Making sense of penal difference: Political cultures and comparative penology

Louise Brangan [iD]
University of Strathclyde, Glasgow, UK

Abstract
In this paper I argue that if we are to make sense of why punishment differs between jurisdictions, then we should focus on the political cultures that shape penal practices. Political culture is conceived of here as a 'practical consciousness', made up of implicit and express cultural values and political commitments. Using the comparative case studies of Ireland and Scotland (from 1970–1990s), the paper tries to show that by taking the time to recover and interpret the beliefs and ideas that frame penal policymaking, we will be better able to illuminate and make sense of cross-national penal patterns. And using the leverage of cross-national contrast and analysis, we can also better understand punishment and its place in each society.

In this paper I argue that if we are to make sense of why punishment differs between jurisdictions, then we should focus on the *political cultures* that shape penal practices. Political culture is conceived of here as a 'practical consciousness' (Williams 1964). Made up of implicit and explicit cultural values and political commitments, political culture informs how governments understand society and their role within it, and permeates decisions about how they should best respond to the problems of crime, punishment and social order. By grasping these differences in the politics of punishment, we can better illuminate the local and contingent forces that are fundamental in shaping differences in cross-national penal policies and practices.

Corresponding author:
Louise Brangan, University of Strathclyde, Glasgow, UK.
Email: Louise.Brangan@strath.ac.uk

Despite the globalisation of generic carceral commitments – human rights, rehabilitation, reintegration, etc. – and the broadly similar patterns we have observed in rising and falling prison rates (Cavadino and Dignan 2006), we see that stark differences persist in how and why we punish. These divergences exist not just between, but also within nations (Barker 2009). And this penal pluralism continues to defy our often binary comparative frameworks (Brangan 2020). The central contention of this paper is that such differences reveal punishment's inescapably embedded nature, reflecting the respective social relations that pervade in our comparators (Melossi 2001). To advance this argument, and more thoroughly illuminate cross-national penal differences, I argue that we should attend to the political and cultural dynamics that shape policy choices and inform penal outcomes. To study political culture involves a grounded study of government. This requires that we focus on those making policy and ask what cultural sensibilities inflect their decisions? And we must ask explicitly political questions about their motivations too: what understanding of government power is embedded in penal policies? By comparing political cultures we can undertake fine-grained comparisons of penality by identifying not just punitive contrasts, but the socio-cultural distinctions embedded in similar penal programmes. In this way, we are also using the leverage of cross-national contrast and analysis to better understand punishment and its place in each society.

The article begins by providing an overview of the main forms of explanation and analysis in comparative penology, which have highlighted the significance of political economies, political institutions, and national cultural meanings. Despite disagreement and variation, there is something of a taken-for-granted consensus about the aims of comparison: explaining contrasts in punitiveness. How might we conduct more inductive comparisons that illuminate the complex penal cultures that pervade in each place being compared? Arguing that the 'proximate causes' of punishment are the internal workings of government (Garland 2013), the first point of departure is conceptual. Drawing on cultural sociology and governmentality, I sketch out the key components of political culture, such that we can render it comparable. The second departure is methodological. If we want to avoid the 'sweeping assertions of either difference or sameness' that once threatened to dominate comparative penality (Newburn and Sparks 2004:7), we require a combination of grounded methods. Showing how this framework can produce fuller and often more compelling accounts of cross-national penality, a brief illustrative comparative sketch of Ireland and Scotland – looked at here from the 1970–1990s – is provided. I conclude by arguing that the ascension of punitiveness as the object of comparative punishment and society has been at the expense of developing a more nuanced comparative view of penality, one where we treat it as a dynamic social institution rooted in place and time.

Understanding comparative penal differences

The contemporary field of comparative penality was largely spurred on by the rapidly rising prisoner numbers in the West. In attempting to make sense of the broad similarities and striking contrasts in penal severity across regions, what was initially the most

impactful paradigm in the comparative repertoire was that contrasts in punitiveness are a manifestation of macro-structural forces, in particular political economies or national cultural characteristics (Cavadino and Dignan 2006; Pratt and Eriksson 2013; Whitman 2003). This body of scholarship is justifiably the bedrock of this field, it points us towards key determinants in cross-national penal patterns. In recent years, however, these accounts have been criticised for their abstracted perspectives, which skate over significant differences, not least of which are evident in the variations in imprisonment rates, even between nations that are classed together as punitive (Barker 2009; Lacey 2008).

Comparative studies have since evolved significantly and moved beyond these over-generalisations. One of the most important advances has been the refinement of our understanding of the relationship between comparative penal differences and penal politics. Much of this work follows Downes' (1988) early example, and has focused on the institutional dynamics that mediate, incentivise, or dampen punitive penal desires (Barker 2009; Campbell and Schoenfeld 2013; Green 2008; Lacey 2008; Savelsberg 1994).

The great benefit of a political institutional lens is that it makes it easier to map the causal mechanisms that translate similar structural forces into divergent penal trends. (e.g., the USA and England are both neoliberal, yet have drastically different rates of imprisonment.) This view of penal politics is sharper and more discerning. That is likely why this perspective has gained in popularity, it avoids abstraction, yet creates an even comparative tableau – we can compare like with like. This view at times can be just that, however, mechanistic, somewhat taming and containing the emotive tempo and spontaneity that constitutes government activity. But the overall point – that local politics matters in shaping cross-national penal differences – is an important one. It is just that within these organising structures governments continue to act in ways that appear more complex, fluid and at times surprising, than the apparent institutional rules and strictures might allow. Comparative penology remains curiously insensitive to the empirical detail of government work (Barker 2009; Jones and Newburn 2005). As Garland (2013: 492) wrote, 'even these more sophisticated studies leave us with something of a black box when it comes to demonstrating how penal law and policies are shaped and how penal decisions are made'.

