MSc Criminology and Criminal Justice

Risk, Security, and Criminal Justice

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Mondays 10am - 11.30am in Seminar Room E

The rise of risk management and security are key features of contemporary crime control. In the ‘risk society’ suspects are viewed less as bearers of rights than as potential risks that need to be managed in pursuit of the public interest in protection from harm. This course analyses the ways in which risk and security are transforming criminal justice thinking and practices. In order to do so, it examines key changes in policing, crime prevention, risk assessment and management, preventive detention, counter-terrorism and security policies. It explores the costs and benefits of these developments and examines their implications for justice and individual liberties.

Seminar topics:
Week 1: Risk and the pursuit of security
Week 2: Policing, crime prevention, and risk management
Week 3: Risk assessment, actuarial justice and dangerous offenders
Week 4: Public protection and preventive detention
Week 5: Counter-terrorism laws and security policies
Week 6: The burdens of seeking security
Week 7: Security and justice
Week 8: Debate and reflection

Background reading:

The reading lists are quite long – follow your interests and do as much of the reading as you can. The questions are intended to guide your reading and structure our discussion in class. There is no need to pre-prepare answers to all these questions but do think about them and come ready to discuss to the issues they raise. Anything you do not understand can also be a subject for clarification and deliberation in class.
Week 1: Risk and the pursuit of security

The rise of risk in criminal justice


O’Malley, P Risk, Uncertainty and Government (2004) ch. 7 OR

Ericson, R Crime in an Insecure World (2007) ch 1. OR

Security

Zedner, L Security (2009) ch.1 OR
Zedner, L ‘Fixing the future: the pre-emptive turn in criminal justice’ in McSherry, B et al (eds) Regulating Deviance (2009)


Ramsay, P (2012) The Insecurity State. esp. ch. 10


Prevention and pre-crime

Questions:

1. What is risk? What is meant by the ‘risk society’?

2. Do different meanings attach to the word risk in different settings - technological, environmental, cultural, political and so on?

3. What is the difference between risk and uncertainty?

4. Explore the social, political, economic and cultural dimensions of risk - what ideologies and what politics underlie our preoccupation with risk?

5. Does the increasing focus on risk represent a paradigm shift or is it just a matter of technological change?

6. Given that it is impossible to eliminate risk, what do we mean when we talk of security?

7. Is security an end in its own right or merely a means to other ends or goods? Is security the same thing as safety?

8. How do different authors conceive of, and talk, about security? Are their views reconcilable?

9. What are the implications of the changes described in the readings for criminal justice and for criminology?

10. Is ‘pre-crime’ a useful concept?
**Week 2: Policing, crime prevention, and risk management**

**Changing patterns of public and private policing**


**Risk management and insecurity**


**Preventive laws and measures**


Questions:

1. What impact has risk assessment and risk management had on the way the police organize themselves and carry out their tasks?

2. Examine the claim that the police have become information brokers for other institutions that require knowledge of risk like the insurance industry.

3. In what ways does risk configure working relations between the public police and private policing operations?

4. What do you make of the claim that: ‘Modern democratic countries ... have reached a watershed in the evolution of their systems of crime control and law enforcement. Future generations will look back on our era as a time when one system of policing ended and another took its place’ (Bayley and Shearing 1996: 585)? Or does this claim ‘overstate the novelty and the “epochal” nature of current trends’ (Jones and Newburn 2002: 130)?

5. What evidence is there for a move toward a ‘preventive state’?

6. What are the advantages of and reasons for resorting to civil preventive orders?

7. What criticisms might be made of the use of civil preventive orders?
Week 3: Risk assessment, actuarial justice and dangerous offenders

Risk and Actuarial Justice


Assessing risk and dangerousness


Hood, R et al, 'Sex Offenders Emerging from Long-Term Imprisonment: A Study of Their Long-Term Reconviction Rates and of Parole Board Members' Judgements of Their Risk', British Journal of Criminology, 42 (2002), 371-94

Simon, J 'Reversal of Fortune: The Resurgence of Individual Risk Assessment in Criminal Justice', Annual Review of Law and Social Science, 1 (2005), 397-421


Questions:

1. What do Feeley and Simon mean by Actuarial Justice?
• What are its base assumptions?
• What are its key features?
• What are its intellectual origins?
• What are its main objectives?

2. How convincing do you find the claim that we are now governed by a New Penology?

3. What is dangerousness? Is it problematic to talk of ‘dangerous offenders’? And, if so, why?

4. How is dangerousness measured?

5. What difficulties arise in attempting to predict dangerousness?

6. How well suited is the criminal court to the task of risk assessment?

7. Can individual risk assessments safely be made using actuarial risk assessment instruments?

8. What is the role for clinical risk assessment by psychiatrists?

9. What level of certainty should we require of predictive tools? Does the answer to this question depend upon what use we make of them?
Week 4: Public protection and preventive detention

Origins of the dangerousness debate – optional reading!


Fear and the demand for public protection

Baker, K (2010), 'More Harm than Good? The Language of Public Protection', The Howard Journal of Criminal Justice, 49 (1), 42


Preventive and indefinite detention


Ramsay, P (2012) 'Imprisonment under the Precautionary Principle’ in I Dennis & GR Sullivan (eds) Seeking Security OR


Questions:
1. What factors drive the demand for public protection?

