

Crime and Justice in an Age of Global Insecurity: Notes on the British Society of Criminology Annual Conference 2007

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A. Introduction

This year the Karl Mannheim Centre for Criminology at The London School of Economics hosted the 2007 annual conference of the British Society of Criminology between the 18th and 20th of September. Some 280 papers, two plenary sessions and a number of “author meets critics” sessions gave insight into the diverse fields of criminological research in the UK and abroad. The conference’s theme was programmatic: “Crime and Justice in an Age of Global Insecurity”. The notion of insecurity, expressing a globalized experience and an ontological status of the human being in late modernity, termed a historical period of time. It fits to a conjuncture of theorizing the uncanniness of contemporary social life.¹ In this way, the theme of the conference is partly to write the history of the present in terms of crime and justice. Such conferences are both a witness of the social processes surrounding the issues of crime and criminal justice, and an agent of change by providing directives for the future, thereby shaping the way in which criminologists look at the social world.

Going to an international conference at some point is an act of translation. You have to carry something over, through time and space, across borders, and to take it to the place where things are transformed. Although the performance of the conference evokes sentiments of unity among the community of investigators trying to find some true knowledge in confronting one another with doubt and criticism, a feeling of fragmentation and disparity does not vanish. The things being put together seldom look like the missing peaces of a puzzle that complete the picture. Rather, they form a kind of tissue, hierarchised, synchronized and rearranged by the time and space of the conference itself. In producing this tissue, a

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¹ I have different theoreticians in mind: HOMI BHABHA, *THE LOCATION OF CULTURE* (2004); ANTHONY VIDLER, *The Architectural Uncanny*, in: *ESSAYS IN THE MODERN UNHOMELY* (1994), ZYGMUND BAUMAN, *COMMUNITY: SEEKING SAFETY IN AN INSECURE WORLD* (2001).

shape is given to a multifaceted although somehow consistent picture of modern societies around the world and becomes a witness of change in a double sense: as testimony standing for the truth of the observations and a representative of these changes that it embodies and of which it is a part. This is my view of a social event like a conference, seen from the perspective of a discontinuous and multi-temporal global world, full of tensions and uneasiness - in an age of insecurity. The following observations do not embrace the full range of issues discussed and presented at the 2007 BSC conference, moreover I will focus on the notion of insecurity, which was strongly emphasised by the conference theme.

B. The Construct of the Criminal

Criminology is a privileged social science, because crime and criminal justice are objects closely related to power and policy, as well as they are measures of social change. Jock Young, a doyen of British criminology, was quite clear on this point in his paper on criminology and culture. The gaze of criminology, being close to the world of power, looks at "stigmatisation and the making and braking of norms."² It has the purpose to critically deconstruct these gazes and their hegemonic power that urges other observers to take a certain perspective. This perspective so often constructed the criminal as a demonic other. Classical criminology was deeply involved in this process of othering as it essentialised crime as an attribute of a criminal personality. The deviant asylum seeker is the contemporary paradigm of this process. He is constructed as a dangerous, deviant subject by political discourse and by the responses of the criminal justice system to asylum seekers in the UK as James Banks (University of Sheffield) tried to show. At an other site, Periklis Papandreou (London School of Economics) looked at discrimination and illtreatment of immigrants in the City of Athens. Jock Young also presented his latest book, "The Vertigo of Late Modernity". The lines of his arguments resonate with the motto of the conference: "Crime and Justice in an Age of Global Insecurity". Feelings of insecurity, he argues, affects the human being in contemporary societies at an ontological level. This insecurity generates processes of othering, or as I would put it, of the dissolution of ambivalence (the ambivalence of self and other that coexist in our subjectivities). Global migration questions the notions of home and territory as self-evident conditions of identity. It is a feeling of unhomeliness analyzed for example by Homi Bhabha. Being unhomely is the basic sentiment that comes along with the feeling of insecurity. These feelings transform modern subjectivities of ever larger parts of western societies. Young identifies the sentiments at work with Friedrich Nietzsche's and Max Scheler's notion of resentment. Resentment is the power driving the othering machine, and with

² Conderence Handbook, 160, available at:
http://www.lse.ac.uk/collections/mannheim/BCC/pdf/conference_handbook.pdf.

