# Punishment, policing and praxis: Restorative justice and non-violent alternatives to paramilitary punishments in Northern Ireland

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# PUNISHMENT, POLICING AND PRAXIS: RESTORATIVE JUSTICE AND NON-VIOLENT ALTERNATIVES TO PARAMILITARY PUNISHMENTS IN NORTHERN IRELAND

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During the most recent three decades of conflict in Northern Ireland, the limitations of
the Royal Ulster Constabulary's (RUC) policing of local working class communities has
seen the parallel evolution of violent paramilitary systems of 'punishment attacks' and
banishments. This paper explores the factors which underpin such punishments. It con-
siders their relationship to the formal justice system and offers a critical analysis of the
potential for Restorative Justice theory and practice to provide non-violent community
based alternatives to such violent punishments.

KEY WORDS: Restorative justice; paramilitary punishments; Royal Ulster Constabulary;
Northern Ireland

## INTRODUCTION

One of the visible symptoms of the limitations of state policing in Ireland
since the 19th century has been the existence of alternative systems of

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vigilantism or 'self policing' (Koutsonouris, 1995; Bell, 1996). Such alternate justice systems have developed in many jurisdictions which have undergone political, social or ethnic conflict (Abel, 1982; Burman and Scharf, 1990). In Northern Ireland official figures suggest that since 1973, approximately 2,300 people have been the victims of paramilitary punishment shootings (usually in the knees, thighs, elbows, ankles or a combination) and since 1983, approximately 1,700 people have been the victim of paramilitary punishment beatings (involving attacks with baseball bats, hurling sticks studded with nails, iron bars and other heavy implements (RUC website, 2000). While there is a heated debate as to the reliability of such statistics and the ways in which they have been used in the political arena,[1] there is little dispute concerning the realities of the extreme violence visited upon the victims of punishment attacks, with a number having died of injuries or been permanently disabled. While organised paramilitary violence has reduced dramatically in Northern Ireland, with all of the main paramilitary groupings currently observing 'military cessations', punishment attacks and banishments have continued, albeit waxing and waning in the light of political developments and events on the ground (Silke and Taylor, 2000).[2]

This paper is divided into three parts. Part one focuses upon the ideology and practice of the paramilitary protagonists, their relationship with their respective communities and suggests how such factors relate to the occurrence of punishment violence. Part two explores a number of practical interventions in Loyalist and Republican areas designed to offer non-violent alternatives to punishment attacks, largely based upon the theory and practice of restorative justice. Part three offers some critical reflections on the potential of these projects to end punishment violence and the complex interaction between community praxis, the state and transformation into a post conflict society.

[1] See, e.g., Statistics Show Drop in Punishment Attacks. *Ireland on Sunday*, February 5th 1999.
[2] The numbers of individuals who are being forced to leave the jurisdiction appears to have risen since the cease-fires while punishment attacks have continued, albeit in lesser numbers (BASE 2, 2000).

# UNDERSTANDING PUNISHMENT VIOLENCE

## Republican Punishment Attacks

The Provisional IRA (henceforth IRA) is the largest and best known paramilitary organisation in Northern Ireland. While it has attacked the security forces, political and judicial figures, Loyalists, economic and civilian targets as part of an overall 'military' strategy (O'Brien, 1993) its members have also 'policed' Republican areas against anti-social crime through punishments and banishments. A distinct section within the IRA known as the 'civil administration' has been given this task (O'Doherty, 1998). This system requires a considerable logistical and infrastructural commitment with personnel designated to hear complaints, investigate, make recommendations and carry out the punishment attacks. It became somewhat routinised during the conflict with designated buildings where complaints were made, relationships established with professionals seeking to make interventions regarding those under threat (discussed below), victims being aware of the threat and occasional highly publicised accounts of victims or their families arranging to arrive at agreed destinations to be punished.

In justification of these attacks, Republicans point to the RUC's lack of acceptance or legitimacy amongst their community; the tradition of alternative justice in Ireland as a challenge to the legitimacy of the state; the inability or unwillingness of the RUC to 'properly' police Republican areas, and police toleration of the activity of 'ordinary' criminals in return for becoming 'informers' on suspected IRA activists (Helsinki Watch, 1992; 1993; Munck, 1984; 1988). Equally, there has often been considerable grass-roots pressure to 'do something' about anti-social activity.

Some commentators have strongly criticised the activities of the IRA in carrying out these policing activities as an exercise in power and control, and a form of 'nakedly obvious intimidation' with moralistic justifications which are gauche and transparent (O'Doherty 1998: 145). Similarly Kennedy (1995) 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 (1995: 77–79). Silke (1999a: 70) makes a similar point, arguing that the reduced status (within Republicanism) of those involved in punishment attacks has led to a small number of people 'with personality disorders' having become involved in the punishment squads.

