

Book Reviews/Comptes rendus

IVO AERTSEN, TOM DAEMS, and LUC ROBERT (Eds.)
Institutionalizing Restorative Justice. Cullompton, Devon, UK: Willan Publishing, 2006, xx + 304 p, index.

Institutionalising Restorative Justice is a unique contribution to the existing literature on restorative justice. The focus of the book is on the processes and challenges of the institutionalisation of restorative justice within the context of western states. The editors wrestle in their introduction with the burden of demonstrating the distinctive contribution of a new anthology given the apparent surfeit of restorative justice literature, particularly in the English-speaking world. The theme of “institutionalisation,” however, distinguishes this collection, which self-consciously bridges theoretically informed scholarship with the policy, administration and conduct of restorative justice. In other words, the collection “focuses on how restorative justice finds its way into contemporary societies and their respective criminal justice systems” (xiv).

In addition to an introduction and a very useful epilogue, the twelve chapters of this collection touch to greater or lesser degrees on a few key themes: (1) the indeterminacy of the meaning and practice of restorative justice and the implications of this for speaking about and actualizing institutionalisation, (2) the “gap” between the intentions and the realisation of restorative projects (also conceptualised as the disjuncture between what restorative justice ethically or normatively is supposed to accomplish and the politics which undermine that normative ideal), and (3) the relationship of restorative justice to the state and neoliberalism and how responses to criminality are bound up with governance.

As a collection, *Institutionalising Restorative Justice* has important strengths. The volume balances contributions from both proponents and critics of restorative justice. The essays, moreover, forgo theorisation of restorative justice itself in favour of theorising how restorative justice gets taken up. A few (though not most) of the essays in the volume are also excellent companion pieces. For example, the essays by Pat O’Malley and Barbara Hudson read well together because of their complementary discussions of “actuarial justice” and “risk control,” while Aertsen and Blad share an interest in theorising about institutionalisation as a process.

Furthermore, alongside theoretically challenging pieces (notably, O’Malley’s contribution on risk, and Hudson’s contribution on ethics and

politics), the volume includes substantive examples from various countries: Ivo Aertsen notes the generalised availability of a wide range of restorative justice practices in Belgium and argues for a “semi-autonomous” place for restorative justice between the formal criminal justice system and community-based informal practices. John Blad interrogates the institutionalisation of restorative justice in the Netherlands from the perspective of Berger and Luckmann’s sociological theory and concludes that restorative justice is expanding the most outside of the criminal justice system. Jacques Faget discusses the “dependent” institutionalisation of penal mediation in France as a means to manage the increased burden on the criminal justice system. Kent Roach reviews the top-down effect of Supreme Court interpretations of legislation in Canada in integrating restorative justice at the sentencing stage. Robert Mackay provides a deep analysis of debate in the UK’s Restorative Justice Consortium, thus touching upon a range of debates about the implementation of restorative justice. Adam Crawford, also in the UK (specifically, Wales and England), focuses on referral orders for young offenders within the context of New Labour politics in order to uncover tensions between policy and practice.

There are, however, several significant weaknesses with the collection as a whole. First, there is a disappointing Euro- and Anglo-centrism to the collection. Aside from occasional references to Aboriginal populations (most sustained in Roach’s essay on Canada), there is not a single essay on institutionalising restorative justice in non-western contexts. By failing to specify that this collection is focused on the West, the editors reproduce the Euro-/Anglo-world as the unnamed centre. For example, a similar collection focused exclusively on Africa or Asia would be unlikely to bear such an encompassing, geographically-unbounded title as *Institutionalising Restorative Justice*. More importantly, the absence of any essays on non-western contexts strikes me as a missed opportunity to pursue questions relating to the (purported and contested) cultural resonance of restorative justice with diverse non-western traditions of justice. Moreover, questions might have been pursued on institutionalising or deinstitutionalising restorative justice in non-western contexts, the “authenticity” of justice practices in post-colonies, the imposition of restorative justice as a new norm, or how restorative justice intersects with diverse customary justice practices.

