

SECURITY LAW AS AN EMERGING TOOL IN THE CURRENT TRANSITION OF LEGAL SYSTEMS

Abstract.....	1	III. The expanded concept of security	4
I. Introduction.....	1	IV. The preventive turn (of criminal law).....	5
II. A theoretical understanding	2	V. Conclusion.....	7

Abstract

The author deals with the concept of security, its expanded understanding and its embedding, especially in contemporary Criminal Law. One of the typical lines of policy here is the turn towards more prevention and a higher number of incriminations of predicate offences, giving examples from the Serbian criminal legislation.

Keywords: Security, Criminal Law, Danger, Enemy Criminal Law, Preventive Turn.

I. INTRODUCTION

Today, three decades after the fall of the Berlin Wall, when we thought that the, euphemistically speaking, mistrust between states has been minimized to an acceptable extent or at least to an extent that isn't accompanied by threat of war, we face a new challenge: mistrust deriving from groups and individuals that is based on a threat of violation of legal goods (in German: *Rechtsgutverletzung*). New forms of crime have emerged or have reached a new peak: international terrorism, economic offences, environmental and cybercrime. What have the national states done to combat them? – They have reacted with enhanced risk orientation and pursuit of security.¹

The seventies and the eighties were the incubation period for enhanced pluralisation processes and developments that followed in the nineties; among them, the fall of the Berlin Wall in 1989. With the collapse of the communist East, the triumphant West remained, at the same time being questioned from within since the eighties.² The end of the conflict between East and West was also the end of the system rivalry and of the integrated ideological drafts of modern society.³ The cards have been reshuffled.

Parallel to the decline of (Western) religiousness in Europe, a „secular religion“⁴ emerged. The canonization on human rights,⁵ going beyond the initial values of integrity of life and limb and classic fundamental rights such as freedom of speech and property rights, and particularly including participation and solidarity.⁶ On the other side of the spectrum, re-discovered and increased religiousness within the Muslim community, driven by the salafistic and wahhabistic movements, has given rise to islamistic terrorism, with islamism becoming

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¹ See Sophie Zaufal, *Was kann ein strafrechtlicher Tatbestand leisten? Die Bestimmtheit von Normen als hermeneutisch-methodisches Problem im Verfassungsstaat*, Baden-Baden 2017.

² Andreas Rödder, *21.0. Eine kurze Geschichte der Gegenwart*, München 2015, p. 108.

³ *Ibid.*

⁴ Michael Ignatieff, „Human Rights as Politics and Idolatry“, in: *The Tanner Lectures on Human Values*, Princeton 2000, p. 337.

⁵ A. Rödder, p. 117.

⁶ *Ibid.*, p. 118.

the „most serious political ideology since the collapse of communism“.⁷ The 9/11 were the most prominent example of the uprising against the Western modernity, leading in consequence to the introduction and emphasis on anti-terror legislation and other repressive reactions.

With the newly emerged global emergency and the search for responses to a pandemic, the need for security, now in terms of security of public health, have put further focus on state actions. Security, public order, risk, danger, fear and the rights of the individual are currently (again) highly relevant issues.

Not surprisingly, the tools of criminal law, although being the *ultima ratio* of every legal order, have quickly become topical. If we look at the historical development, the criminal law of the 18th century was an instrument of power in the hands of the absolutistic state, but delegitimised because of its brutality and its political availability, its lack of legality.⁸ The differentiation with regard to exercise of power, but also to civil law and police law, becomes effective at the end of the 18th and at the beginning of the 19th century, through a new idea of freedom, of separation from politics and power and through the promise to be an autonomous legal field that guarantees freedom towards the perpetrator and towards the state.⁹

II. A THEORETICAL UNDERSTANDING

The theory of Enemy Criminal Law (*Feindstrafrecht*) developed by German scholar *Günther Jakobs*, who mentioned it for the first time in 1985 in an article¹⁰ and further endorsed it in 1999,¹¹ regained attention after the 9/11 attacks. According to *Jakobs*, the act and the state punishment are two sides of a communicative process; they are “means of symbolical interaction”, “tools of normative understanding”. As long as this communication functions, we found ourselves within a “Civil Criminal Law” (*Bürgerstrafrecht*), in which reasonable personalities (“personas”) respect the norms.

