

CRIME PREVENTION AND HUMAN RIGHTS PERSPECTIVES*

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‘The deployment of human rights is, often wrongly, leading to wrong conclusions to be made about issues of public safety. (...) There is a real concern about the way the (*Human Rights*) Act is operating and there needs to be political clarity that it would have no effect on public safety issues.’

(Lord Falcone, United Kingdom. BBC, 2006)

‘One should consider whether (*the proposed*) psychiatric detention is a punishment or not. If it is a punishment, it would be an act of unconstitutionality as you cannot add a punishment to an other punishment.’

(Pascal Clément, former Ministry of Justice of France on the recent proposal of Nicolas Sarkozy concerning open-ended closed psychiatric treatment of sexual offenders.¹ Le Monde, 2007)

‘In Hungary (...) [s]ocial prejudices about rape – for example, that women frequently make false allegations of rape – are widespread. Health professionals frequently show a lack of understanding of how to respond appropriately to women who have been raped or have experienced other sexual violence. Governmental failure to acknowledge the seriousness of rape and other sexual violence is reflected in the lack of support centres and services across the country for victims of rape.’

(English summary of *Hungary: Cries Unheard*. Amnesty International, 2007)

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¹ According to the plans, paedophile offenders would be examined by a group of experts at the end of their sentences and if they are considered to be dangerous they will not be released but sent to the psychiatric hospital of Lyon for medical treatment. If they do not accept the treatment, they would stay in the institution as long as they are considered dangerous.

The end of the millennium is characterised by active and widespread discourses on crime control both in politics and in the academic field. Recent commentators have provided scrutinised account on the dispositions and representations of contemporary crime control, criminal justice, punishment – and the great newcomer of the late 20th century, autonomous crime prevention. A highlighted ambition in these inquiries aims at revealing the exact nature of the interconnections between the crime control complex and its wider environment, the late modern Western society. The narratives are rather ambiguous. While, particularly in Europe, there are obvious signs of commitment to humane and inclusive strategies of tackling the crime problem, a parallel spread of the politics of repressive control is also doubtless. Regarding this latter trend, most commentators share a certain pessimism about its likely outcomes and consequences. A significant body of knowledge is available on social malfunctions and distortions associated with recent trends of ‘law and order’ politics: social exclusion and segregation, alienation, growing fear, fragmenting communities and so on.

These concerns are closely interrelated with an other thinkable perspective in analysing contemporary crime control tendencies, and that is the human rights perspective. Though an appeal to human rights considerations is usually profoundly embodied in recent criminological appraisements, interestingly, it is seldom articulated explicitly. Open references to this perspective are much more frequent in legal theorising, legal journalism or day-to-day discourses. However, the intersections between human rights and crime control issues might help us to reveal a complex set of contemporary transformations. One side of this complexity is the enduring dilemma of ‘*safety vs. freedom*’, referring to the proper scope of intervention into the life of the individuals in order to promote a higher level of the public good of safety. Most commentators agree that a balance should be kept between the community’s appeal for safety and the rights of the individual; however, views become remarkably different when it comes to the problem of what this balance actually means, and these views might be further refined or even fundamentally reshaped by lessons from criminology on what actually works. An other side of the issue is a contemporary reconsideration of the entire concept of human rights: while on one hand, the catalogue of rights under high-level protection is still widening, on the other, as I shall argue, during the past few decades the classic concept of individual freedom has been seriously challenged.

In this paper, I shall begin to sketch a possible framework for further investigation. Doing this I shall focus upon three key intersections between crime prevention and human rights issues.² First, I shall give a brief account on some of

² Unlike most definitions in English-speaking literature, in Hungarian the term of ‘crime prevention’ includes the preventive functions of the criminal justice as well. In this paper, I shall use this broad definition.

the most consequential historical and contextual tendencies shaping the current setting of human rights and public safety discourses. Second, I shall attempt to outline two distinctive concepts of crime prevention with special regard to their human rights implications. Finally, two major argumentations on challenging the human rights concept will be presented.

Human rights ambiguities and dilemmas at the turn of the millennium

The dilemmas raised by the possible collision of public safety considerations and the protection of individual freedoms are not recent at all. Indeed, they have played a crucial role in shaping crime control discourses since the 19th century arrival of the so-called *consequentialist theories of punishment*. In challenging the retributivist, deontologist and legalist principles of classical criminology, the new positive school took the prevention of crime and the defence of society to be the primary aim of criminal sanctions. In place of abstract, formal concepts on fairness, justice and proportionality, positivists advocated a pragmatic reference to *the common good of public safety*, suggesting that ‘the dangerousness of the criminal was the criterion by which society should measure the function of its defence against the disease of crime’ (Garofalo 1878, cited in Ferri, 1901). The polemic on whether *delivering formal justice* or *controlling crime* was the primary function attributed to the criminal justice system and punishment had been one of the most seminal structuring themes in the crime discourse until the last decades of the 20th century. However, the relevance of theories of punishment goes obviously far beyond a mere theorising on the nature and justification of criminal sanctions, since these theories also ‘involve different accounts of the legitimate role and scope of the state, and prescribe different relationships between the state authorities and individual citizens’ (Duff and Garland, 1994:3). These differences in the underlying assumptions have obviously had fundamental implications for shaping the major positions in human rights-related discourses as well – on the one hand, a liberal argument for the high-level protection of the individual against the powerful, and, on the other, a more statist appeal for effective crime control and the protection of society against wrongdoers.

By the end of the 20th century, however, the scenery of thinking about human rights and public safety issues had been profoundly reshaped. The roots and essence of the new trends are rather difficult to sum up. Major changes in the structure of crime, technological advances and information society, new pathways in predicting criminal career, intensive political and theoretical discussions on social deviances, overall trends of globalisation and localisation are only some of the most significant components of the current discourse on crime

and its control. One of the most decisive shifts, however, was certainly an intensive *widening of the scope of human rights discourses* resulting from the recent parallel extension of both the crime control scene and the range of human rights.

