

**Working Notes Issue 43:
Juvenile Crime: Are Harsher Sentences the Solution?**

A Vision for Ireland: A Question Of Tax?

Written by [Eugene Quinn](#) on Monday, 23 June 2003. Posted in [Issue 43 Juvenile Crime: Are Harsher Sentences the Solution?, 2002](#)

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Eugene Quinn , an actuary working part-time with the CFJ, examines issues of fairness in taxation.

Introduction

Taxation is always a vexing question and in the modern Ireland particularly so. The role of taxation policy in stimulating the Celtic Tiger is disputed. The neoliberal view is that the creation of a low tax environment was integral to our economic success and is an essential ingredient if that success is to continue. This premise has not gone unchallenged.



The opposing view points to factors that were funded through tax revenues such as the supply of an educated labour force and the presence of an adequate infrastructure as major contributors to our economic growth in the period. These differing perspectives bring into focus tensions at the core of taxation policy.

Most people do not like paying taxes, however the majority of people recognise that taxation is necessary for a state to function. Willingness to pay tax though is premised on two criteria: that it is fair and that it is value for money. The purpose of this article is to examine the Irish tax system using these criteria and trying to gain an understanding of how attitudes to paying tax have been formed and what are the hopes for reform.

Context

Ireland has arrived at a position of unprecedented economic success by any macroeconomic standards but is facing an uncertain economic future. The Celtic Tiger of the mid-to-late nineties resulted in record economic growth that has been the envy of the world. Unemployment is at a record low with an estimated 400,000 new jobs created over this period. The belief is that 'a rising tide lifts all boats' and that there is a trickle down effect of wealth to all levels of Irish society. The Government points to a reduction in consistent poverty as evidence of this improvement. Some commentators and political parties (e.g. Progressive Democrats) argue that key to economic growth has been a series of tax cuts that have made Ireland, according to the OECD, the lowest tax environment in Europe.¹ Lowering Corporation and Capital Gains Taxes substantially has resulted

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in higher revenue receipts and lowering income tax has created a more attractive environment for enterprise and significant income gains for most categories of workers. Therefore, tax cuts have become sacrosanct and non-negotiable if the whole economic edifice is not to be unwound. As the employers' body IBEC warns, "Higher taxes would very quickly erode the jobs friendly environment patiently built up" in response to suggestions by the ESRI that recommended higher taxes as part of the package to protect the countries finances.[ii](#)

Some economists have strongly contested the importance that has been attached to tax cuts in delivering economic growth. They argue that our economic growth has been caused by factors we can control such as lower corporation tax rates, the work of the IDA and maintenance of industrial peace. Key to industrial peace was the Partnership process. Wage agreements were facilitated by the use of lower personal taxes as part of the package. The growth was built also on the foundation of earlier public investment (of taxation revenues) in ensuring adequate infrastructure existed and the supply of an educated labour force. Of course there were factors that were beyond our control; advantageous exchange rates against the dollar and sterling that made Irish industry competitive, the sustained economic boom in the US, low energy prices, cheaper access to and from Ireland and significant EU transfers of money to build better infrastructure. For the Celtic Tiger then, it can be concluded that tax cuts were a component not a determinant of growth.[iii](#)

While it is true in absolute terms that people are better off, in relative terms the gap between those who have and those who have-not has widened. Combat Poverty in their review of the last five budgets concluded that they have largely benefited higher income groups in the population. The richest 10 percent of the population received 25 per cent of the Budget giveaways during the five years of the last Government while the poorest 20 per cent received 5 per cent.[iv](#) Behind the numbers there are concerns that Ireland is becoming increasingly a two-tier society. If you have resources you can afford private health, voluntary pensions and access to better education for your children. On the other hand those who cannot are condemned to poorer health service, a frugal retirement and a similarly bleak future for their children.

For others relative inequality does matter because their vision of society is broader than the operation of the market and the preoccupation with economic growth (irrespective of how it is distributed). Relative inequality matters because a widening gap between rich and poor means the poor cannot participate equally in society. This view is predicated on a belief that we are all born equal but we are not born with equal opportunities, and so society has a responsibility to try and correct its failures. The state has a role in rebalancing the equation. The extent of state intervention and the redistributive role of taxation in providing resources often prove contentious. The needs of the poor, the marginalized and the excluded are seen as a higher priority than the needs of the rich. If higher taxes are seen as necessary to achieve this goal then these two perspectives may come into conflict, particularly if growth is perceived to be a casualty of equality.

What we are faced with is contending visions for Ireland. On the one hand there is the primacy of economic growth and the centrality of low tax rates in achieving that goal. As market advocates put it there is no point in arguing about how to split the cake if there is no cake in the first place. The

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opposite perspective envisages a more just and equal society, where there can be growth with equity. The Scandinavian countries are examples of higher tax regimes that are compensated for by an enviable level of public services (transport, health and education).

Principles of a 'fair' tax system



Adam Smith's canon of taxation of 1776 enumerates criteria by which a tax system can be assessed: equity, efficiency, and ease and cost of administration. Smith expands on the principle of equity subdividing it into horizontal equity, people earning the same amount should pay the same tax and vertical equity, those on higher incomes should pay more than those on lower incomes.

The concept of horizontal equity is subject to challenge. It is plausible to hold the view that equity is best served by "making tax payment proportional to the degree of benefit derived from government expenditure"¹. Thus it is not income but benefit from public services that determines the level of tax. Such a system is simple but unworkable for a number of practical reasons, not least how to measure how much each person benefits from public services since they do not pay for them directly.

In general a key principle of fairness is that taxes ought to be based on ability to pay. This means that people with higher incomes should pay a higher percentage of their incomes in taxes than people with lower incomes. A tax system that embodies this key principle of fairness is said to be "progressive". A system that, on the other hand, requires people on lower incomes to pay a higher proportion of their income than those with higher incomes is said to be "regressive".