that a middle-class based criminology. The image of society behind Young's long-standing development of theorising crime in late modern societies is the "bulimic society". In such societies subjects are not only fragile and full of ambivalence, but also the processes of exclusion and inclusion became complex and overlapping. Everyone is included and excluded in several ways at the same time. Young refers to the migrant workers that enter societies, which symbolically exclude them at the same time, although they need them as cheap labour force for household and caring work. Without these migrants and their work force in black labour markets, the project of the double career family would not work. When listening to Jock Young I found some similarities to what Siegfried Bernfeld called the Tantalus-situation,³ which is closely related to his notion of social place ("Sozialer Ort")⁴ but now, and this is new, the situation of Tantalus affects not only our physical and psychical demands, but our existence and our selves in a world where the human being lost his social place and lives in an elsewhere: "It is the elsewhere of the well-off in the First World, the 'contented' majority, who are propelled ever elsewhere by the incessant discontent of late modernity, the dream of personal development, self-realisation, a constantly receding tantalus never ever there, never quite reached."⁵

C. Policing and the State

Probably the strongest attractor of themes on the slippery grounds of social change and globalisation was the transformation of institutional actors in the field of safety and security. Papers dealing with these topics were situated around policing, the police and the governance of security. Policing indeed was the biggest issue at the BSC conference. I identified 34 contributions about policing and another 17 papers addressing the institution of the police. Almost all papers about community policing questions (I counted 12 papers about community policing in a narrow sense) start from the fact that borders between the state and private institutions are blurred. New forms of cooperations, a new division of labour and a set of multi agency organisations arise that cross over the institutions of the police, local political authorities and private communities. They operate on a local as well as on a global level. Ben Bowling discussed "Global policing" as a response to international organised crime in certain ambivalence between dream and nightmare. In this field the position of the police and of private policing agencies has to be renegotiated. Changes produce uncertainties about what an institution is.

3 Siegfried Bernfeld, *Die Tantalussituation*, in: ANTI-AUTORITÄTE ERZIEHUNG UND PSYCHOANALYSE 2 (1970).

4 Siegfried Bernfeld, *Der soziale Ort und seine Bedeutung für Neurose, Verwahrlosung und Pädagogik*, in: ANTI-AUTORITÄTE ERZIEHUNG UND PSYCHOANALYSE 1 (1970).

5 JOCK YOUNG, *THE VERTIGO OF LATE MODERNITY* 197 (2007).

What kind of work shall it do? How does this affect their members' identities? Institutions go through crisis and uncertainty when shores are left and no new ground is in sight. When a new field emerges which claims an autonomous status within society, it is accompanied by a process of standardisation and institutionalisation. Scientifically informed societies – today we might say knowledge-societies – tend to express these trends in terms of professionalisation. It was Talcott Parsons who saw processes of professionalisation at the heart of the functionally differentiated structure of modern societies.⁶ Professionalisation enabled Parsons to construct social functions that express the evolution of autonomous systems within society. No one wants to be an old-fashioned Parsonian functionalist today, but maybe this kind of analysis helps us to grasp some of the changes in late modern institutional structures. With the “age of insecurity”, one could infer, a new autonomous security function is constructed that slowly evolves out of the state-centred model of police and the control over legitimate use of violence. Professionalisation was a topic that appeared in different contexts of criminological research at the BSC conference. Police officers need professionalism as well as probation workers. Can the tasks of policing, when conducted by private agents, be left without professionalisation? A paper given by Evelien De Pauw from the University of Leuven dealt with the issue of a “community safety profession” and presented models of training programmes for schools and institutions of adult education. By such training programmes, the Belgian government responded to the growing number of private guards that pervade the public domain in fulfilling policing tasks. Safety and Security got pedagogical relevance and the institutionalisation of codified knowledge and organised training standards are strong indicators for the emergence of an autonomous social function. But the Belgian case shows that the state didn't lose too much of his agency. Moreover it is transformed into the Baconian mode of power: knowledge and the power to codify and to structure it.

D. Our Construct of Insecurity

Much of the work of David Garland is reflected in the observations done in this field. Garland claimed that we face the rise of a “culture of control” in so called “high crime societies” that emerged since the 1950s. In such societies crime became an issue that exceeds the State's power to deal with crime and prepares the ground for new alliances and networks between state and non-state actors. The state reacts at the same time by a harsh law and order policy (being tough on crime) that focuses on criminal subjects more than on criminogenic social structures. The presentation of Robert Reiner's new book “Law and Order” underpinned this trend and discusses it in the context of the economisation of society and culture. Jonathan

⁶ TALCOTT PARSONS, *THE SOCIAL SYSTEM* (1952), chapter X.

