Book Reviews


It is a fact that criminal justice research has been dominated by the Anglo-American perspective. It is also well known that criminal justice studies are in need of an international, comparative perspective, given the enormous differences in crime trends in different contexts. David Nelken, an established authority in comparative criminal justice research, is to be congratulated for compiling one of only a few collections exploring the issues raised as a result of comparative research in criminal justice, the differences between criminal justice systems around the globe, and the effect different cultures have on these systems. A collection that could possibly be titled 'The Handbook of the Comparative Criminal Justice Researcher'. The book is divided into four parts: Introduction (chapters 1 and 2); Virtually There (chapters 3, 4, and 5); Researching There (chapters 6, 7, and 8); and Living There (chapters 9 and 10).

In the first part, Nelken very successfully conceptualises ‘comparative law’ and ‘comparative criminal justice’, and engages in a presentation of the collection (chapters 1 and 2, respectively). In the second part, Feest and Murayama (chapter 3) attempt a ‘virtual comparison’ (p. 49) of how a real case from Spain would have been handled in Germany and Japan. In chapter 4, Brants and Field provide an account of the reaction to covert and proactive policing in England and Wales, and the Netherlands, in the context of the different political and legal cultures in the two countries. Finally, Bertrand (chapter 5) in a similar vein presents research carried out from 1993 to 1997 into the conditions of 18 closed and eight open women’s prisons in eight different countries. In the third part, Hodgson (chapter 6) examines the methodological issues of her research into the roles of defence and prosecution in France, and England and Wales, whereas Johnson (chapter 7) presents findings from his study of Japanese prosecutors, as compared to their American counterparts. Finally, Crawford (chapter 8) attempts to compare the development of victim-offender mediation and reparation in France, and England and Wales. In the fourth part, Nelken (chapter 9) provides an account of the main features of the Italian criminal justice system, discusses issues relating to criminality and victimisation in the country, and compares the crime discourses of Italy, and England and Wales. From a similar point of view – of a researcher living and working in a foreign country – Cain (chapter 10) focuses on crime and policing in the West Indies.

The qualities of this remarkable collection are many, with the primary one being its international scope. The book provides a vast amount of information and deep empirical data on the criminal justice process – from policing to imprisonment – in England and Wales, United States, Canada, Japan, West Indies, and continental Europe. This range of countries cannot be found in many textbooks concerned with comparative criminal justice. Moreover, an important feature is that most of the collection is based on real individual cases which, although they may lead us to over-generalisations, provide us with rich and insightful details for the different criminal justice systems and legal cultures, and: ‘...force us to decide whether those details can be imagined in the context more familiar to us’ (p.50). The main weakness of

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this collection is repetition, as some conceptual points regarding comparative criminal justice research are raised both in the introduction and in some of the articles featured in the collection. Also, in my opinion, a concluding chapter synthesising the data and themes would have substantially improved the work. However, these weaknesses in no way detract from the overall quality and value of the book, which is well-presented, accessible, rigorously analytical, and highly recommended to anyone concerned with comparative criminal justice.

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Recovered Memories: Seeking the Middle Ground G.M. Davies and T. Dalgliesh (Eds.), Chichester: Wiley (2001) 276pp. £55.00hb

There can be few subjects that have divided the psychology community more than that of recovered memories. The reliability of newly recovered memories (of which an individual had no previous awareness) has sparked very heated debate. Although a great deal of the acrimony is to be found in the USA, there has been considerable debate on this subject in the UK. This edited book attempts to assemble leading figures from both sides of the academic divide. This is no easy task as feelings on this issue still run high, despite the psychology societies in both the UK and the USA having already published the findings from their own research.

Despite what the sub-title of this book might lead one to presume, this is not simply an attempt at compromise between the two extreme positions. This book, according to the back cover, ‘eschews extreme positions’ but also claims to be ‘the most authoritative and comprehensive review of the evidence on both sides available to date’. There are within the book a number of examples of ‘extreme positions’ although in general the issue is treated in a more measured and reasoned way than has been the case with some previous publications. Whilst there is evidence of the polarisation that has occurred within the academic community on this subject matter, the book is more than a simple rehearsal of well-entrenched positions. For this, the editors and chapter authors should be complimented.

