

“Best Practices in Restorative Justice”

**Conference 1-4 June 2003
Centre for Restorative Justice Simon Fraser University**

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Major Theme and Plenary Elaboration:

Tensions between Government and Grassroots: Public/Private/Community Partnerships

Restorative Justice in Northern Ireland: An Outsider’s Perspective

Abstract:

Restorative justice in Northern Ireland is flourishing at the moment. This paper describes some of the recent initiatives that have developed in the country, and then explores particular issues facing the field in a post-conflict society. Among the topics addressed are where restorative justice is best placed within society, how divergent schemes might interact with one another, and the balance of leading versus following community momentum. The snapshot provided is by an American who has been living in Northern Ireland for less than two years, and may not fully represent the range of opinions held by practitioners and advocates of restorative justice in the country.

This is not an academic paper. I write this not as an expert in restorative justice, nor as an expert in the politics of Northern Ireland. I know a bit about both, but mostly I'm convinced that much of what I've seen in the past year and a half as co-ordinator of the Restorative Justice Ireland Network is worth sharing with the international restorative justice community. The sheer number and variety of restorative justice initiatives in a country of only 1.5 million is noteworthy, in and of itself. In addition to this, however, are the unique circumstances of a post-conflict society in which this philosophy is flourishing. Issues of who should be running restorative justice schemes, how these divergent groups might interact with one another, and to what extent a given initiative should lead or respond to its constituency are some of the distinctive contributions Northern Ireland can make to the international debate. This paper, then, will attempt to explore some of those themes from the perspective of an outsider, witnessing and encouraging the development of restorative justice in Northern Ireland.

The average citizen of Northern Ireland, if they have heard of restorative justice, have probably heard of it in respect to one of the community schemes operating within some of the Republican and Loyalist working class areas. While the two programmes clearly forged their own paths to restorative justice, the development of each happened in a somewhat similar manner, and for the purposes of this paper I will speak in broad terms about their commonalities.

In each situation, community leaders and ex-combatants undertook a consultation process within their respective communities to look for non-violent alternatives to punishment beatings. During the course of the Troubles, respective paramilitaries took on the role of 'policing' their local communities, either as a result of collective mistrust of the state police (as was and is still the case in many

Republican communities), or because of the state police's inability to deal effectively with low-level anti-social behaviour while simultaneously responding to the political violence of the Troubles. Under these circumstances, paramilitary groups responded with what is known as 'punishment beatings.' These might include beating (with baseball bats, hurling sticks studded with nails, iron bars, and other heavy implements), shooting (usually in the knees, thighs, elbows, ankles, or a combination), or exiling persistent offenders from the community (McEvoy and Mika 2001b).

Without necessarily seeking out information on restorative justice, the consultation processes in both Republican and Loyalist communities sketched out programmes reflecting restorative justice principles and practice. Since 1999 and 1998 respectively, communities in both Republican and Loyalist working class areas have been operating restorative justice schemes.

In the Loyalist Shankill Road area of Belfast, Greater Shankill Alternatives deals with persistent and serious offenders, primarily between the ages of 10 and 18. Referrals to the programme come from paramilitary organisations; community sources such as victims, families, and community organisations; individuals themselves who are under paramilitary threat and Base 2, a non-political charity providing support to victims of paramilitary assaults. Once referred to Alternatives, the young person is assigned a caseworker, and within a month has developed a contract that includes making amends to their victim, community reparation, and strategies for self-improvement (McEvoy and Mika 2001b). Greater Shankill Alternatives has given rise to a province-wide level organisation, Northern Ireland Alternatives, which is endeavouring to develop similar programmes in other parts of Belfast and Northern Ireland.

On the Republican side, Community Restorative Justice Ireland (CRJ) launched four projects (three in Belfast and one in Derry) in 1999, and has since expanded to over a dozen projects. Programmatically, CRJ's principal activities include working with victims, offenders and communities; providing mediation and family group conferencing; and monitoring agreements (McEvoy and Mika 2001b). According to a recent evaluation, the six general categories of dispute that CRJ handles include assault, intimidation, bullying and abuse, neighbourhood conflict, intra-family conflict, and youth at serious risk in the community.

