The long history of prevention: Social Defence, security and anticipating future crimes in the era of ‘penal welfarism’

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Abstract
Using a combination of documentary and archival research methods, this article explores the development of Social Defence criminology across the 19th and 20th centuries—highlighting the influence the ‘new’ Social Defence movement had upon the United Nations’ and Council of Europe’s international crime policy programmes. By exploring the integration of Social Defence within these international programmes, the article is able to challenge several longstanding arguments in Criminology which associate pre-crime and the securitization of criminal justice with the neoliberal era. Social Defence scholars influenced International Organizations to research and disseminate anticipatory mechanisms to identify and reform potential deviants decades earlier than prominent theses suggest. These measures were steeped in the language of security and were oriented towards the prevention of future juvenile crime. The article argues for a reweighing of the influence of Social Defence criminology and against accounts which draw significant divisions between ‘penal welfarism’ and ‘neoliberal penalty’.

Keywords
crime prevention, international criminal justice, neoliberalism, risk, security, Social Defence

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Agenda-setting texts in Criminology associate pre-crime interventions with the era of neoliberalism. Crime prevention programmes, we are told, are the result of leftist and centrist parties adapting to the neoliberal environment, which has limited their policy options (Crawford, 2001; Hughes, 2002; McLaughlin, 2002; Pitts, 2001). Others go further and posit that pre-emptive and actuarial governance (in both criminal justice and national security) are the direct result of neoliberal economic and social policy—particularly the entrance of the insurance industry into questions of policing risk (O’Malley, 2010; O’Malley and Hutchinson, 2007) and the effect of 9/11 on legitimating the turn towards catastrophic imaginaries of future disaster (Zedner, 2007).

Centrally, these studies of ‘neoliberal penalty’ and ‘pre-crime’ rest upon a contrast with a previous era of ‘penal welfarism’ (Garland, 1985b, 2002). Depictions of ‘penal welfarism’ focus on the categorization and rehabilitation of offenders through criminal justice systems—framing this as a consequence of the expansion of the state in the early–mid-20th century. Few scholars include Social Defence philosophy in their accounts of this shift towards rehabilitation. Instead, Social Defence is treated as a historical phenomenon more associated with the rise of positivism in the late 19th century. Yet this article focuses on a ‘missing history’ of pre-crime; articulating how Social Defence philosophy influenced crime policy forums in the United Nations and Council of Europe to develop pre-criminal agendas in the era of penal welfarism—decades before the rise of neoliberalism.

The history of Social Defence (especially ‘new’ Social Defence) has remained underexplored, due to its development in Francophone and Italian criminological circles and the noted Anglophone tendency within Criminology—at least in terms of the countries studied in agenda-setting texts (Ashworth and Zedner, 2014; Garland, 2002; Harcourt, 2011; Wacquant, 2009; Zedner, 2009). Furthermore, the embedding of the ‘new’ Social Defence within some International Organizations has largely escaped the attention of Criminology—which tends to study criminal justice at the national and sub-national levels. Of course, there are notable exceptions which have explored the impact of Social Defence criminology on the rendering of the ‘dangerous offender’ in criminal justice, the mutation of preventive detention across history and—less commonly—the role of Social Defence in the United Nations’ Crime Prevention activities (Danet, 2008; Lopez-Rey, 1957; Pifferi, 2016; Tulkens and Digneffe, 1981; Vervaele, 2015; Walters, 2001; Wyvekens, 2011), to which this article will contribute.

This article highlights how the Social Defence movement upturned classical understandings of punishment as a retributive act and reframed juridical apparatuses to serve an explicit preventive security mandate. This re-orientation of criminal justice towards social Defence and public security involved a temporal shift towards anticipatory logics of crime prevention. While criminological studies have detailed the early decades of the Social Defence movement (Ancel, 1965 [1954]; Pifferi, 2016), this article tracks the development of anticipatory criminal policy through the post-war attempt to ‘liberalize’ Social Defence from its association with authoritarian regimes. This centrally relied upon the United Nations’ establishment of a Social Defence section, which centralized Marc Ancel’s ‘new’ Social Defence, to establish an anticipatory juvenile crime prevention agenda at the international level.
In detailing this international criminological history, the article questions many assumptions made in Criminology about: (1) the strict separation of eras of ‘penal welfare’ and ‘neoliberal penalty’, especially concerning claims made about the emergence of pre-crime and prevention-oriented criminal justice in the neoliberal era; and (2) the presentation of a recent ‘securitization’ of criminal justice. Long before neoliberal economics and before the ‘securitization’ of criminal justice during the War on Terror, Social Defence scholars had influenced the United Nations’ crime prevention wing to develop, and disseminate, anticipatory mechanisms to identify and reform potential deviants. As we show here, these measures were steeped in language of security.

Importantly, these particular pre-crime architectures were not synonymous with ‘police power’—the sometimes centuries old empowerment of the police to act to maintain order and to prevent crime through deterrence (Dubber, 2005, 2013). Rather than advocating preventive detention, the ‘new’ Social Defence (embraced by the United Nations and Council of Europe) advocated the pre-emptive identification, and normalization, of (often juvenile) persons before they committed criminal offences through schools and social support. Without explicitly using the language of risk (which is associated with the era of ‘neoliberal penalty’ or ‘pre-crime’), these mid-20th-century policies endorsed and enacted the normalization of potential offenders in advance of crimes being committed. The logics of pre-emptive social crime prevention are clearly present, decades before the neoliberal era.

