1 Convergence and Divergence in Crime Control

Introduction

The focus of this book is on what some British political scientists are increasingly coming to refer to as ‘policy transfer’ (Wolman 1992; Dolowitz et al. 2000). This relates to a growing perception that, over the past two decades, social policy in the UK has increasingly involved the importation of ideas from abroad, particularly from the United States. Of course, policy transfer is only one way of understanding the movement of political ideas and policies. Moreover, the movement of policies between societies is not a new development nor, importantly, does it occur in one direction only. Thus, Rodgers (1998) shows in great detail how the ‘classic’ era in American social politics before the Second World War, an era characterized by huge developments in urban planning, rural regeneration, the design and organization of public housing and social insurance, was profoundly influenced by models and experiments derived from Europe.

Nonetheless, there is a very clear perception that the United States has been either the direct source of, or at least the inspiration for, a number of the policy developments in Britain over the past 20 years. Indeed, the list is long, and includes: ‘welfare to work’ (Dolowitz 1997; King and Wickham-Jones 1999); the introduction of the internal market in the health service (O’Neill 2000); the child support agency (Dolowitz 2000c); the adoption of Sure Start and related early intervention models; reforms to both further and higher education (Hulme 2000); independence for the Bank of England (along the lines of the Federal Reserve); elected mayors; and the language of the ‘new deal’. Our concern in this book is with the somewhat under-explored subject of policy transfer in the area of crime control (though see Nellis 2000; Wacquant 1999c; and the contributions in Newburn and Sparks 2004b) and, more particularly, on transfer between the United States and the UK. Again, this is an area in which many observers believe the United States has been a
significant influence on the nature and trajectory of British policy. Jock Young (2003: 40–1), for example, has noted how

Via [John] Dilulio and James Q. Wilson Labour adopted the metaphor of the war against crime and against drugs, and incarceration as the key weapon in this war. From Wilson, it took the concept of zero-tolerance . . . I am not suggesting that either Tony Blair or the Home Secretary at the time, Jack Straw, have any direct acquaintance with these commentators. Merely that it is the ideas of such thinkers filtered through the lenses of policy advisers and speech-writers that have greatly influenced New Labour’s policy on law and order.

In a similar vein, not long after his appointment as Director of Public Prosecutions in 2003, Ken Macdonald made a widely reported speech in which he castigated the government for following a tough US agenda and for importing ‘prison works’.1 We should reiterate at this point that we are not arguing that this is the only, or even the most important, area of possible policy transfer in criminal justice in recent times. It has merely been the particular focus of our concerns. We could just as easily have looked at the influence of ideas, policies and practices such as restorative justice that would appear to have originated in part from Australia and New Zealand. However, it is on the possibility of the transfer eastwards across the Atlantic that we focus in this book.

The American historian Denis Rothman has remarked that ‘the least controversial observation about American criminal justice today is that it is remarkably ineffective, absurdly expensive, grossly inhumane, and riddled with discrimination’ (1995: 29). Had he been an observer from the UK, however, he might have added to this list, with a due sense of irony, that, despite its alleged faults, American criminal justice also appears to be enormously politically attractive. Thus, paradoxically, despite the highest incarceration rate in the world, together with levels of lethal violence that dwarf our own (Zimring and Hawkins 1997), somehow our politicians find ‘Made in the USA’ (Wacquant 1999b) crime control policies strangely seductive.

Thus, in recent times we have seen the emergence of a strong private corrections industry in the UK, initially at least involving American corporations offering to build, manage and staff private prisons, and to manufacture and oversee the use of electronic tags. During the 1990s a number of apparently American slogans found their way to these shores and were used by politicians to frame new policy ideas such as mandatory sentencing (‘three strikes and you’re out’), restrictions on early release (‘honesty in sentencing’), and strategies for dealing with disorder (‘zero tolerance policing’). Albeit briefly, a ‘Drugs Tsar’ was introduced to oversee government drugs policy, curfews have been introduced in response to anti-social behaviour by young people, and a variety of other apparently US-inspired initiatives – drugs courts,
community courts and, indeed, the more general ‘what works’ approach – have been visible on the criminal justice landscape at some point during the last decade. Indeed, such developments are by no means confined to the USA and Britain, with apparently similar shifts in policy taking place in continental Europe (De Maillard and Roche 2004; Pakes 2004; Punch et al. 2005) and, to a lesser degree, Australia (Frase 2001; O’Malley 2004) and Canada (Doob and Cesaroni 2004). A generalized shift toward a more punitive culture of control has received widespread criminological attention, and it is to some of this work on convergence in criminal justice systems that we turn next.

Convergence and divergence in crime control

Criminologists have traditionally focused more upon the content and consequences than upon the genesis of criminal justice and penal policy. In recent years, however, a number of highly influential writers have addressed the question ‘what shapes criminal justice and penal policy?’ Two main perspectives have emerged in recent work that attempts to answer this question.

