The globalization of crime control—the case of youth and juvenile justice:

Neo-liberalism, policy convergence and international conventions

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Abstract

The concept of globalization has gradually permeated criminology, but more so as applied to transnational organized crime, international terrorism and policing than in addressing processes of criminal justice reform. Based on a wide range of bibliographic and web resources, this article assesses the extent to which a combination of neo-liberal assaults on the social logics of the welfare state and public provision, widespread experimentation with restorative justice and the prospect of rehabilitation through mediation and widely ratified international directives, epitomized by the United Nations Convention on the Rights of the Child, have now made it possible to talk of a global juvenile/youth justice. Conversely it also reflects on how persistent national and local divergences, together with the contradictions of contemporary reform, may preclude any aspiration for the delivery of a universal and consensual product.

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Introduction

There has been a remarkable correspondence in the nature of juvenile/
youth justice reform particularly across many western societies in the past
40 years. Since the 1970s there has been a notable shift from a welfare
model based on meeting individual needs to a justice model more con-
cerned with the offence than the offender. By the 1980s 'justice' had,
however, come to take on numerous forms from due process and rights; to
'just deserts' and authoritarian crime control. In the 1990s many states
began experimenting with forms of restorative justice as a means of re-
introducing a greater emphasis on rehabilitation while still holding young
people accountable for their actions. By the 21st century juvenile/youth
justice had developed into a particularly complex agglomeration of com-
peting and contradictory policies, including retribution, responsibility,
rights, restoration and rehabilitation, which simultaneously exhibit strong
exclusionary and inclusionary tendencies (Muncie and Hughes, 2002). Of
course these shifts were never uniform but no western society has been able
to ignore their impact. The key issues addressed in this article are why did
this general trend from welfare to justice to just deserts to restoration and
responsibility occur? And with what effects? To do so it assesses the
analytical usefulness of the concept of globalization.

The notion of globalization suggests a growing international economic,
political, legal and cultural interconnectedness based on advances in tech-
nological communications, the removal of trade barriers underpinned by
neo-liberal economics and politics and the formulation of directives in
international law. It is contended that shifts in political economy, partic-
ularly those associated with capital mobility and information exchange,
across advanced industrialized countries have progressively eroded the
foundations of redistributive welfare states and severely constrained the
range of strategic political strategies and policy options that individual
states can pursue (Beck, 2000). The concept of globalization suggests two
inter-related transformations of interest to criminology. First, that criminal
justice policies are converging worldwide (or at least across the Anglo-
phone global north). A combination of macro socio-economic develop-
ments, initiatives in international human rights and accelerations in
processes of policy transfer and diffusion can be viewed as symptomatic of
a rapid homogenization of criminal justice policies. The necessity of
attracting international capital compels governments (if they are to achieve
status as modern states) to adopt similar economic, social and criminal
justice policies in part aided by geo-political mobility and subsequent policy
transfer, diffusion and learning. Second, this homogenization, it is con-
tended, is underpinned by a fundamental shift in state/market relations. A
loss (or at least a major reconfiguration) of 'the social' is evidenced in the
processes whereby neo-liberal conceptions of the market and international
capital encourage the formulation of policies based less on principles of
social inclusion and more on social inequality, deregulation, privatization,

penal expansionism and welfare residualism. In effect, the thesis presages the decline of social democratic reformist politics and projects worldwide (Mishra, 1999). And it is children, as the least powerful members of communities, who are the most likely to feel routinely the brunt of this neo-liberal economic project.

This article assesses the pertinence of such thematics to understanding global, international, national and local shifts in contemporary youth and juvenile justice policy and practice. But 'globalization' immediately poses some thorny questions for the study of systems of youth justice. Is it synonymous with such competing terms as universalism and transnational-ization? Does it signify a wholesale removal of national and international borders or does it conjure up visions that are peculiarly western? Policy making in this area has also traditionally been studied with regard to national sovereignty and the independence of the nation state. Indeed criminal justice remains a powerful icon of sovereign statehood. As a result the article explores how youth justice is embroiled, not simply in the processes of globalization, but in negotiating its way through a number of diverse and multi-tiered national and local modes of governance. Global processes of convergence may not be as singular and one dimensional as might be first assumed.

Global processes 1: from welfare to neo-liberal governance

It has been widely observed that since the 1960s penal welfarism has been undermined by the development of forms of neo-liberal or 'advanced' governance (Bell, 1993; Garland, 1996, 2001; Rose, 1996a, 1996b, 2000). This fundamental change in criminal and juvenile justice has been broadly characterized as placing less emphasis on the social contexts of crime and measures of state protection and more on prescriptions of individual/family/community responsibility and accountability. The shift has been captured in the notion of 'governing at a distance'. Welfarism has been increasingly critiqued for encouraging state dependence, overloading the responsibilities of the state and undermining the ability of individuals to take responsibility for their own actions. 'Old' notions of *social* engineer-ing, *social* benefits, *social* work and *social* welfare, it is claimed, have been transformed to create responsible and autonomous (i.e. not welfare de-pendent) citizens (O'Malley, 2001). A 'loss of the social' thesis suggests a number of inter-related—sometimes contradictory—criminal justice pro-cesses that have occurred to varying degrees across neo-conservative and social democratic neo-liberal states. These include the privatizing of the state sector and the commodifying of crime control; the widening of material inequalities between and within states thus creating new in-securities and fuelling demands for centralized authoritarian law and order strategies; the devolving of responsibility for government to individuals,

families and communities (as captured in the notion of the 'the active citizen'); and the espousing of scientific realism and pragmatic 'what works' responses to crime and disorder in the hope that an image of an 'orderly environment' can be secured which in turn will help to attract 'nomadic capital'.

Numerous authors have remarked upon the impact that these processes have had in a growing homogenization of criminal justice across western societies, driven in particular by the spread of punitive penal policies from the USA (see, for example, Wacquant, 1999; Garland, 2001). In youth and juvenile justice these shifts are recognized in a general diminution of a welfare-based mode of governance in favour of various 'justice'-based responsibilization and managerial strategies (Muncie and Hughes, 2002). Six recurring and inter-related themes can be identified (Muncie, 2004):

(1) *Diminution of welfare.* By the late 1970s, liberal lawyers, civil libertarians and radical social workers were becoming increasingly critical of 'welfare-based' procedures and sentencing. They argued that meeting the 'needs' of offenders acted as a spurious justification for placing excessive restrictions on individual liberty, particularly for young women, which were out of proportion either to the seriousness of the offence or to the realities of being in 'need of care and protection'. Social work interventions were considered not only to preserve explanations of individual pathology, but also to undermine the right to natural justice. Young people were considered in double jeopardy, sentenced for their background as well as for their offence. In the wake of these criticisms a new justice-based model of corrections emerged. Its leading proponent, von Hirsch (1976) proposed that proportionality of punishment to fit the crime, determinacy of sentencing, equity and protection of rights through due process and an end to judicial, professional and administrative discretion be reinstated at the centre of youth and criminal justice practice. The idea of punishing the crime, not the person, had clear attractions for those seeking an end to the abuses of discretional power. Indeed the impact of this 'back to justice' was reflected in juvenile/youth justice reform in many western jurisdictions at the time. A focus on 'deeds' rather than 'needs' formally expunged many of the last vestiges of welfarism from many youth justice systems.

(2) *Adulteration.* This liberal critique of welfare, however, also coalesced with the concerns of traditional retributivists that rehabilitation was a 'soft option'. For them tougher sentencing would enable criminals to get their 'just deserts'. Within the political climate of the 1980s a discourse of 'justice and rights' was appropriated as one of 'individual responsibility and obligation'. Accordingly, Hudson (1987) has argued that the 'just deserts' or 'back to justice' movements that emerged in many western jurisdictions in the 1980s was evidence of a 'modern retributivism' rather than necessarily heralding the emergence of new liberal regimes and a positive rights agenda. An 'adulteration' of youth justice has witnessed widespread dismantling—particularly in the USA—of special court proce-

dures which had been in place for much of the 20th century to protect young people from the stigma and formality of adult justice (Fionda, 1998; Grisso and Schwartz, 2000; Schaffner, 2002). The emphasis has become one of fighting juvenile crime rather than securing juvenile justice. The principle of *doli incapax* was abolished in England and Wales in 1998. Similarly Canada's 2003 youth justice reforms are based on the core principle that the protection of society be uppermost. As such, the age at which the youth court is empowered to impose adult sentences has been lowered from 16 to 14 (www.canada.justice.gc.ca/en/dept/pub/yjca).

(3) *Risk factor prevention*. In place of traditional attempts to isolate specific causes of crime has emerged a risk factor prevention paradigm, which focuses attention on the *potential* for harm, disorder and misbehaviour (rather than crime itself). These risk factors include hyperactivity, large families, poor parental supervision, low achievement and family disharmony (Farrington, 1996). It has been argued that these risks have a strong transatlantic replicability (Farrington, 2000) and certainly an obsession with identifying, assessing and managing 'risk' is central to youth justice practice not only in England and the USA but also in Australia (Cunneen and White, 2002) and Canada (Smandych, 2001). In such legislation as England's Crime and Disorder Act of 1998 and Canada's Youth Criminal Justice Act of 2003 there is an amalgam of restorative, community and custodial measures based on risk profiling and risk management. 'Risk' is increasingly presented as a factual reality rather than as a complex construction mediated through interpretative judgements of what is considered to be the norms of acceptable behaviour. Boundaries between the deviant and non-deviant; between the public and the private have become blurred. Early intervention strategies designed to identify 'anti-social' behaviour and to 'nip offending in the bud' have produced new criminal subjects and deviant 'others'. Invariably those considered most at risk are precisely those marginalized and socially excluded (street children, the disadvantaged, the impoverished, migrant children, the destitute and so on) who critics of neo-liberalism would claim are the first 'victims' of a widening income gap between rich and poor.

