

Community Restorative Justice in Northern Ireland: Lessons from America

Dr Kieran McEvoy, Reader in Criminology at The Queen's University Belfast, reports on a British Academy supported research trip to the USA in the summer of 2001 and how it relates to ongoing attempts at finding peaceful alternatives to paramilitary punishments in Northern Ireland.

Restorative justice is the new 'black' in the criminological world – it is the 'in' topic. In essence, it views crime as a breakdown in relationships which require healing rather than a breach of the criminal code which requires retribution. In the UK, Canada, Australia, New Zealand and many other countries restorative justice techniques such as victim-offender mediation, family group conferencing (where often the families of victims and offenders are involved in agreeing a settlement in response to crime), reparation and other strategies have been increasingly employed over the past decade as alternatives to or in parallel with more punishment-focused responses. This heightened interest in restorative responses to crime reflect a widespread disillusionment with the tried and failed methods of the past which have seen the prisons fill up with little discernible impact on crime rates, or indeed meeting the complex needs and requirements of victims, communities and offenders.

Background to the Northern Ireland Context

In the Northern Ireland context, there is an additional twist to the restorative justice story. Interest in the subject here is due in large part to the political context in which community-based restorative projects have emerged. Following the IRA and Loyalist 'military ceasefires' of 1994 (and again 1997 in the case of the IRA) both sets of paramilitary groups continued what they refer to as 'policing' activities. In essence, these are the punishment shooting, beating and banishment of alleged antisocial offenders and petty criminals. While no-one disputes the brutality of these activities, it is a more complex phenomenon than simply naked repression being visited by the paramilitaries on their local communities. Punishment beatings and shootings are popular in the communities in which they happen. In the absence of an acceptable policing service, particularly in Republican areas, a complex relationship developed during the Northern Ireland conflict wherein local communities

expected the paramilitaries to 'do something' in response to crime and the paramilitaries saw it as their 'responsibility' to respond.

In order to break this cycle, in 1996 a number of human rights and peace activists (including the author) began a dialogue with the Republican Movement on finding alternatives to such violence. A similar initiative also began with one of the Loyalist factions. Following a lengthy series of training sessions and discussion with activists, a document was produced which outlined the potential for creating a lawful and non-violent community-based system of justice which could replace punishment violence. The idea was that a community-led and community-managed system, based upon the principles of restorative justice, could supplant the paramilitary system and allow them to (in their terms) 'disengage responsibly.' Funding was achieved, 12 projects have been established, over two hundred community activists have been trained and well over 1,000 cases processed.

The driving dynamic to the process has been to ensure good practice. The usage of restorative justice (with its emphasis on non-violence, lawfulness, the protection of human rights and so forth) as an educative and capacity-building tool for local communities requires that the practice of such projects be *legitimate*. As someone who has been involved as an activist, as well as writing upon this process, I considered that a comparative element to my research should be included. What was required was to examine a jurisdiction where such programmes were long established, and where the tradition of a strong state, expansive criminal justice system and emphasis on civil liberties could offer insights into the ways in which *legitimate* community restorative justice could be ensured.

Legitimizing Community Restorative Justice: The United States Connection

Despite its deserved reputation for a primarily retributive criminal justice response to crime and anti-social activity, the USA also has a less well known parallel history of grass roots community

Dr McEvoy's background as a criminal justice practitioner and long-time Executive Committee member of CAJ (Northern Ireland's primary human rights NGO, which he chaired between 1997 and 1999), gives an uncommonly practical perspective to his research.

activism in neighbourhood dispute resolution and restorative justice. Faced with problems such as a lack of confidence in the criminal justice system and the police (particularly in poor inner city black and Hispanic neighbourhoods), high crime, drug usage and organised gang activities – many communities have become increasingly involved in trying to tackle these problems. Sometimes local communities have gone it alone. More often they have sought to approach these issues through developing partnerships with the local and federal authorities, albeit partnerships where often (as in Northern Ireland) the particular configurations of power relations between the state and local communities were required to reflect politically organized and astute local activists.