The book is divided into three main sections dealing with the social, evidential and clinical aspects of recovered memories. Contained within part one are chapters examining the effects of recovered memories on the family, the community and the individual, as well as chapters dealing with legal dilemmas and the socio-historical background. Part two deals with attempts to discriminate between real and false memories and also contains a chapter that tries to address the question: ‘where do we go from here?’ Part three contains chapters that deal with therapeutic aspects and also looks at how clinicians handle these very difficult cases. The book concludes with a section entitled ‘Concluding Comments’ which contains just one chapter with the unlikely title ‘Memories of abuse and alien abduction: close encounters of a therapeutic kind’. Despite this somewhat misleading title, the chapter makes a genuine attempt to draw together many of the issues that have been explored in the previous chapters.

As with any edited work, there are inevitable differences in the style of the individually authored chapters. Having said that, there is at least some attempt made at standardisation in presentation and format. Some of the chapters will appeal to therapists who have to confront ‘recovered memories’ in their day-to-day work while others may be of more interest to those working within the field of cognitive psychology. There
are also differences in terms of the level at which different chapters are pitched. Some chapters will be easily digested by readers with little knowledge of the subject matter, while others require a certain level of psychological and therapeutic expertise to guarantee comprehension. Having said that, the book certainly goes a long way towards its aim to: ‘provide a guide for . . . therapists as well as to provide the interested academic with an overview of the latest information in the ongoing debate’ (p. xiv).

For any therapist wishing to learn about the current state of the debate this will be a valuable resource. However the book may also appeal to the casual reader who wishes simply to learn more about what remains one of the most controversial issues within psychology. It will also be an interesting read for both undergraduate and postgraduate students with an interest in cognitive and/or clinical psychology.

Positions with regard to this debate are so entrenched that it is unlikely that the book will manage to persuade those at the extreme ends of the academic divide to reconsider their position. However, for those who are more amenable to reasoned argument and debate, this is a valuable contribution to the area.

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Cambridge, MA: Harvard University Press (2001) 369pp. $35.00hb

Assuming that we even think about such things, most of us take it for granted that no two individuals are exactly alike. If asked to justify this belief, we might point to the fact that everyone has their own distinctive set of fingerprints, subtly yet significantly different from those of every other human being on the planet. But how do we know this? The idea that fingerprints are unique has become so ingrained that most of us never question our faith in this remarkable but incredibly useful biological accident. This widely held belief has formed the basis of criminal identification systems around the world for almost 100 years, with countless convictions being secured on the basis of ‘latent prints’ and the testimony of forensic scientists and fingerprint experts. But is fingerprint identification scientifically credible? Can latent prints ever be reliable enough to establish guilt ‘beyond a reasonable doubt’? Are all fingerprints in fact unique?

In Suspect Identities: A History of Fingerprinting and Criminal Identification, Simon Cole raises and addresses these important questions. Although primarily an historical work, Suspect Identities examines the political and sociological forces that have driven the demand for identification technologies since the emergence of the first organised states, beginning with the branding of offenders in ancient times to the use of DNA profiling and other biometric technologies in the latter half of the 20th century. Comprehensively researched and wonderfully written, this book reminds us that the bureaucratic practice of systematically identifying individuals is a relatively recent one, bound up with the desire of the modern state to exercise some degree of control over an increasingly mobile, urban population. Cole’s account of early attempts at developing a reliable system for criminal identification is particularly absorbing. It is sobering to remember that up until the late 19th century the Bertillon system of taking body measurements was the preferred method of classifying criminals in countries around the world, including Britain. While most criminology students are familiar with the work of Michel Foucault, few if any have heard of Alphonse Bertillon or Francis Galton. In outlining the theories developed by these
men and analysing their continuing influence on contemporary thinking about identity and criminality, Cole reminds us of the socially and historically constructed nature of such seemingly straightforward concepts.

