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The Social Contingency of Law

Studies of Social Control during Foreclosure in Sweden

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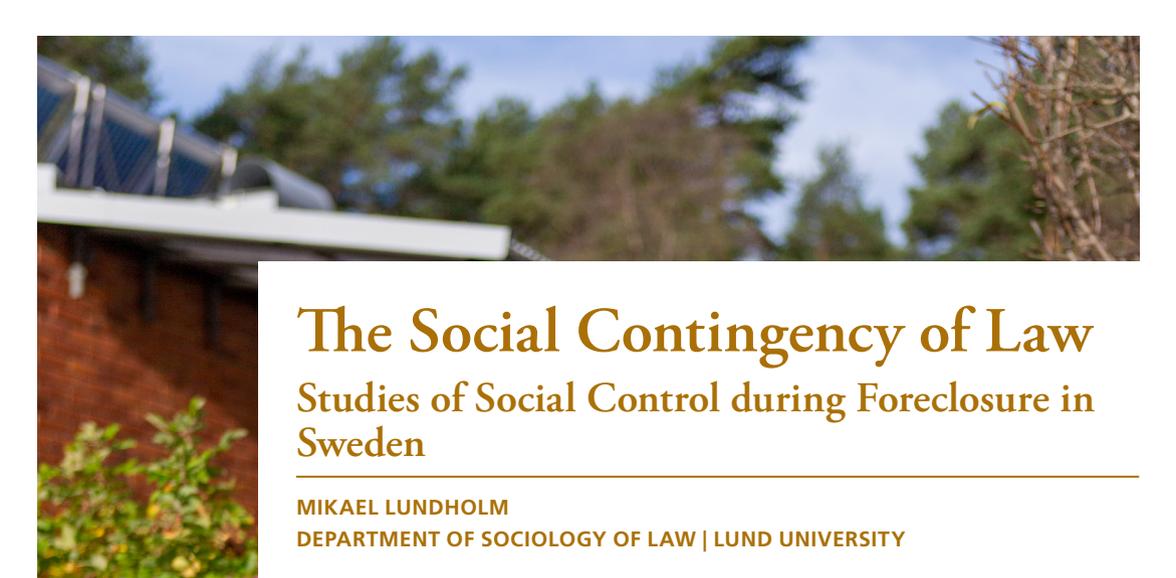
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The Social Contingency of Law

Studies of Social Control during Foreclosure in Sweden

MIKAEL LUNDHOLM

DEPARTMENT OF SOCIOLOGY OF LAW | LUND UNIVERSITY



**FORECLOSURE
HOME
FOR SALE**

 Kronofogden



The Social Contingency of Law

The Social Contingency of Law

Studies of Social Control during Foreclosure in
Sweden

Mikael Lundholm



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DOCTORAL DISSERTATION

by due permission of the Faculty of Social Sciences, Lund University, Sweden.
To be defended at the School of Social Work auditorium,
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Faculty opponent
Professor Bengt Larsson

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Abstract <p>This thesis empirically investigates how law and other social control responses during foreclosure in Sweden are contingent upon differences in social status. The thesis draws upon American sociologist Donald Black's theoretical framework on social control to explain this social contingency. According to Black, variations in social control responses are explained and predicted by variations in the social structure pertaining to, for example, differences in wealth and relational distance between the stakeholders.</p> <p>The thesis consists of an introductory framework and four papers. Paper 1 employs register micro data from the Swedish Enforcement Authority (SEA) about foreclosure sale, and from Statistics Sweden about the foreclosure debtors, to explore how the socio-economic status of the debtors has changed from 2000 to 2014. Papers 2 and 3 employ the same type of data to explore different aspects of the behaviour of law: the relationship between lender–borrower relational distance and the quantity of law, and between borrower socio-economic status and the compensatory style of law, respectively. Paper 4 employs expert interviews with debt collection officers and managers to explore the relationship between how Swedish mortgage lenders organize and conduct debt collection measures aimed at delinquent borrowers, and the quantity of negotiation. The results in Papers 2–4 indicate that social control responses during foreclosure in Sweden are contingent upon differences in social status between the lender and the borrower.</p> <p>The thesis' main contribution is that it provides empirical evidence of the socially contingent nature of law and other social control responses. This addresses one of the foundational debates within the sociology of law regarding the relationship between the institutions of law and social control, on the one hand, and the organization of social relations and behaviour, on the other. Specifically, the thesis contributes with empirical applications of Donald Black's theoretical framework using register and interview data, and an independent theory of negotiation during foreclosure in the Blackian paradigm. Furthermore, by demonstrating the relevance of Black for empirical studies of social control and for understanding the social contingency of law, the thesis aims to contribute to ongoing discussions within the sociology of law regarding the possibility of attaining positivistic yet critical knowledge about law-related phenomena. In conclusion, the implications of the social contingency of law for the SEA are discussed.</p>		
Key words borrower; compensation; debt collection; debtor; Donald Black; expert interviews; foreclosure; law; lender; mortgage; negotiation; register data; relational distance; social control responses; social structure; socio-economic heterogeneity; socio-economic status; sociology of law; Sweden; Swedish Enforcement Authority		
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The Social Contingency of Law

Studies of Social Control during Foreclosure in
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Table of Contents

Acknowledgments	10
List of Original Papers	13
Figures and Tables	14
Introduction	15
Foreclosure in Sweden	16
The Researcher	18
Research Problem	20
Aim and Research Questions	22
Scope	23
Data and Studies	24
A Caveat about Terminology	25
Disposition	26
The Swedish Enforcement Authority	27
Operations	28
Debt Enforcement	30
Foreclosure Sale	31
Foreclosure and Indebtedness	35
Ways into Indebtedness	36
Living with Indebtedness	41
Ways out of Indebtedness	44

Theory	49
Social Facts	50
Deviance and Social Control	51
Donald Black's Theoretical Framework	53
Criticism of Black	57
Rule-focused Theories of Social Control	59
Discussion	63
Conclusion: Why Black?	66
Methodology	67
Data and Methods	68
Relation to Research Question and Theory	73
Summary of Papers	79
Paper 1	79
Paper 2	81
Paper 3	82
Paper 4	83
Conclusions	85
Main Conclusions	85
Contributions	87
Policy Implications for the SEA	92
References	95

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Mikael Lundholm
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List of Original Papers

Paper 1. Lundholm, Mikael. 2020. 'Credit expansion and socio-economic heterogeneity of debtors in foreclosure: the case of Sweden 2000—2014'. *Housing Studies*. <https://doi.org/10.1080/02673037.2020.1793914>.

Paper 2. Lundholm, Mikael. 2021. 'Can Closer Lender-Borrower Relations Save Homes during Foreclosure?' *Housing, Theory and Society*. <https://doi.org/10.1080/14036096.2021.1881611>.

Paper 3. Lundholm, Mikael. 2021. 'Compensation and Socio-Economic Status of Borrowers in Foreclosure: Evidence from Swedish Micro-data'. *Journal of Consumer Policy* 44 (1): 95–116.

Paper 4. Lundholm, Mikael. 'Is law the last resort or a trigger for negotiation during foreclosure? Findings from expert interviews with Swedish bankers'. Submitted to *Law & Society Review*.

Figures and Tables

List of figures

Figure 1. Debt-to-income, debt-to-assets, and loan-to-value ratios, and real estate price index in Sweden 2000–2020 (p. 17).

Figure 2. Orders to pay regarding mortgage, attachment of real estate property, and foreclosure sale at the SEA 2000–2020 (p. 19)

List of tables

Table 1. Overview of the data by paper (p. 68)

Table 2. Concepts and operationalizations in the studies (p. 78)

Introduction

This thesis is about the relationship between the institutions of law and social control, on the one hand, and the organization of social relations and behaviour, on the other hand. It considers one of the foundational debates within the sociology of law regarding the contingent character of this relationship.

Consider law. From the lawyer's perspective, it is taken for granted that law is governed by rules and that its normativity is relevant for how and why individuals and social institutions act. Social life is considered contingent upon the law. If this is true, then law should be impartial and fair in the face of varying social contexts. This is symbolized by the blindfolded figure of Justitia, the goddess of justice in Roman mythology. Your race should not matter for the probability of you being searched by the police. Your gender should not matter for your possibility to move safely at night or your chances of receiving custody of your children. Where your children attend school should not matter for their grades. Your educational level should not matter for how you are treated in contacts with public officials. Discrimination and unequal treatment are possible only if they are inscribed into law itself.

Now consider social life. Social relations consist of a variety of status differences. They may be delineated along the lines of race, gender, education, housing, intimacy, wealth, and many more. Law and social control institutions are not blind to these status differences. A person of colour may run a higher risk than a white person of being searched by the police. A woman may be more at risk of sexual violence at night than a man. Your educational level may increase your chances of favourable treatment by public officials. Law is impartial and unfair because it takes these status differences into consideration. Discrimination and unequal treatment are part of its normal operations. This is the social contingency of law and social control.

The truthfulness of these two different perspectives on the relationship between social control and social life may be investigated empirically. In this thesis, the

social contingency of social control is explored in the case of foreclosure in Sweden.

Foreclosure in Sweden

In Sweden, home ownership is the dominant mode of housing. In 2020, 41 per cent of Swedish households owned houses and 23 per cent owned apartments.¹ Most households borrow to attain home ownership. A mortgage is a credit with the house or apartment as collateral. The mortgage ensures that the lender gets paid before other creditors in the event of sale. In 2020, 52 per cent of Swedish households had a mortgage or housing loan.² The total outstanding mortgage debt of Swedish households at the end of 2020 was 3,600 billion Swedish kronor, which corresponded to 82 per cent of the households' total debt.³

There are concurrent trends of stability and vulnerability over time regarding indebtedness for homeownership households. On the one hand, debts compared to assets of all households has been quite low and stable over the past 20 years, accompanied by steadily increasing house prices, as indicated by *Figure 1*. However, the loan-to-value ratio for new borrowers appears to be significantly higher, at around 65 per cent. Even if these properties are not underwater, it is still an indication that these households are taking on more debt. Significantly, vulnerability for these households is also indicated by how the debt-to-income ratio for new borrowers is substantially higher in comparison with the Swedish population. From 2011 to 2019, the population ratio increased from 150 to 170 per cent, while it increased from 350 to 400 per cent for new borrowers. Even if the economic resilience of Swedish homeownership households at the moment appears to be rather strong (Finansinspektionen 2020), these numbers attest to the importance of studying and understanding indebtedness for Swedish homeowners as a multifaceted phenomenon.

¹ Source: Statistics Sweden
(http://www.statistikdatabasen.scb.se/pxweb/sv/ssd/START__HE__HE0111/HushallIT27/, accessed 23 August 2021).

² Source: Eurostat (<http://appsso.eurostat.ec.europa.eu/nui/show.do>, accessed 23 August 2021).

³ Source: Statistics Sweden
(http://www.statistikdatabasen.scb.se/pxweb/sv/ssd/START__FM__FM0401/MFIM1/?rxid=f45f90b6-7345-4877-ba25-9b43e6c6e299, accessed 21 March 2021).

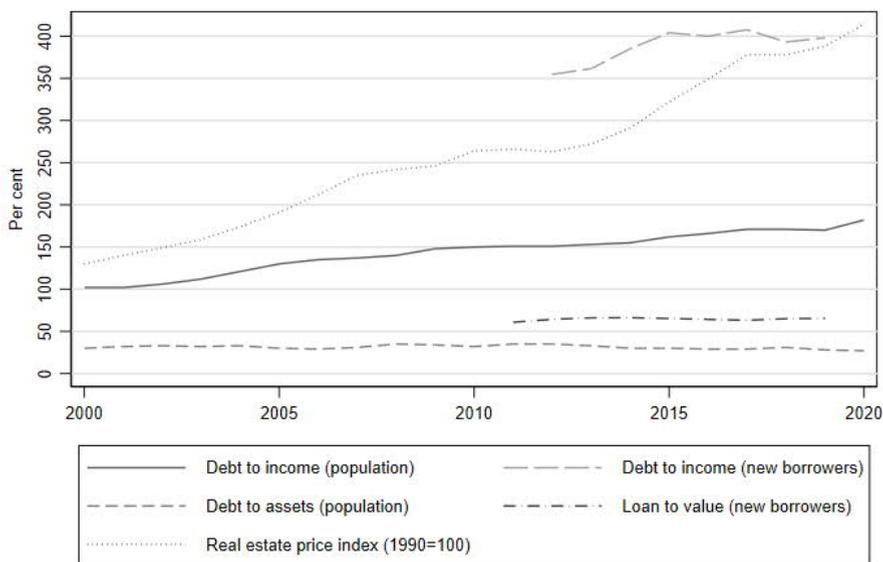


Figure 1: Debt-to-income, debt-to-assets, and loan-to-value ratios, and real estate price index in Sweden 2000-2020

Notes: Population refers to all Swedish households. New borrowers refer to households acquiring a new mortgage or increasing an existing mortgage. Sources: SCB (<https://www.scb.se/hitta-statistik/statistik-efter-amne/finansmarknad/finansrakenskaper/finansrakenskaper-kvartal-och-ar/pong/tabell-och-diagram/arstabeller/hushallens-laneskulder-i-procent-av-justerad-disponibel-inkomst-och-av-hushallens-finansiella-tillgangar/>) & http://www.statistikdatabasen.scb.se/pxweb/sv/ssd/START_BO_BO0501_BO0501A/FastpiPSLanAr/, both accessed 13 August 2021) and Finansinspektionen (2020).

This thesis studies foreclosure. I define foreclosure as the process that starts with delinquency, i.e., the debtor does not pay his or her debts on time, and that aims to sell the debtor's house or apartment to enforce payment. The debts may pertain to the mortgage, some other type of credit, or tax debt. Default is a term that is only relevant for mortgage debt. It refers to the situation in which a borrower has missed consecutive payments of interest and/or instalments, resulting in the lender being legally entitled to terminate the mortgage and proceed with foreclosure sale. Foreclosure sale is the forced sale of the house or the apartment. In Sweden, there are two forms of foreclosure sale: public auction and brokered sale. Foreclosure sale is exclusively handled by a government authority called the Swedish Enforcement Authority (SEA, Swedish: *Kronofogden*). In this thesis, foreclosure refers to the entire process from delinquency to foreclosure sale or some other outcome, such as cure or voluntary sale (compare Andersson and Wilhelmsson 2008, 180–81). Cure refers to when the debtor pays off outstanding

interest and instalments and, as a result, the creditors refrain from foreclosure. Voluntary sale refers to when the foreclosed homeowner sells the house or apartment voluntarily to pay the mortgage.

When estimating how foreclosure has developed over time in Sweden, we have to rely on data from the SEA. To the best of my knowledge, there is no aggregate public data on mortgage delinquencies and/or defaults from the Swedish lenders. *Figure 2* indicates that Swedish homeownership households are currently coping with debt relatively well. An order to pay (Swedish: *betalningsföreläggande*) is when a lender requests that the SEA establishes the obligation to pay for the borrower after default and the right for the lender to proceed with foreclosure sale. An attachment (Swedish: *utmätning*) is when the SEA decides that a real estate property (Swedish: *fastighet, tomträtt*) or tenant-owned apartment (Swedish: *bostadsrättslägenhet*) should be sold for the payment of mortgage debt or some other type of debt. In the figure, the lines represent the number of orders to pay and attachments over time and indicate a decreasing trend during the 2010s. Foreclosure sale is represented by two sets of bars since not all initiated foreclosure sales result in the actual sale of the property. The number of properties subject to foreclosure sale has also decreased during the last decade.

The Researcher

I have now set the scene for the research project from a helicopter view. Before I move on, I would like to devote a few words to the researcher perspective, i.e., my own professional situatedness in this project. I hold a law degree (LL.M.) and work operatively as a senior enforcement officer (Swedish: *kronofogde*) at the SEA. I started at the SEA in 2006 at the department handling orders to pay, but switched to debt enforcement (Swedish: *indrivning, verkställighet*) after about one year, where I still work to this day. During my PhD studies, which commenced in 2013 and are financed by the SEA, I have continued to work operatively part-time. Operative work as a senior enforcement officer consists of two distinct roles. One is the role of back-office expertise and support to the enforcement officers in the field. This role contains a proactive element (education about the law) and a reactive element (answering questions about the law). The other role is of a lawyer applying the law to decide on various matters pertaining to enforcement.

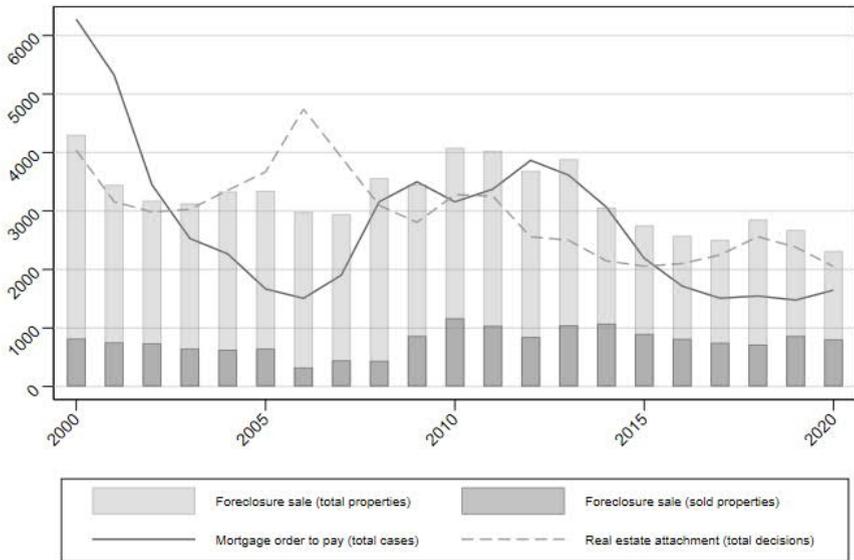


Figure 2: Orders to pay regarding mortgage, attachment of real estate property, and foreclosure sale at the SEA 2000–2020
 Source: SEA.

My operative speciality is foreclosure sale of real estate properties and apartments, which essentially boils down to ensuring that all the legal requirements for foreclosure sale are fulfilled and performing the duties of an auctioneer. To a large extent, this work is about meticulously following legal protocol. Nonetheless, my daily work is also filled with intricate and stimulating contacts with co-workers, creditors and debtors, and intending buyers.

As a senior enforcement officer, law is my everyday business. When I go to work, I strongly feel that I work ‘in law’ in the sense that I am guided and restricted by law in how I perform my duties. However, the reader of this thesis will find that law understood as the rules and the activities of lawyers is quite absent. This is because as a sociology of law researcher attempting to understand and study the social contingency of law and social control, I have found that many intriguing and interesting questions are found elsewhere.

