

Putting the Past in Perspective

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The question of how to deal with the past in any society is vexing. This question has become increasingly relevant in Northern Ireland since devolution was restored in March 2007. However, opinions on whether the past should be dealt with or not are divided. This paper will highlight some issues that could be considered within the debate, hopefully to assist in moving it forward.

The paper has four parts. Firstly, I will talk about the breadth of the issue of dealing with the past. Secondly, the question of victims of political violence will be discussed. Third, some points about the idea of a truth commission for Northern Ireland will be outlined. And finally I will conclude by extracting five broad lessons that may be helpful in thinking about dealing with the past in any society in transition.

1. Depth and width of the process of dealing with the past

Dealing with the past and building reconciliation is a long-term, deep and wide process. There are *multiple* (generally context specific) ways used to deal with the past in different countries. In a submission such as this it is difficult to outline all of these. Furthermore, research in Northern Ireland has shown that reconciliation is a multifaceted concept in itself and is also defined in different ways in different contexts.² Although in this paper I will

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² See BLOOMFIELD, D., BARNES, T. & HUYSE, L. (Eds.) (2003) *Reconciliation after Violent Conflict: A Handbook*, Stockholm, Sweden, International Institute for Democracy and Electoral Assistance, HAMBER, B. & KELLY, G. (2005) *A Place for Reconciliation? Conflict and Locality in Northern Ireland*. Belfast, Northern Ireland, Democratic Dialogue, HAMBER, B. & KELLY, G. (2008) *The Challenge of Reconciliation: Translating Theory into Practice*. IN COMMUNITY RELATIONS COUNCIL (Ed.) *A Sustainable Peace?:*

make reference to a truth commission, for example, it is important that we think about 'dealing with the past' as a process much wider than a narrow debate on truth commissions. One criticism I would have of the South African approach in particular was an over-reliance on stressing the South African Truth and Reconciliation Commission (TRC) as the primary mechanism for dealing with the past. Clearly a range of mechanisms were going to be necessary over a long period of time.

The Healing Through Remembering consultation process carried out in 2001 was the first public and civil society investigation focusing on strategies for dealing with the past in Northern Ireland.³ Their consultation identified fourteen key approaches to dealing with the past.⁴ These include: storytelling and oral history; memorials; museums, exhibitions and art; public and collective commemorations; truth recovery processes; other forms of legal processes such as trials and inquiries; community and intercommunity interactions; support for individuals and victims; research and social policy development; a Centre for remembrance; a financial response, i.e. establishing a memorial fund for victims, and a satisfactory compensation system; education and training; supporting current remembering processes; and self-examination of institutions, and apologies.

Specifically, the Project recommends: (1) developing a living memorial museum; (2) establishing a day of reflection; (3) setting up a network of commemoration projects; (4) establishing a collective storytelling initiative; (5) establishing an initiative to take the recommendations forward; and (6) initiating an acknowledgment process towards truth recovery. With truth recovery, the Project felt that a formal truth-recovery process should be carefully considered, though only as *one part* of dealing with the past.

Thus, I think we must approach the dealing with the past debate with this wide view. In addition, dealing with the past is not a time bound process, it will continue to unfold for years and decades to come. In South Africa for example there is much unfinished business that has

Research as a Contribution to Peacebuilding in Northern Ireland. Belfast, Community Relations Council, PORTER, N. (2003) *The Elusive Quest: Reconciliation in Northern Ireland*, Belfast, Blackstaff Press.

³ See HEALING THROUGH REMEMBERING (2002) Report of the Healing Through Remembering Project. Belfast, Healing Through Remembering.. See also <http://www.healingthroughremembering.com> for more details. In sum, this project undertook an extensive national consultation process and published its findings on how the events concerning the conflict in and about Northern Ireland could be remembered.

⁴ Ibid.

still be dealt with despite the truth commission, e.g. reparations, the full truth being uncovered and the project of commemoration and memorialisation is ongoing.