The switch to Enemy Criminal Law¹² happens when the citizen does not follow the rules; by this transforming himself into an enemy of the society. The perpetrator is an individual who “to a not merely incidental extent in his attitude (...), or his occupational life (...), or by his inclusion in an organization (...), has at any rate presumably permanently turned away from the law and in this respect does not guarantee the minimum cognitive security of personal behavior and demonstrates this deficit by his behavior.”¹³ This can be described as a process of “de-personalization”: he/she turns from being a personality to being (just) an individual.¹⁴

⁷ Eric Gujer, „Moderne Verführer“, *NZZ* vom 18/19. Oktober 2014, p. 1.

⁸ Wolfgang Naucke, „Schwerpunktverlagerungen im Strafrecht“, *KritV*, Vol. 76, No. 2 (1993), p. 157.

⁹ *Ibid.*

¹⁰ Günther Jakobs, „Kriminalisierung im Vorfeld einer Rechtsgutsverletzung“, *ZStW*, Vol. 97 No. 4 (1985), p. 751 ff.

¹¹ Günther Jakobs, „Das Selbstverständnis der Strafrechtswissenschaft vor den Herausforderungen der Gegenwart“, -in: Albin Eser/Winfried Hassemer/Björn Burkhardt (Hrsg.), *Die deutsche Strafrechtswissenschaft vor der Jahrtausendwende*, München 2000, p. 47.

¹² Jakobs admits that this line-up “involves ideal types on both sides and thus sharpened concepts, which are scarcely ever to be found in this purity in reality.” Günther Jakobs, „Feindstrafrecht? – Eine Untersuchung zu den Bedingungen von Rechtlichkeit“, *HRRS* 8-9/2006, p. 293. Nonetheless, one exception as far as it concerns Enemy Criminal Law is mentioned also by him – Guantanamo. Günther Jakobs, „Zur Theorie des Feindstrafrechts“, -in: Hennning Rosenau/Sangyun Kim (Hrsg.), *Straftheorie und Strafgerechtigkeit*, Augsburger Studien zum Internationalen Recht, vol. 7, Frankfurt am Main 2010.

¹³ G. Jakobs (2000), *op. cit.*, p. 47, 52.

¹⁴ Günther Jakobs, „Bürgerstrafrecht und Feindstrafrecht“, *HRRS* 3/2004, pp. 88, 92.

The will of the perpetrator, objectified in the offense, has to be negated; otherwise, the impression would remain, that his will can be seen as appropriate for others, as universally valid, possibly generally accepted.¹⁵ “Exclusion from the society” is the way of achieving this negation;¹⁶ in other words, de-personalization. Aim of the penalty is therefore “marginalization of the norm-violating meaning¹⁷ of the offense”¹⁸, whereby the identity, consequently the corpus of norms of the society are being confirmed.

The Civil Criminal Law has lost one of his addressees who was said to have, on his part, lost his “normative approachability/receptiveness” (*normative Ansprechbarkeit*).¹⁹ The exclusion occurs because the perpetrator offers no guarantee for future legal behavior and thus his personhood lacks a sufficient cognitive foundation. The exclusion “does not come upon him as an undeserved fate; as every orienting normative institution must have a cognitive foundation, he like everyone else has the duty to present himself as somewhat reliable.”²⁰