It is not just that we need to pay more attention to political agency. What is also missing from these accounts are the contrasting sensibilities and commitments that motivate people who are doing the work of policymaking in our comparators (Nelken 2009). Comparisons of cultures were once at the forefront of comparative penology, but seem to have fallen out of favour. Perhaps this is because cultural penal comparisons are now so tightly associated with a macro perspective that maps penal culture on a grand scale (Pratt and Eriksson 2013), which generates quite a bit of critical discussion (Smith and Ugelvik 2017; though see Crewe et al. 2022 for a thoughtful reconsideration of these critiques). However, as Melossi's (2000, 2001) landmark comparative work showed, similar penal ideas, such as the prison itself, are conceived of and used in very different ways from one place to the next. These contrasting practices reflect local cultural repertoires that shape what a society finds tolerable and desirable in the deployment of penal power. It is not simply that political institutions mediate the sentiments of the masses, these place-specific beliefs also allow political agents to make sense of what it is they are doing,

what it is that needs to be done, and why (Barker 2009; Jones and Newburn 2005; Newburn and Sparks 2004).

Done well, a study of punishment's social meanings does not involve tropes, and given the demands of doing work with a cross-national breadth, this is always a risk. Instead, we would trace the precise litany of ideas, values and beliefs embedded in actual penal practices (Garland 2006). Therefore, if we are to advance this perspective in new and useful ways, we need to compare culture as more than enduring and stable sets of abstract values: in tolerance, egalitarianism, etc. And to avoid the pitfall of relativism that comes with this interpretive approach (Nelken 2009), we need a basis with which to compare diverse, and sometimes more subtle and idiosyncratic, cultural meanings that actually inform uses of punishment.

To re-orientate what we compare in this way, we must first re-orientate why we compare. Much of the comparative literature shares a broad motivating impulse: to assess divergences in penal harshness. Punitiveness is appealing because it feels that we are comparing what is essential about punishment, that it is an apparatus of injustice. While this has usually been measured by the proxy of per capita imprisonment rates, it is now widely accepted that prison population sizes are a crude way to measure punitiveness (Nelken 2009). The tendency now in the comparative literature is to refine these metrics so that we can get a more accurate measure of a nation's punitiveness (see Hamilton 2014; Tonry 2007).

However, it may be that punitiveness oversimplifies matters and truncates our comparative perspective. Analyses concerned with punitiveness foreground penal trends and correlations, as such they examine punishment in a one-note way – harm, cruelty, severity. Analyses of punitiveness, therefore, can also be schematic, often proceeding with coherent characterisations of the respective penal cultures made at the outset, for example punitive Anglophone nations compared to their lenient Scandinavian counterparts. While this is for the sake of correspondence, as a result, our comparisons can feel quite detached and placeless, rarely feeling like the comparators are adequately located in their own complex social relations. Seldom do we see comparisons that are actively seeking to leverage the cross-national perspective so that we may deepen our understanding of punishment in each place. To my mind at least, this kind of fresh insight is one of the great benefits of comparative reflection. In each comparator, we can illuminate the unseen, expose the taken-for-granted, and render the ordinary peculiar. Yet our comparative frameworks.

Clearly, comparative penology is diversifying and has undergone a period of refinement. Yet, there remain some unrealised lines of empirical and theoretical potential in our comparative repertoires. While it is clear the politics of punishment is a vital source of penal divergences, the way we compare politics is now more grounded, but likely to be focused on institutional dynamics rather than on the frameworks of understanding embedded in the policymaking process. And overall, comparative work is still largely tethered to questions of assessing contrasts in punitiveness (Brangan 2020), which can result in deductive comparisons that at times feel homogenous and lacking relevance in the immediate contexts being compared.

This is not simply an insistence that greater nuance be added to our comparative perspectives, repeating a classic riposte to comparative and macro theory that things are

vastly messier and more complex in reality (Tonry 2007). It is that differences in how we punish between jurisdictions are 'highly symptomatic of *who we are* and *how we organize our relations with others*' (Girling et al. 2000:16, emphasis added). These social relations are complex and this means we can compare penal cultures in numerous different manners. To present matters this way, however, is to propose that we need to think both culturally and politically about comparative penal differences. By developing a multidimensional conception of *political culture*, the aim of this article is to address these gaps by providing a new set of systematic interpretive tools for comparison.

Theorising political culture

The politics of punishment likely needs to be central to any explanation of why penal systems differ. But rather than focus on political institutions or political economies, I argue we need to also focus on the beliefs and sensibilities that underlie political action. It is always governmental work, aspiration, contestation, and negotiation between people that result in penal laws, policies, programmes, practices and regimes (Jones and Newburn 2005; Loader and Sparks 2004: 2011). Systems of punishment are simply untenable without these governmental activities, and comparatively, these political dynamics help determine differences we see in cross-national penal patterns (Newburn and Sparks 2004). Yet, as Nelken (2009) has urged comparative researchers, we need to decipher the precise intentions that motivate penal policies within our comparators. What I am suggesting is that by making differences in these intentions, cultural beliefs and political ambitions – which are embedded in the policymaking process – central to our comparative analyses, we may be better able to compare complex penal cultures.