2. Victims and dealing with the past

Support services for victims of political violence are a critical component of dealing with the past. A long-term process of dealing with the needs of victims should be put in place. Steps for addressing the needs of victims have been set up in Northern Ireland from funding schemes to the recent establishment, albeit controversial in appointment, Victims Commission. That said, state responses to the impact of the conflict in and about Northern Ireland have been criticized for being slow and limited. There was until recently a ‘policy silence’ in the areas of health, social services, education and other provisions for victims of the conflict.⁵ This has resulted in a legacy of distrust, especially of statutory services, within many community groups working with victims of the conflict. My research and that of others has shown the process of supporting victims came late in the day and initially was chaotic in its development.⁶ The process is now stabilizing.

The biggest threat to support services in Northern Ireland remains the lack of commitment to fund and support victims over the long-term. International lessons suggest victims support needs to continue for decades and the two-year funding cycles seen so far are inadequate. However thinking about victims within the context of dealing with the past is wider than providing extensive counselling or setting up public health facilities.

Victims need to be provided with the space to tell their stories, be heard and be *officially* acknowledged. However, when considering the question of dealing with the past more broadly, we should not fall into the simplistic trap of arguing that revealing (telling the truth or testimony) or storytelling as it is sometimes called, is instantaneously healing. Storytelling

⁵ See HAMILTON, J., THOMSON, K. & SMYTH, M. (2002) Reviewing REAL Provision: An evaluation of provision and support for people affected by the Northern Ireland Troubles. Belfast, Northern Ireland Voluntary Trust.. This was also acknowledged by government, as Minister Des Browne noted “in all that time [*thirty years of conflict*] there were no policies in relation to victims.” See Irish Echo Online, February 19-25, 2003, Volume 76, Number 7.

⁶ CLIO EVALUATION CONSORTIUM (2002) Evaluation of Core Funding Programme to Victims' Groups by. Belfast, Victim Liaison Unit, Office of the First and Deputy First Minister, HAMBER, B., KULLE, D. & WILSON, R. (Eds.) (2001) *Future Policies for the Past*, (Report 13). Belfast, Northern Ireland, Democratic Dialogue, HAMBER, B. & WILSON, R. (Eds.) (2003) *Recognition and reckoning: The way ahead on victims issues*, (Report 15). Belfast, Northern Ireland, Democratic Dialogue, HAMBER, B. (2001) Submission by Democratic Dialogue on the Consultation Paper on a Victims' Strategy. Belfast, Democratic Dialogue.

may be a necessary step, but testimony is not sufficient in itself to heal all victims, address the wounds of the past or deal with the past more generally. My work and others over the years has routinely shown that victims are unlikely to divorce the questions of truth, justice, labelling responsibility for violations, compensation and official acknowledgement, from the healing process. Therein lies the challenge: setting up sufficient support services for all victims of political violence could be envisaged, but integrating their other needs—some perhaps overridden in the name of peace, such as the right to justice—is infinitely more complex.

Victim rights, and the intricate needs of individual survivors for truth, justice and reparation, are often negated by compromises made to ensure peace such as the release of political prisoners. Governments and political parties may find themselves at odds with victims as political processes often move forward more rapidly than personal processes. If so, policymakers and governments will be especially required to deal as best they can with the frustrations of victims whose rights have been violated—a less than ideal position. We need to put more thinking into how we can protect victims' rights and that they are not merely contingent on political arrangements.

3. A truth commission for Northern Ireland?

Although victims need to be at the forefront of any policy for addressing the past, the question of dealing with the past and truth-recovery concerns wider society. In 1998 I undertook research for INCORE at the University of Ulster on whether Northern Ireland should have a truth commission. I concluded that, at that time, an official truth recovery process seemed unlikely for Northern Ireland.⁷ Others made similar arguments; namely, that no moral or political authority existed to support an entity such as a truth commission.⁸ I further argued in my research that the balance of power between forces during transition determined government policy on issues.⁹ In Northern Ireland, at that stage, the forces were too evenly weighed and all sides were opting to leave their truths hidden. As such:

⁷ HAMBER, B. (Ed.) (1998) *Past Imperfect: Dealing with the Past in Northern Ireland and Societies in Transition*, Derry/Londonderry, University of Ulster & INCORE.

⁸ NIACRO AND VICTIM SUPPORT NORTHERN IRELAND (1999) *All Truth is Bitter: A Report of the Visit of Doctor Alex Boraine*. Belfast, NIACRO and Victim Support Northern Ireland.