In order to reveal the significance and the nature of these trends, it is probably worth giving a brief account of their origins. The current scene has been restructured by some chief catalysts, all of which have emerged during the last few decades in two major subsequent waves. The first wave started at the beginning of the eighties and was fuelled by a profound disillusionment with the welfarist agenda of crime control. The second wave arrived at the second half of the nineties and has had a pervasive though still rather ambiguous impact. For a more analytic understanding, I shall distinguish five different but intrinsically interconnected sequences, which I consider most salient in patterning current discourses on human rights and crime control issues. These are a) the resurgent appeal for the limits of the state power over the individual, b) the rise of the victim's perspective, c) the political implications of fear of crime, d) the new forms of criminality and anxiety, and finally e) the broadening scope of crime control.

a) Rule of law

The Western concept of human rights and fundamental freedoms, and particularly the core value of human dignity, has traditionally been closely related to the presumption of responsibility: the belief that the individual is the primarily responsible actor of his own decisions and actions. This concept was fundamentally challenged by the propositions of the late 19th century penal reforms. Under the pervasive enthusiasm for the impressive developments in natural (and above all medical) sciences, the penal field was quickly seduced by the psychiatric language and concept of social deviance (Rotman, 1997) suggesting that crime is better to understand in terms of social and psychological pathology than as an outcome of individual choices. The emerging new penology with its distinctive toolkit – indeterminate sentences, therapy, casework, clinical psychiatry and so on – was founded on the coupled optimism in both scientific all-mightiness and the correctability of human nature. The offender therefore, loosing his reputation as responsible 'actor', quickly became a mere subject of the benevolent and omnipresent correctional goals of human and social sciences. The concept of 'reforming instead of punishing' had run its stunning career throughout the first half of the 20th century and eventually reached its peak within the supporting atmosphere of the post-war welfare state. However, at the beginning of the seventies, voices of disillusionment with the correctional agenda became more and more intense and suddenly 'the advocates of treatment found themselves on the defensive' (von Hirsch, 1976). The ground

for the critics was rather complex. The most visible reason for the growing scepticism was about the lack of efficiency – that is, the apparently extremely limited impact the correctional treatment of offenders had on crime rates. The subsequent disappointing researches on the consistent high rates of recidivism (Martinson, 1974; Brody, 1976; Folkard et al 1976) punctured the very heart of the century-old rehabilitative optimism.

Failure in efficiency, however, was not the only reason for the growing hostility to the correctional agenda. The widespread criticism, first articulated by social and legal theorists from the United States, also revealed the vulnerability of the individual to the utilitarian considerations pursued by the paternalistic state. The main issues targeted by human rights-related critics included references to indeterminate sentences where the prisoner ‘carries the key to the prison in his own pocket’ (Rothman, 1980:69), the degradation of human dignity of the individuals subjected to medical treatment against their will (Szabó, 1993), and more generally, to the malfunctions arising from ‘more intervention in offenders’ lives with fewer constraints on official behaviour’ (von Hirsch, 1976). The gravity of theoretical argumentation was dramatically underlined by a growing number of prison riots prompted by overcrowding and outrageous prison conditions. Wrapped in the reviving neo-liberal or neo-conservative social theories and the retributive theories of punishment a firm attack against the individual’s moral degradation took shape. Restoration of procedural guarantees, new sentencing guidelines limiting court discretion, bans on open-ended sentences, ‘de-medicalisation’ of the penal field and intensive national and international legislations on the rights of the prisoners were the most apparent steps towards releasing the individual from being downgraded to a subject of preventive efforts and limiting the state’s power over the individual. The decade of the eighties therefore witnessed the restoration of the concept of individual responsibility and a massive strengthening of the ‘justice’ (that is, retributive justice) function of the criminal justice system. As an inherent component of the emerging neo-liberal and neo-conservative argumentation of the late seventies, the rule of law approach quickly became very popular as a political programme as well, in Europe most lucidly articulated by Margaret Thatcher (e.g. Thatcher, 1975), but also having a more or less significant impact on the criminal legislation of most European countries.

The retributive revival of criminal justice has had major, and rather controversial, impacts on the contemporary scene of human rights and crime control issues. The neo-conservative shift of the eighties is frequently understood by contemporary criminology and social theory as setting the bed for recent exclusivist social tendencies and law and order rhetoric, particularly in the UK and the USA. That is certainly true. The disillusionment with the correctional perspective, followed by an overall scepticism about the crime problem, induced

very different responses in Western societies, and punitive repression has definitely been one of them. Later I shall return to the human rights concerns deriving from that point. What I would like to stress here, however, is that bringing the 'due process' approach back into the debate had the far-reaching effect of restoring the concept of responsibility and human dignity and offered a clearer definition for the strict boundaries of state intervention. In other words, *at the end of the 20th century only limited space is available for the preventive ambitions of the criminal justice system.*

b) Victims' rights

The failures of the treatment model gave rise to another sequence shaping the current contexts of human rights and crime control. That is the increasing *sensitivity to the position of the victim*. Obsessed with the ambition of understanding and curing the offender, until the end of the sixties crime control considerations were free of almost any reference to the victims' needs and rights. This picture has dramatically changed during the past three decades. The general interest in and the sympathy to the victim arose parallel with the letdown with the correctional agenda and particularly, with the widening exposure of the middle class to the everyday experience of crime (Garland, 2001). One of the most apparent signs of the increased commitment to the victim was the quickly improving knowledge on victimisation. In 1966, the first nation-wide victim survey was carried out in the United States, revealing an unexpectedly high proportion of black numbers in victimisation and an embarrassing level of public distrust towards the criminal justice system (Ennis, 1967). The growing scientific activity in the field of victimisation, victim participation (Schafer, 1968) and multiple victimisation (Sparks, 1981) gave rise to new research perspectives on the causalities of crime. Theoretical discourse was also influenced by the emerging feminist approach, which brought both new themes (sexual and domestic violence) and new language (genderisation of the crime problem) into the academic discourse.

Alongside the scientific enthusiasm, a major shift occurred in the field of crime control as well. The *victims' movement* was a typical bottom-up initiative. The first self-help NGOs were organised in the early seventies by victims of crime, relatives of lost persons or parents of victimised children, with the twofold aim of supporting victims and forming criminal legislation. Political decision-makers both in Europe and in North America embraced these movements, and the early eighties brought quick successes in the fight for the victims' rights. Growing number of victim support schemes, new criminal legislations enacting the rights of the victim (Joutsen, 1987), initiatives for the prevention of victimisation and multiple victimisation, extended medical and criminological researches on harm reduction and trauma treatment, the spread of state compensation and restorative justice indicated the breakthrough of the victims' agenda.

