RASSEGNA ITALIANA DI CRIMINOLOGIA
ANNO XIV N.3 2020

When 'message laws' create perpetual panic: the case of sex offender registries

Quando le '*message laws*' creano panico morale perpetuo: il caso dei registri dedicati ai *sex offenders*

Roberto Cornelli • Oriana Binik • Lorenzo Natali

Abstract
This contribution defines 'Megan's Laws' as 'message laws', that is, those penal laws that carry a message not only coherent with the cultural impetus supporting their adoption but also anticipating something that is not (yet) acceptable to manifest openly in Western politics. First, we describe how this message is generally considered more important than the actual results produced by these laws in terms of efficiency, and how it also intervenes on issues causing waves of moral and perpetual panic. Second, we observe how, in the specific case of sex offender registration and notification laws, two important messages are at stake: that sex offenders deserve perpetual punitivity and that the community has the right/duty to control their behaviours. Finally, we suggest that 'message laws' can be considered a wake-up call on maintaining the democratic project.

Keywords: Megan's Laws; message laws; moral panic; perpetual panic; sex offender registry.

Riassunto
Le leggi che hanno introdotto i registri dedicati ai sex *offenders* (cd. *Megan's Laws*), sono state definite "*message laws*", leggi penali che veicolano un messaggio non solo coerente con la spinta culturale che ne sostiene l'adozione e l'applicazione ma che anticipa ciò che non sarebbe accettabile manifestare nel campo politico delle società occidentali. In primo luogo, si evidenzia che tale messaggio è ritenuto più importante rispetto alla valutazione dei risultati dalle leggi in termini di efficacia, contribuendo così a cristallizzare ondate di panico morale in fenomeni di *perpetual panic*. In secondo luogo, si procede all'analisi del duplice messaggio veicolato da tali leggi: i sex *offenders* meritano una punizione e la comunità ha il diritto/dovere di controllare il loro comportamento.

Parole chiave: Legge Megan; message law; panico morale; panico continuo; registro dei sex offender.

Correspondence Roberto Cornelli, School od Law, University of Milano-Bicocca, email roberto.cornelli@unimib.it

Roberto CORNELLI, School of Law, University of Milano-Bicocca
Oriana BINIK, School of Law, University of Milano-Bicocca
Lorenzo NATALI, School of Law, University of Milano-Bicocca

ISSN 1121-1717 (print) – ISSN 2240-8053 (on line) – DOI: 10.7347/RIC-032020-p220

1. Registration and Notification Laws in the USA and beyond

Since the State of California first introduced a sex offender registry law in 1947 (Welchans, 2005, p. 125), obliging the perpetrators of certain crimes to register with the local law enforcement agency (California Office of the Attorney General, 2002), similar laws have been issued not only in the United States but also in many other parts of the world. Such laws provide for the establishment of registers with different levels of public accessibility to the information contained (so-called 'community notifications'), sometimes accompanied by forms of residency restrictions and other common civil sanctions, such as using GPS tracking systems to monitor the location of sex offenders (Comartin, Kernsmith, & Kernsmith, 2009).

In 1994, the US Congress adopted House Resolution 324, the Wetterling Act, which required every US state to institute sex offender registries available to local law enforcement agencies. With the subsequent adoption of House Resolution 2137 of 1996, commonly known as Megan's Law in reference to the murdered child Megan Kanka, states lost their discretion on whether these registers were available to the public, and could only decide on which information was relevant to public safety (Levenson, Brannon, Fortney, & Baker, 2007). In an attempt to implement sex offender registration laws with a legislative federal frame, House Resolution 4472 of 2006, known as the Adam Walsh Act or Sex Offender Registration and Notification Act (SORNA), fixed the standard to which each state must conform, particularly regarding the kind of crimes to register and the information to be made publicly available; in every year in which a state fails to comply, its federal funds for the administration of justice shall be reduced by 10%.[1] In the last 25 years, a growing number of nations have legislated on registration systems for sex offenders, but very often, particularly in European nations, without providing for specific registers. These laws typically only intervene on criminal record databases, limiting access to the police and judicial authorities or, at most, to those who can prove a specific interest. This is why the sex offender registration laws introduced in France, Germany, Ireland, Argentina, and South Africa do not provide for public notification systems or public registry websites (unlike in the USA). In the UK, however, 'Sarah's Law' of 2013 enables individuals to apply to their local police officials to find out if any person is a registered sex offender. Meanwhile, Australia has a central registry, the Australian National Child Offender System (NCOS, formerly ANCOR), which has been operational since 2004; however, the systems of notification vary territorially, and only the State of Western Australia has a public sex offender registry.[2]

Though the public and lawmakers, especially in the US, are generally supportive of sex offender registration and notification policies, usually called Megan's Laws (Comartin et al., 2009; Levenson, Brannon et al., 2007; Rosselli & Jeglic, 2017), scholars remain sceptical about these laws' potential to protect children, prevent sex crimes, and provide a sense of security for citizens through vigilant surveillance and collaboration between law enforcement agents and citizens (Levenson & Cotter, 2005, p. 50). They suggest, as the next section will more extensively detail, that these policies are affected by emotional responses to sexual violence, serve a symbolic purpose, and are ineffective according to empirical data (Lussier & Mathesius, 2019): per se, they do not seem to curtail sexual crimes (Maurelli & Ronan, 2013) and also diminish the chances of offender reintegration by limiting opportunities for housing, employment, and social support (Levenson & Cotter, 2005; Levenson, D'Amore, & Hern, 2007; Zevitz, 2006).