A substantial body of recent writing on this matter suggests that crime control and penal policy continue to be strongly influenced by national, and sub-national, political institutions, cultures and historical traditions. A number of authors have focused particularly upon what appear to be continuing contrasts and divergences between penal policies in different nation states. For example, Tonry (1999a, 2001) stresses the striking differences in penal policy interventions between countries with different historical and cultural traditions. As he argues: ‘The world increasingly may be a global community . . . but explanations of penal policy remain curiously local’ (2001: 518). In his more recent analysis of British and American penal cultures (2004a, 2004b) Tonry develops this theme and explores some of the significant continuing differences between jurisdictions. He argues that until the early 1990s, criminal justice and penal policy in the UK had more in common with other Western European nations than the USA. However, since this time he perceives a growing tendency for British policy to emulate that in parts of the USA, much of which he links to the Labour Party’s changed position on crime and punishment. Although ultimately Tonry believes this to be the product of political choice and the strategic decision-making of senior Labour politicians, he argues that these policy outcomes were made more likely by three cultural characteristics that he believes are not shared by other European countries such as France or Germany. First, he suggests that the population in Britain have become peculiarly risk-averse regarding crime, a condition he relates to growing government emphasis on crime prevention in recent decades which has had the perverse effect of actually exacerbating fear of crime and disorder. Second, he draws upon the work of Whitman (2003) – discussed in more detail
below – to suggest that the British have developed a particular cultural taste for
the debasement of offenders. Finally, he argues that people in Britain have a
more acute sense of ‘self righteousness and punitiveness’ about deviance and
deviants than exists in other European countries (Tonry 2004a: 55–66). Thus,
Tonry’s arguments place strong emphasis on the importance of particular
national political cultures and institutions as key shapers of crime control and
penal policy.

In a similar vein, Melossi has argued that ‘[p]unishment is deeply embed-
ded in the national/cultural specificity of the environment which produces
it’ (2004: 407). His work has highlighted the striking differences over time
between penal systems in the US and in Italy, and how this relates to deep-
seated cultural attitudes that are associated with Protestant and Catholic
religious traditions. The work of Pat O’Malley (2004) has examined the resis-
tance to the ‘war on drugs’ and to the emergence of ‘actuarial justice’ in
Australia and New Zealand. His explanation lies not in exploring the differing
ways in which particular political jurisdictions respond to neo-liberalism but,
rather, rests on the argument that different forms of neo-liberalism have been
at work in these jurisdictions. These distinctive forms, and the ways in which
they ‘reflect the filtering and translating effects of national politics’ have
been critical in the development of an inclusive and social-democratic mode
of institutionalizing risk in Australasia compared with the more exclusive,

Recent discussions have focused in particular upon the distinctiveness
(or otherwise) of crime control and penal policy in the USA when compared
with other Western democracies (Poveda 2000; Garland 2005). This draws
upon a substantial body of work on ‘American exceptionalism’ that highlights
a number of apparently distinctive features of the USA that set it apart from
other Western democracies. These include such things as the persistence
of a strong form of individualism, suspicion of the state and government
generally, the lack of influence of socialist political parties and organized
labour, and continued high levels of religious observance (Lipset 1996). A
number of authors have suggested that penal policies in the USA are qualita-
tively distinct from those in other countries because of particular cultural and
historical features of US society.

For example, an interesting historical analysis of national differences in
approach to crime control has recently been provided by James Whitman. Con-
trasting the penal histories of France and Germany with America, Whitman
explores why ‘over the last quarter century, America has shown a systematic
drive toward increased harshness by most measures, while continental Europe
has not’ (2003: 57). In part, his answer lies in the extent to which penal policy-
making has remained relatively insulated from punitive public demands in
France and Germany – particularly when compared with the febrile penal
atmosphere in the United States. In northern continental European countries,
criminal justice is traditionally strongly influenced by trained bureaucrats, whereas in most parts of the USA it is far more open to the vicissitudes of popular opinion. Whitman’s analysis of the differences between these jurisdictions, however, lies partly in attitudes toward the state, and partly in how differences in status hierarchy became translated into very different attitudes toward punishment. Whitman’s thesis then contrasts public attitudes towards central state institutions in the USA with European countries. For example, historically there has been widespread public acceptance of the strong state bureaucracies that exist in Germany and France when compared with the significantly more circumscribed, and distrusted, apparatus in the USA. In relation to status hierarchy and punishment, Whitman describes how in France and Germany there was a process of levelling-up in which, gradually, all prisoners were accorded respect and treated moderately. By contrast, American punishment has been, and remains, degrading. Zimring (2003) links the persistence of capital punishment in the USA (in stark contrast European nations) to long-established historical traditions and distinctive cultural traits that are particularly associated with parts of the USA (what he terms ‘the vigilante tradition’). Linking all this work is a focus upon explaining contrasts between penal policies in different jurisdictions, a strong theme within which is the particular distinctiveness of the USA.

The attempts by Whitman and others to explain differences and divergences in contemporary systems of control have much to commend them. However, these approaches have their limitations. For example, it may be argued that they overplay evidence about difference between countries and overlook some highly important globalizing elements in policy change. A further limitation is that some of this literature underplays the role of political agency and presents a rather deterministic view of policy change (Garland 2005). For example, if we put too much weight upon the cultural embeddedness of penal systems and the legacy of historical path-dependencies, then we risk suggesting that national criminal justice systems are almost impervious to radical change, whether brought about by global influences, domestic pressures or a combination of the two. Finally, there is a danger of placing too much emphasis on the national level. Arguments that focus upon differences between nation states, and in particular how national political cultures and institutions resist and rework transnational policy ideas, may present a rather one-dimensional and top-down view of policy change. Many policy innovations arise at the sub-national level before moving up to the national level (Stenson and Edwards 2004), and others travel between regions in different jurisdictions without necessarily emerging as national policies (Edwards and Hughes 2005).