⁹ BENOMAR, J. (1993) *Confronting the Past: Justice in Transitions*. *Journal of Democracy*, 4, 3-14.

Most political players demand truth from those they perceive as the other side or sides, but seem unwilling to offer the truth from their side, or acknowledge and take responsibility for their actions. This is mostly because of fear that such acknowledgement will weaken in the new dispensation and that the truth may be used against them within the context of the delicate peace that prevails. There are also those in Northern Ireland who refuse to accept that they did anything wrong or that their action (or inaction) was complicit in perpetuating the conflict.¹⁰

I have subsequently continued research in the area and clearly some of the power balances have not shifted significantly. However what has changed is the political system has become more stable. In addition, initiatives such as Healing Through Remembering have shown what may be possible; that is for people from different backgrounds to reach some consensus on a way forward for dealing with the past as evident in the truth-recovery options report developed by the group.¹¹ Drawing from the lessons of this project it is clear that trust building, co-operation and a spirit of generosity are key to moving the process forward. I revisit this point at the end of this section.

That said, the end point has not shifted significantly from my earlier research and at a public level support for such truth recovery seems mixed. Lundy and McGovern recently carried out a survey through the Northern Ireland Life and Times Survey on public views about a truth commission. They found in a representative survey of Northern Ireland that 50% of people surveyed felt a truth commission it was important or very important for the future of Northern Ireland.¹² The research a truth commission was defined as ‘an inquiry where everyone would have to tell the truth about things to do with the “troubles”’. There were some minor religious differences in responses. According to the research “Catholics were a little more likely to state that a truth commission was either important or very important for the future (58% [*of Catholic respondents*]) than those of no religion (55%) and more again than Protestants (44%), although even in the latter case this represented more people than those that thought it unimportant (33%)”.¹³ A sizeable proportion of people felt it was

¹⁰ HAMBER, B. (Ed.) (1998) *Past Imperfect: Dealing with the Past in Northern Ireland and Societies in Transition*, Derry/Londonderry, University of Ulster & INCORE..

¹¹ MCEVOY, K. (2006) *Making Peace with the Past: Options for truth recovery regarding the conflict in and about Northern Ireland*. Belfast, Healing Through Remembering.

¹² LUNDY, P. & MCGOVERN, M. (2006) A Truth Commission for Northern Ireland? *Northern Ireland Life and Times Survey: Research Update*, 46.

¹³ Ibid.

‘Neither’ important nor unimportant (19%), and 28% felt it was unimportant. This research gives the best statistical indication yet of how the public feel about such an issue. The researchers conclude that “opinion is therefore quite divided on the idea of a truth commission for Northern Ireland”.¹⁴ In addition, even those that were supportive of the idea doubted how effect it would be, i.e. 84% of those surveyed did not think you would ‘necessarily get the truth’ from a truth commission.¹⁵

The debate and the intricacies of dealing with the past however has gained political and public momentum in the last few years. In terms of dealing with the past there has been, among others: the Bloody Sunday Inquiry; commissions to investigate disappearances; inquiries into political murders north and south; cases before the European Court of Human Rights; the Historical Enquiries Team; and of course the Consultative Group on the Past set up by the British government to provide ways forward on the dealing with the past question.¹⁶ There have also been attempts to catalogue the deaths associated with the conflict, linking organizations and the State directly to different killings, and creating victim lists.¹⁷ Compared to other conflicts the nature and the extent of the conflict is fairly well known.

At the civil society level, the Healing Through Remembering initiative, which has brought together former loyalist and republican combatants, British soldiers, members of the PSNI, victims of the conflict, people from church and civil society backgrounds, academics and others, to debate ways of dealing with the past. It has attempted to drive the debate in an inclusive way from the bottom-up, this is unprecedented internationally as far I know. It has produced a document, *Making Peace with the Past* that outlines 5 detailed options for dealing with the past.¹⁸

¹⁴ Ibid.

¹⁵ Ibid.

¹⁶ For a detailed exploration of all the different mechanisms see BELL, C. (2003) Dealing with the Past in Northern Ireland. *Fordham International Law Journal*, 26, 1095-1147, HEALING THROUGH REMEMBERING (2006) *Making Peace with the Past: Options for truth recovery regarding the conflict in and about Northern Ireland* written by Kieran McEvoy. Belfast, Healing Through Remembering..

