



Restorative justice: repairing the social harms of drug criminalisation in Ireland

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Restorative Justice and drugs-related offences

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Scientific Expert, Council of Europe (2017-2018)

Director, Victim Support at Court (2023-)

Researching policing (of drugs), victimology and restorative justice, and supporting greater use of research evidence in policymaking and practice.



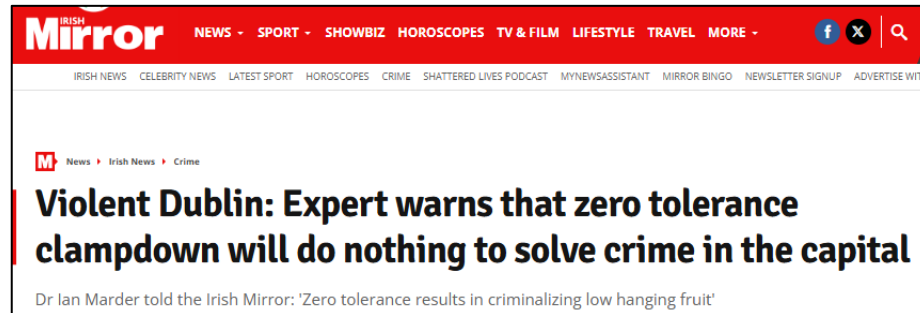
Agents from Paraguay's anti-drug agency, Senad, guard sacks of cocaine seized. IMAGE: Alamy Stock Photo

DRUG TRAFFICKING

Dr Ian Marder

Why seizing drugs might cause more harm than it prevents

The criminology professor looks at the research behind the use of drug seizures as a means to curbing drug supply.



State apologies for mass injustice

‘Ireland subjected [victims and] their experience, to a profound indifference. By any standards it was a cruel and pitiless Ireland, distinctly lacking in mercy.’

Enda Kenny’s apology on behalf of the state for its role in the Magdalene Laundries

‘For [those] who were treated so cruelly we must do what we can, to show our deep remorse, understanding and support. And so, on behalf of the government, the state and its citizens, I apologise for the profound generational wrong. [...] that culture in which people were frequently stigmatised, judged and rejected. For that, and for the long lasting hurt and emotional distress that has resulted, I unreservedly apologise.’

Micheál Martin’s apology on the behalf of the state, Mother and Baby Homes

‘Each of these apologies reflects a significant acknowledgment of past abuses, state failures, and a commitment to provide recognition and redress to survivors and affected communities. The State has taken steps to address these past wrongs through various mechanisms, including inquiries, compensation schemes, and measures to prevent similar abuses in the future’ (from *It Did Harm*, a campaign for a state apology for physical abuse in schools).



Restorative justice as a way of repairing the social harms of drug criminalisation in Ireland

Today, I will argue two things:

1. Drug criminalisation causes social harm to individuals and communities, to whom Ireland owes a 'compounding moral debt' for this mass injustice
2. From causing to repairing harm: restorative justice offers a framework and a lens for justice to help us address and repair the harm done

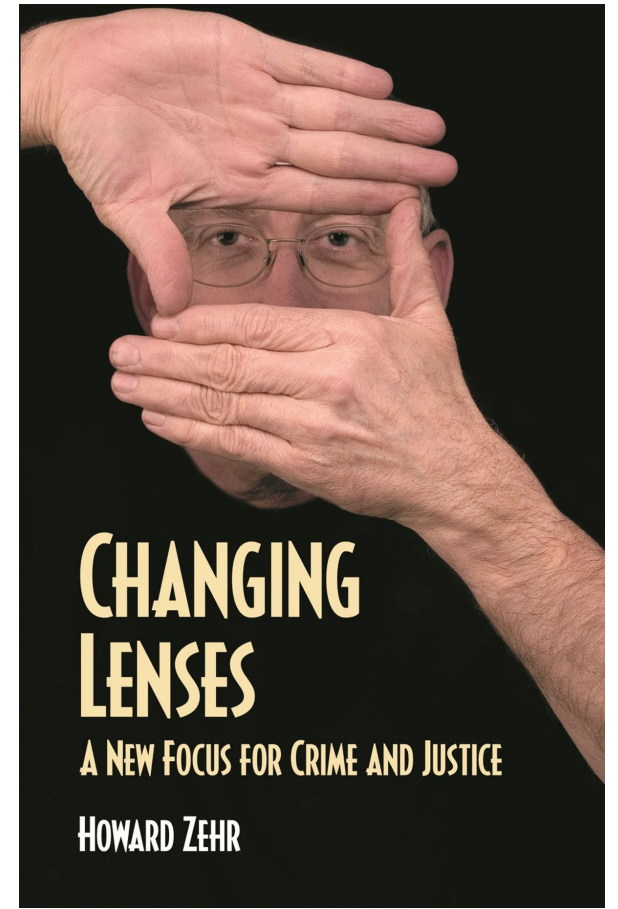
What is (restorative) justice?