By contrast, a focus upon similarity and convergence between the USA and other Western democracies has characterized another highly influential body of work that has emerged in recent years. For example, Nils Christie
(2000) has explored the growth of incarceration in many countries during the latter part of the twentieth century. He highlights a number of structural and cultural changes associated with these developments. For example, he suggests that changes in social organization in capitalist societies have led both to a decline of informal social controls and to an increased tendency to report incidents for formal processing by the police. Public demands for harsher punishments have also been encouraged by a generalized sense of insecurity arising from structural and cultural developments in capitalist societies. At the same time, the commodification of crime control in capitalist societies and the growing commercial corrections market have been a key factor fuelling the expansion of prison populations. Christie argues that penal policy in many industrialized countries is increasingly influenced by what he terms the ‘prison-industrial complex’, an international alliance of commercial penal and industrial interests that profits from expansionist penal policies. These developments should not be regarded as irrational or in any sense extraordinary. On the contrary, they are the ‘natural outgrowth of our type of society, not an exception to it’ (2000: 178).

Similar, but broader themes are developed in the work of David Garland (2001a) who has highlighted the emergence of a ‘culture of control’ in the UK and the USA. Garland argues that the style and substance of penal policy in the UK and the USA have become increasingly similar in recent years. This is explained by fundamental shifts of social structures and cultural configurations visible, to a greater or lesser degree, across many late modern capitalist societies. Garland argues that, in both the USA and the UK, two kinds of contrasting policy strategies have been introduced (first and more vigorously in the USA but later followed by the UK). The first type involves the introduction of pragmatic or ‘adaptive’ approaches to the crime problem, such as the introduction of private sector management techniques to the criminal justice systems, the promotion of management reforms and privatization, rigorous systems of performance measurement, diversion from the criminal justice system, the pragmatic redefinition of the goals of criminal justice agencies, and the active ‘responsibilization’ of a range of private, voluntary and community agents in the field of crime control. The second involves the simultaneous (and paradoxical) adoption of policies of ‘denial’. That is, in both the USA and the UK, governments have responded to the growing awareness of their instrumental limitations in the crime control arena by adopting primarily expressive law enforcement and sentencing policies, in some respects representing a return to a system resonant of the eighteenth-century amalgam of weak enforcement and draconian punishment. The object of such policies is ‘to denounce the crime and reassure the public’ (2001a: 133), rather than aiming to reduce levels of crime. The key to understanding policy convergence, therefore, is to analyse fundamental structural and cultural developments in capitalist societies. Garland accepts that ‘[p]olitics and policy always
involve choice and decision-making and the possibility of acting otherwise’ (2001a: 139). However, the broader focus of this approach downplays the importance of conscious political agency as a shaper of policy outcomes. The political choices that have been made reflect deeper changes in social structures and cultural sensibilities.

Thus, there is a significant body of work whose primary focus is the convergence of penal policy across different national contexts. A number of criticisms have been made of this approach. In particular, it has been argued that it places too much emphasis on convergence, and overlooks substantial differences in policy between different nations. Zedner (2002: 341), for example, has suggested that ‘the more “volatile and contradictory” the philosophies, policies and practices of punishment appear to be, the greater the drive among penal theorists to give an account capable of rendering them, if not coherent, then at least comprehensible’. Relatedly, it can be argued that convergence theories underplay the importance of political agency and the mediating influences of contrasting national and sub-national political and legal institutions and cultures. Arguably, they also downplay the increasingly important role played by supranational bodies such as the United Nations, the European Union and the Council of Europe, each of which has an explicit harmonizing role in respect of particular policy areas across specific groups of nation states. Finally, of necessity because of its broad focus, such work is relatively unconcerned with the essentially contested and unpredictable nature of public policy-making process and, as a consequence, albeit unintentionally, has a somewhat deterministic flavour. Convergence theories tend to give the impression that the direction of policy is inevitable and irreversible.

Recent overarching studies of convergence have been hugely important in developing criminological scholarship and have made a significant contribution to our understanding of current trends in penal policy. At the same time, scholars who have provided more focused and detailed policy histories that identify and explain regional and national differences have enhanced our comprehension of the ways in which local political cultures and the activities of key political actors serve to initiate, reshape, mediate or resist policy ideas and innovations that travel across jurisdictional boundaries. It is important to note that we do not suggest that authors whose work falls into either of these broad approaches are presenting a picture of total convergence on the one hand, or complete national/local autonomy on the other. Indeed, most authors writing in this field clearly recognize the simultaneous existence of elements of convergence and divergence between nations and regions, and accept that policy outcomes arise from a complex interplay between local, national and international forces. As David Garland has observed, the different emphases of these distinct approaches are, in a sense, irreconcilable because they relate to the ‘unavoidable tension between broad generalization and the specification of empirical particulars’ (2001a: vi). However, although
we would concur with this on one level, we do think that it is possible to develop further the focus upon both similarity and difference between national penal systems, drawing upon the important insights of both the ‘broad generalization’ approaches that Garland refers to, and those which concentrate more upon the ‘empirical particulars’. Inevitably, the current work leans more towards the latter approach, in that its focus is upon the development of specific policies at particular times and places. However, in exploring the ways in which specific policies are formed at given points in time within the context of distinctive political institutions and cultures, it is important to remain mindful of the degree to which broader social and cultural trends shape (and are themselves shaped by) these developments. Therefore, we believe that it is both possible and useful to attempt to reconcile the insights provided by studies coming from the broad global/convergence and local/divergence vantage points, and the study that led to this book is an attempt to begin to do so.

