

Sikkerhed til salg: private sikkerhedsfirmaer på kant med menneskerettighederne – med SORCHA MacLeod

Om podcasten

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Private firmaer tager sig af stadig flere sikkerheds- og militære opgaver. Det kan være alt lige fra vagtmænd i et storcenter til regulær krigsførelse ved hjælp af lejesoldater. Men de private sikkerhedsfirmaer overtræder stadig oftere menneskerettighederne, og imens halter den internationale lovgivning på området ubehjælpeligt bagefter.

Lektor SORCHA MacLeod, der blandt andet forsker i privatisering af sikkerhed, fortæller i denne udsendelse om konsekvenserne for menneskerettighederne, og hvad vi som internationalt samfund kan gøre ved det.

Sidst i udsendelsen er Ditlev Tamm igen klar med en fortælling fra rettens kulturhistorie. I dag ser vi nærmere på de mange og ganske kuriøse ”luksusforordninger,” som danske konger gennem tiden har udsat befolkningen for.

0:00 Intro

04:01 SORCHA MacLeod

36:25 Ditlev Tamm

47:20 Outro

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Indholdet af podcasten

Jon Clausen 00:00:12

Du lytter til Juristeriet. En podcast om jura og juridisk forskning produceret af Det Juridiske Fakultet på Københavns Universitet. Private firmaer tager sig af stadig flere sikkerheds og militære opgaver. Det kan være alt lige fra at holde vagt i et storcenter til regulær krigsførelse ved hjælp af lejesoldater. Men med de private sikkerhedsfirmaers udbredelse følger også et stigende antal overtrædelser af menneskerettighederne. Og imens halter den internationale lovgivning på området ubehjælpeligt bagefter. Lyt med om et øjeblikkeligt. Sidst i udsendelsen er Ditlev Tamm igen klar med en fortælling fra rettens kulturhistorie. I dag ser vi nærmere på de såkaldte luksusforordninger, som danske konger gennem adskillige århundreder udsatte befolkningen for. Så kunne de nemlig lære at sætte tæring efter næring og leve mådeholdent. Både for Guds, men så sandelig også for statskassens skyld. Men først sikkerhed til salg.

Engelsk voiceover 00:01:24

Flere firmaer som snart kører er der Maersk InterCity og Gambari sendt tog af kanonrør poppunk. Du instruerede både S og V Seaborg omprogrammeret og woman andetkammeret arrangement ved at eftersættelse i Jens taktikkens charmetur i aftrappe.

Jon Clausen 00:01:43

I 2017 løftede FN's Sikkerhedsråd en våbenembargo i Den Centralafrikanske Republik og gav Rusland lov til at sende 175 soldater til landet. De russiske soldater skulle undervise Den Centralafrikanske Republiks hær. Men ifølge CNN, der har afdækket sagen, sendte Rusland kun fem militære undervisere. De resterende 170 personer viste sig at være lejesoldater med tilknytning til en af Putins nære allierede. I februar i år skød og dræbte de mellem 10 og 20 civile, der havde søgt tilflugt i en moské i byen Bombay, hvor de russiske lejesoldater sammen med Den Centralafrikanske Republiks hær var på jagt efter oprørsstyrker. Siden 80'erne og 90'erne har lande over hele verden i stadig stigende grad overladt sikkerheds og militære opgaver til private virksomheder. Det har udviklet sig til en multimilliard industri, der dækker alt lige fra overvågning af parkeringspladser til decideret krigsførelse med lejesoldater. Sorcha MacLeod er lektor på Det Juridiske Fakultet og forsker blandt andet i privatisering af sikkerhed og dennes konsekvenser for menneskerettighederne. Derudover fungerer hun også som uafhængig ekspert i FN's arbejdsgruppe om brugen af lejesoldater, hvor hun blandt andet undersøger menneskerettighedsovertrædelser. Sorchas forskning peger på, at de private sikkerhedsfirmaer i disse år hastigt udvider deres aktiviteter i takt med, at stater overalt i verden både privatiserer sikkerhedsopgaver og samtidig skruer ned for den offentlige finansiering til blandt andet militæret. Et godt eksempel på de private sikkerhedsfirmaers udbredelse er ifølge Sochra håndteringen af Covid, hvor mange stater har hyret private aktører til at stå for test og indsamling af data. Men de private sikkerhedsfirmaers vokseværk er temmelig problematisk, for hverken kontrol eller regulering er fulgt med. Og det betyder et stigende antal overtrædelser af menneskerettighederne, både når det kommer til de nationale opgaver som for eksempel Covid-kontrol, men i høj grad også internationalt, når for eksempel russiske lejesoldater dræber uskyldige civile i Den Centralafrikanske Republik.

