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Globalised Criminality, Local Crime Control and Prevention

Abstract. *The study deals with some key-definitions in the field of crime prevention and control as security, risk, danger, public security, interior security, public order.*

Globalization as a group of unfinished changes in our risk society takes challenges for criminal policy. The essence of the new approach is that it tries to define the adequate reaction to the consequence of some harm depending on what consequences the harm entails in the short term and in the long term and depending also on what interventions are the most promising to help avoid these consequences in the future.

Keywords: *Security, risk, danger, public security, public order, globalization, risk society, criminal policy, crime control, prevention.*

First we would like to define a few basic concepts and basic relations.

I. Definitions

Security

Security is one of the most commonly used concepts of our days. This, in itself, would be no problem if this word would mean the same for everyone. However, it is not the case. Even the definitions of *security that serves the interests of the public,* which has a priority in the topic we are discussing, are considerably different from each other.[1]

According to the relevant international literature, the dictionary of social sciences by the UNESCO contains the most general definition of the concept of **security**. It says that "***Security*** *means the* ***lack of*** *physical* ***danger*** *or* ***protection*** *against this danger".*[2]

The "*Dictionary of Security Policy"* published in Federal Republic of Germany in 1985 contains the following three definitions:[3]

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[1] The view that there is no consistent and thematic relevant literature on public security also reinforces this point of view in essence. See: Cserép, 2006.

[2] In: http://www.zmka.hu/svkiuj/publik/vedtan/vedtan15.htm

[3] In: http://www.zmka.hu/svkiuj/publik/vedtan/vedtan15.htm

- **security** is the **lack of danger**;
- **security** is the assurance individuals or groups of people, states and groups of states have that they are **protected from** the possible **dangers**;
- **security** is a **state of** things, in which individuals, groups and states are **not exposed to** serious **danger,** or they feel protected from them, or – to put it positively – in which they are sure that they can form their future according to their own ideas.

The definition, according to which security is the practical **activity** through the help of which individuals and organizations protect their own intellectual and physical property against all kinds of attacks and robbery, is not far from the above definitions.[4]

Besides its military aspect, security also has political, economic, social, humanitarian, human rights and ecological aspects.[5]

Risk

We can talk about **risks** when the possible damage depends on the individual's decision. *Risky action* appears in one's mind as a future danger that can be influenced through one's own decisions.

Danger

We can talk about **danger** when the possible damage cannot be calculated. We talk about danger when and insofar as the causes of some damage are outside one's control. This can be, for example, existential danger that cannot be influenced through one's decision.

	Pre-industrial societies	Classical industrial society	Industrial risk society
Forms and examples	Dangers, natural catastrophes, bubonic plague	Risks, accidents (work, travelling)	Putting oneself in a dangerous situation, artificial disasters
Depends on the individual decision?	No: external (gods, demons)	Yes: industrial development (economy, technology)	Yes: nuclear, chemical, genetic industries and political security categories
Responsibility	External luck	Regulated reliability	"Organized irresponsibility"
Reliability	Open insecurity; politically neutral, depends on luck	Insecurity that can be calculated (possibility, compensation for the damage, preliminary care, insurance)	Politically seriously explosive dangers that cast a doubt on the initial situation of the calculation and preliminary care

[4] See: Secure Computing with Java - Now and the Future. A White Paper, Sun Microsystems, October 1997 In: http://www.informatik.uni-leipzig.de/lehre/Heyer0001/AD2-Vorl12/tsld003.htm.

[5] The general meeting of the UN on 24 September 1987. In: http://www.ziviprotest.at/sonstiges/sicherheit.htm.

Risks and dangers varied in the course of history. The following table gives an overview of it.[6]

Public security

The concept of public security involves the **protection** of both **individual rights** (such as life, health, freedom, respect for the individual and their property) and *the state and its institutions* as well as **the totality of the legal system**.[7] According to another definition, which is related to the above, from the point of view of averting dangers public security means the invulnerability of the objective legal system, the personal rights and property of the individuals, as well as all those government and other institutions that ensure this.[8]

Interior security

Interior security has a role as a type of **symbolic politics** in *forming public opinion*. Political forces communicate their efforts, their dissatisfaction with the policy and the activity of the government through it (as well). Based on the experience of more than one and a half decades, now we can say that parties and non-governmental organizations have a significant influence on symbolic politics and through this on interior security as well. As crime is the product of society and it is formed and changed basically by the relations in society, it is obvious that this kind of symbolic politics is often highly indirect and crime itself comes to the foreground only in situations that involve intense conflicts (as e.g. parliamentary or local government elections).