Very similarly to the consequences of the retributivist shift, the infiltrating of the victim's perspective into the crime control discourse had rather heterogeneous outcomes. The sympathy to the victim, ironically, has played a crucial role in contouring the main argumentations for both the segregative punitivism of 'tough on crime' politics and the recent expansion of restorative justice. Coupled with the growing fear of crime and an intensive politicisation, the victim's perspective has certainly been one of the most decisive moral references for the supporters of law and order or zero tolerance. On the other hand, it also brought a definitely new colour into both the crime control and human rights discourse. One of the most illustrative articulations of this shift was given by Robert Elias who argued that since victimology is best understood as the study of the human consequences of human rights abuses committed by other citizens or else, the subject matter of victimology should be defined in terms of human rights rather than criminal law (Elias, 1985). This view reflects quite properly the developments of the past thirty years, when the rights of the victim have become a particular subcategory in the catalogue of human rights, giving an entirely new ground for understanding crime prevention efforts.

c) Fear of crime

Although it is most probable that the fear of crime has always had a certain influence on both everyday life and public discourses, as a characteristic social phenomenon it is a distinctive term of the late 20th century. Indeed, the proper revealing of its patterns, causes and consequences is considered pivotal in understanding contemporary social progresses and transformations. The explanation for this crucial role attributed to fear of crime lays in its most peculiar and significant feature: it seems to correlate rather moderately with actual crime trends or the personal risk of victimisation. During the last decade of the 20th century European and North American societies have experienced the curious co-existence of declining crime rates and stable or even growing level of fear of crime and though this parallel existence of oppositional trends is an extreme example, the poor relation between fear of crime and crime rates has been known for criminologists for quite a long time. Researches have shown that fear is primarily dependent on certain demographic variables, social and environmental conditions, social integrity, neighbourhoods, housing, lifestyle (for a detailed review see e.g. Austin *et al.*, 2002), and, obviously, subjective perceptions of crime, particularly media consumption. This multi-source character of fear of crime suggests that the borderline drawn between the concepts of 'fear of crime' and 'anxiety' by contemporary criminological thinking is extremely vague and that fear of crime – similarly to anxiety – is best to understand within a complexity of interconnected segments of social realities. The most adequate theoretical framework for capturing this complexity is provided by

the theories on the '*risk managing*' *post-modern societies*, and particularly by Giddens' conception of *anxiety*. According to his definition, 'anxiety is essentially fear which has lost its object through unconsciously formed emotive tensions that express „internal dangers” rather than externalised threats' (Giddens, 1991:44), therefore 'anxiety has to be understood in relation to the overall security system the individual develops rather than only a situationally specific phenomenon connected to particular risks or dangers' (Hollway and Jefferson, 1997:259). Hollway and Jefferson made a convincing attempt to situating fear of crime in the wider contextual framework of late modernity and anxiety. From this perspective, an essential argumentation emerges: anxiety and fear are not results of rational assessments of actual risks and hazards but are basically of psychological nature, deriving from an overall sense of uncontrollability.

Since it provides a vivid illustration on some contemporary social malfunctions, the underlying pattern of fear of crime is very telling in itself. However, it also has profound consequences on crime control and human rights issues. Fear of crime is frequently described as a new rationality in shaping the pattern of contemporary crime control and in fact there is a significant danger that the increased, and more importantly, groundless level of fear might cause oversimplified and seriously distorted discussions about the crime problem. According to the researches, citizens tend to be deeply misinformed on both the real extent of the crime problem and the crime control perspectives. For instance, in spite of the significant decline in crime rates, the British Crime Surveys in the past few years showed the vast majority of respondents believing that crime had actually increased during the previous years (e.g. Nicholas and Walker, 2004; Nicholas et al, 2007). Such trends have been seen in other countries as well, for example in Germany and in the United States, or in a much lesser extent, in Hungary (Dunavölgyi, 2004). A remarkable addition to these trends is that, though oppositional accounts are also available, there is major evidence suggesting a direct connection between individual levels of fear of crime and punitive, intolerant or repressive attitudes towards the crime problem (e.g. Sprott and Doob, 1997). Given the pervasive politicisation of the crime discourse, under such conditions policymakers might be seeking the most fine-sounding but in a human rights perspective often ignorant suggestions against crime and there is an actual danger that driven by the fear of crime, citizens become ready to sacrifice more and more of their freedom for the promise of their safety.

d) A new concept of security

In addition to these trends in fear of crime, at the beginning of the 21st century new threats against security emerged, causing a new, and probably harsher than ever, wave of public sense of insecurity. The new forms of criminality such as the expansion of transnational organised crime and terrorism have had a deep impact on the way we think about freedom, human rights and public safety.

Fighting the new threats obviously demands new types of strategies, and these strategies are supposed to be profoundly different from those tackling ordinary crime both in their scope of intervention and methods. However, it is not exactly the case but a rather worrying process is taking place: the traditional borderlines between *security* and *public safety* issues started to fade away. In Europe, this process is represented by the arrival of a *new broad concept of security*, which seeks to encompass fundamental elements and issues from *both* international security *and* public safety domains. As *Hans-Jörg Albrecht* points out, this new security agenda is a peculiar mixture of issues on external and internal security, techniques of prevention and repression, logics of strategic and operational planning. The legal scope of security therefore becomes a diffuse set of strategies, practices and norms reaching far beyond criminal legislation, including laws on the various themes of migration, policing, intelligence, telecommunication and economics (Albrecht, 2006).