(4) *Responsibilization*. Garland refers to a responsibilization strategy involving 'central government seeking to act upon crime not in a direct fashion through state agencies (police, courts, prisons, social work, etc.) but instead by acting indirectly, seeking to activate action on the part of non-state agencies and organizations' (1996: 452). The message is that all of us—from property owners to manufacturers to school authorities, families and individuals—have a responsibility to reduce criminal opportunities and increase informal controls. Rose and Miller (1992) reasoned that this was not a simple case of state abrogation or of privatization of public issues, but of a new mode of 'governing at a distance'. The state may issue directives, but responsibility for their enactment is passed down to local bodies and communities. In this climate notions of communitarianism, 'joined up' partnerships, Communities that Care (CtC), community justice,

community policing, community safety and multi-agency collaboration have proliferated, particularly in the UK, Canada and the USA (Hughes and Edwards, 2002). The globalizing appeal of zero tolerance policing strategies also ensures that youth crime and disorder is increasingly politicized and has come to dominate concerns about quality of life, urban renewal and social policy in general. Social problems are defined in terms of their criminogenic potential, and criminal justice systems are taking over some of the roles that were previously undertaken by welfare and child protection agencies (Crawford, 2002).

(5) *Actuarial justice.* Juvenile/youth justice has become progressively more disengaged from philosophies of welfare and/or justice in favour of improving internal system coherence through evidence-led policy, standardized risk assessments, technologies of actuarial justice and the implementation of managerial performance targets. Rehabilitation or due process have been replaced by the rather less transformative rationales of processing complaints and applying punishments in an efficient and cost-effective manner. Indicators that measure 'outputs' rather than 'outcomes' have begun to take on a life of their own such that the meeting of targets has become an end in itself (Feeley and Simon, 1992, Garland, 1996, Kempf-Leonard and Peterson, 2000).

(6) *Penal expansionism.* Prison populations have been growing in many countries since the 1980s. Of the 205 surveyed by Walmsley (2003), 68 per cent recorded increases since the mid-1990s. An increasingly internationalized alliance of private industrial and penal interests has emerged that has a vested interest in penal expansion (Christie, 2000). This is most notable in prison building programmes and in the technological apparatus of crime control, such as CCTV and electronic monitoring. Juvenile codes have been reformulated to prioritize punishment. Certain groups—particularly immigrants—are identified as a threatening and permanently excluded underclass about which little can be done but to neutralize and segregate them in 'gulags of incapacitation': a process Wacquant (2001) has referred to as the neo-liberal 'penalization of poverty'. Vengeance and cruelty are no longer an anathema to many parts of criminal justice (Simon, 2001). Politics and culture have become saturated with images of moral breakdown, incivility and the decline of the family (Garland, 2001). A loose-knit set of policy networks and think tanks has constructed a 'neo-liberal penal policy complex' that encourages the dissemination of punitive and exclusionary practices (Newburn, 2002).

Collectively these processes suggest an acceleration of the governance of young people *through* crime and disorder (Simon, 1997). The continual reworking and expansion of juvenile/youth justice systems; streams of legislation apparently dominating all other government concerns; the politicization of youth crime as a means to secure electoral gain; the excessive media fascination—both as news and entertainment with all things 'criminal'; and the obsession with regulation whether through families, schools

or training programmes all attest to the disorder attributed to young people as a central motif of governance. Wherever the principles of the 'free market' have spread, so have rates of incarceration. Wherever welfare state protection has been eroded, so early diagnoses of those assumed most at risk of offending have burgeoned. The punitive and the preventive may sit uneasily together but their combination suggests a broadening and deepening of regimes of surveillance, inspection, regulation and control.

Such readings of contemporary juvenile justice give weight to the primacy of ascribing the multi-variate modes of youth governance to a combination of neo-liberal and neo-conservative rationalities and technologies. These broad trends, now recognizable, to varying degrees, particularly in many western juvenile/youth justice systems in the 21st century, lie at the heart of a neo-liberal version of the globalization of crime control thesis.

Global processes 2: policy transfer and convergence

Policy transfer can be considered as one of the most tangible effects of such processes. Numerous authors have remarked upon a growing similarity in criminal justice across western societies, driven in particular by neo-liberalism and the spread of penal policies particularly from the USA (Wacquant, 1999; Christie, 2000; Garland, 2001; Jones and Newburn, 2002; Newburn, 2002). It has become more and more common for nation states to look worldwide in efforts to discover 'what works' in preventing crime and to reduce re-offending. The talk then is of the possibility of a global youth justice. Much of this analysis relies on tracing the export of penal policies from the USA to other advanced industrial economies. Certainly, aspects of zero tolerance policing (France, Australia, Germany, Brazil, Argentina, Ireland), curfews (Belgium, France, Scotland), electronic monitoring (Singapore, Canada, Australia, Sweden, Holland, Scotland), scared straight programmes (Italy), mandatory sentencing (Western Australia, Northern Territories) and pre-trial detention as a 'short, sharp, shock' (Germany, Holland, France) have not only been transported to England and Wales but to many western jurisdictions.

However the possibility of an Anglo-American convergence tends to dominate the literature on policy transfer (Dolowitz, 2000; Dolowitz and Marsh, 2000; Garland, 2001). And at first sight it seems apposite. In the early days of opposition, Labour persistently challenged and condemned the Conservatives' overt transatlantic policy transfers in both social and criminal justice matters. The left of centre preferred to look to Europe. However, after Blair's visit to the USA in 1993, which presaged the new doctrine of 'being tough on crime and tough on the causes of crime', New Labour also shifted its focus from Europe to the New Democratic policies of the USA. Since the mid-1990s, not only compulsory and conditional welfare-to-work (workfare) but also zero tolerance policing, night curfews, electronic tagging, mandatory minimum sentences, drugs czars, the naming

and shaming of young offenders, community courts, private prisons, Chicago-style policing based on neighbourhood focus groups, strict controls over parents and, for a short period in the 1990s, boot camps, have all, in some form, been transported to England. A tough stance on crime and welfare has become the taken-for-granted mantra to achieve electoral success. But as Sparks has put it, there may be inherent difficulties to this type of comparative analysis because of the 'distracting sway of the American case as a pole of attraction' (2001: 165). It tends to drive out historical and cultural difference by assuming that what happens in the USA will always presage comparable developments elsewhere.

Indeed it is also clear that youth justice in England and more widely across Europe has also been informed by contra penal trajectories such as those derived from the import of restorative justice conferencing pioneered in New Zealand and Australia. The transfer of policy is clearly not one directional or one dimensional (Karstedt, 2001). Critics of US inspired neo-liberal globalization would point out countervailing tendencies at work in numerous juvenile justice systems across the world. Within restorative justice the talk is less of formal crime control and more of informal offender/victim participation and harm minimization. Advocates of restorative justice look to traditional forms of dispute resolution reputedly to be found in the informal customary practices of Maori, Aboriginal and Native American indigenous populations. The prominence of faith-based ideas and communitarianism is also much in evidence. According to its proponents, restorative justice holds the potential to restore the 'deliberative control of justice by citizens' and to restore 'harmony based on a feeling that justice has been done' (Braithwaite, 2003: 57). It has come to find practical expression in various forms of family group conferencing in Australasia, in healing circles in Canada and in community peace committees in South Africa. The Northern Ireland criminal justice review advocates youth conferencing, as part of a broader peace process, to be at the heart of its new approach to juvenile justice (O'Mahony and Deazley, 2000). Both the United Nations and the Council of Europe have given restorative justice their firm backing. Various commentators (see, for example, Mérigeau, 1996) detected an opening up of youth justice throughout most of Europe in the 1990s whereby custodial sanctions were on the decrease. Community safety, reparation, community work, courses in social training and so on together with compliance with United Nations rules and Council of Europe recommendations have all been advocated as means to achieve participative justice and to reduce the recourse to youth imprisonment. The Council of Europe has recommended to all jurisdictions that mediation should be made generally available, that it should cover all stages of the criminal justice process and, most significantly, that it should be autonomous to formal means of judicial processing. The European Forum for Victim–Offender Mediation and Restorative Justice was established in 2000. Across Africa, Stern (2001) records renewed interest in solidarity, reconciliation and restoration as the guiding principles for

resolving disputes rather than the colonial prison. In 2002 the UN's Economic and Social Council formulated some basic universal principles of restorative justice, including non-coercive offender and victim participation, confidentiality and procedural safeguards. It is clear that restorative justice is no longer marginal as some have claimed (Garland, 2001: 104) but a burgeoning worldwide industry with local projects proliferating across much of Europe, Canada, the USA and Australasia (see, for example, Buckland and Stevens, 2001; Justice, 2004). In a European context, Austria is often cited as being at the forefront of such developments. Following its 1988 Juvenile Justice Act, 50 percent of cases suitable for prosecution were resolved by out-of-court mediation and by informal negotiations between offender, victim and mediator to achieve reconciliation (Justice, 2000). But there is little evidence of a pan-European homogeneity. European implementation of restorative principles is marked by heterogeneity rather than convergence. In Belgium, Finland and Norway, restoration is an extension of existing welfare, education or rehabilitative strategies. In England, as evidenced, for example, in its referral orders and youth offender panels, restoration is more authoritarian and paternalistic aimed at responsibilizing the offender. In Norway, victim–offender mediation is used as an *alternative* to judicial processing, whereas in most jurisdictions it is integrated into other criminal justice processes. Some systems are victim oriented (Denmark), some focus on the offender (France, Spain) and in others the orientation is mixed. Belgium employs restorative principles at all stages of the judicial process; in France and England and Wales it only operates at a pre- or initial trial stage, while in Denmark it is employed at the moment of sentence (Miers, 2001; Justice 2004).