It is worth noting the statement that in contemporary Europe *the concept of "interior" is in transition*. "Interior" used to mean the territory of a state. However, European integration and globalization have changed the meaning of this expression. On the one hand, the concept of "interior" means a framework and on the other hand it also means the legal and social rules and the rules of society concerning citizens, organizations and governmental bodies together with the practical realization of these rules. Therefore the significance of this concept is more geographic and political and does not so much concern the content.[9]

Let me include a few thoughts on the relation of **security and freedom.** Several liberal thinkers of the late 20th century called for the greatest freedom possible at the smallest cost of security. Then came 09/11 and it radically changed the world and our view of it from this aspect as well. The

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[6] See: Hillebrandt, F.: Vorlesung. Einführung in die Soziologie für Nebenfachstudierende. www.tu-harburg.de/tbg P.3

[7] See: Lösungsvorschlag. Boygroup. Stand der Bearbeitung: 2. Februar 2004 © Klaus Grupp und Ulrich Stelkens, Lehrstuhl für Öffentliches Recht der Universität des Saarlandes http://www.jura.uni-sb.de/FB/LS/Grupp/Faelle/boygroup-loesung.htm

[8] See: http://www.rechtswoerterbuch.de/rw/definition.asp?id=58&Modus=suche&SuchGebiet=&SuchBegriff=&Sortiert=&Aktuell=&Nummer=&Gesamt

[9] See: Storbeck und Felgenhauer, 2003.

order is reverse now. There is a new slogan: First we need guarantees for security and freedom comes only after that, in the "remaining space". There has been a rethinking and rephrasing of *the philosophy of supranational and national security*. Meanwhile, it also turned out that traditional means and methods are not very effective in our world. Although there are alliances of nations and powerful governments that proclaim that the "evil" must and can be annihilated in its own homeland, perhaps they themselves do not believe in this idea any more; especially, if they look around to see what the intentions that lie behind their action resulted in. At present, it seems that some have resigned from a significant part of freedom voluntarily, while some others have been forced to do so, but this has had no effect whatever on security. In a significant – and in this respect sensitive – part of the world there is less freedom and less security "available" than five or ten years ago.

Public order

According to the German legal dictionary public order is **the totality of unwritten rules** that individuals have to keep in the public in order to ensure the vitally necessary conditions of orderly coexistence of citizens.[10] The nature of the problem is clearly shown by the fact that in Germany *the definition of the concept at the legislative level is missing* and also by the situation in Switzerland where neither public order nor public security is defined by law therefore the right position has to be formed in each individual case. According to the practical application of law, public order is broken by somebody if they commit a crime or if they commit other serious instances of breaking the law repeatedly or if they hinder the enforcement of laws.[11]

There are few areas where it is so difficult to use unambiguous phrasing as in **security policy.** The public expects energetic and clear statements that politicians are vary of making with the obvious consequence of one side considering something too lenient that the other side considers too authoritarian.[12]

Safety culture

Different levels of security (safety) are considered as normal by the different regions containing certain countries and the different countries within the regions themselves. Without going into the causes of this, we must make it clear that it is an established fact that security (or safety) depends on the culture. We agree with the statement that "the more developed a society is the more effectively it deals with their security and the security of their environment and

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[10] http://www.rechtswoerterbuch.de/rw/definition.asp?id=58&Modus=suche&SuchGebiet=&SuchBegr iff=&Sortiert=&Aktuell=&Nummer=&Gesamt=

[11] http://www.auslaender.ch/einreise/weisungen/allgemein/a2_voraussetzungen/a24_sicherheit_d. asp#A242

[12] See: Bull, 2000.

the more effective its system of institutions is."[13] Safety culture is an established concept and requirement in Anglo-Saxon countries and according to it every individual pays attention to, analyzes and discloses the threatening circumstances and aims at reducing the risks. The guarantee of safety culture is that dangers are treated a priori, they always have a priority over economic decisions and the basis of improvements is collecting data about human errors, processing them and drawing conclusions. Its preconditions are sensitivity to problems (perception), deliberate fact-finding (recognition), in socio-technical systems a community spirit, common goal, expressive ability and forwarding the problem to the given level, in which the participants cannot lack an ethical sense and a moral stance.[14]

However, there is a problem with generally phrased guiding principles as it is culture itself that determines the sensitivity to problems that we have mentioned above the most. Culture helps us to differentiate between important and less important phenomena and decisions based on values, to establish priorities and thus mark the path of our actions. It may be (and we know well that it is) the case that what is at the top of priorities in one culture is at the bottom in another or it has no value at all. That is why the contradictions that seem insurmount-

able (and are mostly shrouded in a religious appearance, at least from one of the sides) seem to be out of control. *What is the highest value for one side is not a value for the other side – and the other way around*. Therefore, it was wrong to think that the values of a certain culture would be appreciated by an adult brought up in the system of values of another culture. The intolerance of the crusades, which tarnished the beginning of the Middle Ages, is repeated in the aggressive and brutal attempts of our age to export values; to export freedom, welfare and security in a dictatorial manner to those who have not asked for it because they do not need it. The only "result" of this exclusive approach was that it shook the relative security of these "missionaries". In other words: while proclaiming peacemaking they started a war against themselves that cannot be won.

II. Globalization and risk society, (new) challenge(s) for criminal policy

Globalization is a widely used concept but its content is not clearly defined. It is worth emphasizing that it is not an object or a thing but the *idea* about a group of unfinished changes, which refers to consequences that are partly complex, partly temporary, partly permanent but definitely mixed with each other.[15]

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[13] Teke, 2005.

[14] Turcsányi K. - Vasvári F.: A biztonságtudományról és szerepéről a korszerű menedzserszemlélet kialakításában. (On the science of security and its role in the formation of a modern manager approach) In: http://www.zmka.hu/kulso/mhtt/hadtudomany/1999/ht-1999-1-10.html

[15] Wiesenthal, Ohne Jahr.