Eroding the Tax Base: Regressive Concessions

Much of the debate on the Irish tax system seems to begin and end with the actual tax rates and income thresholds. In Ireland we have a system that is nominally progressive. There are two tax rates that are applied to taxable income after a series of allowances, exemptions, reliefs and exclusions. The standard rate of tax is applied to all taxable income below a certain income threshold. Above that income threshold a higher marginal rate of tax is applied. The aggregate of taxable income is termed the tax base. The size of the tax base determines the level that tax rates must be applied to ensure that the Exchequer raises the revenue required by government. Consequently, if a government is unwilling or unable to reduce public spending any measure that narrows the tax base will require higher taxes or borrowing. On this basis any concession that applies only to some taxpayers must be subsidised by all other taxpayers. There is a need for such concessions to be justified; otherwise the perceived fairness of the system is undermined.

The main concessions could be grouped as:

(i) Social: Pension Contribution Relief, Mortgage Interest Relief and Health Insurance Relief.

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(ii) Development: Investment in properties in designated areas or in the film industry.

The aim of these concessions is to promote socially desirable goals such as home ownership and pension coverage. From a justice perspective however, we can ask who benefits most. In last months issue [vi](#) we saw clearly how regressive the current pension regime is. Ireland shares with the UK the worlds most generous tax concessions on pensions. There is an ever-increasing amount of tax expenditure (in terms of revenue foregone and consequently narrowing the tax base) on voluntary pension schemes benefiting the most those who make the largest contributions i.e. those on higher income. Is it fair that government expenditure is directed towards securing the future of those on higher income via voluntary private schemes as opposed to higher direct expenditure on social welfare pensions that benefit all?

Mortgage Interest Relief has led a checkered existence over the past decade. It has been reduced from marginal to standard rate relief as a token to fairness. There is however, still a considerable group of lower income earners that will never have the possibility of getting a mortgage and therefore can never benefit from this concession. The position with regards to investors is particularly problematic. The removal of relief from investors was welcomed as their presence was inflating prices for first time buyers trying to enter the market. This element was quickly repealed due to a resultant chronic shortage of rental accommodation. The government has to balance a number of objectives and tax concessions may be one way of achieving those aims, even if the measure is not equitable to all taxpayers.

Health Insurance is already vastly subsidised through public investment in the services available under private health insurance policies. The availability of tax relief deepens the inequity. The health system is truly becoming a two-tier system with one level of service for those who have private health insurance and a much lower and poorer service for those who cannot afford it.

One way of encouraging investment and development of underdeveloped areas of the country was by allowing special tax breaks for designated areas. It is difficult to evaluate the success of these schemes. People point out that the renewal of Inner City Dublin and of the Dublin Docklands would not have occurred without them. On the other hand there has been criticism of the lack of integration between these developments and local communities. Communities remain polarized as the office workers and young, mobile residents of securitized apartments share neither time nor interests with existing residents.

The film industry due to its specific nature is accorded a special position with respect to investment. The cultural contribution of this industry is difficult to quantify. Also the positive knock-on effects for the tourist industry remain open to question.

However what remains unquestionable is that both these developmental concessions are excellent vehicles for the wealthy to shelter their income from tax.

Another area that has been historically a bone of contention is the inequity in the different methods of levying tax on different sectors of the working population. There is a large captive PAYE element

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of the tax base that has tax deducted at source. The self-employed sector on the other hand are self assessed thus allowing considerable scope to 'manage' income in a tax efficient way via capital allowances (relief for capital expenditure e.g. purchase of machinery or computers), deductible expenses (expenses in the running of the business e.g. staff salaries, travel and 'entertainment') and the timing of realised gains (this is the amount of gains that have been made between the date of purchase and the date of selling an investment). Historically there have been powerful political lobbies such as the farmers, which have enabled them to resist being drawn into the tax net.

Difficulties in Taxing the Rich

"According to the Revenue Commissioners' estimation 17% of people with incomes over £250,000 pay tax at an effective rate of 20% or less" (in comparison to the then standard and marginal rates of 24% and 46% respectively)^{vii}. High-income earners have a good degree of discretion as to when they earn income as well as access to financial advisers to minimise their tax liability. The system appears to be biased towards the wealthy. The issue from a fairness perspective is not that there are opportunities available to minimise one's tax liability but that those opportunities are not available to all.

In the Irish system income is defined solely in terms of money earned from work. Money earned from gambling or capital gains although it gives the benefactor the same spending power is taxed differently or not at all. For example the highest marginal rate of income from work is 42 % whereas capital gains are taxed at 20%. Less than 1% of daily transactions in the stockmarket are in newly issued stock, thus it can not be argued that capital gains should be treated differently for tax purposes on the grounds that it encourages productive investment. Thus in the absence of an economic justification for taxing capital gains (mainly enjoyed by the wealthy) at a lower rate than workers' hard earned wages it points to further evidence of a bias towards the wealthy inherent in the tax regime.

The taxation of the super rich is something that most governments appear to have given up on. The existence of tax havens allows the wealthy to locate their mobile assets in jurisdictions with minimal taxes. In a recent article on Irish Euro billionaires and millionaires it was interesting to note how many were non-resident for tax purposes (among those mentioned were Dermot Desmond (est. 1,034m), Tony O'Reilly (est. 1,984m) and Tony Ryan (est. 810m))^{viii}. The result is that taxes as a percentage of income increase steadily from low to middle incomes and then falls away rapidly at the higher income levels.

Since the super rich pay little tax they often seek to assuage their conscience through philanthropy. In Ireland we see the Arts, Universities and Charities all benefiting from this benevolence of some of the nation's richest individuals. It serves as a rather crude proxy for redistribution of wealth. Of course the individuals determine the projects that they have most empathy with, which in no way constitutes coherent social development. The American example is more extreme as is the wealth inequality. The Bill Gates Foundation has billion dollar resources meanwhile there remains a growing underclass of American poor people that remain steadfastly neglected by the state. Is a billionaire financier or the democratically elected government of a state the more appropriate trustee

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of funds to benefit the poorer off sections of society? In the longer term it would be hoped that the state is the better mechanism (even if that is not always immediately obvious!).

According to the Organisation for Economic Cooperation and Development (OECD) globalisation has created an environment in which "tax havens" thrive and in which governments may be compelled to adopt "harmful preferential tax regimes" to attract highly mobile financial and other service activities.