Naturally enough, most of the book is taken up with a detailed account of the development of fingerprinting. Given the widespread use of fingerprints as evidence in criminal courts today, it is hard to believe that for much of the early part of the 20th century advocates of fingerprinting struggled to convince the police and courts that their system was preferable to the practice of measuring limbs and classifying types of ears, eyes, and noses. The battle for credibility and acceptance was, however, a long one, fought with considerable guile and determination by the first generation of ‘dactyloscopers’. When in 1928 the Supreme Court of Vermont finally declared that fingerprinting was ‘a generally recognised science’, it was after almost 30 years of self-promotion and demonstration on the part of the members of the fingerprint community, keen to distinguish themselves from other rival systems such as palmistry and handwriting analysis. Cole himself is keen to point out, however, that while arguably more reliable than previous methods of identification, fingerprinting could not – and still cannot – claim to be scientific. Despite the pronouncements of hundreds of experts in thousands of cases, no study has ever established that fingerprints are unique, or indeed provided any statistical basis for the comparison of prints. In light of this, the story of how fingerprinting has managed to maintain its credibility over the past 70 years makes for fascinating, if extremely disturbing, reading.

Clear, well argued, and infused with a dry wit, Suspect Identities succeeds in being both scholarly and extremely entertaining. It is disquieting then to read that Cole’s book has been greeted with resistance by law enforcement agents in the United States, including some in the FBI – the holder of one of the world’s largest collections of fingerprints. After reading Suspect Identities, however, it is hard to avoid the conclusion that these criticisms have less to do with the quality of his work, and more to do with a misplaced desire to protect a useful if flawed technique. Cole’s book comes at an opportune time. As governments rush to establish DNA databases in the hope that they will serve to identify and track down criminals, it is important to remember that the step from identification to classification is often a small one. As Cole notes in his closing chapter, the growing use of DNA typing has been accompanied by a ‘renewed popular, scientific, and political interest in genetic explanations of criminality’. Just as Sir Francis Galton was convinced that it was possible to predict future criminal behaviour from a detailed and ‘scientific’ analysis of the facial characteristics of criminals, many of today’s researchers are excited about the possibility of finding and isolating the ‘criminal gene’. Yet as Cole notes in his closing chapter, if the history of fingerprinting has anything to teach us, it is to ‘heed the difference between a biological marker and a code’, and to resist the allure of deterministic explanations of criminality. It is this concern with the future of criminal identification – as well as with its past – that makes Suspect Identities an insightful and timely book.

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It has been remarked that a parallel blindness exists between the research programmes of criminology and political studies, to the detriment of both disciplines.
This is certainly the case in the British context where issues of crime control and criminal justice continue to be peripheral subject matter in the political studies journals and where innovations in the study of government filter through slowly into a criminological discourse, the mainstream of which remains resistant to the influence of political and normative theory. Sullivan’s text is, therefore, to be welcomed for its ambition and imagination in documenting the inter-relationships between contemporary criminological thought and key shifts in what he calls ‘Anglo-Saxon liberalism’ over the past 30 years.

Attempts at importing concepts from one discipline into another are, however, fraught with dangers, notwithstanding the insights that can be generated through such cross-fertilisation. In particular, there is the problem that the resultant thesis is ambivalent as, for example, an exercise in developing criminological thought and/or providing a causal account of political change. This ambivalence is acknowledged by the author, who introduces the text by describing how his original research question: ‘Why was British criminology so interesting in the 1970s?’, was superseded by a new question: ‘What’s happening with Anglo-Saxon liberalism?’ (p. 3). As a consequence, the text is more a commentary on the shift in orientation in Anglo-Saxon liberal thought, especially in Britain and the United States, than an explanation of trends in crime and its control in these societies. Rather, trends in criminological thought and criminal justice policy are used as ciphers for interpreting the shift in the 1970s from the ‘welfare liberalism’ of the Butskellite era to the ‘neo-liberalism’ of ‘the Thatcher era’ (p.xi).