In some contrast, restorative justice processes in New Zealand and in most Australian states are now established in statute as the fundamental rationale for youth justice. Their aim is to keep young people out of formal court processes by way of various types of family group conferences. Most academic and policy entrepreneur research speaks highly of such an approach in impacting on re-offending (particularly for less serious violent offenders) and on ensuring that both victim and offender are the *key* participants and decision makers in determining any future action (Bazemore and Walgrave, 1999; Miers, 2001; Morris and Maxwell, 2001). In Australasia professional decision-making and formal court processing appear marginal to an extent not contemplated in most other western systems (with perhaps the exception of Scotland, but there the Children's Hearing system does not involve victims so its restorative credentials might be called into question). Much of this, again, is probably due to an *alliance* between neo-liberalism and a social democratic politics and thus a political willingness to hang on to vestiges of social welfarism (O'Malley, 2002). But we should be wary that this is some general panacea. Australian research for example has suggested that for indigenous populations it may lead to a double failure: failing to be law abiding and failing to act appropriately according to an indigenous justice script rewritten by whites (Blagg, 1997).

In general the danger remains that any form of compulsory restoration may degenerate into a ceremony of public shaming and degradation, particularly when it operates within systems of justice that are driven by punitive, exclusionary and coercive values and whose primary intent is the infliction of further harm (as currently seems to be case in England and Wales and the USA). Neither is it probably any coincidence that restorative justice and neo-liberal ideologies have emerged simultaneously. Both proclaim an end to state monopoly and a revival of community responsibilization. While appearing progressive and rehabilitative, restoration can simply be used to once more enforce neo-liberal notions of individual responsibility (Gelsthorpe and Morris, 2002). Nevertheless it does open a space to consider a series of replacement discourses of 'social harm', 'social conflict' and 'redress' to challenge conservative neo-liberal conceptions of punitive populism and retributive justice (de Haan, 1990; Walgrave, 1995). It opens a door to the development of a restorative *social* justice based on community building, solidarity and empowerment (White, 2000, 2002).

The notion of homogenized policy transfer has also been critiqued by those concerned not just with issues of structural convergence/divergence but with the role of 'agency' in the formulation and implementation of specific policies (Nellis, 2000; Jones and Newburn, 2002). Detailed empirical examinations of policy making in different countries reveal important differences in substance and significant differences in the processes through which policy is reformed and implemented. Both Jones and Newburn (2002) and O'Donnell and O'Sullivan (2003), for example, argue that the concept of zero tolerance associated with New York policing reforms in the early 1990s barely survived its import to Ireland and the UK. The strategies adopted by the NYPD were only employed by some minor experiments in mainstream British policing. Its impact has been more on the level of political rhetoric, fuelled by Fianna Fail in Ireland and by cross-party commitments in the UK to develop more punitively sounding policies that can be widely perceived as being 'tough on crime'. Similarly Nellis' analysis of the transatlantic transfer of electronic monitoring from the USA to England in particular (but also to Singapore, some Australian states, Sweden and the Netherlands) makes clear that the terms 'inspiration' and 'emulation', rather than 'copying', best describe the processes involved.

These lines of enquiry suggest that policy transfer is rarely direct and complete but is partial and mediated through national and local cultures (which are themselves changing at the same time). Policy transfer can be viewed as simply a pragmatic response where nothing is ruled in and nothing ruled out. Authoritarian, restorative and actuarial justice might all be perceived as useful tactics to employ to get the crime rate down. Or they can be viewed as symptomatic of juvenile/youth systems that have lost their way and no longer adhere to any fundamental values and principles, whether they are rooted in welfare, punishment, protection or rights. The logic of assuming we can learn 'what works' from others is certainly seductive. It implies rational planning and an uncontroversial reliance on a

crime science that is free of any political interference. But it also assumes that policies can be transported and are transportable without cognizance of localized cultures, conditions and the politics of space (Muncie, 2002).

Policy transfer and international dialogue will probably become a more dominant aspect of juvenile/youth justice if only because of the possibilities opened up by the growth in international telecommunications. But at a nation state and at regional and local levels things may look a bit differently. Individual states continue jealously to guard their own sovereignty and control over law and order agendas. Local implementation of key reforms may also reveal a continuing adherence to some traditional values and a resistance to change.

Global processes 3: international conventions

The 1989 United Nations Convention on the Rights of the Child has established a near-global consensus that all children have a right to *protection*, to *participation* and to basic material *provision*. It upholds children's right to life, to be free from discrimination, to be protected in armed conflicts, to be protected from degrading and cruel punishment, to receive special treatment in justice systems and grants freedom from discrimination, exploitation and abuse. The only countries not to have ratified are Somalia and the USA (Somalia has no recognized government; the USA has claimed it cannot ratify while it is considering other rights issues). The Convention builds upon the 1985 UN Standard Minimum Rules for the Administration of Youth Justice (the Beijing Rules), which recognized the 'special needs of children' and the importance of dealing with offenders flexibly. It promoted diversion from formal court procedures, non-custodial disposals and insisted that custody should be a last resort and for minimum periods. In addition the Rules emphasized the need for anonymity in order to protect children from life-long stigma and labelling. The Convention cemented these themes in the fundamental right that in all legal actions concerning those under the age of 18, the 'best interests of the child shall be a primary consideration' (Article 3.1). Further it reasserts the need to treat children differently, to promote their dignity and worth with minimum use of custody and that children should participate in any proceedings relating to them (Article 12). In 1990 the UN guidelines for the Prevention of Juvenile Delinquency (the Riyadh guidelines) added that youth justice policy should avoid criminalizing children for their minor misdemeanours. The International Covenant on Civil and Political Rights expressly outlaws capital punishment for under-18s and promotes rehabilitative interventions. The European Convention on Human Rights first formulated in 1953 provides for the due process of law, fairness in trial proceedings, a right to education, a right to privacy and declares that any deprivation of liberty (including curfews, electronic monitoring and community supervision) should not be arbitrary or consist

of any degrading treatment. Collectively these Conventions and Rules can be viewed as tantamount to a growing legal globalization of juvenile justice.

Many countries have now used the UN Convention to improve protections for children and have appointed special commissioners or ombudspersons to champion children's rights. Of note has been a raft of legal reforms in Latin America during the 1990s associated with a renewed recognition of a distinctive Latin American affirmation of human rights. Venezuela and Argentina, for example, were key advocates in the formulation of the UN Convention (Carozza, 2003). A monitoring body—the UN Committee on the Rights of the Child—reports under the Convention and presses governments for reform. Yet, Human Rights Watch (1999) has noted that implementation has often been half-hearted and piecemeal. The Convention is persuasive but breach attracts no formal sanction. Millions of children worldwide continue to live in poverty, have no access to education and are routinely employed in armed conflicts. Street children on every continent continue to endure harassment and physical abuse from the police, and many others work long hours in hazardous conditions in flagrant violation of the rights guaranteed to them under the Convention. Countries give lip service to rights simply to be granted status as a 'modern developed state' and acceptance into world monetary systems. The pressure to ratify is both moral and economic (Harris-Short, 2003). It may be the most ratified of all international human rights directives but it is also the most violated. Abramson's (2000) analysis of UN observations on the implementation of juvenile justice in 141 countries notes a widespread lack of 'sympathetic understanding' necessary for compliance with the UN Convention. Describing these obligations as being largely received as 'unwanted', he notes that a complete overhaul of juvenile justice is required in 21 countries and that in others torture, inhumane treatment, lack of separation from adults, police brutality, bad conditions in detention facilities, overcrowding, lack of rehabilitation, failure to develop alternatives to incarceration, inadequate contact between minors and their families, lack of training of judges, police and prison authorities, lack of speedy trial, no legal assistance, disproportionate sentences, insufficient respect for the rule of law and improper use of the juvenile justice system to tackle other social problems, are rife. In addition there is a notable lack of reliable statistics or documentation as to who is in jail and where they are. Thirty-three countries continue to accompany their ratification with reservations. For example, Canada and the UK have issued reservations to the requirement to separate children from adults in detention. In the English case this is because of an inability to fund suitable places for young women. Many Islamic nations have filed reservations when the Convention appears to be incompatible with Islamic law and domestic legislation (Schabas, 1996). The UK has also reserved its option to deploy children in active military combat. It is the only country in Europe that extensively targets under-18s for recruitment into the armed forces. Similarly the UN has consistently,

and most recently in 2002, advised the UK to raise its age of criminal responsibility. At 8 in Scotland and 10 in England, Wales and Northern Ireland, these are the lowest ages in Europe. Somewhat perversely the UK instead moved in the opposite direction by abolishing the principle of *doli incapax*. The UN's 2002 observations on the UK's implementation of the Convention also expressed concern at the failure to ban corporal punishment in the home, and at the increasing numbers of children in custody, at earlier ages for lesser offences and for longer periods, together with custodial conditions that do not adequately protect children from violence, bullying and self-harm (Children's Rights Alliance, 2002). Similarly those jurisdictions that have introduced schemes to enforce parental responsibility, curfews and antisocial behaviour legislation (most notably in England and Wales, France and the USA), would again appear to be in contempt of the right to respect for private and family life and protection from arbitrary interference (Freeman, 2002). More seriously, many of the principles of restorative justice that rely on informality, flexibility and discretion sit uneasily against legal requirements for due process and a fair and just trial.

