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Society and crime in post-modern societies¹

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ABSTRACT

The paper throws a detailed view on the development of criminology from a sociological perspective. In contrast to the usual historical narrative of the discipline that credits Lombroso and his Italian school with the establishment of criminology the point is made that the biological school was preceded by the moral statisticians of the 19th century with the Belgian A. Quetelet as its scientific leader. However, the socio-structural approach by the moral statisticians was suppressed and replaced by the Italian individualistic perspective that gained hegemony for almost one century. The sociological viewpoint re-entered the criminological agenda as biographical and other social-environmental factors, albeit on a strictly individual level.

The full strength of a sociological perspective was achieved by the paradigmatic shift in the sixties of the last century. Instead of crime and the criminal the process of criminalization received emphasis and prominence in the discipline. Crime was no longer taken as an ontological phenomenon and the “natural” input of criminological research and reasoning, but its definition, operation and function became a matter of empirical and theoretical study. Among others, authors like Foucault and Christie have contributed to this change. The paper ends with a reflection on the fundamental change of the penal system in modern societies as D. Garland has documented in his famous book “Culture of Control”.

KEY WORDS: *"History of criminology"; "sociology and criminology"; "the punitive turn of criminal policy"; "neo-liberalism and criminology".*

1 This is the speech I delivered on June, 1st, 2006 at the University of Crete on the occasion of being awarded the title “Dr. honoris causa”. The oral structure of the speech is almost maintained.

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I am extremely honoured by the award this university is offering me in terms of a Ph.D. honoris causa. My special thanks go to Georgios Galanis whom I met two decades ago when he took part in a postgraduate program in criminology at the University of Hamburg. He belonged to the very first group of students of a new program that I had the privilege to be in charge of establishing. Since then we have met several times, in Hamburg as well as in this country, notably in Ioannina in the very north from here, close to the Albanian border.

I. THE SCIENTIFIC GRAMMAR OF MY THINKING

Let me take this opportunity to present you my ideas about the general perspective that I have followed in my scholarly and scientific life with respect to the analysis of crime in society. I will try to specify my approach by applying it to the situation in our present-day societies which are no longer plainly called modern societies. Instead there is a wide consensus to add a prefix to the adjective “modern”, either “post” or “late”, depending on the conviction whether our societies follow a line of development that makes them still more modern or whether there is a rupture or break in their development that leads to a different type of society beyond its modernity. I’ll come back to this question somewhat later.

My professional origin and –to use a well-known concept of the late P. Bourdieu– my practised habitus was formed and forged by the combination of an economic and sociological study, mainly at the university of Cologne, but also by a year-long study at two American universities – Columbus/Ohio and Berkeley/Cal.

The almost axiomatic premise of my work and my conviction is, therefore, first and foremost – against the more or less official history of criminology – the assumption that it is society that we have to look at and upon in order to grasp the dynamics of crime and its control. It is in this sense that my lecture and my reflections resonate with the position of one of the grounding fathers and figures of modern sociology, the French sociologist E. Durkheim.

Durkheim’s position boils down to a sociological prerogative and preference as far as the theoretical dimension of analysis is concerned. It is expressed and reflected in his famous principle of explaining social phenomena by social phenomena only. It treats crime and its control theoretically as social facts and nothing else, without making any reference and borrowing from other disciplines or principles.

There is no further need to mention the service Durkheim delivered not only to sociology but to criminology itself when he constructed the concept of

anomie and above all when he discovered the functional sides of crime and its normalcy for every society. Crime is normal and crime has under certain circumstances positive functions – this knowledge remains valid until now though it never has fully been accepted by science, the crime fighters of the police and the general public – except probably in occasional weekend talks and speeches.

It has to be regained and revitalized in a world in which crime is used to create moral panics, leads to literal “wars against crime”, produces overcrowded prisons and a constantly growing army of prisoners and in which the illusion of a crime-free society finally ends up in the vision of a societal utopia, which comes close to a kind of “magical denial of reality”, to use an apt phrase again from P. Bourdieu,³ this eminent sociologist and critical intellectual of our neo-liberal societies. In his general sociological orientation Bourdieu is perhaps the closest sociologist to the afore-mentioned Durkheim. In direct reference to Durkheim’s known dictum “society is God”, Bourdieu holds that whatever men expect from god, they will get it from society or they won’t get it,⁴ in good as in evil.

