

Punishment as a Reflection of Knowledge Structure and Culture: Judicial Sentencing in Taiwan and England/Wales

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Abstract

Two questions were at the center of this study: first, what are the most appropriate measures for cross-national comparison of punitiveness? Second, how should we try to explain any observed differences between countries? Our research indicates that crime reporting rate, conviction rate, imprisonment rate, average length of sentence, actual time served are among those potential measurements of cross-national comparison of punitiveness. Although conceptually simple, they do provide criminologically meaningful data commensurate with our notion of 'punitiveness'. In the time period under study (from 1993 to 2007) results show that England/Wales had higher mandatory sentences, lower conviction rates, but longer sentences and actual time served in prison compared with Taiwan. Indeed, compared to Taiwan, overall system levels of 'punitiveness' in England/Wales appear more lenient. To examine punitiveness at point-of-sentence, sentencing outcomes by scenario were examined, using a 30 interview sample of sentencers in Taiwan and England/Wales. The Taiwan average sentence lengths given by sentencers are

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considerably higher, particularly so for the financial/corruption cases where in England/Wales higher sentence lengths are for rape cases. Sentencers from England and Wales opted for a non-custodial order in relation to drink –driving and domestic violence where in Taiwan short sentences were awarded to deterrent the crimes. Another interesting finding is the similarity of logic used in determining sentence for each of the cases; and the similarity of use of particular variables such as previous convictions and damage by offenses. The only exception appears to the variables of ‘remorse’, ‘recompense’ and ‘social background of defendant’ in Taiwan which have no equivalent usage among sentencers from England and Wales. In trying to explain overall findings, the study reviews the existing theoretical literature and concludes that differences in ‘punitiveness’ as measured by imprisonment rate are best seen in the context of political institutional development, bureaucratization of knowledge production and cultural sensibility.

Keywords: comparative criminology, imprisonment rate, sentencing