**Crime control in the USA**

As we have explained, our primary focus in this book is policy transfer in the arena of crime control and, in particular, transfers between the USA and Britain. Before moving on, it is worth taking a brief look at the current state of crime control in the USA. This inevitably will involve a generalizing overview that obscures significant differences within and between different states of the USA (Newburn 2006). A number of authors have been critical of the tendency to treat crime control in the USA as if it were a single, monolithic system (Tonry 2001; Garland 2005). In practice, of course, there are some very significant variations in the ways in which criminal justice and penal policy is organized across the 50 states of the US, yet this remains largely unstudied (Newburn 2006). However, having said this, it remains the case that there seem to be certain features of dominant approaches to crime control in the USA that distinguish it from many other countries. This is now well-trawled territory for scholars around the world, not just the United States. As noted above, there is a substantial body of work that highlights particular features of the USA and arguably renders it distinct from a range of other Western democracies in a number of important ways. This idea of ‘American exceptionalism’ has also emerged in the field of criminal justice and penal policy, and has been the subject of strong debate (Poveda 2000; Garland 2005; Whitman 2005; Zimring 2005). It is thus important to note that this debate has focused upon some of the key features of criminal justice and penal policy in the USA that may, in some way at least, be considered to differentiate it from many European countries.

The easiest and the logical place to start is with the prison population, for
this is perhaps the most extraordinary feature not only of the American penal landscape but arguably of any liberal democracy in the late twentieth century. The first important point to note is the extent and pace of change that have taken place in the past 30 years. For most of the twentieth century the incarceration rate in the USA, though on the high side internationally, remained relatively stable between 100 and 120 per 100,000 population. It started to rise steadily in the 1970s and by 1995 had reached 600 per 100,000. By comparison, in 1995 the rate per 100,000 in Japan was 37, in Germany and Italy 85 and around 100 in England and Wales. Only Russia had a higher incarceration rate than America. The incarceration rate in the USA is now over 700 per 100,000. Whereas in 1972 there were less than 200,000 Americans in prison, there are now, a little over 30 years later, over two million. Whichever way one looks at it, the change is truly staggering.

There is not the time here to explore the reasons for this explosion in any detail. However, before moving on, some of the features of this carceral experiment require a little further consideration. The first is crime rates. Undoubtedly, most people on being told that the US prison population had grown tenfold in the past 30 years would assume that this was a product of rising crime rates. By and large, however, they would be wrong (Tonry 1999b). Crime rates, though they are now higher than they were in the early 1970s, have in general remained remarkably stable in the USA. Crime rates rose in the 1970s, declined in the first half of the 1980s, increased again until the early 1990s, and have been generally in decline since. Throughout these rises and falls the use of the prison has increased. When crime went up, so did the prison population, but it continued to do so even when crime went down (Greenberg 2001).

What then of the possibility that it is precisely the increased use of punishment generally, and custody particularly, that has inhibited what would have otherwise been much more significant rises in crime (Downes 2001)? There is clearly, at least, some form of historical association with the stemming of the rise in crime in the USA and the growth of the use of mass incarceration. There is, however, little evidence to suggest that this relationship is a causal one, and there are also both a sufficient number of potential mediating factors and also counter-examples from other countries to cast significant doubt on such a notion (Greenberg 2001). The most robust research suggests that the prison build-up was responsible for about one quarter of the overall crime drop during this period, though it may well have had a more significant impact on violent crime (Spelman 2000). Nevertheless, as a single factor it does not come close to explaining the crime drop in the USA.

As is now well documented (see, for example, Beckett 1997; Currie 1998), what we have witnessed since the early 1970s has been a highly politicized experiment in crime control. Beginning in 1964 with Barry Goldwater, the then Republican challenger to President Lyndon Johnson, politicians have
increasingly talked tough on crime-related issues. It was during Richard Nixon’s term of office, however, that the two issues that are arguably most important in understanding the last 25 years of law and order politics in the USA began clearly to emerge in political rhetoric: race and drugs. Nixon appealed ‘to voters’ fears of social unrest and violent crime . . . especially on white fear of black street crime’ (Chambliss 1999: 19). The ‘war on crime’ declared by Nixon was followed by a full-scale ‘war on drugs’ declared by Ronald Reagan in 1982, and heightened by his successor, George Bush. In his first television address to the nation on 5 September 1989, President Bush said, ‘All of us agree that the gravest domestic threat facing our nation today is drugs.’ He called for ‘an assault on every front’ and urged Americans to ‘face this evil as a nation united’ (Bertram et al. 1996: 114). He went on: ‘The rules have changed: if you sell drugs, you will be caught; and when you’re caught, you will be prosecuted; and once you’re convicted, you will do time. Caught, prosecuted, punished . . . American cocaine users need to understand that our nation has zero tolerance for casual drug use’ (1996: 114). Between 1981 and 1993 the federal budget for drug law enforcement surged from $855 million to $7.8 billion (1996: 110).