Having established the true identity of this book, as an exercise in political analysis rather than criminological thought, Sullivan makes a further distinction between political scientific and political theoretical approaches to the study of political change. Whereas the former, ‘is concerned with the means of public life: legislative process, legitimation, distributive justice, and the like’ (p. 199), Sullivan prefers a political theoretical vantage-point, which is, ‘concerned with the ends, or values, of public life, the reference points against which political processes are measured’ (p. 199). He identifies three key ‘ends’ of liberalism that provide the organising logic behind the three parts of the book: ‘The Autonomous Individual’ (pp. 43–79), ‘The Power of the State’ (pp. 83–157) and ‘The Rule of Law’ (pp. 161–197).

Sullivan argues that the history of Anglo-Saxon liberalism can be categorised in terms of eras with distinctive governmentality apparatuses that express a particular standpoint on these three core ends of liberal rule (p. 9). The rule of law in ‘welfare liberalism’ ‘produced’ individual citizens as non-autonomous beings determined by admixtures of biological, psychological and social forces legitimating, in turn, an extensive state apparatus geared to correcting the ‘deviant’ and the ‘sick’ as part of a broader project to engineer social solidarity. What, for Sullivan, is particularly significant about debates in British criminology during the 1970s is their prescience in anticipating the collapse of this project and the concomitant rise of the ‘neo-liberal state’: ‘No other area of social activity and state policy more anticipated the vast changes in Anglo-Saxon liberalism than did that of crime and criminal justice. The effort to redefine crime was the leading edge of the larger effort to redefine the contours of society (p. 211).

The substance of this ‘redefinition’ was to acknowledge the rational agency of individual citizens as autonomous, calculating, subjects. Hence the insistence in both the new criminology and so-called ‘administrative’ criminology that law-breakers be regarded as authors of their own actions, albeit not in conditions of their own choosing, rather than pathological characters erring from a consensual social order. This attack upon the Fabian positivism of the welfare state is what, for Sullivan, links such disparate thinkers as Ron Clarke, Stan Cohen, Geoff Pearson and Jock Young as harbingers of a more profound shift in Anglo-Saxon liberalism. Restoring autonomy,
agency and choice back to individuals is the defining trope of the rule of law in the current, neo-liberal, era. It is what connects various strategies to render citizens responsible for their own actions, whether through deterrent sentencing regimes or the appeal for communities to take a more active role in their own safety by reducing the opportunities for crime. Sullivan concludes the text, however, on a melancholic note, lamenting the ultimate failure of ‘Thatcher’s revolution’ to accomplish a Britain whose citizens, ‘were “responsibilised” and turned into the most completely autonomous beings possible’ (p. 213). Rather than realising the republican liberalism envisaged in the deviance sociology of Young, Cohen and Pearson and in Clarke’s conception of controlling the reasoning criminal, the product of Thatcher’s revolution is a Britain, ‘with no defining vision of itself beyond consumerism’ (p. 213).

At the outset, Sullivan cautions the reader to make of his, ‘sweeping interpretation of British social history’, what, ‘he or she pleases’, but to recognise that his conception of neo-liberalism, ‘refers to a distinctly new self-consciousness in political liberalism’ (p. 9). The book is, certainly, better read as an exercise in documenting this new self-consciousness or, more broadly, as a catalogue of the intellectual influences informing the governmentality of neo-liberal rule. In these terms the book acts as a powerful thinking tool, provoking the reader to consider the paradoxes and dilemmas of liberal rule and the capacity of criminological thought to encompass these in its portrayal of crime. It is in this sense that Sullivan is questioning the changing ethos of Anglo-Saxon liberalism rather than providing a causal account of how liberal rule in Britain has actually changed over the past three decades. For this task, the study of governmentality needs to move beyond the textual analysis provided by Sullivan here, to the kind of concrete research discussed in his other recent text, co-edited with Kevin Stenson, *Crime, Risk and Justice*, Willan (2001).