Simon, Professor of Law in Berkeley, outlined his views on the questions touched by David Garland in the prominent position of the speaker in the first plenary session. For the most part he presented the argument of his new book "Governing through Crime". Simon does not follow Garland who argues that the culture of control is expression of an overstrained state that cannot deal with crime otherwise than symbolically by the tough punitivity of high prison rates. He argued that long before the war on terror, the US government produced a culture of fear and fostered a discourse of the victimised and vulnerable citizen in order to legitimize state intervention into schools and every-day life institutions. High prison rates are one side of the coin, the pervasion of every-day life with a new set of values that shape the image of a needy citizen depending on security policies is the other side of governance through crime. Loraine Glesthorne from the University of Cambridge exemplified how the state intrudes into private institution. She asked, how the state intervened into family life in the UK by the Parenting Order, which is part of the 1998 Crime and Disorder act. Another group of control practices, which transgress the borders between private and public life, are surveillance technologies. In the conference handbook I found five papers dealing with cctv and electronic monitoring. It calms down when you know where serious offenders are. In this context a satellite tracking system of high-risk offenders in England and Wales deserves interest.⁷ At the micro level Monica Barry (University of Strathclyde) and Kristina Moodie (University of Stirling) investigated the impact of electronic monitoring of offenders' private homes on family and other household members.

Simon and Garland disagree in the role of the state within these processes, but they find a common denominator in a kind of crisis of the state's capacities to control crime by way of criminal law. The fear of crime-discourse and the softer prevention programmes are two modes of governance beyond the "Rechtsstaat". I felt attracted by an argument made by Stuart Walton (University of Abertay Dundee) which was kind of counter-position to Jonathan Simon's "Governing through crime": "Not Governing - through Crime: The Rise of Law and the Fall of Morality". He argued that the culture of control is not a new form of governing, but "a consequence of the collapse of moral and political meaning within society"⁸. The position was interesting as it was closer to continental scholars like Michael Bock⁹ and Paolo Prodi.¹⁰ Prodi spoke about the suicide of law in contemporary society and the loss

⁷ See *supra*, note 2, 140.

⁸ *Id.*, 152.

⁹ MICHAEL BOCK, RECHT OHNE MAß. DIE BEDEUTUNG DER VERRECHTLICHUNG FÜR PERSON UND GEMEINSCHAFT (1988).

¹⁰ PAOLO PRODI, UNA STORIA DELLA GIUSTIZIA. DAL PLURALISMO DEI FORI AL MODERNO DUALISMO TRA

of moral regulation by the pervasive and omnipresent positive law. The vacuum of governing by law within the new culture of control opened space for a struggle over control. The situation is reflected in papers dealing with the struggle for sovereign control between state and non-state actors and their attempts to monopolise power (John Lea and Kevin Stenson, Middlesex University) or in another context in the various policies and interests, that are behind international criminal courts (Nicholas Dorn, Cardiff University).

E. The New Penology

The "new penology" of being tough on crime, which David Garland saw as one side of the culture of control, had to have some expression at the BSC conference when dealing with the criminal justice system or with the prison system. I found some interesting contributions that addressed these questions. Fergus MacNeill for example tried to find out whether the practices of social inquiries (reports written by criminal justice social workers that shall assist sentencers) are in line with the new penology thesis and argued that new and old penology co-exist in the Scottish criminal justice system. He explains his findings with Pierre Bourdieu's concept of hysteresis saying that changes in the broader field of criminal justice have a delayed impact on the practices of the penal actors. However, a delay implies a certain direction and this direction is framed by a narrative of transition from the welfarist to the neo-liberal paradigm.

We might have a look to contributions about penal policies to see, what criminologists see and think about "new penology" and policy. Estella Baker from Scheffield University emphasized the "popularity of punishing persistence" which means that previous offences do play a role when judges have to estimate the seriousness of the recent one. This is made a rule by the 2003 Criminal Justice Act. Still the 1991 Criminal Justice Act stated that previous convictions of an offender shall not have any influence on sentences. The 2003 Criminal Justice Act justifies the principle of punishing persistence by a more subjectivied concept of culpability (*nulla poena sine culpa*) and it looks like a psychological interpretation of guilt, which is common in the Austrian and German penal law traditions. The object of sentencing then is not the individual case, but the subjective disposition of an offender, and it would fit to an argument that essentialises crime and makes it part of the personality. Another paper of Sacha Drake addressed the "zero tolerance" approach to anti social behaviour in the British Government's "respect agenda". He saw these strategies also in the light of a new penology which is more concerned with "containing and managing offenders and potential offenders" than with the inclusive programme of rehabilitation and welfare. In a comparative perspective

COSCIENZA E DIRITTO (2000).

