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Unmasking the 'Criminal Justice Voluntary Sector' in the Republic of Ireland: Towards a Research Agenda

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Summary: Voluntary sector organisations (VSOs) play a pivotal, but as yet unevaluated role in the Irish criminal justice system. The aim of this paper is to address some of the key issues and debates discussed in the extensive international literature on the criminal justice voluntary sector and to consider how they might be translated into an Irish context. After presenting the contours of the Irish criminal justice voluntary sector and discussing the difficulties of scoping a complex and diverse field, the paper highlights key strengths and weaknesses discussed in the international literature. The Irish criminal justice voluntary sector ultimately has to be interpreted as an element of broader Irish penal and social policy. Making it visible as a distinct field of intervention and research is important if we want to highlight some of the sector's undeniable strengths. However, it is also timely to critically interrogate some of its tensions and contradictions in a way that will ultimately be useful to service users, practitioners and policy-makers alike.

Keywords: Voluntary sector organisations, third sector, state–civil society partnerships, desistance, service user involvement, social control, marketisation.

Introduction

The relationship between the voluntary sector and the criminal justice system has been converging in the past two decades into more tightly knit partnerships in different national contexts. In England and Wales, for example, it has been argued that this convergence has resulted in the creation of a 'shadow penal state' (Corcoran *et al.*, 2018: 1), where voluntary sector activity has been institutionalised across the entire spectrum of the criminal justice system (Corcoran, 2011). In New Zealand, the

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Ministry of Justice has announced that reducing recidivism rates is not possible without voluntary sector organisations (Mills and Meek, 2015). Similarly, in the Australian context it has been mentioned that the extension of crime control tasks beyond the state and private sector into the voluntary sector happened 'alongside the government focus on evidence-based policies seeking cost-effective outcomes from government-commissioned services' (Ransley and Mazerolle, 2017: 484).

Some aspects of this trend are also observable in the Republic of Ireland. Close working relationships between voluntary sector organisations (VSOs) and criminal justice systems are not new. This is particularly the case in the history of Irish social and penal policy, with its significant reliance on the mostly church-based voluntary sector. In continuation of the provisions of 19th-century Poor Law and the concurrent construction of crime and deviance as the result of mainly moral shortcomings, rudimentary early services for the after-care of prisoners, for example, were provided by VSOs. Similarly to most other areas of early social policy, 'the state was quite happy for VSOs to take on this role, having no formalised provisions or structures of support for released prisoners' (Rogan, 2011: 41). Similarly, well before the development of a statutory probation service in the 1960s, legislation encouraged individuals or groups of persons from civil society to 'form a society and apply to be recognised officially', so as to 'act as probation officers and receive financial assistance from the state towards their expenses' (Kilcommins *et al.*, 2004: 50). Subsequently and in line with the broader strategy of subsidiarity, Ministers of Justice maintained the preference for the use of voluntary (often Church-based) organisations in providing services for those involved with the criminal justice system (Kilcommins *et al.*, 2004: 50).

As will become evident throughout this paper, more empirical research will be needed in an Irish context to offer nuanced and considered conclusions about various aspects of the contemporary shape of this relationship. Increasingly, we find a rich body of analysis and commentary on various aspects of penal policy in the Republic of Ireland (Hamilton, 2016; Rogan, 2016) and there is also a well-established critique of voluntary sector and state relationships (McMahon, 2009; Meade, 2009; Powell and Geoghegan, 2004). However, these knowledge fields have not yet interacted significantly and, as a result, the more problematic aspects of VSO relationships with the criminal justice system have not been considered in depth.

The aim of this paper is to address some of the key issues and debates discussed in the extensive international literature on the criminal justice voluntary sector and to consider how they might be translated into an Irish context. My strategy here is to raise questions more than provide answers, as a means to contribute to a critical conversation on the criminal justice voluntary sector in the Republic of Ireland. Putting the sector under scrutiny is useful in terms of locating and characterising Irish penal policy more broadly in relation to the particular Irish political economy as a 'mixed economy of welfare' (Fanning, 1999: 51). But more immediately, it also draws our attention to the intricacies that should be considered when designing future policies that regulate and activate voluntary sector engagement with the criminal justice system. Particularly in relation to the 'back door marketisation' (Maguire, 2012: 484) of the voluntary sector generally in Ireland and the heavy reliance on state funding, I would also hope that this paper encourages VSOs involved with the criminal justice system to consider their 'voice' and 'boundaries' vis-à-vis the state. Ultimately, these considerations also have repercussions on the 'lived experiences' of service users as well as professionals involved in the criminal justice voluntary sector, however little we yet know about these in the Irish context.

