

Book Reviews

The Irish District Court: A Social Portrait*

Caroline O’Nolan

Cork: Cork University Press, 2013

ISBN: 978-1-78205-048-3, 244 pages, hardback, €39.00

The Irish District Court: A Social Portrait starts its prologue by capturing the court room while the court is sitting. It portrays the defendant before the court, the atmosphere in the court room and the somewhat jaded mood of the judge. The author gives an accurate picture of the ordinary work conducted in the District Court on any given day and, more importantly, a real flavour of how it is conducted.

The dynamic may well appear foreign to an outsider who has never experienced the workings of the District Court: the language spoken sounds like code, and the conduct of its actors seems to follow a secret script. The author has encapsulated this in her description. She describes the various actors on the stage that is the Irish judicial system in the lowest level of court in the country. The first chapter is aptly named ‘Anatomy of a workhorse: The Irish District Court’, and the rhythmic, constant motion of the cogs in the criminal justice wheel is almost audible.

Caroline O’Nolan aims at highlighting the experience of the non-nationals/non-UK citizens in the Irish District Court system and to examine their involvement. A number of highly interesting findings are presented, such as family cohesion in migrant communities, examples of stagnant neighbourhoods receiving a boost when migrant communities move in, and emigration back to countries of origin in the recession: these in fact act as prosocial components.

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The author debunks the myth that non-nationals are more criminalised than Irish citizens and puts forward the argument that socioeconomic status is more relevant than nationality. The proportion of non-nationals in Irish prisons is higher than in our communities, but a number of non-nationals are in prison for immigration offences that are not applicable to Irish citizens.

Are non-nationals treated with equality in the Irish court system? There is a point in Irish District Court culture where the demand for efficiency meets the demand for fairness and justice. It is in this vortex that non-nationals are often caught, to their disadvantage. The need to process the court list promptly appears to be greater than ensuring total fairness. The author has observed that through the non-provision of interpreters in certain types of hearing, non-nationals are not afforded the correct attention. Unspoken xenophobia in society does not help to reduce prejudice about perceived rates of criminality.

Following the colourful description of the District Court, the author examines the typical defendant before the court in Chapter 2. The observation is made that young men from lower socioeconomic areas appear to be over-represented. Factors behind offending behaviour are scrutinised before the author takes a closer look at non-nationals in the legal system and the prevalence of non-nationals in Irish prisons. Some background information regarding Ireland in a European perspective is included, as well as patterns following the accession of 10 new member states in May 2004.

Sentencing, how sentences are monitored and sanctions are dealt with in Chapter 3. Which principles guide sentencing in criminal matters in the District Court? How is recidivism viewed? We learn that Irish judges have a high degree of autonomy in comparison to their counterparts elsewhere in Europe. The pros and cons of this autonomy are discussed. A backdrop to this is the question of how we view people who break the law. Do we look at their rehabilitation as essential to setting right the offence committed? That school of thought is called the principle of individual prevention, a term used in the Nordic countries when debating crime and punishment. The other end of the spectrum is to look at the incapacitation of people who break the law, to protect society from their ill deeds, hence custodial sentences are more often held up by its proponents. This principle is referred to as 'general prevention' in the criminological discourse.

It is obviously difficult, if not impossible, to cover comprehensively in one book such a wide legal area as the District Court spans. The purpose of this book is to place the District Court in a social context regarding the treatment and prevalence of non-nationals, and that is exactly what it does. The above discussion lies at the heart of crime and punishment.

The author has used field observations, interviews with solicitors, interpreters, barristers, one retired judge and one sitting judge as well as research and literature for her research. The field observations are captured in short segments interspersed throughout the six chapters. Observations are informally depicted, and sometimes brief conversations in or outside the courtroom are given verbatim. A number of acronyms are used widely throughout the book, and explained in the glossary. LEP, for example, stands for 'limited English proficiency' and is used extensively.

The author describes her methodology with regard to her field research as 'quasi-ethnographic', a method used by various researchers to penetrate 'hard-to-reach subcultures'. I feel that the observational element is a key ingredient in this book.

As a Probation Officer I found *The Irish District Court: A Social Portrait* well worth reading. Its strength lies in its mix of hard facts and the author's field notes and observations. It holds the reader's interest. It enhanced my own knowledge, particularly with regard to sentencing and sentencing principles in Ireland.

The author has captured the role of the Probation Officer in court, pointing out that he or she cuts an often 'somewhat isolated figure who has no direct colleagues to confer with', something most practising Probation Officers can identify with.

The book is informative and shines a light on areas of interest not only for practitioners in the legal and social fields but also for citizens in general.

