

Exceptional states: The political geography of comparative penology

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journals.sagepub.com/home/pun**Louise Brangan** 

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Abstract

It is now common in the sociology of punishment to lament that comparative penology has not matured as an area of research. While there have been seminal works in the comparative canon, their conceptual tools tend to be drawn from grand narratives and macro-structural perspectives. Comparative researchers therefore lack concepts that can help capture the complexity of penalty within a single nation, limiting the cross-national perspective. Why is this relative lack of comparative refinement still the case? This article investigates this question by looking specifically at penal exceptionalism, a concept central to comparative penology. While punitiveness as a comparative and descriptive category has been critiqued, its converse, penal exceptionalism remains prevalent but undertheorised. Examining exceptionalism reveals that it is not merely the macro-structural approach to comparison that has limited the development of cross-national sociology of punishment, but the Anglocentric assumptions, which are the bedrock of comparative penology. In this essay, I argue that penal exceptionalism versus punitiveness is an Anglocentric formulation. These taken-for-granted assumptions have become so central to the comparative enterprise that they act as a barrier to developing new innovative comparative frameworks and concepts. The article concludes by suggesting some methodological strategies that are intended as a way of helping comparative penology to expand its toolkit and support the ongoing development of more equitable criminological knowledge.

Keywords

comparative imprisonment, comparative penology, penal exceptionalism, penal politics, sociology of punishment, southern criminology

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Introduction

Comparative penology tends to be motivated by two central questions: (1) Why do certain nations, particularly Anglophone, display similar penal patterns and levels of punitivity? and (2) how come other nations manage to punish differently, implementing lenient forms of incarceration and maintaining moderate penal politics (Cavadino and Dignan, 2006; Downes, 1988; Green, 2008; Lacey, 2008; Pratt, 2008; Pratt and Eriksson, 2013; Savelsberg, 1994; Whitman, 2003)? While comparative penalty scholarship has expanded, it is still considered to remain 'at an early stage' of development (Garland, 2017: 2; Hamilton, 2014; Sparks, 2001). Why is this the case? The aim of this article is to identify some of the barriers to a more illuminating comparative penology and sketch out some possible methodological avenues that could advance this discipline in fruitful new directions.

I do so by focusing on a key orientation within comparative scholarship: penal exceptionalism. How and why some nations have successfully avoided the perceived punitiveness of our contemporary era is central to the comparative endeavour, informing research questions and frameworks of comparative analysis, as well as shaping our comparative criminological imagination – namely, how we understand our own and other penal systems. While punitiveness as a comparative and descriptive category has been critiqued (Hamilton, 2014; Matthews, 2005; Sparks, 2001), its converse, penal exceptionalism remains prevalent but undertheorised. Describing places as singular and unique seems to be a common refrain in comparative research, and it serves as a definition for the penal systems in the United States, the Republic of Ireland, Scotland and the Scandinavian nations. Exceptionalism is now regularly explored empirically and, in some cases, robustly critiqued, but only in relation to specific nations' penal profiles. Yet there has been little exploration of this term in general, what it means and its consequences for our theoretical and comparative toolkits.

This article undertakes this task using a southern criminology framework, which elucidates 'the power relations embedded in the hierarchal production of criminological knowledge' (Carrington et al., 2016: 1). Using this critical lens to appraise exceptionalism highlights that the most common comparative questions, the usually binary nature of comparisons, the normative agenda underpinning these projects and even the metrics used to establish difference each tend to reflect comparative penology's deeply embedded Anglocentrism. It is the repetition of these Anglocentric concerns – why are large English-speaking nations increasingly punitive? And how could they be improved? – that may be slowing down the development of new and diverse comparative frameworks of analysis.

This article is organised into three sections. First, I provide a brief overview of comparative sociology of punishment, highlighting its advances and underexplored avenues. Following that, the contours of the purportedly exceptional nations of Scandinavia, Ireland, Scotland and the United States are outlined and the criticisms of these claims of exceptionalism are presented. These critiques are each made on a regional level rather than addressing the continued presence of

exceptionalism in comparative criminology. In the second section, however, I argue that these repeated critiques of exceptionalism indicate an embedded Anglocentrism within the comparative study of punishment which now hinders its development. Following Aas (2012), Carrington et al. (2016) and Connell (2006), I reflect on the epistemological hierarchies that prevail in this literature and how they prevent a more vivid and perceptive cross-national study of penalty from emerging. Thereafter, in the third section, I ask what lessons might we learn in light of these critiques? How might we embark upon a new phase of the comparative penology project, one that may be more demanding, but could move us beyond metropolitan thinking, and potentially allow us to better research cross-nationally and theorise punishment.

Comparative penology

Comparative study is a vital and important strand of the punishment and society project. The contrasting light of comparative reflection admonishes the tendency to take for granted, revealing the prohibitive moral boundaries, oddities of outlook and characteristics of punishment and penal politics that may have previously gone unremarked. Conducting our research questions cross-nationally can help refine how we theorise the relationships between punishment, culture, politics and social structure. Thus, the development of comparative study contributes to the 'increasing maturity' of the sociology of punishment (Garland, 2018: 15).

