Policing the Future: Old Rationalisations and Legal Paradoxes[1]

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> "Security is the only object of the law which necessarily embraces the future: subsistence, abundance, equality, may be regarded for a moment only; but security implies extension in point of time, with respect to all the benefits to which it is applied".
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> *Jeremy Bentham,* Principles of the Civil Code

I am pleased to share the research that has shaped my doctoral work, and to engage in this moment of reflection and discussion. This dissertation investigates the theoretical, political and legal foundations of algorithmic crime prediction, with a particular focus on the Italian context.

Before presenting some of the core arguments of my doctoral research, I would like to briefly clarify the nature of this *lectio*. Rather than restating the dissertation in full, this intervention aims to situate the research within a broader critique of penal rationalities, and to contribute to the ongoing debate on law, technology, and social control. It is, in this sense, a moment of intellectual positioning. An opportunity to articulate the conceptual stakes of the research and to foreground the critical lens through which its findings acquire meaning.

Predictive policing refers to the use of algorithmic systems to forecast future police targets. These systems typically fall into two categories: person-based, which assesses the risk of individuals committing crimes, and place-based, which identifies geographic areas where crimes are deemed likely to occur. One of the central theses of this dissertation is that, despite their apparent differences, these two models are politically and epistemologically intertwined. This convergence is not coincidental but stems from a long-standing symbiosis between criminological and political doctrines – doctrines that have shaped the definition of deviance and crime, and have guided penal policy since the inception of the modern state.[2]

Step by step, the project originated from a simple yet troubling question: what does it mean, politically, to predict crime – and who benefits from the automation of such predictions?

In recent years, predictive policing has gained traction across Europe, often advertised as a neutral, post-political, data-driven response

1 This text is the author's *lectio praecursoria* delivered on 7 November 2025 at the public doctoral defence held at the Faculty of Law, University of Turku, where the author defended the dissertation "Theoretical Roots, Rationalisations, and Legal Contradictions of Predictive Policing: Reflections from the Italian Case". The opponent was Associate Professor Simone Tulumello from the University of Lisbon, and the custos was Professor Anne Alvesalo-Kuusi from the University of Turku. For the synopsis, see Carlo Gatti, Theoretical Roots, Rationalisations, and Legal Contradictions of Predictive Policing: Reflections from the Italian Case. Annales Universitatis Turkuensis, Ser. B, Tom. 741, Turku: University of Turku 2025, https://urn.fi/URN:ISBN:978-952-02-0355-9.

to crime and urban insecurity. Yet behind the promise of technological efficiency lies a dense web of legal ambiguities, political interests, and problematic epistemological assumptions.

In reviewing the so-called "critical" literature on the subject, I first observed a recurring pattern: while many accounts often seek to distance themselves rhetorically from administrative and technocratic approaches to crime management, they frequently fail to move beyond them in practice. This research, in that sense, can be read as a critique of conventional criticisms – criticisms limited by a formalist conception of law, one that reduces social phenomena to abstract legal definitions and dichotomies (such as profiling versus privacy). This happens, sometimes, without even interrogating the fact that certain legal branches are, for the legal system itself, *sui generis*. Law enforcement is one such domain, where privacy is far from a central concern, and where its protection has never historically been a defining trait of crime prevention.

The broader theoretical framework within which I have situated my analysis is that of critical criminology, understood in its narrower sense: as a materialist sociology of penal control and the forms of its selectivity. This tradition should not be conflated with the "social harm" perspective, which – unlike the tradition I draw upon – demystifies law and rejects the very concept of crime in purely idealist terms, treating it, first and foremost, as a discursive construct. Reclaiming the legacy of this materialist school has meant, instead, engaging in a critique of abstract legal categories – not to dismiss them as mere discursive constructs, but to interrogate them as expressions of a structural contradiction between the formal promise of equality and the material reproduction of inequality.[3] At the same time, the critical tradition I engage with distinguishes itself from the proliferation of schools and tendencies in criminology that today claim the "critical" label while, in practice, align themselves with official penal policy.

