

Criminality, Risk and Governmentality: Crime, Justice and Surveillance in Late Modernity/ Postmodernity

Noriyoshi Takemura

桐蔭横浜大学法学部

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1. Introduction

Recently it is said that the crime rate has rapidly been increasing in Japan. Facing the challenge of this change, the situation of crime and justice has been changing. Introducing high-tech crime control measures such as CCTV, Japanese society is rapidly moving towards a surveillance society. At this moment, we can see the trilemma among “safety, freedom and justice” in Japan as well as European countries. In this paper the present state of affairs and problems are discussed.¹⁾

2. Discourses by the Government²⁾

2.1 Characteristics of Robbery with Changing Nature and Background Factors Thereof

According to the White Paper, official discourses will be traced as follows. Homicide and robbery are regarded as offences of which the number of non-reported cases is smallest. In particular, the number of robbery cases has been rising sharply and qualitative changes have also been seen in recent years.

These changes are summarized into the following 5 points:

- i) increase in street robbery cases committed by juveniles,
- ii) increase in indoor robbery cases (those involving intrusion) committed by adults,
- iii) increase in robbery cases committed by organized crime group members and those committed by visiting foreign nationals,
- iv) signs of concentration to metropolitan areas and expansion to neighboring areas,
- v) increase in the number of victims and the extent of damage.

Noriyosi Takemura : Department of Law, Faculty of Law, Toin University of Yokohama, 1614 Kurogane-cho, Aobaku, Yokohama, Japan 225-8502

2.2 Countermeasures and Challenges regarding Crime Prevention

The sharp rise in the number of robbery cases has reached a level that has never been seen in Japan except for the chaotic period immediately after the war, and despite exhausting efforts by the investigating authorities, the clearance cannot keep up with a high pace of the occurrence of robbery cases.

Under such circumstances of the time, there seems to be a change in the public awareness from “we are given community safety as a natural benefit” in the age of peaceful situation to “we have to acquire community safety with our efforts and expenses.”

The police currently take various measures to improve relevant infrastructures such as promoting environmental designs that take crime prevention into consideration and setting up street emergency call systems (super security lamps) as well as improve security services such as reinforcing patrols, enhancing functions of police boxes, providing the public with information on crimes, and supporting community crime prevention activities. Furthermore, citizens also make efforts to enhance crime prevention activities while developing cooperation with the investigating authorities, by recovering community ties and strengthening alignment within the neighborhood through residents’ associations and parent-teacher associations as well as by collaborating with volunteer groups. Further enhancement and development of such public-private cooperation in crime prevention activities will contribute to preventing the rapid increase of crimes.

2.3 Aiming for Pleasant Society Free from Heinous Offences

As the increase in heinous offenses has resulted from a complex combination of various factors, we cannot find the only way to solve this problem, which has an immediate effect as special medicine. Under the current circumstances where people are feeling “insecure” instead of “safe” about public peace, appropriate measures against the rapid deterioration of crime situation have never been desired so strong as they are today. Safe and secure life is not naturally given to but should be acquired with efforts by citizens, and reasonable costs are required for taking public security measures.

When aiming at realizing safe and secure society, we face not a few problems that are difficult to solve only through criminal justice. For this reason, it is absolutely necessary that criminal justice authorities, which play a central role, as well as other ministries concerned and all organizations and individuals, including families, schools, workplaces, communities, and volunteer groups, will cooperate with one another beyond boundaries and make consistent efforts to design and carry out radical measures to prevent heinous offenses while offering opinions from various perspectives.

3. Responses by the General Public

3.1 Society under Surveillance³⁾

3.1.1 Fear of Crime and Increased Demand for Security Monitoring

Surveillance cameras are sprouting like bamboo shoots in Japanese society. A newly developed housing project, for example, the watchful eye of a security camera never lets up. Eight security cameras monitor entrances and even the adjacent park around the clock. Public anxiety over increasing crime is one reason that residents want intense scrutiny.

In the past several years, the media have intensely covered heinous crimes, including the brutal slayings of families, the kidnapping of young children, and even injuries and deaths perpetrated by intruders at elementary schools. Moreover, burglaries are on the rise. According to the National Police Agency, about 38,000 homes were broken into in 2004, a 3.4 fold increase from 10 years before.