Sorcha MacLeod 00:04:02

In terms of the modern understanding of private security, we can really go back to the 1990's and look at why they started to come into the public view. We had allegations that private security companies were being involved in all sorts of shenanigans, essentially, that they were being involved in fighting, that they were essentially acting as mercenaries, so they were being involved in armed conflicts. They were being involved in the provision of weapons. So you see companies starting to come into the international attention. They start to be seen as something negative. Now, of course, at the same time, we've also got private security being used domestically and lots of countries have private security.

Jon Clausen 00:05:05

So in Denmark it could be something like Falck, for instance? Which most people know is some kind of private guard used somewhere or they are taking care of home security or that kind of things?

Sorcha MacLeod 00:05:18

Absolutely. Absolutely. And so you really do have a spectrum of private security. So you might have a person who is paid to guard a parking spot all day. They don't have any kind of weapon, but they are providing a security service. And then you go all the way to the other extreme and you have a private commercial actors that are engaging in armed conflicts. And as I said earlier, this start to fall within the category of mercenary. And a mercenary is generally defined as

someone who is engaging in hostilities for financial gain. So they're actually involved in the fighting. And then you've got a whole variety of different actors in the middle who will be providing the sort of examples of security that you talked about, so they might be guarding money transfers, they might be providing security on public transport, they might be providing static security at big events or concerts or even sporting events. And that can often be alongside public security as well. So they can operate alongside local police forces, for example. They can also in some countries around the world, we're seeing them moving into new spaces. So in the UK, for example, where I'm from, since the 1980's, we've started to see private security being used and in a whole lot of new areas. So they're being used to provide security in private prisons, in immigration detention centres, in young offenders institutions, in addition to all the sort of traditional forms of security that they provided. Now, the industry has become really controversial because what happened after the 1990's is in the early 2000's, we see the interventions in Iraq and Afghanistan. And what happens in Iraq and Afghanistan is that the allied forces didn't have the logistical capabilities to deal with everything that was going on in Iraq particularly, but also Afghanistan. And so we see, particularly the Americans and particularly the British using and contracting logistical support and security services to private security contractors. And that's when, again, international attention really starts to pivot towards looking at what these private actors are doing. And there's a lot of attention is focused on them because they are accused of a whole variety of different types of human rights violations. And so the one that the listeners probably will know is Blackwater. And Blackwater involved several private security guards from an American private security company at that time called Blackwater, who were involved in the killing of civilians at a place called Nisour Square in Baghdad. And they were subsequently prosecuted in the United States, but again, listeners probably are aware that President Trump at the end of 2020, pardoned them for those actions. But there were a lot of other human rights issues. So there were allegations of torture, where these private actors were involved in the detention centres. If we think about the 1990's as phase one, we've got them operating in situations of armed conflict as well as domestically. Phase two you've got them going out into the world, not necessarily being involved in armed conflict. They're not actually fighting, but they are providing security, so they are acting defensively. They are providing security for embassies and for international organizations as well as operating domestically. And then we've got a sort of third phase. And I think this is where we're at now. Where we see many countries using private security to step in to all these new areas. So, for example, we saw Australia using private security to guard their offshore detention facilities. And again, we see the allegations of human rights violations arising.

Jon Clausen 00:10:31

That sounds like they are taking over part of what the state would usually be handling. So more and more they're taking over the state, or is it because there are more and more new areas which are just filled by the private security companies or a combination maybe?

