

Paper for Criminal Justice International Development Network Seminar

June 2020

The Future of International Development Work in Criminal Justice: Shared Shadows for Collective Action

Introduction

To 'live in someone's shadow,' in the general Western culture meaning of that phrase, implies that one is metaphorically, if not literally, overshadowed by the achievements of someone close, that one's own value and achievements go unrecognised, or at least under-recognised and unappreciated. To live in the shadow of another, and *vice versa*, can often be perceived, in this context, as having solely negative connotations. It can imply a zero-sum-game type of relationship, with one party dominant and superior, the other being perceived as submissive, inferior and sometimes receiving something from and through the beneficence of the (superior) other. In Ireland though, we have a different take on this 'shadow' idea: An ancient proverb, which in the Irish language is: *Ar scáth a chéile a mhaireann na daoine*,¹ translates in English as: *People live in each other's shadows*.

The 'people' in question can be individuals and their immediate neighbours, as well as groups such as families, communities, or indeed nations. And the point is not that 'some people' live in 'other people's' shadows on an ongoing basis, because one is superior or better than the other. Rather, it means that all of us, as individuals or groups, from time to time, spend time in others' shadows. It means that no-one is all-powerful or superior, and certainly not all of the time. To live in another's shadow in this sense also allows for the fact that, depending on the time of day, I live in your shadow in the morning, while you live in mine when the sun has moved to a different position in the sky; we all, literally, live in each other's shadow from time

¹ Pronounced: 'Er scaw a kayla a warren na deena.'

to time. It means that all of us need, depend on and can gain from others at different times, just as they need and receive from us at times: no person is an island.

Being Irish, and with our long history of colonisation by our nearest neighbours, I think we have a particular appreciation of how easy it is for the meaning of the proverb – at the international, inter-country, or intercultural level anyway – to be interpreted negatively and in the context of a one-up, one-down relationship that may never be overcome or left behind. We are probably not alone in that: I am aware of numerous inter-country relations overshadowed by the negative ‘shadow’ concept and the resulting overview of the relationship. But the real meaning of the Irish proverb denotes mutual interdependence and belonging, no matter what our past history, individually or collectively, tells us. This concept of mutual interdependence is also reflected in another – and completely positive – Irish word, *meitheal*,² which is an old Irish term that describes how neighbours come together to assist each other in saving the crops and similar tasks. The *meitheal* concept in Ireland means ‘I help you today and you help me tomorrow’; we all need each other and we only really become strong and effective when we work together.

I want to share with you my own views on the current state of play regarding some aspects and examples of international cooperation in criminal justice, and consider possibilities for the future. I stress that these thoughts are all from my own peculiar experience and perspective, specifically my recent experience as Director of the Irish Probation Service and my past, as well as ongoing, experience in international matters, both as Probation Director and through my work with the Council of Europe (CoE) and the International Penal and Penitentiary Foundation (IPPF), among others. In setting out my views below, I believe we all come from our own experience and perspective, we all have tendencies to hold ‘hard-wired’ perspectives and positions, combining into our unique ‘baggage’ about which we need to be aware. We need to move beyond that ‘baggage’ and be open to the fullness of our shared experience to develop further, but the possibilities for such shared development are probably limitless.

² Pronounced: ‘meh-hel.’

Examples of International Cooperation in Criminal Justice

As things stand, there is a range of different realities and possibilities for international cooperation in criminal justice. I would re-emphasise here that because of this author's background and specific experience, the examples used here relate to penal (community sanctions and prisons) in the main. These examples include (not in any particular order):

1. **Bilateral arrangements and exchanges** – generally formal, organisation-to-organisation, for mutual benefit.
2. **Unilateral policy transfer** – where an organisation in one jurisdiction 'transplants' an innovation from another to itself, for a perceived, anticipated benefit.
3. **International (or supranational) bodies** – regulating and setting standards, such as the United Nations (UN) and the CoE.
4. **Regional (country) networks** – e.g. in Asia (UNAFEI³), as well as others in Africa, and South America, and 'groups within groups,' such as relatively informal geographical and other 'sub-groups' within the European area and elsewhere.
5. **International professional and organisational networks** – such as the Confederation of European Probation (CEP), EuroPris, International Penal and Penitentiary Foundation (IPPF), International Corrections and Prisons Association (ICPA) and the European Society of Criminology (ESC)⁴.
6. **International (criminal justice) aid organisations** – e.g. 'Norway Grants,' the European Union (EU), sometimes operating through specifically established structures, such as El PacCTO⁵ (EU-South America), and ROLAC.⁶
7. **Private bodies and private consultancy** – e.g. (e.g. Innovative Prison Systems [IPS]),⁷ the Russell Webster online resource, as well as any number of private consultancy companies and individuals).

