

The Anders Behring Breivik Trial: Performing Justice, Defending Democracy

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ICCT Research Paper

June 2013

On 24 August 2012, the judges of the Oslo District Court passed their final verdict in the case of Anders Behring Breivik, declaring Breivik criminally sane and legally responsible for the killing of 77 people during the bombing of government buildings in Oslo and the shooting spree on the island of Utøya on 22 July 2011. This ICCT – The Hague Research Paper examines to what extent the Breivik trial attained the goals of criminal justice: retribution, prevention, restoring democratic order and upholding the rule of law. Furthermore, it aims to determine if the trial contributed to the need for closure in society. The paper concludes that the trial did indeed have a positive impact on the coping mechanisms in Norwegian society and that most Norwegians viewed the trial as a positive counter-weight to the brutality of Breivik's acts. Overall, the trial was viewed as an example of justice and as a trial that upheld the democratic values of Norwegian society – in stark contrast to Breivik's values.

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1. Introduction

On 24 August 2012, the judges of the Oslo District Court passed their final verdict in the case of Anders Behring Breivik. From the outset of the trial, the strategy of the general prosecutors Inga Bejer Engh and Svein Holden was to aim for an insanity plea and have Breivik sentenced to time served in a psychiatric facility. At first, Breivik and his defence counsel adhered to the same strategy until Breivik was allowed access to the media in his holding facility in late December 2011. Subsequently, Breivik did not want to be portrayed as a madman and the defence team decided to change its strategy. Also, the insanity-strategy did not match the predominant view in society, where most Norwegians felt Breivik was in fact sane and responsible for his acts. In the final verdict, a unanimous decision was reached: Judge Wenche Elizabeth Arntzen declared Breivik criminally sane and legally responsible for the killing of 77 people during the bombing of government buildings in Oslo and the shooting spree on the island of Utøya on 22 July 2011. He was sentenced to 21 years in prison, but with a “preventive detention” clause that can extend his time in jail as long as he is deemed a threat to society. It is unlikely he will ever be released.¹ Although the international press reacted with surprise – and at times even irritation – to the extensive publicity the trial offered Breivik, the main reaction to the verdict within Norway was relief, both among victims and the wider society. Following the verdict, Utøya survivor Frida Holm Skoglund, 20 years old, said: “I’m going to fully live the first day of the rest of my life”.²

This research paper focuses on the results of the Breivik trial in Norway, through the lens of the ICCT *Terrorists on Trial* project that was initiated by Prof. Dr. Beatrice De Graaf in 2010.³ At the heart of the project lies the idea that terrorist trials – just as other trials – serve specific goals; these include the classical judicial aims (truth finding, retribution, rehabilitation and reintegration), but also the requirement to meet societal and political needs (restoration of social peace, prevention and deterrence, closure or satisfaction for the victims). Trials, and in particular terrorist trials, are *performative* spaces: they re-imagine and contest acts of terrorism in the judicial proceedings and the verdict as well as through the media and society. Before setting out a conceptual framework in which the Breivik case will be analysed, a caveat is in order: the authors are not legal scholars and this is not a primarily judicial paper. The Breivik trial is approached from a political and social scientist’s perspective, in order to place the trial within the larger debate on trauma, law, and political responsibility in the context of (counter-) terrorism. Such political readings of legal discourses and judicial trials recognise the “productive power of legal arguments” and the way in which “legal arguments are embedded in and reproduce deeper-lying social and symbolic structures”.⁴ Terrorism trials are key places where the scope, legitimacy and meaning of terrorism laws are implemented and contested.

This paper examines how the Breivik trial dealt with the traditional goals of criminal justice: retribution, prevention, restoring democratic order and upholding the rule of law. To answer this question, the researchers of this paper conducted a combination of qualitative and quantitative research. A number of qualitative interviews were held with actors involved in the trial and 250 questionnaires were distributed on the streets of Oslo, to ascertain people’s opinions of the trial. In this article, the initial findings of the research are analysed and discussed, leading to some preliminary conclusions regarding this terrorism trial and its societal effects on coping mechanisms, attitudes towards security and democratic values.

¹ Oslo District Court, “Les dommen i 22. juli-saken, avsagt 24 august i Oslo tingrett”, Final verdict in the 22nd of July trial (24 August 2012), <http://www.domstol.no/upload/DA/Internett/domstol.no/Aktuelt/2012/toslo-2011-188627-24.pdf>.

² M. Townsend, “Anders Behring Breivik’s 21-year jail term closes Norway’s darkest chapter”, *The Guardian* (24 August 2012), <http://www.guardian.co.uk/world/2012/aug/24/anders-behring-breivik-verdict-norway-utoya>.

³ Netherlands Institute for Advanced Study (NIAS), “Nucleus: Terrorists on Trial. The Court Room as a Stage in the Struggle for Publicity, Public Support and Legitimacy” (2010), <http://www.nias.knaw.nl/Pages/NIA/24/759.bGFuZz1FTkc.html>.

⁴ W.G. Werner, “The Changing Face of Enmity: Carl Schmitt’s International Theory and the Evolution of the Legal Concept of War”, *International Theory* 2, no. 3 (2011), pp. 351-80. See also: O. Kessler and W.G. Werner, “Extrajudicial Killing as Risk Management”, *Security Dialogue*, no. 39 (2008), pp. 289-308.

First, the methodology of the research will be summarised. Second, the performance, behaviour and strategies used in court by the main parties involved in the trial (the prosecutors and the defence team) will be described. These strategies will then be analysed in relation to the classical goals of a criminal trial. Finally, the paper will also address the connection between the trial and its classical goals as perceived by society at large. The paper aims to determine if a trial can help a society in coming to terms with such an atrocious attack.

2. Research Design

This paper will, first of all, map and explore the strategies adopted in court by the parties involved in the Breivik trial. How did they deploy their strategies in relation to the above-mentioned classical goals of criminal trials? To understand the relationship between coping mechanisms and the various performative strategies, the research team designed and distributed a questionnaire to the general public in the vicinity of the courtroom during the Breivik trial. “Strategies” here refers to the performance of the respective parties or the messages they communicate and the mobilising power of those messages. There are several audiences that can be addressed through the trial, not just the wider public but also certain groups within society – an actor in the trial can therefore communicate messages to different audiences about their version of justice and the truth.

De Graaf argues that terrorism trials offer an exceptional opportunity for understanding and countering terrorism, because they are the only place where all actors involved meet: terrorists, state representatives, the judiciary, the audience, surviving victims, terrorist sympathisers, etc.⁵ Furthermore, the media will scrutinise and broadcast their performances. As a nexus of terrorism violence, law enforcement and public opinion, terrorism trials thus offer an ideal opportunity to showcase justice in progress and demonstrate how the laws of the country deal with terrorist suspects. A trial provides a theatre, inviting various actors to play out their roles and convince and mobilise the public to advance their narratives of (in)justice.

The judicial goals refer to the classic principles of a fair trial: achieving justice and upholding the rule of law, as laid down in the two penal goals of 1) rehabilitation and 2) prevention⁶ – as well as the three informal goals of a trial 3) truth finding, 4) re-establishing stability in society and restoring the democratic rule of law, and 5) providing in the need for closure. There are many reasons for this research to focus on the “performative effect” of various actors in the court room on public opinion: Breivik’s trial provided him a global stage and was a media spectacle which involved and mobilised many Norwegians as well as spectators abroad. The research was therefore designed with an approach that not only maps the strategies of different actors, but also investigates how these strategies affected coping mechanisms in society.