Sorcha MacLeod 00:10:50

Yeah, I mean, it is a really good question. I think the traditional position has been that states have the right - they have the legitimacy, the legitimate right to use force. Now, the argument would be and this is an argument that's actually put forward by the European Union and the United States and the UK and others that they get to decide how to outsource security, who they should outsource it to. This is something that they, as sovereign states are permitted to do. Now, that's all very well, but the problem is that if you don't have proper regulation and you don't have proper oversight of these companies, then you start to see the problems arising. So if you compare it to public security services we have in place, you know, legislation and rules and systems and mechanisms and processes that will hold say the police, for example, to account if they engage in violence, that's unacceptable, they can be dealt with. So you can hold somebody

responsible, they can be dealt with in the courts. When you're looking at the private security sector even in Scandinavia. So even in Denmark, where the private sector is highly regulated, as soon as you're starting to take to use them in new spaces, the questions arise about how well are they being regulated? How much oversight is there? Because new issues will come up. So if we look at Covid for example, they were being used early on in tracking and tracing centres. They were being used to take information from individuals. And there are reports that that's was one of the ways that were being used in Denmark. Now, that might seem fairly unremarkable, not very problematic. But if you start to think about it a little more deeply, you can see that, well, actually, this is problematic because you've got an individual who is perhaps not trained in taking medical information because they might be asking about particular symptoms that somebody is having. They are taking private information, essentially. And so the question is, what training did this person have? What are they doing with that information? How are they using that information? Where is it being stored? Because it starts to raise all sorts of issues around privacy. And later on, we've seen them in some countries where they're actually taking biometric data. So they are perhaps taking temperatures. Somebody might be sharing personal medical information. So there's all sorts of issues around that. And one of the other things that we saw or that we've seen and are continuing to see with Covid is that the contracting mechanisms around the use of private security guards has changed. So the European Union has really quite strict rules around public procurement and what happened when Covid hit back in 2020 was that the European Commission decided that private security is an area that is essential. It was an essential service. And so the rules around procurement were loosened. So each individual member state doesn't have to go through the long, detailed processes that are associated with these kinds of public contracts.

Jon Clausen 00:15:06

Which usually takes longer time and more control, more rigorous control. So they wanted to speed it up because that was important. But then there are security issues around that?

Sorcha MacLeod 00:15:17

Exactly. So then the questions arise again. Who are they contracting with? What is the status and quality of the contractors? What training have the private security guards seen? Sorry, what sort of training have they received?

Jon Clausen 00:15:36

And is it then that the - in this case that it's easier for the state to sort of you know, I was about to say close it's eyes to what is going on there? Because suppose technically it's still the responsibility of the state. Ideally it would be, that you give a contract to a private security company under certain prescription's around the training, how it's supposed to carry out the contract and so on.

Sorcha MacLeod 00:16:08

Yeah, that's a great question. Now, legally states are not able to delegate their human rights responsibilities to private actors. And so they shouldn't be able to escape or evade those responsibilities by using private contractors. The reality, of course, is somewhat different because it seems that that's exactly what states are doing or they're trying to do, that they're trying to distance themselves from the human rights violations on the ground, especially you know, the most serious violations where we're seeing people being denied access to health care or having their privacy invaded or being evicted from their homes. And so this really brings us into regulation and legislative territory. Now, the reality is that most countries do regulate the private security industry on some level, but they don't necessarily regulate them very well. And you don't necessarily have rules in place about the training for the personnel. You don't

necessarily have rules in place for accountability and oversight. This is one of the things that is really problematic. So even when you get a country that regulates well domestically, what happens when these companies are operating outside of the country? And that's where we really start to see the problems. When they're operating away from their home, from their home country. And those are different types of private security companies. Often you get quite specialized companies that will go and provide logistical support to armed forces, for example, in an armed conflict. But sometimes they're the same companies. Sometimes, you know, you've got companies that provide domestic security and are providing all the, you know, the guarding of the money transfers that I talked about earlier, providing security in public transport, very straightforward. Sometimes the same companies are also providing this more militarized security or providing security in situations of armed conflict. And they may well be carrying weapons. They may well be able to detain people. They may well be running some sort of detention facility. And as soon as they're starting to do that, then the types of human rights violations that they're able to perpetrate, the risks are much higher. They really escalate. And the impact of what they do is much more severe.

Jon Clausen 00:19:14

What would be a good example of that? Of what we've seen that kind of operation where a country goes abroad or a security company from one country goes abroad and provides services maybe for that country, but in another country?

