

Transitional Justice in Northern Ireland: An Alternative to the Norm of Establishing Central Institutions



Address by
Lorna McGregor

at the
ICES Auditorium, Colombo
November 19, 2003

Lorna McGregor, ICES Research Fellow and Henigson Fellow
of Harvard Law School.

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International Centre for Ethnic Studies
2, Kynsey Terrace
Colombo 8
Sri Lanka

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In dealing with the legacy of human rights abuses and violence, states in transition predominantly establish a central institution, like a truth commission or a prosecutorial tribunal, to address the plethora of societal demands ranging from truth to justice to reconciliation. Northern Ireland currently faces similar challenges of how to deal with the legacy of its violent past. In response to specific incidents during the conflict and in certain segments of society, the process of facing history has already begun. As of yet, however, no consensus has been reached on a central mechanism. In this presentation, I seek to investigate whether the orthodox approach of establishing a centralised institution provides the optimal means for Northern Ireland to deal with its past. This inquiry is particularly relevant as the case study of Northern Ireland potentially undermines the presumption in transitional justice that central institutions offer the most appropriate mechanisms in facing history.

The Formula

The development of transitional justice from the Nuremburg trials to the end of the twentieth century has been described as the move from the “exception to the norm.”¹ Transitional states from Chile to Chad to Cambodia have attempted to redress past human rights violations through the employment of some kind of transitional justice mechanism. Although the form and objective of each mechanism varies as a result of the differing contexts of states

¹ Ruti G. Teitel, *Transitional Justice Genealogy*, 16 Harvard Human Rights Journal 69 (2003) at 71

emerging from very different conflicts, two common characteristics result from the proliferation in transitional justice models. First, the normalisation creates the assumption that states in transition overwhelming need to deal with the past. This assumption presents a complex and increasingly challenged conception, which time unfortunately prevents us from exploring further today. Suffice to say that three main arguments are posited as rationales for addressing the abuses committed during the conflict:

- the force of memory which prevents both victims and perpetrators from forgetting the violence of the conflict;
- the urge for vengeance which, if left uncurbed, threatens to reignite and sustain cycles of violence;
- the contention that the passage of time fails to erode or reduce the impact of memory.²

The second characteristic is the interplay between the objectives in dealing with the legacy of human rights abuses and the means through which to achieve the objective typically results in the establishment of one or a limited number of central institutions. The tendency to focus on one centralised institution results in a standardised approach or formula for future transitional states.

² For further reading, please see Marie Smyth, *Remembering in Northern Ireland: Victims, Perpetrators and Hierarchies of Pain and Responsibility* in *PAST IMPERFECT: DEALING WITH THE PAST IN NORTHERN IRELAND AND SOCIETIES IN TRANSITION* (Brandon Hamber, ed., 1998).

For further reading, please see Martha Minow, *BETWEEN VENGEANCE AND FORGIVENESS AFTER GENOCIDE AND MASSIVE VIOLENCE* (1998); Nancy L. Rosenblum, *Justice and the Experience of Injustice* in *BREAKING THE CYCLES OF HATRED: MEMORY, LAW AND REPAIR* (Martha Minow, ed., 2002); Austin Sarat, *When Memory Speaks: Remembrance and Revenge in Unforgiven* in *BREAKING THE CYCLES OF HATRED: MEMORY, LAW AND REPAIR* (Martha Minow, ed., 2002).

Justice, accountability, truth and reconciliation embody the catchphrases cast out in any debate relating to the redress of past human rights violations.

In identifying the contextual needs of the particular society, the architects of the transitional justice model tend to focus on a specified number of aims from this list. Once the transitional state identifies the objectives of dealing with the past, the tendency has been to aggregate the collective interests up into one central institution. Thus, only the particular context of the transition provides scope for variation as the pattern and methodology adhere to a prescribed formula.

One focal forum poses an attractive option by symbolically conveying to the domestic and international community a sense of unity and cohesiveness. The most common forms of central institutions are judicial-style bodies, as in the International Criminal Tribunals for the Former Yugoslavia and for Rwanda; truth [and reconciliation] commissions, as in the truth commissions in Chile and Argentina; or increasingly a combination of both, as in the South African Truth and Reconciliation Commission and the currently sitting Special Court and Truth and Reconciliation Commission for Sierra Leone.