The emphasis and persistence on a sociological perspective is due and justified in view of a general tendency not only in criminology, but also generally in the social sciences. Since some time there is a kind of renaissance of biological thinking in our field. In criminology it started with the very controversial book of J. Q. Wilson and the late R. Herrnstein about “Crime and Human Nature” which was published in 1985 and which reintroduced biological reasoning in the area of crime. Still more in this direction went the rather infamous book by Herrnstein again and Charles Murray (1994), “The Bell Curve. Intelligence and Class Structure in American Life” which followed “crime and human nature” ten years later and which applied biological thinking on crime’s twin or counterpart area, that of intelligence –to remember: Ch. Murray is the ardent critic of welfarism– “Losing Ground” was the title of his notorious attack on the welfare state, R. Herrnstein was a renowned psychologist at Harvard University.

This is not the place to argue the case of biological interpretation of deviant behaviour or crime at any length. There seem to exist something like

3 P. Bourdieu, who died in 2002, made this fine remark in his famous inaugural lecture when he took over the chair of sociology at the French most prestigious institution of Higher Education, the “Collège de France” in 1981; I translated it into English from its German version in: P. Bourdieu (1985, p. 57)

4 Ibid, p. 77/78.-

the Nietzschean law of eternal recurrence – again and again in history men come back to the idea that crime might lie “in the genes”, as a biting reviewer commented the Wilson/Herrnstein book in the eighties. Suffice it to refer to a very apt remark M. Weber made in the chapter “sociology of domination” of his famous “economy and society” about “the relationship between privileged and underprivileged groups of mankind”. “The ‘legend’ or narrative”, he writes, “of every highly-privileged group is perhaps its natural superiority by blood”. And he specifies: “...the better placed person will develop the never ending wish to consider an existing contrast to his favour as ‘legitimate’, his own position as ‘deserved’ and that of the less well-to-do as caused by themselves”.⁵

Let me now sketch in several steps the way criminology has dealt with integrating or separating society and its structure into or from its analysis of crime.

II. THE IGNORED SOCIAL BEGINNING OF CRIMINOLOGY

1. It is part of the criminological orthodoxy and institutionalized conviction that its historical beginning is inextricably connected with the so-called Italian school, notably with its head, the psychiatrist and prison chief Cesare Lombroso (1835-1909). His *L'uomo delinquente* was first published in 1876 and became very fast a scientific bestseller that was translated into all leading languages of that time. While as forerunners of this development philosophers like J. Bentham and C. Beccaria are honoured, no mention usually is made of several scholars who worked around the middle of the nineteenth century and belonged to a group of scientists which was called the moral statisticians. It is this group that is referred to by an article in the *American Journal of Sociology* in 1937 under the title “The Lombrosian Myth in Criminology”.⁶ Two prominent criminologists point to this group of scientists which simply is put aside when it comes to identify the historical roots of our discipline.

2. The Belgian scholar A. Quetelet (1796-1874) was its founder; the title of the book that established his reputation points to the philosophy and the methods of his approach: He called it “*Physique sociale*”, which was published in 1835, four decades before Lombroso’s seminal book. Quetelet applied the quantitative methods of statistical analysis and the logic of the very successful

5 Cf. M. Weber(1956), p. 549 (transl. by the author).

6 Cf. A. R. Lindesmith and Y. Levin (1937).

natural sciences to all sorts of societal data, among them to the first series of regular data about the output of the criminal justice system. The findings of his analysis Quetelet summarized in a famous statement that has been quoted since then again and again and which also deserves mentioning here: “There is a budget which has to be paid with a terrifying regularity, that of the prisons, the galleys and the scaffolds”.⁷ This result, to be clear, was based on the society as a whole, not on individual properties and qualities. Some of the work of the moral statisticians presaged the approach and the perspective of the famous ecological Chicago school of the twenties and thirties of the last century. High priority was also given to the impact of economic factors on crime and its social distribution across the society.