The human rights consequences of the current uniting of public safety and security domains are already apparent: the reasoning behind the fight against the most serious threats against national and public security, with its very strong appeal for the restriction of fundamental rights, is quickly leaking into the ordinary crime control scene. In exploring the materials coming out from the European Union, particularly amongst the issues on data-collection, one could find more and more examples of this trend when the measures of the fight against terrorism are argued to be useful also in the prevention of *ordinary* crimes. These trends might have extremely serious consequences for the freedom-safety discourse. I shall return later to the point that fundamental rights of the individuals are allowed to be restricted only on the ground of *necessity* and *proportionality*, and that safety-type argumentations should be understood strictly within the framework set by this double standard. These standards mean different levels in the fight against terrorism and in the fight against ordinary crime and if this difference is overlooked, the very quick erosion of human rights will take place.

e) Widening net of crime prevention and control

The end of the 20th century also witnessed the emergence of the autonomous *crime prevention agenda*. During the past few decades, acknowledgement that the criminal justice system has only limited capacity to fight effectively the crime problem has become widespread. The solution has seemed to be an expansion of the preventive efforts *beyond* the criminal justice system. The goal of preventing crime *before* it first happens shifted the focus of crime control from the preventive potent of the criminal justice system to the proactive forms of intervention. Instead of concentrating on the (potential) offenders, contemporary crime prevention targets every possible component – the offender, the

victim and the situation – of crime. Moreover, the widening scope and institutional field of crime prevention has been heavily supported by recent scientific developments, both in and outside the field of criminology. New methods of risk assessment, predicting of criminal careers and the current heyday of developmental criminology inspired a whole range of preventive techniques of early intervention. Rapid advances in information technologies are opening up brand new perspectives in electronic surveillance and control from electronic tagging through CCTV to electronic data retention. With respect to our topic, the most important consequence of these trends was that the domain of potential collisions between human rights requirements and the appeal for public safety has dramatically extended. As the public safety issue and the crime problem are addressed by an ever-increasing net of interventions, the possible interrelations of the human rights debate became more and more complex.

Two concepts of crime prevention

One of the relevant conclusions drawn from the historical-contextual framework of contemporary crime control-related human rights discourses is that at the beginning of the 21st century the human rights agenda *set a twofold imperative for the crime prevention scene*. *First*, it imposes *an obligation to facilitate preventive interventions*. Providing proper instruments for the effective protection of fundamental constitutional values and rights is the duty of every democratic state. The vast majority of criminal activities directly harm the fundamental rights of the individuals – their right to life, human dignity, property and so on. The state has therefore substantial role in preventing individuals from being victims of such abuses. In other words, from a human rights perspective, avoiding the ‘*underreaction*’ to crime is of crucial importance.

As I suggested before, the most significant consequence of the victims’ movement was that it generated a profound reconsideration of the scope of human rights and had pervasive implications for the aims, structure and day-to-day practices of crime prevention. Moreover, on account of recent developments in human rights thinking, responsibility for the protection of fundamental rights through preventive intervention has been further refined: the present concern given to the rights of *children, women, disabled and other vulnerable social groups* imposed new requirements on crime prevention. For example, implementing competent instruments of early intervention to protect children at risk is a demand deriving directly from the international standards on children’s rights. Alternatively, on the ground of the expanded international legal protection of women, special supportive and protective mechanisms are required to be provided for those being victims or in the risk of victimisation of sexual assault or domestic violence. The special needs of victims and various vulner-

able social groups are therefore channelled into the crime prevention scene through human rights rhetoric, and at the end of the 20th century failing to comply with these requirements is regarded, particularly by international organisations and NGOs, as human rights abuse in much the same way as in the case of for example cruel punishments or unlawful deprivation of liberty.

While the positive requirements deriving from contemporary human rights standards are essential in locating and structuring the tasks, objectives and practices of crime prevention, the human rights agenda has a *second role* in the field of crime prevention – that is, *setting its limits*. Obviously, neither the protection of victims and at-risk groups nor the promotion of public safety are supposed to provide a limitless justification for preventive intervention. Certainly, this is the most sensitive point, as here we have arrived to the most probable domain of collision between individuals' freedom and the appeal for public safety. The major viewpoints on this issue are quite well-known. Some commentators suggest that in the current crime situation the balance between the rights of the individual and the safety of the public needs some correction (obviously, in favour of the latter) and believe that restoring public safety and the feeling of security is worth the price of the increasing control over the individuals' freedom. Others argue that the current reconsideration of human rights and the growing scope of control and surveillance are inevitable and irreversible consequences of our time (see e.g. Brin, 1998). Finally, there are many who are quite apprehensive about a contemporary process they call the 'erosion of human rights'. They argue that the recent emphasis on public safety considerations is too often accompanied by a hurried readiness to sacrifice some fundamental values. They are alarmed that while chasing desperately our security from the risk of crime we are slipping quietly into a society of an ever-growing control and surveillance. And they are alarmed that the results so far did not seem to be worth this price.

Personally, I agree with *Barbara Hudson* that the argument, which considers effective crime prevention and human rights as *by definition* conflicting values, is wrong (Hudson, 2003). Certainly, they are *potentially* competing, but I think that different argumentations are available depending on what we understand on, or, more precisely, what we expect of and what objectives we attribute to crime prevention. From a human rights perspective, I think, one could distinguish two major interpretations of crime prevention, each adopting a particular reasoning in resolving the tension between post-modern anxiety and the classic idea of human rights. The first concept, which I shall call *integrative crime prevention*, builds on a rather complementary understanding of human rights and public safety values, while the other one, a *narrow concept of crime prevention*, advocates a more conflict-based approach. Due to their shared roots,

the two concepts certainly have some fundamental features in common, e.g. the stressed role of communities and individuals in delivering public safety, trends of '*responsibilisation*' (Garland, 2001) or an increased emphasis on efficiency and evidence-based approaches. However, they substantially differ in their presumptions on the crime problem and the possible roles of crime prevention, and these differences have fundamental consequences for human rights concerns as well.³

Integrative crime prevention

The integrative approach is a *broad concept* of crime prevention in terms of both its purposes and structure, and has implications with the term 'integration' in two different manners: first, as a set of distinctive social assumptions remarking a firm commitment to the values of the so-called '*inclusive society*' and second, as an underlying logic of the governance of crime prevention efforts. The two aspects – like substance and form – are obviously interrelated.