Research Problem

This thesis springs from two distinct observations in my work handling foreclosure sale at the SEA. The first observation is that quite few initiated foreclosure sales result in the sale of the property. Most cases are revoked by the creditors at some point. This observation is confirmed in *Figure 2*, which shows that, on average, about every fourth case results in sale. This startles me as the time frame for these proceedings at the SEA is quite short, normally less than six months. Moreover, from my professional experience I know that many of the foreclosure debtors have long and strenuous histories of overindebtedness. This is supported by Anna Hedborg's (2013) public investigation which found that about half of the debtors subject to enforcement at the SEA in 2013 had been overindebted for 10 years and about one-fourth for 20 years (see also Vuleta 2018). One possible strategy for homeowners could be to prioritize paying the mortgage to be able to stay in the house, with the result that, once this is no longer possible, they have already been struggling economically for a long time. Under these conditions, we would perhaps expect that the debtor-homeowner succumbs to foreclosure without resistance. Evidently this is not happening. Instead, they are mobilizing.

The second observation is that many foreclosure sales result in sale below the property's market value and in arrears, i.e., the selling price does not cover the mortgage. This is paradoxical since the aim of foreclosure is compensation, which includes not only the payment of debts but also the avoidance of losses for the debtor. But if there is little compensation, the risk is that the foreclosed homeowner perceives foreclosure as repressive instead. In my role as foreclosure sale auctioneer, I observe only a small share of the sales – auctions in the sparsely populated northern part of Sweden – which is a possible explanation. But, as it turns out, we know that foreclosure sales in the metropolitan area of Stockholm between 2006 and 2013 resulted in selling prices that were 20–25 per cent lower than regular arm's-length sales on the open market (Donner, Song, and Wilhelmsson 2016). Maybe there is no obvious connection to the strength of local markets. Still, mortgage lenders should be interested in protecting the value of the mortgage and, consequently, request foreclosure sale before the property's condition potentially deteriorates as a result of poor maintenance. The lower selling prices could thus be an issue of the timing of the foreclosure sale. Another potentially relevant consideration is that the SEA has historically used the

possibility of brokered sale for foreclosed real estate properties restrictively. Thus, we know little about whether higher selling prices could be attained if foreclosure sale were to mimic an open-market sale instead of sale at a public auction. Overall, from my professional perspective, it seems questionable whether foreclosure as a legal institute is suitable for securing compensation in the Swedish context.

These paradoxes are relevant not only from the internal perspective of SEA operations, but also from the perspective of household indebtedness. We may think about household indebtedness in terms of access (ways into), coping (living with), and exit (ways out). Ways into indebtedness concern how the access to and consumption of credit puts financialized households at risk. Living with indebtedness concerns how households use coping strategies to manage economic and social stress. Ways out of indebtedness concern the possibilities of a return to a manageable financial situation and other exit options.

Foreclosure is one potential way out of overindebtedness for homeownership households. Nonetheless, how households consume credit, and what coping strategies they have, are relevant for the possibilities of achieving a favourable exit. If households have to borrow a lot of money to buy a house, there may be little margin to handle unexpected events. If households have exhausted every potential source of credit in attempts to uphold their current lifestyle, there may be few possibilities to avoid a 'hard exit'. If households have had to live under economic strain for a long time, there may be little resilience left in terms of exposure to health problems and social exclusion. We accordingly have to consider all these aspects as dynamically interrelated pieces of a puzzle regarding the social organization of debt relations. The role of foreclosure as a legal and social institution is one important piece of the puzzle.

As a lawyer, I realized that the academic study of law provides tools to address only parts of the research problem. Yet as a researcher, I turned to the sociology of law to seek the answers to the paradoxes of foreclosure. This led me to shift focus from observing the behaviour of people – their actions, intents, and relations – to instead observing the behaviour of law itself.

Aim and Research Questions

This thesis considers the relevance of social control during the foreclosure process. Foreclosure is a conflict pertaining to the payment of debts. This conflict attracts various social control responses. The relationship between the creditor, the debtor, and third parties, such as the enforcement authority, is characterized by differences in social status pertaining to, for example, wealth, education, and the nature of their relationship. The aim of the thesis is to gain an understanding of the social contingency of social control responses during foreclosure, i.e., how these responses are dependent on these status differences. This knowledge has the potential to be important both for the stakeholders of the foreclosure case and in relation to other societal phenomena involving similar conflicts, during which social control acts upon deviant behaviour, by showing how the operations of law and social control are not only rule-governed, but also vary according to their social context. Further, a secondary aim is to contribute to ongoing theoretical and methodological discussions within the sociology of law. One important issue is the potential of studies of social control to critically investigate social issues – revealing injustice, discrimination, and unequal treatment – while at the same time adhering to positivism's scientific rigour. This may appeal to both functionalist and critical approaches to the socio-legal study of law-related phenomena.

I achieve this by asking the following main research question:

- How do social control responses during foreclosure in Sweden vary with the social status of the creditor and the debtor?

I break the main research question down into the following four research questions, which correspond to the four papers included in this thesis:

- (1) How have the socio-economic resources of Swedish homeowners subject to foreclosure developed over time?
- (2) How can lender–borrower relations explain the quantity of law as a form of social control in the Swedish foreclosure case?
- (3) How can borrower socio-economic status explain variations in the compensatory style of law in the Swedish foreclosure case?
- (4) How can the debt collection organization, strategies, and practices of Swedish mortgage lenders explain and predict the quantity of negotiation as a form of social control in the foreclosure case?

Scope

The thesis' scope is delimited theoretically to social control. I define social control as purposive responses to deviant behaviour (Black 1976, 9; Horwitz 1990, 9–10).

I apply Donald Black's theoretical framework on social control to answer research questions 2–4. In Black's theories, there are no individuals. Rather, the study object is variations in social control responses, which he refers to as their behaviour. In this thesis, I use these two terms interchangeably. Social control responses vary in form (for example, law or negotiation) and in style (for example, compensation or punishment).

Social control responses are explained and predicted by variations in the social structure of a given case, such as foreclosure. In this thesis, social structure refers specifically to the various aspects that define the social relationship between the foreclosure stakeholders in terms of status differences, for example, stratification (unequal distribution of wealth and income) and relational distance (unequal distribution of contact and intimacy).

Both social control responses and social structures are quantitative variables. This means that, according to Black, sociological data consist of empirical measurements of the number and/or scope of specific instances of a social control response or an aspect of the social structure. In a given case, there may be less or more law, or less or more wealth.

Blackian predictions, which are empirically testable, are expressed as relationships between quantities of the form and style of social control responses, on the dependent variable side, and quantities of the various aspects of the social structure, on the independent variable side. One example regarding the behaviour of law is: 'The relationship between law and relational distance is curvilinear' (Black 1976, 41).⁴ This means that there is more law as the intimacy of the stakeholders decreases, but that, at the extremes of intimacy, there is little or no law. This is the socially contingent behaviour of social control.

The theoretical scope of this thesis precludes me from testing alternative explanations of the social contingency of social control during foreclosure. I

⁴ These preceding paragraphs are intended as an orientation for the reader about Blackian concepts. I expound on the theoretical framework in a separate chapter later. Accordingly, the reader will find the appropriate references there.

discuss alternative theories of social control in the theory chapter. Still, what is lost in explanatory breadth is gained in specificity of the research design in terms of *ex ante* specification of how theoretical concepts are operationalized and the relationships between them. The thesis' research design can never prove that the theory is true, but rather only that the results do not contradict the theory. However, the empirical analysis can result in rejection of the theoretical propositions.

Data and Studies

The thesis consists of this introductory framework and four studies. Three of these studies are published (Papers 1–3), while one study has been submitted to a peer-reviewed journal (Paper 4). In this section, I briefly introduce the data and the studies, and situate them in the thesis framework.

Two data sets are used in the empirical analysis: register data from the SEA and Statistics Sweden about foreclosure sale (Papers 1–3), and expert interviews with debt-collection officers at Swedish mortgage lenders (Paper 4). The register data were collected in 2016 and contain data on all closed foreclosure sale cases regarding real estate properties and tenant-owned apartments at the SEA from 1998 to 2014. These data cover essentially all registered events during foreclosure sale proceedings, including type of creditor, debt amount, type of property, property location, market value, revocation, and sale price. Additionally, the debtors are described by individual-level variables regarding sex, family type, birth country, educational level, income, and wealth. The interview data were collected in 2018–2019. I interviewed 13 experts at seven different lenders regarding how the lenders organize and conduct debt collection aimed at delinquent mortgages.

Paper 1 investigates how the socio-economic status of debtors subject to foreclosure sale at the SEA has developed over the time period 2000–2014. Analytically, the study compares group differences in the socio-economic resources of debtors with different types of debt and finds that there are increasing differences over time within the groups which, for mortgage debtors, may be driven by more low-status debtors entering foreclosure. The study explains these findings with reference to credit expansion understood as the combined trajectories of scale (increasing access to credit for all) and scope (extending credit to new groups). The study's position in the context of the thesis is to demonstrate

that the socio-economic resources of the foreclosure debtors change over time, which is relevant for the social structure of the foreclosure case. As such, it sets the scene for the social control studies in the remaining papers.

Papers 2 and 3 each focus on one type of variation in social control behaviour: the quantity of law and the compensatory style of law, respectively. Paper 2 empirically models different aspects of the relational distance between the mortgage lender and the borrower during foreclosure sale at the SEA, and tests whether the correlations with the quantity of law correspond to Black's prediction that less intimacy results in more law. Paper 3 operationalizes variations in the compensatory style of law during foreclosure sale and investigates how they correlate with the socio-economic status of the borrowers in order to test Black's prediction that there should be higher compensatory potential in cases with high-status borrowers. Both studies find partial support for Black's predictions. In the thesis, these studies serve the purpose of demonstrating that law during foreclosure is socially contingent and that Blackian theory may be used to explain these findings.

Paper 4 employs the expert interviews to investigate a different form of social control during foreclosure: the quantity of negotiation. Empirically, the data indicate that negotiation between the lender and the borrower aimed at reaching settlements that avoid foreclosure sale of the property is prevalent and that the lenders vary in how they organize, strategize, and conduct debt collection operations. Theoretically, I draw upon these variations to develop predictions about the behaviour of negotiation in the foreclosure case. This study does two things for the thesis. It extends the empirical focus to the entire foreclosure process and negotiation, as opposed to foreclosure sale and law only, and it demonstrates that a Black-inspired theory of the social contingency of negotiation during foreclosure is possible.

A Caveat about Terminology

Maybe the reader has already noticed that the terminology used to describe the research project has quantitative connotations: variation, variable, quantity, prediction. I use this terminology irrespective of whether I refer to quantitative or qualitative data. In this, I follow Donald Black. It has nothing to do with the fact that three of the four studies in the thesis are quantitative. I do not suggest that

quantitative data are better when studying foreclosure or applying Black's theories. Quite to the contrary, we may notice that Black himself early in his career was involved in observational research in police cars (Black 1980b) and that much of the literature that he cites is ethnographic research within anthropology. I simply believe that this terminology is appropriate to describe the research task at hand. It is my hope that it does not keep the qualitatively oriented researcher from reading this thesis.

Disposition

I proceed as follows. First, I devote one chapter to describing the institutional setting at the SEA and the handling of debt enforcement and foreclosure sale. I then review the literature on household indebtedness as delineated by three distinct themes: access (ways into), coping (living with), and exit (ways out). I conclude that the thesis contributes primarily to our understanding of the exit theme but that a comprehensive approach to household indebtedness is necessary in order to understand its implications. In the theory chapter, I introduce Donald Black's theoretical framework on social control, compare it with other theoretical attempts at conceptualizing and explaining social control, and argue why the Blackian approach is appropriate for the studies of foreclosure in this thesis. Thereafter, in the methodology chapter, I describe the methods and data used in the studies and demonstrate that they are adequate for answering the research questions and for applying Black's theories on the foreclosure case. After a chapter in which I briefly describe the studies, I conclude with a discussion about the contribution of the thesis to our knowledge and understanding of the social contingency of law and other social control responses during foreclosure in light of the main conclusions of the thesis. I also consider the thesis' contribution to theoretical and methodological discussions within the sociology of law. In conclusion, I address how the SEA – the financier of this thesis – may think about the thesis' policy implications in relation to its twofold mission of enforcing the payment of debts and combating overindebtedness.

The Swedish Enforcement Authority

This thesis is about foreclosure understood as the process beginning with initial delinquency. Foreclosure may or may not involve proceedings at the SEA. However, the quantitative data in the thesis concern foreclosure sale at the SEA. Since this is the main source of data for three of the four studies in the thesis (Papers 1–3), I will in this chapter provide the reader with an orientation about the SEA and its operations. I start out with a short general description and then provide more details about debt enforcement and foreclosure sale (Swedish: *tvångsförsäljning, exekutiv försäljning*).

But first a delimitation. Foreclosure, as defined in this thesis, includes debt collection (Swedish: *inkasso*). This is important for the thesis because the qualitative study, with expert interviews of debt collection officers at Swedish banks, investigates this phase of the foreclosure process (Paper 4). However, a general account of debt collection operations and the debt collection industry is beyond the scope of this background chapter. The interested reader may turn to Tufté (2007) for an overview and comparison of debt collection in the Nordic countries, to Hedborg (2013, 162–63 & 176–78) for some hard facts about debt collection in Sweden at the time, to Henriksson (2016, 304–14) for an account of the legal regulation, and to Stănescu (2021) for a current European perspective on debt collection practices.

And before I start, a short note on the sources in this chapter. Unless otherwise noted, all statistics are from the SEA. I have intentionally not burdened the text with legal references. Persson, Henrikson, and Lundström (2013) provide a rather detailed legal account in English. Gregow (2020) is the complete source in Swedish for lawyers. Regarding actual practices, I refer to my own professional experience.

Operations

The SEA is a central governmental authority that has existed since 2006 in its current form, when it was reorganized from ten local authorities into one national authority. The SEA maintained some organizational ties with the Swedish Tax Agency (Swedish: *Skatteverket*), but these were severed in 2008 (Norling Jönsson 2016, 49–51). The head of the SEA has the title rikskronofogde. The current rikskronofogde is Christina Gellerbrant Hagberg. As of 2021, there are approximately 2,300 employees at the SEA. The SEA has four distinct operative functions: summary proceedings, debt enforcement, debt relief, and bankruptcy supervision. Debt enforcement engages the most employees (approximately 1,000).

From the perspective of a debtor, these functions are activated during different phases. Initially, the debtor encounters summary proceedings because this function handles orders to pay. An order to pay is equivalent to an enforceable verdict that establishes the debtor's obligation to pay the debt to the creditor. The SEA issues an order to pay if the debtor does not contest the creditor's claim. If the debtor contests, the SEA may, at the request of the creditor, hand over the claim to the municipality court, which is the first forum for civil disputes. In 2020, there were approximately 1,370,000 applications from creditors, amounting to a total debt of SEK 28.8 billion.⁵ These applications were directed towards approximately 425,000 debtors (companies and organizations excluded), which corresponded to 5.2 per cent of the Swedish population. The SEA issued approximately 640,000 orders to pay, amounting to a total debt of SEK 14.4 billion. The SEA does not code types of debt for orders to pay. Consequently, it is not possible to determine the share of consumption debt. However, the majority of the applications for orders to pay are filed by relatively few creditors. In 2020, orders to pay from the 200 creditors with the most applications corresponded to 65 per cent of the total number of applications and 47 per cent of the total debt amount.

⁵ SEK 1.0 billion = EUR 98.5 million = USD 117 million. SEK 1.0 million = EUR 98,500 = USD 117,000. SEK 1,000 = EUR 98 = USD 117 (<https://www.di.se/valutor/>, accessed 7 September 2021).

Next, the creditor may demand that the SEA enforces payment of the debt according to the order to pay. The SEA also enforces payment of court verdicts and public debt, such as taxes and fines. Public debt is immediately enforceable based upon the decision by the relevant authority. In Sweden, only the SEA may coercively enforce the payment of debts. I deal with debt enforcement in a bit more detail below in the next section. At the end of 2020, approximately 464,000 debtors were registered in the SEA debt enforcement register. The total debt amounted to approximately SEK 87.3 billion. In 2020, the enforced payment of debts amounted to SEK 12.3 billion in total.

Debt enforcement may continue for as long as the debtor lives. For overindebted individuals without the ability to pay debts, there is the possibility of debt relief (Swedish: *skuldsanering*). The debtor must apply for debt relief at the SEA. This includes a personal account of the background to the overindebtedness. This is because debt relief is granted only on condition that the debtor is overindebted and that debt relief is reasonable considering the debtor's personal and economic situation. If debt relief is granted, the SEA then compiles all the debts and investigates the debtor's current economic situation. This results in a payment plan that guarantees the debtor a minimum standard of living during the five years that the debtor must comply with the plan. In essence, this means that during this period the debtor pays as much as possible to the creditors, which may amount to nothing at all. After this period, the debtor is relieved of all debt. In 2020, there were approximately 28,000 applications for debt relief and the SEA granted debt relief to approximately 12,000 debtors. 51,000 debtors had ongoing debt relief.

The SEA also handles bankruptcy supervision, which means that the SEA supervises how the appointed bankruptcy trustee (Swedish: *konkursförvaltare*) manages the bankruptcy estate. This pertains to bankruptcies for both individuals and legal entities. In 2020, the total number of bankruptcies in Sweden was approximately 7,300. Approximately 90 per cent of the bankruptcies concerned limited companies.⁶

⁶ Source: <https://www.tillvaxtanalys.se/publikationer/statistik/statistikserien/2021-03-24-konkurser-och-offentliga-ackord-2020.html> (accessed 1 May 2021).

Debt Enforcement

On the basis of an order to pay or other enforceable legal title (Swedish: *exekutionstitel*), the creditor demands that the SEA enforces payment of the debt. This pertains to both individuals and legal entities, but I will restrict the account to debt enforcement directed towards individuals.

The first thing that happens is that the SEA notifies the debtor of the debt with a due date for payment within two weeks. The SEA then investigates the debtor's economic situation (Swedish: *tillgångsundersökning*) with the aim of discerning whether there is salary or property that may be attached (Swedish: *utmätning*). The investigation includes giving the debtor the opportunity to state his or her economic situation, including salary and property, and searching registers for information about employment, real estate properties, bank accounts, and cars. The SEA then acts upon this information by, for example, requesting that the bank states the account balance. Personal contact with the debtor or a physical search of the debtor's home is not obligatory. In practice, physical searches are uncommon and reserved for instances when the SEA has no previous information about the debtor or there are indications that the debtor may have attachable property, such as a car, for example.

If the SEA finds no attachable properties, excluding salary, the SEA issues a statement about this to the creditors (Swedish: *utredningsrapport*). The creditors may use this statement to make the debtor declare bankruptcy. This is uncommon, since bankruptcy incurs costs without securing additional payment to the creditors, unless the debtor has attempted to withhold property from attachment by giving it to a third party. The statement does not mean that debt enforcement is discontinued by the SEA. Debt enforcement continues unless the creditors revoke their debts. The SEA repeats the investigation of the debtor's economic situation with intervals ranging from six months to two years. This is why debt enforcement regarding a specific debt may continue during the debtor's entire lifetime.