3. Quetelet and his group were not the only scholars who were suppressed by the hegemony of the Italian school and its exclusively individualistic approach, by their claim; in other words, that the analysis of crime can only be based on the individual person. There was indeed a fierce struggle between the so-called environmentalists and the biologists. The Italian camp around Lombroso’s idea of the born criminal was heavily opposed by a French group of anthropologists around the then leading A. Lacassagne (1843-1924) who coined the famous phrase and principle that “the society has the criminals which it deserves”.⁸

Despite all this, as is well-known and in no need of details, despite also the vigorous interventions of the afore-mentioned Durkheim Lombroso won over and gained supremacy in the field for the decades to come. Positivist criminology dominated and governed the research and determined the rules of the game. For the time to come there was an endless search for the causes of crime that followed a certain strategy and methodology which was as simple as it was flawed. The basic methodological pattern as it was applied by lots of researchers and published in countless pieces of literature consisted in measuring the criminal individual with respect to its bodily, psychological and mental properties and characteristics – according to the components and aspects that the pertinent disciplines – biology, psychology, anthropology etc. – have either discovered or constructed. This is what Lombroso did with the human body, with the skull especially, and what his students, advocates and followers from his own and from the other disciplines of the human individual did excessively.

7 Quot. from H. Kern (1982), p. 39.

8 “Les sociéts ont les criminels, qu’elles méritent”. Lacassagne invented this motto of the French fundamental opposition against Lombrosianism on the first international congress of criminal anthropology in Rom in 1885; cf. “Actes du premier congrès international d’anthropologie criminelle”, Rom 1885, p. 167.

4. However, the lasting and crucial point of Lombrosian or Italian criminological positivism that survived its initial genetic and biological bias was this methodological strategy of solving the puzzle of crime by dissecting and decomposing the criminal and his make-up. This strategy became more refined and elaborated since then, the most important of which was the invention and introduction of the control group of normal, crime-free members of society. The comparison between the measured properties and characteristics of the individual members of the two groups was the methodological basis for identifying and singling out the causes of crime.

5. But what about the further chance and destiny of the contribution of society and its science, sociology, in this methodological frame and perspective? More and more the positivistic strategy of explaining crime had to include social factors in its agenda. The outcome was the famous “strategy of multiple factors” which became the etiological orthodoxy of criminological research for decades and which is, as we know, still with us. It was the merit of the early sociologists who incorporated biographical, educational, familial, group and class characteristics into the individualistic research for the causes of crime.

6. They were also social scientists, however, who were the first to express their discontent with the results of this methodological strategy. They complained about the massive accumulation of so produced differential data which were denounced and criticized as criminological graveyards of an endless and never-ending search and chase for the causes of crime. The main criticism referred to the theoretical neglect of this strategy and its epistemological ignorance. Without going into details of this flawed strategy of inductive knowledge, so heavily criticized by Sir Popper, it is due to criminology’s intransigent attachment to this “anti-theoretical” position that it is sometimes reproached for its unscientific procedures.

The most prominent scholar who did not hide his contempt for criminology’s epistemological and methodological faults and flaws was certainly M. Foucault. When asked why he criticizes criminology so harshly and ruthlessly and blames it for its “babbling and intrusive discourse”, Foucault gave this nasty answer: “Have you ever read criminological texts? That will knock you down. I don’t say this aggressively but I am just wondering, why this discourse could survive at this level. It seems to be so useful and necessary for the system that it deems possible to do without theoretical justification and methodological consistence”⁹

9 Cf. M Foucault (1976), p. 41 (transl. by author).

In reaction to this somewhat desperate situation in criminology there was some theoretical remedy offered again by sociology. What was called the etiological crisis of criminology paved the way for borrowing from the theoretical reservoir of the social sciences. It was the period when theoretical concepts of anomie, subculture, strain in its various types and forms entered the criminological terrain and gained momentum in the discipline.

7. Though this theoretical step brought criminology much closer than before to society and its structure, there was still an unsolved problem and defect that has haunted the discipline since its beginning in the period of the moral statisticians. The crucial weakness of all criminology up to this point was the empirical basis of all its reasoning. The kind of positivism that was practised by criminology consisted in the identification of the reality of crime with the output of the criminal justice system, with that part of criminal acts and actors that were known to the police, adjudicated by the courts and arrested by the prisons. This boils down to the disastrous fact that the empirical "laws" of criminology are based on a very biased and partial section of the factual crimes and criminals. To put it still somewhat more fatally for the academic identity of criminology, it comes close to a scientific deception or even fraud: what is pretended to mirror and reflect criminal reality, is the political product of the processes of criminalization.

