

CRIME-AND-PUNISHMENT-RELATED INFORMATION
AND ITS CONTROL IN POSTMODERN SOCIETY:
FUNDAMENTAL UNDERSTANDING
ON CONTROL MODE OF INFORMATION¹⁾

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I Introduction

In the highly-informationalized society all incidents are informationalized and processed as information. As a distance between information and reality shrinks, a boundary between reality and fiction becomes blurred²⁾. In the world of hyper-reality a representation is constructed more really than reality. In such an hyper-real world, there exist only plural latent possibilities and a so-called reality is only one hypothesis of those possibilities. What is selected and agreed as “reality” depends on “contingency.” A discourse system selects one out of plural latent possibilities and establish it as reality.

Postmodern knowledge puts a self-organizing view of order against a mechanical view of modern science. It suggests a generic model of decentralized and paralogical order. According to Prigogine and Stenger, it is necessary for a system to be open to its environment and coordinate itself through exchanges with its environment in order to maintain its order³⁾. We can imagine an open-system in which its order and structure are maintained through inputs and outputs of materials, energies, information, and so on between a system and its environment. An amplification of uncertainty on the micro-level produces a

pattern on the macro-level and, as a consequence, a self-organization of general order emerges. Such an order formation apparently differs from a control from the center with certain aims. In the postmodern situation, there appears not a results-oriented control but a “rhizome” in motion which eternally pursues an articulation of differences and a self-compilation of meanings⁴⁾.

II Internet Crimes and their Control Strategies

A Informationology of Crime and Punishment

In the criminal justice system an event/incident is recognized as crime and taken in it as criminal information. Criminal justice coded information is accumulated, preserved and used/profited/disposed as property. On the other hand in mass-media crime-related information is transformed into media coded information through a filter of news value based on consumerism⁵⁾. Accumulated and preserved information is transmitted to people through selection, process, over/under estimation, partly-amplification and so on. People are obliged to accept and consume media coded information as they have only limited sources of information. As a consequence their recognitions on problems of crime and punishment are confined to the framework limited by both criminal justice system and mass-media.

Generally speaking criminal justice coded information and media coded information each has attached importance to different values: the former use-value the latter exchange value. With development of information society, however, both interact each other and a total value increased all the more. Moreover with a diffusion of internet it becomes easy to get lots of and multifarious information and a stock control of criminal information

reduces its value. As all kinds of information are floating in "cyber, virtual and rhizome space," a flow control becomes more and more important. In this situation we need to investigate information of crime and punishment through discourse analysis, pursuit of control mode and so on and to construct informationology of crime and punishment.

B Genealogy

On internet crimes and their control strategies, although a large number of researches have been carried out into practical problems, little is known about theoretical, especially epistemological problems. The first question we have to ask is whether internet crimes and their control strategies have changed as time goes on. This question is one of assigning proper coordinates to clarify present crucial problems.

Hollinger states that the history of computer crime and deviance can be divided into four period: the discovery of computer abuse (1946-76), the criminalization of computer crime (1977-87), the demonization of hackers (1988-92) and the censorship period (1993-present). During first period, scholarly writings focused on describing the nature of the phenomenon. The principal focus of the second period was concentrated on correcting through legislation the numerous deficiencies in the criminal law related to computer-related abuse. The third period was characterised by several less-than-successful law enforcement efforts to identify and sanction the computer deviant, especially hackers and crackers. With the advent of the internet, the fourth period focus of criminal justice concern has been directed towards limiting the access to both classified information and various dangerous collections of material such as the sexually deviant and pornographic pictures⁹⁾.

The latter two periods are more important for us to clarify what are present crucial problems because we can find the inge-

nious development of control and regulation strategies.