Law enforcement rather than treatment has, not surprisingly, been the major tool employed in the war on drugs. Billions of dollars have been spent on the three main components of this war: source country efforts (attacking drug production abroad), interdiction (seizing drugs on their way to the USA), and domestic law enforcement (arresting and incarcerating sellers and buyers). Domestically, the law enforcement effort involved high levels of arrests and, crucially, the introduction of ‘three strikes’ laws and increased determinate sentencing. Put crudely, ‘three strikes’ and related determinate sentencing practices have two major consequences. First, they increase the proportion of arrested drug offenders sentenced to prison and, second, they increase the length of time served (Mauer 1999a).

These highly racialized strategies have had a highly disproportionate impact on African-American communities. Thus, African Americans, who constitute approximately 13 per cent of the US population, accounted for 21 per cent of drug possession arrests nationally in 1980. By 1992 this had risen to 36 per cent – all against a background of data that show that roughly similar proportions of whites and blacks use drugs in the USA (Mauer 1999b). There was very nearly a 500 per cent increase in the number of drug offenders in prison between 1985 and 1995. Very substantial proportions of these were African American. The starkest contrast can be seen in lifetime likelihood of imprisonment. Young, black males born in 1991 have an extraordinary 29 per cent chance of being imprisoned at some point in their life. The chance lowers to 16 per cent for Hispanic males and 4 per cent for whites (Mauer 1999a). The consequence of the racialized ‘wars’ on crime and drugs in the United States is that over half of all prisoners now are African American and
almost a further fifth are Hispanic. The situation is even starker if one looks at young men only. According to the Washington DC-based Sentencing Project, over one-third of black males in the United States aged 20–29 are either in prison, jail, or on probation or parole on any given day. So serious is this situation that at least one academic commentator has referred to it as a process of ‘ethnic cleansing’ (Chambliss 1999).

Massive increases in prison populations, and sentencing policies that underpin such trends, have thus become strongly associated with notion of US ‘exceptionalism’. However, recent influential work has demonstrated that similar (if much less marked) trends are visible in Europe (Christie 2000). One area where US criminal justice has shown an indisputable divergence from other Western democracies in recent years, however, is in the use of capital punishment. Whereas over the past three decades, European countries have abolished the use of capital punishment, since the late 1970s its use has increased in the USA. This divergence has accelerated during the 1990s. As David Garland has observed:

In a period when many nations completely abolished the death penalty, international conventions outlawed it, and Europe finally became a death penalty-free zone, the USA moved rapidly in the opposite direction, increasing its annual number of executions (from one or two per year at the start of the 1980s to a peak of 98 in 1999), passing new capital punishment legislation, reducing the level of judicial review and regulation and consolidating an increasingly bipartisan political support for the institution.

(2005: 348–9)

This apparent departure from European trends has been understood and explained in very different ways. Zimring (2003) relates it to longer-standing traditions in cultures and social practices in certain parts of the USA, whereas Garland (2005) sees it arising from a more recent (and contingent) constellation of forces that have emerged during the past three decades. Whatever the outcome of this debate, it is clear that there are current features of US criminal justice which, although there is wide disagreement about their root causes, are still generally considered as remarkable in comparison to other Western democracies.

In many senses, approaches to criminal justice and penal policy in the USA do not on the surface appear to be an obvious candidate for lesson-drawing for politicians from other jurisdictions. Indeed, one does not have to delve too far into the past to find senior figures in the British Labour Party castigating US approaches in criminal justice. Perhaps the most startling example of this can be found with reference to comments of the current UK Prime Minister made while in Opposition:
The Shadow Home Secretary, Tony Blair, said that the idea of using America as a model for Britain was ‘one of the most alarming and misguided notions of modern times that will be greeted with disbelief by anybody with experience of the American penal system’.

(Travis 1993)

Yet, at several points in recent years it has appeared as if British politicians, in both major parties, have remained in thrall to American crime control ideas – much more so than policies and practices that might be developing in other parts of the world. In addition to asking questions about the nature of lesson-drawing in criminal justice, one of our concerns in this book is why America should continue to be an apparent source of inspiration. One possible answer to this conundrum lies in the global reach and power of North American industry, media and culture. Indeed, their collective power and reach have sometimes led to something of an elision of ideas of ‘Americanization’ and ‘globalization’. In addition, the existence of a common language clearly helps facilitate the transfer of ideas between nations. Perhaps as importantly, the existence of multiple criminal justice systems within the federal USA aids and abets experimentation, making it a fertile ground for politicians searching for inspiration. Though there is undoubtedly more to globalization than the spread of US products, policies and practices, it is to the idea of Americanization that we turn next.