There are four types of views concerning globalization and its effects and consequences.[16]

a) The critical-liberal position, the essence of which is that it defends the further liberalization of global activities, which was the most clearly recognizable in the activity of the Clinton and the Blair administration.

b) The carefully optimistic expert views, which can be summarized in the statement that globalization has more advantages than disadvantages.

c) There is an approach that treats the existing situation as the extrapolation of the recent trends and regards globalization as a theoretically definable risk and its advocates are the critical representatives of political economy.

d) The criticism of those in the fourth group on the causes and consequences of globalisation has the same content as the views held by the German Social Democrats and Greens and most of the views of Western-European intellectuals.

Risk society is the newest type of industrial society, in which the wealth and the risks of industry are manifest. In contrast to classical industrial society, the problems of which could be solved within the boundaries of nation states, *risk society is a world society.* Ulrich Beck emphasizes that global threats have been equalized and therefore we are living in a society of worldwide dangers ("Weltgefahrengesellschaft").[17] Treibel quotes Beck's views that *organized irresponsibility* about the present and the future is an essential feature of risk society. (It is also the subtitle of Beck's book that was published in 1988.)

The security risks of risk society[18] are manifold.[19] They affect every dimension of our lives and it is mainly in this respect that our age is different from the time of class society, the social establishment of the previous centuries. All of these concern us but not all belong to our competencies. The risks perceived by the public and the actual degree of danger they pose to society do not always coincide and this is something that we definitely have to deal with. ***Security and the sense of it*** are two inseparable facts, still, they have to be distinguished. The organizations and institutions that are in service of the public as well as the "factors" that are supposed to form their opinions (experts, institutions, offices, heads of department etc) are realizing only slowly that it is not enough to interpret the components of security through "objective" statistical figures. The indicators that give an account of people's general feelings in different ways are equivalent to these.

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[16] See: Wiesenthal, H.: op. cit.

[17] See: Treibel, 2000.

[18] For the current issues of the transition from class society into risk society see mainly several books by Ulrich Beck. Most recently: Beck, 2003 For its adaptation to our topic: Irk, 2004.

[19] Fritz Sack writes: "The processes of globalization can shake and cause chaos in totalitarian states with a strong army, can cause legal establishments to surrender and can dissolve ethical principles." See: Sack, 1996. especially p. 120.

III. Crime control

Criminal policy

Criminal policy **starts from the assumption,** which is based on academic literature and is rooted in the past partly because of this foundation, that

- the threat of a punishment provides help for people whose character is not really firm to choose what is declared to be good and not the bad when they are faced with a choice,
- punishment, owing to its retributive nature and because through the punishment it causes inconvenience to those receiving it, is mostly suitable to prevent crimes from recurring again,
- the threat of punishment and punishment itself is suitable for strengthening the readiness to observe the law in the whole society (at least in the majority categorized by the law as the "good") and at the same time for declaring repeatedly what taboos cannot be transgressed without the danger of retribution.

Criminal policy therefore starts from the assumption that the majority of the citizens have personal traits that conform to norms and only a deviant minority is deviant and defiant to law. It also supposes that there are instable people who would actually like to do something bad but their character is not strong enough to give them the courage to carry out their original decisions when faced with the threat of the state. Therefore – after a special advantage-disadvantage or cost-benefit analysis – they prefer to choose the law-abiding behaviour. Finally, there is also the assumption that the majority of society needs the reinforcement of these taboos and also expects the state that is supposed to represent them to declare clearly what is allowed and what is not.

We should add that we can fully agree with the latter opinion of criminal policy. The problem only is that it is becoming increasingly difficult to comply with this requirement. One characteristic trait of post-modern society is that it increasingly often brings about situations for people and for the heads of states as well where the dividing line between black (evil) and white (good) is becoming blurred while the transition between the two (grey, with a wide scale of transitions between black and white) is becoming more and more characteristic. It is also quite frequent that a phenomenon that used to be black (which means that it was prohibited) starts to become grey (becomes tolerated) and after a while it becomes white (that is accepted). These actions, of course, cast doubt on the assumptions made in the first two points of the above list.

There has always been *a group of people who deliberately put themselves outside sometimes the whole society, sometimes the will of the majority in it and sometimes only the will of the ruling minority.* Some of them led forward while others led astray those who became their followers. They (and their followers) have a strong faith (in other words: unshakable conviction) that only they walk on the right path and everyone else who do not share their views are

the victims of deception or error. Among them are prophets, founders of faiths and denominations, heroes (literally) braving death and bloodthirsty revolutionaries and terrorists as well. These labels for the acts of these persons or groups may be different when the same person or community is viewed from the same time but from different perspectives and it is not rare that posterity passes a different judgement as the contemporaries. It also happens that looking back from a historic perspective the different communities pass different judgements on these persons and groups.

What is important for us is that these people and groups make themselves independent not only from the morals of those in power at the time but from law as well. Consequently, *no threat of punishment can make them change their minds,* whether they observe the law or not is not influenced by the threat of (even the most severe) punishment. How would capital punishment influence, for example, a terrorist, who is deeply convinced that he does the most for his god, his family and his nation if he chooses to die? The organizations that earthly authorities use to enforce their power have never deterred would-be martyrs. Only those who are not completely committed (to die for the holy cause) yet (or any more) might be influenced – but there is not much hope for them either.