Coping is defined as thoughts and behaviour that people use to manage the internal and external demands of situations that are appraised as stressful.⁷ Coping is a complex, multidimensional process that is sensitive to the environment and its demands and resources, to personality dispositions that influence the appraisal of stress and resources for coping, and the relationship between these. The research focuses on how a trial can aid coping mechanisms as trials are a means of truth finding; they also help to re-establish stability and help those involved to come to terms with the perpetrated offence. It is thus justified to explore how a trial like this affects coping mechanisms within the public domain. The Breivik trial is an excellent example to test this hypothesis as it was clear from the start what happened, how it happened and who the perpetrator was. For research purposes, the public space was narrowed down to the participants present in and around the courtroom in Oslo during the days before and after the trial.⁸

⁵ B. de Graaf, “Terrorists on Trial: A Performative Perspective”, *ICCT Expert Meeting Report* (2011), <http://www.icct.nl/download/file/ICCT-de-Graaf-EM-Paper-Terrorism-Trials-as-Theatre.pdf>.

⁶ C. Kelk, *Handbook Material Criminal Justice* (Amsterdam: Kluwer, 2005), p. 21.

⁷ R.S. Lazarus and S. Folkman, *Stress, Appraisal, and Coping* (New York: Springer, 1984), p. 150.

⁸ Hence these results are limited to the respondents in our sample. It concerns mainly inhabitants from Oslo, the sample was on average younger, poorer and from more diverse ethnic backgrounds than the Norwegian

2.1 Participants

First, quantitative research was undertaken by distributing surveys enquiring about people's opinions and attitudes towards the Breivik trial. The surveys were distributed on the streets of Oslo during two days, 23 and 25 August 2012, the day before and the day after the final verdict.⁹ The total number of respondents was 246, 124 (50%) of whom were female and 91 (37%) were male (the remaining 13% did not specify). The participants' average age was 30 and they were approached at several locations: in a central square in Oslo, at a subway-station, at the central train station, in a mall, in a park and on the campus of Oslo University.

Those surveyed were asked to indicate whether they were present in Utøya or Oslo or whether they knew friends/family who were present (most involved) or whether they found out about the attacks through the media (least involved) to establish their level of involvement. The results can be found in Table 1. The results indicate how intensely penetrating the Breivik attacks were for the respondents in our sample. This is also true from a macro-perspective: a country with a relatively small population (4,7 million), which saw so many people killed (77) or injured (242) in the attacks. The responses indicate that many people in our sample knew someone in person who was present and/or suffered from the attacks.

A number of qualitative interviews with parties directly involved in the trial were also conducted, for example with victims, expert witnesses, journalists, and members of the 22nd of July Commission,¹⁰ which was installed to review and learn from the attacks. We have selected these respondents based upon their expertise either from our own networks or via a snowball-sampling-methodology. During these interviews, a number of general questions relating to the strategies in court and the effects of the trial on society were asked.

When the attacks happened... (multiple answers possible)	Utøya shooting incident	Oslo bombing attack
I was present	0.5%	12%
I had a friend/family member who was there	14%	24%
I was on the phone (or social media) with someone who was there	3%	11%
I knew someone who was there	32%	26%
I was at the place(s) where the incidents happened within 3 hours after it happened	2%	8%
I heard it through a friend/family member	24%	32%
I saw it on TV	68%	66%
I saw it on the internet	56%	52%
I heard it on the radio	27%	29%

Table 1: Involvement in the events of 22 July 2011

population. Data from: http://www.indexmundi.com/norway/demographics_profile.html, http://www.zillow.com/local-info/MN-Oslo-people/r_19786/ and our survey.

⁹ The trial of Anders Behring Breivik started on 16 April and lasted until 22 June 2012. The trial was nick-named after the day of Breivik's attacks: the 22nd of July trial. The final verdict was read on 24 August 2012 in the Oslo district court. Our survey research was carried out the day before and the day after the final verdict and the interviews took place the week before the final verdict.

¹⁰ The independent commission mandated to review and learn from the terrorist attacks on the government complex in Oslo and on Utøya Island on 22 July 2011. The Commission submitted its final report to Norwegian Prime Minister Jens Stoltenberg on Monday, 13 August 2012. See for more information: http://www.regjeringen.no/smk/html/22julikommissionen/22JULIKOMMISSIONEN_NO/EN.HTM.

2.2 Surveys and procedure

Participants responded to a survey entitled *The 22nd of July Trial Study*.¹¹ In the introduction, the research team was introduced and specifically mentioned that the questionnaire related to the Anders Behring Breivik trial. The questionnaire consisted of 38 questions in six categories:

1. General information (demographics);
2. Involvement (questions relating to physical and emotional involvement in the attacks and the trial);
3. Goals of a fair trial (questions regarding the importance of formal and informal goals of a fair trial and the extent to which these goals were reached in this trial);
4. Emotions (questioning people about their emotions relating to the trial);
5. Court verdict (satisfaction regarding the final verdict); and
6. Attitudes towards terrorism (enquiring about attitudes on issues of security measures and terrorism).

Most items were answered on a 3 or 5-point Likert scale with possible answers ranging from 1 (*totally agree*) to 5 (*totally disagree*).

3. The 22nd of July Trial – Performative Strategies

The ten-week Breivik trial was one of the biggest terrorism trials in the history of modern continental Europe with respect to worldwide media coverage. The first day of the trial was broadcast live by many different television stations and websites from all over the world. In Norway, escaping from the constant coverage of the trial proved to be almost impossible – despite the court’s decision to block the broadcasting of Breivik’s testimony and the victims’ statements. The only ‘Breivik-free’ zone in Norway during the trial was the website of the newspaper *Dagbladet* where the reader could block all Breivik-related content with one click of the mouse. In the survey, participants were asked whether they were satisfied with the amount of media attention surrounding the trial. Table 2 shows the results of this question.

The media paid...	
Too little attention	0%
Little attention	2%
Enough attention	32%
Much attention	35%
Too much attention	31%

Table 2: Media attention around 22nd of July trial

Because media attention was so pervasive, it is likely that the strategies in the trial adopted by the main parties – the prosecution and Breivik’s defence team – were known to most in (the vicinity of) the courtroom in August. These strategies will firstly be described and then the perception of these strategies in our sample will be explored.

When Breivik entered the courtroom on the first day of the trial on 16 April 2012, the judges – presiding Judge Arntzen, Judge Arne Lyng and three lay judges¹² – as well as the rest of the audience witnessed Breivik’s salute: a right-wing gesture making a fist with his right hand, touching his heart and

¹¹ A copy of the questionnaire can be requested from the authors.

¹² One of the lay judges, Thomas Indrebø, was replaced after the second day by Anna Wisløff after it had become apparent that Indrebø had been advocating a death sentence for Breivik a day after the attacks on Facebook.

then extending his arm. Following this salute, public prosecutor Inga Bejer Engh walked towards Breivik and shook his hand.¹³ Later that day Breivik stated that he did not acknowledge the legitimacy of the court saying, “I do not recognise the Norwegian courts. You have received your mandate from political parties which support multiculturalism”.¹⁴ He specifically denied the authority of Judge Arntzen, whom he accused of being biased saying she was “a friend of Gro Harlem Brundtland’s sister” – the former Norwegian prime minister, but more importantly, a former Labour Party leader whom he had wanted to kill at Utøya Island. However, Breivik refrained from making a formal assertion.

These vivid examples from the trial’s first day reveal important elements of the *performative strategies* of the parties involved.