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In this welcome addition to the field, Gerry Johnstone’s main objectives are to make the phenomenon of restorative justice (RJ) comprehensible for newcomers and, at the same time, to extend the range of the debate about what the concept means, its pros and cons and its broader significance. He addresses his subject in a coherent way, first laying out the scope of the book, then discussing the main themes of RJ thought, including a useful summary of the feasibility and desirability of its widespread implementation in criminal justice. Then follow interesting chapters on what RJ might really mean for victims and offenders, together with a discussion of the rationale for involving victims, offenders and communities in the resolution of criminal offences. Finally, Johnstone speculates about directions both RJ and research in RJ might take in the future.

This self-described ‘short introductory text’ does an excellent job of explaining the principles and practice of RJ in its various forms, as well as its recent history. Johnstone includes a useful discussion about the limitations of RJ and what could be lost from the existing criminal justice system in a wholesale shift to RJ practice, unless a range of safeguards were put in place. The writing is exceptional in its clarity, especially when addressing jurisprudential aspects of RJ.

Johnstone’s technique is mainly to articulate the claims of RJ advocates, claims that usually have little empirical support, and to explore them in a careful way,
though again without the benefit of evidence. He acknowledges the limitations of the book and lists those which he has chosen not to address. These include any reference to evaluative research findings, on the grounds that there are more pressing areas to discuss than testing the effectiveness of the intervention. He dismisses this as ‘governmental concerns and interests’ (p. 170) and rates the issue as less important than topics such as the effect of the implementation of RJ on patterns of crime control, the meaning of doing justice, and a range of emerging ethical concerns.

Johnstone asserts that ‘it is probably not possible to produce conclusive evidence either way’ on the impact of RJ on reoffending rates (p. 23) because of the difficulty of conducting research in this area. Difficult yes, but not impossible, as witness the Australian research (see www.aic.gov.au/justice/risef/index.html) that reports strong findings both on this subject and the other where Johnstone doubts the feasibility of reliable research – the benefits of RJ to victims of crime. I would suggest that all claims about the pros and cons of RJ need to be assessed in light of what is known about its effectiveness in these two fundamental arenas, for if we knew that RJ actually increased crime generally and that a majority of victims felt worse off, presumably there would be little need to talk about other concerns. Indeed, RJ has been found to increase some crime (drink driving) and has been found to be disadvantageous for some victims: this way of doing justice is powerful medicine and needs to be tested as rigorously and as sensitively as any other powerful medicine, rather than discussed in merely abstract and speculative ways.

In an interesting chapter on victims and RJ, Johnstone raises the important subject of potential conflict between private and public dimensions of crime, a subject of great concern to legal philosophers. Here and elsewhere, RJ is conceived as an alternative to standard criminal justice processing, which is usually perceived as retributive and punitive in its character. Indeed, in the discussion in the final chapter on future directions for RJ, Johnstone predicts several possibilities: increasing use at the trivial end of the crime spectrum, among juvenile (despite strong research evidence that this is where RJ is least effective) or alternatively as a diversion from prosecution on the Japanese model. However, he believes its most likely application is a piecemeal incorporation of RJ ideas and techniques into the formal justice system, often as part of interventions that are not really RJ-focused. This gloomy fate might be avoided though by an alternative Johnstone does not consider: an infusion of RJ into existing court-based criminal justice processing. Inserting RJ into the court process (as is presently being tested in the United Kingdom) and allowing sentencers to consider RJ outcome agreements reached between victims, offenders and their communities in deciding on penalties, can bypass the public/private dilemma and may lead to RJ being used with adults and for serious offences.

RJ is an idea that has attracted huge attention over the past decade, sometimes bordering on ideological fervour. It has an intuitive appeal across political and social divides. Sometimes enthusiasm for this fresh approach to old problems of justice has exceeded rational bounds, for, as yet, there is so much we do not know about it. Despite his decision to exclude discussion of evaluative evidence and to concentrate on a range of jurisprudential issues, Johnstone does an excellent job of raising important questions that would need to be considered before RJ could take its place in our criminal justice system.