The relevant concept that has to be mentioned at this point is, of course, that of the famous-infamous dark figure. It would take too much time and space to discuss this complex problem for criminology in its entirety. Suffice it to say that it is more than just a technical or methodological issue that can be remedied or repaired by any methodological tool such as victim surveys or self-report studies. It is a virtual epistemological problem which requires a fundamentally different scientific approach and perspective. That is why I will now turn to what is known in criminology as its paradigmatic shift.

III. FROM THE ANALYSIS OF CRIME TO THAT OF CRIMINALIZATION

The criticism of and attack on criminological positivism has been launched by a group of sociologists in the sixties, the most well-known of them were H.S. Becker, E. Lemert, D. Matza. The main objection against the dominant criminology at that time was just its empirical grounding upon that reality of crime which gets delivered by the official data and statistics of the state bureaucracy. Instead of taking this official reality as positive and given objects of study which have to be accepted by criminology as an ontological premise, it has to be taken itself as an object of study. Criminal statistics are not an

analytical tool for science but they belong to the object to be studied – this was one central critical message against the mainstream position in criminology.

It was the axiomatic starting point of a whole new path of empirical research and theoretical reflection in criminology. The overall uniting concept of this research was that of criminalization – the study of the empirical processes of defining – or labelling – certain behaviour as criminal in the first place and of applying these legal or statutory labels to concrete instances of acts or actors in the second place – “primary” and “secondary criminalization” (Ph. Robert 1990: 176/78). The theoretical underpinning of this new paradigm was provided by a number of scholars from different disciplines. Let me only mention one of them who most succinctly has hit the essential difference between the two antagonistic perspectives. According to a somewhat ironical observation of Matza, the biggest achievement of positivistic criminology was the successful separation of the state from crime, the neglect of the inextricable link between the state and the category of crime.¹⁰

This perspective recognizes in all plain frankness the relationship between society and crime and allows to study it in all its ramifications. It is the society, better to say: the state on behalf of the society which has the privilege and the power to define the behaviour that gets the quality of a crime and it is their security forces which transform the law in the books into the law in action. This procedure is not a mechanism that is self-implementing, but it is a procedure which requires a lot of decisions and implies some work of cooperation and coordination to produce the output that society is confronted with in form of statistics and official reports. These reports and official data reflect these decisions and processes of the security forces and they do reflect only in a very oblique, indirect and above all misleading way the criminal inclinations of the society and its members. Under this perspective one might say that crime is a product of these state-bound and social processes. It is a social construction that differs according to historical, geographic, economic and socio-political circumstances and conditions.

IV. THE REFLECTION OF SOCIETY IN THE WAY IT TREATS CRIME

Let me now come closer and more direct to the relationship between the society and crime and its control. The paradigmatic shift in criminology requires, however, a different framing of the issue. To speak of crime and

¹⁰ Cf. D. Matza (1969), p. 155 f., where Matza treats the invention and construction of the category of “crime” by the state at some length; see also Bourdieu (1985: 23 f.) who conceptualizes this phenomenon as the “state power of nam-ing”.

crime control as two separate processes corresponds to the old way of analysis. Instead of that one has to treat both aspects as intricately related to each other so that crime in its emphatic, social and practical sense is constituted by its control. The most prominent and famous example of this strategy of an empirical study of crime and the role it plays - to be more precise: it is taken or forced to play - has been given by the already mentioned M. Foucault. His book "Surveiller et punir. La naissance de la prison" (1975) represents a research about the structure and function of the system of crime control and the change that has taken place in this social area. The analysis of crime itself, how we know it from traditional criminology, takes only, if at all, a minor place in his work.