During the third period, Hollinger explains, although the real threat of computer crime has been from organization insiders, computer security professionals have feared a malicious computer cracker gaining unauthorised access to a important institutional computer system — stealing, damaging or destroying its stored information and programs. With the permission of remote access to virtually every computer system in the world, there appeared some who wished to severely limit the free exchange of information and images. Hollinger keenly analyzes that the justification for radical attempts at global computer network censorship is based on some of the very oldest reasons, namely fear of crime, sex and violence.

As having seen above we can recognize the slow but steady movement towards strict control strategies against computer and internet crimes⁷⁾.

C Archaeology

The second point that requires clarification is that the focal concern and discourse has changed as time goes on.

Chandler examines the changing definition and image of hackers in popular discourse. She argues that although the term 'hacker' has not always had criminal connotations, it has changed in definition. These changes have culminated in a negative and criminal image, e.g. hackers being compared to burglars and even murderers. Her conclusions are that representations and images of hackers in the media and film are negative. In Britain news reports and accounts portray hackers' activities as dangerous and potentially subversive through the use of criminal, psychopathic and alien imagery. Thus an activity which once attracted admiration, even respect, is now portrayed as murderous and treacherous. British newspapers are filled with negative headlines, e.g. loss attributable to computer crime, virus alerts,

threat to human life, demand for legislation against internet crimes. The hacker has joined the rogues gallery of modern folk devils⁸⁾.

Wallace and Mangan, based on their historical analysis, state that in the war for control over cyberspace, the initial optimism quickly gave way to a moral panic over the potential abuses that it could engender. However the global, instantaneous nature of the internet makes it unlikely that governmental regulation could succeed in its aim as it interprets censorship as damage and re-route its lines of communications. They emphasize that we should preserve the pluralistic worlds of small communicators and that the internet must remain free⁹⁾.

These investigations serve to strengthen the claim that there exist moral panics in the movement to harsh control strategies.

D Hermeneutics

The third argument deals with the way how to explain control and regulation strategies.

Duff and Gardiner, analyzing strategies for control and regulation, come to the conclusion that the reason for criminalization of unauthorized hacking has been symbolic. The media have, as conveyers of contemporary symbols, had a crucial role in this criminalization. It is not the disenchanted employee as the insider, or the operations of organized crime, but middle class youth, who have been criminalized as the perpetrators of computer crime. In addition they indicate the paradox that although the most new technology will liberalize men and open up new horizons, it has increasingly been used to control information. The criminalization of hacking has resulted in restriction of information and exclusion. The information technology has facilitated the spread of techniques of social control. The Electronic surveillance is insidiously encompassing our lives¹⁰⁾.

Lyon examines major dimensions of surveillance in the society

in which computers and other electronic technologies permit personal data to be collected. According to his examination, four areas experiencing a tremendous expansion of surveillance capability are government administration, policing and security, capitalist work situation and consumer marketplace. In practice, these distinctions are blurred because data gathered for one sphere find their way into databases related to other areas. Understanding the surveillance society requires several kinds of debate, across several disciplinary areas¹¹⁾.

Grabosky and Smith mention regulatory dilemmas that on the one hand the pursuit of a strict regulatory agenda is not feasible because of the limited capacity of the state, on the other hand the over-regulation may stifle commercial and technological development¹²⁾.

Similarly, Grabosky, Smith and Wright, after examining opportunities for crime and its prevention within the exploding field of digital telecommunications, suggest the way how to control telecommunications and cyberspace illegalities. They state that no single crime prevention strategy will be sufficient. For telemarketing fraud and similar internet offences, self-help by an informed public might be most useful. For electronic money laundering, direct governmental intervention would be required. Interceptions and theft of services would be most effectively controlled by technological intervention such as encryption. The prevention of telecommunications crime should attempt to minimize coercion, maximize privacy, and minimize barriers to the further development of technology¹³⁾.

