

# THE EUROPEAN FORUM FOR RESTORATIVE JUSTICE

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## “RESTORATIVE JUSTICE AND PEACE IN NORTHERN IRELAND”.

Address by

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### 1. Peace and Justice.

Years ago I read a paper by the Irish Catholic priest and moral theologian, Enda McDonagh, in which he analysed the evolution of the concepts of ‘*peace*’ and ‘*justice*’.

He began with the Hebrew word *shalom*, whose primary characteristics are ‘peace’ and ‘justice’.

The peace of shalom means to live in a rich reality of wholeness between yourself, the Creator and all of his Creation; to have a sense of well-being; a condition in which the human spirit flourishes and releases creativity into the world.

The justice of shalom is expressed in the Hebrew word *sedaqah*, meaning ‘righteousness’ – to live in right relationship with all of Creation.

However, according to McDonagh, down through the ages successive translations of the Christian scriptures have narrowed and distorted the original meaning of peace and justice.

He points out that in Greek translations of Scripture there are more than twenty terms used to try to describe the concept of shalom. The nearest Greek word is *eirene*, meaning harmony and order and, therefore, lacks the sense of right relationship with all created things.

When the Christian scriptures were translated from Greek into Latin, the nearest word to shalom was *pax*, meaning ‘legal order’.

The term *Pax Romana* refers to the golden era of the Roman Empire. It means ‘Roman Peace’ and in this Roman version of peace – or *pax* – peace mean’t a legal order that suited Rome.

Again, this is a long way from shalom with its wholeness, well-being and flourishing of the human spirit. Yet, the word ‘peace’ is a translation of the Latin term, ‘*pax*’.

Similarly, translations of the word, *sedaqah* – the Hebrew for righteousness and a dimension of shalom – result in the Latin version, *justitia*. The word *justice* flows from this, but in this concept of justice which has evolved in the West the rights of the individual are stressed with much less awareness of the importance of right

relationships; of how the individual must live in a balanced relationship with other human beings.

We can see, then, how in modern western culture peace gets caricatured as the restoration of order and the absence of violence.

Justice gets reduced to the rights or entitlements of the individual.

A civil or human right that is concerned solely with an entitlement is not a 'right' so much as a privilege because a right has two dimensions: on the one hand, it contains an entitlement but, on the other hand, it confers a responsibility.

Restorative Justice, on the other hand, is an approach which returns more faithfully to the original meaning of peace and justice because in the restorative paradigm the victim and offender are not viewed merely as two individuals but, rather, as members of community or society; one to be given support, the other to be held to account and both empowered in the task of restoration.

And the impact of crime is measured against its impact on relationships rather than simply as a contravention of the law.

Restorative Justice is concerned with something deeper: with the offender's behaviour understood as an abuse of relationship. The concept of repairing harm refers to the need to restore balance to all the relationships affected by the offender's behaviour.

## **2. The Peace Process in Northern Ireland.**

In Ireland, over the last 15 years or so, we have been living through a period known as 'the Peace Process'. This period has seen the establishment of political negotiations, ceasefires by the main paramilitary organisations and fundamental reform of aspects of our system of governance in order to command the respect and allegiance of all our citizens.

One outcome of the political negotiations was a review of our Criminal Justice system. The Review affirmed the potential of Restorative Justice, though many were disappointed that the Review introduced restorative measures in a limited way, restricting new practices to young offenders rather than placing Restorative Justice at the heart of the whole Criminal Justice system.

Unfortunately, there is a continuing political deadlock, with the two main parties unable to meet each others' terms for entering government together. However, in many other respects, progress has been so profound that it is possible now to speak of the end of 'the Troubles' – a 30 year period when our conflict was expressed in violence and a generation grew up in the shadow of the gun and the bomb.

Yet, despite such progress, there is a danger that our Peace Process will fail to deliver a truly peaceful society and will, instead, settle for a state of pax – a new legal order – that will amount to no more than a veneer of peace across the surface of our society rather than a new era of shalom – where the spirit of our people, in all its diversity, flourishes, in a time of deeper societal balance.