Americanization

Ever since the Second World War, the subject (or, for some, the threat) of Americanization has been a significant theme in British public life. The term ‘Americanization’ has been particularly associated with the field of cultural studies, where it has been used to denote the process ‘of transfer of goods and symbols from the United States to other countries’ (Fehrenbach and Poiger 2000: xiv). There have been a large number of studies of cultural exports from the USA, in particular in the spheres of film, music and the broadcast media (see, for example, Epitropoulos and Roudometof 1998). Post-war affluence and optimism, the spread of mass media, emerging youth subcultures and youth markets, together with changes in the moral climate – often referred to as ‘permissiveness’ (Newburn 1992) – were all in some way associated with what was believed to be the growing influence of American culture. Americanization has been used in ways that have both positive and negative connotations. From one viewpoint, post-war American influence in Europe can be seen as ‘a benign and beneficial combination of political mandate, economic stimulus, and consumer practice’ (Fehrenbach and Poiger 2000: xx). On the other hand, a significant body of work since the 1970s has presented American influence in
an entirely negative light, highlighting a perceived American ‘cultural imperialism’ (Schiller 1992), and presenting the process of Americanization and resistance to it as ‘homogenizing evil empire versus the charmingly diversified world’ (Fehrenbach and Poiger 2000: xix). In the words of Pells (1997: 189), ‘Since the beginning of the twentieth century, the word “Americanization” had summoned up a sense of danger – a feeling that the US was imposing its economic and cultural will, either unconsciously or with sinister intent, on Europe.’ Such polarized views, however, oversimplify the complex processes of cultural interaction and dialogue, and arguably underplay the role of agency and choice.

More recently, growing attention has been paid to the alleged Americanization of social policies in many Western countries, with particular attention paid to labour market and welfare policies (Walker 1998). Dolowitz (1997), for example, demonstrates that there is a long history of connection between ‘workfare’ policies that developed in the USA and the UK. Early links between the Thatcher and Reagan administrations were later developed and consolidated during the leadership of Blair and Clinton (Deacon 1999). Peck and Theodore (2001) provide interview evidence suggesting that, in terms of the search for policy ideas, Labour Party officials switched their attention from continental Europe to the USA during the period immediately prior to their return to office in 1997.

Though this period – the rise of New Labour and the first two New Labour governments – is the primary focus of much of the discussion in this book, it would be misleading if this were presented as something of a radical break with the immediate political past. Thus, while it is unusual for Labour administrations to have such close ties with their US counterparts, this is arguably less the case with Conservative administrations. That said, the nature of the relationship between the Thatcher and Reagan administrations in the 1980s was unusually warm even by Conservative–Republican standards. Hugo Young (1991: 249) suggests that ‘The Reagan–Thatcher axis was the most enduring personal alliance throughout the 1980s. From Moscow to Pretoria, from Tripoli to Buenos Aires, no theatre of global conflict failed to feel its effects. It eclipsed, where it did not determine, many of the details of Mrs Thatcher’s performance in the diplomatic field.’

Though the personal relationship between Bill Clinton and Tony Blair never rivalled the Reagan–Thatcher friendship, it is nevertheless clear that the rise of Clinton in the American political scene had a number of very important effects on the British Labour Party. Among these, undoubtedly the most important was the way in which the Democratic Party provided the template for the Labour Party’s transformation into ‘New Labour’. The lengthy political dominance of Republicanism in the USA and Conservatism in the UK in the 1980s led to vociferous debates within both the Democratic and Labour Parties over the possible sources of electoral success in what were clearly changed
times. The process by which the Democrats and Labour became 'New Demo-
ocrats' and 'New Labour' has been broadly characterized as one of 'moderniza-
tion' (see Newman 2001) and, centrally, involved a broad process of policy
reformulation and image redesign. In policy terms, modernization, according
to advocates, meant an attempt to find a 'third way' – a means of transcending
old dichotomies and, in particular, that of old-style social democracy on the
one hand and neo-liberalism on the other (Le Grand 1998). It also involved
giving considerable thought to the public image of the two parties and in due
course, in the eyes of some at least, a process of rebranding or image overhaul.
It also meant paying particularly close attention to the importance of symbolic
politics, not least in the area of crime.

By the early 1990s Labour had been in opposition for well over a decade
and serious commentators had begun to speculate whether it would ever be
possible for the Labour Party to win another general election. For some in the
Labour Party, the breakthrough came with the election of Bill Clinton in 1992.
The Labour Party in the UK was a close observer of the 1992 Presidential elec-
tion (Rentoul 1995, Sopel 1995, Gould 1998). Those that were sympathetic to
what had happened to the Democratic Party in the USA sought both to learn
and to apply the lessons. A number of Labour Party politicians and advisers
were involved in this act of electoral lesson-drawing. Indeed, this process of
lesson-drawing occurred in both directions. Senior Democrat strategists were
keen to learn lessons from the UK Labour Party’s unsuccessful election cam-
paign in 1992. Dave Hill, the Labour Party Head of Communications, was
seconded to the Clinton campaign team, accompanied by a number of other
Labour Party associates (Dolowitz et al. 2000). One of these, who has written
most explicitly of his experience, was Philip Gould who spent a number of
weeks working with the Clinton campaign team in Little Rock giving advice
on tactics, particularly regarding the crucial last week of the campaign (the
point at which it was generally suggested that Labour lost the 1992 election).
Although we cannot be certain about the degree of influence of lessons from
the UK Labour Party, it is clear that the Democrat campaign was significantly
different from any of its predecessors:

The Democrats pursued a strategy which emphasised modern market-
ing and advertising techniques and used information technology to
its upmost. They also used consultants with specialised knowledge of
political advertising, techniques such as telephone surveying and
stratified public opinion polling. In addition, sophisticated focus
group technology became the core of the campaign strategy.