Others, while equally critical of the brutality of punishment violence, place greater emphasis upon the community pressures to respond to anti-social crime and the failings of state policing in Republican areas (Sluka, 1989; Connolly, 1997). Such accounts also point to the considerable levels of community support for such activities (e.g., Morrissey and Pease, 1982), a factor also acknowledged by Silke (1998). They point to the existence of a crude 'tariff' system (in which matters such as the seriousness of offence, previous record, age and gender of the alleged offender all impacted upon the punishment imposed), suggesting a more systemic and organised use of violence rather than one subject to the whim of 'warped personalities' (Conway, 1997). Similarly, a number have suggested that while petty criminals as informers do present security problems for the IRA, policing activities largely constituted a distraction of resources from the military effort (Munck, 1988; McCorry and Morrissey, 1989). To some degree, these writers share a more subtle appreciation of Republican ideology and practice as well as a more complex understanding of the interaction between paramilitaries and the communities in which they exist.

We would emphasise four themes in understanding Republican punishment violence and attempts to end it.

First, the IRA's resurgence in the early 1970s is widely acknowledged as being influenced in large part by the perceived need for the organised defence of nationalist communities from Loyalist mobs, either supported by or ignored by a belligerent police force (e.g., Coogan, 1987; Bishop and Mallie, 1987). Thus this notion of 'responsibility' for the defence of their community is a key tenet in modern Republican ideology (O'Doherty, 1998). It extends beyond defence from Loyalist or state violence to include defence and protection from anti-social crime.

Second, among Republican communities, there is a parallel culture of dependence upon the IRA to deal with anti-social crime. A range of surveys and ethnographic research has produced candid acknowledgements of such reliance (Brewer *et al.*, 1997; O'Mahony *et al.*, 2000). As

one Republican activist told the authors: 'the conflict has created a cycle of dependency, where the community expects the movement [IRA] to deal with anti-social crime, the IRA feels responsible and must act but lacks the resources to deal with it other than through violence and the result is damaging the kids who are after all part of the community.'

Third, with regard to formal 'state policing', the RUC's lack of legitimacy in working class Nationalist communities is well documented (e.g., McGarry and O'Leary, 1999; Ellison, 2000). The sectarian composition of the force, its preoccupation with 'fighting terrorism' and a history of human rights abuses have undermined the RUC's capacity to effectively police 'ordinary' crime in such communities. An end to punishment violence is clearly linked to a transformation of state policing, and an overall improvement in police–community relations in such neighbourhoods.

Finally, the relationship between punishment attacks and broader political developments has become increasingly significant since the 1994 cease-fires. Prior to 1994, in a context of explosions, killings and so forth, punishment violence was of less obvious political significance. However after the 'military cessations', their political significance grew considerably. The continuance of punishment attacks, albeit without the use of firearms for a period on the Republican side, has become a litmus test for some to measure the paramilitaries' commitment to peace. Urging the end to punishment beatings and taking effective action to prevent such activities became one of the key 'Mitchell Principles', a pre-condition to participation in the all party peace talks (Mitchell, 1996). Similarly, the debates concerning the prisoner releases after the Agreement were peppered with efforts by Unionists and Conservatives to link such releases to an end to punishment attacks. While the 'wall to wall' media coverage of such attacks may arguably be linked to a process of 'reinventing and re-demonizing the enemy' (Tomlinson, 1995), the political reality remains that ending punishment beatings is a key part of the overall process of conflict resolution.

Those who have engaged in attempts at praxis on this issue on the Republican side have been informed by these four themes, but focused in practice on the first two. The central thrust has been to create a process whereby Republicans could be encouraged to (in their terms)

'disengage responsibly' and local communities could be trained and encouraged to take greater responsibility and ownership over the process of justice. Such a community focus has required a parallel acknowledgement of the past failings of state policing and evidence that the political efforts at conflict resolution could be seen to be working. While the Patten report and legislation on a new policing service have been published, the political prospects for the future are less clear at the time of writing.

### Loyalist Punishment Attacks

The other non-state combatants in Northern Ireland have been the Loyalist paramilitaries, primarily the Ulster Volunteer Force (UVF) (Cusack and McDonald, 1997), the Ulster Defence Association (UDA) (Nelson, 1984), and more recently the Loyalist Volunteer Force (LVF) (Taylor, 1999). Loyalists killed more people leading up to the 1994 cease-fires (McAuley, 1995). Their targets were traditionally uninvolved Catholic civilians, or civilian or economic targets in the Irish Republic or Republican activists when possible (Bruce, 1992). They regard themselves as primarily defensive, driven to political violence by the IRA, defending their community and the Union with Britain (Bruce, 1995). In the most recent elections, the political parties associated with Loyalist paramilitarism gained less than four percent of the overall vote (Northern Ireland Election Website, 1998).