If we assume that the delivery of legitimate criminal and social justice is a public good that has to be placed under detailed scrutiny in all its 'benign' aspects, rendering the field of the criminal justice voluntary sector 'visible' for analysis is critically important. At different ends of the political spectrum, volunteering, voluntary sector provision of services and partnerships with the 'community' or civil society have been presented in political rhetoric and governmental practices as the solution to a plethora of 'modern ills', such as individualisation, the loss of community and overreliance on the state (Powell and Geogheghan, 2004). In relation to criminal justice specifically, an assumption commonly made is that more benign forms of criminal justice interventions administered in the community, such as prevention and early intervention, diversion and community sanctions, represent progressive and re-integrative ideals. However, there is also a well-established intellectual tradition of 'revisionist' and radical criminology which has conducted more critical commentary and typically argues that the spread of more benign forms of criminal justice interventions can signify an expansion of 'social control' (Cohen, 1979, 1985; Garland, 2001; Wacquant, 1993). As will be further outlined below, similar debates can be found in relation to the

increasing entanglement of VSOs in the criminal justice system and what has aptly been described as the 'interpenetration of civil and penal spheres' (Corcoran, 2011: 30).

Before I examine some of these debates in greater detail, the following section offers some definitional considerations of the term 'criminal justice voluntary sector' that I have adopted for this paper and broadly sketches its contemporary landscape in the Republic of Ireland. I will then consider some key strengths and weaknesses of VSO involvement commonly discussed in the research literature.

What is the 'criminal justice voluntary sector' in the Republic of Ireland?

Throughout this article, I use the term 'criminal justice voluntary sector' for pragmatic reasons and as a shorthand to describe the broad field of collaboration between voluntary sector organisations and the criminal justice system. The term is used for example in Scotland, where the Criminal Justice Voluntary Sector Forum[1] (CJVSF) co-ordinates the interests of VSOs collaborating with the criminal justice system. In reality, the term is a misnomer as it implies the existence of a unitary and formal entity, which is not the case. A similar term often used in the literature, 'penal voluntary sector' (Tomczak, 2017), effectively denotes the same as 'criminal justice voluntary sector', but implies that all the work undertaken in the sector contributes to achieving penal ends, and is therefore not adopted in this paper. Equally, the term 'voluntary sector' is often used interchangeably with 'charitable sector', 'not-for-profit sector', 'community and voluntary sector', 'third sector' or 'NGO sector'. Each of these terms has slightly different connotations. For example, 'charities' are often understood to be larger organisations that rely heavily on public fundraising and donations to support their work.

'Third sector' was popularised by New Labour's 'third way' politics in the UK in the late 1990s, a strategy that has also been pursued by the Irish state in the shape of social partnership. From 1987 onwards, the Irish state delivered its political, social and economic governance through a series of consecutive 'social partnership' agreements. Bringing together actors from the public sector, civil society and the market to formulate and deliver these agreements reconfigured how government operated. For the community and voluntary sector, the inclusion of a

[1] http://www.ccpscotland.org/cjvsf/

dedicated 'Community and Voluntary Pillar' in the 1996 Agreement 'Partnership 2000' was significant in that it provided the sector with a dedicated voice at the highest level of economic and social policy formation. However, opinions remain mixed as to whether the voluntary sector's inclusion has led to a co-option of dissenting voices (Allen, 2000), a democratisation of social relations or a more complex picture, depending on particular structures and the relative power of stakeholders (Powell, 2007).

Throughout this paper, the terms 'voluntary sector' and 'VSOs' are used, with the understanding that they encompass a wide range of organisations. In terms of legal status in the Republic of Ireland, VSOs vary greatly, including trusts, limited companies with charitable purpose, and industrial, provident and friendly societies, to name a few. Despite this diversity, several commonalities exist, namely that they all have 'charitable purpose only and provide public benefit' and therefore fall under the regulatory remit of the Charities Regulator.[2] Also, they are all governed by trustees or directors who act in a voluntary capacity with the ultimate responsibility for the management and financial affairs of the organisation. This does not preclude the hiring of professional staff and many VSOs are indeed relying on a mix of professional staff and volunteers (Geogheghan and Powell, 2004).

Similarly to other jurisdictions, there are only a handful of VSOs in the Republic of Ireland that could be categorised as organisations that work solely with service users involved (or formerly involved) in the criminal justice system. However, the criminal justice voluntary sector is much wider than this and penetrates all areas of the Irish criminal justice system. The Probation Service in Ireland, for example, spends a third of its annual budget – €15 million – on funding 61 voluntary sector organisations 'to deliver supports to their clients in the community with a view to reduce recidivism and support reintegration' (Irish Probation Service, 2016: 1). Importantly, VSOs are also involved in the delivery of various community-based sanctions and early release schemes ('Community Return Scheme', 'Community Support Scheme' and 'Community Service Orders'). Young Persons Probation runs the well-established Le Chéile mentoring scheme, relying on a dedicated core of trained volunteers.