Given the standardised pattern, it would seem that the process for Northern Ireland to broach its past should simply mirror this normalised pattern of asserting the objectives of redressing past human rights violations and then identifying the vehicle through which to achieve the asserted aims by aggregating the interests into one central institution. Indeed, in Northern Ireland the debate moves beyond informed conjecture as a variety of techniques have already been adopted in response to specific incidents that occurred during the conflict. Therefore, on the assumption that a need to address the past comprehensively exists, the prescription of the orthodox formula against the informed knowledge of the success and failure of the existing individualised models should enable the establishment of a centralised institution to follow logically.

The Case Study of Northern Ireland

Since the arrival of English settlers in 1609, Northern Ireland has moved in and out of varying levels of conflict in which around 4,000 people have been killed. The popular depiction of the conflict in Northern Ireland narrowly focuses on the dominant religions and political parties, assigns them to a place on either side of the conflict divide and amalgamates and intermixes each side into a confused mix of political and religious strife.³ On one side, Catholicism is used interchangeably with the political party labels of Nationalists and Republicans which together are portrayed crudely as pursuing the reunification of the Irish isle. The other side is viewed as representing a homogenous mix of pro-British rule Unionist/Protestants.⁴ While the sectarian nature of the divide accurately describes a significant element of the conflict in which many residential areas and schools continue to be segregated, the characterisation is somewhat limited and distorted in composition. Many individuals and groups do not adhere to the politics of either side, the Unionists and Nationalists and Protestantism and Catholicism do not represent homogenous groups. Further, the religious and political cleavages fail to acknowledge the role of the British and Irish states in the conflict as well as other representative groups, such as those based on gender.⁵

³ For a deeper discussion of this issue, please see Farry, Sean Neeson, *Political Viewpoint: Beyond the "Band-Aid" Approach" An Alliance Party Perspective Upon the Belfast Agreement*, 22 Fordham Int'l L.J. 1221 (1999) at 1224

⁴ These characterisations do not represent the view of the speaker but a summary of the commonly held stereotypes.

⁵ For example, the Northern Ireland Women's Coalition.

The Belfast Agreement

The 1998 Belfast Agreement⁶ signifies the most comprehensive attempt to reach a peace settlement throughout the history of the conflict. The significance of the Agreement varies according to the group interpreting its relevance: the Republicans view it as a transitional arrangement, while the Unionists see it as a final settlement.

In line with the varying levels of devolution in the United Kingdom as a whole, the Agreement established a power-sharing Executive and Assembly for Northern Ireland. The Belfast Agreement also deals with:

- the early release of prisoners convicted for crimes committed during the conflict;
- the decommissioning of weapons;
- the establishment of a Human Rights and Equality Commission;
- the institutional reform of the criminal justice system and the police.

The Assembly created under the Agreement has now been suspended four times which calls into question the stakes of the Agreement. Although the Northern Ireland Secretary, Dr. John Reid, claims that the most recent suspension was made in order to safeguard the Belfast Agreement, the spate of suspensions renders the political climate in Northern Ireland uncertain.⁷

Notably, in terms of transitional justice, the Belfast Agreement fails to provide direction on a suitable method to address or deal with the past. Yet, the current climate in Northern

⁶ Hereinafter, Agreement Reached in the Multi-Party Negotiations, Apr. 10, 1998.

⁷ BBC ONLINE NETWORK: BBC NEWS, Q & A: Assembly Suspension, Monday, 14 October 2002, *obtainable from* <<http://news.bbc.co.uk>>

Ireland suggests a need to address the past in at least some segments of society in relation to at least some events. One of the strongest reasons given for addressing the past is the lack of time to grieve at the time of the particular act of violence due to the intensity of the conflict. The contextual circumstances of Northern Ireland acutely pronounce the general cultural reaction (both Irish and British) of simply 'getting on with things' in response to difficult situations. Yet, the cumulative effect of the suppression of emotions renders the need to address the past even more pertinent and thus aligns with the general assumption in favour of facing the past.