In many countries it seems abundantly clear that it is possible to claim an adherence to the principle of universal rights while simultaneously pursuing policies that exacerbate structural inequalities and punitive institutional regimes. 'Cultural difference' and the absence of localized human rights cultures preclude meaningful adoption of international agreements (Harris-Short, 2003). The US case is indicative. Violations of the Convention appear built in to aspects of US law which allow for the death penalty, prosecution in adult courts and which fail to specify a minimum age of criminal responsibility (Amnesty International, 1998). Moreover, relying on international statements of due process and procedural safeguards can do little to deliver justice on the ground. The development of positive rights agendas remains limited (Scraton and Haydon, 2002). Little attention has also been given to the extent to which legal globalization itself is a concept driven by western notions of 'civilized' human rights. Far from opening up challenges to neo-liberalism, rights agendas may simply act to bolster western notions of individuality and freedom while implicitly perpetuating imperial and postcolonial notions of a barbaric and authoritarian 'global east' or 'global south'. It is indicative in itself that of those countries where the UN Committee has identified 'tradition' and 'culture' as impeding implementation, the vast majority are 'non-western'.

Comparative juvenile justice 1: rates, flows and stocks of youth imprisonment

There are relatively few rigorous comparative analyses of youth and juvenile justice. Most provide important case studies of particular jurisdictions but tend to be stronger on the descriptive than the analytical (see Bala

et al., 2002; Doek, 2002; Winterdyk, 2002). In many respects this is not surprising. Doing comparative research is fraught with difficulties (Nelken, 1994, 2002). The classification and recording of crime differ and different countries have developed different judicial systems for defining and dealing with young offenders. In itself it is significant that throughout Europe and most other western jurisdictions the term *juvenile* justice is preferred to the English and Canadian concept of *youth* justice, while the UN advocates the formulation of a *child-centric* criminal justice. What is classified as penal custody in one country may not be in others though regimes may be similar. Not all countries collect the same data on the same age groups and populations. None seem to do so within the same time periods. Linguistic differences in how the terms 'minor', 'juvenile', 'child' and 'young person' are defined and operationalized further hinder any attempt to ensure a sound comparative base. However, even a cursory analysis highlights national diversity rather than global similarity.

Of the statistical data that are available, most are directed at recording head counts and rates of custody. Walmsley (2003), for instance, regularly updates a world prison population list. These consistently reveal the USA as having the highest prison population in the world (at 686 per 100,000 population) and that across the world prison populations are generally growing. There are, however, wide variations, ranging from 139 per 100,000 in England and Wales (the highest in Europe) to 59 per 100,000 in Denmark and Finland (the lowest in Europe). Of the major industrialized nations Japan records one of the lowest rates at 48 per 100,000, while Russia is one of the highest at 638 per 100,000. These figures, however, aggregate juvenile and adult rates.

United Nations Surveys on the Operation of Criminal Justice Systems (United Nations Office for Drug Control and Crime Prevention, 2002) have attempted to provide rates of *youth/juvenile* imprisonment per 100,000 of population. These statistics provide a similar picture of 38.40 per 100,000 in the USA and 18.26 per 100,000 in England and Wales but an almost absence of youth custody in Denmark (0.11/100,000), in Norway (0.07/100,000) and in Belgium (0.02/100,000). According to these statistics, England and Wales continue to incarcerate young people at a higher *rate* than any other country in Europe; indeed in the world only the USA, South Africa, Belize and Swaziland are recorded by the UN as having higher incarceration rates (though it should be noted that some states, such as Australia and Canada have no entry presumably because they either do not collect such data or declined to respond to the UN's survey). In a European context, the Council of Europe (1998) has recorded that in 1996, Ireland, Turkey, England and Scotland had the highest percentage of their prison population under the age of 21, with Ireland at 24.7 percent, Scotland 18.8 percent; England 17.8 percent; France 10 percent; Italy 4.5 percent; and Finland 3.6 percent. There seems to be something of a correlation here: those countries with the lowest ages of responsibility also have more of their prisons filled with young people.

Data derived in the main from the International Centre for Prison Studies (2002) but also from various national websites is again partial and ranges across some four years but also reveals some remarkable divergences. Snapshots of European population *stocks* reveal wide disparities of the numbers in prison at specified dates. So, for example, while in September 2002 England and Wales held 3126 under-18-year-olds in prison, this compared to 862 in France (May 2002), 841 in Germany (March 2001), 152 in Spain (December 2000) and just 16 in Norway (September 2000), 12 in Sweden (October 1998), 9 in Denmark (September 2000) and 2 in Finland (October 2002). Unpublished and provisional data collected for the Council of Europe's *European Sourcebook on Crime and Criminal Justice Statistics* (personal correspondence, August 2003) confirm this pattern. The total *flow* of young people admitted to prison in Europe in 2000 ranged from 2 in Sweden to nearly 4000 in France but some 12,000 in England and Wales.

All of these statistical measures come with the usual health warnings that differences in what counts as prison and in offender classification as well as often haphazard modes of national data collection preclude any absolute comparative reliability. Aggregate figures such as these also tend to suppress the disproportionately high rates of incarceration for particular ethnic groups: a notable feature of juvenile justice not only in the USA but also in the imprisonment of aboriginals in Canada and Australia. Nevertheless they remain our best guide to the relative punitive climate of particular countries and their administrations. Across the world the USA consistently emerges as a particularly atypical (and excessively punitive) case, as does England and Wales in Europe. In these countries there appears little reluctance to lock up young people and to designate such places of detention as 'prison' while doing so.

Comparative juvenile justice 2: national sovereignty and cultural diversity

The UK countries stand out as having some of the lowest ages of criminal responsibility in the European Union. These ages range from 8 in Scotland, and 10 in England and Wales to 15 in Denmark, Norway, Finland and Sweden and 18 in Belgium and Luxembourg. Ireland raised its age of criminal responsibility from 7 to 12 in its Children Act 2001. Spain has also recently moved in the same direction by increasing the age of responsibility from 12 to 14 in its Juvenile Responsibility Act of 2001 (Rechea Alberola and Fernandez Molina, 2003). Interestingly too, most Central and Eastern European countries have relatively high ages of responsibility (most in accord with Russia's 16) but at least 6 (Estonia, Latvia, Ukraine, Moldova, Poland, Macedonia) are currently considering whether to lower this to 14 or below (Asquith, 1996). In contrast, England and Wales abolished the principle of *doli incapax* for 10- to 14-year-olds in 1998

despite recurring complaints from the UN. In Holland, too, the conditions governing the possibility of transferring juvenile cases to an adult court have also been recently relaxed.

The 'adulteration' of youth justice is though most clearly marked in the USA, which has witnessed widespread dismantling of special court procedures that had been in place for much of the 20th century to protect young people from the stigma and formality of adult justice. Since the 1980s (but beginning in Florida in 1978) most US states have expanded the charges for which juvenile defendants can be tried as adults in criminal courts, lowered the age at which this can be done, changed the purpose of their juvenile codes to prioritize punishment and resorted to more punitive training and boot camps. Accordingly the numbers of under-18-year-olds committed to adult prisons in the USA has more than doubled since 1985, with nearly 60 percent being of African-American origin (CNN News, 28 February 2000). Since 1997 four countries—the USA, Iran, Pakistan and the Democratic Republic of Congo—have executed individuals for crimes committed before they were 18. But the practice is in worldwide decline due to the express provisions of the UN Convention. The USA is now the only country in the world still to apply the death penalty to under-18-year-olds. The last 5 executions between 2001 and 2003 have all occurred in the USA. Five US states, notably Texas and Florida, allow execution for 17-year-olds and a further 17, notably Alabama and Louisiana, can authorize the death penalty for children aged 16 (Streib, 2003). In some states there is no age limit at all to adult criminal prosecution and trial.

The push for 'adult justice' is, however, far from uniform. Belgium and Scotland stand out as examples where the primacy of the welfare principle remains the fundamental rationale for youth justice. In Belgium all judicial interventions are legitimated through an educative and protective, rather than punitive and responsibilizing discourse (Walgrave and Mehlbye, 1998). While in practice some welfare measures are backed by coercive powers, it remains impossible to impose legal penalties on those aged under 16 (though this may be about to change through a growing emphasis on offender accountability). Equally, it is not always fully acknowledged that Scotland abolished the juvenile court in 1968 and has been operating with a welfare tribunal for the majority of under-16-year-old offenders for the past 30 years. It has not been without its critics, not least because of the lack of legal safeguards and the apparent tendency for the adult courts to deal with those aged 16 and over with undue severity. Scotland continues to have a high percentage of its prison population dedicated to under-21-year-olds. Nevertheless, the hearing system continues to ensure that child welfare considerations hold a pivotal position for younger offenders and provides a credible alternative to the punitive nature of youth justice pursued in many other jurisdictions (McAra and Young, 1997; Smith, 2000; Whyte, 2000).

