

Doing Criminology and Criminal Justice in Ireland: Perspectives From a Peripheral Nation

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Ian D. Marder¹ and Claire Hamilton¹

Abstract

This special issue invites authors engaged in cutting-edge research on crime and criminal justice in the Republic of Ireland to demonstrate Ireland's global significance in these fields. Irish criminology is a burgeoning, diverse and outward-looking discipline, with a rising number of scholars making novel contributions to international debates on the theoretical and empirical study of crime and criminal justice. Its relatively unique position as both a Western European democracy and a post-colonial territory means that Ireland is of equal significance to the Global North and Global South. Moreover, this growth in local scholarship coincides with changes to criminal justice that should be of interest to advocates and analysts around the world. With articles on gendered historical abuses, public attitudes to policing, countering violent extremism, penal decision-making, penal politics, youth justice and organised crime, the issue brings this research to a global audience.

Keywords

criminology, criminal justice, Ireland, Hibernian exceptionalism, penality, colonialism, terrorism and political violence, postcolonial

Criminology and Criminal Justice in Ireland: Why They Matter for the World

At a recent event on the reunification of Ireland, Liam Neeson opened the proceedings thus: “Long before anyone can remember, there was a small island on the edge of the

¹Maynooth University, Ireland

Corresponding Author:

Ian D. Marder, School of Law and Criminology, New House, Maynooth University, Maynooth, Co. Kildare, Ireland.
Email: ian.marder@mu.ie

world . . .” (Lord, 2022). But what does it mean to do criminology and criminal justice on such a small island; England’s first colony, but one with many European features and which does not fit the usual colonial “type”? A country on the fringes of Europe, as Neeson suggests, but far from immune to the winds of change that visit its nearest neighbors, both east and west (O’Donnell & O’Sullivan, 2003)? A country where outward rather than inward migration has been the experience of most of its history? Where the “reach and grip” (O’Donnell & O’Sullivan, 2020, p. 1) of the carceral state extended far beyond the prison and into a range of institutions controlled by religious orders? Where, despite the violent history of the island, crime and imprisonment rates remain low by international standards (Hamilton, 2022)? This special issue attempts to address these and many other connected issues, in an acknowledgment that, in the recent drive to correct the northern hemisphere bias of current scholarship, smaller jurisdictions *within* the Global North, as well as in the Global South, have also been marginalized from the debate (Hamilton, 2016). This omission is unfortunate for, as Brangan (this volume) writes, peripheral perspectives “can provide empirical challenge to the limits of the status quo, expose the theoretical biases of the taken for granted, and bring fresh new insights to bear on our studies.”

For those readers unfamiliar, the greater part of the island of Ireland is home to the Republic of Ireland (approximate population: 4.98 million), with the north-eastern part of the island remaining part of the United Kingdom (Northern Ireland’s population is approximately 1.9 million). Ireland’s nearest neighbor, Britain, occupied the island for nearly 800 years, with independence achieved only with the island’s partition in 1922. Following partition, the troubled relationship with Britain continued to cast a dark shadow over life on the island, with political violence (known colloquially as “The Troubles”) breaking out in Northern Ireland in 1968 and continuing until the signing of the Good Friday Agreement in 1998. While, as is discussed below, the Northern Ireland conflict has strongly influenced the way in which criminal justice was and is done south of the border, this special issue concerns itself only with criminology and criminal justice in the Republic of Ireland (hereinafter: Ireland).

So what of the challenges posed by Irish criminology to criminological research? Writing elsewhere, one of us identified several areas where Irish criminology has pushed the boundaries of the discipline, among them, challenging and reconceptualizing penalty; Southern and critical decolonial criminology; and our response to terrorism and political violence (TPV) (Hamilton, 2022). Taking up these themes here, a large corpus of criminological research in Ireland coheres around the idea of a “Hibernian exceptionalism” to broader, particularly Anglo-American, punitive trends, ranging from the continued emphasis on rehabilitation (Healy & O’Donnell, 2005), to the “individuated” nature of sentencing practices (Vaughan & Kilcommmins, 2008), to the more “diluted and distinct” culture of control evident in contemporary policy and practice (Kilcommmins et al., 2004). This aligns Ireland with a number of small jurisdictions in Europe—such as Slovenia, Scotland, Sweden, Finland, Norway, and Denmark—that have carved out a distinctive path in criminal justice policy, with many of them located (rather interestingly) in the North Atlantic (Brangan, 2020; Flander & Mesko, 2016; McAra, 2005; Pratt & Eriksson, 2013).