¹⁷ ARDOYNE COMMEMORATION PROJECT (2002) *Ardoyne: The Untold Truth*, Belfast, Beyond the Pale, FAY, M.-T., MORRISSEY, M. & SMYTH, M. (1998) *Mapping Troubles related deaths in Northern Ireland 1969-1998*, Derry/Londonderry, INCORE, MCKITTRICK, D., KELTERS, S., FEENEY, B. & THORTON, C. (1999) *Lost Lives: The Stories of the Men, Women and Children who Died as a Result of the Northern Ireland Troubles*, Edinburgh, Mainstream Publishing, SUTTON, M. (1994) *An Index of Deaths from the Conflict in Ireland 1969-1993*, Belfast, Beyond the Pale.

¹⁸ MCEVOY, K. (2006) *Making Peace with the Past: Options for truth recovery regarding the conflict in and about Northern Ireland*. Belfast, Healing Through Remembering.

Other organizations have also produced options. Several years ago a group of organizations within the republican community produced the Eolas document.¹⁹ EPIC which works with former loyalist prisoners also carried out a community consultation. They concluded that although they would like to “get the truth out as we see it”, that loyalism had little to gain from a truth recovery process. The view was that it would reinforce “stigmatisation, criminalisation and even demonisation of loyalist ex-prisoners”²⁰. It also appears concerns remain that a truth commission would be a form of a “Republican Trojan Horse” that would be used to undermine loyalism and the state.²¹

At the moment various victims groups are carrying out internal discussions and consultations on this issue.

There are also community processes that have sought truth recovery in other ways such as Ardoyne Commemoration Project.²² This approach, where truth is built from local narratives, is found, according to those who participated in it, to assist in dealing with intra-community conflict, recognition and acknowledgment, and building community participation and interaction.²³ Its main limitation is that information from outside agencies is difficult to obtain when the focus is at the community level.²⁴ Healing Through Remembering has recorded over 30 storytelling initiatives taking place in and about Northern Ireland.²⁵

More recently different organizations, mainly those dealing with State violence,²⁶ have also called for a truth commission. This was based on several factors but one of the main conclusions they came to was that “current investigatory, prosecutorial and judicial arrangements offer no realistic prospect of truth recovery for bereaved families”. They proposed an international independent truth commission that is more than storytelling which “should be available as a mechanism for all victims who wish to have their cases investigated

¹⁹ EOLAS PROJECT (2003) Consultation paper on truth and justice: a discussion document. Belfast, Eolas Project c/o Relatives for Justice.

²⁰ EPIC (2004) *Truth Recovery: A Contribution from Within Loyalism.*, Belfast, EPIC.

²¹ Ibid, MCEVOY, K. (2006) Making Peace with the Past: Options for truth recovery regarding the conflict in and about Northern Ireland. Belfast, Healing Through Remembering.

²² ARDOYNE COMMEMORATION PROJECT (2002) *Ardoyne: The Untold Truth*, Belfast, Beyond the Pale.

²³ LUNDY, P. & MCGOVERN, M. (2008) Whose Justice? Rethinking Transitional Justice from the Bottom Up. *Journal of Law and Society*, 35, 265-292.

²⁴ Ibid.

²⁵ KELLY, G. (2005) Storytelling Audit: An audit of personal story, narrative and testimony initiatives related to the conflict in and about Northern Ireland. Belfast, Healing Through Remembering.

²⁶ The Pat Finucane Centre, Relatives for Justice, Justice for the Forgotten, Ardoyne Commemoration Project, An Fhirinne, and Firinne Fermanagh.

thoroughly”. They argue the Commission should examine “British and Irish State policies and actions and those of non state actors and the role of civil society in both jurisdictions”.²⁷

There is also a body of critical scholarship emerging from Northern Ireland on transitional justice. Some have questioned the overly legalistic approach, for example in the Bloody Sunday Inquiry.²⁸ Others have called for legal humility and urged the legal profession to connect with civil society initiatives and create space for other actors to play a role in justice provision.²⁹ The way transition is conceptualized in the transitional justice field has also been critically examined.³⁰ In addition, the role of gender in transitional justice processes³¹ and masculinity³² have been explored by scholars in Northern Ireland.