Moreover, when it comes to the involvement of algorithmic technologies, much of the literature ends up constructing its critique around alarmist narratives of the "AI-out-of-control" or "AI versus Human" scenarios, ascribing to algorithmic constructs an animistic agency beyond human design. On closer inspection, these represent the pessimistic counterpart of the same techno-fundamentalism they purport to challenge as the breeding ground of predictive policing. In warning against the dark forces of automation, these arguments implicitly favour those who have a vested interest in displacing political responsibility from certain human actors onto technological artefacts. It was in response to this techno-fetishist framing that I found it necessary to introduce, as an additional interpretative lens, a materialist critique of automation – a perspective that rejects the notion of technological constructs as autonomous agents capable of generating social relations. Rather, technology is historically shaped by social relations and objectifies them within technical arrangements.[4]

By adopting penal selectivity as the core of my critique and decentring the primacy of technology in the technology–society relationship, I was compelled to look "inside" the technological artefact: to interrogate the political ob-

2 Douglas Hay, Property, Authority and the Criminal Law. In Douglas Hay et al., Albion's Fatal Tree: Crime and Society in Eighteenth-Century England. Pantheon Books 1975, p. 17–63.

3 Alessandro Baratta, Por una teoría materialista de la criminalidad y del control social. Estudios Penales y Criminológicos XII/1989, p. 14–68.

4 Matteo Pasquinelli, The Eye of the Master: A Social History of Artificial Intelligence. Verso Books 2023.

jectives encrypted within it, and the theoretical frameworks that inform it – explicitly or implicitly.

An unavoidable step in this direction was to trace the historical evolution of the rationalisations that have accompanied predictive theories of crime. To better carry out this retrospective operation – and to clarify the historical and political significance of the stages that have punctuated each trajectory – I adopted, analytically, the distinction between person-based and place-based approaches to crime prediction. Yet this bifurcation was never intended as a substantive division, but rather as a heuristic device to reconstruct two parallel evolutionary paths and, in doing so, to expose their political symbiosis and inseparability.

This is why my first article focused on the evolution of spatial theories, rather than on individualised predictive models, as I had originally planned when still influenced by the prevailing academic trend. Concentrating on spatial theories became my way of counterbalancing the dominant narrative, which, by framing the issues raised by predictive policing as a matter of miscalibrated balancing between control needs and individual rights, confines its critical horizon to individual profiling.

In this sense, the focus of my first research paper on spatial theories was the consequence of my attempt to interrogate the social selectivity inherent in predictive techniques, which remained the guiding thread throughout the project. It became clear that pursuing this line of inquiry required challenging the epistemological dichotomy between spatial and individual techniques.[5]

While analytically useful, this distinction ended up being a device for me to reveal their political interdependence. Rather than treating them as separate traditions, I traced their co-evolution to demonstrate how both converge in reproducing the same patterns of control and exclusion. Reinforcing this distinction is precisely where legal culture plays a pivotal role, through its tendency to validate hierarchical differentiations and normative balancing based on abstract categories – such as the isolated individual, the protection of privacy and so on – which are ideologically charged and yet treated as descriptive models of reality.

My subsequent engagement with legal dogmatics is not then a normative endorsement, but a necessary critical tool for exposing – by mobilising it dialectically – the contradiction between the law's declared principles and its actual functioning.

Indeed, it is by resorting to typically legalistic reasoning that the idea of a radical difference between individual profiling and spatial prediction gains ground.

On the one hand, the unquestioned acceptance of this distinction accounts for legislative initiatives presented as ground-breaking, yet which neither address the political core of the problem nor fully satisfy a legal expectation of compliance with the fundamental principles of the rule of law. The EU Artificial Intelligence Act is a case in point. While it introduces a risk-based framework and explicitly prohibits certain forms of person-based predictive policing, it does so by reinforcing a privacy-centred approach that ultimately preserves the legitimacy of place-based systems by treating them as inherently less intrusive – a critique I further develop in my third article and in Chapter 6 of the synopsis. This approach, based on an output-type legality test, shifts attention away from the nature of the input

5 Carlo Gatti, Policing the poor through space: The fil rouge from criminal cartography to geospatial predictive policing. Oñati Socio-Legal Series 12(6)/2022, p. 1733–1758, https://doi.org/10.35295/osls.iisl/0000-0000-0000-1360.

data and leaves the issue of their secrecy entirely unaddressed. Moreover, the Act appears to be primarily designed to provide legal certainty for private investment in the AI sector – an orientation that reflects the prioritization of market facilitation over democratic control.