³ UNAFEI: United Nations Asia and Far East Institute.

⁴ And sub-groups of the ESC, such as the Community Sanctions Sub-Group, or 'spin-off' projects such as the COST Action initiative.

⁵ El PacCTO) Europa Latinoamérica Programa de Asistencia Contra El Crimen Transnacional Organizado (an EU programme to strengthen the fight against organised crime in Latin America).

⁶ EU-Support for Rule of Law and Fight Against Corruption (ROLAC).

⁷ Managed by Pedro das Neves.

What is reflected and described here, as follows, is based mainly on the author's experience in and with the Irish Probation Service and the CoE.

The Author's Direct Experience

This experience is from a number of angles, but I want to briefly mention a few structured examples of cooperation in probation, and then focus on some specific aspects of those, and which I believe are relevant and useful for the future:

1. **North-South (Ireland)** – because of so many aspects of our shared geography, history and culture, the Irish Probation Service and the Probation Board for Northern Ireland collaborate very closely on an ongoing basis over many years, including annual joint management meetings, signed protocols for information sharing and offender management, joint projects and training etc.
2. **'Five Nations of Probation'** – quarterly joint teleconferences by heads of probation in Ireland (North and South), England and Wales, and Scotland – sharing issues and ideas, as well as follow-up (including 'cross-border' visits and meetings etc) on issues of mutual interest.
3. **Other bilateral and inter-country projects** – generally funded (e.g. by the EU) and usually time-limited and focused on shared goals for specific areas of practice development, for example.
4. **Confederation of European Probation (CEP)** – Ireland was a founding member of the CEP's Europe-wide network and has a continuous history of membership and commitment to the network, including the fact that the current CEP President is Gerry McNally, of the Irish Probation Service.⁸
5. **Council of Europe (PC-CP and CLCU)** – the author's work with the Criminal Law Cooperation Unit (CCLU) of the CoE, in multi-lateral meetings on the development of community sanctions, particularly at regional/European level, as well as co-authoring, with Prof. Ioan Durnescu, a guidebook on the implementation of

⁸ Former Probation Service Head, the late Martin Tansey, was also a former CEP President, as well as founding member.

community sanctions and measures. (There is more detail regarding the PC-CP Working Group in the relevant section below).

6. **International Penal and Penitentiary Foundation (IPPF)** – as one of Ireland’s three representatives, since 2018, on the IPPF. The Foundation holds *colloquia* of its members, to explore thematic issues, and publishes books on these explorations of penal and related themes.
7. **European Union** – input, in Probation, as well as PC-CP roles, to a number of EU bodies and committees etc. .
8. **Private consultancy** – since retirement, some private consultancy work, including one Africa-based project funded and supported by ROLAC.

The Council of Europe’s Council for Penological Cooperation Working Group (PC-CP)

The author has several years’ experience on this CoE Working Group, including two years as the Group’s Chair. While focusing on the specific work of the PC-CP, it is important to note that large international organisations, such as the UN, EU or CoE, as well as following their own programmes of work, cooperate with a range of other organisations, large and small. Sometimes, major supranational bodies such as the EU and the CoE, cooperate together in a structured way, as when the CoE has been invited to EU COPEN committee meetings and discussions, on issues of mutual interest, or when in recent years the same two bodies collaborated on initiatives to address the Europe-wide issue of prison overcrowding. Mostly though, I want to say a bit more about the work of the PC-CP Working Group in and of itself.

The Council of Europe’s Council for Penological Cooperation, the PC-CP, was established in 1980, initially as an advisory body to the European Committee on Crime Problems (the CDPC). Since 2011, in its current structure, the Working Group consists of nine members, drawn from those at high levels in the Prisons, Probation, Justice Administration, Legal and Research areas, within their own jurisdictions. The Group has a rolling work programme, set by the CDPC, which mainly focuses in a general sense on generating and drafting standards in relation to the management and delivery of prison and probation services. The PC-CP also liaises with Prof. Marcelo Aebi and his colleagues at the University of Lausanne, in compiling and reporting on the annual SPACE I and SPACE II statistical reports on European prison and probation populations. In addition, the PC-CP also organises the annual Conference of

Directors of Prison and Probation Services (the CDPPS), which in itself is a significant example of, and indeed ‘opportunity-creator’ for, international cooperation, bring together as it does the heads of prisons and probation from across the forty-seven CoE member States. The ongoing work and deliberations of the PC-CP, as well as the ‘products’ of its work, are all made available on the PC-CP webpage.