3.1 Prosecution strategy

From the outset of the trial, the prosecution opted for an insanity-plea strategy, describing Breivik’s actions and motivations by focusing on the facts and potential flaws in the stories he had presented during the trial and in his manifesto (entitled *2083: A European Declaration of Independence*) in which Breivik shares his political ideas and vision for a cultural conservative revolution. While explicitly trying not to humiliate Breivik the prosecutors aimed to portray him as a liar, and thus as delusional. By focusing on the details, and the flaws, relating to Breivik’s “militant ultra-nationalist” narrative, their performance was intended to both convince others of Breivik’s delusional state and relieve Breivik of his potential hero status, inhibiting other right-wing radicals in perceiving him as a role model.

An important example of this strategy was the prosecution’s attempt to refute the existence of the international Christian military organisation “the Knights Templar”, which Breivik claimed to belong to. When Breivik refused to give details about the founding session of the organisation in London in 2002, Bejer Engh asked him if the meeting had taken place at all. This was in line with one of the prosecution’s opening statements in which they concluded that, despite the fact that government data confirmed Breivik’s presence in London at that time, the organisation, as described by Breivik “does not exist”.¹⁵

To further advance their strategy of portraying Breivik as a delusional, lone operator, the prosecutors also focused on Breivik’s alleged trip to Liberia. They stated that Breivik went to Liberia to get so-called blood diamonds, instead of purportedly meeting a Serbian warlord who could teach him his militant-nationalist tactics, as Breivik asserted. Breivik responded to this strategy by saying “do not try to ridicule me”. The response of prosecutor Bejer Engh was characteristic: “I’m not trying to ridicule you”, she said, “I am trying to shed light on the matter”.¹⁶ These quotes illustrate that Breivik perceived the prosecutor’s strategy as more or less correct: as an attempt to strip him of his credibility. Despite Breivik’s protestations, prosecutor Holden continued his factual review of the attacks and Breivik’s earlier life.

The most controversial part of the prosecution’s strategy amounted to their recommendation that Breivik should be confined to psychiatric care instead of imprisonment. The prosecution admitted that they were not certain Breivik was in fact psychotic during his acts. However, since they were in doubt they argued it would be worse to send an insane person to prison than to commit a sane person to a mental health care institution.¹⁷

In its strategy, the prosecution wanted to address the atrocious events that happened, while at the same time aspiring to proceed in a judicial, factual manner. The exchange of handshakes with Breivik – initiated by prosecutors Bejer Engh and Holden – illustrated this normalised approach. Whilst

¹³ BBC Newsnight, “Chief prosecutor in the trial of Norwegian killer Anders Breivik, Inga Bejer Engh” (12 October, 2012).

¹⁴ BBC, “Breivik trial: Key moments of opening day” (2012), <http://www.bbc.co.uk/news/world-europe-17733869>.

¹⁵ NRK, “Rettsaken – Dag 1”, *Court transcript* (19 April 2012), <http://www.nrk.no/227/dag-for-dag/rettssaken--dag-1-1.8078421>.

¹⁶ Ibid.

¹⁷ Verdens Gang, “Påtalemyndigheten mener Breivik ikke kan straffes” (2012), <http://www.vg.no/nyheter/innenriks/22-juli/rettssaken/artikkel.php?artid=10058498>.

the international media described the handshake as “a bizarre protocol” and a “rare sight”,¹⁸ Bejer Engh justified the approach by emphasising the importance of treating both the trial and the suspect, regardless of the accusations, according to the normal standards, thereby underlining the importance of the rule of law. The prosecutors also had to take the emotions of the victims into account. They therefore presented a highly detailed account of the course of events on 22 July and described the victims in great depth, paying tribute to the trauma and emotions suffered by the victims and by society at large. This account was, however, strongly placed within the judicial context of the trial.

In practice this approach meant that during the trial considerable attention was paid to the stories and perspectives of Breivik’s victims and their families. On the first day, prosecutor Bejer Engh read the names and causes of death of 77 victims and narrated the details about the injured.¹⁹ The prosecutors described the circumstances in which the victims were exposed to Breivik’s violence in a very detailed manner.²⁰ The evidence brought forth by the prosecution, by means of CCTV footage and phone call recordings from both the victims and Breivik himself, shocked the courtroom. Afterwards Holden stated that it was difficult to deal with these recordings. Over the course of the trial, survivors and victims’ families were offered the opportunity to testify. During several days they described the plight they had endured and how the attacks and aftermath affected them. Various reports about the bombing victims in Oslo and the people on the Island of Utøya were also read out in court.

3.2 Perception of the prosecution’s strategy

Our research sample did not seem to approve of the prosecution’s insanity strategy: a large part of this sample disagreed with the idea that Breivik should receive psychiatric treatment instead of a prison sentence:

	I believe Breivik is sane	I believe Breivik is accountable	I agree with the prosecution’s strategy
Agree	24 %	60 %	16 %
Disagree	42 %	13 %	59 %

Table 3: Opinion on Breivik’s sanity / accountability

In an interview with journalist Ben McPherson, editor of the newspaper *The Foreigner*, prosecutor Bejer Engh responded to this public sentiment by saying that she understood that people had strong feelings about how to react to Breivik, but that the prosecution’s strategy needed to relate to the Norwegian legal framework: “Otherwise he’s won. And you know, he wanted to change Norwegian society and I’m sure he’d feel it was a victory if we gave up our principles. Right at the moment we’re being tested – can we hold on to our principles?”.²¹ She also suggested that even though many Norwegians disagreed with the prosecutors about how Breivik should be punished, that should not influence their work, stating “then we could just as easily have put it to a public vote”.²² Therefore, selling this idea to the public had become a part of the strategy. Bejer Engh for example argued: “We have murderers who have been sentenced to a psychiatric facility who will probably never get out again”.²³ The prosecutors, however, also emphasised that they were committed to human rights and that serious doubt as to a defendant’s

¹⁸ K. Ritter, “Anders Breivik Trial: Suspect Defends Norway Massacre, Insists He Would Do It Again”, *The Huffington Post* (2012),

http://www.huffingtonpost.com/2012/04/17/anders-behring-breivik-thomas-indreboe_n_1430483.html.

¹⁹ This was also done by the judges during the day of the verdict.

²⁰ 22nd of July Court Transcript, “Transcript 2012-04-16”, *Oslo District Court* (2012),

<https://sites.google.com/site/breivikreport/transcripts/anders-breivik-court-transcript-2012-04-16-live-report>.

²¹ B. McPherson, “Prosecuting Breivik”, *The Foreigner* (7 July 2012),

<http://theforeigner.no/pages/columns/prosecuting-breivik/>.

²² Ibid.

²³ Ibid.

mental health should not lead to a prison sentence. The prosecution thus stuck to their argument that Breivik was a delusional lone operator and should be convicted accordingly.

The prosecutors felt that they had sufficiently responded to the victims' needs and the gravity of the attacks by positioning the victims' stories centrally in their arguments. Although 59% of the respondents did not agree with the prosecutors' final argument (the insanity plea), an impressive 74% of the participants surveyed indicated they felt the general prosecutors functioned well.

In short, when relating the prosecution's strategy back to the goals of a fair trial, it could be argued that the prosecution adhered to the goal of truth finding, spending a lot of time reconstructing Breivik's crimes. Concerning the goal of retribution, an interesting tension emerged: in a way, trying to have Breivik declared insane and sent to a mental institution would have been "the ultimate humiliation", as Breivik himself admitted. Thus, the insanity strategy could have served the goal of retribution in the sense that Breivik would have received exactly what he did not want. However, Norwegian society strongly objected to the insanity claim and most people felt Breivik knew exactly what he was doing when he carried out his acts and therefore deserved a life sentence, carrying full responsibility for his actions. As for the goal of restoring social peace, the prosecution seemed not to consider this given the widespread objection in Norwegian society to the insanity plea strategy. However, regarding the goal of upholding the democratic rule of law, the prosecution's adherence to fair trial standards were shared and respected by the majority of the respondents in this research. In the end, the collective feeling was that despite the prosecution's strategy, the trial itself and the way in which Breivik was treated, was the ultimate counter-weight to Breivik's acts.