Thus, it would be untrue to say that Northern Ireland is not capable of dealing with the past or is not dealing with the past, especially when we look at the various initiatives taking place. Rather the question is whether more is needed and whether a structured collective process is necessary.

Some comparative thoughts

The mandate of the South African TRC compelled it to investigate the ‘causes, nature and extent’ of the South African conflict. The TRC could have ventured more daringly into the ‘nature and extent’ of the conflict. In addition, the TRC could have fostered a greater recognition of the need for multiple and ongoing mechanisms over time to continue truth finding and deliver justice in South Africa. However, the South African TRC elucidated the broad causal and historical picture fairly well. This was made easier because a widely accepted truth already existed, i.e., apartheid was a morally abhorrent system that brutalised

²⁷ RELATIVES FOR JUSTICE ET AL. (2008) Victims Groups Unite to call for Truth Commission (Press Release). Belfast, Relatives for Justice.

²⁸ HEGARTY, A. (2003) The Government of Memory: Public Inquiries and the Limits of Justice in Northern Ireland. *Fordham International Law Journal*, 26, 1148-1192.

²⁹ MCEVOY, K. (2007) Beyond Legalism: Towards a Thicker Understanding of Transitional Justice. *Journal of Law and Society*, 34, 411-440.

³⁰ CAMPBELL, C. & NI AOLAIN, F. (2003) Local Meets Global: Transitional Justice in Northern Ireland. *Fordham International Law Journal*, 26, 871-892.

³¹ BELL, C. & O'ROURKE, C. (2007) Does Feminism Need a Theory of Transitional Justice? An Introductory Essay. *The International Journal of Transitional Justice*, 1, 23-44, NI AOLAIN, F. & ROONEY, E. (2007) Underenforcement and Intersectionality: Gendered Aspects of Transition for Women. *IJTJ*, 1, 338-354, NI AOLAIN, F. & TURNER, C. (2007) Gender, Truth and Transition. *UCLA Women's Law Review*, 16, 229-279.

³² HAMBER, B. (2007) Masculinity and Transitional Justice: An Exploratory Essay. *International Journal of Transitional Justice*, 1, 375-390.

many. But, on assessment, the TRC did not simply highlight that apartheid was a crime against humanity—uncomfortable ‘truths’ of firmly held narratives about on all sides the South African conflict were challenged.

Contrary to this, the multitude of initiatives taking place in Northern Ireland, largely unofficial, mean the ‘nature and extent’ of the conflict is well documented. Ongoing projects and compilation of ‘victim lists’³³ have documented the extent of the conflict in Northern Ireland in great detail, although developing an *official* list of those injured and killed in the conflict would be a worthwhile endeavour.

However, unlike South Africa, agreeing on or at least having a broadly accepted narrative of the ‘causes’ of the Northern Ireland conflict is one of the biggest challenges to building some form of reconciliation into the future. The fear—not to mention complexity—of exploring the ‘causes’ in an open, honest and inclusive way is the principal obstacle to engaging in a macro truth finding process.

Such a process, if designed correctly and impartially, would mean for all parties involved—including the governments, political parties, security forces, paramilitaries and the public at large—potentially compromising on long-held beliefs about the causes of the conflict. Or at least they would need to be prepared to allow their own perspectives to be scrutinized, and perhaps judged mistaken or misguided. The challenge such a process might present is a reason many would not support the idea of a truth commission, but equally this could be the very reasons for making such a recommendation.

A truth commission for Northern Ireland?

Many questions remain about the past and the secrets of the ‘dirty war’. For some victims the question of justice remains pressing. Although some apologies have been made, genuine acknowledgment from the governments, paramilitaries and wider institutions that had a role

³³ FAY, M. T., MORRISSEY, M. & SMYTH, M. (1999) *Northern Ireland's Troubles: The Human Costs*, London, Pluto Press, FAY, M.-T., MORRISSEY, M. & SMYTH, M. (1998) *Mapping Troubles related deaths in Northern Ireland 1969-1998*, Derry/Londonderry, INCORE, MCKITTRICK, D., KELTERS, S., FEENEY, B. & THORTON, C. (1999) *Lost Lives: The Stories of the Men, Women and Children who Died as a Result of the Northern Ireland Troubles*, Edinburgh, Mainstream Publishing, SUTTON, M. (1994) *An Index of Deaths from the Conflict in Ireland 1969-1993*, Belfast, Beyond the Pale.

in the past such as churches, the judiciary, the media, the educational establishment, and those allocating services such as housing, has not been forthcoming.