Sorcha MacLeod 00:19:32

Well, with my UN hat on, I can give you a really good example of that in a couple of different countries. So for example, in Libya and also in Central African Republic, we have seen Russian private security contractors who have gone to Libya, who have gone to Central African Republic, and then there are allegations that they're actually being involved in really serious human rights violations. So in Libya, there were allegations that they were involved in what are called extrajudicial killings. So they've basically been murdering people in Central African Republic. Again, there are allegations of these kinds of extrajudicial killings, but also detention, torture during detention, sexual and gender based violence, people being evicted from their homes. Some really serious allegations on a quite substantial scale. There have been other examples, if we look at Nagorno Karabakh, Turkey. We looked at Turkey's involvement in Nagorno Karabakh and there were allegations that Turkey had been essentially supplying mercenaries from a variety of different countries to support Azerbaijan's participation in the armed conflict, and that they were using a private security contractor to recruit people from places like Syria. Now, that is really problematic. We also saw allegations that this is what Russian private contractors were doing, that they were recruiting Syrians. Now, Syria is a real problem because you've got these private contractors taking advantage of people who are in a situation of armed conflict. They are often very economically disadvantaged. And they were being offered - for example, with Turkey - they were being offered incentives in the form of if anything happened to them, their families would be given the right to live in Turkey. But there's another problem with recruiting people from Syria, because, of course there has been the armed conflict that's going on in Syria, there have been people who've been involved themselves in massive war crimes and human rights violations. And if you're recruiting people from somewhere like that and you're not doing proper checks, you're not doing you know, you're not doing proper training, you don't know who you're going to get. And so we had this very strange situation where some people were being recruited and they didn't even know that they were going to be fighting on the front line. They thought they were going to be guarding oil installations in Libya, for example. And instead they find themselves on the front line. And then you've also got others who are very experienced fighters who knew exactly what they're getting into and have a history of human rights violations themselves. And so you've got this complete lack of oversight, complete lack of

accountability. You've got countries that are essentially waging what we would call a proxy war. So they're not directly involved in the armed conflict in Nagorno Karabakh or in Libya, for example. But they are indirectly involved because they are using these private contractors.

Jon Clausen 00:23:06

So that raises the question, of course, how do we establish oversight or what do we do as an international community to do something about this?

Sorcha MacLeod 00:23:18

Yeah, absolutely. How do we fix it? I mean, there are initiatives out there. There's lots of different things going on to try to address it. I think the most important thing is that states regulate these types of companies at the domestic level very well, and that they regulate, not just what they're doing at home, but what are they doing elsewhere. Because the reality is when they're going abroad and if they're going to countries where there's, you know, you've got an armed conflict or it is after - it's post-conflict, it's after an armed conflict and you've got weak rule of law, weak governance, maybe there's corruption involved. It's very difficult to expect the countries that are hosting these private security companies to regulate them effectively. Of course, they should still try, but it's very difficult for them to do so. In terms of what the international community is doing, there have been several initiatives, some of which are legal, are legally binding, and some of which are what we call soft law. So they're not legally binding. So the international level, we do, in fact, have an international mercenary convention, which does in fact criminalize mercenarism. However, only 37 states are a party to that convention, which is really not good. It's very - if you think you we've got more than 190 members of the United Nations and we only have 37 states are a party to the UN convention on mercenarism - that's appalling. So we certainly want to encourage more states to become a party to that convention. There are also regional. There's also some regional approaches. So the African Union, for example, also has a treaty that criminalizes mercenarism. Now, for the companies that are not mercenaries, so they're not engaging in the hostilities directly. We have two initiatives. One is called the Montreux Document, which was an initiative of the Swiss government and the International Committee of the Red Cross. It has been around for more than 10 years now, it's what we call soft law, and it doesn't create any new rules, it basically just says this is what states should do to control private military and security companies when they are in armed conflicts. And so it's all the good things that we've been talking about: you should make sure that there's oversight. You should make sure that there's training, including human rights training, including training in humanitarian law, and also that states cannot essentially delegate their responsibilities when they contract to private security companies. There's also something called the International Code of Conduct for private security providers. Again, this is soft law. Now, whereas the Montreux document was aimed at states, the International Code of Conduct is aimed at the companies themselves. And the International Code of Conduct Association was set up to oversee the code. And it has a compliance mechanism. And the companies that are members of this Code of Conduct Association have to get certification. And so they use auditors, third party auditors to examine their corporate governance systems, their mechanisms, their processes, and also how they are complying with human rights standards. Now, that all sounds great and some companies are doing better than others. I think we're now at 40 companies that have gone through the full process and have been certified by the external auditors. And then the association says, yes, they are certified, but there's lots of problems with this mechanism. The companies pay for it themselves. It's not a transparent process. And I have, in fact, done research on this that shows that the certification process is not very good at ensuring that companies are effectively implementing human rights standards. And this is something that really needs to be addressed. I think we're at 100 members in total, around about 100 members in total of the association and only 40 so far have have got this full certification. So it's a very, very slow process. And we're 10