Integrative crime prevention defines a *comprehensive set of objectives*, which goes far beyond the statistical reduction of criminal events or the elimination of fear of crime. In this concept, crime prevention is understood as one of the possible agencies in realising the overall social good of improving the *quality of life* of citizens (see e.g. Lévy, 2006). In other words, explicit objectives of crime prevention are closely interrelated with extensive social values, linking the crime control scene inherently into the wider social fabric. Promotion of democratic values, human rights and rule of law, strengthening social inclusion and cohesion, improving living standards and accessibility to better health and cultural conditions are few examples of the general set of social values to be encouraged by crime prevention.

The underlying assumption of this broad set of objectives is that crime is only one – and probably not even the most damaging – of several corresponding problematic phenomena causing tensions and malfunctions in social processes. This interrelated understanding of social stresses and the 'quality of life'-approach fit properly the anxiety-related concepts of fear of crime since integrative crime prevention targets many sources of insecurity at the same time. Complexity in the problem requires complexity in the instrument: the policies, institutions and day-to-day practices of integrative crime prevention are in close connection and cooperation with policies, institutions and day-to-day practices concerned with various social problems ranging from unemployment

³ Obviously, the concepts of crime prevention are rather idealtypical as actual, or, more precisely, two poles of a range with many possible intermediate variations.

through ghettoisation to the spread of xenophobia and racism. Crime prevention therefore often targets comprehensively the sources of social exclusion *and* social deviances. Similarly, many forms of preventive interventions are designed to block criminogenic catalysts in terms of both potential offenders *and* potential victims. To put it in the classic terms of crime prevention, in this concept the supportive and protective features of primary and secondary prevention are focused upon. The role of threatening, repressive and deterrent functions of the criminal justice system are therefore less emphasised, and so are the prohibitive or surveillance-type forms of intervention. Part of the reason for that is that this concept of crime prevention is highly reflexive. It is aware of the fact that preventive interventions do have consequences – both intended and unintended – in their wider environment and that these consequences should be taken into account when planning, implementing and evaluating preventive measures. Moreover, in turn, integrative crime prevention is also interested in and builds on the outcomes and consequences of other manners of social control.

One could argue that the outlines of this concept described so far might have a definite welfarist taste. However, this concept is not a welfarist one. Indeed, the concept of integrative crime prevention has built on the very core transformations that characterized the welfare-crisis: the restoration of human rights and individual responsibility. It is based much more upon the idea of *inclusiveness* than of *solidarity*, and while the latter term has a certain statist touch, at the turn of the millennium the range of agents having a role and responsibility in improving citizens' quality of life and producing social goods is extremely colourful. The state is only one, and frequently far the least seminal actor in delivering public safety and other public goods since its role is supposed to be basically supportive and coordinative. While the welfarist approach to crime was frequently charged with strangling both individual and community initiatives and responsibilities, integrative crime prevention allocates the very key positions of delivering public safety to the individuals, communities, localities, NGOs and other agents of civic society.

As we have seen, by building on a comprehensive interpretation of the objectives and functions of crime prevention, the integrative concept considers human right requirements and public safety issues *as rather complementary as controversial values*. This belief has been embraced by the relevant international organisations as well. For example, the United Nations' *Vienna Declaration on Crime and Justice* (2000) set multiple purposes in the field of crime prevention and criminal justice, including not only the reduction of crime, but also the 'efficient and effective law enforcement and administration of justice, respect for human rights and fundamental freedoms, and promotion of the

highest standards of fairness, humanity and professional conduct'. Following this guidance, the Experts' Report on *Effective Community-based Crime Prevention* (2002) made clear that the tasks and functions of crime prevention cannot be reduced simply to the statistical reduction of criminality but they should refer to the quality of life and the promotion of human rights. The report points out that 'there is clear evidence that well-planned crime prevention strategies not only prevent crime and victimization, but also promote community safety and contribute to the sustainable development of countries. Effective, responsible crime prevention enhances the quality of life of all citizens and reflects core values and human rights.'

A very similar stance was taken by the Council of Europe. One of its fundamental documents on this issue, entitled *Crime Policy in Europe in a Time of Change*, declares that 'every response to crime must conform to the basic principles of democratic states governed by the rule of law and subject to the paramount aim of guaranteeing respect for human rights. Therefore, however serious the situation of a society might be with respect to crime, any measures aimed at dealing with that situation that do not take account of the values of democracy, human rights and the rule of law are inadmissible. (...) No society is crime-free, thus the main objective of crime policy cannot be to eliminate crime but rather to contain crime at the lowest possible limits.'

The strategic aims and principles of crime prevention are therefore good indicators of attitudes towards human rights. If they do not stuck in a purely statistical and over-emphasised managerial approach to the crime problem but remain interrelated with the broader social values of culture of lawfulness, social cohesion, participation and humanity, crime prevention might make a priceless contribution to the promotion of human rights. In turn, the human rights perspective may also provide direct and long-term support for achieving preventive goals. The fair and lawful behaviour of public authorities promotes the culture of lawfulness and raises public trust and respect towards the authorities – all are inevitable conditions for delivering effective crime prevention. A citizen-friendly and respectful police with precisely defined range of rights and duties may count on the cooperative support of the people, while the indefinite power to bully citizens in the name of public safety will meet mistrustful and hostile public attitudes. If the system of early intervention designed to reach those at risk ignores the requirements of being non-discriminative and non-stigmatising, the opportunities offered by crime prevention probably would be avoided by the very persons in the need of support. If preventive efforts are followed by the unjustified growth of control and surveillance, alienation will spread amongst citizens, endangering the sense of solidarity and participation. The concept of integrative crime prevention therefore seeks for *the aligned*

promotion of public safety and human rights values since over-emphasising the one at the expenses of the other is seen in this concept at least as dangerous to social processes and balances as the crime problem itself.

A narrow concept of crime prevention: crime reduction

Compared with the above, a different concept of crime prevention embodies an up-side-down logic: while integrative crime prevention seeks for crime problem solutions through reaching various types of social tensions, this model frequently hopes remedies for serious social malfunctions by eliminating the crime problem. However, this concept is not the opposite of what I called the integrative concept, e.g. it does not explicitly intend to be 'segregative' (though might easily have such consequences), instead, it is basically indifferent to the broader social, legal and cultural context and consequences of preventive interventions.