While there have been seminal works in the comparative canon, it has been suggested that comparative penology remains nascent as conceptual tools tend to be drawn from macro-structural perspectives and there is a tendency for grand narratives (Barker, 2009; Garland, 2013, 2018; Hamilton, 2014). The development of comparative inquiries that are conducted below the macro-structural level is now seen as the most important matter that must be resolved if comparative punishment and society is to take the necessary next steps to achieve the discipline's potential for theory and understanding. Empirically, comparative studies pitched at a grounded level can help us better understand differences in punishment and its social meanings from one context to the next. Yet studies of this kind have been rare (though see Barker, 2009; Downes 1988) and the conceptual resources necessary to conduct this kind of grounded cross-national research need to be improved and further developed. Currently, comparative penology lacks concepts that capture the complexity of either how penal systems are organised as well as how penal policy worlds operate (Jones and Newburn 2005). In the subfield of comparative punishment and society studies, there is 'a great deal of path-clearing work to be done' (Garland, 2018: 14).

The area that the comparative literature has attended most closely to is the divergent experiences of punitiveness (Downes, 2011). In the latter stages of the 20th-century, it is argued that the USA and UK, as well as elsewhere, experienced a punitive turn, evident in the rising prison populations and emergence of a more populist and virulent penal politics (Cavadino and Dignan, 2006; Garland, 2001;

Lacey, 2008; Savelsberg, 1994; Wacquant, 2009). The travesty and tragedy of mass incarceration drew academic attention and occupied a central place in contemporary sociology of punishment (Sparks, 2001). In this atmosphere comparative study of punishment found energy and purpose, a way to examine and theorise the punitive turn in the western democracies in the late 20th-century. There was an urgency to comparative studies as they sought to expose what ignited and supported this severe, and apparently cross-national, penal trend. This was entwined with a normative agenda to discover ideas and practices that might engender more humane and tolerant penal systems. It is in this vein that exceptionalism emerged in the sociology of punishment, illuminating those nations and regions perceived to be lenient outliers in punitive times.

Penal exceptions

While punitiveness came to be foregrounded as *the* penological concern of our times (Matthews, 2005), it is argued that there have been exceptions to the march of repressive penalty, and comparative study has become largely concerned with explaining what buffers some nations from punitiveness. In order to serve explanatory and normative concerns, comparative sociology of punishment tends to rely on a framework that uses this juxtaposition: comparing punitive and repressive penal systems to humane penal systems (Cavadino and Dignan, 2006; Downes, 1988; Green, 2008; Lacey, 2008; Pratt and Eriksson, 2013; Savelsberg, 1994; Whitman, 2003). Central to this approach is to ask: How and why have some nations avoided the excesses of penal repression that characterised the last 50 years? What explains those divergent penal outcomes? This kind of starkly contrasting approach to inquiry is most associated with the Scandinavian countries, which have become almost entirely synonymous with ‘exceptionalism’ and ‘leniency’ in comparative literature (Cavadino and Dignan, 2006; Green, 2008; Pratt and Eriksson, 2013). While punitiveness emerged in the English-speaking world, Scandinavia retained remarkably low imprisonment rates and humane prison conditions. This distinct penalty is the result of Scandinavian egalitarian culture and a social democratic history, it has been argued.

But within the North Atlantic the Scandinavian nations are not the only ones considered exceptional. The term Scottish exceptionalism is not part of the parlance, but the belief that Scotland’s penal system is inherently exceptional is pervasive (Brangan, 2019a). It tends to be argued that Scottish culture is distinctly welfarist and therefore Scotland has avoided the excesses of penal populism experienced in England and Wales (Hamilton, 2014; McAra, 1999, 2008). But the neighbouring nation of the Republic of Ireland is also considered exceptional. Hibernian exceptionalism is, as far as I am aware, the latest strain of exceptionalism to be identified. So it is probably the least widely known, but it has been gaining traction in recent years (Griffin, 2018; Griffin and O’Donnell, 2012; Hamilton, 2016). Hibernian exceptionalism takes two strands, suggesting that while penal policy became a political battleground in England and Wales and

USA, Ireland resisted punitiveness. More critically, others write that unlike its neighbours, the USA and UK, whose penalty displayed clear epochs of transformation – penal welfarism and then punitiveness – the Irish penal system ‘stagnated’ in the latter part of the 20th-century (O’Donnell, 2008), with not much innovation, either severe or humane. This was due to the government’s ‘reluctance to look beyond its own horizons’ (Griffin, 2018: viii).

Matters become more complicated when we include the United States. While Scottish, Nordic and Irish exceptionalism are premised (both stated and implicitly) on the idea they have differed, usually in a more progressive way, to America and England and Wales, for many scholars the USA is the penal exception. American exceptionalism is intended to capture the extremity of US punitiveness as unparalleled on a global level (Reitz, 2017). America’s reliance on mass incarceration sets it apart from almost all other developed nations (Whitman, 2003) and the continued use of death penalty distinguishes it from almost all other mature democracies (Zimring, 2003). This is a result of America’s distinct culture and the enduring effect of American history (Tonry, 2009). American exceptionalism places the US at the apex of penal harshness.