Finally, reflecting on the significance of pre-crime agendas in International Organizations raises many broader questions for Criminology. Studies of criminological theories have detailed how the writings of Enrico Ferri and Cesare Lombroso contain significant anticipatory and preventive features. Yet literature on criminal justice practices traces the enactment of pre-emptive policies to the neoliberal era, sometimes specifically to the late 1990s onwards (Campesi, 2020). In studying the crime policy forums of the UN and Council of Europe, this article intercedes between studies of criminological theory and studies of national criminal justice systems. The United Nations and Council of Europe did not enact pre-emptive criminal justice policies as a state would be able. But as multilateral political organizations, their reception and amplification of pre-crime policies takes them beyond the realm of criminological theory and into that of political practice. By engaging the international political level, the authors hope that the article can speak across the epistemological divide in Criminology concerning whether the origin of pre-crime should be charted to positivist theories of the 19th century, or to the first enactments of pre-emptive criminal justice by states in the late 20th century. The long history of prevention requires us to engage that which is between.

Literature review: Back to the future

While the turn towards neoliberal economics has wrought distinctive changes upon criminal justice systems and ontology, our haste to acknowledge these important shifts can side-line the preventive and security-oriented dynamics which were already present in the 19th and 20th centuries. David Garland’s work, in particular, has highlighted the political undercurrents of profound shifts in criminal justice across the 19th and 20th centuries (Garland, 1985b, 2002), demonstrating that shifts in punishment and judicial
apparatuses are embedded within broader systems of thought and politics. Centrally, Garland has identified the political and economic transformations which informed the shift from classical penality to penal welfarism in the UK, and then from penal welfarism to neoliberal penality. He shows that criminal justice in the Victorian era reflected the dominant liberal economics of the time, centring the minimal state (which performed a ‘night watchman’ role to ensure only social stability and the stability of economic contracts—see also Zedner, 2009) and conceptions of the individual as a freely choosing, rational actor. Mapping the twists and turns in the UK’s adherence to eugenicist and then social welfare discourse, his majestic works have explained the shift towards ‘individualized’ punishment regimes (based on an offender’s presumed character) and the rise of rehabilitation as a penal model (Garland, 1985b, 2002). Finally, completing the account of how penal policy maps onto political and economic shifts, Garland tracks the rise of ‘social control’ as the dominant frame for penality in the era of neoliberal economics—transforming the understanding of offenders, and crime, into the realms of opportunity reduction, actuarial prediction and the ‘responsibilization’ of sub-state and private actors for crime control.

The current article suggests that an important strand of continental criminology (Social Defence)—and its integration within international crime policy fora—have not received sufficient attention. By reconsidering the impact of Social Defence philosophy and its uptake by certain International Organizations, we gain greater insight on the commonalities between the ‘penal welfarism’ and ‘neoliberal penality’ eras. As Foucault (1978) showed in his brief study of Social Defence scholars and penal reform, there is evidence to suggest that 19th-century reformers radically rethought the temporality of punishment and its ends. The Social Defence movement redirected punishment towards the defence of society against future crime, rather than conceiving punishment as retributive penalties to ‘account’ for offences. Even if (as Garland convincingly shows) Foucault’s identification of a ‘normalizing’ penalty did not directly influence Victorian criminal justice to any great extent (Garland, 1986), the philosophy of Social Defence radically reinterpreted juridical ontology. While this philosophy did not have an immediate impact on criminal justice systems (particularly those of the Anglophone world), it steadily influenced continental European states to refigure their legal systems around a Social Defence code (Tulkens and Digneffe, 1981). This involved implementing the rehabilitation of offenders, the preventive detention of ‘dangerous subjects’ under ‘security measures’ and—from 1946—led to the formalization of Social Defence as the philosophy undergirding crime policy sections of the UN and Council of Europe.

Bernard Harcourt has also interpreted changes in Anglophone criminal justice through the prism of liberal–social welfarist–neoliberal transitions. His research demonstrates the situation of criminal justice within broader socio-economic paradigms—tracking the association between classical liberal economics and retributive criminal justice, the disruption of this association in the 20th century with the rise of welfare state models (and rehabilitation-oriented criminal justice), before the return of retributive measures under the conditions of neoliberal economics (Harcourt, 2011). In both Garland and Harcourt’s accounts, commitments to ‘laissez faire’ political economy rely upon an expansion of repressive, retributive criminal justice. While the works are impressive in scope, both omit details of the continental Social Defence movement, which was to
strongly orient international forums on crime policy— as well as continental European legal systems— towards crime prevention as an anticipatory, security/public protection measure. As such, the differences between the ‘penal welfare’ and ‘neoliberal penalty’ eras of criminal justice can be over-emphasized.

This over-emphasis becomes particularly notable in criminological literature which deals with security. Criminologists are acutely aware of the relationship between security and criminal justice. Commonly, the overlapping competencies of criminal justice and national security are treated as a contemporary phenomenon. Literature on the ‘pre-crime’ era and the security–criminology interface often frames the securitization of criminal justice as a contemporary phenomenon (McCulloch and Wilson, 2016; Zedner, 2007, 2009: 49). Lucia Zedner (2007: 262–264) emphasized the contemporary nature of the shift towards pre-crime in 2007, writing:

In important respects we are on the cusp of a shift from a post- to a precrime society, a society in which the possibility of forestalling risks competes with and even takes precedence over responding to wrongs done [...] the impact of 9/11, of the London bombings and the continuing threat of catastrophic risk has significantly increased the pressure on governments to think and act pre-emptively.

