The ALTERNATIVE Research into Intercultural Conflict in Northern Ireland: How it Generated New Understandings on the Theory and Practice of Restorative Justice

Tim Chapman
Ulster University
Restorative justice

ALTERNATIVE
Outside of the system

New understandings and responses

New advances in theory and practice

Criminal justice system
ALTERNATIVE:
Developing alternative understandings of security and justice through restorative justice approaches in intercultural contexts within democratic societies

A partnership between Austria, Belgium, Hungary, Northern Ireland, Norway and Serbia

This presentation reflects only the presenter’s views and that the Union is not liable for any use that may be made of the information contained therein.
* KU Leuven, Belgium
* European Forum for Restorative Justice
* Nova Research Institute, Norway
* Institute for the Sociology of Law and Criminology (IRKS), Austria
* Foresee Research Group, Hungary
* The Victimology Society of Serbia (VDS)
* Ulster University (UU), Northern Ireland
The ALTERNATIVE project (2012-2016) aimed to develop alternative understandings of justice and security through the implementation of restorative justice approaches in intercultural settings.
1. How can the application of restorative justice offer a meaningful intervention at a distance from the criminal justice system and what does this expansion mean for the discourse of restorative justice?

2. How can a restorative justice discourse offer an alternative to the current security discourses, especially in intercultural contexts?
* Training community activists, political prisoners and ex-combatants in RJ and non-violent methods of resolving conflict;
* Conducting an action research programme focusing on restorative responses in three sites in order to adequately address
* The metaphor of frontiers: sectarian, ethnic, intergenerational (drug use and dealing), and state and community.

* ALTERNATIVE
Northern Ireland: Activating community through a multi-agency approach
Began with one community based Restorative justice project in south Belfast. Now projects in east Belfast, Shankill Road in Belfast, North Antrim, Waterside, Derry/Londonderry, and Strabane.

12 politically motivated prisoners in Maghaberry prison enrolled in the Ulster restorative practices course. 40 community activists, many of them ex-combatants, enrolled in the Certificate in Restorative Practices at Ulster University.

Designed new restorative processes: restorative community circles, Restoring Respect programme, training volunteers in restorative practices.

*Action research outcomes*
* Community consultation and conference on drugs in Derry
* The Flags protest in Belfast
* The Neighbours’ dispute in East Belfast
* Social Housing in South Belfast
* CRJI, a case study in the relationship between community and state

Led to conceptual and practical findings through building and testing new understandings of community, identity and restorative justice and their relation to justice and security.
* The limitations of both the security and the medical responses to the problems of drug use and dealing
* The ‘hidden harm’ experienced by people
* Community education
* Training activists
* Strategic versus communicative action

* Validity claims (Habermas) - Truthfulness, respectful process, sincerity of intentions.

* The Flags protest in Belfast
LOCAL HOUSES

* 4 *

LOCAL PEOPLE
* Public discourses about culture and ethnicity
* Limitations of the criminal justice system
* The effectiveness of communicative action
* The invisibility of method

*The Neighbours’ dispute in East Belfast*
* The distinction between social housing and private rentals
* The tension between a sense of entitlement and ‘blind’ justice
* System integration versus social integration

Social Housing in South Belfast
Does not distinguish
* Political assimilation or membership
* Social inclusion and cohesion
* Cultural accommodation

*Process of intercultural adaptation*
2006 just over 1,000 self referrals
2007 Protocols agreed with the government

Community Restorative Justice Ireland: a case study in system colonisation
<table>
<thead>
<tr>
<th>Year</th>
<th>Number of suspects referred from the police to the PPS</th>
<th>Number of suspects referred from the PPS to CBRJ projects</th>
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<td>6</td>
</tr>
<tr>
<td>2011/2012</td>
<td>6</td>
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<td>0</td>
</tr>
<tr>
<td>Total</td>
<td>22</td>
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</tbody>
</table>

*Referrals from prosecution service*
From what vantage point do we look at restorative justice?
* From the system and its professionals?
* From the world in which people live?
* **System**
  * Defines the desired outcome in a measurable way – to reduce offending
  * Controls access to service - crime committed, offender detected and admits guilt, individualised, slow process out of sight
  * Controls time and location of practice
  * Defines roles - victim, offender, community

* **Lifeworld**
  * More concerned with the ‘hidden harm’ experienced by individuals and those related to them.
  * Seeks inclusion and active participation in a rapid response often to inter-group harm
  * Not ‘9 to 5’
  * Feels safer and more confident to meet ‘on the margins’
  * Resists labels

* **Findings: Restorative justice**
Community as a source of security in the face of threats and belonging in the face of difference.