The narrow concept of crime prevention is based on the limited objective of *reducing crime and fear of crime*. Crime is understood here as an isolated social problem, and similarly, fear of crime is also seen as basically dependent on actual crime trends instead of being interconnected with other forms of feeling of insecurity. This concept therefore focuses primarily upon crime figures and other precisely measurable aspects of the crime problem, ignoring its common roots with other forms of social deviances or wider social tensions. Thus, compared to other social values, statistical efficiency in reducing crime is seen as a value of substantial importance.

This reduced concept of crime prevention, with its deep concern with calculable efficiency, produces a particular environment for crime prevention, which is most similar to profit-oriented enterprises. References to *market-related terms*, such as management, risk-assessment, cost-efficiency, short-term benefits, indicators, input-output analysis, and so on, are widespread. Consequently, this concept prefers a peculiar technocrat set of preventive measures, including narrowly defined target groups, risk management, various forms of increased surveillance and pervasive control of various types of situations and behaviours. Crime prevention policy is considered successful if the greatest measurable benefits (that is, significant reduction in crime figures) are gained at the lowest possible cost, however, cost and benefit assessments might easily be reduced to purely financial terms, ignoring the costs paid by other fields of social reality.

This concept is not necessarily hostile to human rights considerations, instead, is rather ignorant to them. However, a reduced approach to crime prevention very easily embraces a conflict-based approach to human rights issues. The clearly defined objective of reducing the number of criminal events implies an often suspicious attitude towards human rights requirements since they are frequently seen as unnecessary or exaggerated obstacles to achieve preventive goals. Moreover, emphasising and justifying the presence of the conflict is an inherent part of the political and public discourses on crime.

The application of this approach might seem to be adequate when the crime problem reaches an acute and intolerable level, e.g. in hot spot zones. The problem is that the reference to 'acuteness' and 'intolerableness' easily becomes widespread and permanent, resulting in a constant alarm and panic. In this environment, growing fear of crime might become rather a result of artificially generated processes as a reasonable outcome of the crime problem. The dictionary of the crime discourse profoundly transforms and the rhetoric of 'war on crime' emerges, while in a spiralling communication process fear of crime and exclusivist tendencies of crime control mutually sustain each other. Under these circumstances, crime control and crime prevention policies are often characterised by sudden and abrupt changes both in the institutional and legal field (frequently induced by a particular high-profile criminal event), therefore prevention mechanisms are frequently unable to integrate properly into the existing institutions of social control.

Marc Mauer remarked once that recent zero tolerance sentencing policy in the United States properly reflects to a profound public distrust to criminal justice and policymakers concerning their ability in managing the crime problem (Mauer, 2001). I think a very similar logic operates in the field of crime prevention. Choosing between integrative and controlling forms of crime prevention is in many cases a question of the tone of public discourses on crime. In a climate of crime panic, even if it is mostly artificially generated, the channels of professional debates on crime dramatically narrow, giving way to public and political appeals to prompt and manifest signs of managing the crime problem.

Table 1. Conceptual differences between the integrative and the narrow concepts of crime prevention

	Integrative concept of crime prevention	Narrow concept of crime prevention
The crime problem	Crime is only one amongst many other social problems, some of which might be more serious. Public discourse on crime tends to be professionalized, low public concern with crime.	Crime is regarded as a distinctive social problem. Discourse on crime is highly politicised, crime is of high public concern. Both crime and crime prevention techniques are explained primarily in market-related terms.
Chief objectives	Broad set of objectives structured around the general aim of improving quality of life and overall security.	Narrow set of objectives focusing on reducing crime and/or fear of crime.
Core values of policy-making	Social inclusiveness and cohesion, democratic values and quality of life	Strong appeal to moral duties and order. Emphasis on cost-efficiency
Institutions	Integrated crime prevention structures in close cooperation with other forms of social control. Prefers long-term solutions. Sensitivity to intended and unintended consequences of crime prevention.	Focuses entirely upon the crime problem, being indifferent to its broader environments and other mechanism of social control. Strong appeal to the punitive, incapacitive and deterrent functions of criminal justice system.
Preferred forms of intervention	Supportive-protective interventions, promotes inclusivist tendencies in social processes.	Surveillance, deterrence, controlling, repressive and prohibitive practices.
Human rights implications	Safety and freedom are complementary values: promotion of the one also promotes the other. Aims at avoiding scapegoating and stigmatisation.	Safety and freedom tend to be controversial where a choice between values is assumed to be necessary. The conflict is an essential part of most communications about the crime problem. Stigmatisation is not avoided (e.g. 'name and shame' techniques).

Challenging the human rights concept

The human rights perspective has obviously been most prominently advocated by liberal and neo-liberal social theorists. The classic concept of liberalism attributes extremely strong position to the human rights agenda – though most of the rights and freedoms of the individual are not absolute in themselves, the human rights perspective as a set of guiding values is supposed to be absolute and universal. For liberalism, the Western society based on the primacy of individual freedom is the best social system available (Rawls, 1971). The pivotal idea of this concept is the individual human being as an ultimate end, which implies the fundamental individualism of liberal concepts of human rights. The prevailing liberal concept of human rights is therefore much broader than a mere catalogue of precisely defined rights and freedoms. Instead, it refers to a rather loose and general term of individual freedom where not freedom but its restriction is to be strictly defined and justified.

This classic concept of individual rights and freedoms has been, of course, challenged many times – just to mention the welfarist idea of benevolent correction and nurturing of citizens, even against their individual will. In the field of *contemporary* crime control, I think, there are two major argumentations, which question the absoluteness and priority of the human rights perspective. Both of them have an alternative set of values to compete with individual freedom and both of them tend to see the human rights agenda as a potential threat to these alternatives. I shall call these perspectives ‘*the moral-decline*’ and the ‘*safety first*’ argumentations.