Being attacked because of the harsh and stigmatizing words, yet for the concept as a whole,²¹ Jakobs anticipated the increased interest and explained beforehand that citizen criminal law and enemy criminal law are two ideal types,²² hence sharpened concepts, which are rarely found in this purity in reality. Although, he continued, the basis of enemy criminal law seems to have been embodied in the form of the Guantanamo camp.²³ To the critics regarding his choice of words, he countered that “obviously there is a widespread distaste for plain language, in particular so far as concerns the concepts of “person” and “coercion,” – as if not every (non-correctional) coercion was a de-personalization.”²⁴

Jakobs also depicts the role of security in his concept, stating that the degree to which treatment as an enemy must be practiced, depends on two factors; namely the citizen’s need for security and the unreliable characters’ potential for violence.²⁵ He makes a sobering conclusion saying that “the assumption that it is possible simply to resume the usual routine of the perfect state under the rule of law that permanently and fully integrates everyone is completely unfounded”.²⁶

III. THE EXPANDED CONCEPT OF SECURITY

¹⁵ Arndt Sinn, “Moderne Verbrechensverfolgung – auf dem Weg zu einem Feindstrafrecht?“, *ZIS* 3/2006, pp. 112, 113.

¹⁶ G. Jakobs (2004), *op. cit.*, p. 95.

¹⁷ According to Jakobs, the essential characteristic of the offense is not the violation of the good, but the violation of the norm, most clearly shown when talking about attempt. G. Jakobs (2000), *op. cit.*, p. 49.

¹⁸ A. Sinn, *op. cit.* p. 112; see also Michael Kraus, *Rechtsstaatliche Terrorismusbekämpfung durch Straf- und Strafprozessrecht*, Frankfurt am Main 2012, p. 146.

¹⁹ More about this term: Claus Roxin, *Strafrecht AT I*, München 2006, p. 740.

²⁰ G. Jakobs (2010), *op. cit.*, p. 6.

²¹ Alejandro Cardoso Aponte, *Krieg und Feindstrafrecht*, Baden-Baden 2004; Cornelius Prittwitz, „Feindstrafrecht“ – zu einem (untauglichen) versuch gemanagter Kriminalitätsbekämpfung durch Diabolisierung des Kriminellen“, -in: Arno Pilgram/Cornelius Prittwitz (Hrsg.), *Kriminologie. Akteurin und Kritikerin gesellschaftlicher Entwicklung. Über das Verhältnis der Wissenschaft zu den Verwaltern der Sicherheit*, Baden-Baden 2005, pp. 215 - 228; Ulfried Neumann, „Feindstrafrecht“, -in: Thomas Uwer (Hrsg.), *Bitte bewahren Sie Ruhe: Leben im Feindstrafrecht*, Berlin 2006 p. 312.

²² G. Jakobs (2004), *op.cit.* p. 88.

²³ Günther Jakobs, “On the Theory of Enemy Criminal Law”, in: (Markus Dubber ed.) *Foundational Texts in Modern Criminal Law*, Oxford 2014, p. 421.

²⁴ *Ibid.*

²⁵ *Ibid.*, p. 424.

²⁶ *Ibid.*

The classic understanding of security policy is predominantly influenced by defense concerns, especially regarding the guarantee of the integrity of national territory and the autonomous capacity for development of the society.²⁷ According to Hofmann, the strict division into internal and external security, as a relic of the Cold War, is today to the largest extent outdated.²⁸ Security policy cannot be limited to its defense aspect only; its matter has been enlarged with other values and goods.²⁹ Respect for human rights, but foremost the protection of the natural living conditions and the supply with raw materials and energy has changed the content of security policy.³⁰

If we understand external security as the protection of the state and of the society against endangerments from outside, while internal security is protection from dangers from within, then the separation of internal and external security seems indeed to have become obsolete.³¹ Human and drug trafficking, terrorism, prostitution, gambling, arms trafficking, tax evasion and other crimes have been less and less limited by national borders.³² Transnational organized crime has shown more flexibility and adaptability than the investigating authorities. The notion of security has been expanded not merely by state actions, but rather by actions of individuals and well organized groups and associations, thus not enabling a planned or controllable expansion of actions.