2. The SORN measures between deterrent efficiency and emotive answer

Sex offender registration and notification (SORN) policies have spread rapidly due to the conviction that sex crime perpetrators are highly recidivist, besides being highly specialized in sex crimes. However, the results of research suggest that, in reality, sex offenders are less recidivist than other types of criminals – with only 14% reoffending over five years (Hanson & Morton-Bourgon, 2005) – and that their tendency to specialization, though existing, is lower than speculated (Magers, Jennings, Tewksbury, & Miller, 2009: Tewksbury, Jennings, & Zgoba, 2012; Zimring, Jennings, Piquero, & Hays, 2009). More precisely, the research conducted by Sandler, Freeman, and Socia (2008) found that 95% of the sexual crimes recorded in New York from 1986 to 2008 were committed by individuals with no previous record of such offences. This suggests that the large economic investments needed to realize SORN measures (Zgoba, Witt, Dalessandro, & Veysey, 2008) have often delivered little

1 For a more complete analysis of the federal legislative evolution, see Office of Justice Programs, Legislative History of Federal Sex Offender Registration and Notification, http://www.smart.gov/legislation.htm,

2 See SMART Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking, Global Overview of Sex Offender Registration and Notification Systems, April 2014 and 2016.

impact on security. This finding is reinforced by the non-significant results in most studies to have measured the impact of SORN measures on reducing sex crimes and/or other crimes committed by people in general (Ackerman, Sacks, & Greenberg, 2012; Bouffard & Askew, 2017; Lussier & Matheius, 2019; Levenson & Zgoba, 2015; Maurelli & Ronan, 2013).

However, these measures' limited success in reducing the number of sex crimes does not necessarily mean they are also ineffective in reducing the recidivism of registered sex offenders, being their specific objective. Several researchers have tried to systematize studies evaluating the impact of SORN measures in this regard, but they have struggled to challenge the impression that these policies produce very limited (if any) concrete results. Among others, Harris, Levenson, Lobanov-Rostovsky, and Walfield (2018) conclude that the effects on recidivism appear marginal, with a modest impact only regarding offenders at high risk of recidivism, evaluated with appropriate assessment scales. Connor and Tewksbury (2017) reach the same conclusion by analysing studies in Arkansas, Iowa, Massachusetts, New Jersey, New York, and Washington. Finally, Tewksbury and Jennings (2010) conclude that these policies have 'little if any effect' (see also Tewksbury et al., 2012). It should also be considered that studies interviewing registered sex offenders have revealed the significant negative impact of such registers on rehabilitation, creating difficulties with employment and relationships, instances of harassment, stigmatization, and persistent feelings of vulnerability, both for the registered subjects and their families (Bensel & Sample, 2017; Bowen, Frenzel, & Spraitz, 2016; Evans & Cubellis, 2015; Mercado, Alvarez, & Levenson, 2008). According to those interviewed, being 'supervised' by the community to which they belong would not deter repetition of the deviant behaviour (Connor & Tewksbury, 2017); on the contrary, some researchers have speculated that these difficulties might have the paradoxical effect of increasing recidivism, rather than decreasing it (Tewksbury & Lees, 2006).

To complete the picture, it must be noted that the cost of implementing so-called Megan's Laws is so high that it consumes resources needed for other policies directed to the rehabilitation treatment of sex offenders, the provision of support services for victims, and the prevention of other forms of sexual assault. The field of action on sex crimes is also restricted: SORN policies place more emphasis on the violence perpetrated by a stranger than that by a partner or acquaintance, creating a distorting effect on the representation of sexual violence that also influences the predisposition of public policies (Wright, 2003). In this sense, sex offender sanctions are part of the recent shift towards punitive-style justice (Comartin et al., 2009), which not only seems ineffective by neglecting the necessity of rehabilitation but also produces a stigmatization effect that pushes the offender into isolation, which could also could raise the likelihood of recidivism.

It is worth considering these aspects more widely: if these laws are truly so ineffective laws, why are they considered so necessary?

The answer to this question, we must start from the concept of moral panic (Jenkins, 2004; Walker, 2010; Zgoba, 2004), defined as an explosion of emotive waves that overwhelm society and cause policy makers to take immediate decisions. In other words, adopting this perspective, the sex offender sanctions have been adopted as a form of 'acting out' in a moment of strong anxiety linked to sexual crimes; they are 'expressive' policies elaborated to temporarily calm the worries of the population, without in-depth consideration of how to make them really effective.

It must immediately be pointed out, though, that this interpretation doesn't fit well because, in their effects, sex offender laws lack the temporariness typical of the measures introduced at times of moral panic; on the contrary, despite some of these laws being introduced following assaults that shook/shocked public opinion, beginning with Megan's Law itself, Lytle (2019) has demonstrated the diverse 'variations' in such laws over time in as many as 50 states. Besides, the level of preoccupation with the phenomena of sex crimes, measured through Google trends from 2004 to 2012 appears stable, with few fluctuations (Burchfield et al., 2014). In line with these findings, we think that the answer to our question lies in the concept of 'perpetual panic' (Burchfield et al., 2014; Klein & Cooper, 2019; Klein & Mckissick, 2019; O'Hear, 2008). Our idea, which we intend to deepen at the theoretical level using the case of SORN measures, is to broaden (rather than abandon) the category of moral panic through the concept of perpetual panic, here defined as a form of moral panic widespread among today's society, non-volatile, and accompanied by ineffective repressive measures whose cultural messages amplify both the panic itself and punitive demands. We think, in fact, that one of the levers of the constant preoccupation with and of the punitive desire with respect to sex offenders (Klein & Mckissick, 2019) should be attributed to the registers and to the cultural contents they carry.

3. From moral panic to perpetual panic

The concept of moral panic (Cohen, 1972; Young, 1971) has been associated with a cohesive and empowered group of people becoming increasingly preoccupied with another category of subjects, the so-called 'folk devils', identified as hostile[3]. To be considered as moral panic, this preoccupation must have two characteristics: being disproportionate to the real threat and volatile, such that after the explosion – which occurs with the complicity of the media and policy makers – it must decline rapidly (Goode & Ben-Yehuda, 1994).