If 'the work of comparison is not simply to compare things, but also to make them comparable' (Freeman and Mangez 2013: 199), then the challenge we face is not technical (as can seem to be the case in the ongoing debate about which metrics best measure cross-national punitiveness), it is instead conceptual. It is precisely this gap in our comparative frameworks that this article seeks to address by proposing the concept of *political cultures*. To readers familiar with this field of study, this won't immediately appear as an innovative comparative move. Others have already referred to the indispensability of political culture to understanding penal differences (Green 2008; Lappi-Seppälä 2008; Newburn and Sparks 2004), yet it remains under-theorised as a comparative penological concept.

Here I mean something different and quite specific. This study of political culture begins from the contention that penal politics are distinctive – and differ between regions – because they are 'crafts of place: they work by the light of local knowledge' (Geertz 1983:167). Two further distinctions flow from this premise. First, political culture is pragmatic and contingent. If penal politics are entangled in contexts, then we need to focus our attention on what government actors are doing, what issues are they attempting to resolve and address with their penal programmes. And secondly, because political culture is both practical and embedded, its ideational sources are multifaceted. Rather than being bound and directed

primarily by a set of organisational rules or an economic mindset, political culture is informed by a conjuncture of the many cultural, political and social forces that exist in any jurisdiction. Hence, this conception of political culture is distinctive because it is multidimensional.

How do we recognise and identify these strategic and meaningful dynamics that are animating cross-national penal divergences? How might such comparative analysis proceed? To avoid opaque and generic depictions of political cultures we need to foreground the particulars. Following Garland's suggestion, a multidimensional orientation, would treat penal politics as 'a cultural as well as a strategic affair', and should 'be geared towards interpreting the conflicting social values and sentiments which are expressed and evoked in punishment as well as to tracing instrumental strategies of penal control' (1990b:4). While the political cultures that govern punishment are inherently multifaceted, and thus will be 'marked by differences', they will pivot upon key homologies (Fraser and Hagedorn 2018:48): the interplay of *cultural sensibilities* and *political dispositions*. By attending to these, an equivalence can be drawn between political cultures in diverse contexts.

Cultural sensibilities

My first intention is to return the importance of punishment's cultural resonances to our comparative toolkits, focusing specifically on cultural sensibilities (Garland 1990a). These are the 'configurations of value, meaning, and emotion' (ibid.:249) that give punishment its distinctive national character, its expressive functions and its cultural force. Following Girling et al (2000), studying sensibilities requires a different approach to comparing culture. It avoids comparisons of large-scale historically enduring national tropes and abstract attitudes. Instead, it demands that we focus our comparisons on the precise meanings, social sentiments, and anxieties (Schalet 2011) that animate the policymaking process, frame policymakers' interpretations of social dilemmas and practical problems, and which guide their policy actions.

Which cultural sensibilities should we bring into comparative focus? Specifically, differences in *crime perceptions* can help us grasp a deeper insight into the different cultural meanings that help determine penality. It is now widely taken-for-granted that crime rates do not determine prison rates in any clear predictable way (Lappi-Seppälä 2008; Sutton 2004). This has meant that at times comparative research 'proceeds from the assumption that crime and punishment are largely unrelated' (Newburn 2009:512). Taking crime into consideration then, we need to account for quantitative differences (Miller 2015), but also compare crime as a meaningful cultural category that helps explain penal practices (Melossi 1994). As Girling et al. (2000:16) show, 'crime is not just something that bashes us over the head out of ill-luck, like a falling branch. It is something for which we seek explanation', in ways which tap into our passions, fears and morality. And just like any of us, for policymakers, their 'crime talk' (ibid) will be realised in 'vivid scenarios' (Swidler 2001:36), which are freighted with cultural meanings and social anxieties, invoking patterns of blame and accountability.

Here we will likely see the causes of crime are framed in relation to where it is presumed to be emerging and occuring. By this I mean the descriptions of *place*, the talk of communities, towns, estates, etc., problem places that are perceived to contribute to crime patterns (ibid.; Hall et al. 2013 [1978]). And how are these contrasted to idealised places, such as the nation and respectable areas, which must be protected from crime's incursions? Crime may be measured statistically, but its threats are interpreted through a perspective that is 'heavy with experience, and dense with local allusion and concrete points of reference' (Girling et al 2000: 17).

And talk of the internal borders and communities inside any region brings with it a notion of belonging – who are the nation's insiders and outsiders? Crime and punishment discourses also pivot on who government actors believe *penal subjects* to be (Sparks 2001), what Melossi has described as the 'cultural environment' that 'produces a given "knowledge" of the criminal' and which helps determine comparative differences in penal responses (Melossi 2000:298). People who have broken the law are also responded to as those who have, to varying degrees, transgressed cultural-lines, and broken social codes. This provokes a questioning about who would do such a thing, and why?

The fact that the penal system is not uniformly deployed against lawbreakers is testament to this. Rather than focusing on contrasts in how many people are being punished, then, if we want to explain comparative differences in punishment's forms and functions, we should also turn our attention to the different ways government actors conceive of those people being punished. It is via policymakers' interpellated sensibilities that place-specific discriminatory dispositions, regarding such matters as class, race, and gender, find their way into penal systems. Cross-national divergences in how offenders are demonised and dehumanised will permit differences in the depth and severity with which they are punished, and give rise to variegated penal categorisations within each comparator. This means detailing the various culturally-loaded, terminology and morally-charged characterisations with which people being punished are discussed in the policymaking realm. These dispositions constitute an understanding of who punishment is for, and differences in these will generate contrasts in how the penal system is devised.