What has to be underlined is that there is no consensus on the meaning of security. Starting from the laconic, simplest statements that security is the absence of insecurity, or that it is freedom from risk and threat for the worse,³³ to definitions of security with regard to specific areas, civil security, public security, or differentiations on objective and subjective security, the variety seems to be boundless. Yet this absence of one concentrated definition lead to the adaptation to new realities and the recognition and outlining of an expanded notion of security (*erweiterter Sicherheitsbegriff*).

This notion presumes that there will be entirely new risk scenarios in the future. Apart from the dissolution of states and the disintegration of entire regions and its global implications, new forms of terrorism, targeted attacks on information systems, the proliferation of weapons of mass destruction, ecological catastrophes, caused by soil erosion, water scarcity, rising sea levels and climate change have to be taken into account as further sources of risk.³⁴ The expanded notion of security aims at reacting to these developments and at implementation of the conflating security awareness.³⁵ It pleads for the state to focus more on the factor „security“ as the crucial social element; hence uniting the separated sectors of police,

²⁷ Stephan Heinrich/Hans-Jürgen Lange, „Erweiterung des Sicherheitsbegriffs“-in: Hans-Jürgen Lange/H. Peter Ohly/Jo Reichertz (Hrsg.), *Auf der Suche nach der neuen Sicherheit. Fakten, Theorien und Folgen*, Wiesbaden 2008, pp. 253, 254.

²⁸ Robin Hofmann, *Flucht, Migration und die neue europäische Sicherheitsarchitektur*, Wiesbaden 2017, p. 34.

²⁹ *Ibid.*

³⁰ See Wilhelm Knelangen, „Die Europäische Union und die deutsche Sicherheitspolitik“ in: Stephan Böckenförde/Sven Bernhard Gareis (Hrsg.), *Deutsche Sicherheitspolitik: Herausforderungen, Akteure und Prozesse*, Opladen 2014, pp. 289 - 320.

³¹ Also Thomas Jäger/Ralph Thiele, „Transformationsprozesse im Vergleich“, in: (Thomas Jäger/Ralph Thiele Hrsg.), *Transformation der Sicherheitspolitik. Deutschland, Österreich, Schweiz im Vergleich*, 1. Auflage, Wiesbaden 2011, p. 15.

³² R. Hofmann, *op.cit.*, p. 35.

³³ <https://dictionary.cambridge.org/dictionary/english/security>, last accessed 12th March 2020.

³⁴ Hans-Jürgen Lange, *Wörterbuch zur Inneren Sicherheit*, Wiesbaden 2006, p. 287.

³⁵ *Ibid.*, p. 288.

intelligence service, civil protection and military, but also private security services in order to create a new security structure.³⁶

IV. THE PREVENTIVE TURN (OF CRIMINAL LAW)

The relationship between security and liberty is not antagonistic, but rather complementary.³⁷ Although absolute security necessarily goes along with broad limitations of liberty, it is also true that freedom as an expression of the natural, individual right to autonomous, free self-development can effectively be achieved only with a minimum of security, guaranteed by the state.³⁸ It is the pre-condition, as well as the limitation to liberty.

The boundaries to this are set by the rule of law,³⁹ the principles of legality and proportionality, controlling the states' *ius puniendi* and legitimating the use of repressive instruments, foremost criminal law. Naturally, this field of law has become an increasing part of general security policies which seek to optimize effective protection against various forms of crime.

In particular since 9/11 and its accelerating effects, the integration of criminal law and criminal justice into a general architecture of security has gained momentum. It is closely linked to the trust of the society into the assertiveness and the capacity for action of the state and its rule of law. The security legislation does not orient itself anymore to only avert concrete dangers, but focuses more and more to risk-minimization in the sense of a modern risk and security management.⁴⁰ The so-called "Gefährdergesetze" (the Laws on Potential Offenders) in Germany, for example, laws with regard to persons for whom certain facts substantiate the assumption that they will commit major crimes, have gained a new quality in the light of the prevention paradigm⁴¹ and are transforming the security structure.

