

Mark Brown & John Pratt (2000) *Dangerous Offenders: Punishment and Social Order*, Routledge, New York & London, ISBN 0-415-200482.

This volume adds to the extensive literature on dangerousness by seeking to analyse the theoretical rationale underpinning the shift from predictive studies to a broader concern with the ubiquity of risk and its accompanying management strategies. As the editors note at the outset, there is a fundamental discord between two elements: on the one hand, the neo-liberal ideal of freedom implied by self-management and, on the other, the perception of danger, or dangerous persons, who may jeopardise the enjoyment of this arrangement. The ensuing discourse has as yet to be comfortably accommodated within the framework of criminology, which tends to focus on a crime/punishment dichotomy at the expense of analysing the meaning of dangerousness in its broader societal context. The admirable purpose of this volume, therefore, lies in its invitation to each writer to advance the concept with reference to insights from history, law, penology and governance.

Each author has a special field of interest within the broad area of dangerousness and risk governance, but only a few take up the challenge proffered by the editors to tease out the implications of the new managerialism for neo-liberal societies. One of these is Adam Sutton, who points to the profound contradictions inherent in current drug strategies, which fundamentally challenge the rationality of a market-based economy. First, the coercive interventions of drug management policy bear little parity with the self-governance ideology of neo-liberalism, which one would expect to lead to a 'hands-off' position akin to the Netherlands' model. Second, these coercive strategies quite explicitly identify those pursuing the path of freedom and hedonistic consumption as 'dangerous'. Sutton contends that current policy disregards the long history of tensions and inherent ambiguities of drug and alcohol-taking with deleterious consequences. There is some resonance here with the position taken by Pat O'Malley, who emphasises the fluidity and adaptiveness of 'the risk society' and holds that our responses are interlaced with contradictions, only explicable with regard to socio-political issues.

The second article to tackle directly the theoretical concerns invoked by risk management is Mark Brown's 'Calculations of Risk in Contemporary Practice'. In this, he draws attention to the illogical and inconsistent elements inherent in penal policy and, utilising Popper's differentiation between two forms of knowledge – that is, science versus mysticism, develops a sophisticated framework for the conceptualisation of risk. On this basis he proposes two models: that of *fluid* risk and *categorical* risk, each form leading to a particular type of penal strategy. Different skills and forms of reasoning are apparent in the broadly statistical versus the more intuitively-based approaches. Interestingly, under the categorical rubric, Brown highlights the similarities in the construction of legal views and psychiatric assessments, for both are products of individual judgment. This process is far more complex than the more mechanistic actuarial/statistical account of fluid risk, which depends on quantifiability and knowability. As such, the categorical approach certainly deserves to be developed in more detail than in the space afforded by this one chapter, which is tantalising in the need for further inquiry. Whilst there may be many similarities in the way lawyers and clinicians construct their understandings about dangerousness, there are also disparities of some import relevant to the medico-legal discourse. Even the author's discussion of the way in which conclusions are reached about the presence or absence of remorse as a key indicator of moral responsibility raises a host of issues about its mode of identification and the significance accorded by each profession.

The Foucauldian theme of the disciplinary technologies utilised by professionals and government agencies to render a person 'knowable' is one pursued by several writers both historically and contemporaneously. As John Pratt points out, the fact that these technologies placed their faith in the ultimate 'knowability' of the dangerous person has been the demonstrable stumbling-block encouraging the state to embark upon special legislation. When professionals foundered, the government could institute arbitrary, and even singular, measures. Thus we have seen the enactment of laws outside the ordinary confines of the criminal justice system, some occasionally venturing into the psychiatric sphere, despite the absence of indicators of insanity. Although policies have waxed and waned over many decades, this extension of state power has in itself been a *dangerous* response leading to a 'new culture of intolerance', ironically on the grounds of protecting individual freedom and rights.

Eric Janus takes a different slant to this problem by exploring the recent American incursion into the civil commitment field following *Kansas v. Hendricks* 1997, thereby transforming the sexual 'psychopath' of the 1930s-1950s into the sexual 'predator' of the turn of the new century. Janus argues convincingly that the shift has been facilitated by three factors: a resurgence of emphasis on community protection; a more mechanistic approach to sentencing in the United States; and a strong feminist agenda repudiating the high level of male sexual violence. Yet again, this legislative solution can be seen to have untoward consequences. Civil commitment legislation conveys incongruent themes and messages, such as the sexual offender being deemed to be 'irresponsible', rather than an abuser of power relations. In addition, this dramatic sentencing shift is based on a legal fiction, when, as in the *Hendricks* case, the lack of effective treatment is not held to be a constitutional bar to treatment. This is a problem currently being faced in another form in the United Kingdom with the announcement of proposed legislation to incarcerate 'dangerous' and untreatable psychopaths in a mental health facility.