Echoing these conclusions, Forde and Swirak (this volume) highlight the largely progressive direction of travel of the Irish youth justice system in recent years, as well as certain features which have allowed it to sidestep the “punitive excesses” in the United States and England. Observing Ireland’s heavy reliance on diversion, low rate of detention, and (broadly) child rights compliant model of care (while noting slower progress such as in relation to serious crimes and raising the age of criminal responsibility), the authors draw attention to the way in which children’s rights discourses such as diversion articulated with and reinforced existing cultural proclivities toward informality. Among other issues, the strong focus on informality, practitioner discretion, and advocacy raises some interesting questions about globalizing discourses of human rights, such as how and when they can be leveraged to their full advantage. As both Katja Franko (2019, p. 6) and John Muncie (2011) do well to remind us, there is no Hegelian global spirit looming above us. Rather, the global is realized or “made to work” only in specific localities. This point is reinforced by Healy and Griffin whose multilevel analysis of penal (i.e., parole and probation) decision-making identifies a preference for unstructured approaches to decision-making as a salient feature of the Irish landscape (see further Hamilton, 2014, 2019). Aligning themselves with the “agonistic” perspective on penal policy (Goodman et al., 2017), the authors argue that the Irish case demonstrates the importance of including different criminal justice sites, foregrounding the local context, and considering the role of individual actors (on this latter point, see further Rogan, 2011).

Beyond the use of the Irish experience to interrogate grand theory, an important substrand of this research concentrates on the meaning and conceptualization of punishment while challenging the use of imprisonment rates as the sole proxy for penal harshness. In this regard, Black and Ring echo the conclusions drawn by O’Sullivan and O’Donnell (2007, 2012) on “coercive confinement” (in the sense that this extends beyond prisons to psychiatric hospitals, industrial schools, and other institutions) and the shortcomings of any analysis of penal change which equates punitiveness with imprisonment. Like these authors, and others before them, they underscore how the language of criminalization was adopted to justify the harms inflicted on survivors of Magdalene Laundries and Mother and Baby Homes and the overwhelmingly punitive nature of their experiences. More than that, they argue for criminology’s role in unpicking the power structures at play in what has become “one of the most well-known cases of historical institutional abuse internationally.” By thinking of such harms as the consequences of broader state structures, they argue that attention is trained on culturally embedded factors such as the interrelationship between the Catholic gender role and the state’s goal of reinforcing its own sovereignty. As Loader and Mulcahy (2003) have argued in relation to policing, criminal justice institutions (and by extension the “carceral archipelago” once extant in Ireland) are, above all, cultural institutions that remain deeply entangled with questions of belonging and collective identity.

This last point about cultural nationalism within the newly created Irish state brings us neatly to the question of Southern and decolonial criminology and Ireland’s positioning within this literature. On the one hand, the strong sense of pride in

post-independence criminal justice institutions, as part of the broader process of what Declan Kiberd (1995) has termed “inventing Ireland,” effectively became a cloak concealing them from external scrutiny. This is certainly the case with An Garda Síochána (the Irish national police force and security service), whose representation of “authority of an indigenous sort” invested them with a “certain sacredness” (Manning, 2012, p. 354) with concomitant implications for accountability. In their paper on policing in Ireland, Hamilton and Black describe how this historical (postcolonial) aversion to accountability combined with an overriding “security mind-set” triggered by the Northern Irish conflict, resulted in a situation “where for many years criticism of the organisation was almost considered unpatriotic.” More broadly, they highlight the tensions that are apparent in the Irish situation between high levels of trust in the police and the acknowledgment of informalism, discretion, and occasional impropriety. In a postcolonial society such as Ireland’s, where “the colonial habit of playing games with authority” (O’Toole, 2009, p. 215) may be difficult to shake off, commitment to the goals of procedural justice (such as dignity, respect, and empathy) may be enacted through informal as well as formal processes, suggesting multiple pathways to confidence and legitimacy.