It is the emphasis on the methods of reaction to crime that has replaced the question of the causes of crime, as has been rightly observed by J. Young (2002: 228). The brutal way of treating the criminal with its different methods of torturing and tormenting the accused perpetrator, the masochistic variety of the infliction of pain that was so characteristic of the medieval penal system gave way to the prison and its system of treating the criminal in order to improve him, to teach him decent and lawful behaviour. The interpretation that Foucault suggested with respect to this development was quite different, even opposite to that of the official and hegemonic view. According to Foucault, it was not humanity that was the driving force of that transformation from medieval atrocities to the modern rule of law in dealing with the criminal but the process of instrumental rationality and utilitarian handling of the problem of crime. As is well known, Foucault took J. Bentham's panopticon as the emblematic sign and symbol of the new and modern strategy of crime control.

It was D. Garland's monograph that translated Foucault's analysis into a more restricted and empirically controlled penal system with its typical institutions which he called the "penal-welfare complex". It represented and reflected the wider structural properties of society in the field of criminal politics and - Garland's own phrase - "penal strategies".¹¹ It was a project that emphasized correction, discipline, inclusion and aimed at the resocialization and rehabilitation of the offender. Ultimately and in the long run it nourished the idea, utopian as we know meanwhile, of replacing the state-based and controlled penal law and its system of punishments with a system of measures

11 Cf. D. Garland's (1985) study of the transformation of classical penal law based on the pure act and the guilt of the actor into the modern penal law based on the actor and his social context and on the principle of rehabilitation.

that are organized and controlled by the civil society and its forces. This was the program and the message of the movement of abolitionism that was widely propagated and elaborated some decades ago. A penal scientist described this development in historical terms by commenting that the history of the penal law is a history of its demise and disappearance.

The internationally known Norwegian criminologist N. Christie set the tone with his famous article “Conflicts as property” (1977). There he probed the idea of returning the regulation and solution of criminal conflicts back to society and its involved members. This was the period that was characterized by a whole series of discourses about how to reduce and to undo total institutions and its legal basis and superstructure – concepts like de-penalisation, de-criminalization, de-institutionalization were widely used and passed round, not only in the world of academics and science but also in that of politicians and experts.

However, things have dramatically changed during the last two or three decades. The process of liberalization of the penal law and its transformation to more informal, lenient, soft measures and sanctions has been virtually and literally been reversed. Criminologists and experts speak of a “punitive or repressive turn”. To take the most spectacular and telling example of this tendency, the prison has become restored and revived. “Prison does not work” - this was the slogan and the widely-held conviction not only within the community of scientists but also among the experts and functionaries who ran these penal institutions. It was based on a broad and extensive empirical knowledge that practitioners from the inside as well as observers from the outside have brought home in overwhelming abundance.

The slogan of these days is just the opposite: “prison works” has become the banner of criminal and penal policy. This is true as is well known for the United States to an extent that is still beyond the scope and tools of criminological and sociological explanation and imagination. It induced two American authors to take refuge to metaphorical images instead of rational explanatory devices in dealing with the explosion of the prison population since the middle of the seventies. J. Irwin and J. Austin speak about the “American imprisonment binge”¹² – “binge” is a colloquial expression for “excessive eating and drinking”.

There are many other indicators and symptoms for this punitive turn in the States. Let me just mention the worldwide-known criminal policy of “three strikes and you’re out” or let me remind you of the police strategy of zero

12 Cf. J. Irwin and J. Austin (32000, zuerst 1994), who were among the first American criminologists to pinpoint the growing popularity of the prison.

tolerance which made its way around the whole globe. Instead of continuing the list that points in the same direction I leave it with the reference to the best monographic document of this tendency that again is written by D. Garland in his most recent book about "The Culture of Control" (2001). It describes and analyzes this development for the US and for Britain.¹³

Although to a considerably lesser extent and scope the same tendency can be observed and is widely documented for almost all of the European countries, even those, like the Netherlands and the Scandinavian countries, which once were known as examples of liberal countries in terms of their penal systems and strategies. As far as the prison situation is concerned suffice it to allude to the well-known and in several languages translated book of N. Christie "Crime Control as Industry" with the biting subtitle "Gulags – western style" (2000) – an interpretation and conclusion of his findings that Christie presented only tentatively and with a question mark in the first edition of his book in 1993, but which he dropped since its second edition one year later.