According to the Mitsubishi Electronic Corp., sales of security cameras are steadily growing. Demand is particularly rising among schools and businesses with a lot of customers. Demand is also growing for biometric personal identification systems that check physical attributes such as fingerprints. The Fuji Keizai Co., the Fuji Economic Co., a private market research company, estimates that the demand for these kinds of security systems will reach about 400 billion yen in 2006.

3.1.2 Subsidies for Surveillance Systems: Shift of Responsibility from Public to Private

The government is trying to shift responsibility for crime prevention to the private sector. The blurring of the public-private distinction is also the issue.

Many communities install surveillance systems. Local governments are also providing subsidies for surveillance systems on the assumption they help reduce crimes. In fiscal 2003, for example, 14 groups received financial assistance from the Tokyo metropolitan government. The metropolitan government earmarked 300 million yen in its fiscal 2004 budget to help defray the cost of installing cameras at 100 locations in Tokyo.

In addition, the police encourage people to set up surveillance systems. Although decisions on surveillance are up to the local communities, once the system is in place, for example, at a shopping area, the police sometimes come with requests for surveillance camera data. Accesses to such data by the police and the government are important issues as the "surveillance camera society" expands.

As there are few manuals to follow, they have to come up with their own operating procedures. Suginami Ward is the first municipality to codify clear-cut rules on surveillance camera usage. In 2003, a survey of ward residents found that 90% felt the cameras were necessary and effective but 30% were still concerned about privacy issues.

3.1.3 Effectiveness of Security Cameras

There is a controversy concerning whether security cameras are really effective in preventing crimes.

Masahide Maeda, professor of Tokyo Metropolitan University, studied what happened when police surveillance cameras were installed in Tokyo's notorious Kabukicho entertainment district. He used data compiled by the Tokyo metropolitan police.

According to the data, both the number of serious crimes, such as arson and robbery,

and less serious ones, including break-ins and theft, dropped by more than 60% from 2000 to 2002, before and after police installed security cameras. But during the same period, the number of serious crimes doubled in Tokyo's Ikebukuro district, where there were no police cameras. The results suggests that criminals who were formerly active in Kabukicho might have moved to other area.

On the other hand, according to Toshimaru Ogura, professor of Toyama University, security cameras themselves are not effective in eliminating crimes. What is really needed is a way to reduce the number of people who take to crime because they feel alienated from society.

3.1.4 Surveillance vs. Privacy

There is a fine line between surveillance and violation of privacy. While some say that surveillance is necessary to secure safety, many complain that it makes society tense and oppressive. Technological advancement is accelerating the trend.

Most people welcome the cameras even if the equipment invades their privacy. Privacy for most people takes a back seat to protection against mugging and thieves. According to a survey conducted by the Center for Better Living Foundation, 70% of residents said that surveillance cameras made them feel "safe," as if they were being watched over, compared with 27% who replied that it was uncomfortable, as if they were under constant watch and guard.

The consensus among more people now seems to be that the cameras will stay as long as the threat of crime exists. Officials of a major manufacturer of surveillance cameras says that demand for cameras in private apartment complexes has tripled in the past five years. People are more concerned about their safety rather than protecting their privacy.

But according to Takao Saito, journalist, as the division between watchers and the watched may advance, we could find ourselves living in an undisguised hierarchical society.

3.2 Surveillance, Media, Government and Public Opinion: Everyday Policing in Japan⁴⁾

3.2.1 Public Indifference to Administrative Surveillance: A Reluctant Acceptance

Abe mentions that the birth of the modern nation-state has a close relationship with the rise of surveillance (Giddens, 1985). In this sense, contemporary modern society, which is often referred to as the 'information society,' can also be called the surveillance society (Lyon, 2001). With the advent of information and communication technologies (ICTs), the way of surveying and policing people and society has become more pervasive and subtle.

According to his analysis the attitude of most people would be negative to an increase in the administrative control of information about individuals. But at the same time, people seem to be benignly persuaded of the 'inevitability' and the 'necessity' of such control over a range of information about citizen. In the context of the debate on the 'necessity' of administrative control of private information, the concept of 'public security' features as a key term.