David Downes from the London School of Economics discussed some key components that differentiate penal orientations of high prison and low prison rates at a national level: "commitment to Social Democracy; the culture and politics of crime control; specific crime trends; and resort to 'heart of darkness' symbolism."¹¹ The case of the Netherlands, which David Downes sees to drift towards mass imprisonment, is discussed by Francis Pakes (University of Portsmouth). He interprets the Netherlands, which traditionally welcomed globalisation as something good and a source of wealth by international trade, as a "victim of globalization" and uses a concept he calls "global defiance". Defiance is a strong reaction towards something uneasy and traumatizing. In the Dutch case Pim Fortyn represents the defiant politician. Not just structural defiance, but a form of denial of state actors has something to do with the psychoanalytical interpretation of David Garland by Amanda Matravers and Shadd Maruna.¹² In their view the punitive discourse is an unconscious denial of the State's capacity to control crime. Paul Gray from Keele University develops this argument in a paper on youth justice in England and Wales and argues that contemporary policy is characterised by managerialisation, risk assessing and responsabilisation. This argument fits to the implications of the 2003 Criminal Justice Act.

One of the hegemonic concepts behind criminal policy, practices of crime control and criminological research is risk. Risk encompasses every-day life practices as well as security policies against terrorism. The notion of risk in many ways diffused into criminological discourses, which traditionally used the normatively oriented notion of deviance. Just in terms of appearance risk was used 82 times in the abstracts of the conference handbook whereas deviance was used seven times. At some point risk is a kind of deviance in the age of insecurity. But still the transgression of norms is a quality of its own that cannot be grasped by exposure of a person to self-harming behaviour. Questions arise about how to reconcile or balance risks and security. Risk becomes a corner-stone of many governing through crime strategies - what critical criminologists didn't fail to remark and to emphasise. Unlike deviance, risk is something which has to be evoked and controlled at the same time. This aligns the concept of risk with the project of modernity, of finding orientation within the uncertainty of the future. The problem is discussed, for example, within the Australian context by Adam Sutton of the University of Melbourne between overregulation (proliferation of rules) and the effects of risk aversion. Risk, he claims, has three dimensions: actuarial, social and political. Assessing risk has to take these three dimensions into account, in order to

¹¹ See, *supra*, note 2, 72.

¹² Amanda Matravers and Shadd Maruna, *Contemporary Penalty and Psychoanalysis*, 7 CRITICAL REVIEW OF INTERNATIONAL SOCIAL AND POLITICAL PHILOSOPHY, 2, (2004).

develop “smart” models of regulation.

F. Concluding Remarks

The participants of the conference left the shores and joined a boat trip on the River Thames. The society of the conference, which to some extent overlaps with the British society of criminology, gathered together, being concentrated on the boat. Being on a boat with some 300 criminologists is a quite exclusive form of inclusion. I enjoyed some conversation about the names of probation institution in Austria and the UK, which say much about the status and the underlying ideology. The Austrian probation service is a private association called “Neustart” (starting afresh), the UK-version is called NOMS (national offender management system). I used the metaphors of solid ground and water often in my reflections to characterise experiences of insecurity and crisis. The boat is an allegory and a materialisation of the “elsewhere”, it is a non-lieu, a heterotopia, and for a moment the society of criminologists left the ground to celebrate its community with delicious lamb and bad red wine. For a bookish person, as I am, the image of the *stultifera navis* emerged, so well described in the first chapter of Foucault’s “*histoire de la folie*”¹³ and by Sebastian Brant’s “*Narrenschiff*”.¹⁴ And still I have the voice of Homi Bhabha in my ear who gave a lecture in Vienna in November this year. What is the place of re-thinking and re-imagining globalised societies in an elsewhere of uncanniness? What is the “third space” which intervenes into our historical and cultural identities and reveals their ambivalence, but where we can address it without fear and reactions of othering? Certainly we have to live in a world of the elsewhere, Jock Young may be right, but we have also to learn to inhabit it: *vous êtes embarqués*.

13 MICHEL FOUCAULT, *HISTOIRE DE LA FOLIE* (1961).

14 SEBASTIAN BRANDT, *DAS NARRENSCHIFF* (1995).