There are two principal ways that debt enforcement at the SEA may result in the payment of the debts: attachment of salary or attachment of other properties. Attachment of salary implies that the SEA orders the employer to transfer part of the debtor's salary each month directly to the authority. How much the debtor should keep is calculated to secure a minimum standard of living for the debtor. This calculation is based upon standardized amounts depending on the debtor's

civil status. These amounts are revised annually by the SEA. As of 2021, this amount is approximately SEK 5,000 for a single adult. This means that the debtor keeps at least this amount plus housing costs, such as rent. However, the SEA adds or subtracts from these standardized amounts depending on the debtor's own account of his or her economic situation. Costs for commuting to work, and for medicine and health care are examples that are routinely considered by the SEA. If the debtor does not reply, the SEA still initiates attachment of the salary based upon either old information or standardized amounts. In 2020, approximately 105,000 debtors were subject to attachment of salary. Attachment of salary resulted in payment of debts of approximately SEK 4.4 billion.

The most common attachments of property are funds at bank accounts. The SEA issues the attachment order immediately upon receiving the information about the account from the bank. The debtor keeps sufficient funds to secure a minimum standard of living for one month. The SEA calculates this amount in the same way as for attachment of salary. Another common type of attachment pertains to tax refunds. In 2020, attachment of property that did not require sale, of which bank accounts was the most prevalent, resulted in payment of debts of approximately SEK 1,260 million. The corresponding amount for tax refunds was SEK 1,270 million.

Some attached properties require sale, such as cars, tenant-owned apartments, and real estate property. The SEA employs an online auction site to sell moveable property, which, in 2020, resulted in payment of debts of approximately SEK 91 million. Apartments are a special case and are sold at physical auctions. In 2020, SEA sales of apartments amounted to approximately SEK 423 million. Obviously, the type of property that this thesis is mostly concerned with – real estate – also requires sale. I deal with these procedures at the SEA next.

Foreclosure Sale

There are principally two separate paths that may lead to foreclosure sale of a debtor's real estate property: order to pay or attachment. An order to pay for a mortgage creditor (usually banks) includes an attachment of the property that secures the mortgage. The implication is that the bank may demand foreclosure sale at the SEA immediately when the order to pay comes into legal force. This happens after one month if there is no complaint. The bank may also use this

order to pay later to demand that the SEA attaches the property again. This may happen, for example, if the borrower fails to adhere to some type of settlement with the bank, or if foreclosure sale fails. In these cases, the SEA by default attaches the property.

The other path to foreclosure sale is that the SEA attaches the property for the payment of other creditors' debts. Here, the procedure at the SEA is to first assess whether the value of the property is sufficient to ensure that the sale results in substantial payment of the debts. The SEA considers not only the value of the house and the mortgage, but also the personal and economic situation of the debtor, including the possibility of attaching salary or other property, and whether there are children. Over the last ten years, there has been a development within the SEA – sparked by several court rulings – towards achieving more substance and depth in these considerations. Still, I would say that the reality for the debtors is that the SEA will attach a house for a projected payment of debts amounting to as little as SEK 50,000, even if there are children in the household, under the precondition that there are no other ways to enforce payment.

The foreclosure sale proceedings at the SEA start with market value appraisal of the property. The SEA commissions external and professional appraisers. The appraisal is delivered in the form of a document with a brief description of the property and its characteristics. The SEA then decides whether to use auction or brokered sale. This decision should be guided by an assessment of which sale form is projected to result in the most payment of the debts. Historically, the SEA has, by default, used auction sale. However, I am currently involved in a research project that attempts to, with the assistance of the SEA, evaluate the effect of brokered sale on the selling price (Dahlberg, Lundholm, and Nordin 2019). Depending on the results, my hope is that the SEA will reconsider how to use brokered sale in the future.

For auction sale, the first step is to set the date for the auction. The creditors, the debtors, and other stakeholders are formally notified of the auction five weeks beforehand. Three weeks before the auction, it is publicly announced. The SEA arranges a public viewing of the property that takes place one to three weeks before the auction. The auction itself is public and held at the closest SEA office. The format is an open ascending price auction. There is a formal reserve price (Swedish: *skyddsbelopp*), but this is in most cases so low that it is meaningless. What instead decides whether the auctioneer, who is usually a senior enforcement officer, accepts the highest bid is how it compares with the property's market value

and how much payment of the debts it entails. If the bid is acceptable, the winning bidder must immediately, by credit/debit card, pay a down payment of 10 per cent. If the auctioneer refuses the bid or if there are no bids, the auction is closed. The SEA then holds a second auction. If this auction also fails to sell the property, the SEA closes the foreclosure sale case. If this happens, the creditors must pay the costs for the market value assessment (approximately SEK 10,000 for a regular housing property) and for the proceedings at the SEA (normally 3 per cent of the property's tax value).

Brokered sale, by contrast, means that the SEA commissions a broker to sell the property. The broker handles all practical aspects of the sale, including advertising, contacts with the intending buyers, showing the property, and bidding. The implication is that the intending buyers do not initially know that it is a foreclosure sale. They are informed about this if they enter the bidding. Brokered sale follows the same rules about acceptance of the highest bid, the number of sale attempts, and the costs for the proceedings. As a general rule, the broker's commission runs for three months. There is little practical experience of brokered sale at the SEA, but I would imagine that, if the brokered sale fails due to low or no bids, the SEA switches to auction sale for the second attempt.

According to law, the SEA should make a first attempt at selling the property within four months. Historically, in regard to auctions, the SEA has to a high extent lived up to this requirement. The creditors may at any time before an auction is publicly announced defer the proceedings up to one year without showing due cause. The creditors may at any time before a highest bid is accepted revoke the proceedings. If the case is revoked, the creditors pay the costs for the proceedings.

If the property is sold, the debtor must move out within approximately one month, in the case of auction sale, and one to two months, in the case of brokered sale. There is a possibility to extend this timeline by three months, but it is rarely used. If the debtor does not move out and grant the buyer access to the property voluntarily, the buyer may request that the SEA evict the debtor. The eviction, which is free for the buyer if it is a housing property, is normally executed by the SEA within one month.

In conclusion, the total time from the initiation of foreclosure sale proceedings until the debtor must move out is ordinarily shorter than six months. *Figure 2* shows the historical trend for the number of foreclosure sale cases and sales. In 2020, the SEA sold real estate properties for SEK 696 million.

Foreclosure and Indebtedness

Thematically, one way to think about foreclosure as a research object is as an aspect of household indebtedness. We may conceptualize these aspects as ways into indebtedness, living with indebtedness, and ways out of indebtedness (compare Sandvall 2011). Foreclosure is one possible way out of indebtedness for homeownership households. In this chapter, I situate the knowledge contribution of this thesis in relation to research about these three different aspects of indebtedness.

This chapter contains a literature review that focuses on locating discourses that are relevant for these aspects of indebtedness. By necessity then, it should be read with an eye for breadth rather than depth. I will not give full space to describing the fault lines of the academic discussion, as is often the focus of a more traditional literature review. The literature review is selective, as opposed to systematic (Efron and Ravid 2019, 18–30), except for the review of the literature on foreclosure outcomes. The selective method does not provide a comprehensive overview of the literature. Rather, it attempts to search for key references within a given field and then uses these references as a locus to search for related references. The key references are used to identify key terms that may be used to search for relevant references and to find relevant references in the text. It is also possible to search the databases for more recent references that have cited the key references. The strength of this approach is that it provides a focused overview of the most relevant literature. The weakness is that it relies on correct identification of the key references, with the risk of biased results if key references are missed. By contrast, the literature review of foreclosure outcomes relies on a systematic method with repeated searches of specific databases with relevant terms, retrieval of all references, and then review of the abstracts to identify which references are relevant for the topic according to inclusion criteria (Booth, Sutton, and Papaioannou 2016).

I start out from the perspective of ways into indebtedness, where I review the literature on financialization, overindebtedness, and mortgage delinquency. I then

move to living with indebtedness, where I focus on coping strategies, and the individual and societal consequences of overindebtedness. Finally, I review the literature on debt relief and foreclosure outcomes as relevant for ways out of indebtedness. The literature review in this chapter demonstrates that knowledge about foreclosure is relevant as part of the grander research project of understanding indebtedness for households.

Ways into Indebtedness

I approach the subject of how and why households enter into indebtedness from the perspective of financialization. This perspective shows us that indebtedness is hardly voluntary for households in contemporary Western societies, and that, nonetheless, there are patterns of differentiation and exclusion. With indebtedness comes the risk of overindebtedness. I examine how different thresholds of overindebtedness for households have been conceptualized in the literature to demonstrate that this distinction is difficult to delineate. Finally, I focus on the determinants of mortgage delinquency and default, since this is close to the subject of research in this thesis, and it is relevant as a potential threshold for when indebtedness for homeownership turns into overindebtedness.

Financialization

Financialization is arguably one important contemporary trend in Western societies for how households enter into and accrue indebtedness. From the perspective of households, financialization may be understood as the increasing importance of financial institutions and rationalities for everyday life (Davis and Kim 2015; Fernandez and Aalbers 2016, 72; Krippner 2012; Langley 2008; Martin 2002; van der Zwan 2014).

On the one hand, financialization may be considered from the perspective of its alleged democratization, i.e., ‘the broadening and deepening of access to the capital market for ordinary, moderate income individuals and households’ (Erturk et al. 2007, 554). This perspective focuses on how it is possible for all households to participate in financial markets to smoothen consumption, which enables, for example, homeownership. Households are assumed to act with financial sophistication. However, as Erturk et al. (2007) discuss, households may not have

the financial competence to calculate the risks and rewards of financial products, whose characteristics may be difficult to grasp. Moreover, the logic of financialization may travel differently across social and cultural contexts with regard to how and why households become indebted (Gonzalez 2015).

On the other hand, financialization may be considered from the perspective of financial innovation, i.e., technological, regulatory, and institutional change that enables the development of new financial products (compare Engelen et al. 2010). This implies a focus on differentiated access for households to these financial products. One aspect of financial innovation is that more credit and new forms of credit are offered to households. This may entail higher access to credit for households that previously experienced exclusion from the credit market (Barr 2012; Lyons 2003). However, according to Dynan and Kohn (2007), financial innovation seems to result in higher indebtedness for households that have access to the credit market, rather than to a higher degree granting excluded households access to the credit market. Fligstein and Goldstein (2015) show that American households with high socio-economic status are more financialized than low-status households. Dunham (2019) shows that geographic access to financial services for American households depends on socio-economic status.

Additionally, financial innovation comes at the price of segmented markets for financial products according to household socio-economic status. Credit scoring relies on socio-economic variables and red-lining practices to implement risk-based pricing models through seemingly objective screening practices (Burton 2008; see also Hyman 2013 regarding mortgage credit). Langley makes a similar point in that 'inequality and discrimination is now less a matter of access to credit and abandonment, and more a matter of the differential interest rates that borrowers pay to lenders across both mainstream and alternative networks of borrowing' (2008, 168). Poppe, Lavik, and Borgeraas (2016) demonstrate that there is a trend towards more consumer debt for Norwegian households subject to debt relief, which indicates that these weak households are accumulating more high-risk credit.

Financialization is also relevant in relation to the retreat of the welfare state. From this perspective, households must live financialized lives to secure their own future welfare needs, for example, by acquiring a home as an asset (Doling and Ronald 2010; Lennartz and Ronald 2017; Ronald and Doling 2012; Ronald and Elsinga 2012; Ronald, Kadi, and Lennartz 2015). Schwartz (2012, 37) argues that a 'greater reliance on home equity as a substitute for traditional forms of social

protection' was part of the explanation for the global financial crisis that started in 2007–2008. At the same time, there is a political feedback loop between homeownership and asset-based welfare, as homeowners may vote for politicians that cut back on social welfare (Ansell 2014). In these ways, the welfare perspective on financialization adds an understanding for the compulsive nature of indebtedness for households.

Thus, we see that financialization is linked to indebtedness for households along two separate trajectories: inclusion versus exclusion, and voluntariness versus compulsion. From this we learn that the paths into indebted homeownership are different. This makes it reasonable to assume that foreclosure outcomes – understood as paths out of indebtedness – may be different as well.

Overindebtedness

This thesis does not rely on an exact distinction between indebtedness and overindebtedness. Obviously, the social institutions that make up indebtedness are intrinsic for how we organize human relations in the Western world (Graeber 2014). Our reliance on indebtedness as a vehicle to facilitate exchange over distances in both time and space is remarkable and has had a profound impact on our history. This includes, for example, the development of the financial institutions that make it possible for households to borrow money to buy a home (e.g., Hyman 2013). However, at some point, the enabling aspects of indebtedness for individuals and households are overshadowed by its disabling qualities. We may refer to this as overindebtedness.

There is no consensual definition of overindebtedness in the literature but there are some common denominators (Elliot and Lindblom 2019, 22). All definitions propose which unit is relevant to study and how to conceptualize a relevant threshold for when indebtedness turns into overindebtedness. Possible units are the individual or the household. However, most definitions focus on the household (Alleweldt et al. 2013; D'Alessio and Iezzi 2013; Gutiérrez-Nieto, Serrano-Cinca, and Cuesta-González 2017).

Regarding threshold, most definitions consider the combination of financial obligations, available financial resources, and standard of living (D'Alessio and Iezzi 2013; compare Krumer-Nevo, Gorodzeisky, and Saar-Heiman 2017). All financial obligations need to be considered (Alleweldt et al. 2013; Kempson 2015, 139–44). Whether or not to include the availability of additional debt in the

household's financial resources is problematic. Alleweldt et al. (2013) argue that a state of overindebtedness cannot be resolved by borrowing more. D'Allesio and Iezzi (2013) include expected financial resources in their definition (compare Anderloni and Vandone 2010, 113). This may also be considered as an issue of illiquidity (Angel and Heitzmann 2015, 331–32). Another thing that is relevant for this distinction is how a definition should consider the time perspective in relation to standard of living. This is because a household may have access to more credit to uphold consumption in the short run, but not in the long run. Furthermore, the extent of the household's efforts to uphold consumption may be considered (Lea 2021, 150). Indeed, Feretti and Vandone (2019, 52–57) argue that both time and consequences for the household should be considered in relation to overindebtedness. From an economics perspective, this is considered as the marginal increase or decrease in expected utility from accruing more debt (Elliot and Lindblom 2019, 27).

In practice, the operationalization as empirical indicators of all these aspects of overindebtedness is difficult (D'Alessio and Iezzi 2013, 8). The choice of indicators has often been guided by more practically oriented definitions. Empirical indicators of overindebtedness may be classified as objective or subjective (compare Keese 2012). Objective indicators include financial measurements and administrative registrations pertaining to indebtedness. Subjective indicators focus on the households' self-assessment of overindebtedness (S. Larsson, Svensson, and Carlsson 2016, 17). Gathergood (2012) provides us with an example of a study employing both objective and subjective indicators of overindebtedness.

Foreclosure may involve different types of financial obligations, it is something that happens on the household level, and it implies a change in the standard of living since what is ultimately at stake is the home itself. In these ways, foreclosure is relevant as an indicator of overindebtedness.

Mortgage delinquency and default

I now close in on the subject of this thesis by reviewing the literature on one of the potential thresholds of overindebtedness: mortgage delinquency. I do not aim to provide a comprehensive review but, rather, to survey the main theoretical approaches within economics as well as some empirical applications. This is an

important background when considering the literature on the foreclosure process and its outcomes. It also points at the lack of sociological perspectives.

In economics, there are principally two main alternatives for how to explain when a household stops paying the mortgage. According to frictionless theories, the household strategically enters mortgage delinquency when there is negative equity, i.e., the value of the house is lower than the mortgage assuming that all potential transaction costs are accounted for, such as reduced credit rating or difficulties in acquiring new housing (Foote, Gerardi, and Willen 2008). However, Elul et al. (2010) recognize that these costs may be hard to quantify. They may also be unknown and spatially interdependent (Kau, Keenan, and Li 2011). Kau, Keenan, and Lyubimov (2014) investigate strategic behaviour in situations when there are both junior and senior liens and find mixed support. Liu and Sing (2018) point at the need to further our understanding of the behaviour of households that keep on paying the mortgage despite negative equity.

According to trigger theories, the household stops paying the mortgage due to loss of income in cases of, for example, unemployment or divorce. In these models, liquidity (Calem and Sarama 2017; Elul et al. 2010) and the size of the monthly mortgage payments are considered (Fuster and Willen 2017). Mocetti and Viviano (2017, 54) find that 'household financial difficulties are significantly and strongly related to adverse shocks in the labor market', even after controlling for selection of borrowers at the mortgage origination stage.

These are the two principal approaches. However, empirical research indicates that they both probably matter in predicting mortgage delinquency. Gerardi et al. (2018) demonstrate that both strategic behaviour on behalf of the households and income shocks are correlated with the propensity to default. Aristei and Gallo (2016) demonstrate that financial vulnerability is important for when households stop paying but that also institutional factors, such as efficiency in enforcement, matter (see also Rajan, Seru, and Vig 2015). Several studies indicate that the double triggers of negative equity and affordability problems determine mortgage delinquency (Gerlach-Kristen and Lyons 2018; Kelly and O'Malley 2016; Kelly and O'Toole 2018).

Living with Indebtedness

We have now learned that indebtedness is ubiquitous for households and that, at some point, it may turn into overindebtedness. The implication is that households simply have to live with indebtedness. Here I start out from the perspective of households' strategies for coping with overindebtedness. I then move on to examine the literature on the consequences of overindebtedness for households and society, respectively.

Coping strategies

Coping strategies for overindebted households may be considered from different perspectives. In his classic study of overindebted Norwegian debtors, Poppe (2008) distinguishes between three stages. During stage one, the debtors attempt to preserve status quo by ignoring the mounting debt problems and instead adhere to existing patterns of consumption. Stage two, on the other hand, entails a period of turmoil as the debtor acknowledges overindebtedness but strives with all means possible to defend their existing lifestyle. Stage three is defined by the debtor's acceptance of a new, potentially life-long, social identity. This identity may involve doing nothing about the debt problems or actively circumventing them, but the debtor may also take advantage of existing institutions to seek help, for example, through debt relief.

Sandvall (2011) analyses the coping strategies of Swedish debtors in different phases of debt relief from the perspective of four ideal types that make up a cross-tabulation with active–passive and open–closed as categories. The active–passive categories refer to whether the debtor has intentions to address his or her situation and whether the debtor accepts the situation. The open–closed categories refer to whether the debtor considers that there is a need to not disclose his or her situation to his or her surroundings. The debtor's coping strategies are dynamic in the sense that they may change over time. Sandvall finds that several factors influence which strategy the debtor adopts, such as the perceived possibility to achieve change, personal treatment in meetings with institutions, health, and feelings of guilt or shame.