Like Republicans, the involvement of Loyalists in punishment violence can only be understood by reference to their ideology, politics and organizational structure. Loyalist activists belong to a pro-state paramilitary group, sharing the ideology and political aspirations of the state but frustrated at its inability to 'take on' the IRA. Loyalist groups have looser and less centralized structures than the IRA (Bowyer-Bell, 1993; Bruce, 1992). Their self image is of a highly individualistic culture, wherein Protestant traditions of free thought and civil and religious liberties (and their own dislike for tight command structures) are juxtaposed with the monotheism of Catholicism (and the perceived automaton nature of IRA personnel) with their emphasis on collectivism, clear command structures and firm discipline (McEvoy, 2001).

There is considerable geographical autonomy amongst Loyalist groups, particularly in the UDA and internal discipline problems are

endemic. Loyalists too engage in the policing of petty crime and drug dealing and express frustration at police ineffectiveness.[3] The Loyalist tariff system is less structured than their Republican counterparts with fewer warnings given, and no clear pathway between exiling, beatings, shootings and death (Conway, 1997).

While Loyalist punishment shootings outnumber those carried out by Republicans in virtually every year between 1986 and 1994 (Kennedy, 1995: 70–71), the reasons are more complex than might first appear (Hillyard, 1985). Conway (1997) and Bell (1996) argue for example, that while young people who are punished by Republican paramilitaries are rarely associated with the Republican movement, punishment shootings and beatings on the Loyalist side are significantly about Loyalist organizations policing their own members (see also Silke, 1999b). Those engaged in 'ordinary' criminal activity may be encouraged to 'join up' or contribute a percentage of criminal proceeds (Conway, 1993: 8). Such involvement in 'ordinary' criminal activity has been a systematic problem for Loyalist paramilitaries since their inception (Bruce, 1992).

Similarly the tensions between the two main Loyalist groupings (the UVF and UDA), often concerning control of territory, the involvement of the latter, in particular, in drugs and personality disputes rather than political ideology, have often resulted in bloody confrontation (Cusack and McDonald, 1997).[4] In the year 2000, these tensions saw a number of 'tit for tat' murders of opposing activists, and the forced expulsion of several hundred families from the Shankill area of Belfast because of perceived affiliations with rival groupings.

The relationship between Loyalist working class communities and Loyalist paramilitarism is also complex. First, as noted above, Loyalist paramilitary parties have a much smaller electoral base than Sinn Fein (McAuley, 1996).

Second, the relationship between such communities and the RUC is more complex than might first appear. There is evidence of police harassment and brutality in working class Protestant communities

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[3] UVF Warns Drug Dealers to Leave Ulster or Face the Consequences. *Combat*, February 1994.

[4] While similar feuds have also been a feature of Republican paramilitarism, these have normally been presented (at least) as political or ideological conflicts between groupings of differing shades of Republicanism.

(McVeigh, 1994; Weitzer, 1995). In addition, police–community relations are strained by the annual conflicts of the Orange marching season (Jarman, 1997). Such tensions have led to attacks on police officers' homes by Loyalists angered that *their* police have apparently sided with Nationalist residents in, *for example, preventing* banned marches from entering Catholic areas. Despite such tension, surveys have consistently shown support for the RUC as highest amongst working class Protestant communities (Brewer *et al.*, 1997; O'Mahony *et al.*, 2000) suggesting that real police–community tensions are masked by the demands of 'loyalty' and therefore missed using traditional survey techniques (see *also Patten, 1999: 16*).

Thirdly, it has been argued that the infrastructure and levels of community activity within Loyalist communities are less developed than in Republican areas (Opsahl, 1993). This has been variously attributed to a combination of levels of reliance upon 'their state' to deliver, a self image amongst the Protestant working class as a 'labour aristocracy' with marginal advantage over their Catholic counterparts (Farrell, 1976), and the wariness of Unionist politicians in focusing upon class based rather than sectarian politics (McAuley and McCormick, 1991).