However, this volatility tied to the volatility of moral panic has caused some perplexity, particularly with reference to sex crimes, which, from the 1990s, have given rise to a form of continuous preoccupation (Jenkins, 2004) – a perpetual panic (Burchfield et al., 2014; Klein & Cooper, 2019; Klein & Mckissick, 2019; O'Hear, 2008) or a kind of

3 For a recent application of these notions in the green criminological field see Brisman and South (2015). On this, see also Natali (2016; 2019) and Natali and Cornelli (2019).

'fixation' (Lancaster, 2011) – that does not seen capable of being overcome.

Traditionally, some scholars have interpreted moral panic within the frame of 'moral regulation' (Cornelli, 2008; Critcher, 2009; Garland, 2008; Hier, 2011), as a particularly intense and critical moment of emotive activation that characterizes the daily process of defining and re-defining what society intends to defend and from what it wants to distance itself. We perceive that by starting from this interpretation, already open to the idea of a continuous moral panic, it is possible to understand what is happening in late-modern societies and why some forms of panic seem not only incessant but also, in some sense, distinctive of contemporary times. More precisely, the connection identified by David Garland (2008) between moral panic and Durkheim's concept of collective excitement, closely linked to that of the Sacred, is crucial. In *Elementary Forms of the Religious Life* (2008), Durkheim identifies the Sacred with what is separate and forbidden. The distinction between Sacred and Profane unites all cultures, with 'sacredness' attributed to some objects that are not, per se, superior to profane ones but are differentiated through specific rites. The emotive state of 'collective effervescence', which characterizes the phenomenonof moral panic, is found precisely in the wake of the Sacred vs Profane distinction, and expresses itself as a kind of 'electricity' that brings the community to a state of collective exaltation when, through a crime, the Sacred is attacked.

According to Garland, 'a precondition for the recurring investment of the mass media and the political class in panic-producing processes is, no doubt, the emotional energy and collective excitement that are unleashed whenever a mass public can be provoked into feeling passionate outrage, together with all the opportunities that this energy provides' (2018, p. 18).

Far from being a 'hysterical' reaction, the collective excitement – so useful for mass media and policy makers – performs the vital function of starting the process of defining and re-defining the Sacred, and serves to continually delineate the boundary between the Sacred and Profane (a function of 'moral regulation'), thereby re-enforcing social ties. Adopting this perspective entails re-dimensioning the manipulative role exercised by mass media and policy makers in starting moral panic (Cornelli, 2008), and taking seriously a public's collective emotions and demands for security (Williams, 2018). In other words, collective effervescence can certainly assume twisted forms, uniting strong subjects against weak subjects or scapegoats, but according to this interpretation, it is not possible to dissociate society from the emotions it contains; though often contradictory and exaggerated, they are of vital importance as social glue. This does not deny the relationships of power (Garland, 2008), but rather serves to focus attention on what bubbles within the collective subconscious and, therefore, on the deep/hidden grammar of society.

The recourse to punitive instances to re-establish the confines of morality and social order through resorting to intimidation is a constant trait of modern penal history. In *Punishment and Modern Society* (1990), Garland highlights how rationalization and bureaucratization of the penal apparatus have been the most significant developments of penal history in the last 200 years, modifying the ways of perceiving and using punishment. The emergence of professional bureaucracies coincided with the progressive reduction of punitive narratives from official narratives about criminality, because they were considered shameful and uncivilized; the same period, starting from the XIX century, witnessed the birth of a scientific criminology and a scientific penology with the function of affirming a new 'rationality' tending to utilize any technological tool for controlling criminality. The nation state thereby founds its legality on the ability to guarantee social order, and in this new socio-institutional context, criminal judgment assumes a symbolic value different from that of the past: not only sacred and sacrificial ritual, with the function of tragic representation of the events and of purifying those who attend the representation, but above all lay ritual, which alone has the function of containing violence and restoring social peace. More precisely, as the ritual par excellence, the trial established the truth about the perpetrator's guilt, supported by a narrative woven by professionals capable of delimiting the state of disorientation and collective effervescence produced by the crime through a 'return to order', ultimately guaranteed by imposing a proportionate sanction.

At the same time, however, reflecting mainly on Durkheim's theory of punishment, Garland (1990, 2001) stresses how rationalized forms have never completely monopolized the penal field and how, in times of crisis for the treatment ideology, the sensation that the penal justice system cannot contain the violence becomes a widespread cultural trait. With the crisis of grand narratives, the advent of the consumer society and the risk society, and the emergence of Web 2.0, bringing the proliferation of information and of ways to access it: we are seeing a phase of progressive crumbling of the Sacred, supplanted by a condition of unceasing emotional boiling. Consequently, the 'return to order' has become increasingly precarious and the excitement has assumed an incessant and structural character, sometimes assuming 'neo-tribal' forms (Bastide, 1975; Binik, 2014, 2016, 2017; Garapon, 2001; Maffesoli, 1988).

Nevertheless, not all the phenomena capable of triggering reactions of moral panic have lost the element of volatility, influenced by the macro-tendencies of contemporary society. One means through which moral panic becomes stable and perpetual is the fixing of moral regulation in laws with a strong cultural message. In the case of SORN measures, far from restoring an ideal and sacred image of society, these 'message laws' can create a double 'looping effect': on the one hand defining categories of outcasts and so reinforcing negative identities (Hacking, 1999); on the other hand, feeding the condition of collective effervescence of the social group.