The persistence and proliferation of exceptionalism speaks to its (1) centrality in how we compare and (2) how we think comparatively within the sociology of punishment. Thus, it merits attention as an important organising concept within comparative penology. The benefits of exceptional penal comparisons are clear: extremes in contrast can help exemplify and disclose the forces underlying penal change and orientation. And there is often a progressive ambition motivating such studies, examining lenient penal systems can help provide ideas for penal reforms in their punitive counterpart.¹ But within the small region around the North Atlantic exceptionalism abounds, prompting us to call into question the descriptive and analytical power of this penal concept.

This scepticism is certainly born out in much of the local literature. To a greater or lesser degree, there have been challenges to Irish, American, Scottish and Nordic exceptionalism. Scottish penal politics is certainly more measured and aspirational than in Westminster, but that should not be misunderstood as an embodiment of a humane penal culture. Often this kind of ‘civilised’ penal language is used to submerge penal impropriety and refine techniques of control, rather than reduce the use of imprisonment (Brangan 2019a; Armstrong 2018). Similarly, Hibernian exceptionalism is based on the belief that punitiveness was the chronic and virulent penal trend of the late 20th-century, which Ireland avoided for much of the late 20th-century (Hamilton, 2016; Kilcommins et al., 2004). This depiction as exceptional may have distracted us from a more generative account of contemporary Irish penal history. Rather than being stagnant in comparison to other English-speaking penal policies, recent research shows that Irish penal policymakers were actually actively engaged in maintaining and producing a ‘pastoral penal culture’ (Brangan, 2019b). And in Scandinavia, a small industry of anti-exceptionalism scholarship has developed. These nations may have low imprisonment rates and high standard material conditions within prisons, but

their carceral systems are far from non-painful (Barker, 2013; Reiter et al., 2018; Shammas, 2014; Ugelvik and Dullum, 2012). Being described and researched as an exceptionally lenient nation may efface from view the pains of imprisonment and contribute to 'national myth making' (Franke, 1990: 81). Even the United States' identity as a penal exception has come under some scrutiny recently. Researchers accept that US crime and violence rates position it beyond European and Anglophone standards (Reitz, 2017) and their penal practices resemble 'violent and troubled places', such as a number of Gulf and Islamic nations (Whitman, 2003: 4). Within the cluster of culturally comparable nations, America may be an outlier, but describing it as exceptional may overstate the uniqueness of its global position (Garland, 2017), reflecting instead the skewed perspective, rooted in a binary and Eurocentric comparative field of vision. It also collapses the vast differences in penal regimes between states (Barker, 2009; Campbell and Schoenfeld, 2013). More generally, each account of exceptionalism relies on the idea that there is something special and idiosyncratic about the national culture, and for Ireland, Scotland the Nordic nations, it is argued that this has protected the country from the invasion of repressive penal patterns. This seems to make the error of presenting an analysis that is overly deterministic and presuming that punitiveness was the dominant trend of western penality (Matthews, 2005). This array of scholarship suggests that framing these respective penal cultures as exceptional may not be the most illuminating way to describe and classify their penal practices. Being examined as an exception may even make the development of new concepts and understandings of these nations' penal practices more difficult to achieve. Comparing places because they are believed to be exceptional risks misunderstanding the character of penal politics and the practices of imprisonment within those nations.

What need is there then for another critique when each account of exceptionalism is already subject to an existing critical dialogue? Despite these challenges, exceptionalism (and thus contrasts with punitive places) remains a (if not *the*) central conceptual axis for the comparative sociology of punishment and continues to be used to describe and understand our own and other penal systems. I suggest that there is a more general theoretical problem underlying these comparative accounts that permits the continued use and proliferation of exceptionalism, even in the face of such strong critiques: exceptionalism serves Anglocentric concerns regarding punitiveness, a preponderance that has come to dominate comparative penology.²

The political geography of comparative penology

I want to build on the above critiques by suggesting that the problems of exceptionalism are not just an empirical issue resulting from the macro-perspective common in comparative inquiries into punishment. When looked at as one of the key organising concepts in comparative penology, exceptionalism's persistent plausibility problems and the multiple regions repeatedly categorised as exceptional result from an Anglocentric thinking that has become a bedrock

for comparative sociological studies of penalty. While this kind of thinking has, and continues to serve an important research function, it has also come to dominate the field such that it now inhibits the further development of comparative sociology of punishment.

The comparative sociology of punishment displays a pronounced metropolitan mindset that has not been fully acknowledged. It is from this tendency that the distortions of exceptionalism arise. By explicitly addressing it, we may be able to help generate a new phase of comparative studies. Following Aas (2012), Carrington et al. (2016, 2018) and Connell (2006), this article adopts a southern theory critique of exceptionalism in particular and comparative sociology of punishment in general. A critical perspective drawing on southern theory encourages us to look at the social, political and geographical context of knowledge production (Bhambra, 2007; Said, 2003), revealing that commonplace ideas and universal claims are often rooted in the intellectual traditions of the global North (Connell, 2006). Connell argued that there is a pervasive and widely disregarded metropolitan thinking in social theory, and Carrington et al. (2018: 4) write that this 'argument applies with equal force to the field of criminology'. Using this lens to review the concept of penal exceptionalism and review the numerous and varied critiques of this classification outlined above may help us conduct some of the necessary ground clearing required for the comparative sociology of punishment to flourish. In particular, addressing the tendency in comparative penalty studies towards universalism, reading from the centre and exclusion and erasure, habits that are characteristic of Northern and metropolitan theory.