Any attempt at praxis on Loyalist punishment violence must be informed by such differences. To recap, Loyalism operates within a different community context. Loyalist activists are arguably less politicised, their day-to-day engagement with the police may be more strained than would appear from survey data, and their community infrastructures are less developed. As for Loyalist punishment attacks, they are best understood as a combination of internal disciplining of members, internecine disputes between factions, personality disputes as well as punishments for anti-social crime. Given that the Loyalist paramilitaries have explicitly limited the potential for interventions to punishments relating to anti-social crime – excluding sexual crimes, feuds and internal discipline (Winston, 1997) – the potential for praxis there is arguably all the more difficult. Such difficulties are augmented by the fact that only one of the major factions (the Ulster Volunteer Force with their close adjunct the Red Hand Commando) have to date fully committed to co-operating with a restorative justice project. Conversely, the Ulster Defence Association has shown little real energy (to date) in becoming involved in such an initiative.

## PUNISHMENT ATTACKS, RESTORATIVE JUSTICE AND PRAXIS

Before discussing the attempts at using restorative justice to make interventions with regard to punishment violence, it may be useful to offer a brief introduction to its central tenets in so far as they relate to the Northern Ireland context.

Restorative justice is at its core an approach to dealing with the harmful effects of crime as a breakdown in relationships which require healing, rather than focusing exclusively upon rule breaking (Zehr, 1990). It is often shaped by a critique of the traditional retributive justice focus upon the punishment of offender (Marshall, 1999). In the specific Northern Ireland context, restorative justice proposes three core concepts that underpin the values of pilot initiatives in Republican and Loyalist areas.

First, crime is fundamentally a violation of people and interpersonal relationships. Victims and the community have been harmed and are in need of restoration and these will include primary victims, family members of victims and offenders, and others in the community whose input should be maximised (McCold, 1996).

Second, restorative justice maintains that crime and antisocial behaviour create obligations and liabilities. Offenders are obligated to make things right, as much as possible (Braithwaite, 1989). Victims may participate in defining these obligations, and offenders must be given opportunities to understand the harms caused and to take responsibility for what has happened (Wright, 1996). Communities are encouraged to support victims and to integrate offenders into community life (Bernd-Dieter, 1998).

Third, restorative justice seeks to heal and put right the wrongs. The needs of victims for information, validation, restitution, testimony, safety and support are starting points (Zehr and Mika, 1998). The process should maximize possibilities for information exchange, participation, dialogue and mutual consent, including opportunities for expressions of remorse, forgiveness and reconciliation (Yazzie and Zion, 1996).

*Restorative Justice and Praxis in Republican Communities*

*Background*   While punishment violence was not afforded the same political significance in the pre cease-fire era, the brutality of such attacks

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has always been something of a public relations disaster extending beyond the confines of Loyalist and Republican communities. Some international human rights organisations have heavily criticised such activities under the rubric of international humanitarian law (e.g., Amnesty International, 1994; Human Rights Watch, 1992). Equally, a number of single-issue pressure groups emerged locally in the 1990s who began to publicise the brutality of such attacks, proving themselves a persistent irritant to the paramilitaries and their political parties.

Perhaps in partial recognition of the political fall-out, since the early 1990s Republicans (and Loyalists) have permitted interventions on behalf of those under threat. For example, since 1990 a program called Base 2 has clarified with paramilitaries whether individuals were under threat, relocated such people outside their community and sought to arrange for their reintegration (Base 2, 1990–2000). This programme has become a primary sources of objective data dealing with over 2,800 cases by 2000.

In such a context of ongoing punishments and limited professional intervention, in 1996 one of the authors (McEvoy) and a number of colleagues were approached by activists from Republican areas to provide training on issues concerning informal justice. A programme was devised which focused upon restorative justice, human rights, crime prevention, mediation and non-violence. A residential followed at which a model of non-violent community based alternatives to punishment attacks was devised. In December 1997, following extensive consultation with Republicans, statutory agencies, community representatives, political parties and others, a discussion document ('The *Blue Book*') was produced detailing the process and outlining a model based upon 'community restorative justice' (Auld *et al.*, 1997). That report, written originally *as* a discussion document for the Republican Movement was published by the authors, and endorsed by the Republican Movement.[5]

Following the report's publication, funding for four pilot projects in Republican areas and a co-ordinator for three years was achieved in September 1998, under the auspices of the Northern Ireland Association for the Care and Rehabilitation of Offenders (NIACRO), a major voluntary organisation with whom all of the report authors were involved.

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[5]See Community Policing Without the Balaclavas. *Irish News*, December 18th 1997.

In their submission to the Patten Commission on Policing, Sinn Féin stressed community restorative justice as one of their five key demands. Instructively, Sinn Féin argued that restorative justice was not designed to supplant 'formal' policing and specifically recommended the inclusion of some statutory organisations (other than the RUC) in the management of such project (Sinn Féin, 1998: 21). After the first of the projects became operational in January 1999, the IRA also endorsed the projects and called upon people in Republican communities to use the projects which were established rather than appeal for punishment attacks.[6] RUC opposition to the projects only served to enhance their credibility to Republicans.[7]

The model proposed in the *Blue Book* was designed to meet a number of specifications including non-violence; meeting the needs and responsibilities of victim, offender and community; community involvement in the delivery of the programme; acting within the law; proportionality between sanction and infraction; due process and consistency; utilisation of existing community programmes and an inclusive and transparent approach to the management and staffing of the project (Auld *et al.*, 1997). However, it was also stressed that such projects would not have relations with an unreformed RUC.