"If unchecked, such tax practices can distort trade and investment patterns, erode national tax bases and shift part of the tax burden onto less mobile tax bases, such as labour and consumption, thereby adversely affecting employment and undermining the fairness of the tax structure".[ix](#)

In simpler terms the existence of tax havens may mean that there is a shortfall of tax revenue in domestic economies that might need to be made up by the other taxpayers. This effectively adds insult to injury, not only do the super rich earn multiples of an individual's income but by avoiding tax they are indirectly responsible for a further fall in an already meagre net pay.

Among OECD's list of potentially harmful tax regimes was our own International Financial Services Centre (IFSC). Originally it offered a preferential corporation tax rate of 10% compared with a domestic corporation tax rate of 40% at that time. The IFSC was considered so advantageous to Irish businesses that it was reckoned to be in the best interests of the Exchequer to reduce the domestic corporation tax rate when the grace period for the IFSC preferential tax arrangement expired.

Corporation tax receipts increased despite the fact that the corporation tax rate fell to almost a quarter of its previous value. How can we explain this phenomenon? Multinational corporations simply recognise their profits through their Irish branch. A result that is achieved through artificially inflating profits in a given location through a process of transfer pricing that enables profits from the worldwide operations be notionally assigned to the most tax advantageous location, in this case Ireland. Ireland is in some way the ill-gotten benefactor of gains earned elsewhere, by definition depriving other economies of their just tax revenue. Ireland would well be warned against banking on such windfall revenues in the long term as the mobility of industries that source them ensure that the profits can just as easily be located elsewhere. Furthermore, Ireland has been criticized for resisting tax harmonization in the EU.

Tax Amnesties

Since 1988 there have been three significant tax 'amnesties', whereby there was a once off opportunity to correct tax affairs without the risk of prosecution. There is a general concern around the use of amnesties that appear to send out the wrong



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signal to compliant taxpayers but this fear is overridden in the short-term best interests of the Exchequer.

The 1988 amnesty was simply an amnesty from prosecution and interest penalties. The 1993 amnesty, however, included not only an interest and penalty amnesty but also introduced a special 15% tax rate for individuals with income tax, capital gains and levies arrears. This rate was tantamount to a reward for not making tax returns. Not only did errant taxpayers not get penalised but they also had the use of unpaid taxes to invest in the interim period. Ultimately then they paid tax at a lower rate than they would have had to if they had made their returns on time.

I believe that amnesties constitute governmental abuse of the tax system in the short-term interests of the Exchequer. The sense of civic duty in payment of taxes is undermined. The long-term best interests of the Exchequer and the state are not served by a fundamental lack of belief in the fairness of the system.

Business has recognised successive governments 'soft' approach on tax avoidance. AIB were found guilty of irregularities in their DIRT returns and had to pay arrears and penalties of around £100M. One economic commentator estimated that this amount would have been £400M if the same system of interest penalties had been applied to them as is applied to individuals. Allowing for the fact that the banks were making investment return on the amounts not returned, it is unlikely that there was a financial penalty at all for their misconduct. As there is a consistent message being sent out to the Irish taxpayer it is no wonder they are so cynical about the system.

If businesses and the wealthy do not pay their fair share of taxes, those who work in Ireland's factories, schools, offices and hospitals wind up paying more than they should. But the antipathy of the Irish taxpayer is not solely sourced from present day anger at the unfairness and inequities of the system. There are historical antecedents that have been highly influential in the determining the disposition of many taxpayers.

Ireland: A History of antipathy to Tax

Prior to independence there was an ideological and righteous objection to paying taxes to Britain. This was exacerbated by the fact that they were being overcharged. "It has long been an article of faith that Ireland had been overtaxed under British rule and that the country could be administered more cheaply under native rule" .[x](#) In fact once demobilisation occurred at the end of the Irish Civil War the government slashed the standard rate of income tax from 25% to 15%.

The low rate of income tax that existed in the early generations of the state reflected the minimalist state intervention that prevailed. The role of the Church as provider of social services substituted for the State. In the post war years public expenditure soared with capital investment in infrastructural and social programmes. In the sixties with the take off of the welfare state, public expenditure continued to climb rapidly. Shortfall in tax revenue was made good by borrowing. The Oil Crisis in 1973 precipitated a sustained growth in public borrowing encouraged by low interest rates. The huge hikes in interest rates in the early eighties placed a huge strain on public finances to service the

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interest payments on the national debt. The answer to this fiscal crisis was to levy very high taxes on PAYE workers, later accompanied by a very sharp cutback in public spending.

The growth of government, with the emergence of the welfare state, resulted in what was sometimes perceived to be a bloated and inefficient public sector. The use of the public sector to provide employment during recession helped to engineer this position. Austerity measures of the eighties were a response to earlier profligacy. Corrective policies, such as the policy of replacing 1 in 3 of those who retired, meant increased inefficiency in the public sector. At that time cost not efficiency was of primary concern. Taxpayers at that time were faced with the twin evils of high taxation and severe cutbacks in public expenditure. A legacy of that period and the following years of fiscal austerity is a deficit of investment in the infrastructure of health and education.

Currently, even though Ireland has one of the lowest tax environments in Europe, it also has one of the most underdeveloped public sectors. Years of under-resourcing has come home to roost with infrastructure (gridlock on our roads and the country grinding to a standstill), poor planning (ensuring that a viable public transport proposal for Dublin is impossible, ribbon development in rural areas placing unbearable strain on public amenities such as water and sewage disposal) and a decaying health service. All of this is occurring despite massive increases in public spending, most of which has been consumed in bringing public servants pay up to date.

Paying tax: A question of morality?

In addition to a historical antipathy there appears to be a moral ambivalence to paying tax. In this country there is generally only a qualified disapproval of financial misconduct. Recent tribunals have 'done much to determine the nature of corruption' in Ireland but 'changes to improve the political and administration system are minimal' [xi](#) . Our attitudes to so-called 'white collar' crime are disingenuous amounting to a slap on the wrist and don't do it again. This is in stark contrast to our inclinations to punish 'blue collar' crime. For example, an insurance broker found guilty of fraudulently mis-selling products to obtain higher commission is as guilty of theft as a person who breaks into the same person's house and robs it. The difference is perception and punishment. Normally for one we will demand a custodial sentence but for the other disbarment or the censure of his peers is normally deemed sufficient. It is a curious double standard and thus no wonder that tax avoidance and tax evasion is so commonplace in our society.