Universality

The repetition of exceptionalism as well as its problematic nature reveals a universalising tendency in the comparative sociology of punishment: the propensity to assume 'that all societies are knowable, and that they are knowable in the same way and from the same point of view' (Connell, 2006: 258). The above literature exploring exceptionalism in a close and grounded way shows that these national and state level penal systems are both repressive and progressive in different, and more complex, ways. The problem is not necessarily the empirical detail,³ however, but begins with the concepts and metrics which organise comparative research. This is particularly important because the problems of what data to include are magnified by the sheer scale of comparative study. Our conceptual frameworks are what encourage certain empirical examples to be foregrounded and others to be sidelined, therefore shaping how we portray each comparator nation. The problem for comparative research is that it tends to rely on concepts that have been generalised from the USA and UK penal transformations.

Rather than being specific problems for a handful of Anglophone nations, punitiveness has become the lens used to examine, elucidate and contrast penal systems. The conceptual framing of punitiveness and its attendant metrics are what are often compared, namely, penal excess, rising prison rates, a punitive turn and

penal populism. This is coupled with comparative penology's reformist desires to seek out punitiveness' other; namely, parsimony and tolerance. In this theoretical formation, low imprisonment rates are understood as reflecting the opposite to punitiveness: an inherently humane culture; measured and restrained political discourse is evidence of a progressive penal culture; the absence of these things is understood as a sign of stagnation.

Nelken (2009) previously warned against comparative criminology's tendency towards ethnocentrism, which can leave us misunderstanding the nature of penalty in other places. Exceptionalism, rather than illuminating essential features of these "other" nations' penal cultures exposes the underlying belief that our (Anglophone) 'way of thinking about and responding to crime, is universally shared' (Nelken, 2009: 291). These conceptual generalisations render nations described as exceptional 'phenomenologically reduced' (Said, 2003: 283). Research persistently shows that comparative work leaves exceptional nations' penalty looking unfamiliar, idealised or dystopian to many researching on the ground (Franke, 1990). But this is symptomatic of the Anglo interests in punitiveness, where places appear exceptional because they deviated from what are understood to be the norms of penal change. The consequences of this universal or metropolitan prism in comparative penology are that it first reinforces the idea that Anglophone penal patterns are the norm, and indeed, that there is an overt Anglophone penal pattern (Barker, 2009; Muncie, 2011). Second, how penal transformation has been understood in USA and England and Wales has come to define how we think about and comparatively research penalty further afield. As long as this habit of universalising Anglocentric theories and queries continues, it will be difficult for comparative penology to enrich and expand its conceptual toolkit.

Reading from the centre

Evidently, the intricacies of Irish, Scottish and Nordic policy aspirations and practical problems are rendered exempt when penal systems are primarily understood as having diverged from England and Wales and the USA (Brangan, 2019a; Reiter et al., 2018). This impediment is tied to a second and related problem of comparative penology's political geography: reading from the centre (Connell, 2006). Pratt, for example is quite candid about this. Scandinavian exceptionalism is an account of why prison rates and conditions 'sharply diverge from those in the Anglo-American world' (Pratt, 2008: 120). There is also the juxtaposition of Europe and the United States that is usually primarily interested in asking what is going on in American penalty (Whitman, 2003: 4). Viewing other nations' and regions' penal cultures from the perspective of Anglo penalty tends to make it difficult to name and conceptualise 'the various forms of confinement around the world... which do not "meet the standards" of imprisonment' (Aas, 2012: 13). It is from this analytical asymmetry that exceptionalism emerges. For example, framed by an understanding of English punitiveness, Scotland appears rather progressive. Similarly, Hibernian exceptionalism is something of an 'empty signifier' (Offe,

2009), conceptualising Irish penal patterns by negation, namely, defining findings by what they are not (like England and the USA). Consequently, as an act of reading from the centre, exceptionalist claims reify the idea that Anglophone punitiveness is indeed the norm, to differ from their penalty is to be rendered an outlier.

Conducting comparisons from the centre in this way prioritises moral rather than sociological concerns, making use of other nations as 'foils' (Nelken, 2015), whereby comparative cases are employed as rhetorical implements for lambasting their own and other penal systems. This is what Franke once critiqued as comparativists going 'to collect ammunition for a struggle against England's law-and-order policy, its overcrowded prisons and harsh judicial reactions' (Franke, 1990: 84). This is particularly the case with Scandinavian and Scottish exceptionalism, where comparative contrast is presented as a means to better understand, to practically improve, and more robustly critique penal practices and politics. But it is usually punishment practices in the UK and USA that these aims are focused on. Because comparative research rarely concerns itself with equitable enlightenment, interested in improving or reducing punishment in each national case study, reading from centre might inhibit equal policy exchange that travel in both directions.