Between the publication of the *Blue Book* and the projects becoming operational, a number of the envisaged features have not been incorporated. For example, it was originally envisaged that projects would have an investigatory wing, a community forum wherein 'community hearings' would take place, and the power to 'boycott' persistent offenders (wherein goods and services in a local community would be withdrawn from persistent offenders). In practice, none of these features have been implemented. Rather the work of the projects is taken up with the normal restorative justice activities of preparation of victims and offenders, mediation, family group conferencing and the monitoring of agreements. In addition, the *Blue Book* suggested that the process should include a Community Charter outlining the rights and responsibilities of local citizens and these are shortly to appear as murals on gable walls where the projects operate.

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[6] IRA Calls Halt to Beatings. *Belfast Telegraph*, April 10th 1999.
[7] IRA Pledges Support for 'Community Justice' Plan. *Andersonstown News*, 20th March 1999.

*The Projects*    Four pilot projects were launched in Republican areas (3 in Belfast and one in Derry) in 1999 and are currently being evaluated by one of the authors (Mika). These launches led almost immediately to high levels of interest in programme duplication in Nationalist areas of Northern Ireland and a number in the Irish Republic.[8] In all, it is estimated that about 25 Republican and Nationalist areas have requested technical assistance and consultation regarding the development of their own programmes during 1999–2000, a fact which has led to a significant drain upon the four pilot schemes. The central co-ordinating office, 'Community Restorative Justice Ireland' (CRJ) has become the formal designation for all Nationalist programmes. By early 2000, training regimens had been completed for 15 CRJ programmes.

Case activity for the four schemes in Republican areas included about 200 referral cases, of which more than 90% were resolved and closed in 1999.[9] Case profiles reveal the standard fare of many community mediation programmes including noise and nuisance, family conflict, burglary and damage to property. A portion of the caseload also involved individuals under paramilitary punishment threat for serious and chronic offending. Conservative estimates indicate that by mid-2000, these four Nationalist schemes will exceed 800 case referrals in their respective coverage areas.

## Restorative Justice and Praxis in Loyalist Communities

*Background*    In 1996 a former life-sentenced UVF prisoner was commissioned by NIACRO to conduct a piece of research in the Shankill area of Belfast on the viability of interventions on UVF punishment attacks. Winston (1997) produced a report based on a range of interviews with paramilitary, statutory and other community actors arguing that such interventions were possible. However the UVF insisted that internal disciplinary matters, interfactional disputes, sexual offences or disputes regarding the sale of drugs would be excluded. Based upon this research, and two intense residentials, the fundamental contours were negotiated for what became in 1998 the Greater Shankill Alternatives programme.

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[8]For example, the pilot project in Brandywell, a very small Nationalist estate in Derry, gave rise to programmes in seven other housing estates in Derry by the end of 1999.

[9]It is important to note that only one project was in operation for the full year, two others for only six months, and the fourth only beginning at the close of the fiscal year.

*The Project*  In brief, Alternatives has defined for itself a narrow re-
mit in its local area, namely, to serve as an alternative to punishment
violence for young offenders. Programme participants range between
13 and 22 years of age, and are limited to a caseload of between 10
and 12 clients. The above mentioned types of offence are excluded
from programme consideration. Established on general restorative
justice principles, the Greater Shankill Alternatives programme bears
significant similarities to the Juvenile Reparations Program of the
Center for Community Justice (Elkhart, Indiana USA), itself tar-
geted to only serious and chronic offending young people in lieu of
imprisonment.

Alternatives follows a formal protocol for programme participation.
Upon receiving a referral from anyone in the community that a young
person is under punishment threat, programme staff contact repres-
entatives of the UVF to verify the threat. The UVF has agreed to lift
threats from those who successfully participate in the programme. Staff
contact the individual and their family to explain the programme and
invite participation. Young people who refuse to become involved, or
who fail to complete the programme, are referred to BASE 2 for possible
relocation. The programme participant is then engaged for a number of
months with a caseworker.

One activity of this association is the development of a contract,
where the offender proposes how to make amends to the victim(s), com-
munity reparation, and strategies for self-improvement. An apology and
a meeting with the victim are fairly standard. Community reparation
may take the form of community service hours. Self-improvement may
include education, job search skills, drug and alcohol education and
treatment, independent living skills, and such like.