This approach can be identified in the following activities.

1) Higher number of incriminations of predicate offences, which penalize concrete or, more often, abstract risks/dangers. Especially offences of abstract endangerment are significant elements of modern risk criminal law; they shift criminal liability before effective harm occurs in order to already prevent acts which carry a risk of harming certain legal goods. An example that can be found in many jurisdictions is the anti-terror legislation, which sets the criminal zone in the pre-field of the legal good (*Vorfeldstrafbarkeit* – punishability in the pre-field of the legal good). In the Serbian Criminal Code,⁴² the criminal offence of terrorism has been merged⁴³ and re-systematized (Art. 391a CC) into the Chapter of Criminal Offences against Humanity and Other Values Protected under International Law (Chapter 34, *Кривична дела против човечности и других добара заштићених међународним правом*), being the major offence for a whole subgroup of connected crimes, which are characterized by broader criminal zone and increased repressive elements. Five of them were introduced in

³⁶ Ibid., pp. 288, 291.

³⁷ Maren Wegner/Daniela Hunold, „Die Transformation der Sicherheitsarchitektur – die Gefährdergesetze im Lichte des Vorsorge-Paradigmas“, *KriPoZ* No. 6 (2017), p. 367.

³⁸ Ibid.

³⁹ See Bernhard Haffke, „Vom Rechtsstaat zum Sicherheitsstaat“, *Kritische Justiz*, Vol. 38, No. 1 (2005), pp. 17 – 35.

⁴⁰ For more on that see Benno Zabel, „Kulturen der Kontrolle: Zum Risiko- und Konfliktmanagement des modernen Rechtsstaates“, *KritV*, Vol. 94, No. 1 (2011), pp. 18 – 37.

⁴¹ See *ibid.*, p. 33; W. Naucke, *op.cit.*, p. 143.

⁴² „Sl. glasnik RS“, br. br. 85/2005, 88/2005 - ispr., 107/2005 - ispr., 72/2009, 111/2009, 121/2012, 104/2013, 108/2014, 94/2016 i 35/2019.

⁴³ Prior to the Amendments from 2012, there were two offences: of "national" and international terrorism.

2012: public instigation of terrorist acts (Art. 391a), recruitment and training for terrorist acts (Art. 391b), use of a deadly device (Art. 391c), destruction and damaging of a nuclear facility (Art. 391d), terrorist conspiracy (Art. 393a), while two other crimes were modified: endangering of person under international protection (Art. 392) and financing of terrorism (Art. 393).⁴⁴

2) The system of criminal punishment is embracing to a greater extent deterrence and incapacitation as important goals of punishment, besides rehabilitation/reintegration. In Serbia, for example, the latest Amendments to the Criminal Code from May 2019, introduced lifelong imprisonment as a substitute for prison from 30 to 40 years, which itself was substitute for the death sentence. This amendment, along with other modifying laws in the sphere of criminal justice, has been adopted in an urgent procedure and without public debate. Lifelong imprisonment as the harshest sanction would not be particularly problematic, especially regarding the fact that its effects will not differ much from its predecessor punishment. The main reason for critic here is, beside the unusual and unjustified dynamics and modes of enactment,⁴⁵ the fact that the right to release on parole has been abolished for five criminal offences: aggravated murder of a child or pregnant woman (Art. 114 para. 1 (9)); rape, if the offence results in death of the person against whom it was committed or if it is committed against a child (Art. 178 para. 4); sexual intercourse with a helpless person, if the offence results in death of the person against whom it was committed or if it is committed against a child (Art. 179 para. 3); sexual intercourse with a child, if the offence results in death of the child (Art. 180 para. 3) and sexual intercourse through abuse of position, if death of the child is the result of this offence (Art. 181 para. 5).⁴⁶ This represents a violation of Article 3 (Prohibition of Torture) of the European Convention on Human Rights and is expected to be brought before the European Court of Human Rights.