(Dolowitz et al. 1999: 720)

Philip Gould returned to the UK and wrote a series of papers for the
then Labour Party leader, John Smith, on the lessons for Labour (Butler and
Kavanagh 1997). According to Gould (1998), ‘Bill Clinton’s election in 1992 showed the world that the left could win, and it showed the left how it could win’. In relation to the how, Gould says three things were central: the rebranding of the party to become ‘New Democrats’, shifting the political focus towards so-called ‘middle America’ (then referred to as the ‘working middle class’) and, in narrower campaigning terms, the use of ‘rapid rebuttal’. These lessons were directly drawn from the Democratic Party and, more particularly, a Democratic Party particularly affected by the 1988 election. As Gould (1998: 162) noted:

After the defeat of Michael Dukakis in 1988, I visited the United States to talk to people who had been involved in the campaign, all of whom were feeling terribly the burden of defeat. It was quite clear where they had gone wrong: they had capitulated to the awesome Republican attack and they had failed to connect to the great American middle class.

Just as the defeat of Dukakis and Bentsen in 1988 convinced many Democrats that a new strategy was required, so successive election defeats in the 1980s and 1990s convinced some in the Labour Party that the same was true for them: ‘The trauma of four successive election defeats was scorched across the soul of the Labour Party, and burnt deep into the small group who had seized its commanding heights in the name of modernisation’ (Rawnsley 2000: 3). On both sides of the Atlantic, the parties, and their leadership candidates, were successfully portrayed as ‘liberal’ and ineffectual. Writing in 1990, pollster Stanley Greenberg (1995: 151) suggested that Dukakis:

. . . did not articulate any set of principles, offered no special perspective, and invoked no deeply resonant historical experience. The public was left, by default, with Lee Atwater’s savage caricature: a Democratic Party short on patriotism, weak on defense, soft on criminals and minorities, indifferent to work, values, and family, and, inexplicably, infatuated with taxes.

As Labour Party pollster, Philip Gould, noted later (1998: 173), ‘Greenberg was describing Michael Dukakis and the Democratic Party, but he may as well have been describing Neil Kinnock and the Labour Party in 1992.’ Whether either Greenberg’s portrayal of the Dukakis campaign, or Gould’s implication that it is equally applicable to Labour under Kinnock, are accurate is, on one level, relatively unimportant. The crucial factor is that key advisers – and it is clear that Greenberg did have an influence on the Clinton Democrats (Baer 2000) and that both Greenberg and Gould were influential voices in the design of New Labour – believed the messages of the past to be clear and the
implications for future directions to be equally transparent. These lessons were to be applied to all the areas in which the party could be portrayed as liberal and out of touch. For both Democrats and Labour one of these was to be crime (Downes and Morgan 2002).

In this regard, one of the very clear lessons learned by the New Democrats, subsequently passed on to New Labour, was the power and importance of symbolic politics; of using a phrase or an action to convey something more powerful and significant. As two influential New Labour architects put it in the early 1990s, ‘The lessons which the British left can learn [from the USA] are not so much about content – although there is valuable intellectual exchange already underway – as about process’ (Hewitt and Gould 1993). They might have gone on to note that in addition to learning lessons about process, they learnt at least as much about style. From the rebranding of the party, through the adoption of a new form of political language (Fairclough 2000), and the use of spin and soundbite, New Labour consciously adopted much from the New Democrats, and involved key Democratic Party strategists in its own election campaign (Hewitt and Gould 1993). Indeed, the Americanization, or for some the Clintonization, of the Labour Party has led to accusations that the very nature of the British parliamentary system is being changed, not least in the emergence of a more ‘Presidential’ style of governing by the Prime Minister (Foley 2000).

Beyond personal and political relationships, there are clearly a number of other factors that may ostensibly have played some part in making the United States an attractive source of policy ideas. These include the existence of a common language (providing a strong incentive to look at written documents from other English-speaking nations and have discussions with them), shared ideologies (from the 1980s New Right agenda to the persistence of neo-liberalism under New Labour and the New Democrats), timing (the USA had started down some roads earlier than the UK, particularly in terms of labour market and welfare reforms), and links between think tanks and policy entrepreneurs (Denham and Garnett 1999).