A similar line of theorizing on the legacies of colonialism is evident in Irish writing on the plurality of actors involved in policing “from below” as well as “from above” (Lea & Stenson, 2007). Niamh Hourigan (2016; also Hourigan et al., 2018), for example, argues that the family gang structure, frequently identified as a distinctive feature of the Irish organized crime milieu, is an outcome of the trauma of colonialism, something which she also links with a connected feature: gangland “feuding” (see further Windle, this volume). Hourigan’s work echoes writing that is beginning to emerge on the relationship between gangs and the state in postcolonial societies, where the failures of the state ensure conditions exist where the most marginalized members of society turn to their local communities for support (Hagedorn, 2007, 2008). Yet, as Brangan’s paper (this volume) helpfully reminds us, there are dangers in such a “reading from the center,” not least the risk that by defining the periphery/colonized against the metropole/colonizer, we attain only partial readings of places beyond the mainstream. In his paper for this volume on organized crime in Ireland, Windle similarly cautions against too neat a characterization of Irish gangs as “other” or postcolonial. For him, the existence of family gangs in the colonizer (Glasgow, East London, etc.) as well as the colonized suggests that the experience of colonialism is unlikely the primary cause. Thus, Windle argues, while “colonialism may have contributed to the precise form the phenomena takes [in Ireland],” it remains primarily “a subcultural response to social and economic exclusion.”

Returning to the question of what it means to do Irish criminology *qua* decolonial criminology, Brangan argues for the development of a “contested canon,” drawn from a more diverse range of nations and cultures, and rendering visible penal practices at the periphery. Her own work on what she terms “pastoral penalty” marks an important contribution to this field, a distinctively Irish approach to imprisonment whose aims saw experts in the system acting as shepherds seeking to strengthen prisoners’ familial

and social bonds and their moral connections to “the flock,” rather than treating their individual transgressions or recovering them from criminality (Brangan, 2021).

Brangan’s research holds much interest given Ireland’s lower rate of imprisonment relative to other European countries, a feature which, together with its lower crime rates, has earned it the moniker “a nation not obsessed with crime” (Adler, 1983). Indeed, shades of this underlying humanitarianism, “decency” or “intimate grace” (O’Toole, 2021, p. 561), can be detected in other criminological writing (Hamilton, 2019; Marder, 2022). More recently, Ian O’Donnell and Yvonne Jewkes (2011) and Kilcommins et al. (2004) have pointed to the release of prisoners at Christmas, or more particularly the “routine and mundane” approach taken to this, as a potential illustration of “the humanity that continues to characterize the Irish system, for all its flaws” (Kilcommins et al., 2004, p. 265). Irish probation practice, moreover, continues to be strongly motivated by penal welfarist concerns (Healy & Kennefick, 2019) and retains a strong commitment to clinical judgment over risk assessment techniques (Fitzgibbon et al., 2010; Hamilton, 2016). Despite patchy implementation, the widespread attraction of and to concepts (if not the mainstreaming) of restorative justice and restorative practices (Marder, 2019, 2022) could likewise indicate a desire for a supportive, forgiving justice—at least, for those deemed to deserve or have earned it. Finally, recent years have seen a range of generally progressive strategies emerging from the Department of Justice, focusing on issues like victim support, youth justice, penal reform, and mental health (Department of Justice, 2021a, 2021b, 2022a, 2022b).

Continuing in this vein, Lynch’s paper on countering extremism in this volume marks another important contribution to the “reimagining” of the work of criminology from an Irish perspective (Maruna & McEvoy, 2016). As she writes, the decades of experience that the Irish justice system has amassed in framing and responding to terrorism and political violence (TPV) hold important lessons for countries struggling with this issue in the post-9/11 era. In stark contrast to the contemporary fixation with the (extremist) individual and their ideology, “[deradicalisation] was never prominent in the discourse on Northern Ireland—it was long understood that personal and family history, discrimination, victimisation, opportunity and grievance were important in understanding the emergence of division and engagement in violence.” Reimagining a response to TPV informed by local realities, driven by grassroots organizations, and, crucially, that does not attempt to separate justice interventions from social conditions, is reflective of the broader Irish perspective that views terrorism and political violence not as a pathology, but as part of the fabric of society (Lynch et al., 2020). Ireland also represents a valuable case study in the merging of the criminal and terrorist milieus: what has been termed the “crime-terror nexus” (Makarenko, 2004). Writing on this distinctive feature of Irish organized crime, Windle (this volume) notes that “some dissident paramilitary groups have been identified as having morphed into primarily criminal groups with little remaining political motivation” or, at least, that this transformation has been partial. Morrison and Lynch (2018) (quoted in Windle) even go so far as to say, “it is often the case that there is no distinction to be made between ‘ideologically’ motivated paramilitary groups linked to the Troubles and organized criminal gangs—in fact, they are often one and the same organisation.” Such conclusions call into serious

question binary characterizations of “organised crime v terrorism” or “profit v ideology,” as well as challenging the belief that ideology prevents the formation of alliances or the development of hybrid crime/terror groups (Basra & Neumann, 2016). More fluid concepts, reflecting different trajectories into terrorism/organized crime and changes over time, may better serve contemporary criminological analysis.

