

***Prevention and freedom:
On the necessity of an ethical discourse***

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Prevention and freedom: On the necessity of an ethical discourse

Prevention means to look ahead, to think ahead, and to act in a matter of prudence for the future.

The German Congress on Crime Prevention 2016 takes up the challenge of grand words in its title: prevention, freedom, ethics. Let me just dwell on this title for a moment: How do these three grand words relate to each other?

Freedom, on a basic level, is the possibility to choose between different options in different spheres of life and different circumstances. In a more radical sense, freedom is self-determination; Kant uses the word “Selbstgesetzlichkeit”, self-legality, autonomy (Kant 1785/1956). Freedom is always – if we listen to Rosa Luxemburg – the freedom of those who dissent (Luxemburg 1922/1983, 359), and love of freedom is, according to the German poet Heinrich Heine, born in 1797, a flower in the dungeon (“Kerkerblume“) (Heine 1972), which shines most brightly where it is absent. And the fight for freedom, the protection of freedom and the obtaining of freedom aren’t always easy; thus Henrik Ibsen, 19th-century Norwegian playwright and poet, reminds us that one should “never put on his best trousers in order to fight for freedom” (Ibsen 1882/1907, 277).

By combining prevention with such a charged term like freedom, the third of the grand words, ethics, is implicitly present. I am thankful that you are willing to include and make explicit a new and stubborn perspective here – the ethical perspective. And while prevention means looking, thinking and acting towards the future, I will, as a start, look to the past in order to see how people long before us have been looking ahead.

– *Odysseus (1)* –

In the fifth book of the “Odyssey” Homer describes how Circe warns Ulysses about the sirens, which already have lured many seamen into disaster with their bewitching chant. Therefore, Ulysses closes the ears of his comrades with beeswax and lets himself get tied to the mast of his ship with a rope since he wants to listen to the legendary chant of the sirens and survive at the same time. And he does succeed in this way (Elster 2000; Rosen 2004; Ammicht Quinn 2014, 277-296, 279).

What are we supposed to learn from this story, which stems from the turn of the 8th to the 7th millennium B.C. and therefore stands at the beginning of the European written cultural history?

In order to achieve particular goals, we apparently have to accept certain restrictions –

including restrictions of freedom. Facing a deadly threat like the sirens, it would be very unwise not to adopt appropriate precautions. Only due to the successful preventive measures, Ulysses was able to listen to the chant of the sirens and survive at the same time. The outcome of the story, however, does not only depend on our acceptance of the inconveniences or restrictions of the security measures. There are three additional conditions which have to be met: One needs information about the nature, location and extent of the danger and the nature of security one aims to gain; there has to be a technical artefact of high quality – in this case a rope that isn't likely to tear; and one needs reliable and capable people, since Ulysses' life depends on his fellows' abilities to fetter him, on the knots holding together until the threat is over; and on the trust that they will release him again.

What does ethics do?

Ethics is the critical reflection and critical analysis of a person's and a society's morals and moral codes.

Ethics is a theory of human action characterized by the basic oppositions between good and bad, right and wrong, but also the "good life" or the "failing life". On one level, this is the question concerning the right action in conflict or dilemma situations and on another level the question concerning the "good life", which time and again means: *In which society do we want to live?*

Ethics and security

Ethics is a specific perspective on security among other perspectives. But it is a crucial perspective, because it places security within the context of quests for the right action and the good life. Activities, measures, and techniques related to security are not simply "neutral". They entail preconditions and effects that require ethical reflection since they are related to questions of the individual good life and a good society.

From an ethical perspective, security is ambivalent: On the one hand, security is an important value, so that establishing and sustaining security is ethically required. In the absence of a basic level of security, actions cannot be planned, even basic cultural development cannot take place, and justice cannot be upheld.

On the other hand, the pursuit of security often leads to restrictions in other value-laden areas. The initially unproblematic demand for more security hence turns out to be a classical trade-off between goods, benefits or values such as security, freedom, justice, and privacy. Any attempt to create more security can easily trigger dynamics that lead to the infringement and limitation of other goods. Questions concerning trade-offs enquire which price – in the form of money, freedom, justice, or privacy – we are willing to pay for security.