This research project involved a series of interviews conducted in three sites in the USA (New York, Washington and Boston) with a range of actors involved in the area of community-based restorative justice, complimented by library based research. Those interviewed were predominantly restorative justice practitioners. However interviews were also conducted with a number of academics, lawyers, one judge, a victims' rights advocate, a number of police officers, a prison and probation employee (who had overseen restorative justice programmes in prison and 'half-way house' release programmes) and a range of other interested parties.

A number of key themes emerged in conducting the US research which were of direct relevance to the Northern Ireland context. First, the development of legitimate restorative justice practice requires sensitive and nuanced development which emanates from and resonates with the particular community needs where it is based. It must flow from a pre-existing and largely compatible cultural and value base. For example, models of practice in inner city ethnically diverse areas must by definition be different from those in predominantly white middle class suburbs

Second, restorative justice requires a mandate from local communities. It requires an audit of needs and resources. In places where such audits were not carried out, or where consultation with existing civil society grouping were minimal (such as in one New York based programme where the local community were largely unaware of a 'half-way house' restorative justice programme for recently released offenders until it was 'exposed' by the local media), this can cause serious damage to a programme's credibility.

Third, restorative justice requires moral authority and credibility in the local community. The involvement of people with such authority or credibility was continuously defined as crucial for programme legitimacy. Credible programme participants included respected local community and civil society activists, trade unionists, womens' movement activists, church personnel, local community police officers in some instances, social workers and teachers, and indeed in a number of projects in Washington and Boston, former prisoners who were perceived as having 'gone straight'. The key balancing act here is to ensure that the moral authority of such individuals emanates from a genuine and diverse participation of *all* segments of local communities.

Fourth, restorative justice requires the development and demonstration of competence. In this context competence may be defined as involving the purposive and long term development of appropriate skill sets among individuals and organizations. Generally, competence involves programme performance at a level sufficient to satisfy key programme objectives – addressing needs of victims and offenders, community safety, crime prevention, and the like. Projects need to develop and publicise good practice standards, demonstrate transparency in the operation and management of the project and demonstrate accountability not just to funders but to the local community as well.

Finally, effective restorative justice requires partnership within and outside the community. The concept of partnership was continuously referred to as crucial in developing legitimate community restorative justice practice. A number of interviewees suggested that partnership at local community level between different projects, was difficult because of the perception that all were engaged in competition for scarce resources and that restorative justice projects were in a somewhat privileged negotiating position with funders given their perceived 'trendiness' in recent years. For others, partnerships with the state agencies (such as the police, district attorneys office or probation) were the most difficult because of a widespread perception that such agencies were keener on the assertion of power, control and ownership rather than genuine partnership with local community configurations. That said, with effective and engaged leadership at community and statutory level, and a commitment that all were engaged 'for the long haul', some excellent partnerships were observed.

Conclusion

The failure of state policing during the Northern Ireland conflict contributed significantly to the evolution of a violent and brutal system of paramilitary punishments. As well as the complex interaction of notions of paramilitary responsibility and community dependence, such violence was symptomatic of fractured relationships between the state criminal justice system and working class communities. The restorative justice projects described above represent attempts at praxis designed ultimately to end paramilitary punishment violence in local communities. Legitimate community restorative justice is possible with careful planning, monitoring, management and the harnessing of grass roots enthusiasm. However, local communities cannot do it alone. In the final analysis, the process can

only succeed if the new policing service and a reformed criminal justice system prove capable of much more nuanced engagement with the needs of local communities, demonstrating local democratic accountability and a reconfigured set of state/community power relations. The development in US community-led restorative justice demonstrates that such programmes can operate in a legitimate and lawful fashion and frame effective working partnerships with the state. Where there is a political will, particularly amongst the leadership of state agencies, there is a way.

Dr McEvoy was awarded a British Academy Small Research Grant to carry out his research in the USA. A publication, K. McEvoy and Harry Mika: *Restorative Justice: Theory, Practice and Critique* (London: Sage) is forthcoming in 2002.