Overview of Articles

This special issue on criminology and criminal justice in the Republic of Ireland invites authors engaged in cutting-edge research to demonstrate Ireland’s global significance in these fields. Irish criminology is a burgeoning, diverse and outward-looking discipline (Healy et al., 2016; Lynch et al., 2020), with a growing number of scholars making substantial contributions to core international debates on the theoretical and empirical study of crime and criminal justice.

The issue features a range of sole- and co-authored papers from both early-career and established academics. Some were born in other countries, and some are now based outside of Ireland. What they have in common, however, is their focus on crime and criminal justice in Ireland: their analysis of data collected in Ireland and/or their development and application of theory to explain phenomena and trends within the jurisdiction. The authors received invitations to contribute and met online in December 2021 to discuss and obtain feedback on their ideas. Each author has played an important, district role in Irish criminological research, on topics as broad as gender and institutional abuse, public confidence in criminal justice, extremism, probation and parole, penological theory, youth justice, and organized crime.

In this issue, Lynsey Black and Sinéad Ring explore the acute institutional harms women experienced in postindependence Ireland. This period of modern Irish history was characterized by the mass confinement of women, reflecting the misogynistic nature of society at that time and the “Catholic Church/state establishment.” They propose that criminologists must pay greater attention to this phenomenon and to recent efforts to respond via legalistic and transitional approaches. In particular, they argue that feminist and critical criminological lenses can help us recognize the ongoing, gendered nature of state crime.

In their contribution, Claire Hamilton and Lynsey Black assess levels of public confidence in the Irish police. Despite declines in confidence elsewhere and decades of serious policing scandals locally, the received wisdom is that public confidence in the police remains high in Ireland. Hamilton and Black contextualize, problematize, and scrutinize the evidence to support this paradox. They argue that the data indicate a more complex, dynamic picture than is often assumed, albeit while a postcolonial social alignment with, and deference to, national institutions offers the force some resilience.

Next, Orla Lynch analyses efforts to prevent and counter violent extremism in Ireland, addressing the implications for this work elsewhere. Ireland, Lynch proposes, is instructive because its understanding of Troubles-linked violence recognizes the socio-political dimensions of this behavior. Like elsewhere, Ireland has

been susceptible to the problematic, single-minded focus on individualistic notions of radicalization and ideology in relation to Islamist violence. Still, its long experience of responding to political violence as a predominantly social issue reminds us to broaden the scope of this policy field.

Deirdre Healy and Diarmuid Griffin apply a multilevel (macro, meso, and micro) ecological framework to analyze the influences on penal decision-making in Ireland. Informed by their extensive scholarship in the areas of probation and parole, respectively, Healy and Griffin apply this framework to examine the varied, interlinked factors and dynamics that make penal decision-making in Ireland unique, and that have changed it over time. While a largely unstructured decision-making culture has come under European pressure to become more transparent and consistent, they contend that political and media agendas and existing occupational cultures remain the overriding external influences in shaping penal trends.

Building on her award-winning recent scholarship assessing the modern penal histories of Ireland and Scotland, Louise Brangan explores the merits of applying existing Anglo-American penological theory to peripheral or Southern sites. To “decolonize the criminological imagination,” Brangan deftly asserts, mainstream scholarship must be inclusive of theorists from the periphery. But also, given its exclusion from mainstream theoretical frameworks, scholars from the periphery must resist the transplanting of an ethnocentric canon to build a new theory that can better explain local phenomena.

Bringing together sociological and legal perspectives on the topic, Katharina Swirak and Louise Forde chart the development of Irish youth justice and investigate its central features. Characterized by high levels of diversion, low detention rates, and incremental moves toward compliance with international standards, they argue that the system straddles the line between welfare- and justice-oriented models—the latter being especially dominant for children convicted of serious offenses. Considering changes in practices in youth detention and the generally progressive orientation of the Youth Justice Strategy 2021–2027, they argue for the recognition of Ireland’s utility as a case study in child rights compliance.