The influence of the Church has contributed to this dubious 'moral' climate. The Church has never attached the same moral opprobrium to financial misconduct as it has to say sexual misconduct. The Church's teaching which is so rigid and inflexible on other matters is surprisingly circumspect when it comes to payment of tax. The moral obligation is to pay a 'just' tax. But how does one define a 'just' tax? Well for once the discretion is left up to the individual and their conscience. The Church has usually taken the lead in informing people's conscience on moral issues but not so in this case. For instance, PAYE workers of the early eighties could plausibly argue that a top tax rate of 66% was not just. It is the ambivalence of this position that enables people to justify tax evasion.

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Ireland has arrived at a difficult juncture. Many taxpayers perceive the tax regime to be neither fair nor 'value for money' (in terms of delivery of public services e.g. health). Even among those who believe that tax is necessary, many are of the opinion that a 'fair' (or just) amount of tax is as little as possible, an understandable viewpoint given the crisis of legitimacy that the tax regime is facing. This conception of paying tax is one of a 'negative' duty, by this I mean that the emphasis in terms of obligation is placed on the burden to the individual or the penalties for non-compliance.

The task of reinventing tax payment as a positive duty is immense. The emphasis is placed on what should be done rather than what should not be done. A positive duty is defined in terms of the 'positive' outcome for society, namely, the use of tax revenues to establish a more just and equal society. It requires rolling back distrust that is historically embedded. Reform of the system is necessary to re-establish legitimacy. This is not easy against the ongoing demands of running a country. If we really want better roads, schools and hospitals we as a society must be prepared to pay. If we want a more equal society with equal opportunities for all then that also comes at a price, the price being tax. It is then that our principles and beliefs start to cost by hitting us in our pockets. As we see the mechanics of how tax is levied needs to be fair and the fruits of public investment needs to be seen if the system is to retain its legitimacy.

Conclusion

In conclusion, I believe we must conclude that the Irish tax system in its current incarnation is facing a crisis of legitimacy. The combination of reliefs, allowances, exemptions and deductibles ensure that the outcome is not equitable either at the same income levels or at different income levels. The taxation of businesses and the rich certainly is not representative of their ability to pay. The regime is perceived as neither fair nor value for money. Tax amnesties have ensured that the tax dodgers and not compliant taxpayers have been rewarded. The Government has pursued its economic best interest even at the cost of destroying the remaining vestiges of credibility surrounding the fairness of the tax regime. There is a historically embedded perception that public funds are being used neither efficiently nor effectively in the public interest. The actions of recent governments have not disabused taxpayers of this notion. This and other factors have contributed to a dubious national attitude to paying tax and enabled an environment of tax avoidance to flourish.

"If we choose to define a 'good tax system' as meaning one that is absolutely fair then we must be guided by the equity principle at all times. If however we view a good system as one that is workable and provides governments with the resources it needs, then we can settle for one that is accepted by the majority of tax payers without unrest or widespread tax evasion." [xii](#)

Unfortunately, successive Irish Governments appear to have settled for the latter

There has been a reluctance to create a new paradigm for taxation: a paradigm that sees taxation as essential to the cohesion of our society, as a means to level the playing field and redistribute wealth, income and most critically opportunities in our country. We have looked in reality to Boston and not Berlin. The European tradition of strong public investment in key services financed by higher taxation was bypassed for the more robust, individualistic model of the market. The problem with

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the latter model is that it has resulted in a growing inequality that means that a substantial proportion of our population is denied opportunity to participate fully and equally in our society. Indeed, this model we are embarking on does have a precedent. The US is the wealthiest and the most unequal country on the planet. Even more regressive tax cuts are before Congress to ensure the rich get richer. The consumer is king so long as you have means to consume. There is no adequate safety net for those that fall between the cracks. The US is also one of the most dangerous countries in the world to live in. It has the highest imprisoned population in the world. There is a two-tier system in most facets of public goods: education, health and even public security. The market rules and the only game in town is growth.

But this is a vision that the Irish public does not totally share. Witness the election pledges of the major parties "A lot done. More to do", "Quality of Life", "Ambitious for Ireland". The parties in their rhetoric aspire to a more equal and just country with better public services. The burning question is how we can afford them if not through higher taxation. In recent days there are pertinent questions about their affordability given the large hole in the public finances. But for higher taxes to be acceptable there requires fundamental reform of the tax system and a restoration of credibility and legitimacy in the minds of Irish taxpayers. In the most optimistic sense taxation can and should be a partnership and not a hostile engagement between a state and its citizens. As Benjamin Franklin said, "in this world nothing can be certain except death and taxes". This is true of Ireland also. But it is how taxes are levied and spent that will determine the vision and character of our society.

Notes

- i)** 'Ireland has Lowest Tax Take in EU', says OECD Report. Downloaded from www.tax-news.com
- ii)** 'Irish Think Tank Urges Tax Increases', Jason Gorringer, Tax=News.com, London 24th April 2002
- iii)** 'Clinch, P., Convery, F. and Walsh, B. (2002) 'After the Celtic Tiger: Challenges Ahead', O'Brien Press
- iv)** 'Rich gets the breaks, poor get little', Maev-Ann Wren, Irish Times, 17th April 2002
- v)** Allen, C. (1971) 'The Theory of Taxation', Penguin: Harmondsworth
- vi)** See the article "Falling between two pillars: The Prospect for Pensioners in Ireland" in the April 2002 Issue of Working Notes.
- vii)** 'Irish Income Tax - Is it a good system?', Ronan Clarke
- viii)** 'Desmond joins Euro billionaire', Colm McKenna, Irish Times, 4th April 2002
- ix)** OECD Report on Tax Havens and Harmful Tax Regimes. For further information look up www.oecd.org under taxation
- x)** Meenan, J.F. (1970) 'The Irish Economy since 1922', Liverpool: Liverpool University Press
- xi)** Harvey, C. (2002) 'Rights and Justice in Ireland: A new base line report' The Joseph Rowntree Charitable Trust
- xii)** 'Irish Income Tax - Is it a good system?', Ronan Clarke

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Juvenile Crime Re-visited

Written by [Peter McVerry SJ](#) on Sunday, 22 June 2003.