3.2 Breivik's strategy

Breivik did not relate his strategy to the classical goals of a criminal trial at all, but intended to manipulate the trial for his own, idiosyncratic purposes. Before carrying out his attacks, Breivik was aware that a trial could provide him with a stage to the world. He wrote in his manifesto: "If you for some reason survive the operation you will be apprehended and arrested. This is the point where most heroic Knights would call it a day. However, this is not the case for a Justiciar Knight. Your arrest will mark the initiation of the propaganda phase. Your trial offers you a stage to the world".²⁴

For his "propaganda phase" it was not only the attacks, but even more so a subsequent trial which would enable him to communicate with like-minded people from all over the globe. Illustrative of this intention was his request to wear his self-made uniform – covered with medals of honour, portraying himself as a military war-hero.²⁵ Breivik did not try to "win" the trial in terms of avoiding imprisonment – after all, he did not deny perpetrating the attacks – but used the trial to win over more sympathisers for his mission. He wanted to generate a "maximum amount of sympathisers and supporters".²⁶ Newspaper *Verdens Gang* published extracts of a letter Breivik sent from his cell in which the defendant underscored this point: "The process looks like a circus with 450 accredited journalists from all over the whole world. I cannot say I look forward to it, but it is certainly a unique opportunity to explain the idea of 2083 [referring to his manifesto]".²⁷

Attorney Geir Lippestad, who led Breivik's defence team, agreed with Breivik from the start that he would only cover the legal issues regardless of Breivik's political and communicational ambitions during the trial.²⁸ As a consequence, the defence planned to pursue an insanity plea, trying to have Breivik declared mentally ill and thus not responsible for his actions. Breivik initially had no objections to this. At the same time, the court initiated a psychiatric evaluation of the perpetrator. On 29 November 2011, the forensic psychiatrists Torgeir Husby and Synne Sørheim delivered their report concluding that

²⁴ A. Breivik, *2083: A European Declaration of Independence* (London, 2011), http://www.fas.org/programs/tap/docs/2083_-_A_European_Declaration_of_Independence.pdf.

²⁵ "Breivik i avhør: - Slik var min pompøse uniformsbloff", *Dagbladet* (15 April 2012), http://www.dagbladet.no/2012/04/15/nyheter/breivik/anders_behring_breivik/terrorangrepet/innenriks/211114.30/.

²⁶ A. Breivik, *A European Declaration* (2011), p. 1104.

²⁷ "Breiviks egne ord fra fengselsellen", *Verdens Gang* (2012), <http://www.vg.no/nyheter/innenriks/22-juli/artikkel.php?artid=10064799>.

²⁸ G. Lippestad, *Det kan vi stå for* (Oslo: Aschehoug & Co., 2013), p. 42.

Breivik suffered from *paranoid schizophrenia*, and that he was *psychotic* during the attacks and during the period of observation afterwards. Not surprisingly, the question of Breivik's mental condition received great public interest and was widely covered by the media. The psychiatric assessment had a profound impact on the strategies of Breivik and his defence.

Despite the fact that Breivik knew his team was working for a compulsory mental health care verdict, for him the report came as a shock. In order to fully mobilise support, Breivik was adamant that he should not be deemed insane. Hence, he was outraged by the first psychiatric report's conclusion that he was a paranoid schizophrenic. In a 38 page letter written in jail and sent to various Norwegian media, he said that it was the "worst that could happen [...] as it would be the ultimate humiliation. [...] Sending a political activist to a mental hospital is more sadistic and cruel than killing him! It is a fate worse than death".²⁹ If he wanted to inspire future generations of violent right-wing extremists, he needed to be perceived as a rational actor and role model of all of those still on the fringes. Another factor that influenced Breivik's view of his defence strategy was the access to media he was given on 13 December 2011, which led him to conclude that his description in the media did not live up to his expectations.³⁰ As a consequence, Breivik requested his lawyer on 23 December 2011 to change the defence strategy and abandon the insanity plea to escape a long prison sentence.³¹ Refuting the insanity label became the new primary goal of the defence.

Breivik claimed that 80% of the information regarding the interviews that formed the basis of the first psychiatric report were "fictional, malicious or very sophisticated lies".³² According to him, he had found 200 errors in the report and questioned the integrity of the researchers stating that "their political views made them obfuscate the accounts of their sessions [...]". Breivik argued that their aim was quite clearly to create the premise that would support the diagnosis they reached early on".³³ The second mental health assessment, which was ordered by the court, was presented in April 2012 and arrived at the opposite conclusion, stating that Breivik was found to be sane at the time of the attacks. Breivik was said to be "satisfied with the findings and had counted on it".³⁴ Towards others who questioned his sanity, Breivik responded by questioning their professionalism.³⁵

Breivik lost much time and energy fighting the insanity charges, which inhibited his real aim, to present himself as a right-wing vanguard in "the battle against Islamism and its defenders". He felt compelled to upgrade his status as a political activist by calling upon different far-right activists as witnesses. With these witnesses the defence tried to demonstrate that Breivik was no lone lunatic, but indeed represented a broader current of political extremism. Breivik's strategy thus increasingly came to focus on convincing the audience of his sanity in order to present himself as a serious activist.

A central part of this strategy consisted of repeatedly proclaiming the significance of the (future) number of adherents to his ideology. This tied in with his manifesto, in which he had constructed an audience, real or imaginative, to whom he could address his message. For example, Breivik frequently used the collective "we" in his manifesto and during his trial to refer to those who shared his right-wing ideas.³⁶ At the same time, he portrayed people he disagreed with as ignorant or weak. Breivik's

²⁹ "Les deler av innledningen i Breivik-brev", *Verdens Gang* (4 April 2012), <http://www.vg.no/nyheter/innenriks/22-juli/artikkel.php?artid=10049584>; see also Reuters, "Diagnosis of insanity would be 'worse than death', Norway killer says", *The Globe and Mail* (4 April 2012), <http://www.theglobeandmail.com/news/world/diagnosis-of-insanity-would-be-worse-than-death-norway-killer-says/article2391583/>.

³⁰ T. Bjorgo and C. Hemmingby, "Strategies in court: The Anders Behring Breivik-case", *Presentation during ICCT Expert Meeting on the Breivik case* (The Hague, 11 April 2013).

³¹ "Jeg har ikke snakket med Breivik siden vi avsluttet saken", *Dagbladet* (21 November 2012), http://www.dagbladet.no/2012/11/21/nyheter/innenriks/geir_lippestad/terrorangrepet/terror/24469707/.

³² *Verdens Gang* (4 April 2012).

³³ *Ibid.*

³⁴ H. Lilleas & T. Lepperod, "Lippestad: Slik Breivik trodde", *Nettavisen* (10 April 2012), <http://www.nettavisen.no/nyheter/article3372425.ece>.

³⁵ 22nd of July Court Transcript, "Transcript 2012-06-08", *Oslo District Court* (8 June 2012), <https://sites.google.com/site/breivikreport/transcripts/anders-breivik-court-transcript-2012-06-08-live-report>.