In short, sensibilities promote certain responses, they inject the 'bare facts' (Schalet 2011) of crime and punishment (such as crime rates, the organisation of prison space, resource limitations, etc.) with larger social insecurities and cultural meanings. Sensibilities suffuse a penal system with its expressive objectives. It should be clear that what I am describing here as sensibilities are not monolithic sentiments that differ only between regions. Within any state there are of course numerous sets of sensibilities about offending behaviour, reflecting a wider complex social order. It is why some crimes and incidents are responded to punitively, while others are tolerated.

These pre-conscious sensibilities are important to understanding comparative difference as they 'define the outer contours of possibility in the area of penal policy' (Garland 1990a:214), motivating the uses of certain penal programmes while ruling out others. Hence penal practices become aligned to the mores and mood of a time and place. These situated sensibilities tend to be their most visible (and flagrant) during periods of strife, but they are a permanent fixture of political culture. Sensibilities are enacted in government work, they are inscribed in otherwise mundane

policy discussions and they buttress pragmatic choices. Cultural sensibilities always imbue punishment with its distinctive local remit and limits, and are therefore a vital, yet surprisingly neglected, source of insight into comparative differences in penality. Grasping the beliefs and social meanings that constitute penal politics will ground our comparisons and significantly enrich our cross-national analyses.

Political dispositions

My second aim is to equally centre political thinking in our studies of comparative penality. What I have been describing so far are the situated narratives, emotive currents and frameworks of cultural meanings that give punishment its fit and regional style. Yet, the cultural perspective alone overlooks that punishment is also inescapably political. By this I do not mean how punishment comes to be entangled in institutions or episodes of politicisation, nor how it is structured by economic modalities. It is instead an insistence that government reactions to the problems of crime and punishment are also conditioned by distinctly political disposition, identifiable as the 'set of express and implied beliefs and values about the proper conduct of government' and a vision of what good order means (Loader 2006:562). This would entail comparing *rationalities* about the norms of government and norms of *citizenship*, which also heavily mediate penal policies and practices.

   The politics of punishment are conducted within a web of instrumental views about what is an appropriate use of government authority (Garland 1997; O'Malley 1999) and contain a vision of how government should operate in order to achieve its ends (Rose and Miller 2010). Be it a liberal, laissez-faire, conservative, or an authoritarian rationality that prevails, each of these holds a different conceptualisation of government, which defines what are plausible and appropriate uses of state power (Loader and Sparks 2016). In penological terms, for example, it is suggested that penal welfarism was not only the product of a prevailing progressive-mindedness, or that policymakers were institutionally insulated from the public. Instead, this welfarist penal culture was also contingent on the liberal rationality of rule that dominated the government in mid-century Britain. This was a view that the government should be restrained in its interventions but also civilised in its handling of the more emotive policy matters, such as crime and punishment (Loader 2006). As Loader suggests, political elites filter public feelings and policy demands through a governing *habitus*, a taken-for-granted political mentality, and this helps align policies with the dominant beliefs about the general objectives of government.

   These rationalities of rule limit and direct the kinds of policies that are made – it is why punishment is rarely the unadulterated reflection of the public mood. Focusing on these strategic governing dispositions adds a new dimension to comparative scholarship. We can trace how differences in penality reflect more than cultural meanings and social insecurities, but are also heavily conditioned by how governing authorities rationalise 'their powers' and have 'understood their role in relation to the problem of crime' (Garland 1997:176, 184–185).

   To grasp the political dynamics of comparative penality, we also need to pay attention to the *citizenship* ideals that are embedded in punishment plans and programmes. Outside

of the comparative literature, we know penal practices not only seek to reduce crime or exert blunt punitive power, but also try to convert those being punished into certain kinds of people. Through the penal system, governments are not simply interested in 'the suppression of individual subjectivity but rather the cultivation of that subjectivity in specific forms, aligned to specific governmental ends' (Garland 1997:175). Prisoners, for example, are put through programmes that aim to help them become rational, entrepreneurial, or empowered citizens (Hannah-Moffat 2000). Punishment is therefore also attempting to be a tool of social engineering, a 'political tactic' that is designed to have 'positive effects', intended to incite certain politically desired traits in penal subjects (Foucault 1991:92). Differences in penal practice between nations therefore also reflect the different way each society envisions good citizenship – aspirational penal programmes will entail these political narratives. Rather than contrasting the pain of punitiveness, we are better able to compare the different modes of punishment by seeking to elucidate the specific political ends they can be orientated towards.

In sum, how government is understood and how citizenship is problematized gives punishment its political dimensions. If penal regimes are conditioned by principles of governing, it would be plausible to argue that cross-national differences in punishment also bear the hallmark of the distinctive governing rationalities in that context. Comparatively excavating and examining the different ways penal programmes are circumscribed by the political outlooks of a state helps us secure a better understanding of the divergences and convergences in cross-national penal cultures.

Comparing political cultures

This framework allows us to begin our comparisons from a more neutral and descriptive starting point than tends to be the case, with a set of questions rather than precast comparative penal cultures. While cultural meanings and political rationalities are set out above in tidy categories, in empirical reality they will coincide, clash and intermingle, and are not at all this discrete. Given each set of mentalities and sensibilities contains different views of what the penal system signifies, what it should seek to achieve and why, such coherence is unlikely. I am not therefore making the naïve claim then that a government's cultural expressions and political orientation neatly align in a stable predictable pattern. That is also why penal politics entails struggle (Page 2011). Political cultures are 'instrumental *and* rhetorical, archaic sometimes *and* advanced, culturally embedded *and* politically tactical' (Sparks 2001:169 original emphasis). Being able to recover and systematically compare these facets of political culture, we will be better placed to understand cross-national differences in inherently variable penal systems.