While the PC-CP does incorporate the usual challenges, including frustrations, of any large bureaucracy, it does in my view, achieve a lot, through its various activities. The challenges in achieving agreement on influential documents such as the European Prison and Probation Rules should not be underestimated. Nevertheless, what is achieved by the PC-CP, especially through its contribution to the work in the development and implementation of good practice standards in probation and prisons, adds significant value to that collective project across the CoE area. So, why does the PC-CP ‘work’? It is suggested here that some of the factors in its success include, *inter alia*, the following:

- i. The (small) number of Working Group members, its membership rules, selection/election processes and membership rotation procedures, as well as plenary structure, and inclusion of bodies with expert observer status, such as CEP and EuroPris,
- ii. The diversity and quality of the expertise of the members,
- iii. The interest and commitment of the members,
- iv. The fact that the Group’s deliberative and decision-making process is built on consultation and consensus as far as possible and is not overly political as such, although the ‘products’ of the group achieve buy-in and the sign-off of member States, and
- v. The structure of hiring in subject-specific experts, and the way deliberations and consultations are carried out lends itself to a relatively successful process and outcomes.

A final point here: whatever the desirability and positive impact of *structure* in fostering cooperation in all of the contexts described above, the importance of individual commitment and relationships cannot and must not be underestimated. Such relationships are the

bedrock, foundation and launchpad for all types of cooperation, including (if not even more so) at international level.

Conclusion and Future Possibilities

From this author's limited experience, there is probably more international cooperation in criminal justice going on than we are in fact consciously aware of. At the same time, while much of this cooperation is structured and structural, more of it is probably quite *ad hoc*, and not necessarily 'joined-up' in any real sense. Any 'joining up' that does happen, is also *ad hoc*, and dependent on the energy and interest of committed individuals. It seems clear that there are significant further possibilities to develop this network of cooperation, for the benefit of all concerned. There are probably at least three such possibilities for future development in this field:

- a) Build on what is there already,
- b) Harness the wave of recent/current ICT developments, and/or
- c) Build additional new structures and possibilities.

Another possibility, of course, is to leave things as they are: for no (or minimal) additional cooperation. But the potential benefits of building the connectedness of international cooperation and development seem obvious, including the creation of greater added value and synergies, to help all concerned achieve more positive outcomes. I would also suggest that such added value can usually be achieved with some commitment and modest additional resources, rather than major new resourcing, contrary to what some of the relevant 'players' can often anticipate. In addition to commitment and possibly modest additional resourcing, consideration would also need to be given to the needs of stakeholders or 'customers,' and in that regard it is suggested – hopefully, without just stating the obvious – that access to any new network should be free, open, easy, relevant and mutually helpful. In that respect, the network does not necessarily need to develop, build, or *produce* anything new, other than championing and facilitating cooperation itself. The network could however 'nudge,' if not influence or even set the agenda for the development of at least some of the relevant cooperation possibility for the future, in addition to simply providing a hub for connectedness and sharing of thinking and other collaboration.

ICT capacity and capability, especially arising from recent experience because of COVID-19, have accelerated new ways of communicating and doing business online. COVID-19 has simultaneously both reduced *and* increased – in different ways – the opportunities for remote, including international, cooperation. The lesson from this is to keep (or return to) physical meetings, while also expanding ICT-facilitated opportunities. It should not be a question of one to the exclusion of the other. More immediately, relevant bodies should participate in existing bodies, including, but not only, the CoE for example. Opportunities in this regard seem somewhat under-used, particularly by some potential stakeholders or partners, to date. Although the potential implications of Brexit are still evolving, they should not be seen as limiting the potential for international development in criminal justice, at least not as such cooperation is comprehended by this paper. This is suggested, if for no other reason, than the fact that the United Kingdom will still remain a member of the CoE and other international bodies and networks, post-Brexit.

In the field of international cooperation, and specifically in the field of criminal justice, much has already been, and continues to be, achieved. That cooperation is generally, if not always, possible, and indeed happening, on the basis of equality, despite relativities of size, and power, and whatever cultural, historical, or other ‘baggage’ – as referenced at the outset – we may carry, individually or collectively. Small can be, and indeed is, beautiful. That point is made on the basis of the author’s own experience of representing a small country that internationally tends to contribute well, relative to its size, in the criminal justice field. Many, if not all of us, have ‘baggage’ when it comes to interdependence and cooperation. We can tend to see the ‘shadow’ thrown across us by our counterpart to be restricting and negatively defining of our relationship. Alternatively, we can view that (moving) shadow as representing our equality, as being mutually beneficial, and interchangeable; a space where we can all learn from each other as well as contribute to the learning and development of others.

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June 2020