The difficulty of such trade-offs is obvious in the frequently discussed trade-off between "security" and "freedom / liberty". They are not comparable. "Freedom" can be specified in different freedom rights: freedom of expression, freedom of religion, freedom of movement and so on; "security" is not comparably anchored in the German constitution

– it is not a “supreme basic right” (“Supergrundrecht”). This means: There is a constant danger that a rise in feelings of insecurity may lead to a transformation of security into an all-encompassing end in itself, hence damaging the same freedom people have fought for wearing lesser trousers (and skirts).

1. Everything beats being dead?

A recurring phenomenon within the continuing debate on fighting terrorism is a certain suspicion: the suspicion that ethical reflections on security-related measures are a luxury that only those can afford, who have not been exposed to dangers and threats. *Just wait until the first terrorist bomb hits the Cologne Cathedral / the Brandenburg gate / the football stadium*, so the objections, *no one is going to think about trivial matters such as data protection and the psychological costs of security checks any more: “Security is the first thing, morals follow on”* (Brecht 1928/2004, 67).

And of course Bertolt Brecht (who talks about “food” which is the “first thing”) is right. His statement, however, is not a rejection of morals, it is a highly moral statement: The obligation of providing people with the basic necessities of life is above any other moral commitments, which could derive for example from conventions or the protection of property. Similarly, people who place the value of security above any other value utter a moral statement. It is a moral statement which implies that the moral obligation to life and security of humans should on principle be favoured over any other moral obligation. Since questions of security expose human vulnerability, such (moral) statements are often intuitively plausible.

If security, however, is no longer seen as engaged in competition with other values, but as a basis for such values, it is set as absolute (and as (a?) supreme basic right). In this case, security takes on the logic of “Everything beats being dead” (Ammicht Quinn / Rampp 2009). Medical discourses show how difficult such statements can be in individual cases. Here, not only the “bare life” needs to be considered, but always also the “good life”. Preventive actions aimed at the reduction of possible dangers to life may damage the good life permanently.

If social and individual security actions lack a logic of adequacy and moral awareness, assets worth protecting – such as a society defined by tolerance – may be endangered by the very means designed to protect them – such as a permanent state of emergency. A free and fair society cannot be saved by neglecting freedom and justice. This is why the following rule of thumb applies:

A problem’s solution should never cause problems that are greater than the initial one (Ammicht Quinn 2014, 43).

– *Odysseus (2)* –

Let us return to Odysseus, the sirens, and the successful security actions. This is the story of a hero choosing the appropriate preventive measures. They do entail some non-permanent limitations for those they affect, but they also ensure their protection in a dangerous situation they would not have survived otherwise.

There is, however, a different reading of the story.

In insecure and stormy times, all of us often hear a specific siren call:

It is a siren call that tells us we need more and even more security; it is a siren call that tells us total security could be achieved, if only we weren't constantly interrupted by societal doubts.

Odysseus' story teaches us that we need preventive measures to protect us from this sort of siren call as well. We need preventive measures against politically or technically attractive, but unsustainable promises of security, and we need preventive measures that protect human dignity and civil liberties (Ammicht Quinn et al. 2014, 277-296).

2. Outline for an ethics of prevention

Prevention means to look ahead, to think ahead, and to act in a matter of prudence for the future.

There is an antique objection to prevention which all of you know: Roman poet Horaz encouraged his contemporaries to enjoy the present rather than worrying about the future: "Whether Jove has many winters yet to give, or this our last; This, that makes the Tyrrhene billows spend their strength against the shore.

Strain your wine and prove your wisdom; life is short; should hope be more?

In the moment of our talking, envious time has ebb'd away."

This – except the part about straining wine – conjures up images of depressed hopelessness. Horaz, however, disagrees completely: "Seize the present; trust tomorrow e'en as little as you may!"

(Horaz 23 B.C.; transl. John Conington).