Let me add, however, some additional evidence and voices that support at least the descriptive account and assessment of a punitive turn also for the European countries. This seems necessary to me in view of a certain tendency of ignoring or even denying the repressive reversal among European experts. Notably French colleagues and researchers hesitate to acknowledge and accept a similar evolution of penal policy in Europe as it is the case in the United States. This seems to me to result from a kind of general political or even ideological rejection of any parallelism between the worlds on this and on the other side of the Atlantic.

Also, colleagues and researches of my own country are reluctant to admit and acknowledge the described tendency for Germany. They do not at all accept and agree with the observation W. Hassemer, a penal professor of the University of Frankfurt and presently a member and the vice-president of Germany's constitutional court in Karlsruhe, has made already several years ago. In a lecture he gave on a meeting of jurists he identified and pinpointed a definite and undeniable new recourse to the most repressive aspects of the penal law. His paper was documented in a national newspaper under the headline "The new desire to punish".¹⁴ The denial and rejection of this

13 Cf. D. Garland (2001), who has presented an excellent analysis of the regression of the penal system to its repressive past. The book has been translated into several languages and is going to be discussed for years to come.

14 Hassemer's talk was later published in several places (2001); it was documented in the German newspaper "Frankfurter Rundschau" from Dec. 20, 2006. German criminologists, however, have more or less ignored his analysis, as I have specified elsewhere (Sack, in press).

statement usual is of a hardly convincing argument that does not go far beyond the commonplace platitude of the sort that talk is cheap and that the law in action is far away from the law in the books.

If one needs, however, additional indicators for this general observation one can easily find and name them. One way would be to throw a closer look at the discussion about the change of the juvenile justice system: lowering the age limit of criminal responsibility, reducing the aim and measures of rehabilitation, applying the adult law to the upper age levels of juveniles, even dropping it altogether. Another way could be to specifically look at the increase of harsher sanctions by law and by its application by the courts. During the last two decades there have been a series of legal amendments which all have pointed to a more serious level and scope and which partly come close to America's "three strikes strategy". A special case of this tendency could be identified with respect to the criminalization of sexual offences, paedophilia among them taken as the most suggestive and representative type of the punitive turn.

This brings me to a final remark as to the mere descriptive account of the punitive turn in my own country. Since some time there is a very hot and controversial discussion among jurists and defenders of the rule of law in penal justice about the assumption that the penal law is about to move in two very different, even antagonistic tracks or pathways: one track for the "citizen" who occasionally, though in principle law-abiding, violates the law – a second track for the "enemies" of the law and of society who notoriously break the law and cannot be adjudicated according to the full range of the rule of law. What makes this discussion especially remarkable and delicate is the person who has set it in motion. It was G. Jakobs, a highly reputable and recognized professor of penal law at the University of Bonn.¹⁵ I think, I need not go into further details to bring home to you the idea that Germany, too, is part of the punitive turn.

V. THE ROOT CAUSES OF THE PUNITIVE TURN

To come to an end of my reflections, let me finally throw a view on the forces that to my view are behind the described development. I will try to sum

¹⁵ Since G. Jakobs has first published his analysis of the development of a so-called "Feindstrafrecht" in 2000, there is a highly controversial debate about this assumption. Most of his colleagues reproach him of paving the way for the legitimating of a violation and even destruction of the principles of the rule of law; elsewhere I have defended his empirical analysis (Sack 2005).

up some of the considerations one finds in the literature on this question and add some of my own thoughts.¹⁶ I'll do it as briefly as possible.

Let me first rule out and exclude an assumption and view that is preferably adopted and defended by politicians and a large part of the public and the media. It is the position which has aptly been called by K. Beckett "the democracy-at-work-hypothesis". This hypothesis suggests a causal order that begins with the increase of crime, leads to social unrest and media coverage, which in turn arouses the concern of politics and the state who react by penal legislation. All evidence and most of the literature about crime statistics and crime surveys reject this causal order. Time does not allow me to go into more details.

A second assumption to be rejected and dismissed refers to the highly overrated role that the media play with respect to the punitive turn. Though it is true that the media take profit out of crime reporting and practice widely what is properly called "infotainment" – entertainment via information –, the media are rather symptoms than causes.