To achieve justice, the **criminal law** asks:

- What law was broken?
- Who broke it?
- How do we punish them?

To achieve justice, **restorative justice** asks:

- What harm was done?
- What needs have arisen as a result of the harm?
- Whose obligation is it to meet those needs?



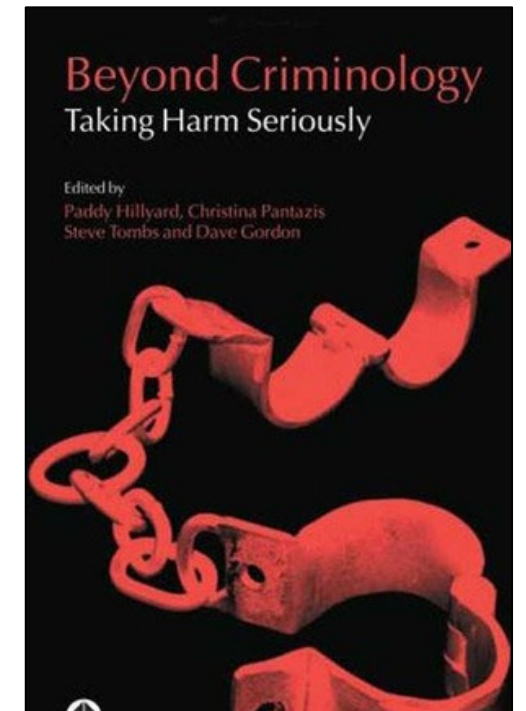
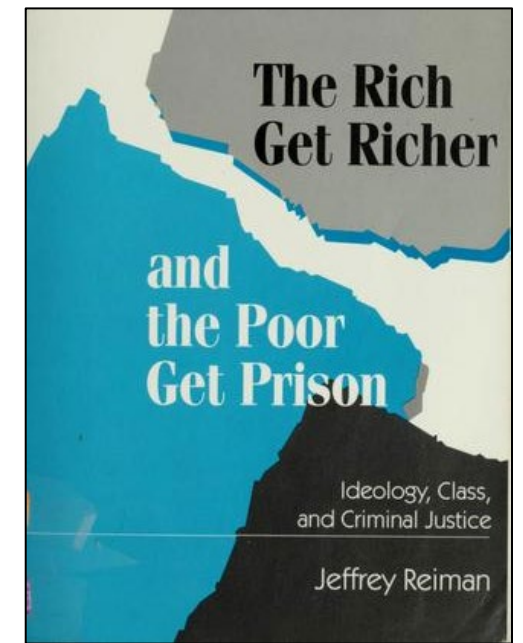
What is social harm?

Social harm is all that harm which humans cause each other and is not regulated by the criminal law – but is no less, and often more, harmful.

A focus on ‘crime’ mystifies rather than clarifies what is harmful...

‘We are led to believe that the criminal justice system is protecting us against the gravest threats to our well-being when, in fact, **the system is protecting us against only some threats and not necessarily the gravest ones**’ (Reiman, 2007: 294).

- 184 people died on the roads in Ireland in 2023 (RSA, [2024](#)), which saw 28 reported death by dangerous driving offences (CSO, [2024](#)).
- Latest data (HRB, [2024](#)) = 354 drug poisoning deaths in 2021 (375 in 2019), and 39 homicides in 2021 (49 in 2019) (CSO, [2020](#), [2022](#)).