2. What political and ethical issues does the goal of public protection raise?

3. Do we have a ‘right to security’? Should we? What level of protection does the public have a right to expect?

4. Do dangerous offenders deserve proportionate sentences?

5. Are choices about how to deal with dangerous offenders inevitably political?

6. Can preventive/extended/indefinite detention be justified?

7. What restraints should be placed upon preventive detention? What conditions and provisions should those detained on preventive grounds enjoy?

8. Ramsay argues that the rising demand for security in England and Wales has arisen ‘from a deficit of political authority rather than from excessive authoritarianism’.

   Do you agree? Is this true of other countries?

9. Are some offenders so dangerous they should never be released? What are the arguments for and against full life sentences?
Week 5: Counter-terrorism laws and security policies
Terrorism and Criminal Justice


Braithwaite, J 'Pre-empting Terrorism' (2006) 1 Current Issues in Criminal Justice 96 and responses


Pantazis, C & Pemberton, S 'From the ‘Old’ to the ‘New’ Suspect Community: Examining the Impacts of Recent UK Counter-Terrorist Legislation', British Journal of Criminology, 49/5 (2009), 646-66.

Balancing Security and Liberty


Governing Security


Amoore, L & M de Goede (eds) Risk and the War on Terror – esp. Intro and chs.1 and 3

Counterterrorism laws and measures

Tulich, T (2012), 'A View Inside the Preventive State: Reflections on a Decade of Anti-Terror Law', *Griffith Law Review*, 21 (1), 209


**Questions:**

1. How did the increased threat of terrorism post 9/11 change thinking about security and counter-terrorism policy?

2. What were the implications of the declaration of a ‘war on terror’? What did it make possible? Was the war analogy defensible?

3. What is the role of risk in countering terrorism? What risks does counterterrorism itself pose?

4. Can security and liberty be ‘balanced’? What criticisms might be made of balancing? Is it always necessary to sacrifice liberty in order to increase security?

5. Does the threat of terrorism our willingness to act pre-emptively? What are the main casualties of this change?

6. When and on what grounds are pre-emptive counter-terrorist measures justified?

7. Is the ‘war on terror’ over? Is there any evidence of a revival of human rights protections and away from resort to extraordinary measures?

8. What are the key recent developments in terrorism and counter-terrorist policy?
Week 6: The Burdens of Seeking Security

The costs of seeking security

Walklate, S 'Excavating the fear of crime: fear, anxiety or trust' (1998) vol 2, no 4 Theoretical Criminology 403-418


Journalistic but also well worth reading account of the costs of security in the US:
Davis, M (1998) City of Quartz: Excavating the future of Los Angeles Ch. 4 ‘Fortress L.A.’

On the darker side of life in gated communities

And because it is 6th week – FK Dick ‘Minority Report’ (a dystopian but prescient short story in a book of the same title)

Questions:

1. Explore the costs associated with seeking security from risk. Are these costs inevitable?

2. On whom do the burdens of security fall most heavily?

3. Is it possible to distribute risk equitably? Or is unequal distribution of protection and social exclusion inevitable?
4. Is it possible to pursue security without generating mistrust?

5. What are the implications of thinking of crime as a ‘normal social fact’?

6. What is the place of punitiveness in the risk society?

7. Is it possible to reduce risk without also eroding civil liberties?

8. Examine the role of the insurance industry in governing risk.

9. What or who are main casualties of seeking security?


Week 7 Security and Justice


‘Preventive Justice and the Rule-of-Law Project’ both in A Ashworth, L Zedner, and P
Tomlin (eds.), Prevention and the Limits of the Criminal Law

Zedner, L Security (2009) ch.7

Loader, I & Walker, N 'Policing as a Public Good: Reconstituting the Connections Between
Policing and the State' (2001) 5 Theoretical Criminology 9-35

Braithwaite, J., 'The New Regulatory State and the Transformation of Criminology' in D. Garland
& R. Sparks (eds) Criminology and Social Theory (2000)

Shearing, C 'Punishment and the Changing Face of Governance' (2001) 3 Punishment and Society
203-220 OR

Hudson, B ‘Justice in a Time of Terror’, British Journal of Criminology, 49/5 (2009), 702-17

Justice and Security in the 21st Century

Shearing, C & Johnston, L (2005), 'Justice in the Risk Society', Australian and New Zealand
Journal of Criminology, 38/1: 25-38

Nickel, J W (2013), 'Restraining Orders, Liberty and Due Process', in A Ashworth, L Zedner, & P
Tomlin (eds.). Prevention and the Limits of the Criminal Law

Cole, D (2015), 'The Difference Prevention Makes: Regulating Preventive Justice, Criminal Law
and Philosophy vol 9: 501-519
Questions:

1. In what ways has the ‘war on terror’ changed the parameters of the debate about what may justly be done in the pursuit of security? Are exceptional measures justified by the threat of catastrophic harm posed by terrorism?

2. Is it possible to distribute risk equitably? Or is unequal distribution of protection and social exclusion inevitable?

3. Do we need a new language and new concepts to think about justice in the risk society? And if so, what might these be?

4. Is security inalienably a public good? What follows from this?

5. Or is security better provided by sources beyond the state?

6. What are the implications of thinking about risk and security for the discipline of criminology?

7. How best can we pursue justice in the risk/security society? What does it mean, if anything, to talk of preventive justice?

Week 8 The Counterfactual Dilemma - a Debate

“If we adopt measures designed to prevent murders in the future, we never can know whether our initiatives have in fact prevented murders that would have happened, or whether the murders would not have occurred even if we had done nothing.”

David Cole (2015)

Is this a decisive argument against preventive laws and security measures?