Equally, several Irish prisons rely on VSOs (including volunteers) to staff their family visit areas and provide information and pastoral support

[2] http://www.charitiesregulatoryauthority.ie/en/cra/pages/faqs

within the prison. A number of VSOs are offering prison 'in-reach' services to support continuous service delivery post-release (see e.g. Focus Ireland, 2012) and in other instances, VSO staff train prison officers. Victims' support services at court and in the community are also supported by volunteers. Significantly, the jurisdiction's first ever bail support scheme is delivered by a voluntary sector organisation (Department of Children and Youth Affairs, 2017). Also, the voluntary youth work sector has been a long-standing partner in Garda Youth Diversion Projects.

In terms of daily interventions and practices, services offered in these settings are numerous. They include group and individual support, drug and addiction work, health support, education and employment support, family support and much more (Irish Probation Service, 2008). Significant importance has also been given over the past decade to inter-agency collaborations and partnerships in Irish penal and social policy. Reflective of this emphasis, the most recent Joint Prison and Probation Strategy (2015–2017) has for example reiterated the forging of 'collaborative arrangements with statutory and voluntary providers to respond to the reintegration needs of released prisoners' as one of its key strategic outcomes to enhance pre-release planning for prisoners (Irish Prison Service and Probation Service, 2015a: 2). Similarly, the Social Enterprise Strategy 2017–2019, spearheaded by a partnership between the Department of Justice and Equality, the Irish Prison Service and the Irish Probation Service, accorded central importance to the 'third sector' for the Strategy's delivery (Department of Justice and Equality *et al.*, 2017).

To assess the parameters of the criminal justice voluntary sector in the Republic of Ireland more systematically, we would need more empirical data. In the English and Welsh context, for example, researchers and analysts can rely among other sources on the annual 'state of the sector' reports published on the basis of membership surveys by Community Links (CLINKS). CLINKS is a VSO umbrella organisation that is exclusively dedicated to supporting voluntary organisations that work with offenders and their families. CLINKS was founded in 1998 as a response to New Labour's strategy of fostering 'active citizenship' and rebranding civil society as the way forward in welfare state politics (Martin *et al.*, 2016). The annual reports 'collect information about how healthy the sector is, the role it is playing, and the wellbeing of service users' (CLINKS, 2018). Notably, CLINKS has recently also supported a relatively critical piece of research in

partnership with academics at the University of Keele, which among other thing highlights some of the pressures that VSOs are under in an increasingly 'marketised funding landscape' (Corcoran *et al.*, 2017: 8). It is indicative of a relatively expansive and well-positioned voluntary sector that umbrella organisations support state-of-the art and possibly 'state-critical' research such as this.

But even with this type of empirical information at hand, systematic mapping and scoping of the size, distribution, activities and impact of criminal justice voluntary sector remains complex. The task has been described in the context of England and Wales as like trying to map a 'loose and baggy monster' (Tomczak, 2017: 75). This complexity has been attributed to a number of factors. VSOs differ in terms of their size, geographical distribution, service user population, historical legacies, institutional affiliations and correspondingly to this in their overall ethos and mission (Hucklesby and Corcoran, 2016: 3). VSOs involved with the criminal justice system in England and Wales can be differentiated in relation to their functions, which often combine different elements such as service provision, advocacy, co-ordination and research and analysis (Hucklesby and Corcoran, 2016: 4). Crucially, some of these VSOs are enabled by the courts to engage and manage those sanctioned in the community and on different early release schemes, although they don't seem too keen to expand these roles (Corcoran and Grotz, 2016: 111). VSOs are also embedded to different levels in 'communities', some adhering more closely to organically grown community development groups while some larger charities work across different jurisdictions. In addition, defining exactly who should be categorised as a VSO involved with the criminal justice system has been described as complicated in the context of England and Wales by the fact that the activities of many VSOs extend beyond the criminal justice system. Others provide ongoing support to users who have ceased to be in contact with the criminal justice system but are still affected by this experience (Hucklesby and Corcoran, 2016: 4). A further characteristic of the English and Welsh criminal justice voluntary sector generally is that some VSOs are set up by former service users of the criminal justice system or criminal justice staff, bringing a particular – yet under-researched – type of expertise and motivation to their work (Martin *et al.*, 2016: 37). Finally, VSOs rely to different degrees on a mix of professional staff and volunteers, a combination that has drawn the interest of a wide range of research (Corcoran and Grotz, 2016; Kort-

Butler and Malone, 2014; Mills and Meek, 2016). At first sight, it is evident that many of these complexities described in the extensive English and Welsh literature would equally apply to the Irish criminal justice voluntary sector.