Who is the ideal reader of *The Irish District Court: A Social Portrait*? Anyone who is involved or interested in the criminal justice system is the obvious answer. However, the book has a broader appeal in my view, and should be read much more widely, by anyone who has an interest in the Ireland of the present and the future.

Offender Supervision in Europe***Edited by Fergus McNeill and Kristel Beyens**

Basingstoke, UK: Palgrave Macmillan, 2013

ISBN: 978-1-13737-918-4, 200 pages, paperback, £23.99

Offender Supervision in Europe reports the findings from a survey of European research on this topic, undertaken as part of a European research network project encompassing 20 countries. The editors have assembled key papers by highly reputable experts on themes from the COST 1106 research project.

The population of offenders under supervision in the community in most European countries has grown over recent decades and now significantly exceeds the population in custody. Despite this, community supervision of offenders continues to be the Cinderella of criminological research and significantly under-researched. The authors identify four important research questions, related to core functions of offender supervision, which are inadequately addressed within the literature:

1. When and how is supervision justified? (Normative function)
2. What is supervision intended to achieve? (Primary function)
3. How does supervision contribute to administration of justice? (Ancillary function)
4. Whose interests are served or damaged by supervision? (Latent function)

The authors argue that most of the available research, much originating in the UK, relates to the *ancillary function* of supervision – the administration of justice, specifically the evaluation of supervision programmes in terms of ‘what works’. This, they suggest, is in itself problematic as only about 10% of offenders under supervision undergo such programmes. When and how supervision is justified and what it is intended to achieve, they argue, should be discussed before the success or failure of its different formats is evaluated.

Practitioners, policy-makers and members of the public, on the other hand, may argue that the evaluation of ‘what works’ relates to the *primary*

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function of supervision – what it's intended to achieve, specifically the rehabilitation of the offender and reduction in recidivism.

Within the 'what works' approach, the research underpinning the Risk/Needs/Responsivity (RNR) development and practice was conducted primarily in the US or Canada. The resulting practices have had significant influence on practice in Europe and follow-up research has been conducted, including studies in Ireland. Canadian-based research has also been conducted as part of the Strategic Training Initiative in Community Supervision (STICS) project, specifically focusing on practices in general rather than programme-based offender supervision.

Chapter 3 sums up the most significant finding of the study, replicated across all areas of the research review, as follows: 'The literature is rather limited: there are very few research studies on the release decision making process itself: they come from a limited number of countries, they are embedded in the context of their jurisdiction and make comparison or the drawing of general conclusions difficult if not impossible.'

While research should focus first and foremost on the primary functions of supervision, it is argued that research should also consider the social and cultural context in which supervision takes place and the experiences of the individuals and communities affected.

Given the diversity in history, culture, language and legal systems across Europe, it is reasonable to assume that any comparative approach should analyse the nature and implications of this diversity. In the field of social policy, it is recognised that comparing policies across different national contexts can be unhelpful unless accompanied by an evaluation of the contextual issues and their impacts. Similarly, the dangers of transplanting any regime of supervision from one jurisdiction to another without due regard for contextual differences are acknowledged here.

The available research literature is considered from three perspectives: the supervisees and other affected individuals, the decision makers and the supervisors. Chapter 5 discusses recommendations and other provisions emanating from the Council of Europe and the European Union.

Supervisees

Across Europe the purpose of supervision ranges from rehabilitation to public safety; how this is implemented is increasingly complex and its meaning for individuals can include restrictive, rehabilitative and

reparative measures. Supervisees across Europe are mainly young, male and disadvantaged. The bulk of their crimes are against property and an increase in numbers is partly attributable to the referral by courts for supervision of more persistent offenders and more serious offences. The available research suggests that supervisees' experience of supervision is generally positive, but with mixed responses for more demanding formats such as community service and tagging. Revocation of orders can result in animosity to the supervisors concerned. Little if any research is available on how other concerned individuals, including victims, perceive the process.

Decision-makers

The account of the criminal justice decision-making processes across Europe in Chapter 3 is helpful in its clarity. It highlights areas of commonality and contrast. The chapter points out how differences in judicial authority between common law and written law (statutory code) systems have been eroded in recent decades. It identifies cross-European developments such as the amalgamation of prison and probation bodies and the impact on cultures, responses to prison overcrowding, the use of evidence-based practice and privatisation as areas requiring more research and evaluation. Comparative research is required on specific issues such as how and by whom supervision decisions are taken, how these processes impact on outcomes, what the goals of supervision are, how human rights are respected and the influences of legal tradition, context and culture.