On the other hand, the epistemological reliance on such legal distinctions and hierarchies reflects a longstanding tendency to treat categories like profiling, privacy, or 'crime' as reliable descriptors for scientific analysis of social reality. This is the classical dispute between law and legal sociology, at least in its Weberian formulation.[6]

To put it plainly, legal claims are not scientific descriptions of the social phenomena that law seeks to regulate. However, even from an extrasystemic perspective, an analysis of positive law through the lens of legal dogmatics remains a necessary step for at least two reasons: first, because doctrinal legal categories serve, reveal, and are integral to broader processes of political rationalisation; and second, because the short-sightedness of legal solutions is rarely accidental, but stems from an ideological representation of the very reality that law purports to regulate. It is precisely because I grasp the historical significance of this diatribe – between law as an externalised object to be analysed from an extra-systemic stance; and law as a self-sufficient system that interprets social reality and offers systemic solutions – that I have resorted to the materialist sociology of penal control.[7]

But for the same reason, I also draw on the critical theory of police power, which serves a dual purpose.[8] *First*, it complements critical criminology by linking penal selectivity to the historical function of modern police power. *Second*, it challenges a recurring idea in liberal legal culture: that police has gradually shifted from a reactive to a proactive institution, as predictive policing would perfectly exemplify.

The synergy between critical criminology and the theory of police power offers a different perspective altogether: on the one hand, it shows that the penal system is inherently selective; on the other, it reminds us that police power has never functioned as a merely reactive watchdog, but has always operated as a constitutive force – tasked not with responding to crime, but with actively shaping a specific social order. This theoretical framework helps us grasp the practical implications of predictive policing. Predictive policing starkly exposes the fragility of democratic governance and the contested standing of justice in a datafied society.

Just days before this defence, the Italian Parliament passed Law No. 132/2025, delegating to the Government the task of implementing the AI Act across several sensitive domains, including policing and criminal justice. Among the most delicate – and yet strikingly vague – are the delegations concerning law enforcement and preliminary investigations. The delegation to Government on law enforcement merely calls for "*a specific discipline for the use of artificial intelligence systems in police activity*", without further elaboration.[9] This vagueness, combined with the reliance on executive discretion, deepens the democratic oversight limitations already affecting the AI Act, through mechanisms that appear merely procedural.

6 Max Weber, Economy and Society: An Outline of Interpretive Sociology. University of California Press 1978.
7 Carlo Gatti, The Bologna-Barcelona axis between Criminal Law Dogmatics and Critical Sociology of punitive control. Hidden Continuities and Apparent Overcomings. Crítica Penal y Poder 25/2023, https://doi.org/10.1344/cpyp.2023.25.44853 .
8 Mark Neocleous, A Critical Theory of Police Power. The Fabrication of Social Order. Verso Books 2021.
9 Legge 23 settembre 2025, n. 132, Disposizioni e deleghe al Governo in materia di intelligenza artificiale. Gazzetta Ufficiale Serie Generale 223/2025, https://www.gazzettaufficiale.it/eli/id/2025/09/25/25G00143/SG .

The same logic is now emerging elsewhere: as I show in my third article, the Department of Public Security has announced the development of a new predictive system called GIOVE, in partnership with a private company whose identity remains undisclosed.[10] The name GIOVE means Jupiter in Italian; the Roman god of power and foresight. But divine naming aside, the choice to rely on proprietary schemes contradicts the EUCPN's recommendation to favour in-house development, highlighting the gap between European guidelines and national practice.

These trends exemplify what I have termed in my second article 'soft privatisation' – a process through which private actors, without formal delegation, can reshape the crime prevention agenda by steering operational decisions through algorithmic software whose input markers and source codes are proprietary assets.[11]

By exposing these contradictions, I hope to foster a critical conversation on law, technology, and social control – one that resists simplistic 'human versus AI' narratives and reclaims the political dimension of legal analysis as a tool to uncover the ideological role of law in sustaining structures of selective social control.

10 Carlo Gatti, Predictive policing in action: A field-based critique of the Italian case. Crime, Law and Social Change (forthcoming).

11 Carlo Gatti, Monitoring the monitors: A demystifying gaze at algorithmic prophecies in policing. Justice, Power and Resistance 5(3)/2022, p. 227–248, https://doi.org/10.1332/UBQA2752.