Zedner (2016) has elsewhere emphasized that criminal justice was originally developed with a view to securing the social and political order (drawing upon social contract theory understandings of state sovereignty). But her excellent work in this area is primarily concerned with a contemporary shift in balance—whereby pre-emptive logics and securitizing drives have now side-lined the protections afforded to citizens against the state. She argues that law has increasingly become a tool of securitization and social control, through the neoliberal turn towards preventive civil measures (Zedner, 2016; see also Ashworth and Zedner, 2014). A great many other criminologists have also identified a contemporary shift towards pre-emptive policing and criminalization under conditions of economic neoliberalism— without making direct reference to the effects on counterterrorism (Garland, 2002; Harcourt, 2011; Hillyard and Tombs, 2004; Hughes, 2002; Lacey, 2008; O’Malley, 2010; Van Swaanningen, 2002).

However, if we acknowledge the influence of Social Defence philosophy on continental European, and international, crime policy during the ‘penal welfareism’ era then claims of a contemporary shift towards anticipatory, securitized or pre-crime logics appear over-emphasized. The article supplements accounts of neoliberal penalty (Garland, 2002; Harcourt, 2011) and snapshots of the move ‘from dangerousness to risk’ (Castel, 1991) with a genealogical account of the Social Defence movement, its influence upon United Nations and Council of Europe crime policy fora and the heritage of pre-crime in these organizations’ juvenile crime prevention agendas. Where ‘prevention’ once meant deterrence and opportunity reduction through the formation of police forces (Ashworth and Zedner, 2014: 33–34; see also Dubber, 2005, 2013), and the preventive incarceration of ‘dangerous’ offenders for the protection of society (Pifferi, 2016), a genealogy of international criminology helps us to track the steady development of ‘prevention before the crime’ in selected International Organizations.
Social Defence and the long history of prevention

The birth of Social Defence is inseparable from the rise of criminological positivism, in the late 19th century. Following the publication of Lombroso’s *L’uomo delinquente* in 1867, Italian jurist Raffaele Garofalo—one of the founding fathers of the Italian Positivist School of criminal law—published *Di un criterio positivo della penalità* in 1880 arguing for the complete reform of classical criminal justice systems and their foundation upon ideas of free will, retributive punishment and uniformity of sentencing (Pifferi, 2016: 1). Enrico Ferri then developed the original Social Defence theory in 1884 with the publication of *Criminal Sociology* (1917), emphasizing the sociological, economic and anthropological drivers of crime—further discrediting classical notions of the freely choosing criminal individual, who is to be punished through retributive, standardized terms of incarceration.

The prospect of being able to identify criminological conditions, and types, fundamentally revolutionized criminology and led to the establishment of international penal reform movements such as the Union Internationale de Droit Pénal (UIDP), in 1899, by the three figures who continued to develop Social Defence philosophy: Adolphe Prins, Gerhardus Van Hamel and Antonius Von Liszt (Vervaele, 2015). The UIDP brought together leading advocates of penal reform from politics, prison inspection and academia. Between 1889 and 1914 the UIDP held 14 international conferences in different countries—covering the study of crime, causes of crime, tools to prevent and repress crime, and reforms which would benefit criminal justice systems (Vervaele, 2015). Centrally, they proposed the need for criminal justice systems based around the defence of society from (future) crime—rather than the classical doctrine of retributive punishment of offenders. As Guiseppe Campesi and Giulia Fabini (2020) show, the reform movement fundamentally revolutionized juridical philosophy—arguing for a criminal system which proactively intervened in the sociological and medical drivers of crime, using social policy to address structural factors and ‘security measures’ to preventively detain individuals deemed ‘dangerous’ to society.

Central to the Social Defence model is the broadening of penal policy beyond a narrow focus on criminal justice systems. Instead, social policy (and the preventive detention of those deemed ‘dangerous’) were advocated as the primary measures by which to pursue the prevention of criminality and the protection of society from crime. Crucially, Social Defence sits in a post-classical trajectory of criminology. This means that ‘criminal responsibility’ for an offence is no longer the sole guiding principle for penal policy (Ancel, 1965 [1954]). Instead, Social Defence follows the positivist trajectory in centring the protection of society from crime as the prime objective of penal policy (hence the name: Social Defence).

Nathaniel Cantor’s (1936: 20–21, emphases added) explication of the European Social Defence movement unequivocally situates it as a future-oriented criminology, intended to pursue the security of the state and the population:

It is desirable before we proceed briefly to describe the underlying theory of measures of social defense. The idea behind the *measures of security* is simple. They are to be imposed in those cases where deterrence has failed and punishment in itself is insufficient to protect society.
against crime. These means of security are intended to protect the state against the dangers of recidivism and the activities of the mentally abnormal, and to prevent juvenile delinquents from developing into adult offenders by readapting them socially. The measures of social defense aim to prevent the commission of crime in the future.

Indeed, Adolphe Prins ((1910) paraphrased in Ancel, 1965 [1954]: 52), a Professor of Criminal Law at the Free University of Brussels and the Inspector General of Prisons, advocated in his theory of Social Defence that administrative and social measures should be taken:

to prevent the development of ‘dangerousness’ [...] before it resulted in delinquent acts. Such preventive action would take the form, in particular, of town-planning schemes, slum-clearance, social legislation designed to prevent certain unfortunates from sinking into misery and despair, and perhaps above all of effective preventive treatment and appropriate education of deficient individuals.