4. Megan's Laws as Message Laws

In referring to SORN measures as 'message laws', we adapt hate crime scholars' expression of 'message crimes', whose

primary purpose is to carry a message. From a cultural perspective, hate crimes are interpreted as message crimes meant to create fear, hostility, and suspicion, and thereby reaffirm the hegemony of the perpetrator's group and the 'right (appropriate)' subordinate identity of the victim's group (Perry, 2001, p. 10). For this motive, hate crimes are acts of violence (not necessarily physical) that can also be committed by a single individual, but their significance extends beyond the victim to pervade the whole community and, therefore, also affect the perpetrator, who feels they are acting in the name of or for a group in order to re-establish that order which assigns to each his 'proper' place (a place not here and certainly not beside me), and which is perceived as threatened or violated (Cornelli, 2019). However, as James Jacobs points out, the hate crimes laws themselves can be considered o prioritize the message they carry over their tangible effects: 'In truth, to the extent that the hate crime laws send a message, they send the message to the minority and victims groups that welcome such essentially symbolic statements as valuable to their broader agenda' (Jacobs, 2002, p. 483).

More generally, one speaks more openly of 'acting out' policies, of 'penal populism', and of 'symbolical legislation' to indicate a criminal policy that renounces, from its very premise, any appropriate and effective intervention in terms of legal operations: it only aims to affirm, on a meta-juridical level, principles, values, and cultural positions, or sometimes simply the fact that those with the power to decide are taking action, regardless of the effectiveness thereof. Such criminal policy frees itself from any evaluation of efficiency with respect to its aim, instead assuming a relevance that exclusively expresses a cultural message. This is certainly not a novelty of recent decades: as a rather consolidated socio-criminological tradition that can be traced back to Durkheim, the penal system is intrinsically characterized by a strong symbolism as its primary Sacred function is to stabilize the moral boundaries of a community. However, in times when the discourse about fear – intersecting the decline of the welfare state, the de-territorialization of the law, the global primacy of financial capitalism, and the phenomenon of migrations – becomes insistent in undermining the models of social coexistence, it becomes easier to recognize the purely expressive significance of interventions in the penal field (Ceretti & Cornelli, 2018).

In this sense, Megan's Laws can be defined as 'message laws' that, regardless of their real effectiveness principally intend to convey a message coherent with the cultural impetus that supports their adoption and application. They are not only a key element of a general 'acting out' crime policy but also address crimes with a strong cultural connotation. The sex crime laws certainly express intolerance towards a person guilty of particularly reprehensible crimes, but they forget the cultural dimension that characterizes sex crimes, concentrating exclusively on protecting the community from the evil of sex offenders. Besides, the punitive emphasis is, almost exclusively, on uniformly categorizing sex offenders (always less sensitive to the diversity of behaviour); this category is particularly vile even within the already strongly stigmatized higher-level category of criminals.

In this sense, the message carried by SORN measures is characterized by the ability to express obliquely that which is not (yet) acceptable to manifest openly in Western politics, namely: 1) that sex crime perpetrators deserve perpetual punishment; and 2) that the community has the right/duty to control their behaviour, sometimes (as explored below) in a neo-tribal way. These messages can only feed the condition of 'perpetual panic', removing from the rule of law the sacred and fundamental capacity of favouring 'closure': an umbrella term referring to overcoming the discomfort of a loss – in this case, the hurt inflicted by a sex crime (Bandes, 2009).

4.1 Perpetual punitivity

One of the messages of SORN laws lies in indicating that the perpetrators of different kind of sex crimes form part of a single, ignominious category of sex offenders deserving perpetual punishment. Though registration is usually time-limited (sometimes extending for up to 20 years), the use of websites to notify the public about the presence of a sex offender makes the right to be forgotten very difficult to exercise in reality, even once the legal term expires.

Moreover, research concerning these themes has proven citizens' awareness that people convicted of sex crimes encounter difficulties in finding a job, a house, and stable social relationships. In a study in Washington, for example, 84% of participants recognized these problems, although 80% of the sample defined SORN measures as very important (Lieb & Nunlist, 2008).

This creation of 'perpetual criminals', born of the demand to protect the community, concentrates the attention of institutions and the community on sex offenders at the expense of interventions for supporting the victims, of differentiated treatment for individual sex offenders, and of cultural improvement in the community towards opposing gender stereotypes and prejudices in which many sex crimes are rooted. Moreover, though born to address widespread anxieties and worries, these laws ultimately consolidate a climate of perpetual panic: awareness of the presence of 'perpetual criminals' does not reassure but, rather, consolidates a generalized restlessness towards the internal enemy, which one tries to keep at a distance but is unable to expel; an enemy that is threatening because of his ambivalence in being near/far, as us/our opposite, no longer a criminal/not yet a citizen.

Returning to Bataille's distinction between a left (impure) Sacred and a right (pure) Sacred, the act of sex in sex crimes transmigrates among the forms of the Sacred, changing from a vital, procreative act to a horrible crime, and concurrently causing both repulsion and attraction. It disgusts and depresses yet also attracts, because each object has a left aspect and a right aspect, and one of the two can be more important than the other (Bataille, 1988).

Within this theoretical frame, we think that SORN measures, making sex offenders both near and far, reinforce the ambivalence that connotes collective effervescence: it is always possible for anyone, at any time of day, to use their

home computer to discover if there is a monster in the neighbourhood and, therefore, *get closer* to the sex offender while simultaneously taking steps to *move him away*, as an impure individual.

This condition of ambivalence could be key to interpreting the mixed results of studies that have tried to detect the extent of neighbours' fear concerning the presence of a sex offender in their neighbourhood: in some cases, the registers seemed to restrain the fear; in others, they emphasized it (Beck, Clingermayer, Ramsey, & Travis, 2004; Beck & Travis, 2004; Caputo & Brodsky, 2004; Kernsmith, Craun, & Foster, 2009; Levenson et al., 2007; Trivits & Reppucci, 2002). Following our interpretation, the registers: instil fear by warning of the presence of a dangerous subject in the neighbourhood; contain it by giving the chance to get closer in a protected way and at a distance (via the web); and emphasize it by making individual citizens feel responsible for their own safety.