³⁶ This idea of belonging to a specific "in-group" might function as a pull-factor for adjusting one's (social) identity. See for instance M. Sageman, *Understanding terror networks* (Philadelphia: University of Pennsylvania Press,

narrative offered people an opportunity to belong to an alliance, which will eventually win the “European culture war”. In his final statement in court, Breivik once again appealed to his imaginary audience of potential supporters and sympathisers. With his statement of regret – cut short halfway through by an irritated Judge Artzen – he wanted to apologise to “all militant nationalists in Norway and in Europe for not having killed more traitors”.³⁷

He presented himself over and over again as the Caucasian hero who came to the rescue on behalf of a suppressed European people. He defended his attacks as the only way to prevent an Islamisation of the continent, saying he would do it all again, because he was “trying to prevent civil war in Norway in the future. I and others in Europe are convinced we can avert a major civil war. If we wait another 20-30 years, ethnic Europeans will be in the minority”. In Breivik’s opinion, his actions were “based on goodness, not evil”³⁸ and he was acting “out of necessity”.³⁹ Breivik acknowledged that the 22 July attacks were barbarian – but only of limited scale compared to the acts of a future civil war as caused by Europe’s inevitable Islamisation. He even went as far as describing his deeds as “gruesome”. He had “acted against human nature”, and he apologised for innocent casualties, referring to those without political connections. He also said that he understood the loss inflicted on the victims’ families, as he had lost his friends and family after the attack as well.⁴⁰ At the same time however, he did not show any emotion or remorse. During the first days of the trial, Breivik described his attacks as “the most spectacular sophisticated political acts in Europe since the Second World War”.

Although the victims’ and survivors’ lawyers received many messages of protest from people who felt Breivik’s statements were extremely offensive and despite the fact that the judges tried to limit his rampages, Breivik demanded to continue in order to explain his motives. His legal counsel Geir Lippestad acknowledged the victims’ suffering, and understood that they did not want the court to turn into a theatre show. However, the defence team did not inhibit their defendant in voicing his claims, saying “he has a right as a defendant in Norwegian law to give a statement, and also a human right”.⁴¹

In his final statement Breivik again re-iterated that he did not recognise the court because of its “mandate from political parties that support multiculturalism”.⁴² He added that:

By discarding my allegations of the principle of necessity and sentencing a representative of the Norwegian resistance movement you have sided with the multicultural majority in parliament and therefore you also expressed support for the multiculturalist ideology.

Since I do not recognise this court I cannot legitimise the Oslo district court by accepting this sentence. In my view this sentence and judgment is illegitimate and at the same time I cannot appeal against the judgement because by appealing I would legitimise the court.⁴³

2004); T. Bjørge, and J. Horgan, eds., *Leaving terrorism behind: Disengagement from political violence* (New York: Routledge, 2009); J. Horgan, “Psychological factors related to disengaging from terrorism: Some preliminary assumptions and assertions”, in C. Benard, ed., *A future for the young: Options for helping Middle Eastern Youth escape the trap of radicalization* (Santa Monica, CA: RAND Corporation, 2005), http://www.rand.org/pubs/working_papers/WR354/.

³⁷ 22nd of July Court Transcripts, “Transcript 2012-08-24”, *Oslo District Court* (24 August 2012), <https://sites.google.com/site/breivikreport/transcripts/anders-breivik-court-transcript-2012-08-24-live-report>.

³⁸ Ibid.

³⁹ 22nd of July Court Transcript, “Transcript 2012-06-22”, *Oslo District Court* (22 June 2012), <https://sites.google.com/site/breivikreport/documents/anders-breivik-court-statement-2012-06-22> [Note: in the transcript “necessity” is wrongly translated as “self-defence”].

⁴⁰ 22nd of July Court Transcript, “Transcript 2012-04-23”, *Oslo District Court* (4 April 2012), <https://sites.google.com/site/breivikreport/transcripts/anders-breivik-court-transcript-2012-04-23-live-report>.

⁴¹ NRK, “Lippestad: Vurderer å be om utsettelse av saken” (16 April 2012), <http://www.nrk.no/227/dag-for-dag/forsvarerne-vil-kanskje-utsette-1.8076216>.

⁴² 22nd of July Court Transcript, “Transcript 2012-08-24”, *Oslo District Court* (24 August 2012), <https://sites.google.com/site/breivikreport/transcripts/anders-breivik-court-transcript-2012-08-24-live-report>.

⁴³ Ibid.

Based on his statements and behaviour in court, Breivik's performative strategy rebelled against the Norwegian judicial system in which he was forced to participate by means of his own trial. It seems clear therefore that delegitimising this system had become an integral part of his right-wing extremist communications.

3.3 Perception of Breivik's strategy

The survey asked participants whether they thought the media paid too much, enough or too little attention to Breivik during the trial. The results (see Table 4) indicate that most people in this research felt that the media paid enough attention to Breivik's perspective. Nonetheless, more than a third of respondents felt they paid too much attention to his perspective.

Too little attention	Enough attention	Too much attention
5%	48%	37%

Table 4: Media attention of Breivik's perspective in the media

One specific reaction to Breivik's performative strategy was the public's reaction in the square in front of the court building. During the trial, many people gathered to sing the Rainbow Song, a song that Breivik had referred to in court as an example of how Norwegian students were being brainwashed by Marxist propaganda.⁴⁴ Displays of collective mourning and the direct response by the general public to Breivik's statements during the trial also showed the involvement of the Norwegian public in the trial. This could be interpreted as society trying to send a message to the government, Breivik and his possible (future) followers. It seemed to stress, in line with the argument put forth by Prime Minister Jens Stoltenberg, the need for a democratic response to the attacks. Similarly, the survey indicated that respondents wanted a structured and inclusive debate about the Norwegian democratic system and refuted the exclusion of certain extremist groups from society or from public debate.

Breivik's aim to use the trial to further his own extremist motives was recognised by the public present in and outside the courtroom. Throughout the trial, the amount of time Breivik received to make his own statements was a contested issue in the Norwegian media. The discussion centred around the possible effect: it could both inspire and set off potential followers or adherents to right-wing extremism. The copy-cat effect of Breivik's performative strategy became apparent in the aftermath of the trial when a series of events were in some way or another connected to Breivik. First of all, Breivik's manifesto was translated into many languages, including Russian, Dutch and German. Also, thirteen months after Breivik's attacks, a "Russian Breivik" was arrested in Moscow for shooting and killing six colleagues and releasing a hate manifesto online.⁴⁵ Only a week later, a 29-year-old man in the Czech Republic was charged over a Breivik-style plot, using the name Breivik online and planning a large attack with explosives.⁴⁶ In November of that same year, Polish authorities arrested a radical nationalist who was planning to blow up the Polish parliament building and who linked himself to Breivik.⁴⁷

Finally, Breivik received many love letters,⁴⁸ as well as correspondence and drawings from children.⁴⁹ In a letter he wrote to Tania, a woman who had written him, he says: "A lot of people around the world have expressed their support for me, in summary, I have received over 250 letters, most of

⁴⁴ Breivik Trial Court Transcript, "Transcript 2012-04-20", *Oslo District Court* (20 April 2012), <https://sites.google.com/site/breivikreport/transcripts/anders-breivik-court-transcript-2012-04-20-live-report>.

⁴⁵ A. Lobzina, "'Russia's Breivik' suspect charged with mass murder", *The Moscow News* (11 August 2012), <http://themoscownews.com/local/20121108/190828279.html>.

⁴⁶ "Czech police charge man over 'Breivik-style' plot", *British Broadcasting Corporation* (18 August 2012), <http://www.bbc.co.uk/news/world-europe-19304814>.

⁴⁷ D. Leszkowicz and M. Goettig, "Poland arrests bomb plotter linked to Norway's Breivik", *Reuters* (20 November 2012), <http://www.reuters.com/article/2012/11/20/us-poland-attack-idUSBRE8AJ0HQ20121120>.