Reflection and Analysis on Social and Economic Issues

Issue 43 June 2002

Peter McVerry SJ has worked with homeless young people for the last 25 years. In this article, he looks again at the problem of juvenile crime. The problem explodes



A Blight on Many Communities

The recent death of two gardai in a so-called "joyriding" incident focused political and media attention once again on the problem of juvenile crime - for about five days!

For those five days, every TV discussion programme and every radio chat show was debating the issue. How should our society respond to what everyone acknowledged was a horrendous tragedy, the death of two gardai doing their job, the bereavement of two families, caused by two teenagers who allegedly had been treated softly by the courts on previous occasions? Understandably, in the highly charged emotional context of the killings, there were calls for tougher legislation, longer and mandatory sentences for joyriding, and more detention places. Other voices called for more reflection on the problem, more analysis and more emphasis on prevention. While these two approaches are not mutually exclusive, nevertheless there was in the discussion a tension between the relative importance of both types of response. Before revisiting the arguments, some introductory comments might be useful.

THREAD, a community forum in Darndale, an area of social deprivation in Dublin, asked "why did two gardai have to die before society sat up, took notice and began to ask questions?" In Darndale, as in other areas of Dublin, residents "night after night lie awake to the screech of brakes and exploding petrol tanks of burnt-out cars". "The situation improves "when the Garda initiate programmes like Operation Dochas or Operation Nightowl. Unfortunately, these initiatives in the community are always short-lived". "Why", they ask, "is a crisis allowed to develop before anyone takes notice? Why do we have to go from crisis to crisis before anything is done? Why do we have to wait until someone is killed?"

THREAD expresses the frustration of many community groups in deprived areas who feel that problems are ignored as long as they are largely confined to those deprived areas. It is only when the consequences of those problems, which the local community have to live with day after day, affects the wider community that shock and horror are expressed and action is taken.

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Some might feel that the community forum in Darndale is exaggerating. However, the total silence on the issue, from politicians and media, after the initial five days of hand wringing and election-style point scoring, only confirms their frustrations. We have moved on to more important matters. Cars still screech around Darndale. The final sentence of their open letter expresses their fears so accurately: "When condemnation of "joyriding" is no longer the flavour of the month, we will still be left with the same problems and the same danger".

The Government response

The Government response - the public demanded a response - was to announce the setting up of 20 detention places for 14 and 15 year olds in St. Patrick's Institution. (St. Patrick's Institution is a prison for 16-21 year olds). The juvenile detention centres are full, so more places were needed. A doctor, a psychologist, nurses, professional full-time staff were to be recruited. 10 teachers, including a principal, were to be employed giving a pupil-teacher ratio of two to one. 9 million were being set aside to fund these places. Was this a knee-jerk reaction to assuage the public anger? Or a well thought-out response to a problem that had been seriously reflected upon?

The community in Darndale recognises that "the problem escalates when particular individuals are 'out' ...when these people are picked up and put away, the problem recedes". But this is not to say that they are satisfied with the government's response. In the light of the government response, their frustrations are perhaps deepened, certainly justified. They point out that "It is unbelievable that Darndale has no full-time School Attendance Officer...that the schools' psychological service cannot guarantee any further assessments before the end of the school year...that there are insufficient educational supports for our children in school" [i](#).

Few people working with children would support the setting up of 20 detention places in St. Patrick's Institution, no matter how many teachers and psychologists will be employed - or perhaps transferred from places like Darndale. The children will be looked after by prison officers, who will receive training in child care. There are many excellent prison officers in St. Patrick's Institution, who care greatly for those in their charge. But they are not child care workers and do not wish to become child care workers. And since the first inmates are expected before the end of May, the training that they will receive will be necessarily very short. (Qualified child-care staff normally must take a full-time, three year course). The Social Services Inspectorate is a statutory body whose responsibility it is to inspect residential care facilities for children and to recommend improvements. One of their strongest criticisms is reserved for the use of non-qualified staff to care for these children. For example, in one of their recent reports, "the staffing arrangements for looking after a teenage boy in an unnamed home came in for severe criticism by the Social Services Inspectorate... the report found that no steps had been taken to see if the staff were suitable for the work...the staff were all nurses, mainly psychiatric, and many worked their days off in the special arrangement" (Irish Times report, Saturday 4th May 2002). The criticisms were all taken on board by the Health Board and changes implemented. This intolerance for using non-qualified staff and inappropriate accommodation for some children in need of care contrasts sharply with this proposal to care for

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other children using unqualified staff and hopelessly inappropriate accommodation. The medical profession might call this acceptance of dual standards for children, "government schizophrenia".

Imprisoning 14 and 15 year old children, (who admittedly have committed serious crimes and may indeed require detention, for their own sake or for the sake of others), in an old, drab, Victorian building, (a long series of reports going back twenty years, including the Government's own Whittaker Report, have repeatedly called for it to be closed), is more reminiscent of the 19th century than the 21st - even if the wing on which they are to be accommodated is to be renamed St. Patrick's Special School!

Is the response effective?

The Government response is the latest in a series of similar responses, none of which produced any significant reduction in juvenile crime. In the mid-1970s, there was an epidemic of joyriding and handbag snatching in Dublin's North Inner City. The intersection of Summerhill and Gardiner St became known as 'Handbag Junction'. The Diamond - a large playground area between Summerhill and Sean McDermott St - could match Mondello for thrills and spills, most nights of the week. The Government opened Loughan House in Co. Cavan in 1978 as a prison for juveniles, under the age of 16, to be staffed by prison officers. This was subsequently transferred to a purpose-built unit in Lusk, called Trinity House, and the prison staff were replaced by trained staff. The opening of Loughan House saw juvenile crime fall slightly for the next two years (a person locked up cannot commit crime, except within the prison!) But inexorably, juvenile crime began its ascent once again, the demand for more detention spaces continued to increase and Oberstown House was subsequently opened on the same site.

