

Killing Time: Life Imprisonment and Parole in Ireland

Diarmuid Griffin, *Killing Time: Life Imprisonment and Parole in Ireland*,

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In recent decades the field of penology has made considerable progress in seeking to elucidate the commonalities and discontinuities that characterise national penal systems (Cavadino and Dignan, 2006). Far from suggesting a global process of penal convergence this burgeoning literature is beginning to reveal how broader shifts in the political economy of crime coalesce at a national level to both catalyse and impede the spread of punitive public discourses that marshal support for prison expansionism, indeterminate sentences for public protection and greater use of life without parole for certain prescribed offences (Barker, 2013; Lacey, 2008).

In his book *Killing Time*, Diarmuid Griffin, makes an important contribution to this literature by examining how global trends in the use of punishment have interacted with an Irish criminal justice system that has proved historically resistant to the ideational claims of the rehabilitative ideal, the new penology and penal populism. In the first systematic review of the Irish parole system Griffin offers a meticulous, careful and balanced analysis of the decision to release and documents the evolution of this system during a period of intensifying penal severity which has seen the average time spent in custody for those serving a mandatory life sentence for murder increase from an average of 7.5 years between 1974-1984 to 22 years in the period 2012-2016 (p.6).

For readers unfamiliar with the workings of the Irish criminal justice system, parole is treated as a political decision which confers considerable discretion upon the Minister for Justice and Equality to authorise the 'temporary' release of prisoners. The Parole Board is a non-statutory advisory body which makes recommendations to the Minister in the cases of individuals sentenced to (a) long determinate sentences of over eight years, (b) discretionary

life sentences and (c) mandatory life sentences for murder (pp.45-48). For the growing proportion of Irish prisoners serving mandatory life sentences, eligibility for parole is triggered after seven years in custody, although in practice, release is almost never granted at first review. Parole dossiers are prepared by the Parole Board secretariat and typically include submissions from the Garda Síochána (police), the Prison Governor and Probation Service, a qualified psychologist and a victim impact statement, if submitted. Decisions are taken by the Parole Board ‘on the papers’ and while prisoners are subject to interview by a parole board member, they are not entitled to an oral hearing or legal representation (pp.69-77).

Parole reviews are typically conducted on a rolling three-year basis and the recommendations of the Parole Board are submitted to the Minister for final approval. In time, this legal framework may change if the powers contained in Parole Act (2019) – passed by the Oireachtas (the Irish Parliament) in July 2019 - are activated by the Minister for Justice. In a move intended to bring Ireland into line with the rights-based approaches of neighbouring European jurisdictions, the Parole Act (2019) contains sweeping reforms of the Irish parole system. This includes; the establishment of an independent Parole Board, greater procedural safeguards for serving prisoners and the introduction of a twelve-year parole eligibility requirement intended to strengthen the punitive element of the life sentence (p.212). Reform, it seems, is long overdue in Ireland and few would demure from Griffin’s central conclusion that *‘the secrecy and lack of transparency surrounding decision-making does not serve life sentence prisoners, decision-makers, victims and victims’ families, or the public’* (p.224).

Drawing upon qualitative interviews with parole board members, Ministers, and the Sentence Review Group that pre-dated the Irish Parole Board, *Killing Time* guides the reader through the key planks of the Irish parole system. In this respect Griffin is to be commended for his perseverance in seeking (demanding?) access to a closed institution which appears deeply suspicious of outside scrutiny. In a fascinating methodological note Griffin describes a

culture of delay, obfuscation and silence that closed down many avenues of research (p.14) and forced the author to seek basic parole data through a series of parliamentary questions when administrative channels proved unforthcoming. Given these significant obstacles one can only imagine how difficult it is for prisoners, victims and their families to navigate this system.

Despite such limitations the richness of the qualitative data and the degree of analytical rigour is impressive. Chapter One traces the recent history of parole in Ireland and begins to interrogate the various factors which have contributed to a long-term process of sentence inflation for those prisoners serving the mandatory life sentence for murder. Chapter Two reviews the current sentencing framework in Ireland and this is developed further in Chapter Three which explores parole board decision making in Ireland with particular reference to the views and attitudes of those members interviewed for this study.

In Chapter Four the focus shifts to consider the influence of risk, and risk assessment, and offers a fascinating analysis of how actuarial techniques have achieved limited purchase within a system that still relies, to a significant degree, upon intuition, a 'culture of cautiousness' (p.116) and informal decision-making 'style' of (p.120). Chapter Five seeks to locate the Irish parole system within a broader political context and Chapter Six explores the unique developmental trajectory of an Irish parole system that is still seen as a privilege rather than a right that derives from the Ministers historical authority to grant temporary release to deserving prisoners. Chapter Seven concludes that the current legal framework is not sustainable in its current form and goes on to outline the key proposals set out in the formative Parole Bill which, at the time of publication (February 2018), was still progressing through The Oireachtas.

This is an accomplished work that will appeal to criminologists, academic lawyers and, it is hoped, those criminal justice 'insiders' - politicians, penal policy-makers and parole board members - with the power and influence to drive substantive penal change in Ireland. The

author adopts a measured and scholarly tone which is at its best when interrogating the clear disconnect between the law ‘on the books’ and the law ‘in action’. Griffin is highly critical of the Supreme Court decision in *Lynch*¹ which held that the mandatory life sentence was “wholly punitive” and therefore consistent with both the Irish Constitution and the European Convention on Human Rights (ECHR) (p.189). While this decision was subsequently upheld by the European Court of Human Rights,² it is clear that this legal interpretation has had the unfortunate effect of shielding the Irish parole system from a comparable degree of judicial scrutiny as we have seen in neighbouring jurisdictions, such as England and Wales, where the failure to comply with the ECHR or common law principles of due process has precipitated major shifts in government policy (p.194).

Given this focus on the law, policy and procedure relating to parole board decision-making there are occasions when the author appears reluctant to be drawn into broader debates within the sociology of punishment. Tantalising references are made to the political culture of the Irish ruling establishment, the policy tradition within the Department of Justice and Equality, and the broader socio-economic factors that have historically impeded the spread of punitiveness in Ireland (p.149). I suspect far more could be said on these points, but this should not detract from what is overall a thoughtful, balanced and well-constructed monograph. Perhaps the biggest compliment I can offer is that long after concluding this book the reviewer was still cogitating over the book title and the question of who in fact is ‘killing time’ here. Does it refer to the life sentence prisoner who is subject to increasingly long periods of incarceration before release is a realistic prospect? Is it the Irish Parole Board that adopts a cautious and incremental approach as prisoners take ‘small steps’ (p.89) towards their release?

¹ *Lynch & Whelan v Minister for Justice* [2012] 1 IR 1.

² *Lynch and Whelan v Ireland* Application nos 70495/10 and 74565/10, 8 July 2014.

Or could it be the Minister who, as the ultimate custodian of the current prole system, actively seeks to delay the decision to release until such time as the expected political and media fallout from the case is negligible? In the author's own words, '*within the punitive realm, false positives are tolerable, false negatives are not*' (p.113).

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