Remembering Horaz and his "Carpe Diem" is possibly a good corrective to what we do and what we think is necessary: to worry, to care and to prepare. Prevention is aimed at averting negative futures as far as possible. Or at least at moderating them – and not only focusing on ourselves, as Horaz does, but also on society as a whole. The limitations encountered in this endeavour – lack of resources, lack of knowledge about the future, our personal fallibility – are an encouragement to modesty. It is a modesty which does not stop our worrying, caring, preparing; it is a modesty that is part of preventive actions.

In the area of security, prevention is especially important where areas of risk can be reduced and safety factors can be augmented – in brief, where repression and resilience combine in the interest of prevention. It is exactly this way of thinking and acting in terms of prevention that requires a specific kind of ethical reflection. Ethical reflection

is, despite all of its criticism, not a rejection of prevention in the area of civil security as a whole (as criminal prevention and violence prevention, as protection of critical infrastructures, and as disaster prevention). Prevention is in many ways necessary, time and again necessary for survival. Ethics examines the structures of thought and measures of prevention, critically examining not only the risks prevention reacts to, but also the risks the prevention of risks entails (Mensching 2005). Günter Anders' warning applies in this context: "We throw farther than our myopic eyes can see" (Anders 1956, 28).

2.1. Outline of an ethics of prevention: individual and structural aspects

- Professional ethics

The basis of successfully doing prevention work is a **professional ethics** for all those who work in the field of prevention. What we today call professional ethics grew out of what formerly embodied the honour of a particular trade. Professional ethics comprises the norms, rules, criteria, values etc. necessary for an appropriate pursuit of one's profession. Implying but also extending beyond a set of professional skills, professional ethics relate to personal attitudes.

Due to the existence of professional ethics, we trustfully believe that, e.g., a craftsman knows what he or she is doing, that he or she, literally, "knows his or her craft". If she or he does not, she or he belies our expectations or even betrays our confidence; and yet – at least after a while – we might laugh about it or tell some witty anecdotes about incompetent craftsmen, sitting over a glass of wine with friends. A breach of trust within the realm of security however, i.e. a breach of trust by security actors, a breach of their supposed professional ethics, will neither make us laugh nor tell funny anecdotes – it carries a different weight.

It is impossible to conclusively formulate professional ethics for the realm of security since it encompasses a variety of professions with different perspectives, approaches and tasks. Nevertheless, three issues are relevant to all of them: The (relative) **position of power** actors in prevention professions has to be, firstly, constantly reflected, and, secondly, used within the rule of law as well as for a worthy cause (in a moral sense). Obviously, these positions of power differ: police officers, social workers, city officials and urban planners occupy different positions of power; but all of them need to be aware that they, in fact, have power which needs to be integrated in their action with moral caution.

Prevention professionals need to meet the requirement of **justice**. This is, evidently, a high standard, because justice cannot simply be structurally enforced or implemented. Yet, it is apparent from discussions regarding, on the one hand, violence against police forces, and on the other, racism of and violence by police forces that the respective fields of action need to be structured – and possibly *restructured* – with regard to justice.

Eventually, professional ethics within the realm of prevention and security entail **caring for oneself**. Only a fair measure of self-care can avoid that (prolonged) stressful experience or situations lead to harmful actions – both for the affected professionals as well as for the persons they are faced with.

- Ethics of institutions

A professional ethics focused on the individual which acts within a structured context cannot be understood independently from an **ethics of institutions**.

Institutions are the “normative fabric which perpetuates social life, sets limits to the individual, and bestows regularity as well as security upon the togetherness” (Sutor 1997, 42; author’s translation). Institutions are irreplaceable, but do not replace individual morality. They can endorse personal morality or compensate for shortcomings – or they can interfere with or even eliminate personal morality. Thus, the way an institution is shaped and developed strongly influences individual behaviour.