In other words, the State abdicates its containment function by failing to state clearly that a penalty has been served and that the subject is ready to return to society because he is no longer dangerous. On the contrary, it returns to society subjects that it continues to define as dangerous and deserving of perpetual punitivity, creatuing conflicts about their residential collocation (see Williams, 2018) and entrusting to the local community the function of finding information on their presence and of taking appropriate measures.

4.2 The punitive shift towards a surveillant community

Megan's Laws not only express a message of intolerance towards those who commit particularly reprehensible crimes: they also consolidate the idea, by now widespread for many decades in the USA and more recently in many European nations, that the State and its law enforcement agencies cannot guarantee security and that the community must take the law back into its own hands and actively watch over itself. This marks a real change in the penal field, characterized by a new 'culture of control' (Garland, 2001) and crossing diverse tendencies of contemporary western societies described by an extensive body of literature. National states are losing the centrality that characterized them for several centuries due to globalizing economic trends (Habermas, 1998). On the one hand, this implies the spread of the free market ideology as the cure-all solution that also impinges on the penal field (Wacquant, 2009) through the privatization of policing and prisons (Bayley & Shearing, 2001; De Waard, 1999; Loader, 2000). On the other hand, government responsibility over social phenomena is shifting to the local level, rebuilding the concept of community,[4] so evocative and rich in possibilities but whose ambiguity and political implications have been widely discussed (Crawford, 2012). The community's re-emergence seems to repropose the fixity and rigidity of the concept of 'people' as a territorial articulation that rejects dynamism, ambivalence, and friction (which are all key elements to define the concept of social capital: see Binik et al., 2019). At a time of crisis for both national and local welfare systems, of punitive regulations for social problems, and of measures to regulate urban life that emphasize local level governance of social insecurity (such as civility laws in the USA, the ASBO, anti-social behaviour order, in the UK, and administrative orders in Italy and France), the community is understood as a healthy social body that must defend itself. It is ill-suited, therefore, for the role of re-integrating the perpetrators of crimes into society as part of the penal welfare system. Regarding this, public policies have a crucial role in immunizing the community against any possible 'impurity' (Ceretti & Cornelli, 2018). The defensive logic of immunization follows many paths: it crosses the flourishing sector of the security industry, employing ever-more-sophisticated products and services of private policing across increasingly widespread private areas and a growing number of public areas; gives rise to forms of vigilantism, of neighbourhood watch, and of spontaneous control of the community through social media-based warning systems; and informs new visions of the city and new ways of planning building and space (McLaughlin & Muncie, 1999).

The public registers of sex offenders follow the path drawn by the new penal ideology, confirming its cultural background of the necessity to entrust society governance to a mix of neo-punitivism and cultural surveillance that could be defined as 'neo-tribal' (Maffesoli, 1988). The expression 'neo-tribalism', however much it might recall the idea of a social tie, concurrently offers the image of a fragmented society, in which the 'effervescences' – as Durkheim warned – can cause perverted and destructive forms of solidarity, thereby endangering the sex offenders themselves. To illustrate, Mercado et al. (2008) examined the perceptions of 138 sex offenders in New Jersey and found that almost half (48%) had been physically threatened or harassed and 11% had been physically assaulted. Similar results were found by a study involving 443 registered sex offenders across Pennsylvania, Texas, and Wisconsin: 42% had been harassed in person and 14% physically assaulted due to their status (Frenzel, Bowen, Spraitz, Bowers, & Phaneuf, 2014).

Research on the effects of surveillance measures, such as CCTV systems and neighbourhood watch schemes, indicates that a community that defensively watches over itself does not necessarily produce positive effects in terms of social reassurance and enhanced ability to face problems (Rosenbaum, 1987; Williams & Ahmed, 2009; Wright et al., 2015). Indeed, this has often been found to negatively impact on the key elements for community stability of social (Sampson & Raudenbush, 1999) and institutional trust (Goold, 2009; see also Cornelli, 2014), causing social fragmentation (Ali, 2016; Chan, 2008; Patel, 2012).

The result is a community ever more mistrustful and gripped by its own fears – by the forms and representations it gives to individual fears – that lack a political and institutional channel and so circulate obsessively, thereby structuring the discourses, policies, and practices in a perpetual moral panic.

4 For an interesting discussion of the concept of community in criminology, see Walklate and Evans (1999, p. 5).

5. Conclusions

This article defined Megan's Laws as 'message laws', evoking the idea of penal laws that carry a message not only coherent with the cultural thrust supporting their adoption and application but also anticipating that which is not (yet) acceptable to manifest openly in Western politics. This message is generally considered more important than the actual results obtained by the laws in terms of effectiveness, and intervenes on issues that cause waves of moral panic, contributing to their crystallization into phenomena of perpetual panic.

These measures seem like Freudian slips: only apparently casual (in the sense of disconnection from one another and lacking an overarching ideology), they are indirect manifestations of a kind of collective unconscious and constitute a channel through which thoughts that would otherwise be censured find space to express themselves. In the case of SORN measures, we have observed two important messages: sex offenders deserve perpetual punitivity and the community has the right/duty to control their behaviours. In other words, what emerges from the depths of the collective subconscious is a widespread feeling of mistrust in democracy – characterized by checks and balances, the rule of law, inclusive thrust, and forms of representation – is no longer adequate to guarantee safety and wellbeing (Cornelli, 2018). In this case, the 'message laws' can be considered a wake-up call on maintaining the democratic project.