Crucially, the pre-emptive temporality evident in early Social Defence philosophy (Campesi and Fabini, 2020; Foucault, 1978) can be underplayed by scholars of neoliberal penality—who instead mark the movement as contributing to the development of ‘individualization’ in penal policy (Garland, 1985b). Garland produces a magnificent account of the positivist revolution, and how Ferri, Lombroso and Garafalo’s philosophy introduced the individualization of offenders—through categories related to the individual personality. His book Punishment and Welfare tracks the transformation of British penology from Victorian classicism to penal welfarism (Garland, 1985b). The central argument is that differentiation and categorization of offenders are introduced, and penal responses expanded to new sectors, as part of a reorganization of society around welfarism—such that the irredeemable are separated from those who are capable of work/contribution/rehabilitation. His focus on the empirical transformation of British social and penal policy links to the surrounding political debates on eugenics and positivism that aided these transformations—but can underplay the long-term impact that the Social Defence revolution would have.

‘Individualization’ of criminal justice, and the categorization of offender-types, does not appropriately capture how positivist and Social Defence thinkers reoriented punishment towards pre-empting crime and reorganizing the ends of criminal justice towards security. As we see in this passage from Punishment and Welfare, there is a tendency to bury this philosophical revolution under the framing of ‘categorization’: ‘A common discursive structure emerged from a general commitment to a number of positions which could be listed as differentiation and individualization, pathology and correctionalism, and finally interventionalism and statism’ (Garland, 1985a: 122, emphases in original).

Garland does not elaborate on the ‘statism’ of the new positivist and Social Defence revolution. It is not entirely clear what he means by this, beyond a contrast with the entry of private providers to the criminal justice market in the neoliberal era. By focusing on the vague ‘statism’ of the revolution in criminological thought, the centralization of security as the end of criminal justice (the defence of society) goes missing. For example, Garland
quotes Ferri—arguing that the positivist thinker contributed to the introduction of ‘differentiation’ according to diagnoses of character. While this is undoubtedly true, if we read closely we can also see the philosopher’s reorientation of criminology around a powerful security agenda: ‘In sociological medicine, the great classes of hygienic measures (preventive means), therapeutic remedies (reparative and repressive means) and surgical operations (eliminative means) form the arsenal which enables society to face the permanent means of its own preservation’ (Ferri, 1917 [1884]: 420, emphasis added).

Garland’s focus on the introduction of differentiation and categorization tends to obscure the powerful presence of security and anticipation in the Social Defence and positivist cannons. The closest he gets to recognizing the pre-crime revolution is embedded in a discussion of sectoral expansion and differentiation. He states:

> criminology’s purported ability to identify ‘criminality’ in the bodies of criminals (and not merely in their acts) opened up the possibility of an anticipatory form of regulation. It produced the categories of the ‘pre-delinquent’, the ‘near criminal’ or the ‘presumptive criminal’ and accompanied them with arguments for pre-emptive intervention.

(Garland, 1985b: 104)

But Garland backs away from centralizing the birth of the anticipatory penalty in positivism and ‘old’ Social Defence, because the British penal system did not embed risk-based penal strategies at this time. Instead, it remained largely tied to rehabilitation and differentiation. Garland traces this political hesitancy to the British liberal opposition to the eugenics movement—through which the positivist school originally situated its claims. Positivism was embedded within the eugenics movement and rethought the objectives of penal policy from standardized response to offences, to removing ‘unfit’, ‘habitual’ and ‘feeble-minded’ characters from the gene pool (either through segregation or sterilization).

But this original eugenicist frame of positivist criminology is crucial, because it conceptualizes the race as the referent object of criminal policy and the offender’s DNA/procreation as the future threat.2 Garland does not note the full revolutionary potential of Social Defence, in this regard, as it centralizes the future as the referent object of protection—and the future offence as the threat (see Campesi and Fabini, 2020). Social Defence brings something fundamentally new: the future tense of security discourse and anticipation of crime. Indeed, while Garland (1986) shows that the account presented in Discipline and Punish is faulted, Foucault (1978: 16–18) pointed to the importance of the ‘dangerous offender’ concept in Prins, articulating that this was a significant moment for the transfer of social insurance (risk) technologies into penal thought.

Of course, the Social Defence movement’s centring of penal philosophy around the repression of ‘dangerousness’ had significant illiberal potential. Michele Pifferi details, at length, the resistance of legal scholars to the proposed move away from standardized, retrospective penalties towards arbitrariness in sentencing. Even worse, the application of preventive detention without the commission of a crime evoked the fiercest criticisms of legal experts—who identified trespass against the principle of nulla poena sine lege (no penalty without a law), established after the French revolution (Pifferi, 2016: 183). As
Pifferi details, this tension between reformers and critics led many European states (Norway, Czechoslovakia, the UK, Italy, Spain) to enact ‘dual track’ legal systems—balancing Social Defence with retributive criminal penalties. Here, retributive penalties were applied to convicted offenders by the courts, but a separate system of ‘security measures’ (often involving indefinite sentences of detention) could be applied to those persons deemed socially dangerous.