The discussion on the use of pre-trial supervision, the availability and influence of pre-sanction reports, judicial involvement in supervision, the implications of problem-solving courts and other measures that delegate judicial authority is informative and thought-provoking.

Practitioners

Research findings on the practice of supervision in Ireland are referenced extensively. Available research on how supervision is delivered addresses the role of practitioners (supervisors), the practice of supervision and the tools and technologies used. Within this, risk-need-responsivity (RNR) and the change processes associated with new methods of practice are the

main themes. Research on interactions with other professionals, governance of practice, the impact of different educational backgrounds and the role of volunteers is recognised as limited and in need of attention.

The European norms and policy

EU and Council of Europe recommendations and documents including the COE (No. R (92) 16) Recommendation on Community Sanctions and Measures and on Probation Rules (2010) are discussed in Chapter 5. While they have the authority of the Council of Europe, they are not binding in law. Two Framework Decisions (FD 947 and FD 829) of the European Union, however, will, at least in principle, be binding. The challenges in implementing such decisions, rules and recommendations across many different legal jurisdictions and systems are anticipated. How significant they may be and how they might best be overcome are discussed.

Conclusion

Framework Decision 947 will soon facilitate the transfer of community supervision across European jurisdiction in the interests of rehabilitation and settlement in home jurisdictions. The transfer and exchange of supervision practices does not necessarily mean that all will work out the same everywhere. To answer the question ‘can it work in another time and place?’ one must ask when, where and how has it worked, and what caused it to work there.

Having concluded that the currently available research is less than adequate, the authors (and the editors) recommend a new, more developed research methodology for effective comparative analysis. The format of this methodology is of significant interest: what it might look like, how it might begin or progress and how it might be expected to work.

While the discussion of the proposed methodology clearly identifies the need to examine the cultural context, it is less clear in defining how factual and empirical data across Europe can be effectively researched and compared. While there are in-depth questions about different contexts, there are also questions about cross-national and global trends that need to be empirically examined. Research without this empirical under-

pinning is likely to be seen as subjective, culturally embedded or simply reflecting the views of those who practise the art.

Offender Supervision in Europe is a stimulating and thought-provoking read. It is an important statement of where we currently are, including gaps and opportunities, in evaluating and studying community supervision in Europe, and it provides a challenge to develop the evidence and assessment to better understand and improve offender supervision in Europe.

Probation and Social Work on Trial: Violent Offenders and Child Abusers*

Wendy Fitzgibbon

Basingstoke, UK: Palgrave Macmillan, 2011

ISBN: 978-1-137-27682-7, 200 pages, paperback, £22.99

There is not enough room in one review to outline how informative, perhaps even provocative, this book is to any social work practitioner currently working in child protection or criminal justice on this island. Fitzgibbon has successfully defined the processes that permeate and influence the environment that staff work within and, increasingly, against. Through careful comparison with case studies from the 1970s and those of Peter Connolly (Baby P) and Daniel Sonnex, Fitzgibbon accurately illustrates the changes in media coverage, political responses and social identity that have evolved and combined to present staff with a burden of 'Impossible expectations for the ability of the state to protect citizens and promote justice' (Maruna, Foreword, p. x).

The tragic death of a 15-month-old child already on a Child Protection Register and the brutal torture and murder of two French students at the hands of a young man who was under probation supervision at the time of the killing make for sober and reflective reading. Where the perpetrator is known in such cases, the author is able to articulate the frustration society expresses that somehow such crimes were preventable if 'everyone concerned was doing their job properly'. The fact that Baby Peter's death occurred against a 69% drop in child abuse related deaths since the

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1970s, and that serious further offences in England and Wales have never exceeded 0.5% of national caseloads, is not allowed to diminish the tragedy of each death. The author is clear that there is a need for serious consideration to prevent recurrence. The difference is the context in which each agency is now operating.

In the following chapters, beginning with the media she outlines through historical comparison how much has changed in the reporting of such tragedies, not least the evolution of the media as the 'virtual community' whose opinion has been one of 'permanent moral panic' as actual communities have continued to decline and fragment over the past three decades. She is precise in examining the thinking and processes behind the headlines, such as how the poor are viewed as a threat to society, and how a 'feral underclass' has emerged whose behaviours are the responsibility of those statutory agencies tasked with managing them at a time when society has abandoned responsibility for its most vulnerable members. The author is not adopting a tabloid style of writing, but it is almost impossible to comment on the media without echoing the tone of their *faux* outrage. Perhaps the most striking point in this chapter is the analysis of the right-wing commentators who use 'child death as a vehicle for a frontal attack on the welfare state' (p. 23). In many ways this chapter is easy to read. It confirms assumptions akin to our own experiences and articulates the dissatisfaction many feel as to how we and our clients are portrayed. However, the subsequent chapters make for uneasy reading.