Stumbling crime control

Added to the changes brought about by globalization, people are increasingly often exposed to **control** exercised over them from several different directions although these controlling forces are not subordinated to each other. Therefore there is a confrontation between the conflicting values and interests. The expectations made on the individual often contradict each other. This means that one has to decide without the help of a clear hierarchy and in these cases several factors can motivate their decisions. There is no doubt that formally *the state* continues *to exercise crime control.* The question can only be what position the state occupies in the hierarchy of control over people. Among the circumstances of globalization we cannot only ask **who has real control** but we can also ask **in what ways the state can fulfil its function of control if it does not have the highest level of control.** This question is definitely justified if besides supervision we also include the possibility of enforcing the will of the state in the control function of the state.

Examples of disturbances in crime control by the state

or the "gems" of dysfunctional law enforcement:

a) the losers of drug policy …

Many have dealt with this topic in many different ways. Therefore, I can afford to give only a general outline of the basic foundations. I will also ask a few "sacrilegious" questions – and this is not a novelty either.

The first among these questions is *why is not there* – if not worldwide, at least within

the same cultural community, or if that is not possible either, as a minimal goal, in the area under the supremacy of one state – *a uniform drug policy?*

It is important to know **that a drug can only be sold if there is actual, heavy demand for it.** The source of this demand may be spread in the whole society, in its widest spectrum of age groups and social groups but it may also be confined to certain more narrow circles, so-called sub-cultures.

We know that many try to make living on people's addictions. Thus, it is worth taking a brief look at **how much** the growth, the trade and the trafficking of drugs **costs** and to whom. In view of the considerably long chain of trade of both legal (e.g. cigarettes or alcohol) and illegal drugs, the end users have to pay the highest sum compared to the production value. The size of this expense compared to the costs of productions (the difference between the amounts) depends on several factors. The quality of the product, the distance between the place of production and consumption, whether the product is considered special, the relationship between legal and illegal markets, the economic circumstances (for what purpose and how urgently the proceeds from selling the drug are needed), the role of the black market in spreading the product or perhaps the exclusivity of the illegal market and the costs of risks involved in the chain of production – transport – distribution that illegality entails as well as the seasonal changes of these all play a role in it.

After this we should ask *who benefits from it and how.*

In the chain from the producer to the consumer everyone benefits but to different extents. Mostly the producer has the smallest profit and the wholesaler has the biggest. The product may and does undergo considerable transformation on the way from the producer to the user, which may also involve expensive labour. The processor and the trader share the biggest profit but they also have the highest risk. The market of illegal (black) market of drugs as well as the transport and distribution (to the retailers) involve a relatively high number of people and sometimes several means of transport, covering long distances. In the meantime – theoretically – something can go wrong anytime and anywhere. This will incur losses, which are (mostly) taken into consideration when the prices are calculated, in advance or afterwards. The result of this calculation on one end of the scale (when legal drugs are sold on the black market) can be that it is not worth distributing the product in this way, because the risk is so high (e.g. owing to successful and consistent customs inspection) that it would not be possible to gain a substantial profit on the sale of the illegal product unless the price for the end user were higher than the retail price.

We must accept the fact that the producers of all kinds of drugs (including everybody who is involved in the agricultural production of these products) make a living on the production of these substances and

supports themselves or perhaps their families in this way. In most cases the reason they produce grapes, tobacco or marijuana is not that their income is much higher than by producing something else or perhaps working in industry. They do this kind of work because that is what they have the skills to do; their family, their environment and traditions of the region bind them to it or in the area no other crops can be grown that could be sold on the market. If they did not produce a certain kind of drug they would have the following options: to move somewhere else, to become homeless or simply to die of starvation. That is why experiments, for example the one that tried to "make Columbian farmers change their minds", failed. After the authorities burnt up the drug plantations, they sowed maize in the field. The intention seemed to be good but they could not sell the maize to anyone or anywhere…

The author is convinced that the main cause of the present tragic drug situation that has also affected Hungary by now is to be found in the policy that has the aim of abolishing drug trafficking or at least radically reducing it. Let us remember the fact that organized crime came about as the consequence of the state ban on alcohol in the North-American continent and it became really powerful first there and later worldwide. The same mistake was committed seventy years later through the well-meaning but misguided decrees of the general secretary who tried to save the ago-

nizing Soviet Union. Although this operation was short-lived it was enough to bring about an unprecedented level of organized crime and to cause it to be embedded in society. It follows from the above examples that the market of illegal drugs would not be what it is now if they were not trying to abolish drug abuse with a messianic faith (or to put it another way: with a fundamentalist zeal) and if they were not trying to fight it tooth and nail. The world powers – fearing for their population that is threatened by the new plague (because they have seen that with drastic means they cannot do anything with those addicted to alcohol and smoking, except for investing huge sums from the money of the taxpayers', who are mostly not addicted, for their rehabilitation) declared war on all (or in better places only some) of the different drugs that spread like wildfire in the second part of the 20th century. In view of the fact that this does not reduce the demand, the leaders of several states – who were mostly completely unaware of this fact first and were not willing to accept it later – actually forged an alliance with drug dealers to make their profit soar to the sky.