3.2.2 Introduction of Surveillance Systems and Lack of Public Concern

Administrative surveillance in Japan is on a dramatic rise with the improvement of electronic network systems. There are monitoring cameras or sensors surveying individuals at railway stations, shopping malls, 24-hour stores, baseball stadiums and many other public places. In this sense, systematic surveillance has become a common place of our everyday existence.

However, official notices warning us we are under surveillance are rarely seen in the public places we frequent, the subway stations, the shopping malls or car parks. In other words, although there exist a variety of surveillance systems in our daily lives, there is little discourse that allows us to recognize the existence and the use of these systems. This is obviously one of the reasons why the discussion about surveillance of public spaces has not attracted that much attention among Japanese citizens. As a result, we are oblivious to the fact that we live our daily lives under systematic surveillance without worrying about it.

3.2.3 The Administration's Lack of Accountability: Opportunistic Negation

It seems that the policing of our everyday life is becoming more and more pervasive and subtle in the age of the Internet. By law, administrative offices must let us have access to any information that concerns our everyday lives. In democratic societies, such legislation is indispensable in order to guarantee the citizen's right to know. However, for those in political-administrative power the law of access to information is not so welcome because it can be used as an effective tool for the public to scrutinize and criticize what the government and administration are doing.

In theory, if the surveillance system's function is to foster public security, the accountability and responsibility of those who work at the organizations collecting and surveying a variety of information on individuals should be indispensable. But the reality is far less positive.

3.2.4 The Current Direction of Policing in Japan: Public Security as Primary Objective

Emphasizing the necessity to tighten public security, they can legitimate a higher degree of policing of people's everyday actions. Owing to the moral panic conjured up by the media's reporting, the public also seems to have accepted and sometimes even welcomed this enhancement of security. Within the context of Japanese society at present, policing the everyday lives of citizens to guarantee public security is taken for granted, even though the privacy of the individual might be at risk.

It is apparent that this relationship between the media, the public and the government is far from the normative relationship that should exist in civil society. Overwhelmed by the potential danger of the enemy at the gates, which is regarded to violate public security within, both the media and public opinion cannot maintain a reasoned critical attitude towards the increasing surveillance. As a result, the surveillance policy implemented by the government faces little opposition, even if it threatens the basic rights of citizens through the constant policing of everyday life. Contrary to the normative relationship, where we can see a healthy tension between the three actors, there exists a harmonious codependence.

4. Risk, Security and Surveillance

4.1 Crime, Risk and Surveillance in Japan⁵⁾

4.1.1 Safety and Security “Boom” and Paradox of Dominance through Fear/Anxiety/Panic

The phrase of “safety and security” has become popular among various kinds of spheres in recent years. For example, The Metropolitan Police is advancing the campaign “Propulsion of Making Safe and Secure Town”. But we have to pay attention to the danger that safety and security for some is risk or insecurity for others. So we need pursue safety and security not for some community but for all including minorities.

Nowadays people are in a sense forced to cooperate for safety and security. “Safety and security”, which are to liberate people from terrorism, “dominance through fear/ anxiety/ panic”, paradoxically put them under a new dominance through fear/ anxiety/ panic. Power is rampantly and unjustly exercised through using fear/ anxiety/ panic of people. Although the government makes sacrifices of freedom and rights of citizens for safety and security, lots of people support their government.

4.1.2 Mechanism for Acceptance of Surveillance: Amplification of Risks

Surveillance society, which puts prevention of terrorism and crime as the ostensible reason, comes to the situation which the general public is asked to accept biometrics like fingerprint etc. At this moment we can recognize the mechanism through which people accept to be kept under surveillance from the eyes of surveillant.

Development of surveillance society extends from biometrics to grasp of space location. Surveillants grasp personal information through high-tech surveillance systems. Here we can find the advancement of “scannerization” of urban-space. Surveillance systems are spread over streets, schools, condominiums, etc. Everyone is kept under surveillance. Public space where the rights to speak is guaranteed is getting narrower and narrower.