What Janus has neglected to explore is the untenable position created for psychiatrists under legislation transferring the dangerous to the civil sphere under the guise of treatment. Not only does this new regime of dangerousness override the usual criminal law safeguards, but it also compels psychiatrists to act custodially and disregard their primary health mandate. Once the courts have decided that the overwhelming attribute of a person is that of dangerousness, then it is likely that the clinical process will be denigrated. For example, the variety of behaviours and motivations subsumed within the category of sex offending may be overshadowed by the attention given to a former violent history, in which society has the greater interest. Status acts to diminish rights - again a *dangerous* proposition applicable to broader groupings who appear to threaten society. After all, it was a brief, inglorious excursus of this sort, which saw Victoria and New South Wales flirt with beguiling singular legislation.

Fortunately Arie Freiberg utilises data to suggest that there is some hope of a counterbalancing force in the modification of legislative shifts by judicial discretion, so that the parliamentary intent remains symbolic, rather than fully realised. He suggests that the gulf between judicial attitudes and the public perception of danger may fluctuate, because judges see it as their duty to educate and temper emotive responses in order to arrive at sentencing parity over a broader time-frame, even though there has been pressure to moderate the principle of proportionality in response to public fears. In particular, the 1990s have seen a resurgence of measures aimed at increasing community protection through a denial of remissions, restrictions on parole periods, and the implementation of indefinite and cumulative sentencing. Although judicial wariness about restrictions on discretion and inhumane sentences is patent from the data, Freiberg contends that the gulf between the

judicial task and public sentiment has led to 'a period of despair'. One might surmise that this despair emanates from a self-defeating political policy, which indirectly espouses warehousing without due regard for its consequences in managing the 'dangerous'. There is a patent irony in the fact that those being denied the benefit of parole are those most likely to be in need of this form of supervision.

The salient element throughout this volume is the need to view dangerousness in its socio-political context to understand why so many of the solutions are cyclical and so often ineffectual. Although empirical studies such as Roderic Broadhurst's linking of the data on sex offenders with the paradigm of the career criminal are invaluable, analysis of the operation of power at the micro level is also pertinent. Richard Sparks' account of a high-profile prison escape falls into this latter category and allows us to discern the concomitant threads of blame allocation. As he contends, the large landscape can be more readily understood if we look at the way in which minutiae evolve, for they explain governmentality in practice and we can then begin to comprehend the dimensions which a particular event of danger may hold for the public consciousness; the political instrumentalities involved; and the professionals employed to contain and defuse that risk. It would seem from his analysis that the new managerialism has evolved as a protective barrier against moral blame and incompetence, so that any exposure of failure is especially threatening to this form of governance. Danger is implicit in organisational structures, a view also developed by Nils Christie in the concluding chapter, indicating that the risk society positions staff in a defensive mode. Thus, on this analysis, there is a political and systemic dimension beyond the actuarial or clinical framework with which danger is usually analysed.

Elizabeth Stanko also tackles the way in which a discourse of blame is constructed by providing a chronology of the emerging awareness of the realities concerning domestic violence. There is a sense of frustration that feminists have seemingly made little impact on crime prevention messages reflecting the true sources of danger, and she argues that a discourse of blame naturalises violence through personalisation of the psychological/biological. It is apparent that this distortion cannot be rectified in the immediate future and Stanko can only finally suggest that, in the short term, more accurate information needs to be constantly portrayed in order to counter deeply ingrained cultural views.

This detailed overview suggests that the challenge set by the editors has been variously met, with only some authors extending the bounds of their professional knowledge and interests to provide more integrated theoretical understandings. This is less a criticism of the writers themselves, than a reference to the mercurial element, which dangerousness has always held for societies. There are limits to our understanding, since our knowledge must somehow incorporate an objective, scientific element, as well as the more subjective components of anxiety and fear, which are part of an intuitive, if non-rational understanding, and these two components then face transformation into rational political and penal policy. It is scarcely surprising that most authors draw attention to a legacy of failures and contradictions. Although I have illustrated some equivocation about the way in which the editorial challenge has been met, this volume presents a solid framework of current data and theoretical analyses of the meaning dangerousness in the current political and penal climate. At the same time, it illuminates many of the puzzles, with which professionals have to wrestle.

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