily discussed in relation to drugs that have been seized on the sentenced person's property or property that he or

she has access to. In the excerpt below is an example of how the court discusses the seller's marketing of cannabis, cocaine and MDMA on Facebook in relation to the ability to deliver these drugs to potential customers:

[. . .] it is important to note that there is no investigation that shows that he really could have sold drugs on par with the marketing. He has had access to drugs, but it seems very uncertain whether he – in the short term from his own warehouse or any wholesaler – could have procured enough drugs to provide to even one buyer per Facebook post.

In the excerpt, the court argues that the sentenced person lacks professionalism because of the lack of a supply of drugs as well as the assessed inability to acquire enough drugs on par with his marketing, describing a relatively low degree of street capital (Sandberg, 2008) and a lack of ability to mobilize criminal social capital to access drugs in larger amounts (Nguyen, 2020).

Violence and intimidation. The emphasis on the ability to use physical violence is a distinct difference between street capital and digital capital. In the sentences, violence is mentioned 53 times in 12 sentences, threats mentioned in 22 sentences, a total of 213 times and assault mentioned 103 times in 19 sentences. Most of this violence is described as not being related to the drug trade nor to systemic violence, i.e. violence used within the drug distribution system, either targeting competitors or to enforce norms of the drug trade such as not to inform law enforcement (Goldstein, 1985). Systemic violence is mainly present in sentences regarding offenses with a high level of professionalism, which involve sentenced persons who have previously been involved in traditional drug markets and possess street capital.

The excerpt below describes how a sentenced person from a previously mentioned case regarding a darknet sales operation selling narcotics and pharmaceuticals with an estimated revenue of SEK 4.2m benefited from combining street capital and digital capital:

John was good with computers. Carl stood for more for "the muscles". Carl had dangerous people behind him in and around [city]. Carl was able to bring things to a level [in the drug trade] that John had not been able to. Both were needed in the business. He perceived that it was Carl who handled a large part of the drug purchases.

The sentenced person's statement could be understood as expressing that the operation needed both street capital to access drugs and the ability to use violence, as well as digital capital to provide the technical knowledge to sell the drugs on a darknet cryptomarket.

Discussion

Swedish drug laws state that three main factors determine the penal value in drug offenses: the quantity of the drug, the type of drug and other circumstances that may be mitigating or aggravating (Träskman, 2011). Swedish courts have developed case law regarding what are considered mitigating and aggravating circumstances in drug offenses in which drugs have been sold, with focus on to whom the drugs have been sold, the motive and conduct of the offender, the level of professionalism and the role of the sentenced person. The motivation of maximization of profits is considered an aggravating circumstance, while the sentenced person's drug addiction is viewed as mitigating. In offenses regarding sales of drugs online, the marketing of the drugs is also of importance to the courts, with effective marketing being viewed as an aggravating circumstance as it is conducted to maximize and increase the customer base. Our results show the courts assess that both digital capital and street capital are used by actors on online drug markets, which indicates that it is problematic to make a clear-cut division between offline and online drug markets, a point also made by Barrat, Ferris and Winstock in their study of purchasing behaviors on cryptomarkets (Barratt *et al.*, 2016).

An interesting point one could make regarding other factors relating to the drug laws is that aggravating circumstances as well as mitigating ones are closely related to the volumes of drugs sold and the revenue. The other factors seem, therefore, to be of most interest in cases where quantities of drugs sold were either particularly small or particularly large, which makes it difficult to answer whether the courts differentiate between which platform the sentenced person has used or between a sentenced person's possession of street capital or digital capital. However, the courts describe the conduct of persons sentenced for using social media to sell drugs as less professional, and the courts focus on the sentenced persons' street capital rather than their digital capital, possibly because the sentenced persons who sold drugs on social media used encryption and digital currency to a lesser degree, which would suggest a lower access to digital capital. Darknet cryptomarkets and web shops on the surface web are described as more professional in some cases, in which the courts pay more attention to the possession of digital capital rather than street capital. We find that darknet sellers are described as more technically advanced in terms of encryption and use of crypto currencies, and that sentenced persons who are described as having high degree of digital capital had used either darknet cryptomarkets or web shops on the surface web.

Our findings show that the most commonly used words related to digital capital (Bakken *et al.*, 2022; Bakken and Demant, 2019) in the sentences were bitcoin and reviews, and these were all related to the quantity of drugs sold and were considered evidence of the numbers of transactions and volumes of drugs sold. Marketing, customer service, rating and encryption were less commonly occurring words, possibly as by themselves they are not evidence of the volumes of drugs sold, but rather what the Swedish drug law refers to as "other factors" (Träskman, 2011). Our results show that marketing and encryption were not viewed as sufficient evidence of a serious drug offense in isolation, without evidence of drug transactions.