Second, the collection has no essays on the institutionalisation of restorative justice in transitional justice discourse or practice. In periods of transition, conceptualised commonly as transitions from war to peace, or from illiberal/state-terrorist regimes to liberal-democratic regimes, restorative justice is an increasingly important feature of debates on how best to deliver justice. Strategies such as truth commissions aimed at societal reconciliation have become institutionalised as one response to state repression or the crimes of war. The collection would have been markedly improved by thinking about how restorative justice gets institutionalised outside the western world at peace.

Finally, as a collection, this volume would have profited from pushing the boundaries of restorative justice. For instance, aside from Hudson's referencing of her own work, there is a dearth of feminist analysis despite vigorous debate among scholars and practitioners on whether and how to use restorative justice in relation to intimate violence. Can restorative justice be feminist? How do we institutionalise it in a feminist manner? Or, beyond passing references, where is the debate on institutionalising restorative justice for serious crime? What are the possibilities for institutionalising restorative justice as a response to the very worst crimes? Perhaps most troubling is the lack of systematic inquiry into whether this form of justice is even normatively desirable. In some sense, the collection as a whole shirks the uncomfortable questions that inspire unease in even strong proponents of restorative justice.

Notwithstanding these weaknesses, the individual essays – with minor exceptions – are very strong. Here, I briefly sketch the three strongest: John Pratt's essay (which alone makes this volume worth seeking out) argues that restorative justice is a new "evangelical criminology" largely shielded from criticism and characterised by the same crusading fervour among its proponents as earlier movements in criminal justice reform. The supposed "goodness" of restorative justice is partly located in what Pratt calls "origin myths" where it is romanticised as a universal form of justice across cultures and history. Just as others in this volume argue, Pratt links the turn to restorative justice to the retreat of the welfare state and the concomitant rise of neoliberalism, in contrast to John Braithwaite's suggestion that restorative justice suffers in the absence of a welfare state.

Excellent also is Robert E. Mackay's essay, which reviews several key points of debate carried out dialogically at a conference and which eventually generated a published *Statement of Principles*. In explaining positions in the debate, Mackay writes himself into the dialogue as a "protagonist" who straddles membership in a policy group and in the scholarly world. Such reflexivity animates the piece as Mackay interrogates the very exercise on which his paper is based. Among the tensions that Mackay discusses are the questions of rights protection, proportionality in restorative responses, whether justice should be oriented to outcomes or processes, the volutariness of participation, the role of emotions like remorse, and what neutrality and impartiality mean in relation to mediators.

Finally, Pat O'Malley's essay, which begins with an explication of risk and actuarial justice, explains that restorative justice "could be regarded as the inclusive side of a bifurcated neoliberal politics of crime control" (221) sharing much in common with what is valued in neoliberalism: individual victims and offenders are "responsibilised;" victims become consumers of justice; governance is conducted by communities; and, risks are averted in the future. O'Malley, however, suggests that the overwhelmingly negative discourse on risk could be otherwise. He, therefore, devotes the balance of the essay to ways in which the risk mobilisation in drug harm-reduction programmes could be articulated with restorative justice. Most usefully,

this paper challenges the over-determinacy in much risk literature that always assumes that risk can only be mobilised oppressively.

The weakest essay is probably Roger Matthews' polemic against reintegrative shaming. Certainly, critical interrogation of reintegrative shaming is necessary if Matthews is right that most restorative justice experiments since the 1990s have been based on this model, but Matthews misses this opportunity by confining himself to polemical criticism. His essay is not helped by a sudden listing of restorative justice's many wrongs in his conclusion (256) with neither elaboration nor citations. Nonetheless, as a literature review, Matthews' essay makes good basic reading for advanced undergraduates. Likewise, the essays by Roach, Crawford, Mackay; and Michael Tonry's discussion of trends in penal policy and institutionalising restorative justice in western countries make intelligent reading for advanced undergraduates or masters level students. Because of the focus on institutionalisation rather than explication of restorative justice, the balance of this collection is probably better suited to readers already familiar with restorative justice. Given the relative lack of cohesion among the essays, the collection is not, in any case, well designed for pedagogy.

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