Based on what has happened in the past few decades it is not difficult to see that

- there is a continuously growing demand for drugs,
- dealers try to do all they can to satisfy this demand, and besides, they go out of their way to recruit new users (although they do not have the same means available as tobacco companies, which can increase their turnover through a huge number of advertisements

flooding everything, while telling everyone that smoking is harmful to your health),

- since several governments – recently on a global scale – are trying to hinder the dealers' activity to satisfy the demand, causing huge losses thereby to the producer and especially to the dealers (who reap most of the profit), the distributors are forced to raise the prices and the addicts are forced to pay increasingly high prices for the addictive substance. This led to a war between the government (and the international organizations on their side) and the drug dealers (and the international organizations "playing for the same side") and there seems to be no end to this war at the moment. Very probably there will be no winners in this war, only losers: the addicts, who are forced to raise increasingly higher amounts to finance their addiction and the state health care system and the judiciary, which have to "treat" the drug addicts, who are always ready to commit serious crimes.

It may be the case, and in my opinion it is highly probable, that *this path does not lead anywhere, it is a classic cul-de-sac* – as several citizens and authorities already noticed in a few European countries branded liberal by the leading representatives of conservatism. Most of the governments and the politicians standing behind them did not seem to learn the lesson from the failures of the US in the 1930s and the Soviet Union of Gorbachev. The **political and government reactions,** owing mainly to cultural constraints, are focused on the past and are not ready and able to cope adequately with the challenges of the present.

What are the consequences of our present drug criminal policy? There are many and we mention only a few of them:

- There is a huge apparatus involved in detection, with **high costs** of training and staffing all over the world but their work, according to all reliable sources of information, is *very ineffective.*

- As a result of the complete ban, the enterprises, which mostly continue to operate undisturbed, make an especially high profit owing to the risks of illegal transactions and have become highly organized. *Organized crime based on drug trafficking* is created, with its partly independent subdivisions (man-trade, prostitution, money laundry, achieving crucial or exclusive dominance over certain, legal sectors of the economy). Supplementary illegal activities mean further loss in tax revenues for the state. Now we have a lot of information about how profit from drug trafficking adds significantly to the funds used for high-level international terrorism.

- In order to establish connections to the legal world and to transfer the money gained through illegal activity to legal markets it is necessary to bribe several government officials. **Expensive** apparatuses have to be created and operated in order to fight corruption and well-paid employees are needed to push it back it. Owing to the nature of corruption, however, these institutions operate *inefficiently.*

- The punishments for this kind of crime are **expensive** because the offenders are usually sentenced to long prison terms. However, new people replace the ones who have been

arrested and taken out of the chain of trade and they will be found out only a longer period according to the rules of conspiracy.

- Criminal policy without selection is **expensive** because the more effective law enforcement is, the more we can expect the money needed to buy drugs in retail to be raised through illegal means. The more successful the authorities are in catching the shipments between the producer and the distribution centres and the more effective they are in detecting the dealer networks, the higher the risk involved in drug trafficking is that the consumer has to pay for. With a low risk (or with no risk in the case of the legalization of certain drugs) the price of drugs may fall significantly, to a level that even those who have their income from the legal sphere can afford to pay for.

- Health care serving the purpose of treatment and rehabilitation is **expensive** owing to the ban and the fear of being caught. Because of this secrecy, those who need treatment will contact the treatment network with delay if at all, which increases the costs. Due to illegality, those who need treatment can be detected only partly or not at all; the quality of the products is unreliable and their concentration is several times higher than normal. Therefore the number of serious cases of poisoning and death is higher than would be necessary otherwise.

- The counterproductive criminal policy we have outlined above is harmful to the image of the country since – although this is not unique – it suggests that no matter how much the state would like to control a phenomenon that is harmful to society, it is not able to. It seems as if the state were not strong enough

and were not able to make its bureaucrats carry out its will or (and what is even worse) as if it were doing something against this phenomenon only for the sake of appearances and were actually indifferent to it.

b) ...and the winners of black economy

- There are, of course, **winners** of dysfunctional law enforcement. They are

- the companies that increase their profit from legal or illegal activities with the help of the state. They include not only the drug-related companies mentioned above but e.g. those powerful companies producing software, CDs or movies, whose excess profit, which is often not proportional to the product, is secured by the state through the threat of penalties for illegal users. ("Multinationals of the world, unite" – could be the updated version of the hundred and fifty-year-old slogan.)