When the particular question of truth recovery is raised in Northern Ireland typical responses follow: the truth is too unsettling; everyone has secrets and it is safer to leave these alone; Northern Ireland is small and the violence intimate, truth-telling would be destabilising; justice cannot be delivered; the Agreement has already granted early release and state forces will never be held to account; truth-recovery is too expensive; acknowledgement can only be forthcoming once culpability has been conclusively established; no one would tell the truth anyway; and there are also those that fear truth is damaging and will destroy the peace process. Lundy and McGovern found, as was mentioned, that although some 50% of people thought a truth commission was important in Northern Ireland, 84% did not think that you would “necessarily get the truth” from a truth commission.³⁴ This points to high levels of social distrust.

Working with Healing Through Remembering over the years, and through my own research, I have heard all the arguments made above about why a truth commission would not be possible. What is interesting about them from the international perspective however is that they are also the arguments used by other countries when arguing for a structured approach to dealing with the past, especially a truth commission.

I have heard people from Liberia to Peru argue for a truth commission because they fear that if nothing is done one version of the past will dominate history. They would rather have all accounts of the past on the table because all will come out tarnished, even those who think everything they did was correct. Similarly, if no one wants to “come clean” then an independent body with powers such as search, subpoena and seizure should be put in place to investigate the past. Those who do not cooperate, including the state, should be labeled as uncooperative. Some victims also voice the need for alternative mechanisms to courts because courts often fail to deliver justice, especially *en masse*. And finally, contrary to the view that truth is damaging, many argue that if the truth about the past does not come out, it will pollute the future.

³⁴ LUNDY, P. & MCGOVERN, M. (2006) A Truth Commission for Northern Ireland? *Northern Ireland Life and Times Survey: Research Update*, 46.

So where does this leave the larger questions about the past in Northern Ireland? For me it highlights how people are better at articulating why the past should be avoided rather than why it should be confronted. What is at the heart of this resistance?

Graham Hayes writes:

The perpetrators fear the truth because of the guilt of their actions; the benefactors fear the truth because of the 'silence' of their complicity; some victims fear the truth because of the apprehension of forgetting through the process of forgiveness; and other victims fear the truth because it is too painful to bear.³⁵

Hayes' comments command respect for the difficulty of acknowledging the past, while they pose a challenge to us all. To this end, the question we have to ask today is: Why is it that we are better at thinking of why not to address the past than arguing why we should? Giving the reason that people will not tell the truth as a justification why we should not interrogate the past is a case in point. Yes, lingering half-truths and lies, and a failure to take responsibility for actions and inactions is a reason we should be wary when considering the issue of truth recovery, but it is also a reason why truth recovery is an imperative.

One critical question needs to be answered at this stage: is truth about past violations a right? Do we think knowing about the past from all sides, including paramilitaries, the two governments, as well as institutions that shaped the past from churches to the media, is important in principle? If so, then surely the next step is not to list all the reasons this will never be possible, but rather to ask how society can ensure truth can be delivered in a way that has political and social backing, independence and integrity.

If we decide not actively seek truth then we have to account for why they are making a conscious decision not account for violations in the past and explain why this is thought to be appropriate. This is not a practical question but a principled question of rights.

³⁵ HAYES, G. (1998) We Suffer our Memories: Thinking about the Past, Healing and Reconciliation. *American Imago*, 55, 29-50.

This is not to say that truth commissions or any other truth recovery mechanism can miraculously find “a truth”, which is obviously a difficult concept in itself. They are also not an end in themselves. There are no quick fixes. But I hope today we can think about the question of dealing with the past, and truth recovery specifically, from this angle.

This will mean we might have to consider different options but we also need to think about the *process* of moving this debate forward.