It must be considered that the SORN laws we have discussed, which provide for the establishment of open public registers, are an almost exclusively American phenomenon. As stated earlier, other western nations have instituted registers, but very often for the sole use of law enforcement agencies or otherwise only accessible through procedures requiring official authorization. In effect, this kind of law forms part of what Garland calls 'collateral consequences': 'the imposition of disqualifications, exclusions, banishment, deportation and public criminal records as a consequence of a criminal conviction […] many of them imposed by local administrative laws and regulations' (2017, p. 4). Together with high imprisonment rates, penal supervision as constraint and control, low use of criminal fines and reparations, high use of extreme penalties (death penalty and imprisonment for life without possibility of parole), sentences length and time served in prison, they distinguish the USA as anomalous compared to other Western nations (Garland, 2017).

This limitation to the American context of both the laws and literature on this theme suggests it may be premature and misleading to generalize the effects and the cultural messages studied with reference to Megan's Laws to the SORN laws of other nations. However, we think that studying the dynamics of affirming perpetual panic through message laws in the field of sex crimes could be useful and current for observing what might also happen in Europe. In fact, in the public debate on security in some European nations, there are continual appeals to the necessity of adopting measures to restrain sex offenders that recall the American collateral consequences of a criminal conviction, from chemical castration to forms of media punishment. To some extent, a climate of perpetual moral panic has also taken root in these nations, and understanding the reasons why it has not produced laws similar to those in the USA can be an extremely useful research theme in terms of policy making.

References

Ackerman, A. R., Sacks, M., & Greenberg, D. F. (2012). Legislation targeting sex offenders: Are recent policies effective in reducing rape? *Justice Quarterly, 29*(6), 858–887.

Ali, A. I. (2016). Citizens under Suspicion: Responsive Research with Community under Surveillance. *Anthropology & Education Quarterly*, *47*(1), 78–95.

Bandes, S. A. (2009). Victims, closure, and the sociology of emotion. *Law & Contemp. Probs.*, *72*, 1.

Bastide, R. (2015). *Le sacré sauvage*. FeniXX.

Bataille, G. (1988). Attraction and repulsion II: social structure. In D. Hollier (Ed.), *The college of sociology (1937-39)* (pp. 113–124). University of Minn. Press.

Bayley, D. H. & Shearing, C. D. (2001). *The New Structure Of Policing: Description, Conceptualization, and Research Agenda*. Washington, D.C.: National Institute of Justice.

Beck, V. S., & Travis, L. F. (2004). Sex offender notification and fear of victimization. *Journal of Criminal Justice*, *32*, 455–463.

Beck, V. S., Clingermayer, J., Ramsey, R. J., & Travis, L. F. (2004). Community response to sex offenders. *Journal of Psychiatry and Law*, *32*(2), 141–168.

Binik, O. (2014). Quando il crimine è sublime. *Rassegna Italiana di Criminologia*, (4), 277–290.

Binik, O. (2016). Il fenomeno del dark tourism nella società contemporanea: una rassegna critica della letteratura. *Rassegna Italiana di Sociologia*, *57*(3), 551–574.

Binik, O. (2017). L'arte del crimine tra liminale e liminoide. Il caso di Making a Murderer. *Comunicazioni Sociali*, *2*(2), 291–304.

Binik, O., Ceretti, A., Cornelli, R., Schadee, H., Verde, A., & Gatti, U. (2019). Neighborhood social capital, juvenile delinquency, and victimization: results from the international self-report delinquency study-3 in 23 countries. *European Journal on Criminal Policy and Research*, 1–18.

Bouffard, J. A., & Askew, L. N. (2017). Time-series analyses of the impact of sex offender registration and notification law implementation and subsequent modifications on rates of sexual offenses. *Crime & Delinquency*. Doi: 0011128717722010.

Bowen, K., Frenzel, E., & Spraitz, J. D. (2016). Sex offender registration and notification laws: thoughts from registered sex offenders in three states. *Safer Communities*, *15*(2), 94–109.

Brisman, A., South, N. (2015). New "Folk Devils," Denials and Climate Change: Applying the Work of Stanley Cohen to Green Criminology and Environmental Harm. *Critical Criminology*, 23(4), 449-460.

California Office of the Attorney General (2002). *California sex offender registry*. State of California Department of Justice. https://oag.ca.gov/sex-offender-reg

Caputo, A. A., & Brodsky, S. L. (2004). Citizen coping with community notification of released sex offenders. *Behavioral Sciences and the Law, 22*, 239–252.

Ceretti, A. & Cornelli, R. (2018). *Oltre la paura. Affrontare il tema della sicurezza in modo democratico*. Milano: Feltrinelli.

Chan, J. (2008). The new lateral surveillance and a culture of suspicion. In M. Deflem & J. T. Ulmer (Eds.), *Surveillance and Gov-*