Methodologically, to study political culture requires us to delve down into the world of government, researching it from the inside. Instead of relying on national surveys of broad public attitudes or organisational maps aligning these with divergent (and high altitude) penal patterns, we begin by focusing our research efforts on the respective sets of governing actors who devise and compose penal policies and programmes. Our focus should be on the aspirations and beliefs – and the struggles between them – that are embedded in that business of designing, debating and implementing penal programmes.

Thus, we can show how political culture works to direct what is actually happening (Loader and Sparks 2004; Vaughn 2004). Practically, this would give priority to elite and oral history interviews with civil servants, politicians, and senior personnel within the penal system (Loader 2006), as well as archival research (Vaughn 2004).

Studying the politics of punishment this way also requires extensive documentary research, reading for political culture in key texts, such as legislation, election manifestos, and policy proposals in each comparator. But we also must engage in careful reading of the mundane documents of penal governance: the annual reports, research briefings, and penal programmes. By gathering up numerous documents, we can also compare and contrast the respective 'culture[s] of documentation' (Stoler 2009:88), which can reveal differences in how the work of penal politics is conducted – a tack that has thus far been largely overlooked in comparative penology.

Comparing political culture also demands that we research it in situ, locating political culture within its specific history, ensemble of social conditions and general cultural arrangements (Loader and Sparks 2004). If every imputation of reason each of us gives is not without a social reason (Mills 1940:904), then by investigating what penal regimes mean to those operatives who are charged with devising them, we will find in their vocabulary of reasoning the diverse social sources of political culture.

Rather than abjuring these place-specific details as parochial distractions or treating them as idiosyncratic colour, the framework outlined here follows Barker in seeing comparative penal politics as intelligible only through a situated contextual reading (Barker 2009). The internal dynamics of penal politics in each place should then be interwoven with the different contemporary contingencies, the structural shifts, and the happenstance, all of which governments routinely run-up against, and which re/direct penal culture. As Hall et al. wrote, this requires an extensive secondary literature research so that we may locate government actions 'in the histories taking place behind all our backs' (Hall et al. 2013 [1978]: xi-xii). Thus, a study of political culture necessitates an analysis that moves between grounded meanings-in-use and more general structural and historical patterns.

Of course, a textured and inductive comparison of this kind constrains the number of countries one can compare. By necessity these will entail small-n studies. Admittedly, as a result, the findings will lack some of the immediate elegance of our most cited comparative models. The benefit of this approach is that it allows for the contextual depth that illuminates that which is often overlooked in our current comparative frameworks: the meaningful and politically tactical forces behind the politics of punishment and, hence, which lie behind comparative differences in how we punish. This doesn't seem a disappointing limitation. There is clear evidence that a small number of comparative case studies can produce new empirical and theoretical insights (e.g. Barker 2009; Crewe et al. 2022) – which is exactly what is needed if this area of study is to further develop and mature. Comparing political cultures is, I believe, a more ambitious, compelling and particularly illuminating way to understand cross-national penal cultures. And as we will see below, when we move our attention onto the political culture behind penal policies, it can do something that is all too rare in comparative penology: deepen our understandings of penality within each comparator.

Comparing penal cultures in the Atlantic Isles

I briefly summarise two case studies that draw on historical research of Irish and Scottish penal politics from 1970–1990s and which uses the above comparative political culture methodology, and draws on archival, documentary and elite oral history interviews.[1]

Ireland and Scotland are both English-speaking nations of a similar population size, generally seen to be cultural as well as geographical neighbours. Neither nation conforms to the usual Anglophone punitive penal transformation thesis. Ireland has been repeatedly presented as having a "stagnant" penal culture, marked by an "ideological vacuum", at the end of the twentieth century (Brangan 2022). While at the same time Scotland was understood to have been a bastion of penal welfarism (McAra 2008).

They also present a comparative conundrum. It is widely accepted that our standard comparative frameworks cannot provide satisfying analyses and explanations of either nation's penal culture at the end of the twentieth century (Hamilton 2014). Ireland's political economy has failed to neatly fit with the existing models (Kilcommins et al. 2004), and its penal patterns are neither distinctly welfarist nor punitive (Rogan 2011). While prior to devolution in 1998, Scotland's progressive penal welfarist culture operated while being part of the British economic and political system.

1970s Ireland: Pastoral penality

Unlike its fellow Anglophone nations, during the first half of the twentieth century Ireland was not a liberal, industrial, and modernist nation. Ireland was rural, agrarian, socially traditional, political conservative and had been economically poor.

Crime had been low, but by the 1970s the crime rate was rising and, in a response to expanding prisoner numbers (740 prisoners in 1970, rising by almost 300 by 1035 by 1972), the prison estate was doubled, with four new adult male prisons opened. We might immediately read this as a signal of rising punitiveness, but when we look at how and why people were being imprisoned, a different narrative emerges. There were progressive developments, as Ireland established its first open prison (Shelton Abbey) and semi-open training prison (The Training Unit).