⁴⁸ "Breivik gets love letters from 16-year old girls", *The Local* (18 June 2012), <http://www.thelocal.no/20120618/breivik-gets-love-letters-from-16-year-old-girls>.

⁴⁹ "Children write letters to Breivik", *The Nordic Page* (18 December 2012), <http://www.tnp.no/norway/panorama/3443-children-write-letters-to-breivik>.

which are bills, LOL [sic]. About 60% of the letters is [sic] positive, 10% is [sic] from people who want me to find Jesus, and 30% from those who hate me”.⁵⁰

However, overall it seems Breivik’s propaganda has led to different outcomes. Major newspapers rejected his articles, and several anti-Islamic ideologues he admired, such as Peder Are Nøstvold Jensen (known as Fjordman), refused his proposals for cooperation.⁵¹ Also, rather than inspiring a new generation of followers or sparking a far-right-extremist revolution in Europe, his public performance during the trial appears to have had the opposite effect. Although European white nationalist movements, of which Breivik represents an extreme fringe, have been on the rise over the last years, the popular backlash against Breivik and his ideology has put them on the defensive. Far-right movements such as the English Defence League denied links, alleged ideological connections and any ideological overlap with Breivik.⁵² When far-right parties held a mass rally in Denmark in April 2012, opposing protesters actually outnumbered them.⁵³

Finally, the trial was viewed by many as not sending Breivik’s message, but instead, effectively demonstrating the Norwegian system of criminal justice to the world. Professor Thomas Mathiesen of Oslo University was quoted saying that “the Norwegian system is not about revenge, but sober, dignified treatment” of even the worst criminals.⁵⁴

In short, Breivik’s performative strategy was immediately recognised as such and vehemently rejected by society at large. The singing of the Rainbow Song and national discussion in the media regarding the amount of attention on Breivik during the trial underscored and defended the importance the Norwegian people attribute to the democratic system and the rule of law. Respect for both, a fair trial as a cornerstone to a functioning democratic system, and for an inclusive debate demonstrated the Norwegian public’s prioritisation of the judicial goals of stabilisation and upholding the democratic rule of law much more than a plain yearning for retribution or general prevention.

4. The Breivik Trial as a Coping Mechanism?

This leads us to the third and final question: how has the trial helped the Norwegian people present in and outside the courtroom in coping with the grief and stress caused by Breivik’s attacks?

The questionnaire asked which goals of a fair trial people find important, and whether they feel these were attained in the Breivik trial. The hypothesis is that if an important goal has been attained by the trial that this then may have helped respondents to cope better. The goals listed in the survey were more detailed than the five classical (formal and informal) goals of criminal justice with additional specifications added:

1. Revenge;
2. Preventing the suspect from committing another crime (specific prevention);
3. Preventing others from committing such a crime (general prevention);
4. Truth-finding;

⁵⁰ “Anders Behring Breivik Letter 15-01-12 to Tania”, The Breivik Archive (15 January 2012), <https://sites.google.com/site/breivikreport/letters/anders-breivik-letter-12-01-15>.

⁵¹ J.A. Ravndal, “A Post-Trial of Anders Behring Breivik” (29 October 2012), <http://www.ctc.usma.edu/posts/a-post-trial-profile-of-anders-behring-breivik>.

⁵² M. Fisher, “What America can learn from Norway’s Anders Breivik trial”, *The Atlantic* (18 April 2012), <http://www.theatlantic.com/international/archive/2012/04/what-america-can-learn-from-norways-anders-breivik-trial/256066/>.

⁵³ “European far-right groups seek to build anti-Islamic network, meet protests”, *Reuters* (2 April 2012), <http://blogs.reuters.com/faithworld/2012/04/02/european-far-right-groups-seek-to-build-anti-islamic-network-meet-protests/>.

⁵⁴ AP, “Anders Breivik trial displays Norway’s formal legal system”, *Washington Post* (17 April 2012), http://www.washingtonpost.com/world/anders-breivik-trial-displays-norways-formal-legal-system-as-confessed-killer-gets-to-explain-fanatical-views/2012/04/17/gIQA5t8kOT_story.html.

5. Enabling all the involved parties to present their perspectives;
6. Restoring stability in society;
7. Reaffirming the rule of law and democratic values; and
8. Providing closure.

Table 5 presents the results of these questions.

	Important	Attained
Revenge	8%	4%
Prevention	75%	56%
Symbolic Function	56%	22%
Truth finding	49%	39%
Present perspectives	40%	49%
Restore stability	43%	29%
Democratic values	61%	57%
Provide closure	56%	44%

Table 5: Judicial goals: important and attained

One interesting result is the very small number of eighteen participants (8%) who viewed *revenge* as an important goal in a fair trial. Even though revenge, or retribution, is one of the classical goals upon which criminal justice in the western world is based, it seems that for most of the participants in this research, this judicial goal was not that important. Laila Bokhari, member of the 22nd of July Commission that investigated the Breivik attacks and the government's performance, commented upon this lack of feelings of revenge in Norwegian society:

If you look at the wording in court from the victims, it is not about him [Breivik] or about revenge. In a sense, this is not about Breivik himself. People do not want him to have a role in society. The word revenge has very seldom come out. So retribution in this trial is not so much about revenge, but more about putting back what is right and wrong and focusing on how can we prevent something like this from happening again in the future? And that is also part, I think, of the coping mechanisms: looking forward, and not looking back.⁵⁵

Specific prevention (preventing Breivik from committing another crime) and *democratic values* (restoring the rule of law and democratic values) were viewed as the most important goals of a fair trial. The latter was also confirmed by many of the interviewees. In general, the trial itself was viewed as society's answer to Breivik's (undemocratic) principles and worldview. Most participants (57%) felt that the goal of upholding democratic values had been achieved through the trial. The trial ended with a verdict that declared Breivik sane and legally responsible for his acts. He was sentenced to 21 years in prison but with a "preventive detention" clause allowing for his time in jail to be extended as long as he is deemed a threat to society.

Regarding *general prevention*, the trial also served an important purpose. On a (inter-)national policy level, the developments and the concerns relating to "lone-wolf" terrorists like Breivik revealed the need for serious scrutiny of national security strategies. The 22nd of July Commission had already

⁵⁵ Laila Bokhari (member of the 22 Juli Kommisjonen), interview by authors, Oslo, 23 August 2012.

concluded before the end of the trial that “[a]ll in all, July 22 revealed serious shortfalls in society’s emergency preparedness and ability to avert threats [...] The challenges turned out to be ascribable to leadership and communication to a far greater extent than to the lack of response personnel”.⁵⁶

The idea that (right-wing) lone wolf terrorism posed a new serious threat led to an increased emphasis, both inside and outside Norway, on communication in times of crisis, the monitoring of right-wing extremists, but also on the policies that relate to the purchasing and possessing of certain accessories that could be used for terrorist attacks. Janne Kristiansen, former head of the Police Security Service – Norway’s domestic intelligence branch – said that Breivik represented a new paradigm. “A lone wolf who has been very intent on staying under the radar of the security services by leading a lawful life”, adding that the unconnected terrorist is “one of their biggest worries”.⁵⁷ In the United Kingdom, public figures like Home Secretary Theresa May and one of the founders of the Centre for Fascist, Anti-Fascist and Post-Fascist Studies at Teesside University, Matthew Feldman, highlighted the growing threat of a Breivik-style attack in Britain. May stated that there had been an “increased focus on right-wing groups in the last year or so, particularly since the Breivik incident in Norway. [...] It’s still the case that we’re likely to see a lone actor on the basis of right-wing extremism”.⁵⁸ Feldman concluded that someone like Anders Breivik will be on the radar “sooner or later”.⁵⁹