These investigations share certain similarities in that we expose ourselves to danger of a perfect surveillance. Such a present surveillance spread society was called "maximum security society" by Marx¹⁴⁾, "electronic panopticon" by Gordon¹⁵⁾. There the distinction between public and private is blurred and citizens become subject to constant inspection. As Hollinger mentions, the computer and internet are liberating technologies that

afford all citizens, rich and poor alike, greater access to information than ever before. He insists that we must set for more battles over the regulation and control of this new technology.

E Paradigm Change: From Modern- to Postmodern Paradigm

So far we have outlined the way in which control strategies against internet crimes have devised, developed and formulated. At present it is useful, rather necessary, to discuss the way how to perceive information.

As the information-oriented society develops, the mode of information becomes more important than the mode of production. Whereas from the viewpoint of the mode of production a commodity has a use value and a exchange value, from the viewpoint of mode of information, I think, information has a stock value and a flow value. In the internet flow information is more valuable than stock information because in so-called "rhizome space" it is difficult to control and regulate all informatin. Information of crime and punishment is floating in the real-and-virtual-mixtured cyber space. This is the state of affairs in our present information-oriented society.

So, we need to postulate a completely different paradigm to explain all these phenomena. In other words, we need a paradigm change from a modern- to a postmodern paradigm.

III Postmodern and Mode of Information Control

A Relationship between Reality and Information: Multiple Latent Possibilities

In the highly-informationalized society all events are informationalized and processed as information. As the distance

between information and reality dwindles, events transmitted there are changed into “shows,” the boundary between reality and invention becomes obscured, and conditions distinguishing truth from fault are lost. In a world of hyper-reality in which representations are constructed more realistically than reality a dualistic premise which establishes a relation between reality and information, that is a relation in which a real world pre-exists before information and information is acquired to make its recognition possible does not exist any longer.

It is nothing else but a suspicion against epistemological premises of modern science. A reality does not independently exist in the external world, but is constructed through mental works of human beings. A world which is made a subject of scientific research is articulated by the language of recognizer and its recognition is mediated by the analysis of language structure.

Realities which are made with the intention of being reported and reproduced from the outset, which Boorstin call “para-events,” permeate through news programs. The world in which para-events increase and images are in flood symbolically appears in a world of advertisement which makes a distinction between reality and fiction void. In a close relation with organizing principle of consumerism media tends to be concerned with creating desires rather than distinguishing realities¹⁶.

Thinking in this way a reality exists only in a symbolic space organized based on the specific code and it becomes meaningless to distinguish representations of reality from original object. There, without circumstances in which events are interpreted in the real order, it is impossible to define cause and effect in a simple meaning. There exist only signs and symptoms with diverse interpretation potentials and any interpretation can not exist as a place of genuine reality or a privileged place.

In a hyper-real world there exist only multiple potential possibilities. What is chosen and comes to an agreement as “reality” depends on “contingency.” A discourse system chooses one from

multiple possibilities and establish it as reality.

B Simulated Surveillance: From Accumulation to Projection

Daily activities in our time leave traces of information. With their accumulation a profile of each person is made, and more and more detailed image of each person is refined. In this way accumulated and formulated data-bases not only intensify controls of individual through making-up and piling up an identities of individual, but also replace original individuals through rearranging realities and making-up and adding new identities¹⁷⁾.

While data-bases work as "super-panopticon" and make-up identities of individual, according to the program computers treat individuals based on personalities of individuals made-up in such a way. Information on individuals is successively and systematically accumulated in secret like prisons and profiles of individual are made-up. Data-bases keep eyes on us more accurately and perfectly than any other¹⁸⁾.

Computer-profilings are not simple technologies of surveillance but surveillances before surveillance, that is technologies for "observations before reality." A profile is "a prior ordering" and scans normal cases and exceptional cases with organizing multiple information. It exists in the place on which "something realistic" and "something virtual" are crossing and is more real and important than a case itself. If someone's data (sex, age, type of car, and so on) coincide with the profile, irrespective of whether he/she actually committed a crime, he/she becomes its target. A series of police activities begin with typical criminal images. Such a highly-ordered surveillance technology speeds up data processings and tries to actualize a much more highly "prior controls."