However, restorative justice in Northern Ireland has not been restricted to the community realm. Two statutory programmes have also emerged. The Police Service of Northern Ireland has piloted two restorative projects since 1999, one in Ballymena that addresses retail theft, and one in Mountpottinger that deals with a variety of minor offences. In the Ballymena scheme, trained police officers facilitate conferences between the offender and a local retailer who represents victims of this type of offence. In Mountpottinger, a mix of trained facilitators from the police and other agencies run conferences between the victim (where possible) and the offender; this process is titled a "caution plus."

Finally, the government of Northern Ireland has recently passed legislation that establishes conferencing for juveniles, similar to that which is in operation in New Zealand. The Good Friday Agreement of 1998 provided for a wide-ranging review of the criminal justice system in Northern Ireland. In the course of this review, the review team commissioned a report on restorative justice and its applicability in Northern Ireland, and subsequently decided that "restorative justice should be integrated into the juvenile justice system and its philosophy in Northern

Ireland, using a conference model based in statute, available for all juveniles...”

(Criminal Justice Review Group, 2000, p. 205).

The administration of the youth conferences is housed within a new arm of the criminal justice system titled the Youth Justice Agency. This Agency was officially launched in March 2003, and conferencing is expected to begin in pilot areas by December of 2003. The legislation provides for both diversionary conferences and court-ordered conferences.

As laid out thus far, it is clear that restorative justice philosophy is underpinning responses to crime at a number of levels in society, from community right through to statutory justice bodies. From an outside perspective, I find this extremely encouraging and highly commendable. But as Northern Irish society continues to bring itself out of thirty years of violent conflict, relationships across the board remain somewhat tenuous, and this reality has not escaped the field of restorative justice.

As part of the Criminal Justice Review process, the review team undertook an extensive consultation with the community to solicit attitudes to restorative justice. Their findings highlight well the state of play of restorative justice in Northern Ireland at present:

“Most of those who commented...were broadly supportive of the concept of restorative justice although understanding of what it meant in practice varied widely. Opinions were divided, however, on how restorative justice should be delivered and fell broadly into two camps: those who supported the delivery of restorative justice processes within and by the community, with few or no links with the formal criminal justice system; and those who favoured restorative justice being integrated into and delivered as part of the formal criminal justice process and who opposed community restorative justice delivered without links to and accreditation by the formal criminal justice process. Opinions were strongly and sincerely expressed” (2000, p. 194).

The question of where restorative justice initiatives should be situated within a society is no doubt debated across the globe. Can you have restorative elements within an essentially retributive state system of justice? Can police facilitators engender a noncoercive conference environment? What is the role of communities in light of their amorphous nature in modern industrialised societies? These questions, while relevant in Northern Ireland, only touch at the overall issue of who should 'control' restorative justice in this context. Much more urgent are the various attitudes towards the paramilitaries and state sanctioned institutions within the respective communities.

On the one hand, Republicans are generally quite distrustful of the state, and in particular, the police service. Among the reasons for this are the historic "sectarian composition of the force, its preoccupation with 'fighting terrorism' and a history of human rights abuses" (McEvoy and Mika 2001a, p.363.). At present, Sinn Féin, the political party which holds the majority of supporters in the communities where CRJ operates, chooses not to sit on the new policing board as it sees the force as not sufficiently reformed and therefore not yet legitimate. As such, CRJ maintains that it is unviable for their programme to have any formal connections with the Police Service of Northern Ireland, and that they would lose all credibility within their community if they were seen to be engaging with an unreformed police service. If that is the case, then many members of this community will, for the time being, only utilise restorative justice if it is fully operated and managed within their community without links to state systems of justice.

Somewhat similarly, members of some Loyalist communities are also suspicious of the police. Again, they feel that 'ordinary' crime in their communities did not receive enough attention during the course of the Troubles. There have also

been frustrations when the police have not permitted Orange marches to go down traditional routes in Catholic neighbourhoods; Loyalists were “angered that *their* police has apparently sided with Nationalist residents...” (McEvoy and Mika 2001, p. 366, *sic*). While there are then issues from the community about the reception of the police within the community, the Loyalist based Greater Shankill Alternatives aims for an equal partnership between themselves and relevant statutory bodies.

Perhaps more distressing to the community schemes has been the suggestion by the Criminal Justice Review that the schemes should be accredited and monitored by the state. In the Review it states “that those within the community who wish to contribute to the way in which criminal activity is dealt with should work in partnership with, take referrals from, and be subject to accreditation and monitoring by the criminal justice system.” This might be seen as an attempt by the state to control the community schemes, which have been operating for several years prior to the criminal justice system’s own restorative justice programme taking cases. Additionally, community ownership of these schemes is one of their greatest strengths and should not be undermined.