Beside this tendency in legislation, worth mentioning is also the constant increase of publicly financed security and terrorism research. It focuses on the development of technological surveillance and forecast instruments as tools of the risk-oriented security policy.

Security-related research has been established as an independent area of research some twenty years ago and is strongly interdisciplinary directed. It includes sociology, jurisprudence, psychology, political science, economics, media, environmental and technical sciences, as well as biology, meteorology and criminology.⁴⁷ The range of topics includes civil protection,

⁴⁴ For more on that see Ivana Marković, *The New Concept of Criminal Offences of Terrorism in Serbian Law in the Context of Enemy Criminal Law*, Archibald Reiss Days 2015, Belgrade, pp. 301 – 306.

⁴⁵ Ivana Marković, “Amendments to the Serbian Criminal Code from 2009 in the Light of Dogmatics and (Criminal) Policy”, in: Abuse of the Law and “Abnormal” Law versus Rule of Law, International Scientific Conference Ohrid School of Law 2019, p. 180.

⁴⁶ More on the Law on Amendments and Additions to the Criminal Code of Serbia see I. Marković, *ibid.*, pp. 179 – 190.

⁴⁷ See Lars Gerhold/Jochen Schiller (Hrsg.), *Perspektiven der Sicherheitsforschung*, Frankfurt am Main 2012, p. 11. Interestingly, even the Max-Planck-Institute in Freiburg, rich in tradition, has recognized the trend towards security and has renamed itself. The former Max-Planck-Institute for Foreign and International Law is now officially the Max-Planck-institute for the Study of Crime, Security and Law, with a newly established department of Public Law. Their statement on this novelty sums up the notion of Security Criminal Law: “The addition of a new department was motivated by the considerable overlap between repressive crime control and preventive public security law. Not only are the instruments used in these two fields often very similar, but they also pose similar challenges to human rights, fundamental rights, and constitutional law.” <https://csl.mpg.de/en/institute/organization/research-departments/>, last accessed 25th March 2020.

terrorism, organized crime, natural disasters, pandemics, piracy, IT-security all the way to social security.⁴⁸ This anticipated the current trend to multi-variety in security politics.

V. CONCLUSION

What has emerged from this development is something that can be observed worldwide. The securitization has led to a hybrid security law; a blending of a multitude and plurality of control systems and legal regimes. Criminal law, its traditionally dominant component, is intertwining with police law, intelligence law, administrative criminal law, the laws of armed conflict and private legal regimes, thus creating new, cross-sectoral governance tools to operate in a globalized, information-risk society. But it is also shifting its paradigm, as we have already heard: from a punitively oriented to a prevention-focused system, moving its focal point from culpability and punishment to danger and risk.

Put in perspective with the criticized concept of Enemy Criminal Law, we can see key overlaps among them. The de-personalization of the offender is based on the prediction of his future behavior, which, on the other side, is based on his constant disrespect for law until that moment. *Jakobs* himself talks about the right of security for the citizens. One of the core parts of this theory is that the perpetrator “(...) has at any rate presumably permanently turned away from the law and in this respect does not guarantee the minimum cognitive security of personal behavior and demonstrates this deficit by his behavior.”⁴⁹ If we fade out the criticized terminology of his concept and look at the broader goal – (legal) security for the law-abiding citizens, then we can, taken to its extreme, Security Law formulate as a more positively intoned Enemy Criminal Law.

There are further aspects to be aware of. The focus of Criminal Law wandered from limited repression of wrong to a broadened repressive pragmatism, to more incriminations and more prevention,⁵⁰ without prior emaciating the possibilities the law has already given. Criminal Law becomes driven by party policy and its urge to be recognized by voters as proactive, with the resulting Penal Populism. Law follows the demands from majorities on criminal policy⁵¹ (depending on media coverage, even minorities are often sufficient).