The ‘moral decline’-argument

One of the perspectives aiming at challenging the pivotal role of human rights builds on a heavy criticism of individualism. This argument inherently invokes a perception of a contemporary *moral decline* with its many symptoms and consequences: growing number of divorces, libertarianism, disrespectfulness, truancy, disorder, drugs and obviously, crime. The moral decline is understood as closely interrelated with the Western culture of individualism and as basically fuelled by the over-emphasised importance and protection of individual freedom. Thus the set of values offered as an alternative to the individualist human rights concept would be the *restoration of moral order*. However, neither the state nor the individual are regarded as proper agents for conveying the moral renewal, therefore a new entity enters into the discourse. That new entity is the *community*.

The key terms of this argumentation – ‘moral crisis’, ‘law-abiding majority’, ‘rights and responsibilities’, ‘public incivilities’, ‘the sake of the community’ – might be very familiar from both contemporary public (political and/or media) discourse, and social theoretical foundations of recent law and order politics. The new *moral conservatism* was an idiosyncratic product of the welfare-crisis of the seventies and as such, has its direct historical roots in the United States. However, it reflected critically not only to the social paternalism and individual irresponsibility advocated by the welfarist program, but also to the freshly revitalised neo-liberalism characterised by *John Rawls’* universal justice concept (Rawls, 1971). This twofold character of anti-statism and anti-individualism gave a particular taste to the new agenda, though initially it was unable to offer convincing theoretical alternatives. Eventually, the new community-based approach found its argumentation in the concept of so-called ‘Asian-values’ and their high concern with communitarian and social collective well-being and harmony (Bell, 2004).

Once found its main theoretical foundations and referent points, the concept of community, or as it was identified, the *communitarian perspective* became an ideological success story in Western societies. The new approach aims to find the proper balance between individual rights and responsibilities, based on the belief, of course, that this balance at the turn of the millennium is actually missing. In other words, the superior role attributed to individual freedom has fundamentally deformed the fabric of contemporary Western societies, therefore there is an urgent need for give a greater gravity to the side of *responsibilities* – the responsibilities for the common good of the community (Etzioni, 1996). As a consequence, in this perspective human rights and individual freedoms have become of relative value, moreover, they might be seen as rather problematic with regard to the promotion of other – and in contemporary Western societies more important – social values.

In the field of crime control, the clearest argument on the superiority of the community’s order and morality over the rights of the individual was introduced by *James Q. Wilson* and *George Kelling* in their *broken windows-theory*. In this theory, crime is explained as a spiralling process starting with minor disorders or incivilities and resulting in serious crime. Between the two poles, a major shift in community integrity occurs: if minor antisocial behaviours are left uncontrolled, an atmosphere of ‘*no one cares*’ will soon arise, providing a thrilling environment for further disorders, community breakdown, and finally, more serious forms of criminality. Thus controlling the problem in its earliest form will gain the double goal of maintaining community integrity and preventing serious crime. This latter claim – preventing serious crime – has been heavily doubted by critics, but with regard to the topic of this paper, the issue of maintaining community integrity is of more relevance. Wilson and Kelling

are perfectly right when they warn to the importance of *fixing broken windows*, that is, blocking disintegrative processes in community. However, in terms of the applicable measures, they go much further and suggest that for the sake of community early and repressive forms of intervention are justified, even *if they are individually unjust*: ‘This wish to „decriminalize” disreputable behavior that „harms no one” – and thus removes the ultimate sanction the police can employ to maintain neighborhood order – is, we think, a mistake. Arresting a single drunk or a single vagrant who has harmed no identifiable person seems unjust, and in a sense it is. But failing to do anything about a score of drunks or a hundred vagrants may destroy an entire community. A particular rule that seems to make sense in the individual case makes no sense when it is made a universal rule and applied to all cases. It makes no sense because it fails to take into account the connection between one broken window left untended and a thousand broken windows.’ (Wilson and Kelling, 1982:35)

During the past two decades, communitarian approaches to crime and crime control have gained extreme popularity in contemporary political rhetoric, and in fact, at the turn of the millennium they have direct impact on shaping crime prevention strategies and practices. However, while community-based concepts definitely opened up new and promising perspectives in tackling the crime problem, coupled with the overwhelming concern given to the alleged ‘moral crisis’ they also gave way to exclusivist tendencies in both crime control policies and the social realm. Communitarian moralising always implies certain superiority attributed to the morality, lifestyle, attitudes and values of definite social groups: of married parents, of heterosexuals, of middle class workers and so on. This approach can be hardly adopted by the classic concept of individual freedom and human rights. In the field of crime control, the strong moral appeal is particularly frequent in politics and practices based on ‘law and order’ argumentations and the recent consuming intolerance of pre-criminal delinquent behaviours and minor incivilities. This kind of rational in crime prevention draws a firm borderline between decent citizens and disorderly minorities and frequently results in discriminating, segregative and stigmatising forms of preventive interventions.

The ‘safety first’-argument

An other set of arguments challenging the pervasive role of the human rights perspective is a much more pragmatic one, and has only weak connections with social or criminological theorising. That is the notion of safety: a matter-of-fact statement that at the end of the 20th century the profound reconsideration of the human rights concept is inevitable, since, first, under the current threats both national and individual safety can be guaranteed only at the expenses of a part

of individual freedoms, and second, for late-modern individuals safety is of greater importance than freedom. The validity of this second assumption would deserve a thorough investigation, however, in this paper I only focus on the justifications for human rights restrictions. It is obvious that public safety and crime prevention goals cannot be achieved without a reasonable restriction of individual freedom and that safety considerations and the protection of others' rights are natural and justified limits of human rights. However, I think current trends in crime control policies indicate serious misuses of these requirements.

According to international standards, any restriction of human rights and individual freedoms should fulfill a double condition: *it should be necessary and proportional to the objective hoped to be achieved by the limitation*. I am afraid that this aspect is too frequently overlooked, and one could often find serious problems in the implementation of this double standard in the field of crime prevention. I think that currently this is one of the most worrying problems regarding the human rights debate. If the requirements of necessity and proportionality are not properly taken into account, the devaluation of human rights will accelerate.