French Court of Cassation judge Marc Ancel (regarded as one of the most influential penologists of his age) (Badinter, 1990: 1102–1103) saw potential in the security measures used against dangerous offenders, given that the ‘individualization’ of sentences would enable judges to act in defence of citizens—unhampered by the ‘rigid’ republican principles of nulla poena sine lege (Ancel, 1936). But his project was largely one of humanizing the penal system, utilizing ‘individualization’ of punishment to negate many of the harms of historical—and contemporary—regimes. He highlighted how both the Soviet Union’s penal code of 1927 and 1930s National Socialist criminal law in Germany had undermined classical protections of the subject from the state, in favour of an unbridled Social Defence articulation of law aimed at defending their revolutions from threat (see also Ancel, 1965 [1954]). Reflecting on the terrifying potential of abandoning nulla poena sine lege, Ancel (1936) strongly endorsed the judge’s role in interpreting the law and individualizing sentences on the basis of social dangerousness, within prescribed limits.

The embrace of Social Defence philosophy by totalitarian regimes was to (temporarily) imperil the chances of reformist criminal policy, given the widespread abuse of human rights undertaken in its name. Indeed, the first organization to develop international crime policy—the League of Nations—was badly tainted by association with German membership in particular. It was this collapse in the authority of the League of Nations, however, that led to the uptake of Social Defence practice by the United Nations and the post-war liberalization of anticipatory criminal policy (Redo, 2012: 109).

### The United Nations and Social Defence

Social Defence was to experience a renaissance through its post-war harmonization with the human rights agenda. The centring of human rights within Social Defence criminology was advocated by Marc Ancel, who resuscitated the movement from its association with Nazi and Soviet criminal codes (Ancel, 1965 [1954]; Redo, 2012: 64–68; Wyvekens, 2011). Ancel’s revision of the philosophy centred individual rights, humane treatment of prisoners and limited preventive measures to rehabilitation and juvenile mentoring. This was extremely attractive to the United Nations, who appropriated the League of Nations’ crime policy mantle in 1948 and needed to signal their distance from authoritarian criminal justice systems. Ancel’s ‘new Social Defence’ was a perfect fit for this goal (Redo, 2012: 109; see also pages 64–68).

The UN founded a Social Defence section to lead on international crime policy in 1946, with the objectives of preventing crime through progressive social policy measures, establishing human rights informed standards for prisoners and directing penal policy towards the effective rehabilitation of offenders. The small Social Defence centre was based in Geneva but would later be supplemented (and centralized) with additional
presence in New York (Ferracuti, 1963). In 1948, Resolution 155 C (VII) of the Economic and Social Council stated that the United Nations should assume leadership in the study of the prevention of crime and the treatment of offenders—formalizing international agenda for crime prevention, based on promoting Social Defence as an alternative to juridical measures (Lopez-Rey, 1957). Within this agenda, the United Nations organized quinquennial international congresses under the banner of the ‘Crime Prevention and Rehabilitation of Offenders’ programme. These began in 1955 with 51 governments in attendance from around the globe, but rapidly extended to 1200 participants from 85 countries by the time of the 1965 Congress in Stockholm (Joyce, 1967) and 130 national delegations by the 1985 Congress in Milan (Wright, 1985). The United Nations also sponsored ‘Social Defence observers’ across member states to facilitate and promote research activities into the causes of crime and its prevention (Walters, 2001: 212).

Effectively, the United Nations opened a field for international criminological knowledge around Social Defence programmes as necessary crime prevention measures which extended beyond juridical sentencing, into the realm of preventive social policy (Lopez-Rey, 1957). Walters (2001) highlights the context of post-war reconstruction (and progressive politics) as central to the appropriation of the Social Defence cipher by the UN. To pursue social stability and fiscal stability in the aftermath of a devastating World War, the European states collectively engaged to combat the internal enemy—crime. Gently, Walters argues that Social Defence was (in the 1950s) a cipher whereby states pursued avenues for post-war governance and ‘discovered’ a domestic enemy (crime) against which the defence of the social could be practised.

Social Defence was also a useful, if unusual, cipher for the United Nations because it did not include words relating to crime or criminal justice—allowing the UN to gesture towards the retention of these policy areas by member states. It also enabled the creation of a ‘middle ground’ between the ‘extremisms’ of classical retributive law (which permits no individualization of sentences) and of radical, old Social Defence formations (which, in Gramatica’s formulation, wish to abolish retributive punishment entirely in favour of Social Defence codes of prevention)—both of which are characterized as ‘extreme’ in Marc Ancel’s (1965 [1954]) vision for the ‘new’ Social Defence. Instead, the UN’s approach to crime prevention research and international congresses would utilize Ancel’s new Social Defence as an inspiration—focusing on the rehabilitation of offenders and the humane treatment of juveniles and prisoners, rather than the indefinite detention of ‘dangerous subjects’ on dubious medical grounds.