There are potentially an endless number of criteria according to which VSOs in the criminal justice system could be categorised. However, how does one make best sense conceptually of the complexity and diversity of the criminal justice voluntary sector across different jurisdictions? To start answering this question, I will now discuss research that highlights the various benefits of VSO sector contribution to the criminal justice system.

Understanding the strengths and benefits of the criminal justice voluntary sector

The following discussion of some of the benefits of involving the voluntary sector in criminal justice service delivery is necessarily over-simplified, as it does not drill down into the particularities of different types of criminal justice voluntary sector provision. Also, caution is required in relation to the quality of available data when one is trying to trace and measure the impact of the sector. These challenges are partly caused by the underlying volatility, diversity, short-term horizons and 'bit-sized' funding arrangements of VSOs. Due to most VSOs relying on 'soft money' and short-term funding timeframes, they spend significant time setting up an initiative; data-gathering and evaluation mechanisms often come as an afterthought and with too little resourcing, resulting in a lack of available and timely data (Hedderman and Hucklesby, 2016).

Even in the best-case scenario when monitoring and evaluation are built into projects, the quality and quantity of available data are often questionable. At the surface, this relates to technical questions, such as discrepancies between service users' self-reported data (e.g. on substance abuse) and actual use, the lack of comparable data across organisations and so on. However, Hedderman and Hucklesby (2016) conclude that there are more systemic explanations for the lack of high-quality data in the criminal justice voluntary sector. These relate to the difficulty of motivating volunteers to participate in data collection regimes, staff feeling that the time spent with service users is restricted by data collection and the different and changing reporting criteria of different funders, making the data-gathering process even more cumbersome for

VSO staff (Hedderman and Hucklesby, 2016). In a way, this also highlights the unequal relationship between the 'modernised state' and community-based VSOs (Smith, 2010: 553), leading to what some have argued is a 'modernise or perish' mentality vis-à-vis VSOs (Corcoran, 2011: 42).

A third note of caution relates to the point that we have to explicitly acknowledge the contested and politicised nature of debates around the voluntary sector. Voluntary sector representatives as well as politicians of various leanings have an interest, for different reasons, in emphasising the usefulness and strengths of the sector. With these caveats in mind, I will now continue to outline the generic benefits and strengths of the criminal justice voluntary sector. I will discuss first the benefits relating to individuals, mainly service users, and secondly benefits more relevant at the systemic level, i.e. beneficial to the state, broader society and the goals of the criminal justice system.

Empowerment, social inclusion and building up social capital of service users

It is well known across national contexts that people in contact with the criminal justice system have faced multiple challenges in their lives based on a range of adversities and experiences of disempowerment. In the Republic of Ireland, the direct link between disadvantage, social exclusion, imprisonment and criminalisation has been evidenced and acknowledged (Irish Penal Reform Trust, 2012). One of the foundational strengths of the VSO sector, then, is arguably its 'value-driven ethos' (Martin *et al.*, 2016: 31), which supports disempowered communities and individuals. While VSOs' missions and ethos vary greatly as to their positioning between rights-based social justice approaches on the one hand and more paternalistic charitable connotations on the other, research shows how VSOs are effective in mobilising their service users' social capital (Martin *et al.*, 2016: 31) and human capital (Tomczak, 2017: 155). By providing a variety of tailored supports such as training and employment, supporting relationships with family members, and accessing housing and social welfare, VSOs can contribute to compensating and repairing some of the manifold disadvantages experienced by people in contact with the criminal justice system. VSOs can also provide psychological benefits and opportunities for self-development (Tomczak, 2017: 155) through individual support as well

as group-work interventions. The literature also suggests that VSOs are particularly well placed to support 'hard-to-reach' populations with complex needs, often those belonging to ethnic minorities, female victims of crime and service users with mental health problems (Martin *et al.*, 2016: 33). Through their ability to 'distance' themselves from state institutions which have often been experienced negatively by service users, VSOs are often more acceptable service providers.

Flexible, local and service-user-friendly support

It is frequently highlighted that VSOs contribute to supporting service users on their complex journeys of desistance. Desistance research has shown that the process of disengaging from offending behaviour is a complex interaction of personal realisation, social circumstances and availability of opportunities (Maruna, 2001). The argument proposed is that VSOs are usually small and flexible enough to support the complex desistance journey through 'offering holistic, person-centred interventions, deeply embedded in the appropriate social and local context, with significant points of synthesis with desistance theory' (Martin *et al.*, 2016: 15).

The assumption is that most VSOs hail from local communities, allowing for 'reciprocal, trusting relationships with service users and communities' (Martin *et al.*, 2016: 31). An evaluation of an Integrated Offender Management pilot initiative in England and Wales, for example, noted that one of its strengths was the VSOs' rootedness in local communities (Wong *et al.*, 2012, cited in Tomczak, 2017). Through this rootedness, VSOs potentially also contribute beyond supporting desistance at an individual level towards promoting practices that co-produce desistance in more collective forms (Weaver, 2013). This denotes practices that 'produce outcomes that aim to benefit whole communities or collectivities rather than just individuals or groups of service users' (Weaver, 2013: 13).