Conceivably a more significant official and national attempt to deal with the past in Northern Ireland will only take place—as optimistic or perhaps impossible as it sounds—once the hard-nosed desire to score political points from the past is replaced by a more reconciliatory discourse across-the-board. This would need to be built on the recognition that at some point laying the past bare will be needed, and that this is the greatest, albeit difficult, guarantee of a stable future in the decades to come. A delicate balance needs to be struck.

On one level, a degree of reconciliation is needed for all to agree to any official truth recovery process. Yet, at the same time, such reconciliation cannot compromise the truth that should emerge. This will require political courage and, dare I say, a level of grace and generosity seldom seen in Northern Ireland’s conflicted history.³⁶ Leadership, primarily by political representatives and the governments, needs to be shown.

Conclusion: lessons learned

This section briefly outlines some of the lessons from my research and work on local and international transitional justice issues that may be relevant to our discussions today.

1. Inclusivity, consensus and respecting victim rights: Any initiative to deal with the past works best if it is broadly inclusive and is driven by consensus. Victims also need to have their say in any process. But equally it is naïve to think that most victims will be satisfied with processes that develop if they are politically constrained. Continuing discussion and space for victims to put their views across are important. Investigation and, potentially, prosecutions will be high on victims’ agendas if international experience is anything to go by.

³⁶ HAMBER, B. (2003) Rights and Reasons: Challenges for Truth Recovery in South Africa and Northern Ireland. *Fordham International Law Journal*, 26, 1074-1094.

This needs to be respected and become part of the debate from the outset; much more work needs to be done on the issue of victims rights in the transitional justice field. Victims' rights are often an afterthought after a political deal is made, rather than the place we should be working from.

2. Victim-centred but society wide: Any process of dealing with the past must not only focus on victims alone because society generally has a responsibility to address the legacy of the past. Although processes for dealing with the past need to be victim-centred, the voting public more widely, governments, political parties, organisations, paramilitaries, security forces and public institutions need to be part of the process of dealing with the past. They all have a role in acknowledging the part they themselves played in the conflict and in finding ways to contribute effectively to addressing the consequences of conflict and meeting the needs of victims. The example of the South African TRC sectoral or institutional hearings³⁷ could be instructive in that regard.

3. Transparency and public accountability: Any process of remembering or dealing with the past needs to be transparent and publicly accountable. In South Africa, for example, selecting truth commissioners was a public process. The public was asked to nominate individuals that they felt had a good human rights track record to be commissioners. These individuals, some three hundred, were then interviewed in public by a selection panel selected by President Mandela³⁸ and in the full glare of television cameras. Their pasts were open to discussion if necessary and the public could send in questions to the panel if they wanted. Finally seventeen individuals were selected. In this way, the legitimacy of the commission was built from the start. This teaches us that transparency in selection process and operation is vital in truth-recovery related processes or any dealing with the past initiative.

4. Authentic investment in uncovering the truth in a wide-ranging manner: A genuine strategy for dealing with a violent past should not merely be set up for pragmatic and political

³⁷ Institutional hearings in the South African TRC focused on the way influential sectors of society (e.g. the medical and health professions, judiciary, business community, churches, and the media) contributed or ameliorated the creation of an environment conducive to human rights violations.

³⁸ In some countries this process is being used to elect Commissioners to bodies such as truth commissions. The selection panel can be made up of political representatives meaning they have to come to a consensus on the individuals. Their involvement in the process is limited to this, and any truth recovery body should not be made up of political appointees and should operate independently thereafter.

reasons. There are several countries where truth commissions have been used as a way of ‘whitewashing’ the past. There needs to be an authentic investment in uncovering the truth and dealing with the past as ways of learning lessons for the future. As mentioned at the start of this paper, dealing with the past is also a long term and multifaceted, and cannot be reduced to one mechanism.

5. Long-term commitment to reconciliation and not point-scoring: Dealing with decades of conflict is long term, complex and time-consuming. It will not entail a single approach or model, and the past cannot simply be put to rest. International lessons suggest it takes decades. There are no quick fixes, as was mentioned earlier. We should not rush into opinions on different methods before we have agreed that remembering, acknowledgement, truth and justice are important issues for victims and society at large. These are the principles from which any process needs to begin.

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