

Comparative criminal justice: making sense of the difference assignment

[Law](#)



What I want to show in this paper is that the implications of this apparently banal point are not always straightforward. The reason for this is that it can be difficult not to fall foul of two opposing dangers. On the one hand, there is the risk of being ethnocentric – assuming that what we do, our way of thinking about and responding to crime, is universally shared or, at least, that it would be right for everyone else. On the other hand, there is the temptation of relativism, the view that we will never really be able to grasp what others are doing and that we can have no basis for evaluating whether what they do is right.

To get beyond these alternatives requires a careful mix of explanatory and interpretative strategies (Kneel 1994).¹ We need to recognize that, although criminal justice practices gain their sense from the setting that shapes them and the conditions with which they have to deal, they can also be understood by outsiders and need to be evaluated according to cosmopolitan and not only local criteria. But this is easier said than done. It is inevitable that our perception of others will be colored to some extent by our own cultural starting points- even when we say that what we are doing is trying to learn from them.

And criminologists do also have their own shared cultural common-sense. We tend to argue that the rise in crime rates is exaggerated by the media and the politicians, that we should avoid creating even more deviance by over-reacting to offending, that the availability of work and decent housing are more effective ways of reducing crime than whatever can be delivered by criminal justice. In the face of the changes brought about by neo-liberalism,

we plead instead for policies based on inclusion, solidarity, tolerance and respect for difference.

Not least, we recommend that politicians listen to professionals rather than seeking easy popularity. There may be little to quarrel with in these claims as aspirations. But when our study of other places merely confirms what we already thought was true and right, we need to be aware that we may not have given sufficient care to analyzing the similarities and differences that may lie behind the practices we are studying. The same applies to the more specific biases that come from our local cultural backgrounds.

Policy makers in the Netherlands, for example, tend to look for pragmatic, practically workable solutions to crime – as they do when seeking to resolve other types of problem. In Dutch ultra commonsense, being pragmatic means not being dogmatic, but elsewhere these terms may have a different relationship. In Italy, the term ‘pragmatic’ suggests behavior that is not guided by principles and that therefore borders on being unprincipled. Which is not to say the Italians in everyday life are not often pragmatic, and the Dutch never principled.

Far from it. The point is rather how difficult it can be for us to see the limits of our ways of seeing things. As the American philosopher Moroseness’s reportedly used to say, ‘pragmatism is all right in theory! But if the question is when it would be appropriate not to be pragmatic, a pragmatic approach itself may not be able to provide the answer we need. Likewise, it is impossible to specify, in principle, all the contingencies that may play a role in shaping the everyday application of principles.

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If we are to come close to grasping successfully what other systems of criminal justice are actually trying to do, we must avoid attributing to them intentions on the basis of what we imagine they should be doing - even if they are the best of intentions. Likewise - but this can be even more tricky - we should be careful not to deduce intentions from the outcomes being achieved. But it is often tempting - especially for the purposes of advancing a given agenda in local debates - to try to do just that.

A good current example in my view can be found in some of the arguments being used as part of the important debate concerning the problem of growing punitiveness in responding to crime both in the USA and elsewhere. In briefly reviewing this debate I shall suggest that criminologists from Anglo-American backgrounds engaged in cross-cultural research need to devote more attention to what they and others mean by punitiveness and tolerance. I shall first say something about the so-called 'punitive turn' and then describe some recent attempts to link punishment to differences in political economy.

In seeking to show the dangers of ethnocentrism, and the way more attention to interpretative questions might help to avoid them, I shall illustrate my argument with accounts of what may be some relatively unfamiliar features of penal justice in Italy. The choice of Italy is not only a reflection of the fact that this is the country whose criminal justice system I now know best. Italy is also, surprisingly, the major European country with one of the lowest levels of offenders in prison in proportion to its population (Broadband 2008).

Reason for comparing system and issues in criminal justice The potential benefit of conducting more research into prison population trends in other countries in order to learn lessons from those with declining prison populations. The lack of evidence for a clear relationship between the use Of prison and changes in crime levels. The potential benefit Of more research into international trends in refunding, which are almost impossible to compare at present. The need for better information about the impact of Alice numbers and other changes in police activity on the recording of crime and refunding rates. The potential for justice departments experiencing cuts to learn from one another Comparative Research Methods Empirical research in the social sciences is often divided into two types; one in which many cases are analyses, using quantitative techniques, and one in which a smaller number of cases are thoroughly studied. This course focuses on the second type, a style of research sometimes called ' case-oriented'. The course starts with discussions about defining comparative methods and the tauter of causality (what we mean when we assert that an outcome has a certain cause), which may differ between types of research.

The uses (or lack thereof) of single-case studies are then considered, followed by a review of the classic techniques for selecting a small number of cases for direct comparative study, with their respective strengths and weaknesses. Finally, a fairly new method, qualitative comparative analysis, is introduced and discussed . N Classifying Human Societies Over the years this process of comparison has given rise to many systems of classification in the various sciences. The system of classification that we will use is based on the subsistence technologies they employ.

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