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The Blue Wall of Silence: The Morris Tribunal and Police Accountability in Ireland
Vicky Conway

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Since the mid-1990s no less than eight Tribunals of Inquiry have been established in Ireland, addressing matters of public significance as diverse as irregularities in the beef processing industry, the infection of persons by contaminated blood products, payments to politicians in relation to planning decisions, child abuse in industrial schools and garda misconduct. The Irish public may be thought to suffer, at this juncture, from “tribunal fatigue”. To some extent, the build up to the establishment of relevant tribunals gains more attention and provokes more public outcry than the findings which are ultimately reached several years and several millions of euro later.

Given the impact of “tribunal fatigue” it is more than important that Vicky Conway’s significant work on the Morris Tribunal, its establishment, its findings, its illustration of policing and police accountability during a particular period, and its contribution to reform of those matters, has found its way onto the bookshelves. It is an engaging and informative book which combines factual and legal analysis with a readable style so as to engage both those familiar with the law and those with more of a layman’s interest in the subject. Not only is the book of value in terms of its analysis of the Morris Tribunal in and of itself, but also in relation to the wider assessment of the value of Tribunals of Inquiry, the public interest therein and their potential to achieve reform.

The Morris Tribunal was established in March 2002 to enquire into the conduct of certain gardaí in the Donegal division, relating to allegations of corruption arising out of the death of Richard Barron five years previously. Tribunals of this nature are established, under the Tribunals of Inquiry Act 1921, where a matter “of urgent public importance” is believed to be in need of examination. Tribunals have several functions or objectives which include establishing the facts of what occurred in relation to a specific event; learning from what happened in order to help prevent recurrence; providing reassurance and rebuilding public confidence; establishing accountability and blame; and, to a significant extent, showing that something is being done about the issue, from a political perspective.

Conway’s book recounts many of the shocking findings of the eight Morris Tribunal reports, the last of which was delivered in October 2008. These findings include the following:

- gardaí were involved in planting explosives in order to orchestrate hoax bomb finds;

- senior gardaí were guilty of negligent oversight and management, including failure to implement Garda procedures which, if properly complied with, would have brought corruption to light;
- one garda was found to have threatened another with a gun when challenged about the manner in which an informant was being handled;
- on-duty gardaí were found to have been drinking in a pub when called to a scene of crime;
- alleged “witness” statements were corruptly obtained;
- gardaí were involved in extortionate telephone calls to the home of a suspect;
- gardaí had “tunnel vision” in the investigation of alleged offences such that no alternative theories or possibilities were countenanced;
- false arrests and mistreatment in custody occurred, including verbal and physical abuse, detainees being shown disturbing autopsy photographs, sensory deprivation through the switching on and off of lights in interview rooms, denial of access to legal advice, threats and many other breaches of regulations, disciplinary codes and constitutional rights;
- garda harassment took place, and more.

Many gardaí also lied to the Tribunal and built up a “blue wall of silence”, refusing to give evidence against one another. This element of garda subculture was succinctly portrayed to the Tribunal by one garda who stated that “You don’t hang your own” (p.91). Perhaps one of the most worrying suggestions from Justice Morris in the course of the Tribunal was that there were no particular factors at play which might mean that the events which occurred in Donegal were specific to that district alone:

“Of the Gardaí serving in Donegal it cannot be said that they are unrepresentative or an aberration from the generality. All of them were trained as Gardaí and served under a uniform structure of administration and discipline that is standardised.” (Fifth Report, para.6.02, quoted at p.90)

Conway notes (in Chapter Two) that An Garda Síochána has always retained a high level of public trust, with official statistics rarely dipping below 80 per cent (p.26). This compares most favourably with the level of national trust in politicians which, since 1990, has rarely been recorded at higher than 50 per cent (p.26). The fact that the Morris Tribunal examined the activities of gardaí rather than being just another politician-based tribunal seemed to set it apart. But, despite its shocking conclusions on the activities of gardaí, there was little impact on the public perception of the force as a whole, with figures for public confidence remaining well above the European average even after the publication of the Tribunal reports. Conway’s depth of analysis and critique, however, teases out the various factors behind the statistics and provides a more nuanced illustration, looking at issues more specific than overall confidence levels, such as garda interaction with victims, racism, treatment of persons in custody, and so on (pp.179-180), which tell a somewhat different, but not by any means overwhelmingly negative, story.