If not the crime and its increase, if not the nasty and insidious media, especially the sex-and-crime part of it, what, then, is the gist of the matter, what the essence of the punitive turn? It is my conviction that one has to take as a point of departure a very recent phenomenon on the field of crime and the way the society reacts to it. This new phenomenon lies in the dissociation and the de-coupling of the fear of crime from the reality of crime. This conclusion is based on a lot of empirical evidence and research. There is no correlation or sequence of developments in the sense of the "democracy-at-work-hypothesis". In other words, we have to look for other factors and insecurities than crime itself to find the roots of the fear of and obsession with crime. To put it still in another way, "crime" is a kind of vehicle that serves, is used and misused by political and social actors as a mechanism and instrument of substituting attention and aggression that is caused from problems of insecurity of other parts of society by concern about and focus on crime and criminals.

What these other problems are and where they are located, belongs to the last step of my argument. Modern societies obviously are confronted with and challenged by a growing part of their population which is exposed to unemployment, to poverty and to a precarious social situation. "Exclusion"

¹⁶ Cf. M. Tonry (2004), who has put together the half dozen attempts to give an explanation for the repressive and punitive turn in so many advanced countries; the reader is highly recommended to consult this analysis of an out-standing expert on the issue.

has become a widely used and proposed concept to grasp this social mechanism of loosening the bonds of this part of the population to society. The concept has gained some prominence in criminology (J. Young 1999) – as well as in the social sciences. “Ontological insecurity” is the concept that is used to describe the mental and psychological effects that result from this dramatic development.¹⁷

I have entered now the area that gets us closer to the driving forces – the economic transformation and its primacy over the political forces and actors in society. We have to thoroughly pinpoint and depict the development of what has come to be called neo-liberalism, its economic roots and political dimensions. As you know, this development goes back to the opposition against the socio-political strategy of the English economist J. M. Keynes and his demand-based economic policy that is based on a high level of state responsibility and intervention. Keynes was opposed by the economic movement of the so-called “ordo-liberalism” of the Austrian F. Hayek. Hayek’s most effective follower and propagator was the leader of the Chicago-based economic school, Milton Friedman, who pushed the way towards a supply-oriented economic policy. Milton’s and the voice of his followers and students was heard and followed by the iconic political leaders R. Reagan and M. Thatcher and became also the philosophy of the global actors in economics, the World Bank, the World Trade Organisation and other high-level organisations of semi-democratic legitimacy only.

What is relevant and important for my argument is the economic imperialism that is connected with neo-liberalism. Neo-liberalism penetrates all areas and institutions of the state and the society with the imperative order and principle of cost-benefit-analysis and orientation. One of the favourite areas that have been colonized by and submitted to the neo-liberal logic outside the proper field of economics is crime and criminal policy. The application of neo-liberal economic thinking on the problem of crime boils down to a strategy of influencing the demand curve for crime by increasing the “prices” of crime. This can be achieved by harsher punishment, through raising the transaction costs by measures of crime prevention and property guarding, etc. Obviously, these measures contribute to and encourage the observed punitive turn.

A parallel development and implication of the economisation of the society is the attack on the welfare principle and state as we have known it

17 Cf. J. Young who has elaborated on this concept quite broadly, refers to several authors who have contributed to it (1999, *passim*).

for decades. As can easily be shown, the return of the prison and penal repression is followed by and correlated with a demise and reduction of welfare services. Both instances and developments are submitted to the same neo-liberal logic and principle. Several authors have pointed to this complementary evolution, L. Wacquant (1997) calls it the path from the welfare to the punishing state, Z. Bauman puts it even more brutally by saying from “the welfare state into prison” ... into prison.¹⁸

An English political scientist summarized the upshot of his analysis of the Thatcher regime and area under the following title: “The free economy and the strong state” (A. Gamble 1988).