It is easy to see how both Poppe's (2008) and Sandvall's (2011) categorizations are helpful when considering the coping strategies of homeownership debtors during foreclosure. Furthermore, different aspects of how individuals and households

cope with overindebtedness have been considered in research. This includes attempting to reach settlements with the creditors (Krumer-Nevo, Gorodzeisky, and Saar-Heiman 2017), seeking advice and help (Pleasence and Balmer 2007; Stanley, Deville, and Montgomerie 2016), mobilizing non-economic resources (Sabaté 2018), applying for debt relief (B. Larsson and Jacobsson 2012; Sandvall 2016), getting legal representation (Taylor Poppe 2016), adopting a financial logic (Pellandini-Simányi, Hammer, and Vargha 2015), stigmatization (Sparkes 2020), and using more credit (George, Hansen, and Routzahn 2018). The specific concerns of subgroups of debtors have also been considered, for example, disability (Nelson, Berry, and Dalton 2013), gender (Callegari, Liedgren, and Kullberg 2020), mental illness (Holmgren et al. 2019), and homeownership (Waldron and Redmond 2017).

Consequences for the debtor

Living with overindebtedness implies personal consequences for the debtor. Maybe the first thing that comes to mind are health issues. Extant research has established that there is a link between overindebtedness and deteriorating health, both physical and mental. Keese and Schmitz (2014) use German survey panel data and find that various measures of the seriousness of household indebtedness are correlated with worse physical and mental health. Similarly, Dackehag et al. (2019) use Swedish survey data in combination with register data in an attempt to assess the issue of causality between mental health and debt problems. They replicate the finding that debt problems and worse self-reported mental health are correlated, but also find that some objective indicators of past mental health problems are correlated with present debt problems.

The specific case of foreclosure and health has also been considered. In a literature review, Tsai (2015) finds that most reviewed studies reported that foreclosure is associated with adverse effects on health. The literature review of Alhenaidi and Hujits (2020) finds that foreclosure is associated with a heightened risk of, for example, depression and anxiety. Cannuscio et al. (2012) find that homeowners subject to foreclosure have substantially worse self-reported health status in comparison with homeowners not experiencing financial difficulties. Similar results are reported by Pollack and Lynch (2009), and by Alley et al. (2011). Lindblad and Riley (2015) find that changes in self-reported health during foreclosure were not related to whether there was a loan modification or a

foreclosure sale. Yilmazer, Babiarz, and Liu (2015) find that decreasing housing wealth and mortgage payment difficulties are associated with an increase in psychological distress. Osypuk et al. (2012) find that a recent experience with foreclosure is associated with a heightened risk of depression for women.

Health is probably an issue for economically troubled homeowners both going into and coming out of foreclosure. Libman, Fields, and Saegert (2012) discuss health both as an antecedent and a consequence of foreclosure in the light of focus group interviews (see also Pollack et al. 2011). Furthermore, there are structural aspects of inequality to consider (Saegert, Fields, and Libman 2011). As an example, Jones, Mamudu, and Squires (2020) find that the socio-economic characteristics of US metropolitan areas help explain the correlation between foreclosure and obesity prevalence.

For overindebted households, health is not the only issue. Research indicates that their general wellbeing is also affected. Waldron and Redmond's (2017) results indicate that foreclosure is associated with perceived lower quality of life. On a similar note, Mykyta's (2019) results indicate that foreclosure proceedings are associated with increased material hardship and reduced economic wellbeing. Hall et al. (2018) find that foreclosure is associated with moving to more disadvantaged neighbourhoods (compare Molloy and Shan 2013). The findings of Ross and Squires (2011) indicate that foreclosure debtors experience a loss of trust in the institutions involved in the proceedings and greater uncertainty and stress in their everyday lives. Furthermore, debt problems may contribute to criminal offending (e.g., Aaltonen, Oksanen, and Kivivuori 2016).

Consequences for society

I now move the focus from the debtor to the societal consequences of foreclosure and demonstrate that living with indebtedness is something that is relevant for all of us. In the previous section, I considered the individual health consequences of foreclosure. Health is also relevant as an externality of foreclosure, as research indicates that foreclosure adversely affects health at the neighbourhood (Chambers et al. 2019) and community (Wang 2020) levels as well.

One important societal consequence of foreclosure is that it seems to be correlated with increasing levels of crime (Arnio, Baumer, and Wolff 2012; Immergluck and Smith 2006). Payton et al. (2015) find that foreclosure is a predictor of crime but that the effect diminishes with distance. Hipp and

Chamberlain's (2015) study indicates that the neighbourhood effect of foreclosure on crime varies depending on the nature of the crime and the local socio-economic characteristics in terms of inequality, heterogeneity, and segregation (compare Arnio and Baumer 2012).

Another important societal consequence is the impact of foreclosure on the house prices of surrounding properties. Cohen et al. (2016, 175–79) review the literature and conclude that the effect on the selling prices of surrounding non-foreclosed properties seems to be less than two per cent and dependent on distance. For example, Gerardi et al. (2015) estimate an effect of one per cent within 0.1 miles and also find that this effect diminishes both with distance and with time. Vernon-Bido et al. (2017) contribute with a study that indicates that the effect is non-linear and that neighbourhood density needs to be considered.

Ways out of Indebtedness

The aim of foreclosure is to sell the property to enable payment of the debts. Thus, in theory, foreclosure represents an exit opportunity for the debtor, while, in practice, this may or may not happen. Here I consider debt relief and foreclosure outcomes as relevant for households' ways out of indebtedness. However, foreclosure cannot be considered in isolation. A complex web of safety nets for foreclosure debtors, including homeownership policies, consumer protection regulation, private insurance, and welfare policies, is also relevant for how the debtor fares upon exit. I refer the reader to Papers 1 and 3, where I discuss these issues in more detail.

Debt relief

Debt relief exists in many national jurisdictions, where it appears in different forms. In principle, debt relief aims to relieve overindebted individuals of all debts. However, in practice, the legal regulation is seldom designed to achieve this completely. Linna (2015) considers the interrelated aspects of entry control and coverage. Entry control refers to how strictly the background of the indebtedness is investigated and assessed. Coverage refers to the degree to which the debtor actually is relieved of the debts. In many jurisdictions, different types of debt are excluded. For example, in Sweden, mortgage debt corresponding to the value of

the property is excluded. Linna argues that these two aspects are related in the sense that high coverage demands strict entry control and vice versa. Linna juxtaposes debt relief in the Scandinavian countries as an example of high coverage–strict entry with the US regulation as an example of low coverage–easy entry (see also Kilborn 2006). Linna also distinguishes between debt relief that encompasses a repayment plan over a specific time period, as in Sweden, and debt relief that is immediate. Ramsay (2017) provides a critical comparison between different national legal regimes, including Sweden.

It is difficult to study the socio-economic effects of debt relief at the individual level, mainly because there is usually no control group to compare with. In a widely cited study using data on US debtors with debt relief cases randomized to judges, Dobbie and Song (2015) find several beneficial consequences of debt relief: increased income and employment, reduced mortality, decreased foreclosure rate, and decreased reliance on social welfare. In a different study of a US debt relief programme targeting credit card debt with a randomized experimental design, Dobbie and Song (2020) demonstrate that interest write-downs, but not immediate payment reductions, led to positive financial effects and higher employment. Mukherjee, Subramanian, and Tantri (2018) study a debt relief programme targeting farm loans in India with exogenous characteristics and find that debt relief reduced the risk of future default for some borrowers.

Foreclosure outcomes

By foreclosure outcomes, I mean the concrete outcomes of the foreclosure process in terms of what happens with the mortgage and the property (also see Paper 4 for a schematic presentation). These outcomes have primarily been studied within economics from either a process perspective, or an intervention perspective. Process-oriented studies employ data that attempt to describe the mortgage and what happens during foreclosure in as much detail as possible. Intervention studies use data about some type of foreclosure prevention measure and attempt to estimate its effect. In this section, I focus on the independent variables that predict these outcomes.

Process-oriented studies focus on how variations in the characteristics of the borrower's socioeconomic status, the lender and the loan, the property, the local socioeconomic landscape, the market, and the legal regulation of mortgage

foreclosures are associated with foreclosure outcomes. The socioeconomic characteristics of borrowers include credit rating, household income, educational level, family type, and race.⁷ The characteristics of the lender are measured principally using variables indicating whether the loan is securitized or not, and variables indicating servicer-fixed effects.⁸ Loan characteristics include, for instance, loan purpose, principal payment time, loan-to-value ratio, how well-documented the underwriting is, how the interest rate is set (fixed versus adjusted), whether there are subprime terms, lien priority (senior versus junior), prior performance and current balance.⁹ Property characteristics typically focus on the type of real estate and whether it is owner-occupied.¹⁰ Local social and economic characteristics are aggregate measures of, among other things, unemployment and foreclosure rates, as well as housing market conditions.¹¹ Market conditions are measured by macro-level economic indicators such as interest rate fluctuations and house price indexes.¹² The characteristics of the legal regulation of foreclosure are mostly focused on whether judicial foreclosure is

⁷ Ambrose and Capone (1998), Been et al. (2013), Boehm and Schlottmann (2017), Capozza and Thomson (2006), Chan et al. (2014), Danis and Pennington-Cross (2008), Kelly and McCann (2016), LaCour-Little, Luchtenberg, and Seiler (2018), Rugh, Albright, and Massey (2015), and Voicu et al. (2012).

⁸ Adelino, Gerardi, and Willen (2013), Agarwal et al. (2011), Been et al. (2013), Reid, Urban, and Collins (2017), Voicu et al. (2012), and Zhang (2013).

⁹ Adelino, Gerardi, and Willen (2013), Agarwal et al. (2011), Ambrose and Capone (1998), Been et al. (2013), Boehm and Schlottmann (2017), Capozza and Thomson (2006), Chan et al. (2014), Danis and Pennington-Cross (2008), Kelly and McCann (2016), LaCour-Little, Luchtenberg, and Seiler (2018), Pennington-Cross (2010), Reid, Urban, and Collins (2017), Rugh, Albright, and Massey (2015), Voicu et al. (2012), Zhang (2013), and Zhu and Pace (2015).

¹⁰ Been et al. (2013), Capozza and Thomson (2006), Chan et al. (2014), Rugh, Albright, and Massey (2015), Voicu et al. (2012), and Zhang (2013).

¹¹ Adelino, Gerardi, and Willen (2013), Ambrose and Capone (1998), Been et al. (2013), Boehm and Schlottmann (2017), Capozza and Thomson (2006), Chan et al. (2014), Danis and Pennington-Cross (2008), Pennington-Cross (2010), Reid, Urban, and Collins (2017), Rugh, Albright, and Massey (2015), and Voicu et al. (2012).

¹² Capozza and Thomson (2006), Jun Chen and Deng (2013), Danis and Pennington-Cross (2008), Pennington-Cross (2010), Voicu et al. (2013), Zhang (2013), and Zhu and Pace (2015).

required and whether the mortgage is full recourse, but also include the duration of foreclosure proceedings.¹³

The intervention studies investigate the effects of preventive measures, such as counselling (Collins 2007; Collins and Orton 2010; Collins and Schmeiser 2013; Ding, Quercia, and Ratcliffe 2008; Temkin et al. 2014), lender initiatives (Collins, Lam, and Herbert 2011), mediation (Collins and Urban 2015), loan modifications (Agarwal et al. 2017; Jian Chen, Xiang, and Yang 2018; Collins, Reid, and Urban 2015; Gabriel, Iacoviello, and Lutz 2021; Haughwout, Okah, and Tracy 2016; Schmeiser and Gross 2016) and alternative dispute resolution institutions more generally (Goldstein, Weidig, and Boateng 2013; Kulp and Shack 2013). Insofar as these studies employ micro-level data, they tend to include similar covariates as the ones described above.

¹³ Ambrose and Capone (1998), Boehm and Schlottmann (2017), Capozza and Thomson (2006), Jun Chen and Deng (2013), Collins, Lam, and Herbert (2011), Gerardi, Lambi-Hanson, and Willen (2013), Pennington-Cross (2010), Voicu et al. (2012), Zhang (2013), and Zhu and Pace (2015).

Theory

I employ American sociologist Donald Black's theoretical framework to explain the social contingency of law and social control during foreclosure. In this chapter, I attempt to explicate why this framework is adequate and suitable for answering my research question and achieving my aim. Looking at foreclosures analytically, we see that there are variations regarding how they are resolved. Some properties are not sold. Some properties are sold forcibly while other are sold voluntarily. There may be no arrears or large arrears after sale. The theoretical question is how it is possible to find order in and explain this variation. This is also related to methodology since the researcher should state the reasons for the choice of empirical data, which I do in the next chapter.

This theory chapter proceeds as follows. First, I state that social facts are a reasonable starting point for a study of foreclosures. Second, I argue that one potentially rewarding way to consider foreclosure is in terms of deviance and social control. This sets the scene for introducing Donald Black's theory of social control, which uses social structures to explain social control behaviour. I then compare Black's theory with two alternative sociological theories of social control: Ellickson's rational choice approach and Griffiths' social working approach. In comparison with Black, they offer a different perspective on social control by including rules/norms in their ontologies. For the purpose of the theoretical discussion, I will use these two concepts interchangeably. In conclusion, I summarize the reasons why I believe that Black's theory provides explanations that are more rewarding for this study.

Social Facts

This thesis uses social facts as the most fundamental sociological explanatory category. Emile Durkheim defines social facts as follows (1901, 27, italics in original):

A social fact is any way of acting, whether fixed or not, capable of exercising over the individual an external constraint; or: which is general over the whole of a given society whilst having an existence of its own, independent of its individual manifestations.

In this way, Durkheim attempted to carve out the scientific domain of sociology as encompassing both factual ('is') and normative ('ought') elements. A social fact is an observable and generally occurring phenomenon. It may be less consolidated, as acts, or more consolidated, as demography or societal institutions. Durkheim stressed that these 'ways of acting' and 'ways of being' is not a dichotomy, but rather variable points on a scale. With relevance for foreclosure, home ownership as one of the dominant modes of organizing housing in Western societies is a social fact with a relatively high degree of consolidation. Similarly, borrowing to buy a house is highly institutionalized. The act of paying for the mortgage is generally occurring but less consolidated. Not paying for the mortgage – delinquency – is also generally occurring but even less consolidated. These are the factual aspects of social fact ('is').

Social facts exert constraint on individuals. We all face different types of constraint in our lives. This constraint may be physical, as in the act of overcoming earth's gravitational force when getting out of bed in the morning. According to Durkheim, social facts uniquely exert social constraint on individuals (1901, 21–22). Social constraint is coercion against an individual who, as a result, experiences various forms of resistance. A middle-class academic family in a Western country may be subject to scorn if they choose to live in a rental apartment. The financial preconditions for home ownership may be more beneficial than rental housing through, for example, low interest rates or tax deductions. Excessive borrowing to buy a house may limit other parts of the household economy, such as going on vacation. Mortgage delinquency almost certainly sparks an institutional reaction from the bank which may be legal or nonlegal. These are the normative aspects of social facts ('ought').

According to Durkheim, social facts should be treated as 'things' (1901, 7). This metaphor expresses a methodological principle, not an ontological one

(Giddens 1978, 119). The implication is that sociology should explain social life and organization with reference to social facts and not with reference to individuals and their states of mind. Thus, the sociological researcher observes social facts, not individuals. It is important to note that, even if social facts encompass normative elements, they are accessible to sociological knowledge only through empirical observation and, thus, not deductive reasoning. Following this methodological principle in order to explain foreclosure, we should observe its extent, its relation to other social facts, and the social constraint that a foreclosed homeowner faces. In this thesis, I follow Durkheim in delimiting this as the scientific scope of the knowledge claim within the sociology of law (Banakar 2013, 27–28).

Deviance and Social Control

One central theme in this thesis is that we may understand what happens during foreclosure in terms of social control. My professional background is in law and intuitively I approach foreclosure as a dispute. There are two stakeholders – the lender and the borrower – and their relationship in terms of legal obligations is determined by a contract – the mortgage credit. Upon delinquency, the borrower violates the basic term of the contractual relationship – the payment of principal and interest – and the lender is entitled to claim that the entire credit is due for payment. How the borrower reacts to this claim determines the nature of the dispute and also the mode of its resolution.

If foreclosure and its outcomes are theoretically framed as a dispute, it is possible to draw upon research and theories of disputing within the anthropology of law and the sociology of law to explain it (e.g., Abel 1974; Aubert 1963; Felstiner, Abel, and Sarat 1980; Galanter 1974; 1981; Miller and Sarat 1980; Nader 1980; Nader and Todd Jr. 1978). Theoretically, it is also possible to link to access to justice and to alternative dispute resolution (Galanter 2010).

Principally, there is a dispute as to the allocation of resources. The lender claims that the borrower should allocate his or her economic resources to the payment of the mortgage credit, while the borrower rejects this claim since the economic resources are not sufficient. However, at a more fundamental level, there really is no dispute regarding the mortgage credit *per se*. The two stakeholders normally agree that the contract is correct and valid. There is no claim and counterclaim

with respect to what fundamentally defines the lender–borrower relationship. Conversely, their shared aim is normally the continuation of their mutually beneficial relationship according to the terms of the contract. Compared to, for example, a contractual dispute over the correct specification of some product or service, foreclosure seems to lack some of the essential characteristics of a dispute. This indicates that we should consider alternative theoretical framings outside the disputing paradigm.

One alternative is to instead understand foreclosure as a social control response to deviance. Overindebted individuals are subject to a variety of responses ranging from social rejection by peers to judicial-administrative measures at different levels of government (Poppe 2008, 45–51; Sandvall 2008, 83–111). This should also be true for foreclosed homeowners. These responses are normative in the sense that they coercively restrict the borrower's actions. Thus, what emerges are the contours of a social fact that may be characterized as deviance because it sparks purposive social control responses (Black 1976, 9; Horwitz 1990, 9–10). Conflict management is a term that I do not use in this thesis but that may be used interchangeably with this understanding of social control (Black 1998, xxiii).

Historically within sociology, the concept of social control has been used not only in this narrow sense but also in relation to explaining social order and cohesion at the societal level (Deflem 2008, 228–29). One early example of this understanding of social control is the work of Edward Alsworth Ross (1901). In the same vein, we should also remember that the central problem for Durkheim in *The Division of Labor* (1902) was the relationship between specialization of work in society, on the one hand, and social solidarity and cooperation, on the other hand. According to Janowitz' (1975) conceptual exposé of social control, this broad understanding of social control has lived on in sociological theory, for example, in the work of Talcott Parsons, who was inspired by Durkheim (see also Chriss 2019). At the same time, Janowitz continues, a narrower understanding of social control, focusing on the preconditions for social conformity, gained popularity during the second half of the 20th century. According to Deflem (2019, 2), the concept of social control today mainly refers to studying 'institutions and practices involved with the control of crime and/or deviance'. It is within this narrower paradigm that I situate the definition of social control as any purposive response to deviance.