Also, it has been noted that, in terms of social distance, VSO staff can most likely keep a better psychological distance from the offender than statutory staff can, and focus on strengths rather than the offending behaviour (Tomczak, 2017: 157). Similarly, research in the US on restorative community service has shown that 'a system that involves community organisations, as well as the community in general, leads to greater "buy-in" to the rehabilitative process. This form of community

involvement develops and encourages new transferable skills, helping to support the reintegration of individuals' (Irish Penal Reform Trust, 2017: 16). Finally, it is argued that VSOs can actively include service users' voice in service planning, design and delivery. For example, CLINKS research from 2011 found that VSOs were the most active entities promoting service user consultative groups in prisons and probation trusts across England and Wales (Martin *et al.*, 2016: 37).

VSOs addressing systemic inefficiencies and weaknesses

Arguably, VSOs contribute beyond supporting individual service users, at a more systemic level, and therefore facilitate a more efficient criminal justice system. It has been suggested that they play an important part in delivering 'a fair and just system by assuming responsibility for ending state-sponsored punishment at the appropriate time, so that former offenders can move back into active citizenship. The role of the voluntary sector therefore extends beyond providing crime reduction solutions to creating a more credible and efficient criminal justice system' (McNeill, 2012). It is also the case that service users' involvement with VSOs can be ideally juxtaposed to the necessarily disempowering experience of being subject to the mandatory intervention of the state through being involved with the criminal justice system. It is argued that this can soften the impact of the criminal justice system, particularly if VSOs are allowed to act 'as independently as they can from the formal machinery of justice' (Martin *et al.*, 2016: 31). Moreover, VSOs also advocate for service users' rights: individually, but also for collective groups of service users, particularly through influencing penal policy. For example, Maurutto and Hannah-Moffat (2016) show that despite state co-option of many VSOs in Canada, women's VSOs played an instrumental role in influencing the legal and penal process by shaping the development of specialised domestic violence courts.

In the Republic of Ireland, the Irish Penal Reform Trust (IPRT) is the foremost example of a critical and effective research and advocacy VSO, often successfully influencing penal policy at the highest level. The role of VSOs as watchdogs has most recently also been reiterated during Ireland's last review of the Optional Protocol to the Convention Against Torture (OPCAT) in 2017, where it was emphasised that civil society organisations should continue to be 'allowed to make repeated and unannounced visits to all places of deprivation of liberty, publish reports

and have the State party act on their recommendations' (IPRT, 2017). Finally, VSOs can act as innovators and mediators in terms of the sometimes fossilised relationships between state institutions and agencies. Indeed, anecdotal evidence from the Republic of Ireland demonstrates that criminal justice VSOs can provide innovation by forging new collaborations between Government departments and, as a result, provide innovative solutions to service users.

The flipside of the criminal justice voluntary sector: net-widening and boundary blurring

The term 'social control' is over-used, but is useful in conceptualising the criminal justice voluntary sector. Stan Cohen famously argued in his book *Visions of Social Control* (1985) that new forms of seemingly benign crime control, including the involvement of communities in the criminal justice system, can contribute to 'net-widening', 'boundary-blurring' and 'masking'. Although with slightly different points of emphasis, all three concepts denote an extension of social control. Cohen suggested that whereas the prison physically implied clear geographical boundaries in a particular setting, concentrating control, crime control is increasingly dispersed to more sites, resulting in 'boundary blurring'. He did not argue that this movement was negative per se, as it could potentially lead to increased investments in local communities, but warned that boundary blurring 'can easily lead to the most undesirable consequences: violations of civil liberties, unchecked discretion, professional imperialism' (Cohen, 1985: 257). Similar ideas have been raised by other scholars in relation to historical philanthropic work (Ignatieff, 1987) and the invention of social work (Donzelot, 1980).

Contemporaneously, debates have applied the 'social control' argument to investigating whether and to what extent similar 'pains of imprisonment' (Sykes, 1958) can be experienced when people are punished in the community, and whether this warrants the claim that we have moved from a century of 'mass incarceration' to one of 'mass supervision' (McNeill, 2018). The 'paradox of probation' refers to these same concerns and points out that when more stringent community penalties replace lesser sentences, 'probation functions as a net-widening rather than a penal reduction mechanism' (Carr, 2016: 331).