In the past decade many European countries have reported a distinct hardening of attitudes and criminal justice responses to young offending.

According to Council of Europe statistics, England and Wales, Holland, Greece, Germany and Portugal have all reported significant *increases* in their daily counts of the numbers of under-18-year-olds in prison between 1995 and 2000. In Holland, youth prison populations were reduced in the 1970s by limiting penal capacity, emphasizing rehabilitation and supporting a culture of tolerance (Downes, 1988; Komen, 2002). HALT projects begun in Rotterdam in 1981 and various other social crime prevention initiatives replaced judicial intervention with reparation schemes and advice agencies to improve youth's 'survival skills'. However, there has been a dramatic reversal in Dutch penal policy from the mid-1980s onwards. Once heralded as a beacon of tolerance and humanity, Holland embarked on a substantial prison building programme linked to a tendency to expand pre-trial detention and to deliver longer sentences on conviction (Pakes, 2000). In 2002, Dutch city councils gave the police new powers to stop and search arbitrarily without reasonable suspicion in designated areas of 'security risk'. The practice has amounted to the criminalization of poor and black neighbourhoods, targeting in particular Moroccan youth (*Statewatch*, Jan–Feb, 2003, p. 8).

In Germany the average number of over-14-year-olds in prison increased by 21 percent during the 1990s (Suhling, 2003). In Ireland, prison building and expansion has been a notable feature of the 1990s despite falling crime rates (O'Donnell and O'Sullivan, 2003). These shifts in part appear driven by neo-liberal market reform, welfare residualism, fears of migrants, changes in the labour market and a related lowering of the tolerance level for crime and violence. Fear and insecurity fuel a popular punitiveness that demands some overt 'norm-enforcing system' that is both retributive and interventionist (Junger-Tas, 2002).

In France in the 1980s the Mitterand government responded to a series of violent disturbances in Lyon and Marseilles, not by implementing more authoritarian measures, but by developing means of education and vocational opportunity and avenues for local political participation and incorporation. The *Bonnemaison* initiative involved the recruitment of older youth (*animateurs*) to act as paid youth workers with youngsters in the ghetto suburbs. These were connected with residents and local government officials to form crime prevention committees designed to address issues of citizenship and urban redevelopment as well as those of security. It is widely assumed that such strategies, based on local democratic representation, rather than repression, were at least initially successful in achieving a greater integration, particularly for children of North African origin (King and Petit, 1985; King, 1988, 1991; Pitts, 1995, 1997). Since the 1980s, however, there is compelling evidence of a greater convergence of French and English crime prevention strategies made up of a patchwork of zero tolerance policing and of situational and social methods (Crawford, 2001; Roche, 2002). The right-wing government of Alain Juppe from 1993 to 1997 prioritized a zero tolerance police-led approach to crime prevention. It is a policy that was continued by the left-wing Jospin government. The

socio-economic conditions that produce youth marginalization and estrangement are no longer given central political or academic attention (Bailleau, 1998). Rather concern is directed to migrant children, particularly from Africa, Asia and Eastern Europe who have arrived in search of political asylum and economic opportunity. Special surveillance units have been established to repress delinquency in 'sensitive neighbourhoods', penalties for recidivism have been increased and the deportation of foreigners speeded up (Wacquant, 2001). Since the return to power of the right in 2002 a new public safety law has expanded police powers of search, seizure and arrest, instituted prison sentences for public order offences (such as being disrespectful to those in authority), lowered from 16 to 13 the age at which young offenders can be imprisoned and introduced benefit sanctions for parents of offending children (Henley, 2002).

In Scotland the Scottish Executive (2003) has recently decided to pilot the re-establishment of youth courts for 16- and 17-year-olds. Ostensibly this is to deal with 'persistent offenders' but would also overcome the Scottish anomaly of being the only Western European country to deal routinely with this age group in the adult courts.

While these broad political shifts have yet to produce any notable expansion in prison populations in all jurisdictions, they are clearly associated with a break-up of social democratic welfare humanitarianism and the emergence of a new moralism of 'zero tolerance' associated with the disciplinary techniques of the free market (Tham, 2001). Such analyses clearly resonate with the 'criminalization of the undesirable and the unfortunate' and the expansion of interventionist and authoritarian policies characteristic of the USA and England and Wales. Across Europe where a philosophy of child protection and support continues to hold greater sway, it is increasingly being tested by new discourses of responsibility. The irony for all though is that during the last decade youth crime rates across Europe, Canada and the USA have been mostly falling or at least stable.

Conversely, Spain, Italy and the Czech Republic have all reported *decreases* in their daily count of youth incarceration between 1995 and 2000. Canada has begun to report significant decreases since the implementation of its 2003 Act due to the wider availability of community alternatives, though it has done so from a very high base figure. (Canada, reputedly, had one of the highest rates of youth imprisonment in the world, exceeding that of the USA.) Belgium, Finland, Norway and Sweden stand out as countries that seem to be able to keep youth imprisonment to an absolute minimum and have been able to maintain such a policy throughout the 1990s. In Finland the young offender prison population has been reduced by 90 percent since 1960 without any associated rise in known offending. This was achieved by suspending imprisonment on the condition that a period of probation was successfully completed. Finland is one of a very few countries to be able to claim that community penalties are given as direct alternatives (rather than as additions) to prison sentences. Immediate 'unconditional' sentencing to custody is a rarity (National Re-

search Institute of Legal Policy, 1998). The Norwegian criminologist Nils Christie (cited in Karstedt, 2001) has argued that this dramatic shift has been made possible by a conscious effort on the part of successive Finnish governments to formulate a national identity closer to that of other Scandinavian states. In turn it has been argued that this reductionist movement has rested on the formulation that 'social development policy is the best criminal policy' (Kuure, 2002).

In Italy, judges have an additional power to grant a 'judicial pardon' which, together with a policy of '*liberta controllata*' (a form of police supervision) and a greater willingness to defer control to families, means that young people are incarcerated only for a very few serious violent offences (Dunkel, 1991; Ruxton, 1996; Nelken, 2002). The exception seems to be for non-nationals, particularly young Romanis. Cultural difference is also a key factor. An Italian cultural tradition of soft paternal authoritarianism has been traditionally linked to low levels of penal repression. The 'cultural embeddedness' of Catholic paternalism (compared for example to US evangelical Protestantism) may not determine penal policy but provides the parameters in which the purpose and meaning of punishment is understood (Melossi, 2000). Similarly, Japan's relative non-punitiveness has been accounted for in the context of a tradition of 'maternal protectionism' and a culture of '*amae* sensitivity', which priori-tizes interdependence over individual accountability (Morita, 2002).

In Trondheim, Norway, in 1994 a 5-year-old girl was murdered by two 6-year-old boys. The exceptionality of this case mirrored that of the murder of James Bulger by two 10-year-old boys a year earlier in England. In the seven subsequent years, public, media and political outcry remained una-bated in the UK, continually dwelling on the 'leniency' of their sentence, their 'privileged' access to specialized rehabilitation and their eventual 'premature' release under a cloak of fearful anonymity. In Norway the murder was always dealt with as a tragedy in which the local community shared a collective shame and responsibility. The boys were never named. They returned to school within two weeks of the event (Muncie, 2002). Some commentaries on an England/France comparison also continue to maintain that a culture of French republicanism, driven by notions of legal equality and of social *solidarity* and *integration*, ensures more of a lasting rejection of American punitiveness than seems to be possible or politically acceptable in countries such as England and Wales (Pitts, 2001).

However it is explained, it is clear that locking up young people is driven by something other than global increases in crime, or, as has been most recently assumed, by increases in violent crime. International research has consistently found that there is no correlation between crime rates and custody rates (Council of Europe, 2000). The use of custody appears politically and culturally, rather than pragmatically, inspired. For some jurisdictions prison seems to 'work' at a political and symbolic level even when it is a demonstrable failure.

Local contingencies and resistances

The 'catastrophic' images raised by some neo-liberal readings of governance may help us to identify significant macro social changes, but are less attuned to resistance to change, to contradictions within neo-liberalism and its often hybrid nature, to the inherent instability of neo-liberal strategies and to the simultaneous emergence of other competing transformational tendencies (Muncie and Hughes, 2002). Neo-liberalism not only has a global impact but also, under the rubric of 'governing at a distance', has encouraged the proliferation of 'local solutions' to local problems. To understand fully the workings and influences on juvenile/youth justice we need to be attuned to the twin and contradictory processes of *delocalization* and *relocalization* (Crawford, 2002). The risks and hazards of globalization have simultaneously produced a 'retreat to the local' and nostalgia for tradition and community. The local governance of crime and insecurity is evidenced in the prolific discourses of 'community safety' in the UK and of 'urban security' across Europe (Hughes, 2002). Both are informed by notions of community participation, proactive prevention, informalism, partnership and multi-agency collaboration. Given that they are directed not only at crime but also incivilities and the antisocial, it is not surprising that their usual target is the (mis)behaviour of young people, particularly in 'high risk' neighbourhoods. Yet what emerges from studies of the actual conduct of governance in particular localities is not uniformity, but diversity. In Australia and the USA there are wide divergences in custody rates from state to state. In such countries as Spain, Italy, Germany and France it is indeed difficult to prioritize national developments above widely divergent regional differences, most evident in sentencing disparities. Again, the possibility of identifying coherent and consistent patterns in (youth and juvenile) governance is called into question (Hughes and Edwards, 2002).