Donald Black's Theoretical Framework

Over the last half century, American sociologist Donald Black has developed a coherent theoretical framework for understanding and explaining social control. Black has consistently and meticulously expanded the subject of his theories from law (1976) to social control (1984; 1998) and, lastly, to the origins of conflict (2011). Concurringly, Black has argued that sociology is the study of the behaviour of, i.e., variations in social facts, under the label 'pure sociology' (1995). In Black's exclusion of people, psychology, and teleology from the epistemology of sociology, we recognize the heritage of Durkheim.

According to Black's theory of social control, variations in social control responses to deviance should be studied as dependent variables that are explained by variations in the social structure of the case at hand. Social control responses are delimited to conflicts of morality: 'the clash of right and wrong' (Black 1998, xiii).

Social control responses have two distinct qualities – form and style – that both vary in quantity. A form of social control 'is a mechanism by which a person or group expresses a grievance' (Black 1998, 5). Examples include law, which Black defines as governmental social control (1976, 2), and negotiation, which Black defines as social control through joint decision (1998, 83). Beyond the stakeholders of a case, a particular form may include third-party intervention as either support to one of the stakeholders in a conflict, or as a settlement agent with varying degrees of authority (1998, 5–6 & 97–98; see also Horwitz 1990, 97–98).

In the case of foreclosure, both of these social control responses are common. Law is activated when the lender levies debt collection measures against the borrower and, subsequently, formally terminates the mortgage. Law includes third-party intervention when the lender requests foreclosure sale of the property at the enforcement authority. The borrower may seek support from, for example, a legal counsel. Negotiation involves attempts at and actual contacts between the stakeholders with the aim of reaching a joint settlement. Settlements may aim to preserve the contractual relationship between the lender and the borrower. An example is an agreement on the terms for forbearance that enables the borrower to catch up on the payment of delinquent rates and instalments. Settlements may also aim to end the mortgage contract by agreeing on the terms for the borrower's voluntary sale of the property.

Social control responses also vary in style, which is ‘the language and logic by which [social control] defines and responds to deviant behavior’ (Black 1998, 6). Black identifies four different styles: penal, compensatory, therapeutic, and conciliatory (1998, 6–9; see also Horwitz 1990, 19–22). The penal style defines prohibitions which are enforced with punishment. The compensatory style defines obligations which are enforced with payment. These are accusatory styles of social control. The therapeutic style defines normality, which is achieved with individual therapy. The conciliatory style defines social harmony and reconciliation, and is achieved through interactions between the stakeholders. These are remedial styles of social control. Importantly, social control responses may combine different styles.

In the foreclosure case, social control responses are mainly oriented towards compensation. There is an obligation for the borrower to pay and the lender may enforce this obligation by activating law. Compensation may also be achieved through negotiation, as when the borrower sells the property voluntarily. However, if the value of the property is low or if the sale of the property – forced or voluntary – results in large arrears, there is no or little enforcement of payment. We may then question whether the style of the social control responses is compensatory. Maybe, in such cases, the style is instead penal in the sense that there is a prohibition against not paying your debts and that the punishment for violation is economic ruin. Black’s theory predicts that such displacements of style are possible.

Both forms and styles of social control are quantitative variables, i.e., they vary by number, degree, magnitude, and scope (Black 1976, 3; 1998, 9). There may be more or less of a particular form or style of social control in any given case. In the foreclosure case, there is more law if the lender initiates debt collection measures, terminates the mortgage after default, requests foreclosure sale of the property, or if the property is sold at a foreclosure auction. There is more negotiation if there are contacts between the lender and the borrower regarding joint settlement, if some type of settlement is reached, and if the content of the settlement results in termination of the contractual relationship. There is more compensation if the possibility of selling the property without arrears is greater.

In two studies included in this thesis, I empirically investigate forms of social control as dependent variables. Paper 2 focuses on the quantity of law and Paper 4 on the quantity of negotiation in the foreclosure case. In Paper 3, I empirically investigate variations in the compensatory style of law in the foreclosure case.

In Black's theory, variations in social control responses are explained by variations in the social structure of the given case. It is essential that the characteristics of the case are held constant so that only alike cases are compared (Campbell and Manning 2019, 59). I have previously defined the foreclosure case investigated in this thesis as the process that starts with delinquency. For this case, we may compare how variations in the social structures across various instances (independent variables) explain and predict variations in social control responses (dependent variables). Social structures refer to the variable aspects of social life with 'locations, directions, and distances defined by human interaction itself' (Black 1998, 159). Black referred to these structures as dimensions in social space. I find the metaphor social space to be uninformative as to the explanatory mode of Black's theories, which is why I instead use the concept social structures (Black 1998; compare Horwitz 1990, 11–12; Tucker 1999, 5–7).

The social structure of a given case is determined along a series of aspects. These aspects include stratification (uneven distribution of wealth and status), morphology (uneven distribution of people in relation to each other), culture (uneven distribution of symbolic and expressive aspects of social life), organization (uneven distribution in the capacity for collective action) and social control (uneven distribution of normative aspects of social life) (Black 1976; 1998, 159–61). These aspects are quantitative variables in the same way as variations in social control responses.

All aspects of the social structure are determined by their location, or direction and distance. Location may be thought of as a point estimate for a specific aspect. One example is Black's prediction that '[l]aw varies directly with stratification' (1976, 13). One implication of this prediction is that if, in a given social setting or society, there is more status inequality regarding income, wealth, or other material goods, there are more social control responses in the form of law. Direction and distance may be thought of as a vector between the stakeholders in a given case. For each specific aspect of the social structure of the case, the stakeholders assume different status positions in relation to each other. Downward social control responses are directed from higher status towards lower status, as in Black's prediction regarding stratification that '[d]ownward law is greater than upward law' (1976, 21). Between the stakeholders there are also quantifiable distances for each aspect, i.e., the magnitude of the vector. The status difference between the stakeholders may be lesser or greater. Continuing on the example with Black's predictions regarding stratification, he predicts that '[d]ownward law

varies directly with vertical distance', but that '[u]pward law varies inversely with vertical distance' (1976, 24–25). One implication of these predictions is that, in cases with downward social control responses, there should be more law as the difference in stratification status between the stakeholders increases.

In Paper 1, I draw upon Black's conceptualization of social structures in operationalizing the socio-economic resources of debtors subject to foreclosure sale at the SEA. In Papers 2 and 3, I operationalize different aspects of the social structure of the foreclosure case as directions and distances between the lender and the borrower. In Paper 4, I analyse the empirical findings as variations in organizational capacity, social control, third-party intervention, and culture. Thus, all of the studies included in this thesis focus on the social structure of the foreclosure case.

In this thesis, I make sparse references to Black's latest major theoretical work *Moral Time* (2011). In this book, Black turns to explaining why conflict occurs by introducing the concept of social time. Changes in social structures imply movements in social time. It is these movements that cause conflict. The reason why I do not use this theory is that my main research question focuses on variation in social control responses during conflict, i.e., not on the cause of the conflict. In answering this research question, Black's theory about the behaviour of social control is more appropriate.

Donald Black's theoretical framework has been subject to extensive empirical application and verification, as indicated by Michalski's (2008, 260–62) discussion of the validity of Black's theories. Examples include sentencing (Chappell 2019; Chappell and Maggard 2007; Dawson 2003; Kruttschnitt 1981), guilty pleading (Auerhahn 2012), reporting crimes (Clay-Warner and McMahon-Howard 2009; Copes et al. 2001; Dai and Gao 2021; Felson and Paré 2005; Holtfreter 2008; Kuo et al. 2012), policing (Akers and Kaukinen 2009; Ariel and Tankebe 2018; Avakame, Fyfe, and McCoy 1999; Norris, Brikbeck, and Gabaldón 2006), arrests (Ylang and Holtfreter 2020), prosecutions (Kuo et al. 2010), punishment (Phillips 2009), social judgments (Hembroff 1987), sexual harassment (Dawson and Welsh 2005), vengeance (Phillips 2003), conflicts between adolescents (Kuan 2004), academic publishing (Michalski 2017), conflict management in corporations (Morrill 1995; Tucker 1999), and conflicts in middle-class suburbia (Baumgartner 1991). This indicates a, to this day, continuing interest among empirical researchers in Black's theory, primarily

within criminology. However, to my knowledge, there are no Blackian studies regarding how social control responds to debt delinquency.

Criticism of Black

The academic debate about the scientific status of Donald Black's theoretical framework has at times been heated: Greenberg (1983) versus Horwitz (1983), Hunt (1983) versus Cooney (1986), and Marshall (2008) versus Michalski (2008). In this section, I briefly discuss two important criticisms – the theories' explanatory scope and their purported exclusion of psychological mechanisms – and then point at some limitations.

When considering Black's theories, it is important to keep their explanatory scope in mind. Black's theories consist of statements about relationships between social facts (Griffiths 1984, 38; Sherman 1978, 12; Stinchcombe 1977, 130; Turner 2002, 664; compare Hunt 1983, 21–24). Black's approach to theorizing employs a 'covering principle' to identify which variables predict specific phenomena (Lanski 1988). In Black's case, this covering principle is the social structure of a given case. 'Explanation occurs when concrete variation in phenomena is deducible from the general propositions that comprise the theory' (Horwitz 1983, 375; see also Cooney 1986, 265; Michalski 2008, 257–59; Sherman 1978, 15). The critique is that this type of theory does not really provide explanation since there is no mechanism; why does something happen? For this reason, Greenberg (1983, 341) characterizes Black's propositions as 'empirical generalizations' and Hunt (1983, 41) as a 'list of propositions [...] which are theoretically unassociated'. According to Marshall (2008, 212–14), there is no explanation in Black's theoretical framework because the propositions are, at best, only laws that offer description and, hence, there are no causal mechanisms.

The explanatory scope of Black's theories is a result of his attempts at epistemologically delimiting which knowledge is possible to attain within sociology in order to generate general and testable theory (Black 1995; compare Stinchcombe 1977). Rather than focusing on explanation through mechanisms, covering-principle theorizing focuses on the theory's ability to identify patterns in empirical variation. As long as there is a guiding principle for the theoretical propositions that ensures coherency, there is no reason why an explanation geared towards some type of mechanism should have primacy if there is no substantive

reason, such as more parsimony or better empirical fit. In Blackian theory, the guiding principle is that only social life can cause social life. Following Durkheim, one social fact should be explained with a different social fact. For this reason, a sociological explanation should be concerned with the behaviour of social facts both as dependent and independent variables. Black's delimitation to social structures as independent variables guides us as to which theoretical propositions may explain social control behaviour. For example, an acceptable proposition may predict a certain social control behaviour with variations in the relational distance between the stakeholders. Inacceptable propositions would draw on, for example, the stakeholders' intentions or the purpose of the social institution (not social facts), or the physical layout of a specific venue or the digital means for online communication (not social structures). In this way, Black provides a guiding principle for which theoretical propositions are possible while still opening up for the possibility of discovering new theoretically relevant aspects of the social structure.

Black makes strong statements about how his theories explain and predict social control behaviour without reference to psychological mechanisms, such as will, intent, or purpose (e.g., 1976; 1995). This has been the target of repeated criticism. Hunt (1983) argues that it is logically impossible to exclude values in order to explain styles of law since these 'cannot be separated from the intrusion of teleological elements associated with human purposes and intentions' (41), and that certain responses, such as avoidance, 'can only be understood in terms of the subjective responses of human actors' (34). Similarly, Marshall (2008) finds that Black's theoretical framework 'depends upon readers themselves unconsciously providing its requisite psychological underpinnings' (228) and that Black fails to 'eliminate subjectivity and teleology or to abolish psychologism from his own model' (226). Eder (1977, 135 & 139–40) concurs.

It is true that Blackian theoretical work requires an understanding of the meaning, including intentions and purpose, of human interactions and social contexts. However, as Cooney (1986, 263–65) argues, this is necessary only to identify relevant patterns of behaviour, not to explain them theoretically. To exemplify with the topic of this thesis, it is not possible to theorize about foreclosure without an understanding of the meaning of the interactions that happen between the lender and the borrower. In this sense, the concepts in a positivistic theory are dependent upon and originate from social life, which the theorist is part of. Nonetheless, even if the theorist's knowledge and

understanding of the motivational factors that underpin human conduct are important, they are not conclusive for which behaviour patterns are identified as theoretically relevant. The point is that the theoretical explanation of the identified behaviour pattern does not have to rely on the stated intentions and motivations of the individuals involved in social interaction. For example, maybe the borrower states various reasons – intentions, prejudices, or states of mind – for a specific pattern of behaviour during foreclosure. In a theory of foreclosure, the theorist attempts to understand the meaning of the behaviour pattern but may explain it without reference to the stated reasons. In this sense, a theory that explains social life with social life, without relying on psychological mechanisms, is possible.

The scope of Black's theoretical framework results in important limitations with regard to how a specific social phenomenon may be explained and studied. As is evident from the previous discussion, Blackian theory does not explain social phenomena with reference to how the individual perceives and relates to it. There is no mechanism on the individual level; no, for example, empathy, shame, anger, economic rationality, nor cognitive ability. Here Black's sociological theory is silent. A second exclusion concerns the effects and effectiveness of law and other social control responses (Greenberg 1983, 340; Hunt 1983, 26–27). Sciulli (1995) advances the argument that, because Black excludes both social control's immediate effects and its relevance for maintaining social order from an institutional perspective, his theories are adequate to explain behaviour in the 'factories of law' (for example, lower-level criminal courts) but not in the 'deliberative bodies of law' (for example, corporate courts). This would mean that social contingency matters in the former case but not the latter. In line with Black, Griffiths (2003, 20–21) argues that law's consequences cannot be explained with one general theory. Rather, separate theories regarding other social facts than law and social control as dependent variables are necessary. Accordingly, Black is silent on this issue.

Rule-focused Theories of Social Control

In this section, I briefly outline two alternative theories of social control: Robert C. Ellickson's theory in the book *Order without Law* (1991) and John Griffiths' theory of the social workings of legal rules (2003). A comparison between

Blackian theory and Ellickson's and Griffiths' rule-focused theories of social control enables a distinction of several critical qualities of Black's theoretical framework: its consistent attention to social facts, its covering-principle approach to explanation, and its adequacy for empirical verification.

It is possible to conceptualize the empirical study of social control within the sociology of law along two different axes defined by to what extent there is a focus on the rules that define deviant behaviour and on the responses to deviance, respectively. In line with Durkheim, Donald Black focuses on the response side of social control. In this way, Black strictly delimits knowledge about social control to those aspects which are readily observable and measurable, i.e., the factual ('is') dimension of social facts. By contrast, Ellickson and Griffiths study social control from the perspective of the rules that determine which behaviour is deviant. Rules and norms are important study objects within the sociology of law, even if their ontological status may be discussed (Hydén 2011; Svensson 2013). A Durkheimian understanding of social facts encompasses the epistemological possibility of studying rules through their normative ('ought') dimension. In this way, we see that all three scholars are joined by their interest in the empirical study of social control, but that they explore different sides of this study object.

All three theories share a common recognition of the socially contingent nature of social control, and they acknowledge that the locus of social control is not within law. By contrast, we may compare with structural-functionalist theories that emphasize law as a differentiated system for social control. According to Parsons, law's primary social function is integration, which means that law controls how other subsystems perform and interrelate (Deflem 2008, 110–12; Treviño 2008, 317–23). This understanding of how law's operations are independent from the operations of other systems, for example politics or economy, is even more prominent in neofunctionalist theories. In Luhmann's understanding, even though law as a social system has a cognitive openness (it can learn from its environment), it is nonetheless operationally closed (it accepts only specific communication as legally valid) (Deflem 2008, 167–68; Treviño 2008, 323–25).

Like Black, neither Ellickson nor Griffiths rely on conflict-oriented theoretical perspectives that give primacy to power or group interests in explaining social control (Treviño 2008, 349–57; compare McDonald 1976, 19–25). There are two main reasons why I avoid such theories for the comparison with Black. First, these theories sometimes tend to reject an analytical structure with an outcome

variable and explanatory variables in favour of normative modes of analysis (e.g., Deflem 2008, 119, see also 125 on Alan Hunt's critical sociology of law). This makes it difficult to compare such theories with Black. Second, their Marxian-inspired focus on coercion, domination, and repression (Deflem 2008, 119–26; compare Treviño 2008, 350–353 regarding Simmel's moderating influence) seems ill suited for the case of foreclosure, which has two stakeholders that, even though there is inequality and conflict, still share a common interest in retaining their contractual relationship. There is a risk that conflict theory disregards non-repressive variation in foreclosure outcomes.

Ellickson: rule content and rational controllers

Ellickson's mission is to demonstrate that informal social control, i.e., managing conflicts without resorting to law, is more prevalent than predicted by the legal centralist perspective of law and economics scholars, at the same time as he reproaches socio-legal scholars for their inability to produce coherent theory that predicts the content of norms that direct social control away from the law (1991, 137–55). His book consists of three integrated parts: an ethnographic study of informal social control in a specific case (how conflicts regarding trespassing cattle and boundary fences are resolved among cattlemen), a conceptual apparatus for describing various aspects of social control, and a theory about the content of norms in close-knit groups.

The concepts in Ellickson's approach to explaining social control focus on who exercises social control (the controllers), what kind of rules these controllers apply, and the sanctions that are at the disposal of the controllers (123–36). Ellickson concludes that a 'general theory of social control would predict, on the basis of independent variables describing a society, the content of the society's rules', which requires that 'an analyst would have to incorporate theories of the behavior of the five controllers' (136). Thus, the dependent variable in Ellickson's theory is the content of rules, which is predicted by the behaviour of the controllers, who are not only people, but also social forces, organizations, and government. This means that any theory of the content of rules must start out from a theory about the controllers. Ellickson does this by drawing upon rational actor and game theory, which enables him to explicate a theory about welfare-maximizing norms in close-knit groups, such as the one with the cattlemen he had observed, in their everyday interactions.

According to Ellickson, norms are identifiable by 'patterns of sanctions, patterns of primary behavior, and aspirational statements', while 'the objective costs and benefits of alternative norms are impossible to quantify with precision' (183). Since Ellickson's theory relies on a conception of all actors as rational, it is always necessary to assess the marginal utility of all possible alternative norms in order to determine whether the content of the observed norm actually complies with, for example, the welfare-maximizing principle.

Griffiths: rule following and mobilization in social fields

John Griffiths' theory of social control, as put forward in the article 'The Social Working of Legal Rules' (2003), focuses on 'the conditions under which and the processes by which the relevant actors – those to whom a rule is primarily addressed, others in their immediate surroundings, officials – follow or apply or enforce the rule' (12). While the theory, as indicated by its title, deals with legal rules, it is applicable to all types of rules (6–7 & 74). The dependent variable in the theory – what it explains – is rule following. Griffiths rejects the possibility of the rational choice paradigm as a base for a theory about rule following (15–16, see also Griffiths 1995). Instead, he argues that the theory must be sociological in the sense that it employs 'the social working' of rules to explain rule following (19). This requires that rule following is explained by what happens on 'the shop floor of social life' (20) with such questions as: Do people know about the rule? Do they think that it is important? Are there any competing rules?