As a result, the ethics of institutions call for the building of a just structure within institutions, which does not inhibit or even eliminate the individual’s capacity of moral judgment and action. Differences between theory and practice, differences between an individual professional ethics and a general ethics of institutions are not posing a problem per se; they allow for situationally adjusted behaviour which is, time and again, required from individual actors in specific circumstances. If this (specific) scope of action, however, is directed against the intentions as well as the moral self-conception of the respective institution, if, e.g., the “ethics of police officers” turn against the “ethics of police” (if a “culture of police officers” turns against the “culture of police”; Behr 2008), these differences become destructive: for the institution itself, for its (genuine) task, as well as for society as a whole. One cannot fight antidemocratic movements, e.g., by abrogating democratic rights and liberties, even if it might seem pragmatic from time to time.

“Ethical” institutions are far more difficult to lead than institutions without regard for ethics, for the strengthening of judgment gives rise to dissent. Yet, medium to long-term, “ethical” institutions are more successful than those which avoid dealing with ethical issues.

2.2. Outline of an ethics of prevention (2): Points to Consider / Criteria for Reflection

The basis of an ethics of prevention is the categorical imperative of respecting human dignity in every single situation. Beyond this basic rule, it does not make sense to formulate systems of rules that apply absolutely to each and every situation in the field. A single production of security and security action is too complex, too historically, locally, institutionally and culturally contingent. Hence, rather than formulating a clear set of rules, I will propose criteria of reflexion that should be considered in the context of decisions security actions and measures.

- Knowledge of the future

“How to measure something that does not happen, if one does not know if it would not have not happened even if one had acted differently, or not acted at all, in the matter?” (Feltes 1995, 19; author’s translation). Not only our knowledge of the future is limited, but also the measurability of activities and translation of knowledge of the future into statistical data that, itself, is used in justifying measures may also be problematic. Wise self-reflection is hence imperative in the field of preventive action.

- Desirable futures

Every idea of desirable futures, and every action geared towards the possibility of attaining them, is driven by normative ideas of what is ‘good’ and ‘bad’. There may be consensus about this in day-to-day life. Concepts of desirable futures can also, however, be implicitly securitising, simplifying, or intolerant, this is the case when sectional or particular interests are translated into societal action without any further reflection. A particular desirable conduct in the future may be a non-harming or a non-violent conduct; but it may also be a form of conduct that is more pleasant or less pleasant for others, that is ‘normal’ or less ‘normal’. Desirable futures as ‘leitmotiv’ of preventive action must thus check their own systems of values. Prevention must not aim at normalization.

- Attributions of Responsibility

Where preventive reasoning transforms general dangers into individualized risks, this reasoning shares difficulties associated with many concepts of resilience. Prevention may appear as a redistribution of responsibility, where people ‘only have themselves to blame’ for their own misfortune (if, e.g., they were out alone at night). In cases where prevention aims at a neoliberal form of risk-management, it could dissolve the very thing that is preventive in the proper meaning of the word: basic social solidarity.

- Risks of risk-prevention

Measures of prevention may simply be inefficient. They can, however, also have negative effects and cause the very problems they were designed to solve. This may happen, for example, in cases where prevention is based on the categorization of people, with the categorization itself causing harm that is so severe, that even well-meaning prevention cannot make up for it. Data-driven sorting of people into categories of ‘unsuspicious’ and ‘potentially dangerous’ causes legal uncertainty and potential infringements of human rights (Baur-Ahrens et al. 2015). In the realm of security, prevention may cause insecurities, for example in tagging certain spaces as ‘dangerous’ by installing CCTV. Estimating and reducing the risks it itself entails is part of the professional and ethical responsibility of risk prevention.

- Fairness and Justice

Preventive action necessitates restrictions or efforts in the interest of a future good, or for avoiding a future bad. Restrictions imposed on, and efforts required from individuals or a community need to be justified. Measures of prevention are considered fair if the same people suffering from restrictions also profit from the advantages of prevention; they are unfair if limitations are imposed on certain people for the benefit of others. Preventive measures are considered just if they are open to everybody in need of them, and not just to those who can afford them. Preventive measures in the realm of security are just if they reflect and minimize the restrictions placed on the freedom and privacy of everybody they affect. Furthermore, preventive measures in the realm of security are just if suspicion is not based on group-membership or other non-moral criteria. It is imperative for every project of prevention to recognize and actively counter any racist or otherwise prejudiced tendencies.