The reason why surveillance society advances is that fear/ anxiety of people brings forth a desire for security. And the root of fear/ anxiety lies risk society. Contemporary society is characterized as the age when people are scared of invisible risks with increase of unperceivable risks like terrorism, global warming, radioactive contamination, etc. The mechanism through which anxiety is amplified is concealed in the sphere of politics. Anxiety among people is amplified through political utilization of risks. Because risks are invisible and it is difficult to foresee them, scopes for manipulation of information increase.

When anxiety for invisible “vice” is stirred up, if people think themselves standing on the side of “virtue”, they wish to be liberated from anxiety. In this way they lose “sense of forfeiture of their freedom” through surveillance.

4.2 Globalizing Surveillance: Comparative and Sociological Perspectives⁶⁾

4.2.1 Modernity, Surveillance and Risk

Lyon analyzes the globalizing surveillance from comparative and sociological perspectives as follows.

In its modern forms surveillance is both entwined with capitalist production and consumption as well as state-oriented bureaucracies and international military affairs, and has become highly sophisticated. But surveillance is also routine, an aspect of daily life that increasingly involves everyone. In addition, surveillance has become increasingly bound up with the mediation of risk. For Ulrich Beck, what he calls the risk society appears as an outcome of industrial society when the social, political, ecological, and individual risks created by the momentum of innovation increasingly elude the control and protective institutions of industrial society (Beck, 1996).

4.2.2 Late Modernity, Surveillance and Globalization

Surveillance experienced some important changes during the last part of the 20th century. It began to morph from its erstwhile character as a centralized and hierarchical 'apparatus' of the state or of capitalistic corporations and started to take on a different character as a decentralized and rhizomic 'assemblage.' Fragments of data are extracted from bodies (biometrics does this literally; other forms of surveillance relay on behavioral traces) by a variety of agencies to be processed and often profiled to create data images or 'virtual selves.' These are used as the basis of discrimination between one category and another, and to facilitate differential treatment. While some forms surveillance retain their face-to-face frame, others have become increasingly dependent on software codes and algorithmic methods (Graham and Marvin, 2001). And as a concomitant of these, surveillance is also being globalized in unprecedented ways.

4.2.3 Globalized Surveillance and its Consequences

Surveillance is an increasingly globalized phenomenon. The ordinary reasons are that as modernity globalized, surveillance globalizes along with it. The extraordinary reasons relate to the events and consequences of 9/11, that are catalyzing surveillance developments in several countries simultaneously, and , importantly, are permitting further convergence of different kinds (state, commercial) of surveillance. Several consequences may be traced from this.

First, whether for the purposes of commerce or policing, networked surveillance blurs the old borders of surveillance. Standards are developed between countries, for example, for the detention and apprehension of offenders or suspects.

Second, certain surveillance trends may be accelerated in a global context in response to 9/11. Two trends have emerged in greater strength in recent years -- the privatization and the militarization of police. More and more private police forces, often referred to as 'security' agencies or similar, complement public policing in the 21st century.

5. Complexity/ Contingency and Governmentality

5.1 Crime and the Risk Society

According to Pat O'Malley, the thesis of 'the risk society' has recently moved to a central place in social theory and is increasingly becoming a major issue in criminology. Risk society is understood as a society which is organized in significant ways around the concept of risk and which increasingly govern its problems in terms of discourses and technologies of risk. In the field of crime control in the risk society, problems are being governed in terms of statistical aggregates, populations and distributions rather than individuals. The governance of crime is becoming actuarial in its form.