LITERATURE:

- Bauman, Zygmunt (1999). *Unbehagen in der Postmoderne*. Hamburg: Hamburger Edition. (Engl. zuerst 1997).
- Beckett, Katherine (1997). *Making Crime Pay. Law and Order in Contemporary Politics*. New York: Oxford University Press.
- Bourdieu, Pierre (1985). *Sozialer Raum und >Klassen< - Leçon sur la leçon*. Zwei Vorlesungen. Frankfurt a. Main: Suhrkamp.
- Christie, Nils (1977). Conflicts as Property. *The British Journal of Criminology*, 17, 1-15.
- Christie, Nils (2000). *Crime Control as Industry. Towards Gulags, Western Style*. London: Routledge (1st ed. 1993).
- Foucault, Michel (1975). *Surveiller et punir. Naissance de la prison*. Paris: Gallimard. dt.: Überwachen und Strafen. Die Geburt des Gefängnisses, Frankfurt a. M.: Suhrkamp 1976.
- Foucault, Michel (1976). *Mikrophysik der Macht. Über Strafrecht, Psychiatrie und Medizin*. Berlin: Merve Verlag.
- Gamble, Andrew (1988). *The Free Economy and the Strong State. The Politics of Thatcherism*. Houndmills, Basingstoke: Palgrave.
- Garland, David (1985). *Punishment and Welfare. A History of Penal Strategies*. Aldershot: Gower.
- Garland, David (2001). *The Culture of Control, Crime and Social Order in Contemporary Society*. London u. New York: Oxford University Press.
- Hassemer, Winfried (2001). Gründe und Grenzen des Strafens, in: Nestor Courakis (Hrsg.), *Die Strafrechtswissenschaften im 21. Jahrhundert. Festschrift für Professor Dr. Dionysios Spinellis*. Athen, S. 399-424; auch in:

18 Cf. Z. Bauman (1999), ch. 3 (p. 66 f): “Die Fremden des Konsumzeitalters: Vom Wohlfahrtsstaat zum Gefängnis”.

- Jahrbuch der juristischen Zeitgeschichte, Bd. 2 (2000/2001), hrsg. v. Thomas Vormbaum, Baden-Baden: Nomos, S. 458-484.
- Herrnstein Richard, & Charles Murray (1994). *The Bell Curve. Intelligence and Class Structure in American Life*. New York: Free Press.
- Irwin, John & James Austin (2000). *It's about Time: America's Imprisonment*. Binge, Belmont, CA: Wadsworth
- Jakobs, Günther (2000). Das Selbstverständnis der Strafrechtswissenschaft vor den Herausforderungen der Gegenwart (Kommentar), in: Albin Eser, Winfried Hassemer und Björn Burkhardt (Hrsg.), *Die Deutsche Strafrechtswissenschaft vor der Jahrtausendwende - Rückbesinnung und Ausblick*. Dokumentation einer Tagung v. 3.-6-Oktober 1999 in der Berlin-Brandenburgischen Akademie der Wissenschaften, S. 47-56. München: C. H. Beck Verlag.
- Kern, Horst (1982). *Empirische Sozialforschung*, München: C. H. Beck Verlag
- Lindesmith, Alfred R., & Yale Levin (1937). The Lombrosian Myth in Criminology. *American Journal of Sociology*, 42, 653-671.
- Robert, Philippe (1990). *Strafe, Strafrecht, Kriminologie. Eine soziologische Kritik*, Frankfurt a.M.: Campus Verlag (a.d. Französ.)
- Sack, Fritz (2005). *Auf dem Wege zu einer anderen Kriminalpolitik?* Informationsbrief No. 95/2005 RAV, S. 15-35.
- Sack, Fritz (in press), Deutsche Kriminologie: auf eigenen (Sonder) pfaden?, in: Festschrift Helmut Kury, hrsg. v. Brandenstein/Obergfell-Fuchs.
- Tonry, Michael (2004). *Thinking about Crime: Sense and Sensibility in American Penal Culture*. New York: Oxford University Press.
- Wacquant, Loic J.D. (1997). Vom wohlthätigen zum strafenden Staat: Über den politischen Umgang mit dem Elend in Amerika. *Leviathan*, 25 (1), 50-66.
- Weber, Max (1956). *Wirtschaft und Gesellschaft*, 4. Auflage, Tübingen: J.C.B. Mohr.
- Wilson, James Q., und Richard J. Herrnstein (1985). *Crime & Human Nature. The Definitive Study of the Causes of Crime*. New York: Simon & Schuster.
- Young, Jock (2002). Searching for a New Criminology of Everyday Life: A Review of the Culture of Control. *British Journal of Criminology*, 42, 228-261.
- Young, Jock (1999). *The Exclusive Society. Social Exclusion, Crime and Difference in Late Modernity*. London, Thousand Oaks, New Delhi: Sage.