However, the most important goal the trial seemed to serve, in the eyes of the respondents and as supported by media reports, was the goal of *closure*, closely connected to the trial as a symbol for the defence of the Norwegian democratic system. One of the interviewees, Laila Bokhari, said:

There has been a lot of discussion in the media whether Breivik’s trial was actually preventing or inspiring others and about the role the media has played. What words did they use to describe him, what pictures did they show etc. In a way, a lot of people argued that just by hearing his words, he would actually fall from his statue because everyone could see for themselves that his statements do not make sense. At the same time, there has been a rising awareness that we, as citizens, need to be engaged in that discussion, in the media, in political parties, in youth groups, to counter his principles. For example: he used the children’s song, the Rainbow Song, to show his disgust with multiculturalism and what was our reaction? Everyone met up in the square and sang that song. Maybe that is a crazy thing for people to do but I think it is also part of our coping mechanism and saying: ok, we have given him his platform but at the same time, that demands us to be active citizens and respond to his views.⁶⁰

5. Terrorism Trials and Coping

A traumatic event is defined in *The Diagnostic and Statistical Manual of Mental Disorders IV* (DSM) as an event in which both of the following were present: 1) the person experienced, witnessed, or was confronted with an event or events that involved actual or threatened death or serious injury, or a threat to the physical integrity of self or others; and 2) the person’s response involved intense fear, helplessness, or horror. It notes in children, this may be expressed instead by disorganised or agitated behaviour.⁶¹

⁵⁶ 22 juli Kommisjonen (10 Januari 2013), <http://22julikommissjonen.no/en>.

⁵⁷ W. Boston, “Norway Attacks: The Worrying Rise of the Lone-Wolf Terrorist”, *Time* (28 July 2011), <http://www.time.com/time/world/article/0,8599,2085658,00.html>.

⁵⁸ R.-J. Ford Rojas, “Risk of ‘lone wolf’ terrorist attack growing”, *The Daily Telegraph* (14 January 2013), <http://www.telegraph.co.uk/news/uknews/terrorism-in-the-uk/9799192/Anders-Breivik-style-attacker-will-slip-under-the-radar-in-Britain-sooner-or-later-expert-warns.html>.

⁵⁹ *Ibid.*

⁶⁰ Laila Bokhari (member of the 22 Juli Kommisjonen), interview by authors, Oslo, 23 August 2012.

⁶¹ American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders 4th ed.* (Washington DC: American Psychiatric Association, 1994), p. 256.

The survey showed that the Breivik attacks caused a self-reported trauma, the psychological consequences of a traumatic event, in 24% of the interviewees. This percentage hovers between the prevalence of post-traumatic stress disorder (PTSD) one month after a traumatic event, which ranges from 23% among survivors of the Oklahoma city bombing⁶² to 29% among survivors of the 1991 mass shooting episode in Killeen, Texas.⁶³ This data suggests that the psychological proximity had a significant influence on traumatising in the survey. This relationship was also found in other studies on traumatic incidents. This is seen in the especially high prevalence of PTSD among people involved in recovery, rescue and cleaning efforts. For example, 22.5% and 20% of disaster workers were found to suffer from PTSD at two weeks and 10-15 months mark, respectively, after the 9/11 terrorist attacks in the United States (US).⁶⁴ In the Breivik case, other predictors of higher stress responses were of non-Nordic ethnic background, an older age and of female gender.⁶⁵

These statistics illustrate how the majority of people generally show great resilience to the impact of a traumatic event. The extent to which people are able to cope with the upsetting experience can explain why some people fare better than others when they are confronted with a traumatic event. Coping can be defined as thoughts and behaviours that people use to manage the internal and external demands of situations that are appraised as stressful. As coping responses are initiated in an emotional environment, often one of the first coping tasks is to down-regulate negative emotions that are stressful and that may be interfering with adequate ways of coping.⁶⁶

Few studies have focused on coping mechanisms after terrorism attacks and, to the authors' knowledge, this is the first study focusing on the influence of a trial on coping. A study by Schuster et al.⁶⁷ indicates that Americans responded to the 9/11 attacks in various ways. Most turned to religion, and also to one-another for social support. They checked on the safety of those they cared about, talked about their thoughts and feelings, and participated in activities such as vigils, which can provide a sense of community. They also made donations. In summary, they pulled closer to each other. This phenomenon was also clearly reflected in Oslo, where 40,000 people sang a song together as a protest against Breivik's ideas.

This social sharing of emotions related to collective trauma, which occurred frequently in the year between the Breivik attack and the trial, fulfils psychosocial functions that are similar to those attained by rituals. First of all, social sharing reinforces empathy, attraction, and social support or social integration. Secondly, it also reinforces and helps to reconstruct basic assumptions or social positive beliefs. Third, social sharing fosters the transmission of common feelings and the construction of a common emotional atmosphere and climate, by both verbal and non-verbal contagion of similar feelings. Finally, because of the reinforcement of social integration and positive beliefs, social sharing also helps to construct a positive emotional climate, emphasising trust, hope and positive feelings.⁶⁸

⁶² C.S. North, L. Tivis, J.C. McMillen, B. Pfefferbaum, E.L. Spitznagel, J. Cox, S. Nixon, K.P. Bunch and E.M. Smith, "Psychiatric disorders in rescue workers after the Oklahoma City bombing", *American Journal of Psychiatry*, no. 159 (2002), pp. 857-9.

⁶³ C.S. North, E.M. Smith and E.L. Spitznagel, "Posttraumatic stress disorder in survivors of a mass shooting", *American Journal of Psychiatry*, no. 151 (1994), pp. 82-8.

⁶⁴ C.S. Fullerton, R.J. Ursano, J. Reeves, J. Shigemura and T. Grieger, "Perceived safety in disaster workers following 9/11", *Journal of Nervous and Mental Disease*, no. 161 (2006), pp. 61-63; and Centers for Disease Control and Prevention, "Mental health status of World Trade Center rescue and recovery workers and volunteers July 2002-August 2004", *MMWR Weekly* 53, no. 35 (10 September 2004), <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5335a2.htm>.

⁶⁵ S. Thoresen, H. Flood Aakvaag, T. Wentzel-Larsen, G. Dyb and O.K. Hjemdal, "The day Norway cried: Proximity and distress in Norwegian citizens following the 22nd July 2011 terrorist attacks in Oslo and on Utøya Island", *European Journal of Psychotraumatology*, no. 3 (2012).

⁶⁶ S. Folkman and J.T. Moskowitz, "Coping: Pitfalls and promise", *Annual Review of Psychology*, no. 55 (2004), pp. 745-74.

⁶⁷ M.A. Schuster, B.D. Stein, L.H. Jaycox, et al. "A national survey of stress reactions after the September 11, 2001 terrorist attacks", *New England Journal of Medicine*, no. 20 (2001), pp. 1507-12.

⁶⁸ B. Rime, "Emotion elicits the social sharing of emotion: Theory and empirical review", *Emotion Review*, no. 1 (2009), pp. 60-85.

Positive meaningful events, like social gatherings, are linked to positive emotion because they reaffirm what one values, and help to focus on those values while coping with the on-going stressful event. Data confirms that participants in demonstrations experience feelings of solidarity, perceiving that people act and feel together, and that such participation reinforces shared beliefs.⁶⁹ If we focus on the strong social sharing in Oslo, the survey showed that 47% agreed with the statement that “sharing of feelings enabled me to better cope with my own feelings”. A smaller share of 38% chose the neutral answer and 7% disagreed with this item. Hence, it can be concluded that for a big part of the Oslo inhabitants surveyed, the social sharing of emotions has helped to decrease their negative feelings by creating a collective voice against the ideas of Breivik.