On the other hand, however, many in Northern Ireland view the paramilitaries as highly illegitimate. Not only are they seen to be the cause of violence between communities over the past thirty years, but also of intimidating and dominating members within their own communities. As McEvoy and Mika point out, one commentator “locates Republican punishment beatings within a framework of ‘internal repression’ within working class nationalist communities. He argues that punishments help to ‘manufacture community support’ against the state, exercise control through terror, appeal to puritanical punitive urges to ‘clean up’ society, keep IRA volunteers busy while on cease-fire and may in part be due to the influence of

‘warped personalities’ amongst the ranks of the paramilitary membership” (2001a, 361). It follows easily, then, that many would be deeply distrustful of restorative justice schemes operating with close connections to these groups (i.e. staffed by ex-combatants and taking referrals from paramilitary groups).

Given this concern about general methods of intimidation, many would question whether a restorative justice scheme with connections to paramilitaries could in any way purport to be noncoercive. Whether a threat is overt or implied, some wonder if offenders or others feel forced into a restorative conference, or even to admitting guilt, for fear of receiving a punishment beating if they protest. This would obviously not allow offenders a sense of due process, nor would it comply with voluntary participation, a core tenet of restorative justice. Additionally, if these schemes operate without any interaction with formal justice systems, an offender could find him/herself in a situation of double jeopardy; conceivably, an offender could be processed both through a community scheme and also the formal system.

While there is some recognition by those who principally support only statutory schemes that paramilitaries have been given a certain authority within working class areas, the argument is made that the only way to ensure against abuses by the paramilitary is through outside, and specifically statutory, accreditation and regulation.

As has been illustrated thus far, there are two dominant perspectives on restorative justice in Northern Ireland—those who support community-based schemes and those who support statutory-based schemes—both with their own very real and complicated issues for interfacing with other programmes. At the end of the day, however, I am convinced that programme leaders from all of the different schemes have a genuine commitment to restorative justice, to empowering those most affected

by crime to deal productively with its consequences. I am also convinced that for the time being, there need to be a number of different programmes, and that none of them as is will meet the needs of the entire population. Restorative justice is fundamentally about meeting the community's needs, and in a divided society such as Northern Ireland, there are different communities with distinctive needs. Just as members of some communities have very low tolerance for state and police intervention, many others have little or no tolerance for anything that serves to legitimise paramilitaries.

Because I am an outsider, I have had the privilege to meet, at least initially, with each of these groups under neutral terms. All of them have been willing on several occasions (including in preparation for this paper) to sit with and instruct me on issues as they see them. Their candour and sincerity has, at times, compelled me to think simplistically that, if I could just provide the right forum which everyone would come to, they might begin to break down some of the feelings of mistrust towards one another. As someone who never lived in Northern Ireland during the Troubles, it's easy to forget about the 30 years it took to build up this scepticism.

In addition, observing the draws and resistances to coming together has given me an opportunity to think about the role of restorative justice programmes in relation to the populations they serve. Given that restorative justice has articulated a new paradigm that seeks to empower those who previously may not have had a real voice, is the most authentic restorative justice programme one that always follows the agenda and parameters set by the community? Or, should a restorative justice programme, if it is holistically embodying the restorative ethos, be about transforming the community attitudes about those with whom they have been in conflict?

The Republican and Loyalist schemes have different responses to these questions, albeit with different realities to work with. Community Restorative Justice

Ireland has, in accordance with the position held by the major political party representing their constituency, chosen not to formally interact with what they see as a still unreformed police service. Greater Shankill Alternatives has, on the other hand, felt that dialoguing with the police and other statutory agencies is their responsibility; they see it as a way of modelling restorative justice. In the end, it is probably a balancing act. Programmes need to maintain the support of their community if they are going to be able to provide restorative services, but should at times be willing to challenge them to work on other difficult relationships.

In many ways, the challenges facing restorative justice in Northern Ireland are unique to its particular political context. The post-conflict realities do bring an added dimension to the debate. Perhaps, however, the need to be deliberate about such issues as who should control restorative justice options and how divergent projects might interact with one another will ultimately be an invaluable service to the field here, and internationally. This paper has only attempted to touch vaguely on some of the dilemmas facing the field, but I hope it has also demonstrated the promise of restorative justice in Northern Ireland because the future is indeed promising.

References

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