- Public moral in this case differs from the official view just as in the judgement of black (grey) market. People are not interested why goods in the open markets selling Chinese and Vietnamese, etc. products are (sometimes much) cheaper even if their quality is not inferior to similar products on the shelves of supermarkets. Incidentally, most people do not much care about the government's efforts to protect brands either. **Existence determines consciousness** – independently of the form of government. As long as multitudes live on barely enough, actually in poverty and many do not think it is cool to buy branded goods in shops catering for the wealthy, the authorities cannot rely on the cooperation of the population in boycotting goods of doubtful origin. And as there is a

great demand for untaxed goods if one is to limit their trade and to make people buy the same quality (or poorer quality but still suitable) goods at a higher price one cannot expect buyers of modest means to support the idea.[20] The state – without the support of the public – fights alone against illegal oil traders and wine makers, the traders of false goods, the sellers of unlicensed tobacco products and the whole black economy that caters for real needs and turns grey only slowly. In the short term – to a different extent – the producers, the distributors and the buyers all profit from these deals. Everyone is a loser if they do not take part in this trade although they could profit from the taxes withheld from the treasury. This is a vicious circle because those who are in need do not get enough government benefit, support and job opportunities and they are the very people who mostly buy the untaxed goods on which no tax revenues are collected. Of course, they are not the only people …

We can, of course, ask the question where acceptance by the public to illegal (black) economy tolerated by public morals ends and why exactly there. At what level, why exactly there and on the basis of what criteria danger posed to the establishment on the one hand, and to the general public on the other, meets? What is the quantity that causes a change of quality in the public opinion that is enough to trigger the apprehension necessary for a moral judgement? It is too early to give satisfactory answers to these questions that are supported by facts.

IV. The other way of prevention

Enforcing compliance to norms outside criminal policy

In order to secure compliance to the basic rules necessary for the existence and development of society and to prevent crimes that pose a serious threat to society, we have to revise the whole system of crime prevention. The whole set of rules defining what is allowed, tolerated and prohibited in the framework of constitutional order has to be revised as well. This is an especially desirable activity in the former Soviet bloc countries of Eastern-Central Europe. In the following, I will take a look at some of the changes in the past one and a half decades and the consequences of these changes from this perspective.

The first step in this research is to define where **the limits of state control** are. What purpose does the state serve at all and what role the control function of the state play? It is also worth meditating about what

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[20] However, we should not fail to mention that the overwhelming majority of the population has first-hand experience that there is not always a close connection between the price of the product and the quality and also that for decades only poor quality goods were available in the shops, too. This means that in our days even those who are wealthier have it "built in them" that they tend to go for the cheaper goods even at the expense of the quality.

the relationship between the state and the citizens must be like (and what it mustn't be like). What role does the state play and what role do the citizens play? What effects does the change in the forms of power and ownership have on the stability of the organizational units that are directly or indirectly concerned?

Ignoring these considerations has caused a lot of problems in the past few decades. The "results" of **forced modernization** characterized by "huge leaps ahead" without stages of developments leading up to them have wrought massive destruction. But in the same way, the changes in the regime of which now it can be proved that they were built on harmful ideological foundations and which mainly look in the past, together with the **fundamentalism and orthodoxy** that is manifest in these processes have brought their poisonous fruit in our geographical environment as well. A **sense of mission** exerts its – from its own perspective successful – destructive effect not only in the developing world but everywhere where civil society is weak and civil courage is

not enough to secure the partnership and the support of an authority.

Agriculture, the most contradictory area in the period after the change in the regime, can serve as an *example* to support the above statement. In Hungary a political party that has lost its significance and has disintegrated by now – mainly owing to its ambitious leader – achieved not only a dominant role in two of the three previous cycles of government (heaping one scandal after the other) but under the banner of representing a clearly definable part of society was able to ruin the presence and the future of these people and to cause immeasurable damage to society as a whole. The damage is not primarily, only partly, economic but moral because it destroyed the system of values without coming up with anything new in place of what it destroyed except for demagogy. The first step was to take no small efforts *to abolish the kinds of agricultural communities* (now it does not really matter what the reason behind their formation – also a sense of mission – was).[21] People who were unfit to be engaged in effective

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[21] As we remember, no one was interested in compensation at the very beginning. The first government had to take efforts to raise the interest in those who had been deprived of their property or in their descendants. It took hard work to bring down the level of agriculture, which was exceptionally high in the region, to the level of Poland in the 1970s and 80s. Instead of medium-sized estates, which were able to develop, small parcels of land had to be worked to compete (with no success) with western products suitable for modern mass production (and heavily subsidized by the state). The actual result – besides the economic failure – was that community representation of interest was abolished *in the long term*. State help as well as state control was abolished and what is left in agriculture now can be compared to the setup in some South-American banana republic only. (With the not negligible difference that they have low wages and they flood the world – and the markets in our country as well – with masses of competitive goods.)

farming and not interested in the land, of course, took the opportunity to get rid of the land given to them as compensation at a good price (at least good for them). This brought about the age of "pocket contrasts", which meant *the voluntary neo-colonization of the agriculture of the country.*[22] The second step was the failure of those who continued to work in agriculture to make a living because what they produced on their skimpy parcels was not competitive any more. Individual failure could be used and can also be used now to serve political aims, adding the right measure of demagogy. The third step is the period of voluntary association and together with it the first steps taken towards creating competitive production again, which has become noticeable only recently. The negative consequences have two kinds of impacts: unemployment became widespread in agriculture and tax evasion became general, which made it necessary to find a really good explanation: farmers can survive the trauma of the change in the regime only through dodging taxes. The road of modernization, which was not an easy one in other countries of Europe, was not even considered an option for a long time.

Probably one of the central questions in the near future will be what we should do with the issue of **crime by organizations.** What criteria can be used to decide whether the activity of an organization is criminal or not? And even if there is consent in answering this question, how can private benefit that causes loss to the public be transformed to benefit to the public?