After agreeing the contract, the young person makes a formal pre-
sentation to a community panel who judge the contract and changes
are negotiated and incorporated. The offender meets the caseworker
regularly, as well as the community panel for updates. After usually sev-
eral months, the young person again appears before the panel to certify
contract completion and, if the panel is satisfied, he/she is discharged
with provision for monitoring or aftercare services.

Alternatives has been designed for a maximum caseload of 10–12
young offenders under paramilitary threat. Though case numbers appears
small, the impact in the area where the programme is situated is

considerable.[10] In addition, while only one project is currently opera-
tional, a three year development plan envisages a central coordination of
Loyalist restorative justice initiatives under a new voluntary organ-
isation, 'Northern Ireland Alternatives.' This organisation will replic-
ate the programme in other areas, develop standards, training and so
forth.

*Evaluations*

While the final evaluation of the projects in both Republican and Loy-
alist areas are not due to be completed until 2002, some preliminary
trends have become apparent in the first operational year.[11]

First, the initial months have been dominated by normal rudimentary
developments, including initial public education, community consulta-
tion, and training. Second, as noted above, significant demands have
been made upon the fledgling pilot schemes to expand into other areas.
Third, each of the initiatives has engaged in extensive consultation prior
to formally launching their service, resulting in high levels of community
interest. Fourth, and related to community consultation, referral of cases
has been immediate, and at such high levels as to often overwhelm the
capacity to respond. Fifth, given the number of referrals, the reputation
of workers affiliated with the projects (including ex-prisoners) appear
to have enhanced programme credibility in local areas. The final factor
is the highly politicised environment in which these projects have oper-
ated. Given their origins in dialogue with paramilitary organisations
and the explicit involvement of former prisoners, programme activities
are (perhaps understandably) closely scrutinised by the media, statutory
organisations and others for malpractice. While the latter places consid-
erable pressures on developing projects, on balance, most of the other
factors noted here appear to bode favourably for the development of
the projects at least in the short run.

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[10] One high-placed source within a statutory organisation observes that there have been
no punishment beatings or shootings of young people for crime and antisocial behaviour
in the area since the inception of the programme in 1998, and that in general, crime and
antisocial behaviour and assaults on local police have decreased, due in part to the work
of Alternatives.

[11] The evaluations are based upon the range of variables appropriate both to restorative
justice values and principles (see, for example, Zehr and Mika, 1998).

## RESTORATIVE JUSTICE AS A MEANS OF ENDING PUNISHMENT VIOLENCE

As academics and practitioners with 10 and 25 years respectively of experience of working on the Northern Ireland conflict (McEvoy) and mediation, dispute resolution and restorative justice in the USA and internationally (Mika), we are acutely aware of the need for critical reflexivity in attempts at praxis such as these. Neither of us make any pretence about being 'neutral' on the question of seeking non-violent alternatives to punishment attacks. Nonetheless we have grouped the possible criticisms of these initiatives into three overlapping categories. These are: restorative justice as an expression of 'the totalitarian community'; restorative justice as tool for the maintenance of paramilitary hegemony and the diminution of state power; and restorative justice as the absorption of revolutionary struggle and the legitimation of the British state.

### *Restorative Justice as an Expression of the 'Intolerant' Community*

We should stop thinking about communities as homogenous neighbourhoods and start recognising them as interest groups which are often in conflict (Shearing, 1994: 5).

Shearing's salutary reminder concerning the dangers of romanticising the notion of community when thinking about ordinary citizens engaged in 'policing' activities is quoted approvingly in the research on Restorative Justice commissioned by the Northern Ireland Criminal Justice Review. In that research, Dignan argues that such warnings are relevant for those who might be tempted to opportunistically invoke the concepts of restorative justice to lend a spurious legitimacy to attempt to perpetuate illiberal attitudes and practices that operate under the guise of informal 'alternative justice' processes (Digan, 2000: 19). The problematisation of reductionist or rose-tinted notions of community is of course indisputable when considering any community based justice system (Mika, 1987). The familiar danger of community justice that a process of net-widening (Cohen, 1985) may occur (in which intolerant social control strategies expand and encourage unnecessary interventions with larger groups of individuals concerning often petty issues) is equally applicable in this context. Indeed it is often the most punitive

and illiberal elements of working class communities in Northern Ireland who have demanded ever more violent physical punishments from paramilitaries against alleged anti-social offenders.