Stone (1996, 2000) argues that think tanks have provided a crucial link between the USA and the UK since the early 1980s. These organizations were central in promoting the ideas of privatization and market liberalization that gained currency, in particular in the UK and the USA, during the 1980s. In Britain, a number of think tanks were involved in promoting neo-liberal ideas including the Institute for Economic Affairs, the Centre for Policy Studies, the Adam Smith Institute and the David Hulme Institute. In the USA, although the federal programme of privatization was more limited, think tanks were also important, including the Heritage Foundation, the American Enterprise Institute (AEI) and the Hoover Institution. Stone’s conclusion is that the main impact of think tanks is ‘in the construction of legitimacy for certain policies and in agenda setting’ (2000: 67). The details of policy, however, remain in the
hands of government officials. Thus, think tanks can ‘strengthen the necessary conditions of transfer, but cannot by themselves constitute sufficient conditions, nor are they a causal force for transfer’ (2000: 67).

**Is policy transfer important?**

Clearly, then, there are a large number of connections between the USA and the UK, politically, culturally and socially. In the arena of crime control, as David Garland has argued convincingly, there are a number of very important parallels between developments on both sides of the Atlantic suggesting a degree of policy convergence. Indeed, he makes a very strong case for viewing developments in America and Britain as being more *similar* than different. There are clear convergences, shared styles of governing, policies and practices that have the same nomenclature and appear to be driven by similar concerns and objectives. To the extent that similar *cultures of control* have and are developing in America and Britain, Garland locates the sources of these developments in the social and cultural changes associated with the coming of late modernity. This is essentially a structuralist explanation which, though it does not rule out the possibility that there may have been some ‘political imitation and policy transfer’ (Garland 2001a: viii), sees these as relatively minor concerns compared with the broader and deeper changes argued to be at work.

This is not a position with which we disagree. Nothing in what follows is intended to suggest that political imitation or policy diffusion or transfer are the most significant factors in explaining any shared characteristics in the cultures of control in America and Britain. Nevertheless, there are a number of reasons why we believe the study of policy transfer within criminal justice to be important. First, in comparison with some other areas of public policy, it is clearly under-researched. The reason for this is almost certainly the same reason that the study of policy-making more generally in this area is also relatively rare: by and large, such work has been left to political scientists and social/public policy scholars, and none of these groups has hitherto shown a great deal of interest in crime and criminal justice. The empirical study of policy transfer allows for detailed examination of particular areas, to examine first, the nature and the degree of policy convergence in specific fields, and second, how far and in what ways active policy transfers (rather than, say, a coincidence in domestic social and economic forces) have contributed to this.

Second, it is our view that where criminologists do talk about policy and policy-making, they tend to underplay or under-emphasize the role of political agency and the influence of particular, political and legal institutions. Paul Rock’s work (see, for example, Rock 2004) would be an important exception
to this observation. However, Rock’s work aside, in much criminological work there is a tendency to assume that the intentions of policy-makers are contiguous with policy outcomes: policy instruments frequently being read as a straightforward representation of policy-makers’ aims and objectives. In practice, and we return to this in slightly more detail in the following chapter, it is rare that policy-making assumes such a rational form. Rather, as we will argue, and later show, it is often the messy result of unintended consequences, serendipity and chance. The study of policy transfer is one way in which the issue and significance of political agency in policy-making can be explored empirically and for this reason we consider it to be of importance.

The third reason for believing the study of policy diffusion and transfer to be important is the issue of convergence and divergence. As we have said, a number of authors have made strong, indeed convincing, cases that there is much in the cultures of control in the developed economies of the ‘West’ that appears to be common. In certain respects there appears to be growing similarity or convergence between criminal justice and penal systems – and, indeed, the broader institutional structures for responding to crime and the threat of crime. However, there are clearly also important differences and divergences. And, it is here, again, that we think the study of policy transfer comes into play. The study of policy transfer requires particular attention to be paid to the aetiology of policy. Centrally it is, of course, concerned with examining the extent to which ostensibly similar policies in different jurisdictions really are similar. In this way, such work is as alive to the existence of divergences as it is to commonalities and convergences.

Finally, and linked with the previous points, the final reason we would offer here in defence of the study of policy transfer is that it brings to the fore the possibilities of alternatives. In her critique of David Garland’s (2001a) *The Culture of Control*, Lucia Zedner suggests that one of the dangers of what she describes as the ‘dystopian’ elements of his account is that they may serve to reinforce the feeling that the changes described are not only happening, but are inevitable. The risk, she argues, is that such work ‘will further entrench a culture which penal theorists might properly think they have a duty to resist’ (2002: 363). Whether or not she is accurate in this suggestion, it does seem clear to us that there has developed in recent times a sense of pessimism in social science regarding the possibility of a future very different from the circumstances we find ourselves in now. This is particularly characteristic of the work of some of the ‘globalization’ theorists (for a critique of such work, see Bourdieu 1999; Harvey 2000). In this context, in our view, any social scientific endeavour which allows human agency to reappear as an important element in explanation, which sees contemporary developments as being in part the product of the conscious decisions and actions of political actors, and which allows for the possibility, therefore, that particular policies may be refashioned or resisted, holds some promise – however limited. It is here that the study
of policy transfer has some value for, as Garland (2001a: 201) notes, contemporary crime control policies are not inevitable. Rather, ‘they are the outcome (partly planned, partly unintended) of political and cultural and policy choices – choices that could have been different and that can still be rethought and reversed’.