This kind of comparison may also distort how we understand 'the centre'. While not at all denying the extremity of American imprisonment rates, categorisations of American penalty as exceptional tends to rely on binary comparisons with the 'utopian' and civilised Western and liberal Europe (Nelken, 2009; Reitz, 2017) to assert its claims. America may be an outlier when it comes to its prison rates, but it is questionable whether it can be both exceptional and the standard from which other western nations are either diverging or emulating. Problematically for comparative penology, the centre, it seems, is a moveable feast.

Exclusion and erasure

Looking at the critiques of exceptionalism reveals a third set of issues resulting from the geopolitical hierarchy and epistemological inequality embedded in comparative punishment: exclusion and erasure. The binary nature of exceptionalism often excludes sociological insight, events and practices from colonised regions (Fonseca, 2018a). Even what we think of as the North Atlantic and the Anglosphere has excluded territories that make a mess of the theories and complicate concerns. Ireland and Northern Ireland confound the supple narratives of punitive Anglophone penal transformation, for instance. The clean lines of punitiveness and exceptionalism can only exist if these regions are 'rendered irrelevant to the main theoretical conversation' (Connell, 2006: 261).

This also connects to the issue of erasure, particularly that of history. The intense interest in present prison expansion 'induces the error of getting the past wrong' (Braithwaite, 2003: 8). For example, if we took historical variation seriously then we see that in earlier parts of the 20th-century, US punishment rates did not seem to differ much from those in most continental European countries,

displaying a more variegated rather than secular rise. Similarly, Northern Ireland, colonial conflict and British imperialism are all effectively erased from the dominant story of British penal developments in the 20th-century.⁴ The idea of a punitive transformation within this small network of regions would become all the more complicated if we include the post-colonial Anglophone sites such as the Caribbean, Singapore, India or Hong Kong, for example (Brown, 2017; Carrington et al., 2016; Fonseca 2018b; Lee and Laidler, 2013; Paton, 2004), or examined the differences of the punitive turn in South as well as North America (Sozzo, 2018). If we were to broaden the scope from prison to punishment we see the abolition and/or abeyance of Magdalene Laundries, industrial schools, Jim Crow, colonialism, slavery and the death penalty in Anglophone world problematises the notion that there has been a dramatic shift from social tolerance to popular punitiveness (Alexander, 2010; Garland, 2010; O'Sullivan and O'Donnell, 2007). Important but challenging historical forces and events are footnoted in the comparative imaginary, which is primarily interested in the contemporary punitive transformation of criminal justice systems in the USA and Britain.

All concepts are necessarily partial, and comparative study needs to abstract and generalise to some degree so that diverse and complex national penal systems can be comparable. Exceptionalism, however, seems to be a particularly distorting means through which to view, compare and characterise penalty. This is because exceptionalism 'necessarily constructs a social world read through the metropole' (Connell, 2006: 259). It 'privileges theories, assumptions and methods based largely on empirical specificities' (Carrington et al., 2016: 1) from the Anglosphere.

Developing a new comparative terrain

Contemporary comparative penology developed in the shadow of punitiveness, which provides at least a partial explanation of the discipline's surprisingly nascent character. Exceptionalism in comparative research tends to result from a predominant political geography that prioritises and amplifies the concerns of the USA and England and Wales.⁵ It was quite widely accepted that these regions experienced the most significant penal transformation, changes that were perceived to exemplify wider trends 'elsewhere' (Hamilton, 2016) and therefore could usefully produce generalisable comparative concepts. This kind of comparative project was undoubtedly an urgent one, and its value should not be disregarded or diminished. Despite the limitations identified above, there is no suggestion here that we abandon the kind of strategic and reformist comparisons. But if we are to answer the calls to develop comparative penology, it now needs to escape some of the repetitions of exceptionalism, binary comparisons, conceptual limitations and epistemic inequalities.

I want to begin to sketch out some possible approaches for comparative sociology of punishment that may help overcome some of the shortcomings of our current metropolitan penal imaginary. Following southern criminology, revealing the situated nature of comparative punishment, and society is intended as a

‘redemptive project’ (Carrington et al., 2016: 1). Reflecting on their aims, Carrington et al. write that ‘southern criminology as a theoretical, empirical and political project aimed at bridging global divides and democratizing epistemology by levelling the power imbalances that privilege knowledges produced in the metropolitan centres of the global North, particularly those located in the Anglo world’ (Carrington et al., 2016: 15).

The methodological strategies I suggest below are intended to help comparative penology to expand its toolkit, and as a result achieve the wider goals of precipitating a more equitable criminological knowledge. These approaches are by no means the final or maybe even the best measures to address the problems outlined above. It would be counter to the general aim of this article to now boldly outline a definitive way to conduct comparative research. Moreover, as a scholar working within English-speaking punishment and society scholarship, there are limits to my own conceptual purview. What follows then should be seen as an invitation to an ongoing dialogue, and a genuine attempt to enter into open discussion about what kinds of frameworks, research questions and concepts are required to make more grounded and inductive cross-national comparisons feasible, and ultimately how comparative research can be made ‘globally inclusive’ (Connell, 2006: 264).