Such dangers have not been lost on those involved in the establishment of restorative justice projects in Northern Ireland, a fact Dignan inexplicably fails to mention. As Auld *et al.* (1997: 28) argued: 'our concept of "the community" is not an undifferentiated mass with identical interests. Rather it is made up of diverse groups of people with different incomes, interests, political affiliations, housing types and views on anti-social crime.' Similarly, they caution that '... the spectre of vigilantism, unchecked by notions of due process or the rights of individuals and minority groups, must be ensured against by any community justice system.' (Auld *et al.*, 1997: 28). More recently the Community Restorative Justice Standards and Values noted 'A reflex of the local community, restorative justice initiatives embrace the diversity of the community without regard to the ethnicity, religious belief, political opinion, disability, gender, age and sexual orientation' (Community Restorative Justice, 2000: 5).

While recognising the dangers regarding intolerance and vigilantism (Johnston, 1996), it is our view that they can be successfully managed. An organisational ethos on non-violence and protecting the human rights of victim and offender; a broad based recruitment process; high standards of training; operating in an open, transparent and accountable fashion in line with published standards; ongoing self monitoring and independent evaluation, these all represent systemic ways in which such dangers should be addressed. While the risk of 'net-widening' will become clearer after a longer term analysis of the case load, it is apparent from the early cases of the projects in both Republican and Loyalist areas that a significant proportion of them would previously have resulted in punishment violence.

We would also argue that restorative justice, if properly managed, has the potential to encourage tolerance and respect for human rights in local communities. One of the reasons for punitive attitudes towards crime and anti-social behaviour is the social distance between communities, offenders and those tasked with the punishment of crime. For example, the lack of familiarity or empathy amongst the American electorate, particularly towards young African-American males, may be linked directly to the upsurge in support for incarceration and ever

more punitive sanctions (e.g., Welch, 1999; May, 1999). In the Northern Ireland context, the notion that 'dealing with' anti-social behaviour was primarily the responsibility of the paramilitaries in certain communities encouraged similar attitudes. However, if restorative justice projects can foster greater involvement in and ownership over crime management, a variation of what some commentators have referred to as a 'responsibilisation strategy' (e.g., Crawford, 1998: 247), then they may become a tool for greater community tolerance, cohesion and non-violence.

### Restorative Justice and Paramilitary Hegemony

The second major concern voiced with regard to the restorative justice projects is that they represent an attempt by paramilitaries to maintain control and influence in local communities. These projects emerged from direct dialogue with paramilitary constituencies and have been explicit about the desire to include former prisoners amongst staff and volunteer activists. The involvement of such individuals has been a constant source of criticism by the Northern Ireland Office and the RUC. This view was summed up in the recent Criminal Justice Review Report:

> We heard a wide range of concerns expressed about community restorative justice schemes and their relationship to paramilitary punishment beatings including: the motivation for the development of community restorative justice schemes. Many believed that community restorative justice schemes were being developed by paramilitaries because of the growing unacceptability of punishment attacks within the community, and the need to replace such attacks with other methods of controlling their communities; The risk that those involved in meting out sanctions arising from such scheme would resort to or threaten punishment beatings; The perceived or potential involvement of those with paramilitary links in such schemes, and the risk of the schemes being driven by people who did not represent the community as a whole, for reasons that had little or nothing to do with concerns about crime ... (Criminal Justice Review, 2000: 196–197).[12]

After three decades of a violent conflict it is hardly surprising that many in the state justice system and elsewhere are suspicious about

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[12]The Review report appears to use the phrase community restorative justice as a general description for the projects in both Loyalist and Republican areas rather than just those in the Republican communities which, as was discussed above, operate under the name of Community Restorative Justice Ireland.

projects which emerge from direct dialogue with paramilitary constitu-
encies. We are acutely aware of the corrosive dangers of direct or implied
paramilitary coercion on the credibility and effectiveness of these fledg-
ling projects. Indeed we have argued, both privately and publicly to a
range of actors, that the continuance of any beatings and shootings by
paramilitaries in areas where restorative justice projects are operational,
places an unfair pressure on the projects themselves. The limitations
placed upon interventions in Loyalists areas by the UVF (regarding
internal discipline etc.), or any perception in Republican areas that the
IRA may continue to punish a small number of the most serious and
persistent offenders (leaving restorative justice to deal with the rest) is
likely to impact negatively upon the projects in the medium to long
term. With those caveats acknowledged, it is important to look more
closely at some of the assumptions regarding the concerns of paramilitary
hegemony in local communities.