It is important to differentiate between coerced and non-coerced participation in the criminal justice voluntary sector (Maguire, 2016:

65). It could be argued that when a statutory element is involved, i.e. when VSOs are obliged to monitor compliance and report breaches, the risk of 'net-widening' is more significant. In the Republic of Ireland, for example, the Community Return Programme was introduced as an incentivised and structured early release programme in 2011 through a partnership between the Probation Service and the Irish Prison Service (McNally, 2015). Prisoners, generally serving sentences between one and eight years, are assessed for participation in the programme. Community Return supports them in pursuing meaningful work placements in the community, which are hoped to have rehabilitative and reintegrative effects. Importantly, VSOs monitor compliance with the conditions agreed under the programme. The evaluation of the pilot programme (Irish Prison Service and Probation Service, 2015) has demonstrated the success of the programme, as only 88 (11% of) pilot participants breached their supervision conditions and were thus returned to prison. The reasons for breach included 'non-attendance, drug use/relapse, participant coming to adverse attention of An Garda Síochána, reoffending or a significant deterioration in resettlement conditions' (Irish Prison Service and Probation Service, 2015b: 36). The programme's evaluation seems to indicate that these breaches were probably performed as a last resort, as two-thirds of community-based Probation Officers submitted applications to the Irish Prison Service to facilitate a change of supervision conditions in order to allow for drug rehabilitation treatment, change of address, etc. (Irish Prison Service and Probation Service, 2015b: 36).

Nevertheless, the involvement of VSOs in Community Return can be considered as an example where concerns around 'net-widening' should at least be investigated. Whereas more research would be needed as to its actual effects on service users, particularly in relation to the interactions with VSO staff, it has to be acknowledged as a potential risk for the criminal justice voluntary sector. In relation to this, the Jesuit Centre for Faith and Justice (JCFJ) has warned that the involvement of VSOs in the Community Return Programme is problematic as it potentially alters 'the dynamic between community and voluntary organisations, their service users, and the IPS and Probation service' (JCFJ, 2013: 5).

However, an expansion of social control can also happen in much more subtle ways, for example through daily and informal information sharing. VSO staff gain detailed information on service users 'during apparently informal and non-punitive interactions'. At times, this

'privileged access to information about services users … can result in recalling service users to prison' (Tomczak, 2017: 50). While information sharing does not always result in more punitive outcomes, the 'privileged access to information may be lubricated by the relatively informal locations where contact occurs, the apparent separation between charitable staff and the statutory criminal justice agencies, and the capacity of charitable staff to interact with their clients more frequently than statutory staff are able to' (Tomczak, 2017: 151).

In instances where VSOs are collocated with statutory criminal justice agencies, but also provide services on behalf of the criminal justice system in the community, it is important to look at the micro interactions between service users, VSOs and the criminal justice system to ascertain the 'shadings' of boundary blurring and the parameters of what is acceptable to all involved parties. Research from other jurisdictions appears hopeful, stating that 'there is little evidence that this [reporting duties by VSO staff] causes resentment or undermines trust, or that offenders confuse their role with that of probation officers' (Maguire *et al.*, 2007: 78).

Responsibilisation of civil society and penal drift

It is also useful to consider the criminal justice voluntary sector within a broader set of efforts of 'responsibilising' civil society into the co-production of social services. Particularly in relation to criminal justice systems, the process of 'responsibilisation' refers to extending responsibility for different tasks of crime control towards non-juridical agencies, communities and civil society. It has been described by numerous commentators as a core feature of advanced liberal crime control strategies, which extend their reach into civil society and communities (Crawford 1998; Garland, 2001; O'Malley, 1992; Pratt, 1989). In criminal justice, just as in other sectors, the involvement of civil society represents a shift in how government operates, as the state's function changes from 'rowing' to 'steering' (Osborne and Gaebler, 1992). The motivation behind the 'responsibilisation strategy' is not merely to share responsibility, resources and blame; it constitutes 'a new conception of how to exercise power in the crime control field, a new form of "governing-at-a-distance" that introduces principles and techniques of government that are by now quite well established in other areas of social and economic policy' (Garland, 2001: 127). Central government entices

VSOs through funding arrangements to participate in 'partnership' arrangements.

Arguably this 'responsibilisation' of civil society can be seen as a strategy working jointly with the 'rolling back' of the welfare state. While 'responsibilisation' of the criminal justice voluntary sector is not problematic per se, the risk arises of VSOs 'drifting' from their original 'mission' of social justice and empowerment towards concerns more typically associated with the criminal justice system: what has been described as 'penal drift' (Wacquant, 2009). This can occur through very subtle movements towards the normalisation of more controlling and potentially punitive tendencies, for example when VSO staff engage relatively unproblematically with issues relating to monitoring, sanctioning and responsibilising of service users. For example, research in England and Wales has shown that VSO staff rationalise and 'neutralise' their collaboration with the criminal justice system, by informing their service users of conditions and consequences of involvement (and possible lack of involvement) and thus conclude that it is 'up to the person themselves' to make the right choices (Corcoran *et al.*, 2017: 16). While this might seem a sound strategy in practice settings, it is also indicative of the penetration of punitive logics.