Thus, it appears that social sharing and the way the Norwegian government managed the trial have helped people to reframe their perception of the Breivik attacks. The survey queried whether the individual perception of the trial could help people to better cope with their negative feelings. Of the respondents, 32% said the trial indeed helped them to better cope with their feelings, whereas 52% were neutral about the influence of the trial on their coping. The rest of the interviewees (8%) thought the trial made them cope worse.

It could be argued that people underestimate the influence of the trial on their ability to cope with the traumatic experience. A transparent and fair trial is often taken for granted, as are the positive consequences of trials for individuals’ coping mechanisms. A fair trial can lead, for example, to less provocation when confronted with memories of the trauma, because these memories are more assimilated and integrated. The trial following the Lockerbie bombings of 1988 demonstrated the impact that a negative perception of a trial can have on the victims. As the crime took place outside the US, no coordinated victim services were offered for eight years by the US government. Families of the victims were very unsatisfied with the information they received about the bombing, investigation and trial. After eight years, the Office for Victims of Crime (OVC) of the US Department of Justice provided support, and family members indicated that their attitudes toward the government’s response to the victims’ family members improved significantly. The increased transparency was greatly appreciated.⁷⁰ Providing victim services proved to be important to more structural victim participation in, and satisfaction with, the criminal justice system.

The focus on problem solving and psycho-education in many psychological interventions for trauma⁷¹ shows the importance of justice and information for healthy coping. A fair and transparent trial can play a significant role in helping people with this. In relation to the role of the Breivik trial on peoples’ coping abilities the psychiatrist Ulrik Frederik Malt from Oslo University Hospital argued:

Showing the Norwegian people that the state can handle this in a systematic and humane way can help people, in my opinion. And all the psychiatric discussions, although it will be confusing sometimes, show that in Norway we try to understand people and we do not just hit back. We tried to understand what was going on there; I think this helped people to cope.⁷²

Other interviewees, including journalists, researchers and Oslo inhabitants, shared this opinion. The survey reflected these ideas partially, with a third of the respondents indicating that the trial helped them to better cope with their feelings. Combining these results, it may be tentatively concluded that the way the trial was managed had a positive influence on coping abilities of the majority of the people.

⁶⁹ J. Drury, C. Cocking, J. Beale, C. Hanson and F. Rapley, “The phenomenology of empowerment in collective action”, *British Journal of Social Psychology*, no. 44 (2005), pp. 309-28.

⁷⁰ D.P. Kelley and E. Erez, “Victim participation in the criminal justice system” in R.C. Davis, A.J. Lurigio and W.G. Skogans, eds., *Victims of crime* (2nd ed.) (Sage: Thousand Oaks, 2007), p. 277-97.

⁷¹ D.W. Smith, D.G. Kilpatrick, S.A. Falsetti and C.L. Best, “Postterrorism services for victims and surviving family members: lessons from pan am 103”, *Cognitive and Behavioral Practice*, no. 9 (2002), pp. 280-6.

⁷² U.F. Malt, interview by authors, Oslo, 23 August 2012.

6. Conclusion

This research has investigated how the Breivik trial was used by the parties involved to further their performative strategies, how these strategies relate to classical judicial goals, how this relationship was perceived within Norwegian society and how the trial helped society in coming to terms with what happened on 22 July. This research paper focused on the judicial goals, the strategies pursued by the parties in the trial (prosecution and defence teams) and the public perceptions of those strategies. Those interviewed included a range of actors involved in the trial and 250 people who completed the survey.

Based on those combined results, it can be concluded that the trial did indeed influence the coping mechanisms of our respondents in a positive way and that most viewed the trial as part of their answer to Breivik's acts, perceiving the trial as a counter-narrative to Breivik's story. Overall, the trial was viewed as an example of a performance of justice and as a trial that focused on the democratic values of Norwegian society – contrary to Breivik's values. One survey respondent summarised this by saying, "Don't let one terrorist take our rights".⁷³ Norwegians largely supported the prosecution's strategy, with the major exception that they did not want Breivik to be declared insane.

The prosecution's strategy to try and have Breivik declared insane and sent to a mental institution provoked varied reactions in Norwegian society and unveiled a tension between the prosecution's strategy and the goal of retribution. As Breivik himself had said, having him declared insane would have been "the ultimate humiliation", and therefore that strategy could have served the goal of retribution in the sense that Breivik would have received exactly what he did not want. However, despite the prosecution's strategy, the collective feeling was that the trial itself and the fair way in which Breivik was treated was the ultimate answer to Breivik's acts. In spite of their diverging opinions, the prosecution's adherence to fair trial standards was respected by the majority of the respondents of this research. Norwegians' open and respectful attitude was reflected in their views on the importance of judicial goals: prevention and democratic goals were seen as the most important aims of the trial, while rehabilitation was the least important goal for the respondents. The reaction of media around the world to the trial and in particular to the prosecutors' handshake with Breivik showed that Norway might be a unique country in relation to this topic.

Breivik's strategies received widespread attention in the media: both his initial plea for insanity to escape a lengthy prison sentence and his strategy to escape the insanity label in order to be perceived as a rational role model for right-wing extremists were covered by news media. Many (international) commentators questioned whether Breivik exerted too much communicative power during the trial. A substantial number of the respondents (37%) agreed that Breivik received too much attention – both in terms of the amount of time he was given to present his perspective in court and the attention he received from the media. On the other hand, many respondents felt that this attention did not elevate his status, but in fact undermined his position in the sense that anyone could now see that his statements were incoherent and nonsensical, as Laila Bokhari argued. These results again show that Norwegians trusted that Breivik's opinions would be overruled by moderate opinions and behaviour, leading terrorism researcher Tore Bjørgo to say in an overall assessment of the trial that, "we don't think that the trial has or will produce copy-cats, but we hope that it will instead produce copy-cat trials".⁷⁴

The influence of a criminal trial on coping is a highly under-researched topic in general, but the influence of a *terrorism* trial on coping with the initial attack is an unexplored issue. This Research Paper provides some preliminary evidence for a positive relationship between a fair trial – with respect to classical judicial goals – and coping mechanisms in society. When focusing on individuals, a mild positive influence was found: 32% of the survey participants responded that the trial helped them to better cope with their feelings. This might constitute an underestimation because people are not aware of a direct positive influence of the trial on their feelings, whilst a negative impact would probably have caused a much higher negative result. It can be concluded, therefore, that a fair and transparent trial with enough

⁷³ L. van der Heide, S. Wanmaker, D. Weggemans and B. de Graaf, "The 22nd of July Trial reaches its final stage" (12 September 2012), <http://icct.nl/publications/icct-commentaries/the-22nd-of-july-trial-reaches-its-final-stage>.

⁷⁴ "Past Events: Terrorists on Trial: The Case of Anders Behring Breivik", ICCT – The Hague Meeting Report (11 April 2013), <http://www.icct.nl/activities/past-events/terrorists-on-trial-the-case-of-anders-behring-breivik>.

opportunities for all actors to demonstrate their viewpoint is a necessary condition for strong coping mechanisms in society. However, more research is needed to verify these preliminary findings.

All in all, the Breivik trial could be considered a “performance of justice”, in the broadest, not just formal, but also social sense of the word. As Bokhari points out:

It helped us in the process of understanding what really happened. It put things in perspective. In one way the trial gives Norwegian society a chance to show their values as a response to Breivik and in another way it gives people a chance to understand, gain insight and deal with what happened. In a way we have been forced to ask – and answer – the question of guilt.⁷⁵

⁷⁵ Laila Bokhari (member of the 22 Juli Kommisjonen), interview by authors, Oslo, 23 August 2012.

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