During the past few decades, the biggest part of Europe has been captivated by the magic spell of CCTV surveillance. Even though this kind of surveillance is potentially in collision with the fundamental right to privacy, typically there were no impact surveys conducted before the implementation of CCTV systems. For example, in Hungary such reports have not been prepared at all, though the growth in number of street cameras is one of the most extensive in Europe (Urbaneye, 2004). Neither had been conducted such efficiency surveys in the home country of the CCTV, the United Kingdom, before spending billions of pounds to make Britain 'the most surveilled country in Europe' (Ball and Murakami Wood, 2006). However, during the past few years a number of evaluations have been prepared, and the conclusions on the efficiency of CCTV in preventing crime are somehow embarrassing. As a Home Office report on the evaluation of thirteen distinguished CCTV systems concluded, 'out of the 13 systems evaluated six showed a relatively substantial reduction in crime in the target area compared with the control area, but only two showed a statistically significant reduction relative to the control, and in one of these cases the change could be explained by the presence of confounding variables.' (Gill and Spriggs, 2005:vi) This assessment fits properly in the course of previous researches, most of which indicated very ambiguous impacts of CCTV (see e.g. Welsh and Farrington, 2004; for a review: Norris et al, 2004). The only conclusion that seems to be well-founded is that there is still a lack of convincing evidences on the general efficiency of this type of crime control.

What I would like to stress here is not the disability of CCTV surveillance, but rather a quite disputable attitude towards crime prevention considerations and human rights. CCTV surveillance may proved to be effective in achieving some improvements (like reducing crime at some very special places, e.g. in car parks) but regarding its original objectives, the overall reduction of street crime, it certainly failed. An obvious reason for this failure was that the expectations on CCTV were – and I am afraid still are – rather illusory than realistic. The Home Office report affirms that ‘there was a lack of realism about what could be expected from CCTV. In short, it was oversold – by successive governments – as the answer (indeed the ‘magic bullet’, Ditton and Short, 1999) to crime problems.’ (Gill and Spriggs, 2005:116)

When *James Q. Wilson* suggested that, regarding its incapacitating therefore preventive effect, the number of prison sentences should be dramatically increased, *Andrew von Hirsch* made an argument against this suggestion, which I find particularly striking. He remarked that when ‘the history of sentencing reform has been characterized by high hopes for reducing crime followed by disappointment’, it is rather doubtful that vague theorising on what *might* work in solving the crime problem would justify imposing extra pain and restriction on the individual (Von Hirsch, 1976). The problem enlightened by the example of CCTV-surveillance is a very similar one in terms of crime prevention and human rights. It happens far too frequently that crime control chooses the easier way and got obsessed with a sounding but in its overall effects rather uncertain measure, regardless of the consequences arisen in the wider social fabric. The same problem emerges for example with the current expansion of data retention, the growing relevance of undercover policing or the increasing power of the private security agencies. These might be serious limitations of the rights of the individual under the flag of improving public safety, but since no one knows if they will in fact achieve this goal, the question of necessity and proportionality remains unanswered. I find this ‘let’s increase control and surveillance and we will see what happens’-type of attitude the greatest danger for the system of checks and balances between human rights and public safety. Human rights are far too valuable to be sacrificed in a brainstorming-like planning of crime prevention, particularly because if once we give up a part of our freedoms and rights, it will be extremely difficult to get it back later. Thus we should think it over twice whether the restriction of human rights we intend to impose through our new ideas for cutting crime are really both necessary and proportional, therefore certainly worth the price. Crime prevention is a powerful tool, being able to contribute to making people’s life easier, restoring human relations and solidarity in communities, promoting human rights and democratic values, and building open, inclusive and safer societies. Invoking the human rights perspective is the best way to make the most of this huge potential of crime prevention.

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SUMMARY

Crime Prevention and Human Rights Perspectives

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The essay surveys three major issues in crime control tendencies in the last third of the twentieth century by discussing aspects of the preventive approach and of the traditional human rights doctrine. Part One considers the emergence of present-day discourse on the interface of crime control and human rights. The categories and the problems of the final decades of the 20th century – which both the practitioners of criminology and the advocates of human rights have to deal with – took shape under the impact of particular social and historical processes. The essay attributes special importance to five of those processes. Part Two introduces two theoretical systems of crime prevention, as differentiated by the way they are related to the human rights doctrine. The author states that, contrary to the frequently repeated argument, the prevention of individual liberties and the requirement to ensure public security are not necessarily competing endeavours. Instead, they are complementary. Part Three presents two current tendencies that attempt to relativize the human rights approach: the „moral decline” argument and the „safety first” argument; and it calls attention to their weaknesses.

RESÜMEE

Verbrechensprävention und Menschenrechtsperspektiven

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Die Studie beschäftigt sich in drei größeren Themenkreisen mit bestimmten Teilen des präventiven Ansatzes, der die Tendenzen der Verbrechenskontrolle des letzten Drittels des 20. Jahrhunderts beherrscht hat, bzw. mit der traditionellen Menschenrechtsdoktrin. Der erste Teil behandelt die Herausbildung des derzeitigen Diskurses, der die Schnittstellen zwischen Verbrechenskontrolle und Menschenrechte berührt. Der zur Zeit der Jahrtausendwende gültige Begriffsrahmen und die Probleme, auf die sowohl die kriminologische, als auch die menschenrechtliche Denkweise eine Antwort finden müssen, formten sich

unter dem gleichzeitigen Einfluss von spezifischen gesellschaftlichen und historischen Prozessen. Von diesen sieht die Studie fünf Prozesse als besonders bestimmend an. Der zweite Abschnitt stellt die beiden theoretischen Konzepte der Verbrechensprävention auf Grund ihres Verhältnisses zur Menschenrechtsdoktrin vor. Dieser Teil argumentiert damit, dass der Schutz der individuellen Freiheitsrechte und die Erfüllung des Anspruchs auf öffentliche Sicherheit – entgegen der weit verbreiteten populistischen Argumentation – nicht unbedingt miteinander konkurrierende, sondern einander viel mehr ergänzende Werte sind. Der dritte Teil stellt zwei Argumentbestände der Relativierung der Menschenrechtskonzeption vor, die heutzutage als herrschend anzusehen sind: die Rhetorik des „moralischen Verfalls“ und die auf „Sicherheit an erster Stelle“ ausgerichtete Argumentation. Dieser Teil kommt auch auf die Hindernisse dieser zu sprechen.