Similarly, the courts seem most interested in aspects of street capital that are evidence of large volumes of drugs sold, such as seized drugs or cash, as well as factors considered essential to the drug sales operation. Our analysis shows that the most used words related to street capital were cash, organization and professional conduct, while violence and threats were less common words. The ability to use violence seems mostly of interest to the courts as an aggravating circumstance of drug offenses when violence is used to coerce other participants in the sales operation to continue the criminal activity, or not to inform law enforcement. This can be understood as a focus on the systemic violence present on drug markets (Goldstein, 1985) but also as a focus on criminal social capital (Nguyen, 2020) as the violence aims at shaping social relationships within the criminal organization.

The courts also describe the street capital of the sentenced persons as a reflection of personal circumstances in terms of values and social networks, which is reflected in a previous study on sentenced purchasers on online drug markets (Tiberg and Nordgren, 2022). In the present study, digital capital is not described as a reflection of personal circumstances, but rather as a form of competence, which means that the courts describe street capital mainly as a form of criminal social capital and digital capital as a form of criminal human capital (Nguyen, 2020).

Our findings suggest that the courts are not interested in aspects of digital capital or street capital by themselves, but rather in which benefits these forms of capital can be exchanged for in terms of increased sales of drugs and increased profits. It seems that the courts are mainly interested in how the sentenced persons have used street and digital capital to mobilize social and human criminal capital (Nguyen, 2020) to gain benefits from the offence, such as to increase revenue and avoid detection by law enforcement. Sellers of drugs on online markets also need to possess a practical knowledge of drugs to ensure satisfied customers, such as what constitutes quality in the appearance, color and smell of a product, as well as its potency. This practical knowledge of drugs could be described as

a dispositional form of street capital (Shammas and Sandberg, 2016) essential to the sales of drugs on online markets. It also supports Bakken *et al.*'s (2022) point that competencies used on digital drug markets may complement capital forms used on other drug markets.

Online drug dealing is not simply digital transaction, as the drugs are physically delivered either as parcels or in person (Matthews *et al.*, 2021). Sellers of drugs online therefore need to conduct the delivery of the drugs without leaving forensic evidence to avoid detection by law enforcement. The possession of knowledge of police tactics as well as of how to avoid leaving forensic evidence is therefore an advantage when selling drugs (Aldridge and Askew, 2017). This knowledge of police tactics could be understood as a form of criminal capital (Nguyen, 2020) that is related both to street and digital capital, as the police conduct surveillance and collect evidence digitally as well as through traditional surveillance and forensic evidence.

The sentenced persons are a diverse group in terms of how their roles in the sales operation are described. In most of the sentences, the sellers are described as having acted alone or in cooperation with a companion of equal status in the operation, but there are also sentences in which the sales operation is described as hierarchical (Moeller, 2022), in which the court made clear distinctions between sentenced persons who were described as headmen, who controlled the sales operation, and subordinates, who took orders, packaged and delivered drugs in parcels. This indicates the existence of both street *social* capital (Shammas and Sandberg, 2016) and digital *social* capital used by the online drug dealers. The sentences state that the headmen gain most of the benefits of the digital capital, while the subordinates sell their labor and are unable to benefit from the exchange of digital capital. This categorization of positions regarded by the penal system as existing in the digital field is one way in which this field is constituted as an externally imposed classificatory practice (Shammas and Sandberg, 2016). Although violence related to the drug trade was not commonly described in the sentences (cf. Morselli *et al.*, 2017), there were examples where the headman was described as using systemic violence to enforce norms in the sales operation and coerce subordinates to participate in the offense, further indicating a confluence between the street field and the digital field (Bakken *et al.*, 2022; Barratt *et al.*, 2016).

Conclusions and implications

Our study shows that in the development and application of case law regarding online drug dealing, the judicial and penal systems construct both the street field and the digital field in their descriptions of aspects that relate to digital and street capital. The sentenced persons are a diverse group in relation to age, their role in the sales operation, their previous criminal records and the substances they sell. Possession of digital capital, as well as street capital, is considered an aggravating circumstance by the courts when exchanged for benefits, which increase the drug sales and revenue. A lack of digital capital, as well as street capital, is considered a mitigating circumstance by the courts when it limits the ability to gain profit from the sales of drugs. Further research might focus on more detailed ways to conceptualize digital habitus in comparison with street habitus, which includes both the classificatory practice used by the judicial system and the classifications conducted by the actors in the digital field themselves.

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