But even this did not dampen the problem. In the early 1980s, another epidemic of joyriding occurred (or rather was reported night after night in the media - for communities like Darndale, the problem was ongoing) and the response was to open Spike Island as a prison, specifically intended for joyriders, primarily from Dublin. This was to be Ireland's Alcatraz, instilling fear into those tempted to rob cars. But Alcatraz soon filled up, and the problem abated for a short time. Here we are, in 2002, debating the same old issue; producing the same old solutions; history repeating itself.

No one disputes that some young people are so out of control, and their criminal activities so serious or so frequent, that they must be detained. No one disputes that society has a right to protect itself. Trinity House and Oberstown were set up to meet that need. The staff are trained to meet that need, the programme is devised for that purpose. But Trinity House and Oberstown are sometimes 40% full with young people who have not committed a crime; they are placed there by the High Court because they are a risk to themselves or to others and there is no other place in which they can be safely accommodated. The failure of the Health Boards to provide sufficient secure accommodation for children who need it, but who have not been arrested for criminal activities, has led to the situation where some young people who are convicted on serious criminal charges cannot be accommodated as all the places for them are full. Hence the need for "St. Patrick's Special

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School". These 20 young detainees are being accommodated on B wing, and the need for them to be segregated from the rest of the prison, and the insistence that they have "natural lighting" (provided by skylights in the roof), means that 68 prison places will be removed from the system. The Minister for Justice for the past five years has staked his reputation on the need for more prison places and his commitment to providing them. Despite opening three major new prisons, the Minister insists that yet more places are needed and more will be provided. It makes little sense then to remove 68 places from the system to accommodate 20 children who cannot be accommodated in special schools because the special schools are full of children who should not be there. The knock-on effect will mean that 68 convicted teenagers will be imprisoned in adult prisons, which will be even more detrimental to their development than being in St. Patrick's Institution.

The evidence is that providing more and more detention places makes little difference to the safety of the rest of society. Of course, while a person is locked up, society is safe from that person. But the person has, one day, to be released. It is generally accepted that prison is not a positive experience for most prisoners, that if they come out of prison better people than they went in, it is despite the system, not because of it. If people come out of prison more hardened, more learned in the ways of crime, more embittered, with less self-respect and less hope for the future, then society is less safe, not more. Indeed, the media reports on the "joyriding" incident in which the two gardai were tragically killed, referred to a gang, to which the alleged "joyriders" belonged, whose leader had only recently been released from prison. His release allowed the gang to regroup. Society became less safe, not more, as events were to demonstrate.

Two alternative responses

1) The only logical option, for those who wish to respond to juvenile crime with more detention places, is, as Brenda Power in the Sunday Tribune suggested (Sunday 21st April 2002), to detain juveniles for 30 years without possibility of parole! If we took that course of action with all juveniles who commit serious or frequent crime, then society would certainly be a much safer place. The "more prison spaces" approach to crime can work - but only if you follow it to its logical conclusion! But there are two problems with that option; not insurmountable problems, just financial ones!

First it would cost a minimum of 2 million per juvenile. So forget about tax cuts! One could argue, equally logically, that if we were to give such juveniles a cheque for 1 million on condition that they bought a villa in Spain and stayed there, society would be just as safe, but at half the cost. The juveniles might also vote for that one!

The second problem is that the detention centres in which they would be accommodated would be uncontrollable. Why not riot every week, if you have nothing to lose? Who would choose to work in such an environment in which their safety or health would be at risk unless the rewards were extraordinarily high?

The other problem with responding primarily with more detention spaces is that, despite their cost,

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they do nothing to prevent the current 5 and 6 year olds becoming the out-of-control 15 and 16 year olds in ten years time. Society is standing at the end of a conveyor belt and spending 70,000 per year, per child, to knock those out-of-control youngsters off the conveyor belt and into custody. Would it not make more sense to stand nearer the beginning of the conveyor belt and spend 70,000 per child to prevent them getting to the end of the conveyor belt in the first place?

2) Alternatively, if we wish to reduce the incidence of "joyriding" and other serious forms of juvenile crime, then we must listen to communities like Darndale and others in our cities. They want adequate services for children and families in their areas. What they have are token projects - projects which do great things for their children but can only touch the lives of a small few.

In Ballymun, for example, the Lifestart project has proved its value time and time again. Lifestart is a project where trained persons go regularly to the homes of families with very young children, to support, encourage and help the parents in the difficulties they experience in rearing their children, living on low incomes and in areas with few family supports. Lifestart is working with forty families - there are 20,000 people living in Ballymun! A serious commitment to the development of young people in Ballymun, which would undoubtedly reduce the incidence of juvenile crime in fifteen years time, would require one hundred Lifestart projects in Ballymun alone.

But the promise that juvenile crime will be reduced in fifteen years time will not elect a Minister for Justice in a few weeks time! Opening 20 more spaces in St. Patrick's Institution is far more likely to achieve that. The 9 million which will be required over the next two years to pay for those 20 extra places would fund 90 Lifestart projects over that period of time.

It is clear where our current political priorities lie. But the evidence of history, and a little reflection, would suggest that these priorities will not make our society a safer place. We need to invest, not in our prisons, but in our communities.

Thought for the day:

Both drink-driving and speeding cause far more deaths and injuries on our roads each year than "joyriding". Why is there not a similar, and equally justified, outrage at these illegal activities? Could the reason possibly be that "joyriding" is something that "they" do, while drink-driving or speeding is something that we might one day find ourselves doing? Surely not.

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The Leaving Cert. and Good Outcomes: Hard Work, Good Luck or What?

Written by [Cathy Molloy](#) on Sunday, 29 June 2003.

Cathy Molloy, a part-time worker at CFJ, considers some issues behind the annual Leaving Cert. hype.