Responding to the harms of drug criminalisation requires an approach to justice which:

- Attends to the harm caused by the **collective actions of many people**
- Allows people who were or caused harm to **tell their story, have this listened to and validated**
- Identifies needs and addresses the harm that has been done at different levels: **to individuals, to relationships and to communities**
- Enables people (individuals and communities/institutions) **to repair harm** by 1) making amends via reparation, 2) reconciling, building trust and making peace and 3) reintegrating and healing





Justice after criminalisation: a restorative justice framework

BLUE = INDIVIDUAL HARM

PURPLE = COMMUNITY/RELATIONAL HARM

TYPE OF SOCIAL HARM	EXAMPLE OUTCOMES	FROM WHERE CAN WE LEARN?
DIRECT/COLLATERAL CONSEQUENCES OF CRIMINALISATION AND PUNISHMENT	<ol style="list-style-type: none">1) Remove penalties for drug possession2) Structured releases of those in prison3) 'Disregarding' or 'expunging of convictions4) State apology (ending moral censure)5) Reparations for those harmed by penalties	<p>Many countries trying to (restoratively) address coercive confinement, institutional abuse and past injustices e.g.</p> <ol style="list-style-type: none">1) Irish work on homosexuality and 'sale of sex'2) Irish state apologies, RJ and reparations for criminalisation, abuse or confinement
PREVENTABLE DEATHS, DISEASES AND REDUCED QUALITY OF LIFE	<ol style="list-style-type: none">1) Constitutionalise the right to healthcare2) Investments in health services comparable to need3) Memorialisation for victims	<ol style="list-style-type: none">1) 14% of national constitutions guarantee protection of public health (Bartlett, 2022)2) Invest in harm reduction and addiction services3) Restorative justice processes and reparation for preventable health harms e.g. New Zealand
EXCLUSION FROM DEMOCRATIC PROCESSES (POLICY/SERVICE DESIGN)	New infrastructure to involve people who use drugs and other people affected by related policies and services in past- and future-oriented processes about their needs	<ol style="list-style-type: none">1) Public and Patient Involvement (PPI) in healthcare2) Service design (e.g. DPER, 2023) at all stages3) Lived experience 'commissioners' to design and oversee any restorative justice process
SELECTIVE LAW ENFORCEMENT CAUSES VIOLENCE AND COLLECTIVELY PUNISHES	<ol style="list-style-type: none">1) Truth and reconciliation processes involving the state and state actors2) Large-scale investments in communities harmed by the criminalisation of drugs and law enforcement3) Need to repair the 'moral injury' of police and courts	<ol style="list-style-type: none">1) 'Transitional justice' processes involving collective reparation and reconciliation with the state2) Efforts to give priority in legal markets and ensure people harmed benefit from legal changes
RELATIONAL HARM WITH STATE INSTITUTIONS AND NEIGHBOURS	Building positive relationships, understanding and trust with government actors (police, health service, etc.) and in the affected communities (families, neighbours, etc.)	<ol style="list-style-type: none">1) Intergroup dialogue within communities and between communities and institutions2) Mediation and local decision-making to rebuild trust and social solidarity

Investment as reparation

Transitional justice processes typically involve **direct investment as reparation** – a recognition that entire communities disproportionately harmed by state-led human rights abuses now seen as unjust.

Selective enforcement causes disproportionate impact to certain communities (esp. working class and minority ethnic young men).

- Marijuana Justice Act 2017 (USA) would legalise, expunge possession records, permit applications for resentencing hearings, and introduce a **‘community reinvestment fund’** with job training, prison reintegration, expenses for expungement, libraries, communities centres, youth and health education programmes.

This has long been understood in producer countries, where ‘crop substitution’ and ‘alternative development’ involve the conditional exchange of economic investments in exchange for reducing illicit cultivation – **real alternatives require resources/infrastructure.**



Alternative development components

The Sustainable Livelihoods Unit (SLU) is the focal point for the UNODC alternative development programmes. If you need more information please [contact us](#).

Participation, dialogue and relational harm

The Nova Scotia Home for Colored Children Restorative Inquiry (Canada)

Restorative approach to address harm from surgical mesh (New Zealand)



The restorative process ‘allowed more than 600 mesh-harmed people to share stories of physical and psychosocial harm [...] compounded by the professional and agency responses that followed, resulting in loss of trust in healthcare providers and public institutions’ – with families and relevant professionals and bodies (e.g. Ministry of Health, accident compensation).

What could change if the individuals, families and communities affected by criminalisation could sit with Gardaí, politicians, DOJ/DOH officials, judges, journalists and others, share and listen to their stories, and decide together how best to address and repair the harm done?