For Ancel, and the United Nations, Social Defence was to complement retributive judicial processes, emphasizing the wider social dimensions to crime prevention as well as the reforming of offenders such that they could turn away from a life of recidivism. However, while the ‘new Social Defence’ muted some of the securitizing and preemptive dynamics of the ‘old Social Defence’, it maintained committed to the prevention of future crimes. As Ancel (1965 [1954]: 171) stated on the ‘new’ Social Defence:

A proper balance between the principle of the rule of law, which applies to preventive measures as well as to punishment, and the establishment of a system of social prevention in what may be called the ‘pre-criminal’ stage, can be maintained fairly easily, provided that […] a special kind
of dangerousness needs to be clearly distinguished and carefully defined [...] There ought to be statutory recognition of the State’s right to intervene for purposes of prevention, such right to be exercised only within narrow limits strictly defined by the statute.\(^3\)

While the new preventive field of international criminological knowledge centralized the rights of the offender (especially through the UN’s early delivery of Standard Minimum Rules for the Treatment of Prisoners and the moral prohibition of the death penalty), it never truly resolved the tension between classical retributive penology and the pre-emptive detention of offenders. Canals (1960) thoughtfully explicates how the ‘new’ Social Defence might be seen as a compromise position between the excesses of both classical and positivist criminologies. However, the philosophical revolution of anticipating future crimes—rather than acting retrospectively upon offenders in the hope of reform—gave a definite ‘security’ leaning to the crime prevention activities of International Organizations during the ‘penal welfarism’ era. This was not just ‘categorization’ or ‘individualization’, such that the irredeemable could be sorted from the reformable. Rather, almost from the beginning of the UN Congresses on Crime Prevention and Treatment of Offenders, the ‘normalization’ focus of Social Defence and its language of anticipatory detection and intervention are present.

For example in 1951, the UN Social Defence section organized the ‘European study cycle’ meeting in Brussels which emphasized that the roots of juvenile delinquency lie in social and medical factors—making them amenable to detection and prevention, in advance of crime developing (Graven, 1953). Albert Reiss, a Yale Professor of Criminology who also served on President Johnson’s 1967 Presidential Committee on Law Enforcement and the Administration of Justice, draws our attention to the significant differences in preventive ontology between Ancel/the UN’s Social Defence and the deterrent classical regimes of old. He stated that:

> The core idea in a criminal justice system is that social protection or collective security is obtained by punishing offenders or by denying them their liberty in a free society to prevent their harming others in the future (specific deterrence) or to deter others through fear of punishment (general deterrence) [...] By contrast, the goal of the juvenile justice system and a core concern of modern social defense policy is to protect the society by changing offenders through treatment using some social technology such as re-education, behavior modification, or psychological treatment.

(Reiss, 1991: 10, emphasis in original)

Fundamentally, in the early days of the UN’s Social Defence section, we witness a profound commitment to preventive, sometimes even pre-criminal, interventions which are enacted in the name of security. Of course, this extends beyond the presentation of the ‘penal welfarism’ era as concerned with categorization and individualization (Garland, 2002; Harcourt, 2011; McCulloch and Wilson, 2016; Zedner, 2007). Working papers submitted for the 1965 UN Crime Prevention Congress in Stockholm evidence a striking discourse on ‘community preventive action’ at sub-national levels (United Nations Social Defense Secretariat, 1965), which contradicts criminological
theses that community ‘safety’, or crime prevention, are associated with the ‘responsibil-
ization’ of local and private actors during the neoliberal era of penalty (Crawford, 1997;
Garland, 2002). Rather than a recent shift from ‘state-centred to networked governance’
(Crawford, 2013: 3) involving the governance of societies through a crime–security
nexus, the UN Congress of 1965 dedicated significant attention to partnerships of local
organizations through which ‘pre-delinquency’ could be anticipated, identified and
reformed through preventive networks (United Nations Social Defense Secretariat,
1965).

The move to establish an international penal order, with common standards for prison-
ers and common commitment to preventive work in the field of delinquency prevention,
was mirrored across the Atlantic with the founding of the Council of Europe’s Committee
on Crime Problems in 1958. Both organizations funded and promoted research into crime
trends and prevention policies, pressed for standardization of criminal codes and devel-
oped international standards and norms, and both regularly brought justice ministers
together in international conferences to discuss the latest problems and research findings.
Incidentally, the influence of Social Defence philosophy on the European Committee on
Crime Problems can be seen in the presence of Marc Ancel on some of its earliest sub-
committees, and the ‘near-miss’ regarding naming the body ‘The Committee of Experts
on Social Defence’ (European Committee on Crime Problems, 1958).

A full review of the development of international preventive criminology is beyond
the scope of this article. But it is important to note that from the very first UN Crime
Prevention Congress in 1955, the topic of juvenile delinquency was a continuous item
for discussion and debate at the international level. Lopez-Rey (1957: 535) notes the sig-
nificant preference of delegates for the session organized on juvenile delinquency, which
produced a report emphasizing concerns about the terminology of ‘pre-delinquent’ stages
—but which simultaneously endorsed preventive policies to resocialize ‘delinquents’ in
advance of criminal careers, for the benefit of both those young people and the protection
of society (1957: 536). Indeed, the figure of the juvenile delinquent was to be a firm
fixture on the agendas of the UN and the Council of Europe’s crime policy branches,
throughout the 20th century. Why? Because, by definition, the juvenile exists below
the threshold of criminal responsibility. As such, states and International Organizations
fostered the development of knowledge about preventive, anticipatory interventions
through the figure of the delinquent—against whom criminalizing measures could not
be performed. The figure of the juvenile delinquent provided an opportunity to expand
the criminological field of governance.

