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## Book Review

### John Pratt (2020) *Law, Insecurity and Risk Control: Neo-Liberal Governance and the Populist Revolt*. Switzerland: Palgrave Macmillan

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#### **Russell Hogg**

Queensland University of Technology, Australia

As do his earlier scholarly books, John Pratt's latest book *Law, Insecurity and Risk Control* makes a major contribution to our understanding of the recent history and current landscape of criminal justice across the Anglo common law world. In this book, he revisits and further develops themes from his earlier work on both risk and populism. His principal focus is the social and political context of, and driving forces behind, the rising salience of risk-thinking and its far-reaching effects on criminal justice institutions—in particular, the ways in which it has propelled a preventive turn in criminal law, giving rise to quite exceptional measures like post-sentence 'civil' detention of sex offenders. In developing the analysis, he takes the reader on a journey that explores in characteristically exhaustive detail the impacts of the neoliberal unleashing of risk on everything from changing family and household structures to trends in tourism, urban transformation, the restructuring of the state and government and much else. It is full of rich nuggets of empirical material drawn from across the Anglo world (the US, Britain, Canada, Australia and New Zealand) that he relies on to both develop and illustrate the analysis. In addition, it is a compelling read.

Pratt's thesis is that the hegemony of neoliberal governance, established after 1980 under the influence of political figures like Margaret Thatcher and Ronald Reagan, meant that the solidaristic welfare statism of the immediate post-war world gave way to a new order. The social democratic state sought to tame risk (as in the form of the 1942 Beveridge Report's 'five giants' of 'Want', 'Disease', 'Ignorance', 'Squalor' and 'Idleness': Beveridge, 1942: 6). In the new neoliberal order, governments would be downsized, state industries and utilities privatised, public services corporatised, economies deregulated and market forces given free rein. Removing social democratic restraints on individual economic freedoms would unleash risk and risk-taking in the service of enterprise, choice and enhanced mobility. Hard work, talent, initiative (and good luck) would be rewarded with riches, and the state would no longer be permitted to appropriate these riches with its old tax, spending and redistribution policies. With risk came opportunity

but also responsibility. Impacts would be uneven—there would be losers as well as winners—but far from this being anyone's, least of all government's, fault or duty to rectify, this was simply the cost of freedom. All that was required of the state and government was to uphold the rule of law that safeguarded that freedom. Society would benefit from the increased efficiency, greater economic growth and maximisation of wealth creation delivered by untrammelled markets and free enterprise.

With 'risk-taking as a way of life' (Stiglitz 2003: quoted in Pratt at p 97), the free market nirvana certainly delivered (and continues to deliver) great riches to some, but it also created enormous economic, and consequent social, instability for the many. Economic disasters—financial scandals, corporate collapses and widespread bankruptcies—have been a recurrent feature of neoliberal, globalised capitalism, culminating in the near collapse of the global financial system in 2008. Restructuring of industry and work—in particular, the clearing out and offshoring of manufacturing and the more recent, technologically driven rise of the 'gig' economy—has pushed many into the low wage, insecure economic margins, if not into structural unemployment or underemployment. The increasing privatisation of risk has introduced greater precariousness into work, family and community life and induced deep anxieties in many. Trade union power was curtailed in the service of individual economic freedom; as state protection against the effects of risk was withdrawn, 'access to credit replaced the welfare state as the basis of the social contract' (Skidelsky 2010: 178) and valorising the pursuit of self-interest tore away at the social fabric—'the webs of social obligation' that held society together (Fukuyama 1999: quoted in Pratt p 108). As John Gray (1993: quoted in Pratt p 143) observed, 'The mobility demanded by a dynamic market economy is not easily reconciled with a settled common life. The end result was the weakening or dissolution of the ties of the community and the generation of a society of strangers'. Robert Putnam (2000) captures this trend towards a shrinking, more defensive stock of social capital and a decline in trust in his book *Bowling Alone*. Pratt shows how this affected attitudes to risk and the rise of the securitised urban environment, involving everything from the burgeoning private security industry to gated communities, proliferating electronic surveillance (CCTV on every street corner) and the architecture promoted by defensible space theorists. Security as separation, surveillance and exclusion was directed at the visible stranger, the poor, the homeless and the 'Other' (those who are ethnically, racially and sexually different) as sources of danger, disorder and disturbance. Special measures were required to protect against their disruption to the free circulation of commerce and consumption.