Every year at this time the newspapers and media in general invite us to share in the immediate drama of the Leaving Cert. Even if you have no student in your house, or have not been in contact with school books for decades, you cannot be unaware of the annual wave of hysteria that seems to have to accompany the final public examinations of the nation's school leavers.

The annual media hype.

The hype has been going on for months. Newspapers have carried pages of information on the third level courses on offer, instructions on the filling in of application forms, and dire warnings about the consequences of getting it wrong. There are radio programmes devoted to the various papers and the best way to approach them; there is a web site for Irish; small advertisements in shop windows offering extra tuition in this or that subject; other small notices from those desperately seeking grinds or extra help with their problem area. There are newspaper supplements and articles laying out the form and content of various papers, phone-ins discussing the tension in households, or the best balanced study and living timetables for the over conscientious student; emergency strategies for the one who has come to realise late in the day that extra effort is needed for a good outcome.

Then there are the experts - parents, teachers, doctors, psychologists, advising on how best to see your student through - take this much exercise or that much vitamin supplement; there is advice on aids to concentration and aids to relaxation - relax more and watch television or go for a walk; or is it forego television and go to bed early? And then there are the good-luck cards, prayers and novenas, and the pale-faced young people and worried looking parents who turn up at early morning Mass, and St Jude for hopeless cases and so on. And finally, whether all or none of the above is availed of, there is the examination itself and the fact that each student must face the same exam whatever her context, whether he has family support or not, whether they feel confident or fearful, sick or well, psyched- up or weighed- down.

An unacceptable discrepancy in outcomes.

With all of this you would be inclined to assume that every household in the state was directly involved in this annual event. Not so. About a quarter of young Irish people leave school with no more than the basic compulsory education, which is in itself a highly significant predictor of unemployment.ⁱ

But, let us return to those young people who do complete second level education and so are the ones

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who are addressed by the media hype around the Leaving Cert. You might assume that the expected outcome of their years at school, and study for the examinations, would be more or less the same, allowing for the obvious range of difference in intelligence, ability, aptitude, application and so on, that would be present in any group of young people. Not so. 52.9% of students from a higher professional background gained 5 or more honours at Leaving Certificate level compared with 4.1% of those from an unskilled background.ⁱⁱ Are we then to assume that large numbers of people from one kind of background are considerably less able, at some fundamental level, than those from another? If not, then what are some of the hidden factors that contribute to this unacceptable discrepancy?

Unacknowledged supports can make a big difference.

Obviously there are many factors at play from the very start of involvement in education, with some students having access to layer upon layer of privilege while others must struggle continuously simply to stay with it. The negative effects of cutting back Community Employment Schemes in schools, for example where breakfast was provided helping an environment conducive to improved concentration for young children, will be reinforced when these children come to school leaving age. Looking at some of the often unacknowledged supports available to some students in the run up to the Leaving Cert. illustrates this. The benefits of a peaceful atmosphere for study, of regular breaks, of aids to concentration and so on, are well recognised. Think now about the advantage to students in schools that offer supervised after-school study, perhaps with a meal and some quiet time as well. This of course costs money, whoever pays for it, but the study is done in a quiet atmosphere, for the most part distractions are excluded and the bulk of the homework or revision is completed, without interruption. No over-concern, or indeed under-concern, on the part of parents or others has to be part of it. The financial costs have to be covered by someone, but the pressure is off - no need to be distracted by what is going on in the family, or outside in the street, or the sounds of people outdoors and the various crises that can occur until the end of the daylight hours and beyond. Think of a student who avails of this and who, tired at the end of a long day may be collected -driven home by a parent and encouraged to talk about the events of the day. Think of the student who after school goes to her part-time job, gets home late, gets herself something to eat, and then maybe thinks about the homework - or maybe doesn't, since everyone seems to be out and about, and the noise levels, combined with exhaustion make study really difficult.

Consider the student who is anxious about the French exam. He has loved French since first year, has worked at it consistently but knows he just doesn't have the fluency to bring him to the level he would have been capable of if things were somewhat different. Now think of the student who has an average capacity for French, and who works fairly hard at it, but knows that the French exchange she has participated in over two summers, as well as the extra conversation classes, will help lift her final grade considerably. Or consider the student who went to Irish College several summers in a row, or the one who was weak at Maths but has had individual tuition over the last year to bring his standard up to pass level. Of course it is costly, but it is most definitely worth it as he finds it so much easier to understand when he is the only one being taught. We could go on but the point is clear.

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The students who are privileged in so many unspoken ways have to work hard to achieve good results in their Leaving Cert. And parents and teachers and guardians are proud of them as they gain places in third level Institutions where most will graduate and have access to positions of power and influence in our society. But it is exactly the same Leaving Cert that other students have to sit without any of the kinds of underlying helps and supports, and often with considerable disincentives to be overcome. It is obvious that many students who manage to pass, despite obstacles and without any of the layers of privilege that are available to some, may in fact be far more able, have greater intellectual capacity, than many who gain honours and succeed in getting the places in our third level Colleges. Why do we think our society can afford to turn its back on the unrealised potential of so many young people who happen to be born on the wrong side of this particular track?iii Is it really to the overall benefit of society that virtually all our more powerful and influential people come from the same section? Put another way, as long as the present situation continues so does the fundamental injustice that so many young people lack the opportunity to develop to their fullest potential with the result that our society is deprived of the benefit of this potential.

Tinkering at the edges of injustice.

It is not that the policy makers in the government have not made some attempts to address the issue. Free access to education, with a consequent theoretical equality of opportunity, exists for some time now as a necessary first step. But it has clearly proved inadequate. What has not been well addressed by successive governments is the issue of the underlying conditions that lead to inequality in the first place. Kathleen Lynch, in *Equality in Education*, points out that the focus has been on equalising opportunities rather than equalising resources. Students have formal rights to participate in education, but they are not resourced to do so on equal terms with others. There is a minimalist type of equality of access, but not equality of participation, and certainly not equality of outcome.