The crime and risk society thesis argues that actuarial criminology and criminal justice deploy such knowledge in a distinctive fashion. 'Penal modernism', the dominant approach over the past century, deployed actuarial knowledge to discover the causes of crime and to develop means whereby social engineering and therapeutic correctionalism could attack crime at its roots and reform individuals. Its aim was to normalize pathologies. In Foucaultian terms, actuarialism was subordinated to the purposes of a disciplinary regime and a disciplinary society. On the contrary, the actuarial crime control regards crime as normal and subordinates disciplinarity to the purposes of actuarialism.⁷⁾

5.2 Crime Control and Governmentality

5.2.1 Concepts of Governmentality

Eugene McLaughlin et al. mention that crime is a socially constructed and historically contingent phenomenon. Definitions of acts as 'criminal' or 'legal' must be viewed as tentative and capable of redefinition. Furthermore, the institutions, authorities and procedures which provide any society with its mechanism for controlling and preventing crime cannot merely be taken at face value as methods of dealing with the particular behaviours of specific individuals. Such measures reflect wider concerns about the existing social order and they are a crucial part of the processes for exerting control, regulation and discipline over 'society' and for the governance of the soul of individuals and whole populations.

The governmentality literature which has emerged in the wake of Foucault's initial thoughts provides a challenging framework for analyzing how crime is problematized and controlled. This body of work focuses on 'the present' and avoids both reductionist and totalizing analyses. Instead their anatomy of contemporary practices focuses on how particular modes of exercising power depend on specific ways of thinking (rationalities) and of acting (technologies) as well as ways of subjectifying individuals and governing populations.⁸⁾

5.2.2 Governmentality by Foucault

Russel Smandych explains Foucault's work, governmentality, and its influences. According to his explanation, Foucault uses the neologism 'governmentality' to capture the dramatic changes in techniques of government developed in the western world from the eighteenth century onwards. These changes included the development of a range of multiform tactics for the government of populations outside the state, as well as 'the governmentalization of the state' itself. The study of the 'art of government' involves addressing questions of

'how to govern oneself, how to be governed, how to govern others, by whom the people will accept to be governed, and how to become the best possible governor. The influence of Foucault's thinking is increasingly coming to be reflected in the work of critical socio-legal scholars and criminologists who have begun to recognize that the study of the 'art of government' involves the study of a sweeping range of questions concerning the nature and form of various techniques, strategies and rationalities of liberal government.'⁹⁾

5.2.3 Arguments concerning Governmentality

Concerning governmentality, there is an argument between David Garland and Kevin Stenson, and both offer contending theoretical and methodological prescriptions for future work in the field governmentality and crime control.

Garland argues that while 'the governmentality literature offers a powerful framework for analyzing how crime is problematized and controlled', it also has several limitations and problems. Most governmentality research has a tendency to look at 'government' as 'a problem-solving activity' mainly 'through the perceptual grid of the programmes and rationalities that the authorities generate to deal with them' . This methodological weakness is one of basically taking the statements of authorities concerning crime control at face value without trying to glean knowledge about crime control programmes and rationalities from other possible sources. Moreover, there is a tendency of governmentality researches to direct their analyses towards 'technical and knowledge-based' crime control rationalities, while neglecting 'the expressive, emotionally driven and morally toned currents' that play a large part in shaping crime control policy. Based on this critique, Garland claims that future work could benefit from extending governmentality studies by drawing on more critical forms of sociological theory.

Against Garland's claim about the principally sociological nature of governmentality studies, Stenson offers a critique that Garland's argument is based on only a partial understanding of Foucault's key concepts of sovereignty, discipline and governmentality. According to Stenson, Foucault attempted to provide a diagrammatic account of the contours of power and the conditions of possibility for making the institution of government and also for governance operating within delimited institutional spheres both thinkable and operable. While this attempt has helped to generate productive work on shifting modes of government/governance, it has also generated ambiguities in our understanding of these issues and what may count as acceptable research agendas. It is most problematical that researchers following Foucault's lead have focused on forms of governmentality knowledge, particularly as they tend to be seen in textual or written forms in legal and other professional contexts. Stenson mentions that it is possible to further develop Foucault's key concepts of sovereignty, discipline and governmentality as tools for describing and analyzing the complex interrelations of governing practices. Here we can see the shifts of emphasis from more narrowly conceived knowledge towards governing practices in which oral and textual forms of knowledge interpenetrate and are embedded in practices. This shifts in research agenda requires different forms of evidence, including ethnographic and other field-derived sources.¹⁰⁾

5.3 Complexity/Contingency and Governmentalities

Richard Hil and Gordon Tait mentions that it is apparent that wider historical, social, economic and other considerations set the contexts within which debates over crime are conducted. It is not possible to make sense of crime control measures without locating them in these wider contexts, and without taking stock of how governmental practices are to some extent contingent upon them. The process of regulating criminal activity is, and will remain, far more complex, contingent and arbitrary than dominant public discourses on crime control would have us believe.