Broad governmental mentalities—whether global or national—will always be subject to revision when they are activated on the ground. Policy transfer will be piecemeal and reconfigured in local contexts. Whatever the rhetoric of government intention, the history of youth justice (e.g. in England and Wales) is also a history of active and passive resistance from pressure groups and from the magistracy, the police and from youth justice workers through which such reform is to be effected. At one level this is reflected in the wide disparities between courts in the custodial sentencing of young people. In England and Wales, for example, these range from 1 custodial sentence for every 10 community sentences in the South-West to 1 in 5 in the West Midlands and the North-West. On another level it is reflected in the haphazard implementation of national legislation and youth justice standards in different localities (Holdaway et al., 2001). Indeed Cross et al. (2003) have begun to detect divergences between policy and practice in Wales and in England. Significantly, the Welsh Assembly decided to locate youth justice services in the portfolio of Health and Social Services

rather than Crime Prevention thus prioritizing a 'children first' rather than an 'offender first' (as in England) philosophy. There is also always a space to be exploited between written and implemented policy. The translation of policy into practice depends on how it is visioned and reworked (or made to work) by those empowered to put it into practice. As a result, youth justice practice is likely to continue to be dominated by a complex of both rehabilitative 'needs' and responsibilized 'deeds' programmes. Joined up strategic co-operation will often co-exist with sceptical and acrimonious relations at a practitioner level (Liddle and Gelsthorpe, 1994). A social work ethic of 'supporting young people' may well subvert any partnership or national attempt simply to responsibilize the young offender. This is also because many of the 'new' global, neo-liberal targets for intervention— inadequate parenting, low self-esteem, poor social skills, poor cognitive skills—are remarkably similar to those targets identified by a welfare mode of governance. The incongruity between such latent welfarism and the retributive nature of penal expansionism may well create some space in which the complex welfare needs of children in trouble can be re-expressed (Goldson, 2000). Equally, there is a growing recognition that securing universal children's rights depends as much (if not more) on grassroots initiatives than on 'agreements' between nation states as epitomized by the UN Convention (Veerman and Levine, 2000). The ill-defined rhetoric of crime prevention can also enable localized social programmes to be re-elevated as those most likely to secure 'community safety'. Thus even in the USA—reputedly the bastion of conservative neo-liberalism—we can still find numerous programmes funded by justice departments and run by welfare/police partnerships which appear more concerned with social support (e.g. providing housing, health care, employment opportunities) rather than overt crime control (Mears, 2002). Moreover, such reinventions of the social can also be based on long-term and large-scale programmes which address such issues as poverty, powerlessness, discrimination and so on, which fly in the face of neo-liberal, short-term, 'what works' evaluative or neo-conservative punitive, agendas. Long-range projects of 'the social' can survive or be reborn (O'Malley, 2001).

Rather than an inexorable global conquest of American-inspired neo-liberal rationalities and technologies, this analysis of juvenile/youth justice gives weight to a succession of local encounters of complicity and resistance. It ensures that the role of 'agency' is centred in understanding processes of policy implementation. Youth/juvenile justice, as one element of penal policy, remains stubbornly local and contingent (Tonry, 2001).

Conclusion

Understanding the role of globalization in processes of international and national criminal justice reform is in its infancy. This exploration of juvenile/youth justice has revealed some of the possibilities and pitfalls that

await any research in this area. As an analytical concept, globalization is both seductive and flawed. It is seductive because it seems to offer some valuable means through which sense can be made of a widely recognized dismantling of welfare statism and a resurgence in authoritarian responses to juvenile offending; it is flawed because it encourages the tendency to deliver reductionist and economistic readings of policy convergence. The argument that youth justice has become a global product can only be sustained at the very highest level of generality. First, globalization is not one dimensional. Economic globalism speaks of the import, largely US inspired, of neo-liberal conceptions of community responsibilization backed by an authoritarian state. However, legal globalism, largely UN inspired, unveils a contrary vision of universal human rights delivered through social democracies. Globalization simultaneously conjures up images of both the usurpation and protection of children's rights. Second, the idea that global capital is hegemonic and capable of transforming all that it touches is both essentialist and determinist. Relying on a model of US/UK convergence blinds any analysis to the differentiated and differentiating impact of the global. As Clarke (2000) has argued, its effect is neither uniform nor consistent. The empirical 'evidence' of juvenile/youth justice reform considered in this article does more to deny than confirm any flattening of national political and cultural difference. The diversity of reform trajectories warns against any attempt to imply homogeneity. What is required is a level of analysis that neither elevates nor negates globalization but recognizes that the global is only realized in specific localities and through which it will inevitably be reworked, challenged and contested. The key issue to be addressed is not how globalization is producing uniformity but how it is activating diversity.

Juvenile and youth justice may be becoming more globalized through the impact of neo-liberalism, policy transfer and international conventions, but at the same time it is becoming more localized through national, regional and local enclaves of difference, coalition and resistance. Individual nation states are undoubtedly being challenged by global processes, but analysis at the level of the nation state also appears limited. Regional governments, federated states, international cities and multiple forms of community governance all suggest alternative visions of statehood and citizenship and offer alternative routes of access to decision making on social and economic issues. Similarly there are discrete and distinctive ways in which neo-liberalism finds expression in conservative and social democratic *rationalities* and in authoritarian, retributive, human rights, responsibilizing or restorative *technologies*. For example, the anti-welfare neo-liberalism of the USA would seem to have little in common with other 'neo-liberal' countries such as Canada, New Zealand, Australia and most of Western Europe (O'Malley, 2002). Globalizing forces may straddle (part of) the world but also have to manifest themselves at the national and local levels, at all of which they may be subject to multiple translations or

oppositions. As Bauman (1998) tried to capture in the notion of the 'glocal', global neo-liberal pressures are always mediated, and can only be realized, through national and local identities and sensibilities. Globalization can only ever be one among many influences on policy and then its influence may pull and push in diverse ways at the same time. Above all, the global/national/local are not exclusive entities: the key issue is how they are experienced differently in different spaces and at different times. For Yeates (2002) a mutually transforming relationship among global and local processes prefigures *plurality* as a driving context for policy implementation. Youth justice reform cannot be simply reduced to global economic transformations or to universal legal treaties. All such processes are mediated by distinctive national and sub-national cultures and socio-cultural norms when they are activated on the ground.

In every country and in every locality, youth justice appears to be 'made up' through unstable and constantly shifting alliances between neo-liberal, conservative and social democratic mentalities. In terms of policy, the authoritarian, the retributive, the restorative and the protective continually jostle with each other to construct a multi-modal landscape of youth governance (Muncie, 2004). The end result is ongoing processes of multiplicity (as well as uniformity), divergence (as well as convergence) and contingency (as well as determinism). This hybridity activates multiple lines of invention, contestation and contradiction in policy making and implementation. As a result it is impossible to identify, and fruitless to try to construct, any pure models of juvenile/youth justice.

Globalization does not simply produce uniform or homogenizing outcomes. It also produces social differentiation, segmentation and contestation. Economic globalization suggests the unfettered freedom of the market; legal globalization suggests universal regulation through the instruments of human rights. Similarly, while some nation states may well be in a process of being reconstituted by global (neo-liberal economics), international (e.g. UN conventions; European integration) and national (e.g. privatization) pressures, criminal justice tends to be held onto as a powerful symbolic display of local sovereignty. The epitome of this, of course, is the USA and its belligerent opposition to the authority of any international courts and human rights conventions. Questions of who is criminalized and how are they to be dealt with are nationally and locally specific political and cultural decisions. The forces of globalization, such as neo-liberal economics and international human rights conventions, cannot be ignored, but neither should the processes through which these forces have come to be negotiated in different localities and communities.

Essentialist conceptions of globalization imply homogeneity and hegemonic dominance, but globalization is but one element in a series of complex processes and political strategies that make up the multi-modal landscape of juvenile/youth justice that is being continually pushed and pulled in different directions at the same time. The problem with the

concept of globalization is that it inevitably draws our attention to macro political and economic determinants. Dangers of over-generalization and neglect of local variance abound. Rather, what is required is an analysis of how global pressures work themselves out differentially in individual jurisdictions. Because the concept has been applied predominantly to transformations in western and Anglophone countries, our understanding of global processes to date might itself also be considered to be peculiarly ethnocentric.

To test this proposition, what is clearly required is more of an immersion in the culturally *specific* national, regional and local politics of reform than has been possible here.

References

Abramson, B. (2000) *Juvenile Justice: The 'Unwanted Child' of State Responsibilities. An Analysis of the Concluding Observations of the UN Committee on the Rights of the Child, in Regard to Juvenile Justice from 1993 to 2000.* International Network on Juvenile Justice/Defence for Children International. Available at www.defence-for-children.org

Amnesty International (1998) *Betraying the Young: Children in the US Justice System.* AI Index AMR 51/60/98. Available at: www.web.amnesty.org

Asquith, S. (1996) *Juvenile Justice and Juvenile Delinquency in Central and Eastern Europe.* University of Glasgow, Centre for the Child and Society. Available at: www.eurochild.gla.ac.uk

Bailleau, F. (1998) 'A Crisis of Youth or of Juridical Response?', in V. Ruggiero, N. South and I. Taylor (eds) *The New European Criminology*, pp.95–103. London: Routledge.