This brings us to a centrepiece of the analysis: the appearance of the security sanction as a response to the dual character of risk under neoliberalism. In a reconfigured model of preventive criminal law, the security sanction is deployed to contain disruptive and disturbing sources of risk. Pratt notes that this was not a uniform development but one of a very practical, improvised nature. However, this did not prevent novel penal ideas and legislative strategies from travelling across borders or serving as templates that could be readily extended to newly discovered or defined categories of threat or risk. He argues that immobilisation lies at the core of the security sanction.

The four major types of the security sanction Pratt discusses are as follows:

1. Civility or 'quality of life' laws aimed at the sanctioning of street disorder (e.g., begging, loitering, sleeping and consuming alcohol in public places)—this trend in lawmaking was heavily influenced by Wilson and Kellings' 'broken windows' thesis (1982), which gave rise to the resonant 'zero tolerance' model of street-level policing. Just as vandalised or neglected physical environments should be rapidly repaired to pre-empt their further destruction or deterioration, minor instances of disorderly behaviour in public places should be quickly suppressed to protect the law-abiding from disturbance and guard against their flight from public space, in effect handing it over to undesirables and criminals.

2. Sex offender registers, notification systems and community surveillance regimes that seek to immobilise those who, by virtue of their previous criminal record, are regarded as presenting a risk of committing sexual assault.
3. Anti-terrorism legal regimes, including the enactment of anticipatory offences remote from any actual harmful act, control orders, extended detention powers and the like that aim to immobilise those thought to be at risk of engaging in terrorism—such measures, admittedly directed at potentially catastrophic risks, proved to be useful also as a template for laws aimed to control other risks groups (e.g., ‘outlaw’ motorcycle gangs in Australia).
4. Laws that provide for the immobilisation of risk groups through extending the reach of imprisonment at various levels of the penal process—pre-trial (bail laws, which increasingly focus on risk have contributed to soaring remand populations), pre-release (parole laws being tightened) and post-sentence (preventive detention laws that permit the imprisonment of certain categories of offender [typically sex offenders] beyond the expiry of their sentences via the hoax of ‘civil’ detention).

These departures from what are often regarded as fundamental principles of criminal law (e.g., certainty, prospectivity and proportionality) have largely encountered an accommodating attitude on the part of the courts, at least where there have been attempts to invalidate laws on constitutional grounds. This not only has greatly enhanced the powers of government and the executive in the management of risk but also attests to the strength of today’s ‘risk-averse penal climate’. Governments, however, have generally ignored the views of the liberal legal and other elites in relation to these measures in favour of making direct, ‘populist’ appeals to the fears and sentiments of ‘the people’. They claim they are undertaking a long-overdue rebalancing between the neglected rights of the community of decent, law-abiding citizens and the individual human rights of those wrongdoers who are beyond the pale of civilised humanity. Liberal experts who do speak up in criticism are often ridiculed as cosseted and out of touch with the lives of ‘real’ people. Penal populist interventions of this kind have become a familiar feature of the strategy of political leaders, as they resorted to exceptional measures to contend with new risks and insecurities produced by neoliberal policies and to shore up the flagging legitimacy of their governments. Penal populism has been a familiar subject of criminological analysis since the 1990s.

Pratt further develops the analysis to take account of the more recent flourishing of right-wing, authoritarian populism in the US, Britain, large parts of Europe and, to a lesser degree, Australia and New Zealand. Leaders may have claimed to be resolute in protecting their citizens and responding to their insecurities in this one domain of law and order but getting tough on crime contrasts with their seeming inability to deal with all those other risks and dangers unleashed by neoliberal globalisation effectively. The rhetoric and practice surrounding the security sanction may have helped to recover some legitimacy in the short term for governments and mainstream parties of the centre-right and centre-left that pursued neoliberal agendas, but according to Pratt, the limits of the strategy were exposed in two ways that can be seen as culminations of developments unfolding over the previous 30–40 years.