Change where we compare

Our efforts might be well spent traversing a more diverse array of nations and regions that are not necessarily in binary opposition but compare and contrast in terms of politics, economics and history. The USA and England and Wales have been the base from which some of criminology’s key concepts have been produced, and there is a need to look elsewhere to extend these ideas and to reduce the epistemological inequalities in our knowledge production (Aas, 2012; Lee and Laidler, 2013).

Comparative penology could look afresh at places that may seem already so familiar. Exceptionalism often requires a collapsing of large geographical areas (e.g. USA, Europe and Scandinavia). Following Barker’s (2009) revealing and instructive example, we could compare *within* these exceptional fields. Rather than comparing the Scandinavian nations to elsewhere, what might a comparison of Finnish, Norwegian and Swedish prison practices reveal? What new insights might we gain into British penalty if we compared within the UK, examining the varied histories and interconnected penal cultures in Northern Ireland, Scotland along with England and Wales? When England is seen as one constituent part of the UK, rather than as representative of it, new differences in meaning and practices between these jurisdictions are revealed (e.g. Hamilton et al., 2016; Muncie, 2011). Certainly, Barker’s (2009) work has shown that this approach can confound the presumptions about what punishment is like in these places and provided new frameworks to explain the reasons for those penal differences.

As well as looking inwards for important internal differences, we need to look outwards and expand and diversify our vision. That exceptionalism defines several places in the North Atlantic shows the very limited geographical area that most regularly occupies comparative scholarship. Currie (2017) has argued that in the USA levels of violence and the legacy of the internal colonisation of slavery make it misleading to describe the USA as a purely Northern place. It may be better to understand the United States as a hybrid (a point that could also be made about other colonised Anglophone nations, such as Australia). Perhaps, therefore, it is similarly limiting to restrict comparisons of the US to culturally comparable white, western and Christian nations. This habit may make it more difficult to identify the forces that reproduce its system of mass incarceration. In this vein, we could also rethink what it is we mean when we say Anglophone and explore the interconnected nature of punishment between global North and global South. What tends to be collectively seen and presented as ‘Anglophone’ penal practices (e.g. Pratt and Eriksson, 2013) excludes post-colonial sites. We do not need to abandon the USA and England and Wales but would “decentre” them (Fonseca, 2018c), allowing for a new transnational context in which to consider penal patterns.

Challenging the Northern-ness of comparative penology will not be achieved by merely incorporating more nations from beyond the usual stable of regional comparators with which we compare Northern penal practices. This would easily still befall the problem of reading from the centre. Why we compare must be informed by fair-minded desire to understand punishment and penal politics in each of our comparator nations *in their own terms*.⁶ Any response inspired by a nuanced southern critical position should not simply invert, and therefore perpetuate, the dualism between Northern and Southern intellectual hemispheres (Bhambra, 2007). The comparative project outlined here links up neatly with southern criminology’s interest in problematising these boundaries. What we visualise as Northern nations can only be conceived as such if we sequester these places from their more complex and global history. What happened in Southern and colonised nations influenced and changed thinking in the metropole (Gopal, 2019), and the legacies of colonialism endured in penal systems beyond independence (Brown, 2017). There is thus ‘no global North that is not also the product of centuries old interactions between regions and cultures spanning the globe’ (Carrington et al., 2016: 5). A comparative penology that is not primarily motivated by Anglo penalty could be particularly effective at recovering and examining these intertwined legacies. Comparing within and between Northern and Southern penal cultures ‘could shed light on neglected aspects of theories of punishment and crime control, as well as challenge some assumptions of criminology and the sociology of punishment’ (Fonseca 2018a: 715). This will necessitate working in nations that are also not English-speaking. Whatever linguistic inabilities we have should not deter this project. Working collaboratively across national boundaries, cultural differences and language barriers seems an ideal way to conduct more equitable comparative research of the kind proposed here. An excellent example comes from southern

criminology scholars, in Carrington et al.'s (2019) ambitious collaborative research that examines criminology in Argentina, Asia, Brazil, Colombia and South Africa as a means to pluralise knowledge.

Rethinking the prison and penal politics

Of course, researching comparatively within and beyond European and western boundaries requires reflexivity about how our worldview shapes our research priorities. Challenging the Anglocentrism in comparative penology could be partially overcome by comparing different kinds of places. But it is unlikely to be subverted if we conduct comparisons asking the same kinds of research questions and deploying familiar comparative concepts (Tuhivai Smith, 2012). Comparative penology needs to do more than add 'southern content' to 'northern conceptual frameworks' (Carrington et al., 2019: 170; Connell, 2018: 404). A problem of the current approach, as identified above, is that the way we conceive of prisons and penal politics is rooted in an implicit Anglo orientation towards penal problems. Comparative research needs to traverse a greater number of borders and compare in a way that accepts that the meanings and aims of other prison systems are not necessarily immediately perceptible. For that kind of project to be a feasible undertaking we need to unbridle how we comparatively think about imprisonment and penal politics.