A number of unresolved issues will determine whether our peace matures towards shalom or mutates into pax.

In the context of this conference, I should like to highlight four such issues:

1. The first relates to the inability of our political process to secure sufficient political agreement to form a government within Northern Ireland. A political stalemate is afflicting Northern Ireland and inhibiting the development of a shared society.
2. Secondly, despite wholesale reforms to the police service, there is still insufficient consensus across our divided society about our system of policing. Most significantly, republicans refuse to endorse the new police service and, therefore, sections of society remain estranged from the police. This issue has huge implications for the development of Restorative Justice because republicans who are involved with the development of Restorative Justice do not yet accept police involvement in their schemes.
3. A third issue concerns the continuing existence of paramilitary organisations. While some would argue that paramilitaries exercise a positive influence within their respective communities, especially in volatile urban working class districts, others criticise paramilitaries for their involvement in organised crime and allege that they use violence and intimidation to maintain illicit power and influence over vulnerable communities.
4. A fourth issue concerns the direction of Community Relations policy and practice. While official, British Government policy now promotes a belief in the necessity of Protestants and Catholics building a shared future and integrating our divided society, in reality there are sections of society who are less convinced about the terms and conditions for integration. Such people would prefer to settle for something less: for peaceful co-existence, with Protestants and Catholics remaining apart in many ways, rather than forging some kind of pluralism.

Against this backdrop, we can reflect on the process of Conflict Transformation which has been going on in Northern Ireland since the late 1980s.

### **3. Conflict Transformation.**

When years of political negotiations resulted in an historic peace deal – the so-called Good Friday Agreement – in 1998, across Northern Ireland there was considerable optimism that conflict would simply give way to peace. However, while political violence has almost totally ceased, there has been continuing political acrimony and instability. At community level, this has resulted in recurring public disorder. Many citizens and communities have suffered sectarian tension and hatred. Divisions on the ground at times have seemed to be worse than before the Peace Process.

A more sober analysis of the change process going on in Northern Ireland would suggest that the public had unrealistic expectations about how peace takes root in a

divided society. Indeed, some sections still seem unable to comprehend that peaceful change is an incremental, gradual process and that in our case it will probably take at least another generation.

In this respect I find it useful to think of the seasons as a metaphor for the evolution of peace. Each season must come in its own time and in the natural sequence. Spring comes before Summer which, in turn, gives way to Autumn and then to Winter. A farmer knows not to do the work of Autumn in the Spring; there is a time for sowing, a time for growing and a time for the harvest.

In my view, deep societal conflict moves through its own seasons. The first of these is the period of Conflict Management when conflict is stabilised; when violence is brought under control.

The second season is the time of Conflict Transformation, when people and groups previously at odds begin to find ways to collaborate and from such experiences their relationships begin to strengthen.

The third season is the period of Conflict Resolution – when, on the foundation of strengthened relationships, opposing sides address the root causes of their differences. A new Social Contract is formed and erstwhile enemies become social partners.

The fourth season is the period of Commonality, when root causes have been definitively addressed but there is a need to maintain stability and consensus about the out-working of the new Social Contract.

In my view, this kind of evolutionary process has been going on in Northern Ireland, and we are in a transition from a time of Conflict Management to a time of Transformation.

As part of this process, people who, in an earlier time of violence, were paramilitaries and, in many cases, went to prison, have taken on new roles which fit our changed circumstances.

During the 1990s, a number of individuals, including people with links to paramilitary organisations, helped devise mechanisms to deal with anti-social behaviour, particularly in inner city areas where sections of the community had grown used to paramilitaries dealing with offenders and using methods such as beatings, deportation, maiming and, even, shooting.

Paramilitaries themselves had become more open to alternatives to violence.

A number of schemes got off the ground. They involved individuals with a known background in paramilitarism, including time spent in prison. On the one hand, such people had the kind of credibility which paramilitary organisations would respect. On the other hand, their paramilitary background and their good working relationship with paramilitaries made them highly suspect in the eyes of other sections of the community.