This expansionary moment wasn't all about buildings. There was the development of Temporary Release, which was a permissive form of parole. The decisions about who to release were based on discretion and intuition, rather than a rigid set of rules – any prisoner, regardless of sentence, was eligible for Temporary Release. New support services, such as psychologists, probation, and education were also established. Rather than being reduced to addressing recidivism, the work of these professionals was often described as helping prisoners "cope" with imprisonment (Department of Justice 1984:5).

The problem of a growing prison population in 1970s Ireland was being met with new penal techniques that were supportive and sought decarceration rather than attempting to reduce recidivism. The Division reported that the prisons: 'may still look much the same from the outside but inside things are different' (Annual Report 1977:6). Despite this declaration that this was a period of systemic reform, there were no formal policy documents

guiding these practices. Decisions and choices were based on a common sense know-how, and knowledge was garnered through informal conversations.

We can only understand the emergence of this 'pastoral penality' (Brangan 2021b) by recovering the taken-for-granted cultural sensibilities and political mentalities that framed these choices – as such, the political culture-that permeated the Department of Justice in Ireland at this time.

It was assumed that ordinary prisoners were mostly poor, their crimes had social causes, it was not pathological (ibid; Healy and Kennefick 2019). There was a pronounced empathy among government administrators and a pervasive undercurrent of 'there but for the grace of God go I'. This social framing of crime also changed policymakers' view of what they believed the prison could achieve. They were sceptical of the prison and its positive rehabilitative claims. How could prison reduce crime when those problems existed outside the prison – springing from Ireland's endemic lack of opportunity?

The administration's penal scepticism was compounded by a deep-seated sense that the prison was also socially destructive, and here we see a conservative governing rationality emerge. Incarceration undermined family life, which was paramount in Catholic Ireland. Instead, they focused on the problems of the prison rather than the problems of the prisoner, best to reduce and ameliorate the prison where at all possible. This was especially evident in the expanding use of Temporary Release. This helped maintain an unofficial cap on the size of Ireland's prison population, but release did more than prevent overcrowding. Prisoners were regularly released for family events, such as attending communions, funerals, or weddings. There were also mass releases for Christmas and Easter each year, and a special amnesty for the papal visit in 1979. Release was intended to support wider social norms of family life, reminding a (male) prisoner that his rightful place was with his family. Ideally, release sought to invoke an adjustment in a prisoner's personal 'approach to living', as a good husband and community member (Department of Justice 1981), an image of citizenship that reflected the cherished social values of conservative Catholic Ireland.

Such thinking was possible because Ireland remained a traditional society with a peculiar power dynamic. In the 1970s the Catholic church remained a shadow governing authority, who through a system of institutions (such a Magdalene Laundries) arguably had a greater grip on the power to punish than the government (O'Sullivan and O'Donnell 2007). Consequently, this embedded a distinctive idea of government power in Ireland. The government saw itself as having only a modest role in deploying penal power. Ireland's penal prudence equally flowed from a view that collective efficacy of family and the Church were all superior sites of social and moral regulation rather than government intervention. As a result of this confluence of political and cultural forces, prisons in Ireland were 'ruled through leniency' (Melossi 1994).

1970s Scotland: The dismissive society

1970s Irish penal culture contrasts starkly with what was going on in neighbouring Scotland. Scotland had been an industrial, capitalist and modern liberal nation. In the literature, the 1970s is a justifiably glorified period, when Scottish welfare values were in

the ascendency, evident in the Kilbrandon Report, which is renowned as Britain's 'quint-essential' penal welfare document (Garland 1996). Stating that criminal justice should be retracted, and welfare provision expanded, Kilbrandon outlined an incredible vision rooted in social rather than criminal justice, which had wide-ranging and radical impacts on youth justice and probation.

The prison system stood in disparity to that principled vision, however. Prisons were governed in an administrative and reactive way, lacking in innovation. Prisoner numbers were already high (4559 prisoners in 1970), and the mainstream imprisonment regime was organised around a gruelling and monotonous routine of low-skilled work, which was championed as an effective tool of discipline and order (Annual Report 1985).

The mainstream regime was also almost obsessively attuned to prisoners' 'health and hygiene'. Prisoners were plotted along a series of illness and morbidity metrics: venereal diseases, alcoholism, lice, and dental problems, for example. The most endemic health problem, and the matter which most consumed the Prison Division, were the seemingly ceaseless cases of personality disorders that were felt to plague the Scottish prison population.

Using these measures allowed administrators to judge the depth and breadth of the problems the prison seemed to face. The medicalised view of the prisoner meant that rather than seeing prison as a place of punishment, it was seen 'primarily therefore [as one of] one of containment and physical care' (Annual Report 1971:2), referred to as a regime of 'penal medicine' (Annual Report 1982:20).

For the lucky few, there was a system of rehabilitation where prisoners were being, as it was described, 'trained for freedom'. This had "responsible citizenship" as its central motif, encouraging prisoners to internalise the values of individual responsibility and rational thinking, proof of which could merit them for temporary release.

But beyond the mainstream prison system existed a deep-end (Sparks 2002), Scotland's extensive segregation system: Peterhead, The Digger, The Cages at Inverness, the Barlinnie Special Unit. The Special Unit aside, these places were notorious for their brutality, but exemplified an apparently rational carrot-and-stick method to discipline and order in Scottish prisons (ibid.).