In Chapter 3 Fitzgibbon reminds us of how the community was taken for granted as a backdrop to every social worker or Probation Officer's engagement with clients. It was the workers' cultivated knowledge of extended families, employers, local resources and recent history that enabled them to interact and draw their clients back into the mainstream. It was this sense of community that alerted staff to the treatment of Maria Colwell in 1973, and the same community's outrage that led to an inquiry after her death. That concept of community was altogether absent for Baby Peter. The author depicts the erosion of community ties leading to greater isolation, transient families and increasing unfamiliarity between neighbours. Whether this decline was a consequence of affluence or economic decline, she makes it clear that the implications for social workers were profound.

As communities become more wary and people less knowledgeable of each other, they become more dependent on the authorities to 'do

something about it'. At the same time this decline in trust extends to agencies. Practitioners are losing the connection to the community they are increasingly tasked to protect, and Fitzgibbon employs the opinions of actual staff to illustrate these concerns. There are quotes from experienced staff expressing disquiet at new staff not trained to look for clues when conducting home visits, and the increasing criticism of too many staff pulled away from clients and towards the computer screen and risk assessment form. Fitzgibbon identifies the growing practice of recording 'informational data' on clients as opposed to 'social data', i.e. they are losing the context of the offender within their community. She revisits this statement a number of times in the book.

After a relatively brief chapter on political responses and inquiries, where political hysteria has replaced measured inquiries and the drive to meet increasingly unrealistic expectations of public protection now ensures that no matter how effective the best social workers are in protecting children, 'the more bitter the public and political outcry has become when these rare events happen!' (p. 84), Fitzgibbon gets to the nub of the issue in a chapter ominously titled 'The demise of probation and social services practice'.

A number of organisational myths are immediately discounted: IT has not streamlined practice but has reduced actual face-to-face time with clients. MAPPA arrangements and inter-agency communication suffer when host agencies have insufficient time to share, and that information becomes devalued. Resources, or the lack of them, are central to every issue. The culture of risk assessment (RA) is particularly scrutinised and found wanting for many reasons. Fitzgibbon argues that the process of RA has changed the way staff perceive and work with clients, and they reduce the person to a 'tick box' of individual risk factors instead of seeing the person in a holistic sense. RA changes the dynamic between client and worker, notably in reducing the level of trust, and ultimately risk management becomes 'risk aversion'. Fitzgibbon points out that staff have become concerned about the deskilling of their profession, the fragmentation of their values and a devaluation of their role, and that individual confidence is increasingly undermined in a culture where every risk score is now challenged at the behest of the client's solicitor.

The book argues for greater emphasis on desistance theory and prosocial modelling as being more effective in achieving positive outcomes. Personal affirmation, supporting efforts to gain employment, and respectful and legitimate relationships are what is needed to reduce

risk. The author quotes a wide range of supporting research endorsing a return to traditional roles and interventions, and does indeed quote the old mantra, 'Advise, assist and befriend', before concluding that 'we have indeed come back to where we have started, but unfortunately under totally different social, economic and political conditions'.

The book finishes with a number of conclusions, not least the sobering statistics in regard to the explosion in child protection and care admissions after Peter Connolly's death. The author is scornful of 'payment by results' and describes the proposed 'Dad's Army' model of ex-servicemen employed to work with individuals with complex circumstances and problems as 'fanciful'. Yet she does not doubt that probation and social work practice now operates in a cold climate. She revisits the Baby Peter and Daniel Sonnex cases and argues that both diverted so much attention from the actual systems and onto individual staff and managers that the outcome was a perception of people not doing their job, and the need for a 'tightening up' of procedures meant the opportunity to look seriously at how society is failing the most vulnerable was lost.

Fitzgibbon provides comparison with other serious incidents in Europe before widening the argument to include consideration of the gulf between the poor and politicians. Written largely in 2010, the book ends with the assumption that conflict between professionals and politicians pursuing privatisation of public safety is inevitable.

The obvious appeal of this book is that while it focuses entirely on practice in England and Wales, the comparisons it enables with our services are multiple. It is easy to empathise with staff struggling with increasing workloads, diminishing resources and without the innate wisdom afforded the media by hindsight. It will confirm a few prejudices of our own and vindicate a number of opinions we share, but the challenge of Fitzgibbons' book is to ask, 'What are we doing so differently that we are confident it wouldn't happen here?'