This is not to say that VSOs don't also resist trends towards 'penal drift'. Maguire (2016) suggests that most VSOs working in the criminal justice voluntary sector have been able to resist the pressures of penal drift. Similarly, Corcoran (2011) cites examples of resistance, whereby for example the Association of Charity Shops refused to require its service users to wear visible 'Community Payback' tags when working on its premises. My own research on youth workers' engagement with youth diversion and prevention work on Garda Youth Diversion Projects (GYDPs) has shown how they engage in a range of discursive and material resistance strategies (Swirak, 2013). Again, we need to conduct more research in the Irish context as to the effects of 'penal drift' in the broader criminal justice voluntary sector. This is particularly important in regard to the relationships between VSO staff and service users, but there is definitely an argument to be made that the sense of 'unconditionally positive' relationships between VSO staff and service users should be opened up to detailed scrutiny.

Partnerships and marketisation

Responsibilisation of VSOs does not occur in a social and political vacuum, but in the context of a re-articulation of relations between the criminal justice voluntary sector, the state and markets. What we can see across many western jurisdictions is further state retrenchment and the rolling out of market principles across the social sphere. Neoliberalism is 'multifaceted' (Konings, 2012) and 'at once an ideology, a form of politics and set of practices' (Dukelow and Murphy, 2016: 19). Underpinned by the political ideology of neoliberalism, marketisation can then be understood as a governmental regime (Corcoran, 2014) that introduces particular instruments that govern and regulate the criminal justice voluntary sector according to market-led principles. Particularly in relation to criminal justice, one of the fundamental public goods in functioning democracies, this 'penetration of private interests' (Corcoran, 2014) is worrying.

The 'asymmetry' (Smith, 2010: 552) of relationships between the state and VSOs is an inevitable feature of any contractual arrangement, as 'government is able to drive the evolution of these norms given their resources and political influence and the relative absence of alternative funding sources for non-profit services' (Smith, 2010: 553). However, third-sector literature has debated extensively whether these relationships are hierarchical or whether they represent a more horizontal relationship of 'mutual dependence' (Salamon, 1987).

In the context of the English and Welsh voluntary criminal justice sector, detailed analysis has shown that consecutive governments were successful in gradually opening up the state–VSO relationship to private market forces. In the 1980s, Conservative governments pursued the well-known agenda of privatisation of public services, lean government and fiscal constraint, starting to consider the potential of, for example, prison privatisation (Corcoran *et al.*, 2018: 2). In the early 1990s, legislation enabled the outsourcing of prison management to private sector providers as well as 'stipulating that probation services contract community-based drug and alcohol support services to the voluntary sector' (Corcoran *et al.*, 2018: 3). Under New Labour in the 1990s, 'third way politics' reified the voluntary sector 'as the missing link in a mixed welfare landscape … which could invigorate contestability in public services' (Corcoran *et al.*, 2018: 3). Several pieces of legislation on both the criminal justice and voluntary sectors paved the way to

institutionalise the voluntary sector as a provider of penal services. Crucially, this relationship once formed has been opened up to marketisation, by further outsourcing custody and resettlement services and requiring VSOs be more commercial and less reliant on public funding (Corcoran *et al.*, 2018: 4). This has also included the introduction of payments by results to provide 'financial incentives for service providers in improving competition, performance and effectiveness, and privatised probation supervision for medium and low risk (ex)-offenders by founding Community Rehabilitation Companies (CRC)' (Tomczak, 2017: 6). Notably, this privatisation of probation services has recently been deemed utterly unsuccessful, with only two of the 21 established CRCs having successfully contributed to lowering reoffending rates (Savage, 2018).

However, the exact effects of marketisation on the criminal justice voluntary sector are variable. Tomczak for example argues that the results of neoliberal reforms sometimes restricted VSOs in their agency, but often provided sufficient leeway for organisations to follow their original mission (Tomczak, 2018: 7). She shows how state funding is not a unitary entity, that VSOs can exert agency in the funding process and that marketisation can introduce proactive competition (Tomczak, 2018: 80). Interestingly, she also highlights how even the most controversial marketised reforms, such as payment-by-results pilots on mandatory resettlement, offered some 'valuable avenues of practical and emotional support' to prisoners (Tomczak, 2017: 155). Corcoran *et al.* (2017) demonstrate, as a result of their recent large-scale empirical study into the English and Welsh criminal justice voluntary sector, how VSOs adapt to different degrees to demands made by marketisation. This research found that VSOs adapt their business and income diversification strategies, sometimes resulting in organisational mergers. However, they are often faced with negotiating role ambiguity in relation to their original ethos and demands made on them by funders. Many VSOs also reported that more marketisation led to higher workloads for staff, greater emphasis on turnover and a sense of workers feeling deskilled by the demands of delivering 'routinised and watered down interventions' (Corcoran *et al.*, 2017: 15).