Bala, N., J. Hornick, H. Snyder and J. Paetsch (eds) (2002) *Juvenile Justice Systems: An International Comparison of Problems and Solutions.* Toronto: Thompson.

Bauman, Z. (1998) *Globalisation: The Human Consequences.* Cambridge: Polity.

Bazemore, G. and L. Walgrave (eds) (1999) *Restorative Juvenile Justice: Repairing the Harm of Youth Crime.* New York: Criminal Justice Press.

Beck, U. (2000) *What Is Globalisation?* Cambridge: Polity.

Bell, V. (1993) 'Governing Childhood: Neo-Liberalism and the Law', *Economy and Society* 22(3): 390–403.

Blagg, H. (1997) 'A Just Measure of Shame? Aboriginal Youth and Conferencing in Australia', *British Journal of Criminology* 37(4): 481–501.

Braithwaite, J. (2003) 'Restorative Justice and a Better Future', in E. McLaughlin et al. (eds) *Restorative Justice: Critical Issues.* London: Sage Publications.

Buckland, G. and A. Stevens (2001) *Review of Effective Practice with Young*

Offenders in Mainland Europe, 157–63. London: Youth Justice Board/ European Institute of Social Services.

Carozza, P. (2003) 'From Conquest to Constitutions: Retrieving a Latin American Tradition of the Idea of Human Rights', *Human Rights Quarterly* 25(2): 281–313.

Children's Rights Alliance (2002) *State of Children's Rights in England*. London: CRA for England.

Christie, N. (2000) *Crime Control as Industry*. London: Routledge.

Clarke, J. (2000) 'A World of Difference? Globalisation and the Study of Social Policy', in G. Lewis, S. Gewirtz and J. Clarke (eds) *Rethinking Social Policy*, pp. 201–16. London: Sage Publications.

Council of Europe (1998) *Penological Information Bulletin*, no. 21. Strasbourg: Council of Europe.

Council of Europe (2000) *European Sourcebook of Crime and Criminal Justice Statistics*. Strasbourg: Council of Europe.

Crawford, A. (2001) 'The Growth of Crime Prevention in France as Contrasted with the English Experience', in G. Hughes, E. McLaughlin and J. Muncie (eds) *Crime Prevention and Community Safety: New Directions*, pp. 214–39. London: Sage Publications.

Crawford, A. (2002) 'The Governance of Crime and Insecurity in an Anxious Age: The Trans-European and the Local', in A. Crawford (ed.) *Crime and Insecurity: The Governance of Safety in Europe*, pp. 27–51. Cullompton: Willan.

Cross, N., P. Evans and J. Minkes (2003) 'Still Children First? Developments in Youth Justice in Wales', *Youth Justice* 2(3): 151–62.

Cunneen, C. and R. White (2002) *Juvenile Justice: Youth and Crime in Australia*. Melbourne: Oxford University Press.

De Haan, W. (1990) *The Politics of Redress*. London: Unwin Hyman.

Doek, J. (2002) 'Modern Juvenile Justice in Europe', in M. Rosenheim, F. Zimring, D. Tanenhaus and B. Dohrn (eds) *A Century of Juvenile Justice*, pp.505–28. Chicago, IL: University of Chicago Press.

Dolowitz, D. (ed.) (2000) *Policy Transfer and British Social Policy: Learning from the USA?* Buckingham: Open University.

Dolowitz, D. and D. Marsh (2000) 'Learning from Abroad: The Role of Policy Transfer in Contemporary Policy Making', *Governance* 13(1): 5–24.

Downes, D. (1988) *Contrasts in Tolerance*. Oxford: Oxford University Press.

Dunkel, F. (1991) 'Legal Differences in Juvenile Criminology in Europe', in T. Booth (ed.) *Juvenile Justice in the New Europe*, pp. 1–29. Social Services Monographs, University of Sheffield.

Farrington, D. (1996) *Understanding and Preventing Youth Crime*. Social Policy Research Findings, no. 93. York: Joseph Rowntree Foundation.

Farrington, D. (2000) 'Explaining and Preventing Crime: The Globalisation of Knowledge', *Criminology* 38(1): 1–24.

Feeley, M. and J. Simon (1992) 'The New Penology: Notes on the Emerging Strategy of Corrections and Its Implications', *Criminology* 30(4): 449–74.

Fionda, J. (1998) 'The Age of Innocence? The Concept of Childhood in the Punishment of Young Offenders', *Child and Family Law Quarterly* 10(1): 77–87.

Freeman, M. (2002) 'Children's Rights Ten Years after Ratification', in B. Franklin (ed.) *The New Handbook of Children's Rights*, pp. 97–118. London: Routledge.

Garland, D. (1996) 'The Limits of the Sovereign State', *British Journal of Criminology* 36(4): 445–71.

Garland, D. (2001) *The Culture of Control*. Oxford: Oxford University Press.

Gelsthorpe, L. and A. Morris (2002) 'Restorative Youth Justice: The Last Vestiges of Welfare?', in J. Muncie, G. Hughes and E. McLaughlin (eds) *Youth Justice: Critical Readings*, pp. 238–54. London: Sage Publications.

Goldson, B. (2000) 'Children in Need or Young Offenders?'. *Child and Family Social Work* 5(3): 255–65.

Grisso, T. and R.G. Schwartz (eds) (2000) *Youth on Trial*. Chicago, IL: University of Chicago Press.

Harris-Short, S. (2003) 'International Human Rights Law: Imperialist, Inept and Ineffective? Cultural Relativism and the UN Convention on the Rights of the Child', *Human Rights Quarterly* 25(1): 130–81.

Henley, J. (2002) 'A Harsh Lesson for les Misérables', *Guardian Unlimited*, 8 August, www.guardian.co.uk

Holdaway, S. et al. (2001) *New Strategies to Address Youth Offending: The National Evaluation of the Pilot Youth Offending Teams*. Research Directorate Occasional Paper no. 69. London: Home Office.

Hudson, B. (1987) *Justice through Punishment*. Basingstoke: Macmillan.

Hughes, G. (2002) 'Plotting the Rise of Community Safety', in G. Hughes and A. Edwards (eds) *Crime Control and Community*, pp. 20–45. Cullompton: Willan.

Hughes, G. and A. Edwards (eds) (2002) *Crime Control and Community: The New Politics of Public Safety*. Cullompton: Willan.

Human Rights Watch (1999) *Promises Broken: An Assessment of Children's Rights on the 10th Anniversary of the Convention of the Rights of the Child*. Available at: www.hrw.org/campaigns/crp/promises

International Centre for Prison Studies (2002) *World Prison Brief*. Available at: www.kcl.ac.uk/depsta/rel/icps/worldbrief

Jones, J. and T. Newburn (2002) 'Policy Convergence and Crime Control in the USA and the UK', *Criminal Justice* 2(2): 173–203.

Junger-Tas, J. (2002) 'The Juvenile Justice System: Past and Present Trends in Western Society', in I. Weijers and A. Duff (eds) *Punishing Juveniles*, pp. 23–44. Oxford: Hart.

Justice (2000) *Restoring Youth Justice: New Directions in Domestic and International Law and Practice*. London: Justice.

Justice (2004) *Restorative Justice: The Way Ahead*. London: Justice.

Karstedt, S. (2001) 'Comparing Cultures, Comparing Crime: Challenges, Pro-

spects and Problems for a Global Criminology', *Crime, Law and Social Change* 36(3): 285–308.

Kempf-Leonard, K. and E. Peterson (2000) 'Expanding Realms of the New Penology: The Advent of Actuarial Justice for Juveniles', *Punishment and Society* 2(1): 66–97.

King, M. (1988) *How to Make Social Crime Prevention Work: The French Experience*. London: NACRO.

King, M. (1991) 'The Political Construction of Crime Prevention: A Contrast between the French and British Experiences', in K. Stenson and D. Cowell (eds) *The Politics of Crime Control*, pp. 87–108. London: Sage Publications.

King, M. and M.-A. Petit (1985) 'Thin Stick and Fat Carrot: The French Juvenile System', *Youth and Policy* 15: 26–31.

Komen, M. (2002) 'Dangerous Children: Juvenile Delinquency and Judicial Intervention in the Netherlands, 1960–1995', *Crime, Law and Social Change* 37: 379–401.

Kuure, T. (2002) 'Low Custody in Finland', paper given at the Children Law UK/NACRO Conference, 'Reducing Custodial Sentencing for Young Offenders: The European Experience', London, 23 October.

Lacey, N. and L. Zedner (2000) 'Community and Governance: A Cultural Comparison', in S. Karstedt and K.-D. Bussman (eds) *Social Dynamics of Crime and Control*. Oxford: Hart.

Liddle, M. and L. Gelsthorpe (1994) *Crime Prevention and Inter-Agency Co-operation*. Crime Prevention Unit, Paper no. 53. London: Home Office.

McAra, L. and P. Young (1997) 'Juvenile Justice in Scotland', *Criminal Justice* 15(3): 8–10.

Mears, D. (2002) 'Sentencing Guidelines and the Transformation of Juvenile Justice in the 21st Century', *Journal of Contemporary Criminal Justice* 18(1): 6–19.