Finally, James Windle’s contribution to the literature attends to five distinctive attributes of organized crime in Ireland. These five qualities include the lack of research, the centrality of “family gangs,” feuds, the influence of paramilitary groups, and international mobility. With growing globalization, however, comes changes to local economies and cultures that, in turn, require organized crime groups to adapt to a more international and networked (and thus, less family-oriented) world.

We are indebted to the contributors and peer reviewers for working with us on this issue. We are also grateful to the journal editor and managing editor for their help and support, especially given the sad events that transpired in the summer of 2022.

Remembering Our Friend and Colleague, Dr. Vicky Conway

This special issue is dedicated to the memory of Dr. Vicky Conway: a friend, colleague, and inspiration of ours and of many of the issue’s authors. Indeed, Vicky was

in the process of co-authoring an article for this issue when she passed away in July 2022.

Vicky was a prominent policing researcher and Ireland's foremost expert on police governance and accountability. In a distinguished academic career spanning nearly 20 years, she held positions at the Universities of Leeds, Limerick, Kent, and Queen's University Belfast. Most recently, she held the position of Associate Professor in Law at Dublin City University.

Vicky began her career at a time when few Irish academics, with some notable exceptions, researched either An Garda Síochána or the system of police oversight that developed in the late 20th and early 21st century. One of us (Ian) arrived in Ireland in May 2018, charged with writing and delivering a new policing module that was to be compulsory for second-year undergraduate criminologists at Maynooth University. It would have been nigh on impossible to provide an academic or accessible modern history and overview of Garda Síochána were it not for Vicky's work. In this regard, her book *Policing Twentieth Century Ireland: A History of An Garda Síochána*, published by Routledge (Conway, 2014), was of incredible value. The book provides an original, critical analysis of the structure and development of the force, in the context of its (post)colonial origins. Reflecting ongoing challenges in obtaining access to serving Gardaí for research, the book drew on a large dataset of interviews with retired Gardaí, among other sources. This seminal tome remains essential reading for students, researchers, police professionals, and anyone else with an interest in the social history and politics of policing, in Ireland and beyond.

Vicky's academic publications on Irish policing mostly discussed questions of accountability, oversight, and governance. This was the topic of her first book, *The Blue Wall of Silence: The Morris Tribunal and Police Accountability in Ireland* (Conway, 2010). She also published several peer-reviewed papers on this topic, including "Current developments in police governance and accountability in Ireland" (with Dermot Walsh in *Crime, Law and Social Change*, 2011), "Near or far away: Local police governance in Ireland" (in the *European Journal of Criminology*, Conway, 2019), and "Policing in a United Ireland: the intractable questions of governance, oversight and accountability" (in *Irish Studies in International Affairs*, Conway, 2022). Her articles analyzed the decades of police scandals in Ireland and the State's response to those scandals, including the Garda Síochána Act 2005, which provides the legislative underpinning of the Garda Síochána Ombudsman Commission and the Garda Inspectorate. As a marker of its quality and importance, Vicky's contemporaries, such as Aogán Mulcahy (2016, 2021), regularly cite her work.

Of particular value to one of us (Ian) was her 2008 paper in the *Irish Jurist*, "A sheep in wolf's clothing? Evaluating the impact of the Garda Síochána Ombudsman Commission." Here, Vicky used data relating to the Commission's activities to analyze the paradox whereby it seldom used its extensive investigatory powers: most referrals were still resolved informally or by the police themselves, unsupervised by the nascent Ombudsman. In other words, the mere presence of laws and institutions with the powers to conduct independent police accountability did not create a culture that caused independent accountability to thrive. Writing with Dermot Walsh, Vicky

explored how accountability in Ireland remained too individualized to change the police institution: “[If] reforms become targeted at individual officers under the bad apples thesis, or at one policing unit, believed to be inherently susceptible to corruption [then] organisational and institutional defects go unchecked” (Conway & Walsh, 2011, p. 242). These developments, they felt, “were not enough to tackle the organisational and occupational cultures and structures from which so many abuses of power emerged.” While the challenges Vicky identified reflect those facing police accountability globally (e.g., Ahmad & Barakat, 2019; Lister & Rowe, 2016; Prenzler, 2011; Seneviratne, 2004), she always effectively contextualized the Irish experience in accordance with local (e.g., postcolonial, gendered and religious) dynamics, as outlined earlier and throughout this issue.