A simulated surveillance aims at a perfect deterrent situation and elaborates an anticipated, programmed prior control strategy. When the surveillance become perfect, the panopticon itself

which is characterized as careful, inconspicuous, camouflaged and unidentified disappears. Within a smooth mechanism such as self-watching and participatory control, the central tower which shows discipline gradually become only a sign, a symbol, an imitation and at last unnecessary. While conventional, inefficient control technologies are secretly being dissolved, at the same time, the control is reorganized in a more genuine, inconspicuous, diffused and inflated way. With a simulationalization of surveillance, the panoptic surveillance is emancipated from special limitation.

As a scene and a prospect, a real and a virtual begin to merge through simulation and a surveillance comes near the super-speed of simulation, information is not accumulated but projected. A surveillance becomes prior panoptic and scans a scene without object. As a sphere of perception control expands and a distance disappears with a speed of electronic information, a surveillance turns toward anticipation in a genuine form. Surveillance activities reach at the extreme simulation stage and their technology hypernize extremes (visible and invisible, inside and outside, watcher and watched, close and remote, active and passive) which have limited a surveillance. In this manner a surveillance develops from the arrangement of space and visibility to the simulacrum of time and space, from a domination of territory and distance to the control of self-organizing, self-reproducing, fractal scene, from a test of sentences within contexts to the test of dichotomy in an ethereal information space¹⁹⁾.

C De-Centralization and Surmounting the Modern

In a highly-informationalized society multiple realities live together and jostle each other. There the relation between sign and original represented by it no longer exists, and a "subject" who is a source of signifying relation between sign and collated

object dissolves. A reality is divested of its superiority, and a subject gets diversified, dispersed and decomposed within a present milieu of information.

Einstein's theory of relativity subverted a Newtonian idea of absolute time and space, Goedel's imperfection/incompleteness principle broke a basis of absoluteness of mathematical recognition and Heisenberg's uncertainty principle explicated the impossibility of existence of objective real world absolutely separated from recognizing subject. Electronic media promote a multiplication and fragmentalization of life space through destructing physical characters of space, and compress, fragment and multiplize irreversible time into reversible and manipulative one. In this situation social images conforming to a physical time and space, homogenous and unlimited space and linear and irreversible time, become incongruous with everyday experiences, and a paradigm change advocating a new social theory is desired.

A centralization of a specific value (production, efficiency, humanity and so on) as a point of conformity, as seen in "a centralization of speaking subject" in western modern, is followed by a creation of power as suppression and expulsion of the marginal and this is legitimized by the central value. A modern subject is constructed as "a representing subject" in the process in which an expression as event is constructed as discourse through establishing relations with other non-discursive elements. "Decentralization" of the subject as a way of surmounting the modern can be seen in the estrangement from substantial comprehension on a relation between sign and meaning, signifying and signified, and in the cutting of language from representation and speaking subject. This means the emancipation of discourses tied with modern subjects²⁰.

D Postmodern Paralogy and Complexity:

From Closed Equilibrium System to Open Unequilibrium System

The construction of social theory based on a new paradigm starts from the point of "relational thought" based on a structural paradigm. The thinking model of structurism rejects a organic, mechanical "substantial" model and introduces a "relational" model of language. The structural paradigm dissolves a modern framework of thought and re-arranges "a relational knowledge." Contemporary thoughts and knowledges such as post-structurism and postmodern-thought attempt a thorough differentiation and decentralization so as to avoid a re-centralization of structure.

According to Lyotard the modern thought legitimizes itself in accordance with "a ground story" and inclines to a consensus, center and identification. Whereas a postmodern knowledge is characterized by its heterogeneity and de-centralization, and its ground can be found not in a homologie of specialist but in a paralogie of inventors²¹⁾.