The first is the notion that paramilitaries may use restorative justice
to 'control' local communities. This suggests a relationship between
paramilitaries and their communities which is essentially one of coercion
by the former visited upon the latter. Such a view is narrow and inaccur-
ate. There is a much more complex dialectic between paramilitaries
and the communities in which they operate in Northern Ireland (Sluka,
1989; 1995; McAuley, 1994), one which we have characterised above as
a cycle of 'responsibility and reliance' regarding punishment violence.
While particularly in Republican communities, Republican activists,
Sinn Fein members and former prisoners are highly active throughout
civil society, they are only part of a diverse, vibrant and heterogeneous
community sector of womens' groups, church groups, tenants' associa-
tions and so forth. The notion that power is maintained by physical
coercion or the supine acceptance of Republican directives by such
groups is conspiratorial fantasy. Providing restorative justice projects
can attract recruits from across the disapora within local communities
and are professionally managed, then the power of Republicans or Loy-
alists in such settings can only be exercised as one organic element as
part of a broader contested space.

The second point concerns the origins of the projects in dialogue
with paramilitary constituencies and their motivation for becoming
involved. It may well be true that Republicans and some Loyalists wished
to end or reduce punishments because of their perceived growing

unacceptability. Certainly the political pressure on Sinn Féin and the Progressive Unionist Party (political wing of the UVF) regarding punishments may have focused minds more acutely within their respective movements. That said, it is difficult to imagine how effective attempts at *praxis* concerning punishment violence might have been achieved without direct engagement with such constituencies. In a process of post conflict transformation, the aim has been to persuade and encourage such constituencies to support and feel ownership over changes being wrought rather than seek to impose such changes upon them.

The third element of concerns regarding paramilitary hegemony and restorative justice is the view that the projects may be used by paramilitaries (particularly Republicans) to exclude formal justice agencies from communities. As Mulcahy (2000: 77–78) has pointed out, the RUC have long claimed a base of 'hidden support' in nationalist areas, suggesting that IRA intimidation is a key obstacle in preventing expressions of outright co-operation with the force. Such a view has permeated much of the official reaction to restorative justice projects. To a limited extent, it explains why the Loyalist project (which have developed relations with the RUC) have received comparatively little public criticism despite the UVF's limitations on the scope of their intervention.

In fact, however, there has been no attempt on the Republican side to exclude the state system *per se*, and the projects have been adamant that their aim is to supplant paramilitary punishments. As the report of the Criminal Justice Review acknowledges, relations have been developed with the Probation Service, the statutory Youth Services, Social Services, Educational Sector, and the Housing Executive. Similarly, practitioners and spokespersons have made it clear that they do not regard it as a problem if victims also contact the RUC (e.g., in the case of car theft or burglary for insurance purposes) or where the RUC are informed as a matter of course, through restorative justice referrals to specialist agencies (e.g., in cases of domestic violence or child abuse). It is our view that in the context of a reformed policing service, restorative justice projects can actually provide an excellent vehicle for the development of organic links between state policing and traditionally estranged communities, albeit at the pace of those communities. Partnerships cannot be imposed however, and it is simply an unachievable political demand to expect such a partnership in the absence of police reforms.

*Restorative Justice as the Co-option of Revolutionary Struggle and the Legitimation of the State*

Community Restorative Justice is British double speak for collaboration with Crown Forces ... NIACRO is dedicated to recruiting ex-prisoners into a new police force which will serve as an auxiliary wing of the RUC ... It is clear that the establishment of a new British police force in the guise of community justice is the initiative of a British colonial agency operating from Stormount.[13]

For Republicans the complex dialectic of notions of 'responsibility and reliance' between paramilitary organisations and their communities means that for those opposed to the peace process the abandonment of 'policing' functions is symptomatic of a broader 'corruption of the struggle'.

While the charge of co-option by the formal justice system is a traditional one faced by the advocates of informal justice (e.g., Fitzpatrick, 1992; Nina, 1992), it is a charge of considerable political significance when dissidents see the potential for political destabilisation through the policing debate. In our view, this is not an argument for the retention of paramilitary punishment violence to protect a political flank. Rather we would argue that it represents an opportunity to present restorative justice as a more progressive means of achieving political objectives (such as the protection of communities from anti-social crime) more in keeping with an era of transformation and conflict resolution.

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.

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[13]*'Blue Book for New British Police', Saoirse*, September 1998. Saoirse is the magazine of Republican Sinn Fein who are opposed to the peace process and the political wing of the Continuity IRA, a Republican organisation not currently observing a cease-fire.

The restorative justice projects detailed above represent attempts at praxis designed to end such violence in local communities. However, such communities cannot do it alone. In the final analysis, that 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 such communities, demonstrating local democratic account-ability and a reconfigured set of state/community power relations. We are convinced that these initiatives are indicative of a desire at local community level to change a culture that had become immunised to the human consequences of using violence to resolve problems of crime and anti-social behaviour. Whether state agencies prove themselves capable of a similar transformation remains to be seen.

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