Vicky was intimately familiar with the most recently established policing oversight body, the Policing Authority, created in 2016 to oversee the performance of the Garda Síochána in delivering its policing services. Vicky was a vocal Authority Member, appointed to its first board in 2016 and reappointed in 2018 following a year-long hiatus to sit on the Commission on the Future of Policing, from 2017 to 2018. In both roles, she acquitted herself admirably, dragging the Commission’s recommendations into as radical a territory as she could, while raising both the visibility and criticality of the Policing Authority. Unfortunately, her concerns about the merger of the Authority and the Garda Inspectorate seem to have fallen on deaf ears. These bodies are set to be replaced by a single Police and Community Safety Authority, as per the General Scheme of the Policing, Security and Community Safety Bill, published in April 2021.

Vicky placed significant emphasis on public education and accessibility of knowledge, culminating in her hosting of the *Policed in Ireland* podcast series. Over 27 episodes and 17 episodes of *Policed: The Beat*, Vicky interviewed a diverse range of researchers, advocates, and, primarily, persons with lived experience of policing in Ireland. They discussed ethnicity and racism, new technologies, youth justice, deaths in police custody, policing of protests and crowds, gender-based violence, police oversight, scandals and stop and search, among other topics (Tortoise Shack, 2022). One of us (Ian) maintains an assessment in the aforementioned policing module in which students may write an essay on the topic of one of these episodes, exploring what it teaches us about policing in Ireland in the context of the international policing research. Consistently, over 80% of students select this assignment option, their essays clearly demonstrating the value of the podcast series for public education.

Among the most memorable episodes was an interview with Estefancy Alquinta Gonzalez, a student held unlawfully in solitary confinement for 12 days after she attempted to enter the country. Another episode was recorded with her close friend and colleague at Dublin City University, Prof. Yvonne Daly, with whom she collaborated to study human rights in police custody. Their research was concerned with access to solicitors in police custody and solicitors’ selection, training, and performance. Among other things, Yvonne and Vicky developed and delivered training for criminal defense solicitors, focusing on their role in defending clients’ rights during interviews in Garda stations. In recognition of its importance and its quality, their training was accredited by the Law Society of Ireland and funded by the European Commission. They had just

begun to publish this work, with papers appearing in the *Irish Judicial Studies Journal* (Conway & Daly, 2019), *International Journal of the Legal Profession* (Pivaty et al., 2020), *Journal of Human Rights Practice* (Conway et al., 2021), and *Journal of Law and Society* (Daly & Conway, 2021). Yvonne and Vicky wrote a book, *Criminal Defense Representation in Garda Stations*, due to be published shortly by Bloomsbury.

Her work as a policing scholar complemented her wider work on a range of social issues. For example, Vicky played a core role among the group of legal scholars that fought to legalize abortion in Ireland. With several colleagues (including Dr. Sinéad Ring, her close friend and an author in this issue), Vicky published a model legal framework for liberalized abortion in *Feminists@Law*, an open-access journal (Enright et al., 2015). As Yvonne Daly notes in her tribute to Vicky published by the Association for Criminal Justice Research and Development (Daly, 2022), Vicky's collaborations with civil society groups extended to the Irish Traveler Movement, the Sex Workers' Alliance Ireland and the Stardust Campaign (a group of families seeking justice following 48 deaths in a nightclub fire in Artane, Dublin, in 1981). These are indicative of Vicky's constant allyship of those fighting for justice from a place of marginalization or vulnerability.

Vicky was a beautiful personality, an outstanding researcher, and a strong campaigner for equity and police reform. She will be deeply missed by everyone touched by her or her work.

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Author Biographies

Ian D. Marder is Assistant Professor of Criminology at Maynooth University School of Law and Criminology since May 2018. His work focuses mostly on criminal justice reform and the development of restorative justice and restorative practices in criminal justice, including ongoing collaborations with justice ministries and police, probation, and prison services in Ireland and across Europe.

Claire Hamilton is Professor of Criminology and head of criminology in the School of Law and Criminology, Maynooth University. Her research interests coalesce around the (comparative) politics of crime and security, spanning criminal procedure, counter-terrorism, and penology. Her latest book is the *Research Handbook of Comparative Criminal Justice* (co-edited with David Nelken) published by Edward Elgar in 2022.