years, more than 10 years into the process, the code from 2010. So it's you know, countries need to do more. We only have a handful of countries that are members of the association. Denmark is not one of them. Sweden is. Norway is. And one of the things I would say that Denmark could do is to become a member of the association to really encourage compliance with these standards and to really, you know, has an opportunity to lead in this in this field.

Jon Clausen 00:28:41

How come we're not a member if Norway and Sweden who we usually compare ourselves with are?

Sorcha MacLeod 00:28:46

You'd have to ask the Danish government that I think. It might just be that it's not a priority for the Danish government. But, you know, Denmark has really been a leader in terms of your business and human rights, generally. And this is an area that's very much linked to business and human rights. Yes, it has specific regulatory mechanisms, but it still falls within the business and human rights umbrella. And we're essentially asking private security companies to comply with human rights standards and their businesses. So, you know, it's a little strange, actually, that it's not something that's had a lot of attention. And I think Denmark, like all countries, needs to take a long, hard look at this sector because of the potential for human rights violations. And because, as I said, you know, they are being used in new spaces all the time. And so the regulation that exists isn't necessarily going to cover all these new spaces and new activities and new services that the companies are providing.

Jon Clausen 00:30:02

Yeah. And when we talked about this conduct and in terms of what the companies themselves are signing up for, that goes for the international, what they do internationally as well as domestically.

Sorcha MacLeod 00:30:17

Interestingly, no, it doesn't cover what they're doing domestically, and I was involved in the drafting of the code and a lot of domestic security companies fought very, very hard for this could not to apply to what happens at the domestic level. They wanted it only to apply to companies that were providing security services internationally. You got to understand that the codes, the code was a reaction to what was going on in Iraq and Afghanistan. If you remember back at the beginning, I was talking about that. And so we had these companies going primarily from North America and Europe to Iraq to Afghanistan. They were becoming involved in human rights violations and there was no mechanism to hold them to account. If some people may remember, the American government, for example, had explicitly given them immunity. There were specific rules. And that was why it was so hard to hold the Blackwater personnel to account, because the American government had basically said they can't be prosecuted. And the Iraqi government, therefore, couldn't do anything. So the Iraqi government couldn't hold them to account. And it took a really long time to try and get any sort of accountability, any sort of justice for the people who'd been killed and injured by those security personnel. So we've got a situation where the code applies to situations that are known as complex environments. And so a complex environment is a situation. It would be an armed conflict or war situation or it's a situation where the rule of law has been really badly damaged. It's been really diminished. And that could be as a result of a humanitarian disaster or an environmental disaster. So if you think about somewhere maybe that has experienced some, you know, a tsunami or a hurricane or that sorts of thing. And so the industry has positioned - they've positioned themselves as humanitarian actors almost. You know, they go and they help governments in these in these sorts of situations. So we don't have any binding rules that apply to them in these sorts of situations.

And the domestic industries fought really hard to make sure that the code did not apply to them. But as I said, they're moving into these new spaces. They're doing all these new things. And the types of rights that are potentially going to be harmed, you know, are new. And it's something that's not being properly addressed by many, many countries.

Jon Clausen 00:33:17

So if we look at some of the pressing international issues, such as climate change and international conflict, how would you say that these are going to affect private security?

Sorcha MacLeod 00:33:32

We're going to see more people being displaced because of the climate emergency, I think tied to that, I think we're going to see more situations of armed conflict. We're going to see - because we're going to see more conflicts erupting because there's going to be more competition for natural resources. For example, we're going to see, again, armed conflicts arising because of migration, these changing migration patterns. And I think the third thing that we're going to see is a change in the type of warfare probably connected to the other two. Where we're going to see urbanization of warfare. We're already seeing that to a certain extent, where armed conflict is taking place in more urban environments. We saw that in Syria, for example, which, of course, puts civilians at risk. It's going to create more displaced persons. It's going to have an impact on migration. So we're potentially going to see states turning more to the private sector to deal with those sorts of trends.