- Gender justice

Discourses of security are, often beneath the surface, permeated by gendered discourses. The cultures of both police and private security providers are generally predominantly male. Offenders are imagined as male, victims as female – and even though this is statistical knowledge, it is not knowledge of the world. At the same time, women do not only appear to be victims, but time and again also as sexualised victims requiring protection by local men against foreign men. Female protection is negotiated among men, whereas duties of caution and restraint, sometimes even duties of fear, are assigned to women. Good prevention programmes in the context of security engage with the problems these discourses pose, disentangle the complex mix of patriarchal, sexist and xenophobic attitudes, and actively disassociate themselves from such mindsets.

- Not against, but for

Prevention in the field of health is often framed in metaphors of war and combat: Fight against obesity, smoking, or unhealthy eating habits. These metaphors of war and combat can, hardly surprisingly, also be found in the field of preventive production of security. It might be impossible to win the ‘war against juvenile crime’. The prospects of engagement *for* something is far more promising: for a good and fulfilling life in adolescence. This change of perspective also shows that the production of security must always ensure legal security. Otherwise, there is a real danger that the community created by security measures will turn out to be very different from the community the measures were initially designed to protect.

– *Odysseus (3)* –

Finally: A different story about Ulysses – Ulysses' encounter with Circe:

During his long and dangerous odyssey home from the Trojan War, Ulysses – once again – happens to come upon an island, which is – once again – inhabited by a dazzling woman, the sorceress and goddess Circe. Circe lives alone among all sorts of animals, who, even lions and wolves, are tame. This security in the midst of wilderness however turns out differently for travellers visiting the island than one might expect at first glance: Travellers hardly get a chance of enjoying the company of the tame animals, as Circe immediately transforms anybody entering the island into an animal, a tame animal.

This is what happens to Ulysses' envoys: Circe transforms them into pigs: "And they had the heads, and voice, and bristles, [240] and shape of swine, but their minds remained unchanged even as before" (Homer 1919, Book 10, 239-240; transl. A. T. Murray). Ulysses, who was warned by Hermes, manages to avoid the peril and frees the men, who emerge from their re-transformation younger, stronger, smarter, and more handsome than before.

Lion Feuchtwanger, a modern reader of the *Odyssey*, gives the story a different turn (Feuchtwanger 1950): As Ulysses tries to rescue his bewitched crew, they refuse to take on a human form again. Their security on the island, however limited (and foul smelling), is still more attractive to them than a perilous journey full of dangerous adventures on the unsafe and uncharted seven seas.

Prevention that is good in a moral sense of the word and freedom belong together, since the good life always entails freedom. Feuchtwanger's reading of Homer, where some men end their odyssey in a pigsty, is a critique of the 'satiated' citizen – a person who would rather be safe, provided for, and dull than take chances physically or psychologically, politically or intellectually. Maybe John Stuart Mill's more than hundred-year-old warning resonated with Feuchtwanger: "It is better to be a human being dissatisfied than a pig satisfied; better to be Socrates dissatisfied than a fool satisfied" (Mill 1863, 14).

In the end, the only solution is a personal and societal attitude:

On the one hand, we need to respect and highly appreciate the socially beneficial work that is being done in the area of prevention.

On the other hand, we need to practice the serenity that rises from the knowledge that security can never be absolute; and must never be absolute. This serenity is combined with moral awareness of the importance of not letting particular basic goods and values disappear in favour of others and the importance of making sure that societal and individual action is determined by a logic of adequacy. Neither totalizing nor non-

malizing security corresponds to such a logic of adequacy. The conflict surrounding values within a pluralistic society must be put back into discourses on prevention. Only then the solutions to problems – be they technical political, economic, social or other solutions – stand a chance of avoiding harming what they aim at protecting: Human beings in their vulnerability.

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