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***Reconceptualising penalty: A comparative perspective on punitiveness in Ireland, Scotland and New Zealand***

Claire Hamilton (Surrey: Ashgate; 2014; ISBN: 978-1-409463-16-0; 252 pp; £70)

The concept of punitiveness – the idea that societies have become more punitive in their criminal justice policy and practice in recent decades – has been the subject of a great deal of debate in academic discussions of crime and punishment in recent decades. Particular divisions have emerged as to how punitiveness can be measured in practice. In wading into this complex and much debated field, Claire Hamilton is to be commended for the impressively comprehensive yet nuanced manner in which she approaches the topic. This book provides a detailed and insightful account of the development and practice of punishment, and indeed of the criminal justice system more generally, across a thirty-year period in three jurisdictions – Ireland, New Zealand and Scotland – and, in doing so, also raises significant questions about the grand narrative of punitiveness and its assessment. As such, the book is more than a mere comparison or testing ground for the punitiveness thesis but serves as a structured and systematic challenge to the popular narrative.

The book proceeds in three broad phases. The first of these is an introduction to major theorists in the punitiveness field, the concepts underpinning the narrative and the myriad of critiques that have developed over time. In particular, Hamilton notes the problematic ‘temptation of elegance’, which, it is suggested, has led to a smoothing over of inconvenient facts in favour of those that illustrate a punitive turn in criminal justice policy and practice, and therefore aid in the creation of a more elegant narrative of punitiveness. In her own research Hamilton is conscious to avoid this pitfall, and this consciousness accounts for the structured and rigorous methodology that is employed as the book develops. A series of seven indices of punitiveness, each underpinned by a number of variables, is identified from the outset and these indices form the basis of the research, both within and between jurisdictions.

From this introductory section the book moves into an overview and analysis of each of the jurisdictions in the study – Ireland, New Zealand and Scotland – which sets the foundations for the compara-

tive element of the research. The choice of jurisdiction is based upon a number of factors, including population size, language, and political and legal arrangements. While similarities in these factors featured in the inclusion of jurisdictions, differences in other factors, particularly with reference to the perceived punitiveness of each jurisdiction, were also important. In broad terms Ireland has tended to have low rates of imprisonment and general resistance to punitiveness, though with periodic, largely reactionary punitive policies enacted. In Scotland a picture has emerged of resistance also, but in a more erratic manner, as a commitment to welfarism and youth justice has tended to exist alongside a tendency towards high levels of imprisonment. New Zealand is an oft-cited example of the 'punitive turn' and displays a more coherent punitive approach than the other jurisdictions, yet it too displays a non-punitive side, with youth justice featuring as a forum in which lenient policy and practice have developed.

The analysis in the book covers the years from 1976 to 2006, for reasons of both principle and practicality: this period is generally highlighted as encapsulating the punitive turn and is also one over which comparative data were readily available. Each jurisdiction is first dealt with in a stand-alone chapter before comparative analysis in Chapters Six to Eight. In these stand-alone chapters the balance is struck well between the narrative account of each jurisdiction and its examination using Hamilton's seven indices of punitiveness. These chapters also enable the development of punishment policy and practice to be understood in context in each jurisdiction, which adds greatly to their understanding in comparative terms. In terms of the substantive similarities and differences that emerge in the research, one of the more interesting conclusions is that while commonalities can be seen across jurisdictions, which might indicate some overarching punitive turn, it appears that 'the most powerful factors appear to relate to *national* legal institutional, political and demographic arrangements, with an important role also reserved for national culture and psyche'.

The methodological approach adopted is worthy of particular mention. Building on the narrative discussions of the three jurisdictions and the analysis of punishment policy and practice under the seven indices, Hamilton then utilises a scoring system to calculate an overall punitiveness score (OPS) for each jurisdiction. This system assigns scores of 10 (low punitiveness), 20 (moderate punitiveness) or 30 (higher punitiveness) to the thirty-four different variables in the study. A total score for the final year of the study, 2006, was calculated

with consideration for the manner in which the practices and policies had developed over the preceding decades. The punitiveness scoring system aims, in part, to fill the chasm of empirical data in the punitiveness thesis literature, where imprisonment rates are often the only figures to which recourse is had.

Hamilton's system builds on earlier work by Tonry and Kutateladze in filling this void with an analysis across a wide range of variables. When this scoring system is applied to these seemingly rather different jurisdictions, however, similar scores for all three emerge. Ireland attains an OPS of 15.8, Scotland of 15 and New Zealand of 16.7. In part, this can be accounted for by moderating effect of risk and protective factors in each jurisdiction such that high imprisonment rates giving a high punitiveness score may, for example, be cancelled out by a low punitiveness score for lenient youth justice systems, and so on. More importantly, however, it serves to illustrate the very complex picture that is national policy on criminal justice and punishment – a picture that cannot be readily explained through the binary of punitive or not punitive. The scoring system serves to address a major gap in punitive turn literature, and also crucially highlights this problematic simplification in the literature. Given the quality of the research in the foregoing chapters, however, it is suggested that the use of the OPS may not have been essential to the overall analysis. While differences emerge very clearly in practice across the discussions of the indices and the narrative of each jurisdiction, these are, to an extent, obscured by the moderating effects of the scoring system.

Overall, this book is an impressive feat of both theory and methodological rigour. Hamilton provides a careful and structured analysis that crucially highlights the impact of politics, culture and society on criminal justice policymaking. This analysis demonstrates the limitations of any grand narrative of punitiveness that fails to take account of the nuanced nature of policy and practice in different jurisdictions, and is a model for future work on the assessment of punitiveness.

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