Jon Clausen 00:34:49

Because these are the areas we already see where states are turning towards the private sector. And if those areas are expanding, then you would see even more private security companies operating in those areas.

Sorcha MacLeod 00:35:01

Exactly. And many, many countries, we already see that states are reducing their spending on public security, particularly the military. So whereas historically, the military might have gone in to provide humanitarian support in a humanitarian disaster, for example, or for displaced persons in a refugee camp. What we're seeing now is that states, particularly in the global north, they don't have the capacity and the resources to do that because they've reduced their public security spending. So they're turning then to the private security sector to fill those gaps. We're going to see more and more countries resorting to private security, partly because there are all these new spaces, partly because of the reduction in public security and lack of capacity.

Jon Clausen 00:36:05

Well, Sorcha thank you for coming on the podcast.

Sorcha MacLeod 00:36:08

Thank you for inviting me. It's been a pleasure.

Jon Clausen 00:36:12

Du kan finde mere information om Sorcha og hendes forskning såvel som hendes arbejde i FN på jura.ku.dk eller i noterne til denne udsendelse, hvor vi har lagt et par links. Og så er det igen blevet tid til at bevæge os ind i det hjørne af podcasten vi kalder Ditlev fortæller, hvor professor emeritus Ditlev Tamm plejer at tage imod i pejsestuen, men som denne gang i stedet tager imod på en forholdsvis acceptabel Zoomforbindelse fra Helsinki. Coronatiden har budt på flere påbud og forbud, end vi danskere normalt er vant til. Men det sidste år er vand sammenlignet med hvordan statsmagten greb ind i vores forfædres liv. Op igennem århundrederne gjorde skiftende 8

danske konger nemlig deres bedste for at styre befolkningen i stort og småt, blandt andet ved hjælp af de såkaldte luksusforordninger. I 1586 besluttede Frederik den Anden, for eksempel at adelige bryllupsmiddage skulle være afsluttet om eftermiddagen klokken 16. Der måtte ikke danses på bordene under måltidet, og adelsfrøknerne måtte ikke bære flere smykker end en perlekrans og et par halsbånd. I 1624 strammede Christian den Fjerde grebet og besluttede at håndværkere kun måtte holde bryllup derhjemme, at tjenestepigers bryllup skulle foregå uden brudestol, at spillemænd kun måtte benyttes af dem, som havde en formue på over 5.000 daler, at bryllupsmiddagen maksimalt måtte bestå af fem retter, og at der ikke måtte serveres hverken vin, konfekt eller syltetøj. Luksusforordningerne fortsatte frem til 1783, hvor de endelig blev afskaffet. Tilbage står spørgsmålet 'Hvad i alverden skulle de dog til for?'

