

Book Note: Preventive Justice, by Andrew Ashworth & Lucia Zedner

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Book Note**PREVENTIVE JUSTICE, by Andrew Ashworth & Lucia Zedner¹**

MADELINE BOYCE

PREVENTIVE JUSTICE IS THE CULMINATION of a three-year study aimed at pinpointing “principles and values that should guide and limit the state’s use of preventive techniques that involve coercion.”² According to the authors, there has been little study of preventive measures taken by the state. The study covers coercive preventive measures imposed by the state, mostly focusing on English and Welsh law with reference to several other Western countries. The book explores the underlying rationales for a wide range of state measures of coercion and suggests limits on the resulting forms of detention.

Chapter one establishes the list of coercive measures that will be discussed in later chapters and discusses some of the difficulties of creating a theoretical framework for defining, rationalizing, and creating procedural safeguards for those facing punitive measures. Chapter two lays out the historical context of preventive justice focusing primarily on the founding of the police in the early 1800s. It goes on to explore how the “harm principle”³ influenced preventive policing and also discusses more recent trends in preventive state measures. Chapter three deals with preventive measures used in current policing and criminal procedure practices, such as ‘kettling’⁴ (detaining groups of people in order to prevent harm and maintain order) and pre-trial detention of those accused of crimes.

Chapter four looks at civil preventive orders used in English law with a focus on the Anti-Social Behaviour Order (ASBO), a civil court order that places prescribed constraints on an individual with the consequence of criminal charges

1. (Oxford: Oxford University Press, 2014) 306 pages.

2. *Ibid* at 1.

3. *Ibid* at 42.

4. *Ibid* at 52.

in the event of a breach. Chapter five explores criminal offenses that have been created for preventive purposes, such as reckless behaviour and threats of harm where no actual harm has occurred. The authors look at the rationales behind these criminal offenses as well as their limits. They then suggest areas where the criminal law could be scaled back and where areas other than criminal law could be used to prevent harm.

Chapter six discusses one underlying assumption of preventive justice: that the risk of harm is predictable and measurable. The authors detail how the risk of harm is assessed, with a focus on the criminal context. Chapter seven examines the detention of dangerous persons in order to prevent harm, for example, through life sentences and extended sentences. It prescribes limits that should be placed on this type of preventive measure.

Chapter eight explores preventive measures taken in the name of counterterrorism. It focuses on several measures undertaken by the United Kingdom's *Prevent* strategy, and the war on terror. The authors look at the constraints on liberty involved in these measures and the adequacy of the various regimes set up for accountability purposes.

Chapter nine is a discussion of coercive measures used in public health law. It discusses various ways in which the state attempts to prevent risks to public health with a focus on detention of individuals because of contagious disease. There is also a discussion of detention of individuals on the grounds of a mental health disorder.

Chapter ten begins with an examination of the underlying rationale for preventive measures at borders: the threat of mass migration. The chapter then continues on to consider detention of foreign nationals. There is also a discussion of the link between preventive measures in the area of immigration and preventive measures used in counterterrorism.

Preventive Justice is an ambitious and thorough examination of several facets of preventive measures taken by states to reduce the risk of harm. It concludes by revisiting the idea of the duty of the state to prevent harm. It also offers an approach to define the parameters of "deprivations of liberty,"⁵ and discusses how certain principles that have been articulated throughout previous chapters can be practically accomplished.

5. *Ibid* at 251.