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Penal Reform in Overcrowded Times is the third volume in the Overcrowded Times series which aims to document international changes in crime control and their impact. ‘Penal reform’ is a complex concept to define but is used in this volume: ‘to refer to changes in laws, policies, and practices that govern judges’ sentencing decisions and the operation of sanctioning programs from probation to prison’ (p. v). Reforms in penal policy and practice can lead to the increasing harshness of punishments or in shifts towards greater humanity in the administration of justice. Frequently however, as Michael Tonry points out, penal reform is aimed at reducing costs, increasing efficiency, or: ‘making decisions in individual cases more consistent, accountable or transparent’ (p. v).

The ambitious aim of this volume is to document developments that have taken place between 1975 and 2000, in a variety of international penal policy processes. It consists of an edited collection of contributions from a range of international locations, intended to enable the reader to make some general assertions about penal policy process and effects. Comparative analysis is a significant way of increasing knowledge, although attempting to transfer this information into a coherent and accessible format is no small task. The book is introduced with the promise of a complex examination of penal policies within the context of diverse state forms and the optimistic suggestion that this analysis has the potential to provide a basis for a shift towards more humane values. It suggests that national differences in penal policies or punitiveness are likely to be based on differences in national history and culture, but acknowledges the potential for the development and transference of ideas on an international basis.

One of the stated objectives of the book is to examine the ‘conflicts between the interests of the individual and the state’ although the focus is given mainly to administrative developments. The significance of balancing crime control and due process values is examined and the differential weighting given to each in different parts of the globe is considered. Following on from the insightful introduction that sets the agenda for the book, it is organised into three parts, with each part consisting of a series of papers. The first part discusses penal developments in America and provides a detailed examination of sentencing guidelines and reforms in a selection of states, with particular attention given to North Carolina. The second part of the book discusses penal developments in Europe. Surprisingly, this discussion does not include the UK (although most of the statistics provided make comparisons with the UK). It does however, include a short section on Japan on the basis that similarities can be identified with European countries where ‘populist punitivism’ has had less influence than in English-speaking countries (p.99). The final part of the book examines penal developments in English-speaking countries including Australia, Canada, England and Wales, and Ireland (but does not include Scotland).

Each part of the book consists of an introductory discussion followed by short sections that focus on a particular aspect of penal policy. Surprisingly perhaps, a number of authors are responsible for writing or co-authoring several sections so the variety of perspectives is not as broad as might be expected. The quality, format and content of the sections vary significantly. While the analyses of America, Australia and the United Kingdom provide useful theoretical contextualisations of penal policy and practice linked to political developments and social forms, this is not developed by the majority of sections on European countries, which instead concentrate on bureaucratic changes in penal process. Some of the sections focus on very detailed aspects of policy which provide interesting data on policy and practice in individual
countries or states, but which do not consistently address similar issues: thus, there is no clear pattern of coherent themes. The book overall presents a mix of policy details and broader analysis.

Throughout the volume, authors refer to offenders and crime-control agents as ‘he’, with rare exceptions. Despite the contemporary attention given to sentencing policy and rates of imprisonment as they affect women, there are few attempts to note the changing female prison population or increasing presence of women in international criminal justice systems. There are occasional references to youth justice. Understandably, the scope of the book has to be limited given its aims and objectives. However, the minute detail given to particular aspects of sentencing practice in some sections could have been usefully broadened out to address key comparative issues. Similarly, it would have been useful to see some attempt to develop a coherent theoretical analysis which linked all parts of the book and which could contextualise the administrative criminology, which is emphasised throughout.

In an examination of sentencing policy in Australia, Arie Freiberg points out that: ‘law and order and community protection are the watchwords of penal policy, and it is to these intangible, though perceptible, factors rather than to the formal structures of the criminal law or sentencing statutes, to which one must look to explain the steadily increasing overcrowding of Australian prisons’ (p.221). This sentiment is expressed in several sections including the introduction to the volume, but is absent from many of the European contributions, thereby limiting the opportunity for an international comparison of this broader context. One thing that does feature internationally is the universality of the process of bifurcation in sentencing policy and the complex factors which form the impetus behind penal reforms. This book provides the reader with a wealth of information and an insight into the sentencing practices of a range of criminal justice systems.

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