The reasons for the retention of public confidence and trust in An Garda Síochána as an institution despite the findings of the Morris Tribunal may relate to the historic respect for that institution but is also likely to have been influenced by the manner in which the Tribunal proceedings and reports were presented to the public. Conway deftly examines the discourse surrounding the Tribunal, analysing the manner in which it was communicated to the public via three particular perspectives: the media

(mainly the print media); the gardaí; and politicians. In her analysis, Conway indicates that, overall, the full seriousness and the broader implications of the Tribunal's findings and recommendations were not appreciated or emphasised by any of these three entities, and accordingly, by the public. Conway suggests that the early reports of the Tribunal gained substantial coverage in the media, but this waned in relation to the later reports. Indeed, coverage of the sixth report (on the treatment of detainees) was particularly sparse given its publication on the same day that Brian Cowen took over from Bertie Ahern as Taoiseach. Conway says that as many column inches, if not more, were given to allegations that the report was being "buried" as were given to its actual content (p.112). Accordingly, she says "...while the public may know that there is a problem of some corrupt officers in Ireland (first report), the extent of abuse of detainees may not have penetrated to the same degree (sixth report)..." (p.120).

Following this analysis, Conway moves on to consider the reforms established in response to Morris, introducing the topic with reference to academic material and with a comparative eye to other jurisdictions where policing scandals led to reform, e.g. England and Wales following the West Midlands "Serious Crime" Squad controversy and again following the Stephen Lawrence inquiry, and the United States, where the NYPD faced up to scandals in the 1970s and again in the 1990s. She notes the difficulty which the "rotten apple" theory poses for widespread reform, where corruption is presented as being confined to a few individuals and not symptomatic of an institutional need for reform. Despite Justice Morris' claim that the gardaí in Donegal were not atypical, politicians, the gardaí, and to some extent the media, seemed to wish to portray the findings of the Morris Tribunal as being confined only to particular individuals.

Some considerable reforms were introduced nonetheless, mainly in the Garda Síochána Act 2005. These included the establishment of the Garda Inspectorate, the Garda Síochána Ombudsman Commission (GSOC) and the Garda Professional Standards Unit (GPSU); provision for joint policing committees in order to involve communities more in the policing of their areas; the establishment of a duty to account and a whistleblowers' charter; new disciplinary regulations; new promotion regulations, and more. However, there are difficulties with some of these reforms, e.g. GSOC is not fully independent of the gardaí in all of its investigations, and Conway contends that other important issues were not properly tackled, such as the relationship between Garda Headquarters and the Department of Justice; recommendations from Justice Morris in relation to the issuing of search warrants; and the recommendation that the PEACE model of interviewing should be fully implemented by An Garda Síochána.

In conclusion, Conway advocates the establishment of an independent policing commission so as to examine "the true extent of police misconduct, mal-governance and the state of police morale" (p.186) in this jurisdiction. She believes that this could lead to at least the beginnings of "a cultural shift in how Ireland (including the Gardaí) thinks about policing" and it could lead to "targeted reforms with a clear philosophical underpinning" (p.186). Without such an in-depth examination, Conway fears that we may continue on a "well-worn path of police scandal – police reform – lessening attention – police scandal" (p.186). She may well, unfortunately, be right.

For anyone with even a passing interest in the operation of policing in this jurisdiction, or indeed an interest in the interaction between politics, law and the media, this book is essential reading.

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