What ideas and meanings normalised and legitimated this dismal, harsh and extensive prison system? Partially because there was an aura of danger and disorder around Scotland's prisons and prisoners, which policymakers felt acutely. Crime was high and rising, but it was perceived in multiple ways. The feeling was that Scotland was a histor-ically violent country with a tough population, and by the 1970s, Scotland was in the grips of deindustrialisation. The governing elites became preoccupied with a fear that there was an increasingly aggressive, immoral and unhinged strain of working-class masculinity not just in Scotland generally, but which they believed was endemic in the Glasgow slums and new overspill estates, where unemployment was now rising. These places provoked deep anxieties, a believe that the prison was dealing with was the worst of the worst: the ill, feck-less, disordered, and violent.

Prisoners were thus socially, mentally and physiologically constituted as 'other', assumed to be permanently incapable and pathologically dangerous. These different nar-ratives and images coordinated what Scottish prison interventions were seen as plausible

and felt to be desirable: confine, medicalise and segregate. Prisons held those people considered intractable or too inadequate to be in the care of Scotland's newly expanded penal-welfare system. In contrast to Ireland, in Scotland the prison was understood as a vital instrument of social order, with policymakers seeing themselves as responding to the insecurities provoked by a society in decline.

Yet just as in Ireland, the prison regime also continued to inculcate idealised citizenship. The aim of training for freedom and segregation was to work together as a carrot-and-stick system. The hope was that this re-created the regulatory order that induced the rational styles of reasoning that were desired in every day social life of Scotland's liberal political make-up.

But huge changes occurred in both Irish and Scottish imprisonment in the 1990s.

Ireland 1990s: The power to imprison

By the 1990s late modernity rapidly came to bear upon Ireland, which was catalysed by the onset of the Celtic Tiger economic boom. At the same time as this prosperity, crime was rising and gangland violence and drug addiction grew in prevalence. Simultaneously, and which felt quite sudeen, the Catholic Church's authority seemed to collapse (Inglis 1998). These factors combined to produce a moral panic and a political emergency.

The national mood was that something must be done about Ireland's new dangerous classes and recalcitrant offenders. Of course, crime had risen before and not caused outrage. But crime was being perceived in a different way in the 1990s, as a threat to Ireland's traditional community and rural way of life, seen as an incursion stemming from Ireland's new, primarily urban, social housing estates. It was galling to the public mood to see the government continue being so restrained and moderate in the face of tumultuous social problems. Without the Church, the Irish government was suddenly burdened with a greater responsibility: to protect communities from crime, but more than that, to direct social relations.

In tracking political culture over time, rather than fixed penal cultures, we can see changes within each of our comparators. This is evident in how the whole idea of government and its role was reworked in Ireland in the 1990s. The directive force and penological effect of governing mentalities is especially transparent during contentious episodes of penal transformation, as we see here. This turbulent moment discloses these political fault-lines. Ostensibly, this was crisis of crime control, but fundamentally it was a crisis of government. By altering their prison system, the Irish government weren't just responding to crime, prison disorder, or shifting cultural conventions, they were also trying to reform and reinforce their political authority. In this period in Ireland the bureaucracy of government was significantly extended and new strategy statements for government were published. With these the Irish government was explicitly repositioning itself to meet the new 'expectations' that they would be at the centre of Irish social order, thus they set about becoming 'the hub of the law and order system' (Department of Justice 1997:164–165).

These forces combined with the growing animus towards offenders to drastically alter the meanings of Irish imprisonment. New decision-making bodies and policies were

established that sought to preclude the discretionary way prisons had been managed, which had favoured release and prison reduction. New policy documents and annual reports rewrote the terms in which prison was discussed and reframed the aims of punishment. By the end of the 1990s the prison in Ireland was reorganised as a tool of crime control. The prison estate was intentionally expanded with five new closed prisons built and the use of Temporary Release was severely restricted, all of which was presented as a success, a triumph of a new exclusionary penal logic.

1990s Scotland: Civilising imprisonment

A penal transformation of a very different kind appeared to be happening in Scotland. In a stunning volte-face, a system that had been synonymous with brutality and hopelessness became a beacon of tolerance and probity by the beginning of 1990s. What had happened? In the 1980s the prison system became engulfed for years in protests, riots and hostage-takings. At the end of their tether, feeling the weight of the ongoing ordeal, new thinking broke through inside the governing administration. They began to question if the occurrences of violence and disarray were in fact a product of Scotland's dehumanising prison regimes.

This thinking took hold, and an overhaul of the prison system ensued, which declared to be following an evidence-based model and that the prison service would be led by a "customer" survey of prisoners' views. Prisons would have to submit to new performance indicators and targets, which sought to standardise their regimes. The revised prison programmes were organised around a new bureaucratic discourse of "opportunity and responsibility" (SPS 1990), especially the idea of the responsible prisoner. As such, they sought to homogenise their working view of the prisoner and to drain it of the emotionally and socially loaded connotations that had preceded it. To this end, they employed new techniques, such as Personal Development Plans, to also align prisoner's behaviours with the revised organisational goals.

Changes in the prison were not just in response to the riots, however. Just as had occurred in Ireland, those visible crises of imprisonment had become entangled with the problems of government in Scotland. A decade of harsh Thatcherite policies had fuelled a new nationalist sentiment: Scotland was more progressive than England. And at the time, before devolution in 1998, one of the few areas where there was Scottish control of policy was criminal justice. Altering Scotland's prison policy was an expression of both growing nationalist sentiment and anti-Thatcher feeling. New prison policies allowed a new political rationality and cultural sensibility to be established in Scotland.