Indeed, Martin Wright (the Chair of the Howard League for Penal Reform) attended
the 1980 UN Crime Prevention Congress in Caracas and made notes about the drive, from
delegates, to address the needs of ‘children at-risk’ of becoming delinquents and the need
to prioritize them for social justice-oriented responses (Wright, 1980). The Milan
Congress of the United Nations Crime Prevention and Treatment of Offenders
Programme similarly endorsed, in 1985, the Beijing Rules for the administration of juve-
nile justice which specified that states should:

- develop conditions which will ensure for the juvenile a meaningful life in the community,
- which, during that period in life when she or he is most susceptible to deviant behaviour,
will foster a process of personal development and education that is as free from crime and delinquency as possible.

(Clark, 1989: 76)

Here we see the profound presence of anticipatory crime prevention ontology, such that the juvenile is ‘susceptible’ to becoming-deviant—a processual understanding of the social environment and the risks it poses to young persons, which presents an international mandate for preventing intervention.

These documentary materials all match the drive to anticipate and reform juvenile delinquents in ‘old’ Social Defence, noted by Cantor’s (1936) early review of the topic. Centrally, the goal is to prevent crimes of the future by reforming those subjects who are anticipated as ‘at-risk’ or ‘high risk’ of becoming offenders. Cantor notes this theme emerging as early as 1926 in the Brussels International Congress of Penal Law where, after heated debate, delegates agreed that measures of punishment were unsuitable for certain types of offenders (and juvenile delinquents) and instead non-punitive ‘safety’ measures should be imposed for the protection of society.

Juvenile delinquency was also included on the very first programme of activity for the European Committee on Crime Problems (CDPC) and retained a continuous presence on the CDPC agenda. In 1959, the CDPC undertook a survey of juvenile delinquency measures enacted by member states and their proposals for such measures. Their understanding of post-war delinquency incorporates a wide range of sociological, economic and biomedical factors, presenting it as:

the result of a number of factors of a biological, psychological, social and economic nature, operating in the context of a rapidly changing society, and to consider that it reflects a certain inadequacy of this society to adapt to new phenomena whose nature and effects are only imperfectly understood [...] Perhaps the most striking fact that the reports reveal is that an improvement in the economic situation does not necessarily lead to a decrease in juvenile delinquency. On the contrary, there are indications that a high standard of living can create problems by itself.

(European Committee on Crime Problems, 1959: 8)

In more moderate terms than those used in the United Nations Crime Prevention congresses, the industrialization and modernization of societies was understood to have sociological effects which pushed some young people into lives of crime. Central among these effects were the breakdown of the traditional family unit and neighbourhood structure, and increased individualization. But, support for education and the family could (it was proposed) help states to work against these trends.

The interest of the International Organizations in juvenile delinquency is of crucial importance for understanding the history of prevention. The juvenile provided a way to rethink criminology, away from traditional reliance on classical theories of adult, individualized responsibility for crimes and retributive punishment. The juvenile is, by definition, not of legal age to be held fully responsible under law. International Organizations
identified the juvenile delinquent as a pre-criminal, liminal subject upon whom anticipatory pastoral measures could be employed through multiple agencies:

The discussion and study of the Congress should include not only those juveniles who have committed an act regarded as a criminal offence by the law of their country but also those whose social situation or whose character places them in danger of committing such an act, or who are in need of care and protection […] It was concluded that the attention of the Section should be directed primarily to pre-delinquency: the prevention of juvenile delinquency where no prior law violation had occurred […] participants, taking account of what was being done towards prevention in their own countries, should consider how preventive work might be developed in relation to: (1) the community; (2) the family and school; (3) the social services; and (4) other agencies.

(United Nations General Assembly, 1955: 2)

From the very inception of juvenile delinquency policy, anticipatory intervention upon vulnerable subjects is framed as preventing them from becoming dangerous. The ‘pre-delinquent stage’ is highlighted as the most relevant target for action by the United Nations—reframing the application of rehabilitation so that it occurs prior to the offence, even in 1955. Indeed, the youths are emphasized as being vulnerable and are considered ‘in danger of committing such an act’. The development of anticipatory criminology experienced a slower pace in the Council of Europe, as reflected in the reports of the European Committee on Crime Problems. The reports dedicated to juvenile delinquency in 1958 and 1963 are descriptive reflections on programmes and measures used in member states, obtained through surveys organized by the Committee. The endorsement of pre-criminal interventions then accelerated in the 1970s, with the establishment of a sub-committee on juvenile delinquency (1970–1973) which recommended pastoral interventions, and a 1972 report on the role of the school in identifying possible delinquents and re-engaging them to prevent criminal futures (European Committee on Crime Problems, 1977). By 1975 the Council of Europe’s Conference on Crime Policy (attended by all member states) was recommending that police be integrated within societal prevention systems, and in 1979 the European Committee on Crime Prevention’s (CDPC) report Social Change and Juvenile Delinquency framed such crime as a youth protection issue beyond the judicial sector. Here children are considered ‘in danger’ of becoming delinquent and requiring of community-based protection measures (European Committee on Crime Problems, 1979a).