One of the major reasons why governments and policy makers continue to support initiatives that tinker at the edges of injustice without radically altering its pattern is undoubtedly because of the power and influence of middle class interests on educational policy in Irish society. Those who are currently benefiting handsomely from educational inequality have no reason to want to change, and in political terms, they constitute a major interest group in Irish political and educational life.iv

This is a serious indictment of middle class Ireland. It suggests that, left to the area of politics, as a society we will continue to 'tinker at the edges of injustice'. Real change is going to need the support of those who are currently benefiting from educational inequality. How could this be awakened and harnessed? Is it possible that many who benefit are unaware of their part in upholding a system of education that is heavily loaded against so many of our people? Along with work for policy change do we need work for raised awareness and change of heart? Where might this change come from?

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A new situation is evolving.

Focusing on the 60% of our second level schools which are denominational, and within that the large number that are under the trusteeship of religious orders, a significant feature of what is happening in many schools currently is the process of handing over management and setting up Boards. School Boards now comprise parents, teachers and others appointed by the trustees. At the same time, there are Parent Associations and Parent Councils being set up, and in some schools Student Councils. The democratisation of second level education is underway. This in turn is providing new opportunities for many different kinds of people to become involved in education, to become aware of education policy, and to notice at first hand many of the elements that contribute to make our system of education operate the way it does. Many schools were originally set up to provide education for the disadvantaged in society, many have their roots in what can seem like a long-lost spirituality of justice that would seek to provide opportunity for the development of the full potential of the pupils, regardless of their social or economic background. There is now a chance for many more people to become acquainted with, and maybe even inspired by, the Christian vision for education of the founders and to rediscover their original aims.

Based on the values of love and justice the education mission of many religious groups in Ireland has taken them beyond the conventional classroom and into the communities where, on their own or in co-operation with community groups, they are trying to address the structural inequalities which block the path for so many people to full development of their potential.

It is widely held that Christianity, and specifically Catholicism, has been too powerful in having its values upheld, or some would say imposed on certain aspects of life in Ireland. It is interesting to note the areas in which it could be accused of indifference to what goes on in the public domain. Taking part in an organised way in public political discussion, as far as lay Christians are concerned, has tended for the most part to be limited to referenda on single issues such as divorce and abortion. And often the lay voices are strongly evangelical in tone. It is CORI (Conference of Religious in Ireland) who have worked for years to influence the distribution of wealth, and with no little success, but where are the voices of Catholic laity on the same topic? It is as though we have tacitly decided to let CORI and others carry the faith-based social conscience of the whole group. Or, put another way, many people will be familiar with, and willing contributors to the good works of the churches, and church based organisations, collections for various causes, the work of the St Vincent de Paul Society, Trocaire's Lenten campaign and so on, and it seems that as a nation we are very good at charity. But charity is not justice. Is it right that the Society of St Vincent de Paul should be the funders of absolutely necessary educational assessments for some children in Dublin schools? This is not to make little of charity and the many people who give generously of their time and money to address the needs of the disadvantaged in our society. However, if Christian living, as opposed to Christian education, had been half as real in the past as we would be led to believe, we would not be faced with the injustices endemic in our education system.

Solidarity as a force for change?

I return to the Leaving Cert. and the seemingly small ways in which inequality of participation and

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outcome in education are crystallised. When the Jesus of St. John's Gospel said I have come in order that you might have life - and have it to the full (John 10:10) he meant not some, or a few, but all. This surely is central to the vision of education of his followers. The current situation which sees many lay Christians being involved in education in a more formal way in schools may provide new opportunity for the system to be assessed by a different constituency. The Christian mission for justice carried so admirably by CORI on behalf of the Religious is in fact a shared mission. All Christians are called to participate by means of solidarity. This solidarity is explained in the document of John Paul II on the laity and is no soft option.

Solidarity is not a feeling of vague compassion or shallow distress at the misfortunes of so many people, both near and far. On the contrary, it is a firm and persevering determination to commit oneself to the common good, that is to say, to the good of all and of each individual because we are all really responsible for all. v

Of course this issue of solidarity has implications for every aspect of life. We are to be in solidarity with people near and far. In the Ireland of today the Leaving Cert. can in fact illustrate just how far many young people are in real terms from their near co-candidates. Do Christian parents seeking the best educational outcome for their children really want this at the expense of a just outcome for other children? An unspoken agreement between the political parties seems to have ensured that education was not an issue in the very recent election. Things could be different next time around. Equality in education can be an issue if enough people make their voices heard. But conviction is needed. It is right that investment in pre-school and early school education should be vastly increased. But some of the inequities at second level, and particularly at the pressure points of public examination times, should also be addressed. Many schools are open in the evenings for Adult Education courses. Could these be extended to include a study facility for students in the exam years? The inequity as regards extra tuition is obviously more difficult to deal with. Could help with core subjects be made available on an organised basis at least for Leaving Cert. students who need and want it? Would it be too much to ask that each Leaving Cert. student who wants it should have the opportunity for at least one foreign language exchange? No doubt our educators and politicians together could devise many ways towards overcoming the hurdles that are there for so many young people. But it must be said continually that things are not fair enough as they stand. All the voices are needed. Obviously in the first place must be those who are losing out in the present system. But there is need also of the voices of those who are benefiting most from the status quo, but want to see others getting a fairer deal. A commitment on the part of middle-class Ireland to true equality in education, based in Christian solidarity, knowing that it will be costly in terms of re-distribution of resources, could make a real impact on the outcome of the Leaving Cert. for the many students for whom participation on equal terms would make all the difference.

Notes:

- i) Michael O'Connell, *Changed Utterly: Ireland and the New Irish Psyche*, Dublin: Liffey Press, 2001, p.36.
- ii) Green paper on Adult Education, Department of Education and Science, 1998, p.27.

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iii) Denis Farrell, Experience of Church, The Unemployed, Studies, Vol. 83, Number 332, Winter 1994, pg 405. Also Cherry Orchard Faith and Justice Group, One City Two Tiers: Life in a Divided Society, March 1996.

iv) Kathleen Lynch, (Citing Hardiman, 1998; Lynch, 1990) Equality in Education, in Studies, Volume 90, Number 360, Winter 2001, p401

v) John Paul 11, CHRISTIFIDELES LAICI,, Apostolic Exhortation, 1988., n 42.