Carrington et al. (2016) critique the metropolitan assumptions in criminology for giving primacy to the prison. Surely, a comparison of the wider carceral archipelago (Foucault, 1977), immigration detention or asylum processes would be at least as illuminating of social harshness? Broadening the landscape of penal practices of what we compare will undoubtedly enrich our empirical and conceptual catalogue. What is more, a broader critical perspective shows us that we cannot take for granted what constitutes punishment (Fassin, 2018; Super, 2020). However, despite being central to penal comparisons, the prison remains in need of better theorisation for the purposes of comparison.

Currently, comparative penology's vision of the prison tends to favour breadth to depth, drawing a statistical silhouette of the prison using population numbers. What happens inside the prison, however, is rarely systematically set out. The prison does not only aim to incarcerate people and to deprive them of their liberty – though this much seems taken as given if exceptionalism and punitiveness becomes the object of inquiry. The prison can be explicitly aimed at punishment, but also recovery and reform of citizens through productive, rehabilitative and educative programmes, or to achieve other purposes, acknowledged or denied. But by comparatively registering the prison by two dichotomised points, we miss some of the other instrumental aims (what is actually being done to prisoners) and cultural forces (the meanings embedded in those penal practices) which shape the prison's diverse systems, and thereby perpetuate cross-national divergences in the uses of imprisonment.

While others address this issue by calling for better metrics (Hamilton, 2014), I suggest we also reconceive of the prison for comparative purposes. Similar practices, such as rehabilitation, remand or prison education carry different meanings, and comparing these quantitatively may not be the best way to describe the practices of imprisonment and illuminate their inherent social meanings. We need to discern qualitative as well as quantitative features of imprisonment that bridge the divide between some of the intricacies of sociology of imprisonment and the breadth of comparative penology. Without having to delve ethnographically into the interior worlds of respective prison regimes (though that of course would undoubtedly provide invaluable new comparative understandings of geographical variation in how people are imprisoned), it is possible to think comparatively about how prison systems are organised rather than mainly contrasting the levels of prison use. Developing comparative resources of this kind could enlist existing scholarship in prison sociology to provide different points of comparison that look at the systematic routines, buildings and practices that constitute an imprisonment regime. And of course, to avoid perpetuating inequalities in our bibliographies, we should seek out prison sociology beyond the metropole. This literature can help us rethink our taken-for-granted penal concepts. In this diverse array of scholarship, we see the importance of examining differences in meanings and practice of prisoner categorisation and rehabilitation (Brangan, 2019b, Super, 2011), dimensions of prison control (Birckbeck, 2011), the collective nature of prison life (Darke, 2018) and prison climate (Martin et al., 2014). Some combination of these kinds of middle-range concepts would help capture the mixed enterprise that makes up a prison system and gives it a distinctive national character.

This same intention should apply to our study of penal politics, namely, taking a more grounded interest in the ‘multidimensional’ forms (Garland, 1990) of political culture. Generic ideologies of neoliberalism, conservatism, liberalism and populism may be prevalent cross-nationally, but each may be realised in different ways depending on how they have hybridised with their social context (Brangan, 2019b; Jones and Newburn, 2005) and institutional arrangements (Savelsberg, 1994). Rather than categorising political systems based on ascendant ideological and instrumental thinking, this means investigating how these ideas work in practice to shape penal policies. Comparatively investigating these questions beyond the metropole may reveal new dynamics that shape the power to punish (Li, 2015; Sozzo, 2018). These kinds of questions also open up a space within comparative inquiry which understands the important role of agency in shaping penal politics and takes the time to appreciatively map intentions, motives and values of those who hold the state power to punish (Loader, 2006; Nelken, 2009). This would go some way to addressing the weaknesses in how comparative literature tends to present penal politics as a ‘black box’ (Barker, 2009).

This is a diverse and somewhat suggestive, rather than definitive, response to comparative penology’s central challenges of considering how to best compare imprisonment and penal politics. Such diversity reflects my sense that rather than being something we seek to finally solve and assertively settle, we should leave open how each comparative research project conceives of imprisonment and penal power,

treating comparative concepts of punishment as mutable and variable as penalty itself. In this more open-minded and pluralistic approach, comparative research may actually help us further theorise the relationship between imprisonment and politics.

Culture and contingency

Culture is clearly central to each account of penal exceptionalism, so it might seem unnecessary to suggest comparative penologists take culture more seriously. Because of the tendency to use culture to seek out reasons for exceptionally progressive (or harsh, in case of United States) penal practices, there is a tendency to accept a truncated and often superficial versions of comparative national culture. Hence, comparative studies on occasion envision generalised, timeless and overly deterministic categories such as English-speaking, Nordic or Francophonic, for example (Tonry, 2007: 30).