Ditlev Tamm 00:37:56

Ja, det er jo et rigtigt sjovt spørgsmål, som handler, som du siger, hvordan skal man egentlig regulere en befolkning? Hvad er det, man skal regulere, og med hvilke midler skal man regulere det? Og så kommer det helt rigtige spørgsmål: Nytter det så noget? Eller regulerer man nu også på den rigtige måde? Og jeg er ved at sige, at altså lige her i det sidste år, har vi jo været ude for en regulering af et omfang, vi slet ikke er vant til i Danmark. Så pludselig begynder vi måske at forstå, hvad det vil sige, når dagligdagen bliver reguleret, hvor vi skal tælle, hvor mange gæster vi har, eller hvor mange vi er sammen, hvor vi er, og hvor vi går. Men luksusforordninger er jo en gammel ting. I Danmark kan vi jo følge det helt tilbage til middelalderen. Og ét element i luksusforordninger, det er jo en økonomisk forståelse, som går ud på, at man skal være forsigtig med, at folk bruger for mange penge, fordi når man netop i et land som Danmark, hvor der i hvert fald tidligere ikke blev produceret så forfærdelig meget, så kunne der jo være en risiko for, at hvis folk fik brugt for mange penge, så brugte de den på udenlandske produkter og så forsvandt pengene jo. Altså hvis man skulle have noget ordentligt tøj i middelalderen og renæssancen, så var det typisk ikke hos en dansk skrædder eller væveri, at man fik det. Men så skulle det importeres fra udlandet. Og vi kan jo følge det helt tilbage fra ***, hvor hvis man ville have en ordentlige øl, så var det jo ikke det der sjask, hvor man stod med noget vand og noget tilfældigt byg og hældte det sammen i en baggård i København, som man skulle drikke. Der skulle man have noget importeret fra Nordtyskland, hvor man var rigtig god til at lave øl. Så det er jo en bekymring, det er jo den, at pengene forsvinder, og man har ikke den der ræson, som vi har i dag, hvor vi siger, at der er også en vis idé i luksus, fordi det er godt at folk bruger penge, fordi så kommer pengene ud og skaber mere omsætning. Det er sådan en lidt nyere indsigt, som man ikke helt havde dengang. Og så var der også krig, og man kunne være bange for, at folk havde brugt deres penge, så de ikke havde råd til at komme med penge i krigskassen. Men så kommer der jo det tredje element ind, og det kommer jo især der, hvor man kan sige, hvor luksusforordninger bliver sådan mere gængse. Og det gør de jo efter reformationen og under Christian den Tredje. Hans efterfølger Frederik den Anden og endnu mere under denne meget reguleringsivrige Christian den Fjerde. Og noget af det hænger sammen med den måde, samfundet er opbygget på. Altså man har adlen for oven, og så har man præster. Det er så ikke så svært ved dem, for dem kan man jo kende, for de går med sådan en sort præstekjole og en hvid krave, det er så det, ikke. Men så har man borgere og efterhånden som 15-1600 årene går, så er der også borgere, der begynder at tjene mange penge. Nogle af dem har måske endda flere penge - nogle af de adelige. Og nu var styreformens jo den, at det var kongen, der regerede med sit rigsråd. Rigsrådet udsprang af adelen. Adelen var i alt i Danmark mellem 1500 og 2000 personer, som havde retten i virkeligheden til alle offentlige stillinger, der var værd at have. Altså alle lensmandsposter og styrende stillinger i styret, som havde retten til al den jord, som var adelig jord, som var en stor del af jorden, som holdt strengt på, at ingen måtte komme ind i denne klasse, og som kunne påvise, at de havde aner otte generationer tilbage, som også var adelige. Det var i den grad et samfund regeret af en konge og en lille bitte klasse, for hvem det var vigtigt at fastholde det. Og så var det også vigtigt, at man kunne se, at det var en adelig. Så