Melossi, D. (2000) 'Translating Social Control: Reflections on the Comparison of Italian and North American Cultures', in S. Karstedt and K.-D. Bussman (eds) *Social Dynamics of Crime and Control*, pp. 143–56. Oxford: Hart.

Mérigeau, M. (1996) 'Legal Frameworks and Interventions', in W. McCarney (ed.) *Juvenile Delinquents and Young People in Danger in an Open Environment*. Winchester: Waterside Press.

Miers, D. (2001) *An International Review of Restorative Justice*. Crime Reduction Research Series Paper no. 10. London: Home Office.

Mishra, R. (1999) *Globalisation and the Welfare State*. Cheltenham: Edward Elgar.

Morita, A. (2002) 'Juvenile Justice in Japan: A Historical and Cross-Cultural Perspective', in M. Rosenheim, F. Zimring, D. Tanenhaus and B. Dohrn (eds) *A Century of Juvenile Justice*, pp. 360–80. Chicago, IL: University of Chicago Press.

Morris, A. and G. Maxwell (eds) (2001) *Restorative Justice for Juveniles*. Oxford: Hart.

Muncie, J. (2002) 'Policy Transfers and What Works: Some Reflections on Comparative Youth Justice', *Youth Justice* 1(3): 27–35.

Muncie, J. (2004) 'Youth Justice: Globalisation and Multi-Modal Governance', in T. Newburn and R. Sparks (eds) *Criminal Justice and Political Cultures*, pp. 152–83. Cullompton: Willan.

Muncie, J. and G. Hughes (2002) 'Modes of Youth Governance: Political Rationalities, Criminalisation and Resistance', in J. Muncie, G. Hughes and E. McLaughlin (eds) *Youth Justice: Critical Readings*, pp. 1–18. London: Sage Publications.

National Research Institute of Legal Policy (NRILP) (1998) *Regulating the Prison Population*. Research Communications no. 38. Helsinki: NRILP.

Nelken, D. (1994) 'Whom Can You Trust? The Future of Comparative Criminology', in D. Nelken (ed.) *The Futures of Criminology*, pp. 220–43. London: Sage Publications.

Nelken, D. (2002) 'Comparing Criminal Justice', in M. Maguire, R. Morgan and R. Reiner (eds) *The Oxford Handbook of Criminology* (3rd edn), pp. 175–202. Oxford: Oxford University Press.

Nellis, M. (2000) 'Law and Order: The Electronic Monitoring of Offenders', in D. Dolowitz (ed.) *Policy Transfer and British Social Policy*, pp.98–117. Buckingham: Open University.

Newburn, T. (2002) 'Atlantic Crossings: Policy Transfer and Crime Control in the USA and Britain', *Punishment and Society* 4(2): 165–94.

O'Donnell, I. and E. O'Sullivan (2003) 'The Politics of Intolerance—Irish Style', *British Journal of Criminology* 43(1): 41–62.

O'Mahony, D. and R. Deazley (2000) *Juvenile Crime and Justice: Review of the Criminal Justice System in Northern Ireland*. Research Report no. 17. Belfast: Northern Ireland Office.

O'Malley, P. (2001) 'Criminologies of Catastrophe? Understanding Criminal Justice on the Edge of the New Millennium', *Australian and New Zealand Journal of Criminology* 33(2): 153–67.

O'Malley, P. (2002) 'Globalising Risk? Distinguishing Styles of Neo Liberal Criminal Justice in Australia and the USA', *Criminal Justice* 2(2): 205–22.

Pakes, F. (2000) 'League Champions in Mid Table: On the Major Changes in Dutch Prison Policy', *Howard Journal* 39(1): 30–9.

Pitts, J. (1995) 'Public Issues and Private Troubles: A Tale of Two Cities', *Social Work in Europe* 2(1): 3–11.

Pitts, J. (1997) 'Youth Crime, Social Change and Crime Control in Britain and France in the 1980s and 1990s', in H. Jones (ed.) *Towards a Classless Society*, pp. 121–50. London: Routledge.

Pitts, J. (2001) *The New Politics of Youth Crime: Discipline or Solidarity?* Basingstoke: Palgrave.

Rechea Alberola, C. and E. Fernandez Molina (2003) 'Juvenile Justice in Spain: Past and Present', *Journal of Contemporary Criminal Justice*, 19(4): 384–412.

Roche, S. (2002) 'Toward a New Governance of Crime and Insecurity in

France', in A. Crawford (ed.) *Crime and Insecurity: The Governance of Safety in Europe*, pp. 213–33. Cullompton: Willan.

Rose, N. (1996a) 'The Death of the Social? Refiguring the Territory of Government', *Economy and Society* 25(3): 327–46.

Rose, N. (1996b) 'Governing "Advanced" Liberal Democracies', in A. Barry, T. Osborne and N. Rose (eds) *Foucault and Political Reason*, pp. 37–64. London: UCL Press.

Rose, N. (2000) 'Government and Control', *British Journal of Criminology* 40: 321–39.

Rose, N. and P. Miller (1992) 'Political Power beyond the State: Problematics of Government', *British Journal of Sociology* 43(2): 173–205.

Ruxton, S. (1996) *Children in Europe*. London: NCH Action for Children.

Schabas, W. (1996) 'Reservations to the Convention on the Rights of the Child', *Human Rights Quarterly* 18(4): 472–91.

Schaffner, L. (2002) 'An Age of Reason: Paradoxes in the US Legal Construction of Adulthood', *International Journal of Children's Rights* 10: 201–32.

Scottish Executive (2003) *Youth Court Feasibility Project Group Report*. Edinburgh: Scottish Executive.

Scraton, P. and D. Haydon (2002) 'Challenging the Criminalisation of Children and Young People: Securing a Rights Based Agenda', in J. Muncie, G. Hughes and E. McLaughlin (eds) *Youth Justice: Critical Readings*, pp.311–28. London: Sage Publications.

Simon, J. (1997) 'Governing through Crime', in L. Friedman and G. Fisher (eds) *The Crime Conundrum*, pp. 171–89. Boulder, CO: Westview.

Simon, J. (2001) 'Entitlement to Cruelty: Neo-Liberalism and the Punitive Mentality in the United States', in K. Stenson and R.R. Sullivan (eds) *Crime, Risk and Justice*, pp. 125–43. Cullompton: Willan.

Smandych, R. (ed.) (2001) *Youth Justice: History, Legislation and Reform*. Toronto: Harcourt.

Smith, D. (2000) 'Learning from the Scottish Juvenile Justice System', *Probation Journal* 47(1): 12–17.

Sparks, R. (2001) 'Degrees of Estrangement: The Cultural Theory of Risk and Comparative Penology', *Theoretical Criminology* 5(2): 159–76.

Stern, V. (2001) 'An Alternative Vision: Criminal Justice Developments in Non-Western Societies', *Social Justice* 28(3): 88–104.

Streib, V. (2003) *The Juvenile Death Penalty Today*. Available at www.law.onu.edu/faculty/streib

Suhling, S. (2003) 'Factors Contributing to Rising Imprisonment Figures in Germany', *Howard Journal* 42(1): 55–68.

Tham, H. (2001) 'Law and Order as a Leftist Project? The Case of Sweden', *Punishment and Society* 3(3): 409–26.

Tonry, M. (2001) 'Symbol, Substance and Severity in Western Penal Policies', *Punishment and Society* 3(4): 517–36.

United Nations Office for Drug Control and Crime Prevention (2002) *The Seventh Survey on Crime Trends and the Operations of Criminal Justice Systems*. Available at www.odccp.org/odccp/crime-cicp-survey-seventh.html

Veerman, P. and H. Levine (2000) 'Implementing Children's Rights on a Local Level', *International Journal of Children's Rights* 8: 373–84.

Von Hirsch, A. (1976) *Doing Justice*. New York: Hill & Wang.

Wacquant, L. (1999) 'How Penal Common Sense Comes to Europeans: Notes on the Transatlantic Diffusion of the Neo-Liberal Doxa', *European Societies* 1(3): 319–52.

Wacquant, L. (2001) 'The Penalization of Poverty and the Rise of Neo-Liberalism', *European Journal on Criminal Policy and Research* 9: 401–12.

Walgrave, L. (1995) 'Restorative Justice for Juveniles: Just a Technique or a Fully Fledged Alternative?', *Howard Journal* 34(3): 228–49.

Walgrave, L. and J. Mehlbye (eds) (1998) *Confronting Youth in Europe: Juvenile Crime and Juvenile Justice*. Copenhagen, Denmark: Institute of Local Government Studies.

Walmsley, R. (2003) *World Prison Population List* (4th edn). Research Findings no. 188. London: Home Office.

White, R. (2000) 'Social Justice, Community Building and Restorative Strategies', *Contemporary Justice Review* 3(1): 55–72.

White, R. (2002) 'Communities, Conferences and Restorative Social Justice', *Criminal Justice* 3(2): 139–60.

Whyte, B. (2000) 'Youth Justice in Scotland', in J. Pickford (ed.) *Youth Justice: Theory and Practice*, pp.169–88. London: Cavendish.

Winterdyk, J. (ed.) (2002) *Juvenile Justice Systems: International Perspectives* (2nd edn). Toronto: Canadian Scholars Press.

Yeates, N. (2001) *Globalisation and Social Policy*. London: Sage Publications.

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