However, we should temper our enthusiasm for this as a great period of progressive transformation, moving penal policy from punitive to lenient. The fundamental aim of imprisonment remained steadfast: managing danger and disorder in an unequal society. The use of the prison never reduced, instead this time was marked by a flurry of paper – policies, mission statements, objectives, surveys, new performance indicators etc. These changes allowed the prison administration to escape disarray and for the prison to be publicly redeemed, appearing *civilised* rather than punitive (Brangan 2019), the

pains of imprisonment were submerged beneath the glossy new policy talk, communicating an impression of Scottish penal, and thus political and social, superiority.

Political culture: Seeing punishment as a social institution

When we look across borders, we see that punishment shares a a broadly global discourse and set of intentions. Penal systems are also dealing with the same problems: rising crime, rising prisoner numbers, social disorder, public fears, and political anxieties, etc. Yet for all the universal language, differences persist in penal practices both within and between our comparators. This is because the ways in which we interpret these numerous problems remain contingent on local events and embedded frameworks of understanding. But our comparative frameworks are not sufficiently developed to allow us to compare our variable and embedded penal cultures. Focusing our comparative studies on political culture advances comparative penology more firmly into this new methodological terrain.

Firstly, this approach is more pluralistic than what tends to make up comparative penology. While the comparative literature at times pitches politics and culture in analytical opposition or treats them as discrete undertakings, what we see in the examples above is that they are not separate in practice. We see that punishment cannot be easily summed up as principally embodying either a single cultural norm, a political ideology, or a penal ideal. Penal policies and programmes are value-laden, motivated by passions, fears, staunchly held beliefs – they are reactionary, seeming to defy rationality. Yet it is also clear that penal polices are simultaneously a product of rational political tactics, organised and reorganised to try and achieve governmental ends. A particular benefit of comparing political culture is that it allows us to contrast the multitudinous forces that undergird variegated penal systems.

In addition, this framework is more explicitly focused on political agency. By and large, comparative frameworks tend to overlook the internal dynamics of penal politics, assuming that political actors' meanings-in-use are a largely insignificant feature of how policy decisions are made and comparative differences manifest. What I have sketched out here pushes beyond the comparative epiphenomenal view and mechanical institutional approach toward penal politics. Instead, it takes seriously that the taken-for-granted ideas, values and beliefs that constitute penal politics come to constitute our penal practices. Hence they are a critical but untapped source of cross-national penal differences. And by grasping how penal policymakers make sense of their work, what emerges is a view that connects penal practices to their wider social supports, cultural contexts and political habitats. And it is this properly contextualised and conceptualised study of penal politics that more thoroughly elucidates the nature of cross-national penal divergences.

Finally, when we ground our comparative studies in this kind of concrete, fine-grained and multidimensional analyses, what is thrown into stark relief is that governments are doing things with penal systems. By solving problems, managing, and administering penal regimes, policymakers are doing more than bureaucratic labour – they are imagining the kind of world they wished they had, the kinds of citizens they hope to occupy it,

all the while also reinforcing their beliefs about what kind of place this is. They are trying to enact social order and at times of transition, their choices help to remake society and subtly reconfigure social priorities. In both the Irish and Scottish examples, changing prison practices were an attempt to enforce government codes of conduct, establish social dynamics of inclusivity, set in place cultural values, and send signals regarding what activities and people will and won't be tolerated.

I make this point because it shows up the constraints of some of our dominant comparative concerns. If we want to train our comparisons on what is essential about punishment, then it is not punitiveness that should primarily draw our attention. If there is one similarity evident in the above case studies, it is that punishment is a complex social institution, rooted in the dynamics of place. It condenses and reinforces political authority, cultural meanings, and social arrangements (Garland 1990a). What I have tried to demonstrate is not just that punishment is simply best understood as local (Tonry 2007), but that contrasts in penality are a manifestation of the differences in the respective struggles about *how society should be organised*, and *how should it be governed*.

If that is the case, that decisions about punishment pivot upon questions about social order and political power, then penal cultures need to be researched *in their own terms* (Loader and Sparks 2004), located in their distinct social relations, so that we can better explain and understand their differences. If we wish to conduct cross-border analyses of this kind, then what we need are pluralistic concepts, such as political culture, which provide 'a way of turning' the varieties and complexities of penal culture 'into commentaries one upon another, the one lighting what the other darkens' (Geertz 1983:233). Hence, we can generate the kind of reciprocal comparative analyses that do something rather rare in cross-national penality: add sociological depth to our understanding of punishment in each place.

Conclusion

By definition, punishment is punitive, but to reword EP Thompson somewhat, punitiveness may arise in the same way in different times and places, but never in just the same way. What I have tried to outline here is an alternative way comparative studies of punishment and society can excavate and probe the socio-political dynamics of penality in cross-national jurisdictions. Penal cultures are complex. What makes punishment what it is, and by definition gives it a nationally distinctive character, is forged by the social order, cultural conditions and political context of its time and place. Yet, for any of these forces to find themselves realised in our penal systems then they must have a direct bearing on the politics of punishment. This is why we need a basis for comparing the ideational factors that motivate and compel penal policymaking. Political culture provides the conceptual grounds to recover, examine and comparatively analyse the respective social meanings regarding crime, law-breakers, government and citizen-subjects embedded in actual government actions, policies and programmes at particular times in history and in different places in the world. Because it is rooted in the dynamics of each place, comparing political cultures, therefore, helps us to better account for comparative penal differences.

And in the process of doing that, we may also better understand punishment and its place in each society.

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ORCID iD

Louise Brangan [ID] https://orcid.org/0000-0003-2558-1342

Note

1. For an extensive account of these comparative case studies see Brangan 2021a

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