In explaining rule-following behaviour, we must start by identifying the 'semi-autonomous social field' in which it happens. Griffiths borrows this concept from Sally Falk Moore. It is the 'fundamental locus of social control' (23) because it is the specific social context in which rules emerge and change. These rules are primary (the substance of rules that defines their substantive content) as well as secondary (rules about rules, i.e., rules about how to, and when, to follow primary rules). These concepts regarding rules are similar to Ellickson's.

Griffiths goes on to define a conceptual apparatus to explain why and how rules are mobilized, i.e., 'when people follow [rules] in their own behavior and when they apply [them] to the behavior of others' (39). Mobilization presupposes that the potential rule follower, first, knows the relevant facts and the relevant rules (both primary and secondary), and, second, categorizes these facts as relevant for the rules at hand. While Griffiths acknowledges that the theory of the social

working of rules treats rules as independent variables (66), he also contends that it is not principally possible to separate such a theory from a theory that positions rules as the dependent variable since 'rules are on both sides of the equation' (72). His argument is that, in many instances of self-regulation, what may appear to be the appearance of a new rule is, in fact, the mobilization of existing rules.

Discussion

I now discuss and compare the three theoretical perspectives on social control proposed in this chapter. The discussion focuses on how Black differs from Ellickson and Griffiths regarding unit of analysis, explanatory scope, and empirical testability. The discussion will demonstrate the consistency, generality, and empirical orientation of Black's theoretical framework.

The three approaches differ in how they delimit the dependent variable, i.e., the phenomenon to be explained. Black excludes people and groups, as well as rules and norms, and instead employs social control responses as the dependent variable. Both Ellickson and Griffiths employ rules/norms. For Ellickson, the dependent variable is the content of the rules that determine how conflict is handled. Even though Black ignores the content of rules, his theories do include styles of social control. Content can never be a study object for Black since it cannot be expressed in terms of quantities. However, to some degree, style captures content by defining the *modus operandi* of social control responses. For Griffiths, the dependent variable is rule following: Which are the social conditions that determine which rules are mobilized?

Black's attempt at explaining social control without reference to rules/norms may seem inconsistent with how a conception of which behaviour is deviant requires a preconception of the rules that separate deviant from acceptable behaviour. However, empirical studies of social control understood as social facts may focus on normativity ('ought') or fact ('is') to varying extents. Ellickson and Griffiths focus on the content of rules and why rules are followed. This does not mean that their theories are normative, but rather only that they strive towards empirical observation and explanation of the normativity of social control. Ellickson and Griffiths ask which rules may be inferred from empirical observation. This requires a conceptual leap from fact to normativity. Black, on the other hand, focuses on responses to deviance, i.e., the factual aspects of social

control. Black asks only which responses may be observed and how they relate to social structures. By structuring his theory around relationships between quantitative variables, he bypasses the need to explain normativity. As a consequence of this epistemology, there are no rules or norms in Black's theories.

Both Ellickson's and Griffiths' theories have people or groups as units of analysis. In Ellickson's theory, we need to consider who the controllers are, and in Griffiths' theory, how to delimit the semi-autonomous social field. Regarding foreclosure, it is relatively plain to see who the controllers are. However, it is more difficult to conceptualize the lender–borrower relationship as a social field and to delimit this social field from other social fields that the stakeholders – the lender, the borrower, the enforcer, and other potential third parties – are part of (compare Griffiths 2003, 24–28). The lender and the borrower are joined in a contractual relationship, but the question is whether their rule-following behaviour is determined in the same social field. Perhaps this is partially the case, but the lender and the borrower probably mobilize rules in separate social fields as well.

The three theories employ different independent variables to explain their dependent variables. Black has social structures. Ellickson has the rational choices of various controllers. Griffiths has processes of rule mobilization in semi-autonomous social fields. Black's social structures are social facts. Consequently, Black is consistent in the sense that both dependent and independent variables are social facts. This is different for Ellickson and Griffiths. Their independent variables require knowledge about the cognitive abilities and the psychological mechanisms of the individuals who are applying rules. Ellickson's hypothesis of welfare-maximizing norms within close-knit groups in their workaday affairs requires an understanding of how the group members acquire relevant information and evaluate welfare needs and costs (Ellickson 1991, 167–83). Even though Griffiths stresses the importance of understanding rule following within the context of social fields, i.e., its social contingency, it is still explained at the individual level in terms of the knowledge of facts and rules, the ability to apply the rule, and the decision to actually mobilize the rule (Griffiths 2003, 43–60). My conclusion is that, while Ellickson' and Griffiths' dependent variables may be understood as social facts, their independent variables are not.

Only Black employs a covering principle – social structures – to explain social control. Ellickson draws upon rational actor and game theory, but also states that a general theory of social control requires sub-theories of the behaviour of the controllers. Rational actor theory by itself contains rather extensive assumptions

about human behaviour. Potentially, we need different theories for different controllers in a given case. This then seems to imply that there is a risk of an exponential escalation in the number of necessary assumptions about controllers just to explain social control in one specific context, such as foreclosure. Additionally, we have to consider the risk that assumptions for different controllers may be contradictory. In the foreclosure case, we would need not only a theory about the behaviours of the second-party controllers – the lender and the borrower – but also about third-party controllers, such as the enforcement authority. These theories must say something about how the behaviours result in rules along five difference aspects: substantive, remedial, procedural, constitutive, and controller-selecting. The risk is that we do not see the forest for the trees. Black avoids this risk by relying on one set of explanatory factors only.

Griffiths tells us to look at how rules are mobilized in social fields and invites us to study 'the shop floor of social life' (2003, 22) without really giving a coherent explanation as to why rules are followed in a specific social field. Probably, in extension, it seems that Griffiths' theory would require specification of the preconditions for how rules are followed for each social field separately. This may result in quite particular theories. Moreover, there are probably multiple and overlapping social fields. There would have to be theoretical propositions about how different social fields interrelate. Otherwise, we instead have to be content with studying each social field separately, possibly noting similarities and differences between mobilization in different social fields. Furthermore, Griffiths does not really explain the content of rules in the first place, since he contends that it is principally not possible to separate rules from rule following (2003, 66–73).

Empirical applicability and verification are important issues from a methodological perspective. Black expresses his theoretical statements as relationships between quantitative variables. There are at least two reasons for this. First, it enables not only explanation, which is a minimum requirement for any theory, but also prediction. Prediction means that theoretical statements predict variations in social control behaviour for a given case or set of cases, including unknown cases. Second, it enables verification, i.e., empirical tests of whether the predictions are correct (Black 1995, 831). One problem with Ellickson's theory is that we may infer the content of rules through various observations, but this is not enough to test his theory about welfare-maximizing norms in close-knit groups. We also have to consider whether potential alternative rules have a higher

marginal utility. These non-existent rules cannot be observed empirically (Ellickson 1991, 182–83). Griffiths explains the process of rule following but does not formulate testable empirical propositions for a specific social field or set of social fields (2003, 4). My conclusion is that neither theory is testable to the same extent as Black's theories.

Conclusion: Why Black?

This brings me to the conclusion of the theory chapter, where I summarize why I believe that Donald Black's approach to explaining social control is a theoretical framework that is suitable and rewarding for studying and understanding the relationship between social status differences and social control responses during foreclosure.

Most importantly, Black's theory allows for an understanding of the social contingency of social control responses. It rests on secure ontological and epistemological grounds by relying on the Durkheimian legacy of studying the behaviour of social control as social facts. This means that we do not need preconceptions of the intents of the stakeholders or the purposes of social institutions. Social control behaviour is explained by the social structure of the foreclosure case. This covering-principle type of explanation attests to parsimony and seems appropriate for the development of new theories about the behaviour of social control. The theory also predicts social control behaviour since it observes relationships between quantities of social control and various aspects of the social structure. The implication is that the theories are empirically testable. The theoretical concepts lend themselves readily to operationalization with both quantitative and qualitative data. Additionally, understanding social control responses during foreclosure as social facts also positions them as potentially relevant explanatory variables in relation to other social facts that make up the institutions of household indebtedness. This may help us understand the interrelatedness of these institutions, in terms of, for example, access, coping, and exit, as outlined previously. Lastly, the theoretical linkage of delinquency on debt with deviance and social control seems both appropriate and novel.

Methodology

According to Banakar and Travers (2005a, 19), 'theory and method are inextricably inter-linked' in the sense that '[m]ethods are not simply techniques that can be used in obtaining facts about the social world, but are always used as part of a commitment to a theoretical perspective'. Creswell (2013, 50) states that the scientific method should adhere to methodological congruence, i.e., 'that the purposes, questions, and methods of research are all interconnected and interrelated so that the study appears as a cohesive whole rather than as fragmented, isolated parts'.

My understanding of research methodology is shaped by these statements. In the preceding chapter, I have accounted for this thesis' approach to how it is possible to explain and predict social control responses during foreclosure: its theory. Research is also delimited by the research questions, and the researcher's choice of data and methods. Data and methods are the more technical aspects of research concerned with the type of empirical observations, their collection, and their analysis. In between question, theory, and method, there is methodology. Methodology ensures that there is coherence between the research questions and the theoretical understanding, on the one hand, and data and methods, on the other hand. In this sense then, theory and methodology are intrinsically linked. Theory delimits the possibilities of social science knowledge and methodology implements these delimitations.

In the papers, I account for the specifics of the data and methods in each study. In this chapter, I provide a general orientation of the data and make some comments about data and methods with overarching relevance for all the studies. I then discuss methodological considerations regarding how and why these data and methods are suitable for studying and explaining the social contingency of social control in the foreclosure case from the perspective of Donald Black's theory of social control.

Data and Methods

I collected register data (Papers 1–3) and interview data (Paper 4) for this thesis. I account for each type of data with regard to structure, collection, ethical considerations, analysis, and limitations. The data are summarized in *Table 1*.

Table 1: Overview of the data by paper

Note: SEA is the Swedish Enforcement Authority. SCB is Statistics Sweden.

Paper	Type of data	Source	Sample	Time collected	N
1	Register micro data	SEA, SCB	Debtors subject to foreclosure sale at the SEA between 2000 and 2014 with a single type of debt as cause of foreclosure (mortgage, consumer, tax)	2016	32,744
2	Register micro data	SEA, SCB	Foreclosure sale cases at the SEA regarding mortgage credit and housing properties between 2010 and 2014	2016	3,062
3	Register micro data	SEA, SCB	Foreclosure sale cases at the SEA with market value appraisal regarding mortgage credit and housing properties between 2000 and 2014	2016	7,104
4	Expert interviews	NA	Informants in capacity of staff or management at the debt collection functions (internal or external) of seven Swedish mortgage lenders	2018–2019	13

Register data

These data are from the registers of the SEA and Statistics Sweden. The data are observational and cross-sectional. That the data are observational means that I do not control selection on the independent variable side. Cross-sectional data imply that each observation pertains to one point in time.

The SEA data are case-level data about foreclosure sale. This means that each observation in the data contains one case of foreclosure sale regarding real estate property or a tenant-owned apartment. The original data consist of the total population of closed foreclosure sale cases between 1998 and 2014. That the data start in 1998 is due to the fact that this is as far back as the register stretches in time. In total, the data observe 70,281 cases and 59,020 debtors (individuals and legal entities).

Each case normally handles one property, which is owned by one or several debtors. The SEA data describe each foreclosure case with regard to the identity of the debtors and the characteristics of the foreclosed property, as well as how the case was initiated, how the case was handled, and its outcomes. Thus, the data

essentially capture all the major events of the foreclosure sale proceedings as described in the background chapter.

Socio-economic micro data about each debtor were added from the research registers at Statistics Sweden. These debtor-level variables include employment, income, wealth, family status, and birth country. From the SEA, I also retrieved data about other enforcement measures, such as attachment of salary or other properties, for each debtor. However, these data were never actually used in the studies. I refer the reader to the code books in Papers 1–3 for a complete presentation of the variables in these studies.

The data were retrieved in 2016. The first step was to retrieve the SEA variables. This was possible with the assistance of in-house programmers at the SEA. Since I have handled foreclosure sale cases at the SEA as auctioneer for about ten years, I have extensive operative experience of working with registrations in this database. This experience allowed me to survey the content of the database, identify which registrations are relevant, and instruct the programmers about which registrations to retrieve. This was an iterative process, during which I also continuously verified the data, both by manually checking the variables directly in the database, and by checking that descriptive statistics for test data looked as expected and were reasonable. This ensures that the internal validity of the data, i.e., that a given variable is presented by the correct registration in the database, is high. As far as I know, this is the first time that data from the entire database have been retrieved for research purposes by means of programmed searches.

Once I was satisfied with the SEA variables, the next step was to let Statistics Sweden attach the socio-economic variables. The SEA data were transferred to Statistics Sweden with adherence to security protocol. Statistics Sweden merged the data sets and deidentified the data before making them available to me through a digital platform for access to micro data. The advantage of this arrangement is that the data never leave Statistics Sweden, which is responsible for data security throughout the entire project. I have worked with the data via a VPN tunnel.

The collection of the register data has been subject to ethical vetting (decisions on 2 December 2015 and 13 January 2016 by The Regional Ethical Board in Lund, no. 2015/763). The retrieval of data was publicly announced on the web page of the Sociology of Law department at Lund University. The announcement contained information about the data collection and the possibility for debtors to refuse registration by contacting me or my main supervisor. No debtor contacted

us. Moreover, the data collection was conditioned upon fulfilling the Board's requirements for safe transfer and storage of data. These requirements were met by following Statistics Sweden's protocol regarding data security.

I account for the different analyses in each study in the papers. Here, I will only highlight a few differences between the studies. One difference is the unit of analysis, which is the debtor in Paper 1 and the case in Papers 2–3. This is because the dependent variables in Papers 2–3 are measured at the case level. One implication, which I account for in the papers, is that the debtor-level socio-economic variables are aggregated to the case level in the analyses in these two studies. Accordingly, these two studies are in this regard not directly comparable with the study in Paper 1.

Another difference is that different subsets of the data are used in each study (see *Table 1*). The subset in Paper 1 is justified by the need for data that stretch over a long period of time and that make it possible to compare foreclosure debtors with different types of debt. The subset in Paper 2 is justified by the need to compare different bank types and to restrict the data to a relatively short period of time in order to minimize any issues of unobserved heterogeneity regarding the mortgage lenders' characteristics. The subset in Paper 3 is justified by the strategy to use as much data as possible about foreclosure caused by default on mortgage credit, since the discussion is geared towards consumer protection issues, and by the fact that the variable measuring other assets than real estate property is available only for 2000–2008.

The main analysis is bivariate in Paper 1 and multivariate in Papers 2 and 3. On a personal note regarding multivariate analysis, I think that sometimes the sociological qualities of quantitative data are lost when presented only in regression tables since, at least for me, it is more difficult to intuitively interpret regression coefficients as compared to differences in proportions (for categorical variables), or differences in means and dispersion (for continuous variables) across subgroups. In analysing variations in the socio-economic characteristics of the borrowers in Paper 3 and variations in lender–borrower contacts in Paper 2, I present the results in both bivariate and multivariate tables. This combines the best properties of bivariate analysis (distinct presentation of actual differences between subgroups) with multivariate analysis (the isolation of correlations for each independent variable controlling for all other variables).

I now shift focus to a few words about the limitations of the register data. First, the data are observational, which means that I analytically observe only

correlations. Consequently, the data by themselves do not allow any conclusions about causality, i.e., the direction of effects. Observing causality requires a different research design, for example, some kind of greater (example: experiment) or lesser (example: regulatory change) exogenous shock on the independent variable side. However, theoretically deduced causality – evaluating the direction of an effect with the help of a theoretical explanation – is something different and, I believe, possible with register data. The statistical analysis identifies patterns between variables that operationalize theoretical concepts and theory explains how these concepts are interrelated. This is essentially how I conceive of the explanatory approach in all the quantitative studies.

Second, as I discuss in Paper 2 (pp. 12–13), register data suffer from potential endogeneity problems. Formally, endogeneity means that an explanatory variable is correlated with the error term in the regression, which leads to biased coefficient estimates (Wooldridge 2014, 74–75). One potential source of endogeneity is self-selection. I use this term not in the restricted sense of individuals consciously adapting their behaviour to achieve a specific end or to meet specific criteria. Rather, broadly understood, self-selection refers to situations when we do not know whether a particular observation ends up in a particular category for some reason that we do not observe (Wooldridge 2014, 209). For example, it may be that some borrowers in Paper 2 manage to arrange deferment because they have access to a strong social network willing to help them economically, which also helps them achieve revocation eventually. Such social networks are not observed in the data. Obviously, we may think of many such examples and data availability delimits the possibilities of controlling for them all. Accordingly, this problem cannot realistically be avoided with this research design, but only mitigated. There are advanced statistical techniques, such as instrument variable regression, but the most important considerations are to let theory guide the interpretation of the results and to interpret with caution.

Interview data

The interview data consist of expert interviews with staff and management at the debt collection functions of seven Swedish mortgage lenders. In total, 13 experts were interviewed in 2018–2019. The sampling strategy was to achieve maximum variation regarding lender size, local presence in the form of branch offices, use of

external debt collection agent, and business model. These data are used in Paper 4.

In my capacity as senior enforcement officer handling foreclosure sales at the SEA, I sometimes have contacts with debt collection officers at the mortgage lenders who are pursuing foreclosure. These contacts facilitated my access to the field in the sense that, for several lenders, I knew exactly who to approach and I was known in advance. Even more important was probably the fact that, even though I made it clear that the interviews were part of my PhD project at Lund university, I also explicitly stated my position at the SEA and the authority's role as financier of the project. All the lenders that I approached agreed to participate in the study.

I account for the interview method and analysis in detail in Paper 4. I refer the interested reader to that section of the paper. Here, I only want to add that this data collection was not subject to ethical vetting. The reason for this was that according to my assessment, with which my main supervisor concurred, ethical vetting was not necessary under Swedish law. The only personal information processed in the data collection concerned the identities of the experts.

When considering the potential limitations of the interview data, the nature of the interviews should be kept in mind. Interview data can generally be categorized as the statements of either respondents or informants (Esaïasson et al. 2017, 235–36). Respondents are asked about, for example, experiences, perceptions, attitudes, feelings, and opinions. If I turned to the foreclosure debtors and interviewed them about their experiences during foreclosure and whether they perceive the proceedings as fair, they would be interviewed in their capacity as respondents. Informants, by contrast, are asked about facts based on their knowledge about and expertise regarding a specific issue or phenomenon. This distinction is obviously not watertight. Experts may also voice personal attitudes and opinions (Jones Taylor and Blake 2015, 154), or structural biases (Lokot 2021).

Against this background, the challenge for me as a researcher is to assess, first, whether the informant is actually an expert and, second, the truthfulness of the factual statements of the experts, which includes filtering out the noise of non-factual statements. Obviously, the sampling of the experts according to their actual knowledge and expertise is important since I, as a researcher, must accept the world view that they convey as facts. In this study, my pre-knowledge of the field is the most important guarantee that I was actually interviewing experts.