In time, ideas of Restorative Justice came into circulation in Northern Ireland, with influential visits from people such as the American Mennonite, Howard Zehr.

From the point of view of those involved in community-based schemes, Restorative Justice provided a conceptual basis for their practice and has informed its evolution. Independent research and a number of academics have applauded the community – based Restorative Justice schemes and acknowledged the large number of cases coming through their doors. The community-based schemes have been held up as world leaders in the field.

However, from the perspective of their critics, Restorative Justice has simply been a flag of convenience to provide a respectable cover for the continued existence of paramilitary control. In the words of one former Prime Minister of the Irish Republic, Garret Fitzgerald, community-based Restorative Justice schemes,

“ \_ \_ \_ as at present constituted, represent a potential long-term threat to democracy in Ireland – North and South”.  
(Irish Times, 4 Feb. 2006)

At the core of Fitzgerald’s displeasure is the fact that, with rare exception, schemes operated by republicans and their associates, will not co-operate with police and, he claims, will not allow themselves to be held independently accountable to standards approved by the State.

For its part, the British Government does not fund community-based Restorative Justice schemes in Northern Ireland. It has produced proposals aimed at overcoming points of difference, including the question of police involvement. However, the publication of these proposals has stirred the political controversy about the efficacy of the community schemes.

#### **4. Restorative Justice and Civic Renewal.**

Restorative Justice has become an important litmus test for the outworking of the Peace Process in Northern Ireland in a number of ways.

- At the European Mediation Conference in Helsinki last month, the Norwegian criminologist, Neils Christie, issued stark warnings about some of the dangers facing Restorative Justice. He repeated his view, first aired in a seminal paper in 1977, that conflict is property which belongs to the people but which professionals (especially lawyers) had stolen for reasons of self-interest.

According to Christie, conflict is a natural source of energy and a stimulation of creativity in the life of communities. However, through professionalism and regulation handling conflict had too often become a rarified thing, removed from the life of community.

With so many people now educated to degree standard, society is crowded with aspiring professionals looking for places and issues to take unto themselves. Christie believes that vigilance is needed with regard to the development of Restorative Justice lest it, too, be removed from the

community. In his view, neighbourhoods are being killed by too much expertise taking natural friction away from the people.

I am much taken with Christie's view. Perhaps one of the good things to come out of the Troubles in Northern Ireland is the emergence of self-confident communities who are assertive about retaining a degree of control over their lives. In a sense, community-based schemes are an example of citizens getting organised to protect their property (conflict), as if, by instinct, they understand the importance of doing things for themselves.

- Going back to my observations about *peace* as shalom, meaning wholeness and flourishing of the human spirit and *justice* as right relationships, community-based schemes are potentially an important instrument in the task of ensuring that our Peace Process results in an arrival at a more holistic peace rather than mere legal order or *pax*.
- However, one important outcome of the Peace Process has been the establishment of a new police service, with the adoption of Community Policing as its central aim. In this respect, the reform of policing stands as a signal achievement. If sections of the community, including community-based restorative justice projects, stay outside of the new order of policing, then a fundamental dimension of peace will be totally inhibited. Ironically, there is a very real possibility that if substantial numbers of community activists persist with their refusal to work with police officers they will actually contribute to the creation of an aloof professionalism in policing. I also believe that the very integrity of Restorative Justice requires that police officers take their rightful place in the heart of the community rather than remain estranged from them.
- At this stage in the Peace Process, the general public in Northern Ireland are waiting to see whether politicians can reach agreement and form a government by the end of the year. However, there is widespread pessimism about that prospect. In the face of such despondency, some commentators are now speaking of the priorities for peace activists in a time of political stalemate. One suggestion is that renewed attention be given to the task of finding values which all sides can share; that the articulation and promotion of common civic values could help build consensus among the people. In this regard, Restorative Justice has the potential to be of great and timely help.