Usefulness to society can replace danger posed to society in basically two ways: *through harmonizing public and private interests* and *strengthening control.* The basic principles of our world are such that the former stands a better chance than the latter. The structure of society and the characteristics of its movements have changed in a way that make it possible to tighten control but the costs of this incurred in several important walks of life are not proportional to the resulting benefit. Effective control – supposing that it does not take place under Orwellian circumstances – is simply too expensive in most cases. That leaves only the option of harmonizing interests. The government apparatus financed with taxpayers' money and the legislative body elected by the citizens have to move in this direction. There is a need for legislation

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[22] Governments, of course, can say this is against the interests of the nation. They can also crate a free hotline in order to set up a network of informers from among those who were left out of the sharing (proud Hungarian farmers). This, however, had the consequence of further disintegrating this impoverished group of people even *in the short term* and making them more vulnerable. It is impossible to realize this fundamentalist idea in a country being integrated in the European Union, which is obliged to comply with EU standards and that owing to this we cannot mention any positive aspect of the agricultural policy of the last decade. However, today many are still not disturbed by the above facts.

that results in such action that is considered desirable by the public. One of the means of exerting influence, which is becoming increasingly insignificant especially concerning organizations, is the threat of punishments.

Criminology, just as criminal policy built on it and **crime prevention** – in a wider sense, considered as a whole – has always had **its priorities**. These have often coincided with the "favourite" topics of the media, especially in the past one or two decades. This phenomenon, which had already been well-known in Western Europe for some time, came as a surprise to the countries of Eastern-Central Europe after the change in the regime. Let us just remember the waves of mass hysteria concerning *organized crime* in middle of nineties in Hungary.[23]

After a while, another mass hysteria appeared on the scene: fight against *corruption* first and against *man-trade* and *terrorism* later was launched. That is where we are now, while we have not even been able to clarify what can be regarded as corruption and why; what the main criteria of bribery are (and how illegal bribery can be distinguished from legal lobbying) and how terrorism can be defined with respect to

criminal law.[24] In the meantime, the ruthless fight against *drug dealers* and drug abusers started in our region as well, while we have found no answer to the question why alcohol, nicotine and some pharmaceutical products can be enjoyed with no restrictions, causing even lethal danger (although in the case of pharmaceutical products, it depends on their classification whether their "enjoyment" is legal or not.)

Ignoring all these battle fields (with the only exception of drugs perhaps) they launched the programme of *social prevention* at the national level, not including the most obvious area of prevention, situational or *police crime prevention*. The opinion that relations in society can be changed to an extent that may have a positive impact on crime, gained dominance (we could even say that it has become exclusive if we take the action programmes into consideration). Some think that it is the government and not the different non-governmental, professional organizations (NGOs) that can prepare programmes *on a mass scale* that prevent people from becoming criminals on the one hand and help those released from prisons to fit in with the system of norms considered desirable by the majority in society (or the ruling elite only) on the other.

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[23] So far every minister of the interior has started their period in office with a fight against powerful criminal groups but these efforts subsided significantly by the end of their cycles and no such criminal group has ever been put on trial. No one seemed to be disturbed by the fact that this same "play" was put on by the next minister; moreover, using this threat was an effective tool in winning elections and in discrediting an allied party in a coalition.

[24] Hetzer, 2006.

In the meantime, a fierce debate seems to be developing in discussing a question again that has nearly been decided already: what a *preventive state should be like?* Where should it lay the emphasis, on freedom mainly or on security instead? Everyone accepts that we cannot aim at exclusiveness; only the optimization of the equilibrium is possible. But which value should have precedence?

The possibility of *formal and actual control* over people has undergone extensive changes in the past decade. One of the main questions of globalization is who has the *actual* control and influence over a country, a region or a continent or who sees what the future holds and who can influence it the most effectively? Mostly those who have *the best and most comprehensive view* on the present situation of certain groups of people on the one hand and the main motivating factors of their behaviour on the other have the highest chance to influence the future. We often hear that information means power. Knowledge of *the system* of information and within this knowledge of the interaction of the main motive elements offers a higher than ever chance for those who possess this knowledge to influence the basic movements in society in a direction that is favourable for them. These forces have the basis to assert their interests and to gain a privileged position for themselves thereby. It seems that the era, one of the main characteristics of which was that the state had the power to decentralize information, is over once and for all. With the advent of the *period of decentralization* citizens are less helpless against the state (including all the authorities set up by the government, local authorities as well). At the same time the central (and local) authorities are less able to protect the individual against those who are trying to assert their particular interests. Public administration has to perform its task among a new set of opportunities, which is more limited than before. It's a realistic danger that the pendulum swings from centralization to the other direction so far that individuals, society and the government lacking information get into a helpless situation because they cannot plan for the long term any more.[25] Their decisions and actions continue to be rooted mainly in the past and are not directed at the future. Strategic planning in practice does not exist among such circumstances. We can see several signs of it today already. We do not have to go too far: let us notice the change in the past fifty years in the role of criminal law, which was the most formidable means of the central authorities a few decades ago.