This model of paralogie for legitimization is affected by the so-called postmodern sciences such as Tom's "catastrophe theory" which is concerned with something undecidable, uncertain and uncontrollable and Manderbro's "fractal theory" which makes a model for the accomplishment based on a creation of something unknown and heterogeneous. The knowledge such as "scattering structure" in a field of thermodynamics, "autopoiesis" in a field of biology and so on puts a new view of "self-organizing order" against a view of mechanical order of modern science which is derived from a objectivism, determinism, cause-effect theory, evolutionism and so on. There appears a generative principle model of a decentralized, paralogical order²²⁾.

According to Prigogine and Stenger, in order to maintain its order, it is necessary for a system as open system to be open to the surroundings and coordinate itself through exchanges with surroundings²³⁾. With expanding this thought, we can imagine the open system whose order and structure are maintained through input and output of materials, energy, information and so on

between system and surroundings. The traditional view of order and system is rejected, and an amplification of "vacillation" on a micro level produces an appearance of pattern on a macro level and as a consequence a self-organization of general order emerges. Such a way of order formation is different from a view of order as control exercised from the central with certain aims. In the postmodern conditions there appears not a outcome-oriented control but a rhizome movements in which articulations of differences and self-compilations of meanings are eternally pursued²⁴).

IV Conclusion: Ambivalence of Information Society

Enormous kinds of observation on lives of citizens, gatherings and accumulations of personal information ranging from consumption disposition to crime careers are not matters which are assessed on a technological level, a present progress of information technology, but matters which are grasped as a structural problems inherent in the modern society in which a modern established as nation states has particularly been interested in gathering information and controlling²⁵).

We can see a qualitative change of surveillance structure in which every organization records and registers individual everyday activities and a surveillance ability of society is remarkably reinforced²⁶). A present surveillance structure is constituted of a chain of micro activities in which individuals freely gather and offer information without considering its meanings. Poster sees a contradiction of present society in which functions and grammars of database create relations among factors of information and let people participate in additional construction of themselves, and databases, a kind of mode of information, function as "super-panopticon" (surveillance system without walls, windows

and guards)²⁷⁾. So we cannot turn our eyes from a qualitative change of micro politics of power, politics being carried by a variety of cultural praxes which are socially placing and arranging technologies and its contemporary mode.

However in a complex societies a binding power of community groups deteriorates and individuals belong to various subsystems and have living spaces in multiple time and space. As a degree of dependence on outer factors in constructing activities decreases, reflections on individual experiences, self-constructions of activities through self-choosing of information, and self-reference of activities increase. On the other hand a new power is complicatedly developed in a process of self-determination of activities through social construction of information. At this point we need an analysis of mode of its activities²⁸⁾.

In the analysis of contemporary society it is important to recognize the ambivalence: we can see on the one hand an expansion of individual choices through circulation of enormous information, on the other hand a direct intervention of society into individual mind and body through social formation of discourse. In a present postmodern society anonymous powers are concealed in the production and circulation process of both information containing sets of particular meanings and symbolic resources.

A present society increases self-determination and self-reference of activity on the activity level corresponding to a structural change, that is a new system construction toward autonomy and dispersion. At the same time whenever information is produced and accepted in a certain social arrangement, there exist invisible power relations which are needed cultural and political analysis of discourses. We must focus on a transfiguration of social time and space multiple-stratifiedly composed with informationalization and clear contradictions which are pregnant in it²⁹⁾.

[Notes]

- 1) This monograph is based on two papers. One is titled "Crime Information and Its Control in Postmodern Society: Fundamental Understanding on Control Mode of Criminal Information" and presented at The 14th Annual Conference of The Australian and New Zealand Society of Criminology, September 27-30, 1999, held in Perth, Australia. The other is titled "The Epistemological Investigation on Internet Crimes and their Control Strategies: Genealogy, Archaeology and Hermeneutics" and presented at The 12th International Congress on Criminology, August 24-29, 1998, held in Seoul, Korea.
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