While developments of marketisation in the Irish criminal justice voluntary sector might not be immediately apparent, there are indications that similar trends are progressively creeping into the relationship between VSOs and criminal justice agencies. Ireland's

longstanding mixed economy of welfare is increasingly dominated by strong trends towards marketisation and privatisation in the delivery of services, particularly in the areas of employment and training, housing, water and health (Dukelow and Murphy, 2016). At present, contractual relations between statutory bodies and VSOs are regulated by service level agreements (SLAs). As these are not publicly available, it is difficult to assess them as to their inclusion of market-based principles. However, several other developments are indicative of the appetite for further marketising the VSO sector generally. In 2010, for example, social impact investment was piloted in the Republic, based on the UK social impact bond model. It was ultimately discontinued because of budget constraints (JCFJ, 2013: 17), but the piloting of a model that encourages investment of private funds in community organisations for the delivery of outcomes-based contracts should be particularly concerning for VSOs working with vulnerable service users.

Most worryingly for the voluntary sector, the current government is showing a serious commitment to introducing 'commissioning' and competitive tendering into the sector. The Public Service Reform Plan (2014–2016) outlined the need to move away from block grants towards releasing funds upon the delivery of agreed outcomes through the introduction of commissioning. During the public consultation process on commissioning, many VSOs voiced strong criticisms of these planned developments. Community Work Ireland, for example, argued that its work focused on addressing 'poverty, social exclusion and inequality through community work or community development' and was 'not a service that can be commissioned' (Community Work Ireland, 2016: iv). It also expressed the concern that commissioning inevitably leads to privatisation of human and social services. It is not yet known to what extent such concerns will be considered in the Department of Public Expenditure and Reform's current efforts in 'seeking to understand how best to align and integrate a commissioning approach with existing expenditure policy'. It is also notable that the Department of Public Expenditure and Reform has co-funded (notably with Atlantic Philanthropies and the Ireland Funds) a social enterprise ('Benefacts') that acts as a 'single repository of financial, governance and other relevant data on the not-for-profit sector', indicating that Government wants to further fold the VSO sector into its supervisory regime.

Conclusion

I have structured this paper rather schematically around 'strengths' and 'weaknesses' of some selected debates central to the criminal justice voluntary sector with a view to narrowing down what types of data and research we will need in the Republic of Ireland to better understand the size, shape and impact of the criminal justice voluntary sector. Ultimately, more complexity will be needed to understand the varied effects of the criminal justice voluntary sector in an Irish context. Tomczak's conclusion in relation to her research in England and Wales seems particularly pertinent, as she shows that VSOs cannot be simply 'reduced to intermediaries of punishment that merely expand the carceral net' (Tomczak, 2015: 157), but that VSOs' different types of involvement in the carceral net have to be understood in 'all their complexity, with different types of qualities and substance' (Tomczak, 2015: 163).

In order to paint a similarly nuanced picture for the Irish criminal justice voluntary sector, we would need to start by collecting basic empirical research. In the absence of an infrastructural organisation such as CLINKS in the Republic of Ireland, we have to rely on other umbrella organisations to collate information on the voluntary criminal justice sector. One of the main Irish VSO umbrella organisations, the WHEEL, for example, collects detailed membership and demographical information on VSOs and includes 'work with ex-offenders' as a possible data category to be used when registering for membership. However, in the overall national voluntary sector profiles provided annually, no further information is provided for this category of services provided. In addition to basic empirical charting of the voluntary criminal justice sector, in-depth qualitative research with VSO managers, staff, volunteers and service users across different types of service provision would be important to further tease out some of the particularities of the Irish criminal justice voluntary sector. Over time, such data would also be useful to describe and analyse transformations and shifts in the sector.

Some might say that the worry about 'marketisation' of the criminal justice voluntary sector is a particular Anglophone obsession that unnecessarily vilifies marketisation and overlooks disadvantages of state-centric modes of criminal justice delivery and practice (Evans, 2017). However, given the English and Welsh experience with marketisation and privatisation of parts of their criminal justice system and the Irish tendency of policy transfer, it might be worthwhile to keep an eye on

current efforts to reform VSO financing occurring in conjunction with ongoing prioritisation of partnerships with the voluntary sector. Bringing into visibility and delineating the criminal justice voluntary sector as a distinct field of intervention and research will allow us to add a further layer of analysis to Irish penal policy and to interrogate some of the sector's tensions and contradictions in way that will ultimately be useful to service users, practitioners and policy-makers alike.

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