The second issue associated with expert interviews concerns critically validating the truthfulness of the experts' factual statements. Two main instruments have enabled me to do this reliably: my own experience of the field and statement comparisons. My operative experience of handling foreclosure sales at the SEA enabled me to assess the experts' statements from the perspective of plausibility and, to some extent, correctness. Since I conducted interviews with several experts at different lenders, I could also gradually compare different experts' statements regarding coherency and consistency. A third instrument – comparing with existing knowledge in the field – has not been available to me since I have not been able to locate any similar previous studies. Nonetheless, I believe that the factual quality of the expert interviews is high.

From an empirical perspective, I would characterize Paper 4 as a case study. This raises the question about the generalizability of the empirical results. I believe that, in the Swedish context, I achieved empirical saturation, by which I mean that I would not have discovered additional empirical themes if I had interviewed experts at additional lenders sampled by the same criteria. In this sense, the results are generalizable to other Swedish mortgage lenders. However, over the last couple of years, a new type of mortgage lender has made an entrance on the Swedish market. These lenders are not traditional banks, but rather financial actors that operate according to the logic of securitization (Engström 2020; Sveriges Riksbank 2018:). It may be that expert interviews with these lenders would reveal new themes regarding debt collection during foreclosure.

As for generalizability to other national or international jurisdictions, I have not discovered other similar studies. Therefore, in the absence of empirical point estimates to compare with, it is quite difficult to assess the study's generalizability. It is also relevant that empirical generalizability is not one of the aims of the study. This is different from the theoretical part of the study, which aims to be generalizable to all instances of foreclosure no matter when or where they occur.

Relation to Research Question and Theory

In principle, most theoretical frameworks leave some degree of manoeuvrability to the researcher as to the choice of data and methods. This means that it is the researcher's task to motivate his or her choices in relation to the research questions and theory. In my opinion, Donald Black's theories are principally unbiased

regarding the choice of data. The methodological challenges are to demonstrate that my choice of theory and data enables me to answer the research question and that the data are congruent with the Blackian theoretical framework.

Does the theory allow me to answer the research question?

The main research question requires investigation of how social control responses during foreclosure in Sweden vary with the social status of the stakeholders involved. Donald Black's theory explains and predicts social control responses with variations in the social structure of a given case on the level of social facts. This is adequate to answer the main research question.

Do the data allow me to answer the research question?

The main research question targets social control responses and social status in the foreclosure case. I have previously delimited the foreclosure case as encompassing everything that happens between the stakeholders after delinquency. The register data cover foreclosure sale at the SEA and the interview data cover debt collection during mortgage delinquency at mortgage lenders. Accordingly, these data are relevant for the foreclosure case in Sweden.

In Papers 2 and 3, I demonstrate that the register data measure various differences in social status between the stakeholders of foreclosure. Paper 2 focuses on variations in how much contact there is between the lender and the borrower. Paper 3 focuses on variations in borrower socio-economic status. On the dependent variable side, these studies explore law, which is a social control response. In Paper 4, I demonstrate that the interview data measure various aspects of how the lenders organize and conduct debt collection operations during mortgage delinquency, which correspond to differences in social status in relation to the borrowers. This study investigates negotiation during foreclosure, which is a social control response.

Are the data adequate in relation to theory?

Every theoretical framework carries implications for how to understand (its ontology) and observe (its epistemology) a phenomenon. In Black's theoretical framework, we strive to study the level of social facts: how social control responses

behave. A social fact should be explained with reference to the constraint it exercises on our actions and, hence, not with reference to the intentions of individuals or groups, or the purpose, effects, or functionality of actions or social institutions (Black 1995; see also Baumgartner 2002, 647; compare Marshall 2008, 226–29). Moreover, all behaviour is quantitative in the sense that there are more or fewer instances of a social fact, or its scope is greater or lesser. Empirical observations in a study inspired by Blackian theory should correspond with these logics. To be able to compare how variations in social structures lead to different social control behaviours, the observations must also pertain to a specific case.

Considering register data, one of their most striking features is the absence of intentions or purpose. In register data, we do not find answers to the questions of why something happens, or of what its purpose is. Based on register data, we can draw conclusions about what happens in social life, and about the properties and structures of social institutions. This means that register data are well-suited for the ‘identification of behavior patterns’ on the level of social facts through an understanding of the meaning of the actions and events conveyed by the data (Cooney 1986, 264). Through register data, we may observe social control behaviour as the constraint it exerts on the stakeholders, rather than, for example, the purpose of a social institution, such as foreclosure, or the intentions of the stakeholders, such as the creditors and the debtors during foreclosure. Put differently, register data avoids ‘obliterating the relational and contextual aspects of social situations’ (Horwitz 2002, 643), which constitute the essential input into any empirical application of Black’s theories.

Social control responses during foreclosure constrain the debtor in many ways. For example, when the mortgage lender applies for foreclosure sale, the debtor is faced with the initiation of these proceedings at the SEA. This constrains the debtor’s ability to dispose of the property. When the SEA assesses the market value of the foreclosed property, the debtor is faced with a physical visit from an appraiser. If the debtor does not cooperate, he or she is faced with the SEA providing access by force. Before the foreclosure auction, the debtor is faced with having to assist in a public viewing. When the SEA sells the property, the debtor is faced with having to move from the property. If the debtor does not move, he or she is faced with eviction by force. Arrears after foreclosure sale constrain the debtor’s economy. All these events and outcomes are observable in the register data. They can all be understood in terms of the constraint that social control behaviour exerts on the debtor.

Furthermore, register data allow for the observation of quantities as instances or the scope of a phenomenon. The registration of a foreclosure sale case at the SEA tells us there is more law (see Black 1980a for a discussion about the challenges and possibilities of measuring law). The registration of revocation from the creditors tells us there is less law. The registrations of various market values for the foreclosed properties tell us something about variations in the compensatory style of law. The registration of the debt amount tells us whether a given case is more or less serious. The registration of deferment in a given case tells us there is more intimacy between the lender and the borrower. The registration of the income for a given debtor tells us whether there is more or less stratification. Other registrations tell us about how other aspects of the social structure vary in quantity. This is the Blackian logic of quantitative variables, according to which I have employed the register data in the studies.

It is now appropriate to add a few sentences about how I have used the register data to operationalize Blackian theoretical concepts in Papers 2–3. I have summarized the variables in the studies by concept in *Table 2*. The table includes the empirical themes in Paper 4. The table also includes a column that indicates whether the results in the studies in Papers 2 and 3 support Donald Black's predictions. This column may be helpful when reading about these studies in the next chapter.

Table 2 demonstrates that I have used the variables in the register data consistently to operationalize key concepts in Donald Black's theoretical framework. This includes the quantity of law (Paper 2) and the compensatory style of law (Paper 3), on the dependent variable side, and various aspects of the social structure of the foreclosure case, on the independent variable side. In these studies, all the independent variables measure distances in the social structure between the lenders and the borrowers. This is because variations in social control behaviour across instances of the foreclosure case are explained and predicted by the relative positions of the stakeholders in the social structure. Most of the variables measure the position of the borrowers. This means that the operationalizations assume that the positions of the lenders are held constant. With access to more data, it would perhaps have been possible to measure the positions of the lenders to a greater extent. However, as discussed in Paper 2 (p. 11), I believe that this is not seriously detrimental to how I have operationalized the social structure of the foreclosure case because of the relatively great distances between the stakeholders.

Turning to the interview data, *Table 2* also demonstrates how the empirical themes in Paper 4 fit into the Blackian theoretical framework. It might seem counterintuitive to interpret qualitative data as quantities. However, these data also follow the Blackian logic of considering all social life as quantitative variables. The experts talk about the prevalence of negotiation during foreclosure, which tells us there is more or less negotiation. The experts talk about how debt collection operations are organized, which tells us there is greater or lesser organizational capacity. The experts talk about how intensively the lenders pursue debt collection measures against the borrowers, which tells us there is more or less social control. The experts talk about the lenders' strategies and goals, which tells us there are more or fewer ideas about debt collection. In this way, the interview data convey instances and scope in the same way as the register data. The fact that Black's theoretical framework does not discriminate against specific types of data is one of its advantages in empirical application.

Table 2: Concepts and operationalizations in the studies

Note: *Concept* and *Aspect* refer to Donald Black's theoretical framework. *Type* refers to dependent variable (DV) and independent variable (IV). *Variable* presents which variable operationalizes a specific concept in the studies. *Paper* indicates in which study or studies a specific variable is used. *Support* indicates whether the results for a specific independent variable in Papers 2 and 3 provide support for Donald Black's predictions.

Concept	Type	Aspect	Variable	Paper	Support
Quantity of Law	DV	NA	Revocation	2	NA
Compensatory style of law	DV	NA	Ratio between property market value and tax value	3	NA
Quantity of negotiation	DV	NA	Prevalence and scope of negotiation between the lender and the borrower	4	NA
Seriousness	IV	NA	Debt	3	NA
Stratification	IV	Wealth	Loan-to-value ratio for property	2	Yes
			Other assets than real estate	3	No
		Income	Household disposable income	2, 3	Yes
		Status	Sex	2, 3	No
		Age	2, 3	No	
		Birth country	2, 3	Partial	
Morphology	IV	Integration	Borrower resides at property	2, 3	Yes
			Property is rural	2	No
			Population change	3	No
			Employment	2, 3	Partial
			Married household	2, 3	Yes
			Children	2	No
		Relational distance	Bank type	2	Yes
	Non-mortgage creditors	2, 3	Yes		
	Recurrence	2	No		
	Deferment	2	Yes		
Culture	IV	Education	Higher education	2, 3	Yes
		Ideas	Strategies and goals for debt collection operations	4	NA
Organization	IV	Organizational capacity (borrower)	Number of property owners	2	No
		Organizational capacity (lender)	Specialization	4	NA
			Centralization	4	NA
		Outsourcing	4	NA	
Social control	IV	NA	Intensity of debt collection measures	4	NA
			Initiation of legal proceedings	4	NA
Third-party intervention	IV	Authority	Intervention of any third party	4	NA
			Enforcement at the SEA	4	NA

Summary of Papers

In this chapter, I summarize the studies in Papers 1–4. Papers 1–3 are published. Paper 4 has been submitted to the journal *Law & Society Review*.

Before getting into the details of the studies, I would like to say a few words about the studies' *raison d'être* in the thesis framework. Conceptually, Paper 1 is a background study that shows that the social structures of the foreclosure case are dynamic over time. The rest of the studies focus on social control responses – what Donald Black refers to as behaviour – during foreclosure and how they relate to social structures. Papers 2 and 3 investigate different aspects of the behaviour of law. Paper 2 focuses on the quantity of law and relational distance, while Paper 3 focuses on the style of law and socio-economic status. Paper 4 switches focus to investigate the behaviour of negotiation in relation to debt collection organization, operations, and strategies. Thus, the studies considered together provide empirical and theoretical insights about the social contingency of various social control responses, and how they may be explained and predicted by drawing upon Donald Black's theories.

The research questions are stated on p. 22. The numbering of the research questions corresponds to the papers. The data sources are summarized in *Table 1* (p. 68). The operationalizations of concepts in Donald Black's theoretical framework are summarized in *Table 2* (p. 78).

Paper 1

Credit expansion is the trend of households gaining access to more credit. This includes both an increase in access to credit for households generally, as well as access to credit for households that were previously excluded from the credit market. The former is referred to as scale and the latter as scope. Credit expansion is correlated with increasing socio-economic heterogeneity of indebted

homeowners. Increasing heterogeneity implies that a more diverse span of homeowners is put at risk of foreclosure. Increasing scale provides a higher number of socio-economically strong households with access to more credit than before. Increasing scope provides an additional number of weak households with access to credit that they did not have previously.

This study attempts to establish whether it is possible to observe increasing socio-economic heterogeneity for homeowners in foreclosure in the case of Sweden from 2000 to 2014, a period during which Sweden experienced credit expansion. If more socio-economically strong households end up in foreclosure under conditions of credit expansion, then this trend should be correlated primarily with scale. If more weak households are forced into foreclosure, then the correlation should be primarily with scope.

Employing individual-level data, the study observes how variability in various socio-economic characteristics, used as indicators of heterogeneity, developed over the time period. The variables are employment, family type (with regard to whether the debtor is married and the presence of minor children), education, sex, age, birth country, disposable household income, and net wealth. The data are from the SEA register on foreclosure sale and from the research registers of Statistics Sweden.

The analysis distinguishes between three subgroups of homeowners depending on the debt type that has forced them into foreclosure. These debt types are (i) mortgage debt, (ii) consumer debt, and (iii) tax debt. Measures of within-group and between-group variability for the socio-economic variables are calculated for yearly cross-sections of the foreclosed homeowners. These measures are interpreted as trends over time regarding socio-economic heterogeneity for debtors within a specific subgroup and for the debtor subgroups in relation to each other.

The main results indicate increasing socio-economic heterogeneity within the subgroups, but not between them. The trend was the strongest among the group with mortgage debt. Therefore, a separate analysis tracks how the proportions of socio-economically weak and strong mortgage debtors varied over time in an attempt to understand the potential drivers of heterogeneity for these subgroups. The results indicate that an increasing proportion of weak mortgage debtors is driving within-group heterogeneity.

The study concludes that, under conditions of credit expansion, increasing socio-economic heterogeneity during foreclosure is expected and confirmed by

the results. That the results indicate stronger trends towards increasing heterogeneity for mortgage and consumer debtors, in comparison with tax debtors, is also expected, since tax debt is less likely to be subject to credit expansion.

Paper 2

This study focuses on the relevance of lender–borrower relations for how foreclosure is resolved. Drawing on Donald Black’s theory of the behaviour of law and relational distance, revocation of foreclosure sale proceedings at the SEA is predicted to be negatively associated with the relational distance between the lender and the borrower. The analysis employs micro data on foreclosure sale cases at the SEA from 2010 to 2014 to model this association in a multivariate logistic regression framework. The data include socio-economic variables describing the borrowers subject to foreclosure.

Revocation implies that foreclosure sale proceedings are discontinued at the request of the creditors. Revocation is measured by a dummy variable and used as an indicator of less law.

Relational distance is operationalized by four different variables, proxying variations in the scope, history, and frequency of mutual contact between the lender and the borrower before and during foreclosure. If there are more contacts or the contacts are more intense, the relational distance is shorter. The variables are bank type, other creditors than the mortgage lender, borrower recurrence, and deferment.

The bank type variable serves as a proxy for variations in the scope of lender–borrower contacts by measuring to what extent bank operations are digitalized in relation to the customer. The lenders are categorized as traditional, digital, or new banks. The scope of contacts is hypothesized to be lesser for digital banks, i.e., banks without local branch offices. The dummy variable for other creditors than the mortgage lender is used as a proxy for greater total relational distance between the borrower and all creditors. Recurrence, i.e., previous foreclosure sale cases at the SEA, proxies variations in the history of the lender–borrower relationship. Recurrence implies shorter relational distance as there have been historical contacts. The dummy variable for deferment proxies actual contacts during the foreclosure sale case. Deferment means that SEA defers compulsory sale

proceedings upon request from either the lender or the borrower. Deferment entails shorter relational distance, because, typically, it means that there have been recent contacts between the lender and the borrower.

The main results are that there are fewer revocations if the mortgage lender is a digital bank and if there are also other creditors. There are more revocations if there is deferment during case proceedings. These results indicate that lender–borrower relations matter for whether a foreclosure sale case is revoked and provide partial support for the positive association between law and relational distance, as predicted by Black.

Paper 3

This study explores socio-economic group differences for homeowners debtors subject to foreclosure related to the compensatory potential of foreclosure proceedings. Drawing on Donald Black's (1976; 1987) theory of the compensatory style of law, the study conceptualizes compensation as a variable measure of law's potential to compensate. This compensatory potential is observable and variable in a given case between a lender and a borrower, which means that it may be lesser or greater depending on how law is activated to secure eventual payment. Higher socio-economic status is hypothesized to be positively correlated with the potential for compensation in the foreclosure case.

The study's research design is to, first, analyse the association between this compensatory potential and the borrower's socio-economic status to determine whether there are group differences. Group differences imply that a specific socio-economic status (low or high) is associated with a specific potential for compensation (lesser or greater). Second, one potential explanation of group differences – appraiser bias during the foreclosure sale process – is assessed.

Micro data from the SEA on foreclosure auctions and borrowers in Sweden between 2000 and 2014, complemented with socio-economic variables from Statistics Sweden, are modelled in a multivariate ordinary least squares regression framework with the property's appraised market value as the dependent variable. Market value controlled by the property's tax value – a measure of the property's typical value – operationalizes law's compensatory potential. The operationalization of socio-economic status draws upon Donald Black's understanding of the social structure of a case. These independent variables are

annual household disposable income, higher education, employment, family type, sex, age, and born in Sweden.

The regression analysis indicates that higher socio-economic status is correlated with greater compensatory potential, as the coefficient estimates for the variables income, higher education, and marriage are positive and significant.

In the second part of the analysis, it is assessed whether appraiser bias is one potential driver of these observed group differences. This is done by comparing the ratios between price and market value for subgroups of borrowers with low versus high socio-economic status. The analysis demonstrates that there are no significant differences, which indicates that appraiser bias does not explain the socio-economic group differences in relation to foreclosure's potential to compensate.

Paper 4

This study explores the quantity of negotiation in the foreclosure case by interviewing debt collection officers at Swedish mortgage lenders about how debt collection of delinquent mortgage credit is organized and conducted. Negotiation is defined as any attempt to reach a joint settlement between the lender and the borrower about how to resolve foreclosure. In line with Donald Black's theoretical framework on social control, the quantity of negotiation is explained by variations in different aspects of the social structure between the lender and the borrower. The study's empirical strategy is to categorize the interview data according to these aspects. Its theoretical strategy is to draw upon Black's theoretical framework to develop theory that predicts the quantity of negotiation in the foreclosure case.

The empirical data in the study consist of seven interviews with 13 experts. Apart from considering the informants' role as experts, the experts were sampled to achieve maximum variation regarding a few lender characteristics: size, business model, whether the lender has local branches, and whether the lender uses an external agent in debt collection operations. Content analysis was used to inductively find empirical patterns in the interview data. The development of theoretical predictions was guided by these findings but was not a result of inductive reasoning or generalizations from the data.

The empirical results indicate that negotiation between the lender and the borrower is prevalent and that the lenders strive towards negotiation, but that the

lenders vary in their organizational capacity, the intensity of debt collection efforts (including how law is activated), the propensity to call upon third-party enforcement, and their ideas about strategies and goals.

Organizational capacity measures the capacity for collective action. In the expert interviews, three themes were identified as relevant for variations in the lenders' organizational capacity: centralization, outsourcing, and specialization. It is predicted that greater lender organizational capacity results in more negotiations in a given case.

