

Framing blame and punishment: former politically motivated prisoners in post-conflict Northern Ireland

Ruth Jamieson looks at the way in which prisoners and victims have been treated in a post-conflict society

Trying to account for the discrepancy between the public policy promoting the reintegration of politically motivated former prisoners in Northern Ireland and their exclusion in practice prompted me to reflect on some very basic questions about the relationship between victimhood and punishment. In post-conflict societies like Northern Ireland attributions of blame, innocence and victimhood are bitterly contested. These categorisations of moral action tend to be made on the basis of identity, with each group having its own preferred and selective narrative about who is responsible for the violence (not us), who should or should not be punished for it (them) and how much punishment would suffice. This article offers a reflection on the instrumentalisation of victimhood in the politics of punishment and pays particular attention to the issue of *who* determines the punishment in doing justice for victims and by *what* authority.

Individualising juridical mode of retributive justice

I want to begin with two points about the criminal justice process. The first point is Matza's (1969) observation that through the routine operation of criminal justice the state *concentrates evil* in those it signifies officially 'guilty', simultaneously creating the idea of the *pervasive*

goodness among the rest. Steinert (1997) makes a similar observation about the individualising juridical mode of retributive justice that operated at Nuremberg to the effect that, while it undoubtedly identified some officially guilty 'culprits', it simultaneously produced a far greater number of 'false innocents', who, not being officially guilty, felt free to absolve themselves from blame for their own part in supporting, tolerating or ignoring the wrongs that were done under the Third Reich. This has obvious salience in the Northern Irish context where, despite ample evidence that a significant minority of both communities either tacitly or actively supported paramilitarism throughout the conflict, many continue to insist that paramilitaries were *solely* responsible for the violence.

Concentrating responsibility for the violence in the officially guilty serves to absolve others from accountability for their own morally ambiguous part in animating and sustaining the conflict, for example by inciting others to violence or, by collusion, complicity, sectarianism or obdurate unwillingness to compromise. The second point is that the deployment of moral categories like victim, innocence and blame entails ideas about 'deserts'. Victimhood and blame are contested not only for their truth value but also for the very real material and practical utility of their implications

for both the blamer and the blamed: 'Every act of crediting or blaming, however implicitly, involves some standard of justice: she got or failed to get what she deserved' (Tilly, 2008). Thus any particular call for justice for victims involves some notion of the kind and degree of punishment that would provide 'satisfaction' to the victim.

Cast from society

There are around 35,000 former politically motivated prisoners in Northern Ireland and the vast majority of them served their full prison sentences. Fewer than 500 paramilitary prisoners were released under the Good Friday Agreement of 1998. Nevertheless, some of those calling for justice for victims demand retribution well beyond that meted out by the state and engage in rancorous public denunciations of individual former political prisoners, calling for their permanent individual and collective disqualification or removal from public life. Indeed, the spokesperson for one victims group would be satisfied by nothing less than their total exclusion: 'Terrorists, their associates and supporters must be *cast from society* at every opportunity' (Frazer, 2009; emphasis added). Another victims group made an explicit connection between victim satisfaction and justice in commenting on suggestion that there be a truth recovery process on Northern Ireland:

'Providing victims with the truth about what happened to their loved ones' is woefully inadequate and does not satisfy all victims' needs. What they need for recovery is satisfaction, and this does not provide it. (West Tyrone Voice, 2008; emphasis added)

Thousands of people in Northern Ireland suffered terrible harms and losses as a result of the conflict and there is no question that they deserve acknowledgment and support. Nor is it surprising that the issue of the treatment of victims has such rhetorical and political force. However, what is germane to this discussion is the question of what

these blaming and disqualifying practices by or on behalf of victims reveal about the authority to punish. Certainly punishment is a prerogative of the state, but in practice it also appears to be a personal prerogative arising out of the moral authority of the victim. This appears to be the case regardless of whether such moral authority is asserted directly by victims themselves or by political actors who appropriate the moral authority of the victim as a means of discrediting or disqualifying their opponents.

Victims' justice

Although it is 'counterintuitive to think of a subjective experience [of suffering victimisation] as establishing a *publicly valid authority*' (Sarat, 1997; emphasis added), this seems to be what is being asserted in the pursuit of victims' justice in Northern Ireland. Tilly (2008) suggests that every act of blaming implies some standard of justice. If that is so, then the standard of justice that is being asserted by or on behalf of victims in particular cases needs to be made explicit. It requires us to reflect on three related questions:

- What is the basis of the moral authority of the victim?
- How precisely does the moral authority of the victim exert itself in local justice?
- What is the relationship of the standard of justice implied in any particular instance of blaming to the standards of formal law, human rights and citizenship?

Posing these questions is not to dismiss the claims of victims for sympathy, support or consideration. The implications of this analysis of the politics of punishment, blame and victimhood are wider than questions of local justice for politically motivated former prisoners in Northern Ireland. Understanding the nature of the relationship between blame and the moral authority of the victim to demand punishment inside penal law or through the outworking of local justice politics is a task that

criminology cannot ignore. Michael Tonry's (2010) observation about 'justice' for victims, to the effect that treating defendants badly does not amount to treating victims well is pertinent to this discussion of the politics of blame and punishment. Treating politically motivated former prisoners in Northern Ireland badly does not amount to treating victims well, unless one assumes that victims are entitled to the personal satisfaction of revenge. But as Tonry insists, the interests of the victim are the interests of society, *not more*. ■

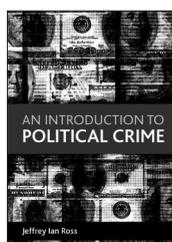
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