But perhaps the most remarkable development in the crime prevention discourse of the CDPC came at the 1977 Third Criminological Colloquium. Mr Henri Feraud, a senior official at Interpol, provided his thoughts on the necessity of designing pre-crime interventions—extending beyond the field of juvenile delinquency to the detection of anyone in a ‘dangerous, pre-criminal crisis or pre-delinquent state’. He stated:

Whilst continuing to use a system of prevention after the offence on the grounds that it might save a limited number of individuals from relapsing into crime, one is led to believe that one might make simultaneous use of methods of prevention before the offence, which could be applied by a specialist branch of police […] There are, particularly in some European countries, some satisfactory and
praiseworthy schemes in operation, but although they are sometimes very worthwhile, they apply to isolated fields or particular aspects of delinquency […] One should honestly recognise that there is a need for something to be done in this field and that our proposal would substitute a properly organised pre-crime prevention policy to the ‘after-the-event’ policy which has been the rule so far. It may be wondered whether a preventive police branch should or could try to detect individuals who are in a state of pre-criminal crisis or in other words about to commit a serious criminal offence. This state is usually described as a ‘dangerous’ pre-delinquent state.

(European Committee on Crime Problems, 1979b: 9–11)

Echoing the calls for a ‘preventive police’ made by Social Defence scholar Pinatel as early as 1952 (Pinatel, 1952), Feraud made the argument that ‘prevention before the crime’ could be extended to non-juvenile actors, naming ‘dangerous states’ associated with alcoholism, mental illness and drug abuse which would necessitate such intervention (European Committee on Crime Problems, 1979b: 11). But he remained disappointed that criminological researchers had been unable to identify other features which would identify pre-delinquent states and enable the police to intervene. The language used by Feraud intimates that ‘dangerous states’ suggest that the person is not fully responsible for their actions and that pre-emptive intervention can rightly be staged by the police to protect society and the individual at-risk-of-becoming-dangerous. Feraud’s ‘preventive police force’ never came to bear, in name, however European states did develop their crime prevention agendas through community policing and community safety programmes from the mid-1980s onwards.

Throughout international discourse on juvenile delinquency in the 20th century, we witness the continued presence of anticipatory criminology—from the turmoil of the ‘old Social Defence’ era, through the ‘human rights’ centred new Social Defence endorsed and pursued by the United Nations and Council of Europe. Juvenile delinquency became a prominent topic for the United Nations and the Council of Europe because the youthful subject allowed penal policy to expand the traditional remit of criminal responsibility. No longer were policymakers and researchers limited to the topics of rehabilitating offenders nor standardizing international practice (important though these were to the business of both the UN and Council of Europe’s work on crime). The juvenile delinquent was simultaneously deviant and disordered, but also vulnerable and not-yet-criminal, by virtue of their age. Here, prevention initiatives could be debated and refined—fostering the continued development of programmes which intervened to resocialize deviant youth, in anticipation of their future criminal prospects. The international crime policy fora did more than undertake surveys of continental European crime prevention programmes; they refined the ontology of pre-criminal interventions (consolidating the discursive coupling of protecting both the at-risk individual and the society vulnerable to future crimes) before disseminating recommendations for social crime prevention programmes to their member states.

Conclusion

As this snapshot of Social Defence criminology and its integration within the United Nations and CDPC shows, there are good reasons to question some of the claims of
‘neoliberal penalty’ thesis. While Anglophone states have recently retreated from rehabilitation-oriented criminal justice towards a more retributive footing, and while the development of statistical risk-assessment tools have accelerated the move from post-crime to pre-crime approaches, the history of international criminological forums demonstrates the longstanding presence of pre-crime ontology throughout the post-war era. As we have seen from the 1965 UN Crime Prevention and Treatment of Offenders Congress, this extended to significant discussions and research into local crime prevention partnerships—the type of ‘responsibilization’ of non-state actors for criminal justice which, we have been told, did not appear until the neoliberal era under conditions of welfare retreat. This reveals a nexus between local crime prevention structures in continental Europe and the amplification of their practices, and ontology, by international crime policy working groups. So, while international fora cannot enact criminal justice policy in the manner of a state, they did collect information about local practices, refine the theorization of these pre-crime measures and then disseminate them to a wider audience of national delegates.

The adaptation of Social Defence philosophy by Marc Ancel was oriented towards a more humane penal policy, but it carried over the revolutionary reorientation of criminal justice as security-oriented and tailored towards the prevention of future offences. There is thus a ‘long history of prevention’, oriented around pre-emption and intervention upon potential offenders, which extends far beyond the characterization of the early–mid-20th century as an era of ‘penal welfarism’. Crime prevention fora at the international level fundamentally exceeded the remit of ‘categorization’ and ‘individualization of punishments’, remaining convinced (a la positivism and ‘old’ Social Defence) that crime’s environmental and social causes could be identified and that societies (and individuals) could be engineered to prevent future offences.

Of course, this finding does not devalue excellent studies on how actuarial risk assessment accelerated the development of pre-crime methods in the neoliberal era. Instead, we should be aware that this was an acceleration of previous existing trends, and not a sea-change in criminal justice ontology and practices (as strict divisions between ‘eras’ of penal welfarism and neoliberal penalty might imply).

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Notes

1. This being said, it is clear that ‘preventive policing’ in 19th-century Italy might have influenced Ferri’s original rendering of (old) Social Defence (Davis, 1988; Marques, 2013). We are indebted to Reviewer #3 for this insightful point.

2. Garland’s tracing of the eugenicist movement and its impact upon criminology is fascinating. He shows how late C19th discourses conceptualised ‘race’ as the (white) national body and the domestic threat posed to the ‘race’ by criminal underclasses. In this historical and domestic British context, ‘threats to the race’ were predominantly expressed through class rather than through ethnicity.

3. It is important to note, as Mugambi Jouet does, that Ancel’s later writings show a move away from this endorsement of preventive incarceration (Jouet, 2021).

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