The 2008 global financial crisis (GFC) finally demonstrated the fallacy of neoliberal rhetoric concerning the self-correcting nature of free markets and made manifest where the real losses would be suffered when markets failed: bailouts for the rich few, austerity for the many, and loss of homes, jobs and savings for a large minority. Popular resentment against mass immigration had bubbled away over a longer period but was given a decisive fillip by certain developments: the attack on the Twin Towers and the global war on terror; the flow of refugees into Europe and other parts of the West following the US-led Coalition’s invasion of Afghanistan and Iraq; the admission of Eastern European countries to the EU, which saw the free movement of their citizens to Britain; and the ‘crisis’ on the southern border of the US as Latinos in growing numbers sought refuge in a nation whose white nativist population were becoming

increasingly hostile at the prospect that demographic change would reduce them to a minority. Borders and the sovereignty of states that had protected against economic uncertainty and threats to security and national identity were widely seen as imperilled by people movements (especially people of alien cultural and/or religious background), international agreements on trade and human rights, and the accelerated global flow of capital, ideas and technologies. All these were sponsored by global economic and political elites (the Davos crowd) with the collusion of national governments that, it was often alleged, were selling out the national interest of their own countries.

Thus, growing numbers were drawn into the arms of populist leaders and movements (e.g., Trump and Brexit, respectively) that vilified the elites and expertise, promised to 'drain the swamp' and vowed to liquidate much of the neoliberal order: to abandon free trade deals that had led to the offshoring of industry and jobs and to fortify national borders, especially against those of alien religious or cultural background. Trump promised to support domestic industries and bring back jobs. While campaigning, he disdained deference to Wall Street financial elites. He also supported social insurance programs, although (as with other right-wing leaders like Marine Le Pen in France) the commitment to state social provision was shrewdly couched in welfare chauvinist form. Entitlement was restricted to the native population, and free-loading outsiders were excluded. Trump's obvious (to some) insincerity notwithstanding, the appeal of much of his agenda and anti-elite rhetoric to a wide cross-section of voters who felt increasingly let down by political leaders is not hard to understand. Leaders like Trump, Boris Johnson and others in the right-wing authoritarian camp have successfully played on the sense of victimhood of their predominantly white followers not only with respect to crime but also as a national population threatened with losing their way of life and being reduced to strangers in their own land. As Trump amply demonstrated before and after his defeat in the 2020 presidential election, and as Johnson continues to show in less extreme ways, the populist politics they embrace rests on a much more overt disdain for democratic and rule-of-law norms than that shown by their centre-right and centre-left predecessors.

In the final chapter of his book, Pratt reflects on the possible impact of the COVID-19 pandemic on the politics of risk. This crisis, and its effect of immobilising the globe, has pushed other risks into the background and brought about a return of the experts and the absolutely central role of government in safeguarding the health and economic wellbeing of its citizens. It is, of course, too soon to tell whether enduring lessons and changes can be expected. The GFC is a reminder that things can quickly return to 'normal' after a crisis. This raises the question of how, in the light of the rise of the security sanction and recent crises, we might characterise the nature of the contemporary state. The limits of neoliberal market fundamentalism as a rationality of governance have certainly been exposed. Rather, what we may be witnessing is the insurance function of the state coming to the fore over and against classical liberal and social democratic visions of its role. Rather than merely playing nightwatchman of economy and society or active agent of redistribution and stability, the state has become the ultimate insurer against those economic and social risks that are unendurable. It seeks to immobilise intolerable threats, as with the security sanction. Equally, however, and when exceptional circumstances demand, it will harness vast resources (public debt) and intervene radically (e.g., short-lived bank nationalisations, costly wage subsidies and mass vaccination programs) to return the system to stability.

*Correspondence:* Professor Russell Hogg, Centre of Justice, Faculty of Creative Industries, Education and Social Justice, Queensland University of Technology, Brisbane, Australia. Email: [russell.hogg@qut.edu.au](mailto:russell.hogg@qut.edu.au)

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