George Pavlich mentions that the complex governmentalities confront us nowadays. He proposes that the shifting terrain is referred to as co-social ethos. These governmentalities are not on or after social governance, but emerge somewhat parasitically with social calculations of rule. 'Co-social' does not signal a nice, clear shift from previous disciplinary, social welfare governance. Nor do emerging 'prudential' forms of risk management, emphases on 'security' calculations, actuarial forms of justice, vision of community control, etc. Rather, there are locally inflected, and heterogeneous, points of contact between different regulatory logics and practices. 'Co-social governmentalities' signals these multiple, undermined, dynamic and hybrid shifts in rationales and practices of rule away from regulatory arenas predicated on images of the social as a primordial being. These emerging contexts bring with them different control rationales, agendas, practices and priorities.

According to his analysis, broad concerns open themselves up to vast analytical possibilities:

- 1) genealogical analyses directed to diagnosing the 'emergence' and 'lines of descent' of hybrid co-social governmentalities,
- 2) how fracturing 'social' governmentalities affect associated identities of law, order and crime,
- 3) exploration of grammars of critique capable of confronting co-social governance, etc.¹²⁾

6. Conclusion

In recent years the crime rate and the prison population in Japan have rapidly been increasing. It is said that the myth of "safer society" in Japan has been collapsed. In my view, fear of crime and insecurity may be produced in order to develop harsh, strict or tough crime control strategies. Above mentioned factors such as low level trust in the police, decreasing clearance rate by the police, big challenge from globalization, deterioration of informal control mechanism, the relations between fear of crime and these factors are not so simple as to grasp as cause and effect. Both of them, the crime rate and prison population varies through dynamic movements of matrices in context of multiple phases. In other words, according to the chaos/ complexity theory, they contingently change with only a slight working or movement.

In order to take measures to cope with the new situation of increasing crime rate and prison population, it is said that crime control strategies have changed from lenient to harsh,

strict or tough. We face the trilemma among “safety, freedom and justice” . In a high crime rate society, the confrontations and contradictions among them intensify. At the critical point, chaos, complexity and contingency appear, and these show the present situation of crime and justice in Japan.¹³⁾

Notes:

- 1) This article is based on two papers. One is titled “Crime, Justice and Surveillance in Japan” and was presented at the XIV World Congress of Criminology, Philadelphia, Pennsylvania, USA, August 7-11, 2005. The other is titled “Crime, Risk and Governmentality” and was presented at the Fifth Annual Conference of European Society of Criminology, Krakow, Poland, August 31 - September 3, 2005.
- 2) This part is a summary of Research and Training Institute - Ministry of Justice - Japan, pp.283-482.
- 3) International Herald Tribune/Asahi, June 8, 2005, p.21; Feb. 16, 2004, p.18; Sept. 25, 2003, p.22; Oct. 30, 2003, p.19.
- 4) Abe, 2004, pp.215-231.
- 5) “Kanshi-Shakai to Risuku-shakai” (Surveillance Society and Risk Society), Asahi-Shinbun, August 30, 2004, p.12; “Annzenn-Daiichi” (Priority of Security), Asahi-Shinbun, Feb. 23, 2004, p.4.
- 6) Lyon, 2004, pp.135-149.
- 7) O'Malley, 1998, pp.xi-xxv.
- 8) McLaughlin et al., 2003, pp.413-416.
- 9) Smandych, 1999, pp.1-13.
- 10) Garland, 1999, pp.173-214; Stenson, 1999, pp.45-73.
- 11) Hil and Tait, 2004, pp.6-7.
- 12) Pavlich, 2001, pp.141-154.
- 13) Concerning these problems Takemura, 2004 examines into details.

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* Noriyoshi Takemura is Professor of Criminology at Toin University of Yokohama.

Recently he is making research on Chaos/Complexity Criminology and Transnational Organized Crime.