The lenders varied in the intensity of debt collection measures aimed at the borrower. In a theoretical understanding, this equates to variations in the total quantity of social control responses. The interviews indicate that the lenders' debt collection strategies range from low-intensity (few attempts coordinated by the debt collection function to contact the delinquent borrower) to high-intensity (the debt collection function has a greater focus on proactive work to reach out to the borrower). Regarding the activation of law, the experts referred to this both as a 'last resort' and as a 'trigger' that activates the borrower. It is predicted that there is more negotiation when there is more social control and that this effect is stronger when law is activated as compared to other forms of social control.

The expert interviews also suggest that the initiation of foreclosure proceedings at the SEA results in negotiation with the borrower. In the context of the foreclosure case, the SEA is an authoritative third party. It is predicted that the activation of any third party as a settlement agent leads to more negotiation and that this effect is stronger as the settlement agent's authority increases.

Another prominent theme in the data is variations in the quantity of culture across the lenders, i.e., the number of ideas that the lender has about how to collect delinquent mortgages and the goal of these operations. For example, the lender may care not only about minimizing losses, but also about helping the borrower, protecting its trademark, and avoiding negative public attention. It is predicted that, if there is more culture, there is more negotiation.

The discussion points to the need for more knowledge about how different forms of social control interact. This study indicates that Donald Black's theoretical framework may provide fertile grounds for theoretical exploration of these issues within the sociology of law.

Conclusions

The primary aim of this thesis is to explore the relationship between social control responses during foreclosure and social status differences between the stakeholders of foreclosure. I do this by asking the following main research question: How do social control responses during foreclosure in Sweden vary with the social status of the creditor and the debtor? The main research question is broken down into four research questions that correspond to the papers (p. 22). A secondary aim is to contribute to theoretical and methodological discussions within the sociology of law.

In this chapter, I first present and discuss the thesis' main conclusions. In essence, this is the answer to the main research question that draws upon the results in the studies. I then discuss the implications of these results in terms of the thesis' contributions given its primary and secondary aims. Finally, I point at some policy implications of the socially contingent nature of law and other social control responses for the SEA, the financier of this thesis.

Main Conclusions

I find that social control responses during foreclosure in Sweden vary with differences in social status between the creditor and the debtor. This is indicated by the results in Papers 2–4. Specifically, fewer foreclosure sales are revoked by the lenders when there are more contacts between the lender and the borrower (Paper 2). The compensatory potential of foreclosure is greater for borrowers with higher socio-economic status (Paper 3). During foreclosure, there is negotiation between the lender and the borrower aimed at reaching a settlement that avoids foreclosure sale, but the lenders vary in how they organize and conduct mortgage debt collection operations with regard to their organizational capacity, their intensity in activating other social control responses, their propensity to call upon

third-party intervention, and their ideas about the goals and strategies of debt collection (Paper 4). These results provide empirical support for the social contingency of law and other social control responses during foreclosure. They are informed by how the results in Paper 1 indicate that credit expansion may explain how and why the socio-economic status of the foreclosure debtors have changed over time. To the extent that this results in displacement in social status differences during foreclosure, there should be a corresponding displacement in the behaviour of social control.

I draw upon Donald Black's theoretical framework on social control to explain the social contingency of law. Every case of foreclosure is different with regard to its social structure, i.e., how the stakeholders compare regarding different aspects of their social status, such as wealth, education, and relational distance. These variations are part of the behaviour of social life. They are considered by the behaviour of social control responses, as these are also part of social life. Put differently, different parts of social life do not exist in isolation. Instead, social structures and social control responses are related to each other. These relationships may be expressed by various propositions that explain the behaviour of social control. In this way, social control responses vary in predictable ways because of variations in social structures.

In Blackian theory, social control responses as dependent variables are predicted by propositions about their relationship with the social structure of a given case. The social control responses vary in form, style, and quantity. Thus, in Paper 2, I explain variations in the quantity of law with variations in relational distance between the lender and the borrower. In Paper 3, I explain variations in the compensatory style of law with variations in borrower socio-economic status. In Paper 4, I draw upon Blackian concepts to develop a theory that predicts the quantity of negotiation in the foreclosure case. Even though the type of analysis is different than that of the quantitative papers, the theoretical relevance of social structures as independent variables that predict social control behaviour as the dependent variable is the same. This demonstrates the methodological coherence of the thesis.

Social structures are dynamic. From the perspective of the thesis, the implications of the results in Paper 1 are that the social structures across instances of foreclosure in Sweden have changed over time. As a result, we can expect that social control responses have also changed since they are contingent upon social structures. For example, drawing upon the results in Papers 2 and 3, if the debtors

subject to foreclosure have lower socio-economic status over time, there should be more law and less compensation. I have not attempted to analyse whether it is actually possible to observe such changes in the register data. Such an analysis would require substantially more background data on societal developments to isolate the variation that is unique to the foreclosure case, and this is beyond the scope of the thesis.

Contributions

The contributions of this thesis are framed by its reliance on Donald Black's theoretical framework on social control to guide empirical observation. However, its implications must also be considered in relation to knowledge about ways into, living with, and ways out of indebtedness for households. Below, I discuss the specific contributions of the thesis in light of the main conclusions.

The social contingency of social control behaviour

This thesis' main contribution is that it empirically documents how differences in social status between the stakeholders in a foreclosure case are related to variations in social control responses. This is the social contingency of social control behaviour. On the very first page of the thesis, I offered two competing narratives about the relationship between law and social control, on the one hand, and social life, on the other. In the legal narrative, social life is contingent upon the law, which is dictated by its own normativity. Law is blind to the behaviour of social life. In the sociological narrative, law and social control are contingent upon social life and its variety of status differences. People vary in how wealthy, educated, and integrated they are. Social control behaviour takes these differences into consideration (compare Mathiesen 2005, 23–123).

The findings of this thesis support the sociological narrative. The results indicate that, in the Swedish case of foreclosure, social control behaviour is contingent upon social life. In this way, the thesis contributes to our understanding of how the normativity of social control institutions cannot be considered in isolation from the organization of social relations. These results come as no surprise to a sociologist of law. We need only read the work of Donald Black (1976) to realize that there is ample evidence from different social contexts

in time and space in support of the sociological narrative. However, the thesis empirically investigates only the case of foreclosure. The extent to which the sociological narrative is also true in other cases is an empirical question.

The stakeholders and policy makers of foreclosure should consider the relevance of the social contingency of social control behaviour. This thesis does not aim to propose policy changes. However, one implication is that implementation of regulation or changes in practices should consider their social context. Specific social control behaviour may be stimulated by creating favourable social conditions for its proliferation. A different option is to 'blindfold' whoever exercises social control. By this, I mean that the social control agent is given no, or only minimal, knowledge about the social structure of a given foreclosure case in order to stimulate strict rule following (compare Black 1994, chapter 4). Considering the complexity of foreclosure, it seems that it is neither possible nor desirable to implement blindfolded procedures.

Theoretical and methodological contributions

On a general level, this thesis illustrates that social control is a central and viable concept for the sociological study of law-related phenomena. Social control understood as purposive responses to deviance has figured more prominently in criminology (Deflem 2015). In the case of Donald Black, we can see this by looking at the empirical applications of his theories, which to a large extent focus on crime and policing (e.g., Avakame, Fyfe, and McCoy 1999; Clay-Warner and McMahon-Howard 2009). I demonstrate that explaining and studying foreclosure as deviance that generates socially contingent social control responses is powerful in the sense that it theoretically orders many facts and that it is possible to test empirically. One implication is that theoretical approaches that draw upon social control to explain other phenomena than crime are potentially rewarding for socio-legal researchers. Here, I join in Griffiths' (2006) call to consider social control as one of the foundational concepts within the sociology of law.

The thesis' specific theoretical contribution consists of an independent theory of the behaviour of negotiation in the foreclosure case (Paper 4). In its current form, the theory is not complete in the sense that it does not deal with all aspects of the social structure of the case. Furthermore, the theory is specific to the foreclosure case, which means that it does not predict the quantity of negotiation in other cases. In comparison, Black's (1976) theory predicts the behaviour of law

in all known and unknown cases. I have, moreover, not tested the theory's validity – whether it is true or not. Still, even with these caveats, the theory does demonstrate that it is possible to draw upon Black's theoretical framework to generate specific theories of social control behaviour. In this way, the thesis contributes with a restatement of Turner's (2002) point that sociological theorists should look to Black for guidance. Furthermore, I want to stress that a theory's validity is not a prerequisite for theory generation. Testing the power of the theory to correctly identify patterns in variation is a task for empirical work.

Specific methodological contributions include the operationalization of key Blackian concepts and the empirical verification of key theoretical statements using register data regarding the foreclosure case. In Paper 1, I draw upon Black's understanding of status as a multidimensional concept in operationalizing the socio-economic resources of foreclosure debtors. In Paper 2, I operationalize the quantity of law as the dependent variable and relational distance as the key independent variable and test Black's prediction about the relationship between these variables. In Paper 3, I operationalize the compensatory style of law as the dependent variable and socio-economic status – understood as different aspects of the social structure of the lender–borrower relationship – as the independent variables, and test Black's prediction about the relationship between these variables. Considered together, Papers 2 and 3 demonstrate that empirical application of Black's theoretical framework is possible with this type of data.

The methodological contribution of Paper 4 is that it demonstrates the viability of using Donald Black's conceptual apparatus to thematically organize interview data. In this study, I use the concepts of negotiation, organizational capacity, third-party involvement, law, social control, and culture to analyse differences between how mortgage lenders organize and conduct debt collection operations and operationalize these as quantitative variables, i.e., as variations in the instances or the scope of these phenomena. I believe that the qualitative study in Paper 4 indicates one possibly rewarding direction for future empirical research employing Black's theories within the sociology of law.

The relationship between social control behaviours

As is evident from research questions 2 and 4, this thesis focuses on both law and negotiation as socially contingent social control responses during foreclosure. In this way, the results contribute to the long socio-legal tradition that stresses the

importance of understanding and studying how relations develop both within and outside the law. This is foundational for Black's own work (e.g., 1984) and for the scholars that have continued to explore the Blackian paradigm (e.g., Baumgartner 1991; Horwitz 1990; Morrill 1995; Tucker 1999). It is essential to the theories of Ellickson (1991) and Griffiths (2003; 2006) that I reviewed in the theory chapter. It has relevance for disputing research within the sociology of law (e.g., Felstiner, Abel, and Sarat 1980; Galanter 1981). It has been empirically explored with regard to how businessmen resolve contractual conflicts (Macaulay 1963). And it has been acknowledged as relevant for how contractual obligations are embedded in relations in contract theory (MacNeil 2000).

However, even if I dare say that it is not a controversial statement that both legal and non-legal forms of social control are important for the resolution of conflicts, general theoretical statements about their relationship are scarce. In his theory of law, Donald Black (1976, 105–11) touches upon how other social control behaviours are relevant for the behaviour of law and predicts an inverse relationship between law and other social control. However, Black does not develop this idea in his later work. Horwitz (1990, 97–100), inspired by Black, proposes that the degree to which a conflict radiates outside the original stakeholders to trilateral social control depends on structural variables such as the relationship between the stakeholders, their relative statuses, the availability of forums of resolution, and the availability of remedy agents and their distance to the stakeholders. Ellickson (1991, 136) gives us the conceptual tools to formulate propositions about the content of rules, but also contends that the formulation of a general theory of social control is challenging. Griffiths (2003) states that rules are mobilized in social fields, but does not specify how this happens across several, potentially overlapping, social fields. This raises the question: Is a general theory of the relationship between social control behaviours possible?

Within the framework of this thesis, I have not been able to address this question. In Paper 2, I apply Black's predictions about the quantity of law. However, the register data in that study do not observe any other forms of social control and, thus, cannot say anything about their relationships. The study about negotiation in Paper 4 focuses on a different social control response. But, as I write in that paper, the problem is not easily resolved by creating more particular theories about social control responses. The risk is that the theories are not congruent, which seems to be the case with my theory of negotiation in the foreclosure case and Black's theory of law. In my theory, law behaves as an

independent variable and in Black's theory, as the dependent variable, and we get somewhat different predictions depending on which theory we choose. Yet analytically, there is no room for a structure between different dependent variables in Blackian theory, as can be found in Ellickson's (1991, 127–28) different levels of controllers' rules. However, it is possible to consider the dynamic nature of social structures, which opens up for an understanding of how different social control responses feed back on each other. For example, as the lender initiates foreclosure there is more law, which triggers negotiation, which, as there is more negotiation, in its turn feeds back on law, thereby reducing its quantity. Thus, I do not believe that this problem 'breaks' the Blackian theoretical framework. But an exact theoretical formulation of the relationship between social control behaviours is beyond the scope of this thesis. I hope to get more chances in the future to tackle these issues, both empirically and theoretically. Until that happens, the contribution of this thesis is to, hopefully, encourage theoretical work on the relationship between social control behaviours within the sociology of law.

Donald Black's contribution to the sociology of law

Following Deflem (2008, 108–26), one important distinction within the sociology of law is between research oriented towards a functionalist understanding of legal phenomena, on the one hand, and research oriented towards conflict and a critical understanding, on the other hand (see also Treviño 2008, 311–90; Turk 1976; compare Banakar and Travers 2005b, 195–98; McDonald 1976; Travers 1993). We may think of the functionalist approach as 'sharpening the knives' of public and private institutions, and of the critical approach as 'tearing down the walls' of the oppressed. For functionalists, the work of Talcott Parsons was instrumental in providing a sociological ontology for the study of law, while Marxian scholars, such as the members of the Frankfurt school of critical theory and C. Wright Mills, paved the way for conflict-oriented scholars interested in the sociological study of law.

One example of this debate within the sociology of law is Banakar's (1998) argument that, since the sociology of law lacks a foundational paradigm, a reliance on 'juristic definitions of the law in terms of the nation state' (12) may lead to a structuralist-functional understanding of the law. In a reply, Hydén (1999) argued that a focus on 'emerging normative patterns' (77) beyond the nation state may

help to make socio-legal analysis more responsive to other perspectives than the functionalist. Indeed, norms are one of the central concepts within the sociology of law (Hydén 2011). However, in terms of the functional-critical divide, this focus on norms may also be criticized for being partisan to functionalism, as compared to critical perspectives rooted in, for example, conceptualizations of injustice or inequality (Banakar 2013, 17). At the same time, a norm-centred approach to sociology of law does not necessarily have to rely on a consensual or functional understanding of society and social relations (Svensson 2013, 40).

One important contribution of Donald Black to the sociology of law is to offer a positivistic theoretical framework with a critical ontology. Black enables a strict empirical focus guided by comprehensive theory (something that the critical perspective has been accused of lacking) that does not rely on a consensual preconception of society (something that the functionalist perspective has been accused of doing). Black tells us to direct our empirical attention to observable and measurable social structures and, behind them, we may discern the patterns of power, oppression, and injustice (compare Sherman 1978, 15). By considering Donald Black as a theoretical alternative for scholarly work within the sociology of law, my hope is that this thesis will stimulate discussion in and between the 'sharpening the knives' and 'tearing down the walls' discourses (compare S. Liu 2015).

Policy Implications for the SEA

The SEA is my employer and the financier of this thesis. The policy environment for the SEA is complex in the sense that the authority has a double mission. On the one hand, the SEA should ensure that there is access to effective legal debt enforcement as the 'long arm of the law'. On the other hand, the SEA should stimulate the possibilities for debtors to achieve advantageous and long-term viable exits from overindebtedness.

In the background chapter, I accounted for the core operative activities of the SEA: summary proceedings, debt enforcement, and debt relief. In these activities, I perceive an inherent tension. On the one hand, the SEA preserves the status quo of overindebtedness for debtors by, in practice, running the errands of the debt collection industry. On the other hand, the SEA enables exits from overindebtedness for debtors by, for example, providing guidance and

encouragement in the fantastic 'outreach' work of the unrelenting field staff, and by administering debt relief. In the first instance, law behaves repressively. Through debt enforcement, the debtors are kept in a state of limbo since the meagre results of attachment, mainly of salary, are not sufficient to pay off more than a small part of the ever-accruing interest. This is what Black calls the penal style of law. In the case of foreclosure, this happens, for example, when the SEA sells a property with large arrears. In the second instance, law's style is compensatory and conciliatory in the sense that there is a possibility for both the payment of debts, and the restoration of financially healthy relations with the creditors. During foreclosure, one example of this legal behaviour is when the SEA sells a property at its market value and with the result that all debts are paid.

The SEA must also face the tension of living up to the normative ideal of neutral application of rules, while at the same time actively intervening in debt relations. In this thesis, I apply Donald Black's theoretical framework on social control. This means that I have chosen to look at SEA operations as part of the social structure of the foreclosure case, i.e., to focus on the intervention perspective.

The social contingency of law has important implications for how the SEA may approach its mission and conduct its operations. Donald Black predicts that law behaves differently for each debtor and in each instance of enforcement because the social structures vary. The results in this thesis support this prediction. This is a reality that the SEA must confront. No matter how much the SEA may attempt to act as an impartial and neutral enforcer, the SEA is also acting in the context of the social structures of debt relations. In this structure, one role of the SEA is that of an agent of law. But law is just one possible form of social control behaviour exhibited during debt relations. Other possibilities include negotiation between the creditor and the debtor. My point is that the SEA may also act as a facilitator of such social control behaviour.

Through its actions, procedures, and strategies, the SEA interferes in the social structures. For example, in the foreclosure case, the SEA may strive towards early contact with the debtor. This increases the quantity of law, which affects other social control behaviour, such as the quantity of negotiation. The SEA may mediate contact between the lender and the borrower, which increases the chances of a settlement. The SEA may identify properties with low compensatory potential and consider how to promote other outcomes than foreclosure sale. The SEA may use the possibility of brokered sale instead of auction sale. The presence of the

broker as a possible third-party partisan for the debtor changes the social structure of the case. Moreover, brokered sale may result in a higher selling price, which affects the law's style.

These are just a few examples that draw upon the studies in this thesis. Repressive law may turn into compensatory law. Negotiation or some other form of social control may replace law. The bottom line is that what the SEA does changes the social structure of debt relations. Since social control behaviour is contingent upon the structure, this will also result in other social control behaviours. The SEA is an agent of social control, rather than only an agent of law. In this capacity, the SEA should consider how to take advantage of the social contingency of law and other social control behaviours to stimulate advantageous and viable outcomes for both the creditor and the debtor. While the SEA is mostly concerned with ways out of indebtedness, this includes considering the interrelatedness of debt institutions, such as the relevance and impact of societal trends – for example, credit expansion – on how we enter into and live with debt.

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The Social Contingency of Law

One of the foundational debates within the sociology of law concerns the contingent nature of the relationship between law and social life. This thesis contributes to this debate by empirically investigating how social status differences are related to variations in social control responses during foreclosure in Sweden. It finds that law and other social control responses vary with differences in social status between the creditor and the debtor in predictable ways. This is the social contingency of law. In this way, the thesis contributes to our understanding of how law is not only rule-governed but also varies according to social context. The thesis draws upon Donald Black's theoretical framework on social control to explain these findings.



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