ernance: Crime Control and Beyond (Vol. 10) (pp. 223–239). Emerald Group Publishing Limited.
Cohen, S. (1972). *Folk Devils and Moral Panics: The Creation of the Mods and Rockers*. Oxford: Martin Robertson.
Comartin, E.B, Kernsmith, P. D., & Kernsmith R. M. (2009). Sanctions for Sex Offenders: Fear and Public Policy. *Journal of Offender Rehabilitation*, *48*(7), 605–619.
Connor, D. P., & Tewksbury, R. (2017). Public and professional views of sex offender registration and notification. *Criminology, Crim. Just. L & Society*, *18*, 1.
Cornelli, R. (2008). *Paura e ordine nella modernità*. Milano: Giuffrè.
Cornelli, R. (2014). Policing and the Problem of Trust. In S. Caneppele & F. Calderoni (Eds.), *Organized Crime, Corruption and Crime Prevention. Essays in Honor of Ernesto U. Savona* (pp. 51–60). New York: Springer.
Cornelli, R. (2018). La politica della paura tra insicurezza urbana e terrorismo globale. *Criminalia, 2017,* 233–274.
Cornelli, R. (2019). Pregiudizi, stereotipi e potere. Alle origini delle pratiche di disumanizzazione e delle politiche dell'odio. *Rassegna Italiana di Criminologia*, *3*.
Crawford, A. (2012). *Crime and Insecurity*. New York: Routledge.
Critcher, C. (2009). Widening the focus: Moral panics as moral regulation. *British Journal of Criminology, 49*(1), 17–35.
David A. D'Amora M.S., LPC, CFC.
De Waard, J. (1999). The Private Security Industry in International Perspective. *European Journal on Criminal Policy and Research*, *7*(2), 143–174.
Durkheim, E. (2008). *The Elementary Forms of Religious Life*. Courier Corporation.
Evans, D. N., & Cubellis, M. A. (2015). Coping with stigma: How registered sex offenders manage their public identities. *American Journal of Criminal Justice*, *40*(3), 593–619.
Frenzel, E. D., Bowen, K. N., Spraitz, J. D., Bowers, J. H., & Phaneuf, S. (2014). Understanding collateral consequences of registry laws: An examination of the perceptions of sex offender registrants. *Justice Policy Journal*, *11*(2), 1–22.
Garapon, A. (2001). *Bien juger: essai sur le rituel judiciaire*. Odile Jacob.
Garland, D. (1990). *Punishment and Modern Society. A study in Social Theory*. Oxford and Chicago: Oxford University Press and University of Chicago Press.
Garland, D. (2001). *The Culture of Control: Crime and Social Order in Contemporary Society*. Oxford: Oxford University Press.
Garland, D. (2008). On the concept of moral panic. *Crime, Media, Culture*, *4*(1), 9–30.
Garland, D. (2017). Penal Power in America: Forms, Functions and Foundations. *Journal of the British Academy*, *5*, 1–35.
Goode, E., & Ben-Yehuda, N. (1994). Moral panics: Culture, politics, and social construction. *Annual Review of Sociology*, *20*(1), 149–171.
Goold, B. (2009). Technologies of surveillance and the erosion of institutional trust. In K. F. Aas, H. Oppen Gundhus, & H. Mork Lomell (Eds.), *Technologies of Insecurity: The Surveillance of Everyday Life*. New York: Routledge-Cavendish.
Habermas, J. (1998). *Die Postnationale Konstellation. Politische Essays*. Frankfurt: Suhrkamp Verlag.
Hacking, I. (1999). *The social construction of what?* Harvard University Press.
Hanson, R. K., & Morton-Bourgon, K. E. (2005). The characteristics of persistent sexual offenders: a meta-analysis of recidivism studies. *Journal of Consulting and Clinical Psychology*, *73*(6), 1154.
Harris, A. J., Levenson, J. S., Lobanov-Rostovsky, C., & Walfield, S. M. (2018). Law enforcement perspectives on sex offender registration and notification: Effectiveness, challenges, and policy priorities. *Criminal Justice Policy Review*, *29*(4), 391–420.
Hier, S. P. (Ed.). (2011). *Moral panic and the politics of anxiety*. Routledge.
Jenkins, P. (2004). *Moral panic: Changing concepts of the child molester in modern America*. Yale University Press.
Kernsmith, P. D., Craun, S. W., & Foster, J. (2009). Public attitudes toward sexual offenders and sex offender registration. *Journal of Child Sexual Abuse*, *18*(3), 290–301.
Klein, J. L., & Cooper, D. T. (2019). Punitive Attitudes Toward Sex Offenders: Do Moral Panics Cause Community Members to Be More Punitive? *Criminal Justice Policy Review*, *30*(6), 948–968.
Klein, J. L., & Mckissick, A. B. (2019). Moral Panics and Community Member Perceptions Regarding Reductions in Sex Offender Recidivism. *Justice Policy Journal*, *16*(1).
Lancaster, R. N. (2011). *Sex panic and the punitive state*. Berkeley, CA: University of California Press.
Levenson, J. S., Brannon, N., Fortney, T., & Baker, J. (2007). Public Perceptions About Sex Offenders and Community Protection Policies. *Analyses of Social Issues and Public Policy*, 7(1), 1–25.
Levenson, J. S., & Cotter, L. P. (2005). The Effect of Megan's Law on Sex Offender Reintegration. *Journal of Contemporary Criminal Justice*, *21*(1), 49–66.
Levenson, J. S., D'Amore, D. A., & Hern, A. L. (2007). Megan's Law and Its Impact on Re-entry for Sex Offenders. *Behavioral Sciences & the Law*, *25*, 587–602.
Levenson, J. S., & Zgoba, K. M. (2014). Sex offender residence restrictions: The law of unintended consequences. In R. Wright (Ed.), *Sex offender laws: Failed policies, new directions* (pp. 180–189). Springer Publishing Company.
Lieb, R., & Nunlist, C. (2008). *Community Notification as Viewed by Washington's Citizens: A 10-year Followup*. Washington State Institute for Public Policy.
Loader, I. (2000). Plural Policing and Democratic Governance. *Social & Legal Studies*, *9*(3), 323–345.
Lussier, P., & Mathesius, J. (2019). Trojan horse policies: sexual predators, SORN laws and the American experience. *Psychology, Crime & Law*, *25*(2), 133–156.
Lytle, R. (2019). Beyond panic: Variation in the legislative activity for sex offender registration and notification laws across states over time. *Criminal Justice Policy Review*, *30*(3), 451–476.
Maffesoli, M. (1988). *Le temps des tribus: le déclin de l'individualisme dans les sociétés de masse*. Librairie des Méridiens.
Magers, M., Jennings, W. G., Tewksbury, R., & Miller, J. M. (2009). An Exploration of the Sex Offender Specialization and Violence Nexus. *Southwest Journal of Criminal Justice*, *6*(2), 133–144.
Maurelli, K., & Ronan, G. (2013). A time-series analysis of the effectiveness of sex offender notification laws in the USA. *The Journal of Forensic Psychiatry & Psychology*, *24*(1), 128–143.
McLaughlin, E., & Muncie, J. (1999). Walled Cities: Surveillance, Regulation and Segregation. In C. Brook (Ed.), *Disorderly Cities* (pp. 96–136). London: Routledge.
Mercado, C. C., Alvarez, S., & Levenson, J. (2008). The impact of specialized sex offender legislation on community reentry. *Sexual Abuse, 20*(2), 188–205.
Natali, L. (2016). Guerre contemporanee e conseguenze ambientali. Un approccio di green criminology. *Rassegna Italiana di Criminologia*, X (3), 209-218.
Natali, L. (2019). Visually exploring social perceptions of environmental harm in global urban contexts. *Current Sociology*, https://doi.org/10.1177/0011392118823842
Natali, L., Cornelli, R. (2019). Cambiamento climatico e green criminology. *Rassegna italiana di criminologia*, 2, 156-166.
O'Hear, M. M. (2008). Perpetual panic. *Federal Sentencing Reporter*, *21*(2), 69–77.