If exceptionalism precludes our ability to understand penal culture and patterns in their own terms, then we need to reflect on how we research culture and history comparatively. The methodological solutions to this are to show precisely which cultural meanings and social forces are invoked when those responsible for punishment amend penal policy and manage imprisonment regimes. What sorts of ideas, norms and sensibilities shape the everyday work of managing a prison system (Nelken, 2009)? Second, we need to pay greater attention to political contestation, historical events and social scandals in which the prison becomes entangled (Loader and Sparks, 2004). How are complex cultural traditions deployed in relation to actual penal, social and political problems (Brangan, 2019b)? Culture may run deep, but it only matters to prison outcomes in how it interacts with the limits of state administration (Barker, 2009), legal challenges (Garland, 2010), fluctuating anxieties around crime (Newburn, 2007) and actual problems produced by imprisonment, be it prison overcrowding, or prison violence and unrest (Brangan, 2019a). Simply put, culture is contingent rather than essential. Researching culture as a multiplicity that operates in conjunction with actual events and contemporary problems is certainly more demanding. It has the benefit, however, of mitigating against some forms of national caricatures, national grandstanding and sweeping condemnatory and complimentary accounts that are persistent in the exceptionlist comparative literature.

Conclusion

By focusing on the varied accounts of penal exceptionalism, I have sought to identify the 'mental geography' (Aas, 2012) in comparative punishment and society scholarship. Looking at exceptionalism exposes an often taken-for-granted and unacknowledged Anglocentric theoretical orientation embedded at the heart of the comparative sociology of punishment project. This critique was offered as a means to expose the borders of the comparative enterprise so that we may

ultimately open and expand the boundaries of how we think about and compare penalty. I have argued for a less prescriptive and more varied comparative approach to cross-national penalty than tends to be common. For the field to develop, we need to undertake the more challenging task of asking new comparative questions, addressing these queries in different contexts and diverse places and being open to think differently about imprisonment. This argument departs from the claims that if we are to resolve the literature's current limitations that we must make a priority of escaping macro-structural comparative analyses first and foremost. This is certainly an issue that needs to be addressed, but it belies a deeper more fundamental problem that these grand perspectives are rooted in Northern penalty without that being acknowledged. The strategies suggested herein certainly advocate for comparative research that has a more grounded and interpretive approach as well as a reflexive sensibility, and this is the approach I have tried to take with my own comparative work (Brangan, forthcoming). However, the broader argument presented here does not necessarily rule out comparison conducted on a larger canvas. In fact, large-scale cross-national frameworks rooted in Southern and post-colonial knowledge formation and penal problems may open up new insights into familiar penal forms and functions.

This more pluralistic comparative penology project could yield benefits for other punishment and society agendas. It could helpfully contribute to decolonising the criminological curricula (Blagg and Anthony, 2019; Connell, 2018). This kind of transnational comparative criminology could contribute in some small way to making the sociology of punishment an ever more plural and democratic discipline, thus supporting the southern criminology agenda (Carrington et al., 2016, 2018). While there is some concern about the problems of dividing criminology into northern and southern branches, a less Anglocentric comparative penology presents a meaningful way to build inclusive and interconnected study of punishment.

While there has been important and generative comparative penology scholarship, much of this is, to a greater or lesser degree, asking a similar question: Why are large Anglophone nations so punitive and harsh in their approach to punishment? By consistently asking roughly (and sometimes implicitly) this question in different ways has meant that the area has been beset by repetition, and this has inadvertently foreclosed on the opportunities for the conceptual innovation necessary for this subdiscipline to flourish.

While comparative study is a subdiscipline, its development as an empirically rich and theoretically varied enterprise is an important endeavour for the continued revivifying of punishment and society scholarship in general. The contrasting light of comparative study can challenge, reveal, expand and recast the sociology of punishment. By making comparative penology a less niche and regionally discrete undertaking it has the potential to provide 'a small, provisional ladder of escape from the circle of self-reference' (Douglas, 1987: 109) that informs how we think about penalty.

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Notes

1. And of course, using comparative research to contrast a punitive nation with lenient penal systems can make a compelling and damning exhibit of the excessive cruelty of national penal practices.
2. I am aware that this review of the literature, and thus the article, runs the ironical risk of itself being Anglocentric as it does not include comparative penological scholarship not written in English, and I am grateful to one of the anonymous reviewers for alerting me to the existence of comparative penology in Latin American criminology in particular. That I have not included comparative research outwith English-speaking journals and texts reflects my own lack of linguistic aptitude. While the works referred to here are often considered canon of this scholarship, that this vaulted description is problematic is part of the point.
3. Though that is certainly an issue that comparative studies need to address (Hamilton, 2014). Particularly, as data used to depict differences in penal phenomena are rarely generated by the researcher, and observations are frequently the result of official prison guided tours (Shammas, 2014).
4. This is not the case for Irish scholars, who have underlined the importance of the security threat to criminal justice practices (Mulcahy, 2002) and working cultures in criminal justice agencies in the Republic of Ireland (Rogan, 2011).
5. The distinction between England and Wales and the UK is important. What is so often referred to as the UK in criminological scholarship is often only referencing penal patterns in England and Wales. Northern Ireland and Scotland are part of the UK but have separate criminal justice systems and what appear to be divergent penal cultures.
6. By this, I specifically mean that it is the job of the comparative researcher to be willing to comprehend penalty in other nations as it is understood and intended in its specific local political context and social moment. Therefore, we must capture what penal policymakers, practitioners as well as criminologists are saying in each comparative setting; while also illuminating the local meanings, political contestations and historical tropes that are inflected in those utterances and debates.

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