Another characteristic of post-modern is *insecurity* of values. *Public interest,* which can be summarized in security and in sense of security, is on one side, the manifestation of *danger posed to society*:

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[25] Parliamentary parties, not recognizing their own interests and building a future of only four years, actively assist in this in our region including Hungary.

damage to society is on the other. There is a huge grey zone, which has grown beyond all proportions, in between the two, within which actions and behaviours will be nearer either to one or the other pole depending on space and time, the political and the economic situation, and the balance of power. Experience shows that the actions that are categorized among the "winners" are increasingly those that serve the short-term interests of many people well, more and more independently of whether the states or smaller or bigger groups of them categorize them among the favourable values or not. That is why certain forms of global crime seem to be indestructible. That is exactly why states have no chance to win – even if they join their efforts – against organized crime, which serves economic interests in a wide spectrum. The groups that are involved in the latter form of crime – in spite of the dominant ideas – does not serve the financial growth of a narrow circle but satisfy the real needs of large groups in society and function as the only reliable source of livelihood for huge masses. *That is how crime among the wealthy and the poor is intertwined.* It is true on the one hand that sky-high profit – just as in the "first" public, in the "upper world" – reaches only a small minority and enriches them. On the other hand, "decent" livelihood is either one of the traditional forms of crime (e.g. theft, robbery) for several people and families or

work producing a kind of useful value (e.g. black economy, drug trafficking, prostitution) that can be sold but is stigmatized and not recognized by the first public.

Added to this change, there is the increasingly frequent impact on people that the *control* exercised over them impacts them from several directions but these impacts are not subordinated to each other and often the expectations generated by them are contrary to one another. (For example, one of the expectations is strengthened by morals but weakened by short-term financial interests, while another, in contrast, is strengthened by financial motives but goes against some moral value.) There is no doubt that it is the state that formally continues to exercise crime control. The question can only be which position the state has in the hierarchy of control over people. Among the circumstances of globalization we cannot only ask *who has the actual control but also that if the state does not have supreme control then who does and what opportunities the state will have left to assert its control function.* Asking this question is justified at least in the case when in the controlling role of the state we include not only supervision itself but the opportunity to enforce its will.[26]

I am, however much more concerned about the answer to the question how we are/will be able to cope with crimes that endanger/offend society to a high degree.

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[26] In detail, see: e.g. Irk, 2002.

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How can we avoid the actual or potential consequences of these?

Our present circumstances suggest that risk society with its actuality, with its principles of operation and with its whole system frustrates those efforts that are aimed at subjecting *crime by organizations* to the system of control by criminal law. We *cannot even hope for partial success* if we fight the most serious destruction of the 21st century with the traditional instruments of criminal law.[27] The efforts that different countries make in this direction are only suitable for demonstrating to the public that the "government is in place". Through this legislation definitely reduces anxiety to some extent but not much more than that. Also, the lesson could be drawn from the past more than half a century that serious danger cannot be averted by taking the "small fish" to court. First, *the expected harmful consequences prohibitions have on society* should be taken into more careful consideration and if it has taken place, it should also be examined if there are, there could be and there will be adequate means to be used against those who break the prohibitions.

Is there a way out?

There is a need for a change in paradigms, both in defining and managing the priorities. A clear distinction has to be made between different kinds of risks and they have to be treated differently: first, the

risks making the everyday life of the population difficult; second, the ones spoiling the general feelings (sense of security) among the population; third, the ones influencing the security of the state and endangering the existence of certain states or groups of states. For hundreds and even for thousands of years law has automatically identified the first group with the third. The state has come to realize only in recent times that – especially in democracies – how people feel in general is not unimportant, therefore it has paid increasing attention not only to keeping public security at the right level but catering for the needs of the public as far as possible concerning its subjective perception as well. In the past one and a half decades there has been a significant decline in numbers concerning both violent crime and crime against property in Western-European countries, which can be expected to reach Hungary as well with some delay. (A decline has already started in the number of crimes against property.) Considering, however, that the perception of citizens is often independent of figures, it is no surprise that this tendency is not reflected or only partly reflected in the opinions of the public. Another reason for this is that the perception of disadvantageous financial situations can be different – as they sometimes put it – on the east and the west side of the River Lajta (or Odera).

The same is true of acts categorized in the third group above, which do not directly influence people's feelings in general. This

[27] For examples, see earlier: Irk, 1997.

is also so because law enforcement authorities treated international crime as part of "everyday" public security for a long time. Actually, international terrorism and such "pre-actions" and "co-actions" of it – as e.g. drug trafficking, money laundry, certain types of economic crime, computer crimes – focused the attention on the fact that here we have to do with a completely separate quality. Environmental protection, which can be dealt with only internationally, and migration with its several consequences, affecting health care, among others also belong to the same category. There is a slow realization that while the actions and failures to act in the first group have practically been routine tasks for classical legislation and the

application of law for centuries; traditional responses are inadequate in handling acts that are present on an international scale and pose a risk to the existence of states and groups of states and no adequate solutions have been formed yet.

The essence of the new approach is that it tries to define the adequate reaction to the consequence of some harm depending on what consequences the harm entails in the short term and in the long term and depending also on what interventions are the most promising to help avoid these consequences in the future. It rejects the traditional view that the best reaction to crime is always the one brought about by criminal law or that this reaction is absolutely necessary.

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