Patel, T. G. (2012). Surveillance, suspicion and stigma: Brown bodies in a terror-panic climate. *Surveillance & Society*, *10*(3/4), 215–234.

Perry, B. (2001). *In the Name of Hate. Understanding Hate Crimes*. New York: Routledge.

Rosenbaum, D. P. (1987). The Theory and Research Behind Neighborhood Watch: Is it a Sound Fear and Crime Reduction Strategy? *Crime & Delinquency*, *33*(1), 103–134.

Rosselli, M. K., & Jeglic, E. L. (2017). Factors Impacting upon Attitudes Toward Sex Offenders: The Role of Conservatism and Knowledge. *Psychiatry, Psychology and Law*, *24*(4), 496–515.

Sampson, R. J., & Raudenbush, S. W. (1999). Systematic social observation of public spaces: A new look at disorder in urban neighbourhoods. *American Journal of Sociology*, *105*, 603–651.

Sandler, J. C., Freeman, N. J., & Socia, K. M. (2008). Does a watched pot boil? A time-series analysis of New York State's sex offender registration and notification law. *Psychology, Public Policy and Law*, *14*, 284–302.

Tewksbury, R., & Jennings, W. G. (2010). Assessing the impact of sex offender registration and community notification on sex-offending trajectories. *Criminal Justice and Behavior*, *37*(5), 570–582.

Tewksbury, R., Jennings, W. G., & Zgoba, K. M. (2012). A longitudinal examination of sex offender recidivism prior to and following the implementation of SORN. *Behavioral Sciences & the Law*, *30*(3), 308–328.

Tewksbury, R., & Lees, M. B. (2006). Perceptions of sex offender registration: Collateral consequences and community experiences. *Sociological Spectrum*, *26*(3), 309–334.

Trivits, L. C., & Reppuci, N. D. (2002). Application of Megan's Law to juveniles. *American Psychologist*, *57*, 690–704.

Wacquant, L. (2009). *Punishing the Poor: The Neoliberal Government of Social Insecurity*. Durham and London: Duke University Press.

Walker, B. A. (2010). Essay: deciphering risk: sex offender statutes and moral panic in a risk society. *U. Balt. L. Rev.*, *40*, 183.

Walklate, S., & Evans, K. (1999). *Zero Tolerance or Community Tolerance? Managing crime in high crime areas*. New York: Ashgate Publishing.

Welchans, S. (2005). Megan's Law: Evaluations of Sexual Offender Registries. *Criminal Justice Policy Review*, *16*(2), 123–140.

Williams, D., & Ahmed, J. (2009). The relationship between anti-social stereotypes and public CCTV systems: exploring fear of crime in the modern surveillance society. *Psychology, Crime & Law*, *15*(8), 743–758.

Williams, M. (2018). Constructing hysteria: Legal signals as producers of siting conflicts over sexually violent predator placements. *Law & Social Inquiry*, *43*(3), 706-731.

Wright, D., Rodrigues, R., Raab, C., Jones, R., Szekely, I., Ball, K., … Bergersen, S. (2015). Questioning surveillance. *Computer Law & Security Review, 31*(2), 280–292.

Wright, R. G. (2003). Sex offender registration and notification: Public attention, political emphasis, and fear. *Criminology and Public Policy*, *3*(1), 97–104.

Young, J. (1971) The Role of the Police as Amplifiers of Deviancy. In S. Cohen (Ed.), *Images of Deviance* (pp. 27–61). Harmondsworth: Penguin.

Zevitz, R. G. (2006). Sex Offender Community Notification: Its Role in Recidivism and Offender Reintegration. *Criminal Justice Studies. A Critical Journal of Crime, Law and Society*, *19*(2), 193–208.

Zgoba, K. M. (2004). Spin doctors and moral crusaders: The moral panic behind child safety legislation. *Criminal Justice Studies*, *17*(4), 385–404.

Zgoba, K., Witt, P., Dalessandro, M., & Veysey, B. (2008). *Megan's Law: Assessing the practical and monetary efficacy*. National Criminal Justice Reference Service.

Zimring, F. E., Jennings, W. G., Piquero, A. R., & Hays, S. (2009). Investigating the continuity of sex offending: Evidence from the second Philadelphia birth cohort. *Justice Quarterly*, *26*(1), 58–76.