kunne man jo ikke have, at, eller man kan sige, at det var sværere at fastholde den her magt, hvis enhver kunne komme her og se ud som en adelig. Og et hovedelement i det var, at man gik med en guldkæde. Det havde kun adelige ret til det, så det var et af elementerne: man måtte ikke gå med guldkæde, hvis man ikke var adelig. Og der bliver så også regler om, hvor fint tøj man må have på. Og så er der også en anden bekymring, det er jo, at en stor del af økonomien hviler på, at bønderne bestiller noget uden at have nogen glæde og uden at have nogle egentlige rettigheder. Så hvis bønderne begynder at drikke for meget øl eller bruger for mange penge på tøj i stedet for at bruge dem på, at sørge for, at der er korn og sørge for at passe deres ting, så går samfundet jo heller ikke godt. Så en slem del af det, kan man sige, går ud på at begrænse folks livsglæde. Og det er for mig at se meget typisk på mange af de forordninger, der kommer i 1500 og 1600 årene. Altså de er ødelæggelse af livsglædeforordninger, fordi man er bange for, at hvis folk i de lavere klasser bliver for glade, så laver de ikke så meget, som de kan. Og så ramler systemet jo sammen. Så er der også lidt moral i det med ædruelighed. Et bryllup skal helst finde sted inden klokken 11 inden folk har nået at drikke for meget og blevet fulde. Og så skal vi også holde op inden klokken 4, fordi så begynder folk også at blive for fulde. Så kommer der også noget økonomi ind i det, som i virkeligheden også er meget mere en klassebeskyttelse. Altså hvis adelige begynder at overgå hinanden i, hvordan man skal holde bryllup, så risikerer man jo, at de mister penge. Og hvor får man penge fra? Det gør man jo ved at låne dem. Hvem låner når man penge af? Ja, man kan være heldig, at der er nogle andre adelige, der har penge, men grundlæggende er det jo borgerene, der har penge, for det er dem, der laver handel, det er jo dem der tjener dem. Altså så risikerer man at komme til at gældsætte sig. Det kan vi jo også se gennem de forordninger, der er i den tid, som handler om noget andet. Det hele hænger jo sammen på en eller anden måde. Så er der gældsforordninger og andet, som også skal prøve at holde igen på adelens skelsættende gældsætning eller beskyttelsen af adelige. Det hænger også meget sammen med de kloge i klassen, for der er også klogere i den adelig klasse. De er jo bekymrede for, om man kan holde - naturligvis, at man kan holde på denne her magt. De kan jo godt se om man er en lille gruppe. Og ud af de 2.000 er der måske 20 i hver generation, som er nogenlunde fornuftige, og som kan sættes i et rigsråd, og som kan bestemme. Og de andre går og bruger deres penge og passer ikke på. Så må vi sørge for at passe på dem. Altså der er meget, meget passen på. Vi må passe på, at vores standsfæller ikke gældsætter sig. Vi må passe på, at de borgerlige ikke kommer til at se ud, som adelige gør, fordi så kommer de til at føle, at de er lige så fine og dygtige som os. Og hvis man er klog ved man jo godt, at det er de jo faktisk også. Men det må de ikke få at vide. Og hvis bønderne begynder at drikke for meget øl eller holde fest eller andet, så er de jo fulde i dagevis, og så kan de jo ikke gå og passe deres mark. Så der er jo et klart økonomisk fornuftigt grundlag for at holde folk til der hvor de hører hjemme. Og det giver jo så, kan man sige, en fernis af at Gud bliver fortørnet, hvis man lever overdådigt eller ikke passer sit arbejde og andet. Men skræller man det af, kan man jo se, at så er det jo på sin vis helt fornuftigt, fordi det i virkeligheden er en slags arbejdstid. Det er i virkeligheden en arbejds- og pengeregulering, som går ud på at holde det inden for nogle rammer, som man mener, samfundet nogenlunde kan klare og forhindre den der excess. Vi er næsten inde i sådan noget med bakhtin og karneval og alt det der. Altså vi skal passe på, at dette her ikke eksploderer i karnevals og fornøjelser og alt muligt andet, som kan være til skade for dem som har magt. Det er også karakteristisk, at kongen overholder det jo ikke selv - altså hvis kongen har bryllup. I 1634 kender vi den udvalgte prins Christians bryllup. Der blev fyret af fester i dagevis og masser af gæster og alt muligt. Det er jo ikke en moralsk regel om, hvad man mener, man egentlig skal gøre, for man kan godt sætte sig ud over det. Det er grundlæggende en disciplinering af befolkningen, hvor man så taler til med med argumenter, der lyder overbevisende. Så som religiøse grunde eller passen på eller af hensyn til landet, men hvor det i virkeligheden jo er grundlæggende nogle helt klare interesser, som er dem man beskytter. Helt rationelt og helt forståeligt. Altså det, der for os virker underligt: Hvorfor skal man regulere? Alt det her er i

virkeligheden fuldstændig rationelt og går ud på, hvis vi skal reducere det en-til-en: det går ud på at holde på magten.

Jon Clausen 00:47:10

Der er mange flere spændende beretninger fra rettens kulturhistorie i Ditlev Tamms bog 'Juraens 100 bedste historier', der udkom i 2016 på forlaget Gyldendal. Det var alt for nu. Juristeriet holder sommerferie, men er tilbage i slutningen af august, hvor vi ser nærmere på den forestående rigsret mod Inger Støjberg, der jo begynder den 2. september. Hvis du synes godt om Juristeriet, så grib din telefon eller hvor du nu lytter og giv os fem fine stjerner. Det tager kun fem sekunder, og det gør både os og algoritmerne så glade, så glade. Ris, ros eller gode forslag til udsendelser om jura modtages som altid med taknemmelighed, hvis du skriver til redaktion@jur.ku.dk. Vi lyttes ved.