An example of an evolved focus on the layman sphere is the latest amendment to the Criminal Code in Serbia. In the official justification of the law, the legislator clearly admits that the specific proposal regarding life imprisonment for certain offences and the abolishment of the possibility for release on parole was taken, without modification, from a public initiative.⁵² Not only did the lawmaker follow the demands of the public; he literally implemented even their concrete proposal, at the same time ignoring disagreeing voices from experts.

There are other aspects of one-sidedness as well. An actionist approach to a current threat would direct the system of security and narrow their focus towards one certain source of danger. Instead of that, the “multidimensionality of capacities” should become prevalent over symbol politics.⁵³ Crucial for the right overview is, among other factors, the support policy gets from media. A one-dimensional focus does not allow flexibility in unplanned situations that require immediate, coordinated actions from various fields. The following steps in this

⁴⁸ R. Hofmann, *op.cit.*, p. 40.

⁴⁹ G. Jakobs (2000), *op. cit.*, pp. 47, 52.

⁵⁰ W. Naucke, *op.cit.*, p. 158.

⁵¹ *Ibid.*, p. 159.

⁵² I. Marković (2019), *op.cit.*, p. 188.

⁵³ H.-J. Lange, *op.cit.*, p. 292.

discourse on security tend then to demand more restrictive legal solutions, expansion of competences, etc.⁵⁴

An example for that is the global health emergency situation of spring 2020.

As groundbreaking events tend to accelerate changes and transformations in society and law, the world economy crisis from 1929 and the terrorist attacks of 9/11 as repeatedly mentioned examples for this, the global CoVid-19 crisis we are now facing is having its first implications on the legal systems. The numerous declarations of the state of emergency worldwide, with the temporary restriction of certain rights, curfews as limiting to the freedom of movement, and further limitations, as well as their unknown duration and implementation raise concerns. Security in terms of safeguarding public health, and liberty of the individual both had and have to sustain restrictions and failures. And with regard to both, repressive actions, also coming from criminal law, have to be put in a constitutionally apprehensible ratio.

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⁵⁴ *Ibid.*

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Sicherheitsrecht als aufkommendes Instrument im derzeitigen Wandel der Rechtssysteme

Zusammenfassung

Die Autorin befasst sich in der vorliegenden Arbeit mit Sicherheitsrecht als einem Instrument, dass sich nun auch ganz offen seinen Weg als Rechtsmittel des Systemwandels bahnt. Hierbei geht es nicht um ein allgemeines, klar umrissenes Konzept, sondern um mehrere Einzelfacetten, die zusammen betrachtet die Kriminalpolitik und Ausgestaltung des Strafrechts bestimmen. Das Sicherheitsrecht an sich ist zwar ein breit gefächertes Forschungs- und Handlungsfeld, dass sich, unter anderem, verstärkt in den Bereichen der Soziologie, der Politik-, Wirtschafts-, der Medienwissenschaften und zahlreicher anderer Bereiche wiederfinden lässt. Die Auswirkungen von strafrechtlichen Eingriffen sind jedoch die, die den Bürger am empfindlichsten treffen können, so dass sie zumindest eines besonderen Monitorings bedürfen.

Vorgestellt wird in der Abhandlung die Ausgangslage mit dem aufkeimenden Bedürfnis nach Sicherheit, das Konzept des Feindstrafrechts, ein erweiterter Sicherheitsbegriff, der Paradigmenwechsel hin zu mehr Prävention, sowie zusammenfassend und abschließend eine Evaluierung und Beispielnennung des andauernden Trends zu mehr Sicherheit und seiner derzeitigen Einbettung in Strafrecht und Kriminalpolitik.

Schlüsselwörter: Sicherheit, Strafrecht, Gefahr, Feindstrafrecht, präventive Wende.