Identity as static and ethnocentric activated by identity politics into scapegoating and violence.

Security as the exercise of power and control to maintain order. Increasingly seen as more important than justice (rights etc)

Justice as an instrumental means of managing individuals and groups who are seen as a threat to security.

Community can be activated as an active, reflexive social and communicative practice on how to live equitably with an increasingly diverse range of other identities. Through this practice community solidarity can be enlarged to include diversity while still being cohesive.

Identity is multi-dimensional and dynamic depending upon context and the purpose of the activity.

Justice is experienced through active participation which creates greater security through offering safe and just processes for people to move towards and communicate with those they fear.

Through this people develop intercultural competence and feel more at ease with diversity.

* Conceptual findings: activation
* Rather than separate and protect, RJ provides the scaffolding for people to approach what they fear and distrust.
* Facilitated skilfully (and invisibly)
* Thick stories specific to the context
* Commitment to truth, right process and sincerity to achieve mutual understanding and agreement
* Restorative circles

* Findings: Restorative processes
Rosenblatt (2016) into referral orders in England
* Victims rarely participate
* Limited set menu of reparation, often not carried out.
* Offending work prioritised
* Panels do not represent the community of the victim or the offender.

Barnes (2015) into youth conferences in Northern Ireland
* Ineffective preparation
* Lack of participant understanding and active participation
* Decision making controlled by prosecution service and professionals

Suzuki and Wood (2017) Australia
* Difficulty obtaining referrals
* Compromising preparation
* Victim absence

* Recent research into RJ practice in the CJS
* The disappearance of the victim. Latest Crime Survey for England and Wales reported a decline in the number of offers made to victims to meet their offender for the fourth year in a row. From 8.7% in 2013 to 4.1% in 2017. 23.7% said they would have taken up the offer.

* The disappearance of the real reparation of harm and suffering in ordinary people’s lives

* The disappearance of participation in justice

* RJ as an efficient way of processing cases and addressing offending through victim empathy

* Restorative practices covering a wide range positive action in schools and social work.

*The disappearance of RJ*
The people
* “You do not represent us. You do not look like us...We need someone who is real”
* “I don’t think you are going to do us justice”
* “We need justice and we need it fast”

Retired judge Sir Martin Moore-Bick, Chair of the public inquiry
* “we will continue to work with them...We can give them justice by finding out what the facts really are”

* Where does the narrative of injustice and harm start? The bad apples? The barrel? The barrel maker? The political and economic conditions in which the barrel is made?
Doing justice
* Universal principles
* Impartial
* Impersonal
* Rational

Undoing injustice
* Contextual
* Idiosyncratic
* Personal
* Emotional

*Shklar (with thanks to Antony Pemberton)*
“Where, after all, do universal human rights begin? In small places, close to home - so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighborhood he lives in; the school or college he attends; the factory, farm, or office where he works. Such are the places where every man, woman, and child seeks equal justice, equal opportunity, equal dignity without discrimination. Unless these rights have meaning there, they have little meaning anywhere. Without concerted citizen action to uphold them close to home, we shall look in vain for progress in the larger world.”

Eleanour Roosevelt
* By a human perspective of crime, harm and conflict
* By a commitment to the inclusion and participation of those affected through communicative action
* By processes and relationships with practitioners designed to facilitate inclusion and participation
* By the outcomes determined by the agreements and commitments of the participants

*RJ is defined*
* Justice and truth are not commodities that can be delivered by the system. They are a result of social processes which require the participation of the people most affected.
* Community can be activated.
* RJ is a distinct way of understanding and responding to issues arising from unjust harm. It cannot replace the criminal justice system though it could reduce it.
* RJ needs to be accommodated and supported.
* The key is the parties’ understanding and response to the problem not the professionals’ practice
* Method is most effective when it is invisible
* Dialogue is critical to completing the narrative of harm
* Restorative processes need to fit the context and the parties - no one size fits all.

* Advances in Restorative justice theory and practice
Two books are forthcoming with Routledge in 2017:

* Restoring Justice and Security in Intercultural Europe (Ivo Aertsen and Brunilda Pali, eds.) - on the theoretical aspects of the project

* Action Research in Criminal Justice: Restorative justice approaches in intercultural settings (Inge Vanfraechem and Ivo Aertsen, eds.) - on the action research
People, even more than things, have to be restored, renewed, revived, reclaimed, and redeemed; never throw out anyone.