A NEED TO DEAL WITH THE PAST: EFFORTS IN NORTHERN IRELAND

A number of projects to address the past have already begun, a selection of which I will describe in this presentation. They are intended to reflect the divergence in approaches both in substance and in form. The strengths and weaknesses in objective and implementation indicate how the model might translate on a macro scale to the establishment of a centralised institution designed to comprehensively deal with the past. The current responses to specific events of the conflict in Northern Ireland heavily emphasise the objectives of truth and accountability and thus ostensibly direct the application of the standardised approach to transitional justice.

The Foreclosure of Wide-Scale Prosecutions

The first point to address is the foreclosure of wide-scale prosecutions in the Northern Irish context. Historically, the general complicity of state institutions in the perpetuation of the conflict and the general impunity of state agents indicates the unsuitability of the criminal justice system in redressing the past.⁸ While

substantial prosecutions were secured against the paramilitaries and political activists, the lack of prosecutions of state agents, even after the European Court of Human Rights judgment⁹ holding the UK in violation of its obligations under the Convention, engendered a strong perception of bias on the part of the legal system. At this stage, the use of the trial process would potentially jeopardise the success of the attempt to deal with the past due to institutional suspicion and mistrust.

Conceptually, prosecutions are not sought by the majority of families of victims, at least of state violence. Criminal trials only indict one individual. In the context of a conflict, however, the hierarchical structure of both state organisations, like the military, and the paramilitary groups, implicate a wider range of people and culture than the triggerman alone and this is what victims' organisations, such as the Pat Finucane Centre, seek acknowledgment of.¹⁰

The Bloody Sunday Tribunal and the ECHR Cases: Official Investigations

The Bloody Sunday Tribunal

The first set of models relate to official investigations. The Bloody Sunday Tribunal¹¹ depicts one of a number of official inquiries

⁸ See, Bill Rolston, *TURNING THE PAGE WITHOUT CLOSING THE BOOK: THE RIGHT TO TRUTH IN THE IRISH CONTEXT* (2000) at 32.

⁹ *Ireland v. United Kingdom*, Series A, vol. 25, 1978

¹⁰ Interview, Paul O'Connor, Pat Finucane Centre, 4 February 2003.

¹¹ For an excellent critique of the Bloody Sunday Tribunal, please see Angela Hegarty, *Dealing with the Past: The Government of Memory: Public Inquiries and the Limits of Justice in Northern Ireland*, 26 *Fordham Int'l L.J.* 1148

into killings committed during the conflict. The events of Bloody Sunday in 1972 in which the British Army killed thirteen civil rights protesters at a civil rights rally against the policy of internment represent one of the most high-profile and defining atrocities of the conflict for which a need for an official truth process persists in order to hold the British state accountable for its actions. Directly following Bloody Sunday, British Prime Minister, Edward Heath, appointed Lord Widgery to conduct an inquiry into the deaths. Widgery issued a very short (39 pages) report within 17 days, dismissing much of the conflicting evidence and witness testimony in order to find in favour of the state. The dissatisfaction with the Widgery process created a momentum within civil and political society to push for a new inquiry. After years of such pressure, the British government finally established the Bloody Sunday Inquiry in 1998.

Both Prime Minister, Mr. Tony Blair, and Lord Saville emphasised that the Inquiry is not intended to operate as an adversarial trial but rather as a mechanism of establishing the truth of what happened on Bloody Sunday.¹² Despite these stated goals, however, the very framework and nature of the Tribunal closely patterns the format of a trial, thus resulting in the adversarial process that Saville claimed to reject. An observer for British Irish Watch, describes the Tribunal as "impressive, if a little intimidating to non-lawyers."¹³ Accordingly, a mismatch in intention and implementation has potentially jeopardised the success of the inquiry.

¹² Mr. Tony Blair MP, the Prime Minister, Statement to the House of Commons, 29 January 1998, House of Commons Official Report, Parliamentary Debates (Hansard); Lord Saville, Opening Statement, 3 April 1998, obtainable from The Bloody Sunday Inquiry Website: <<http://www.bloody-sunday-inquiry.org.uk>>

¹³ Catherine McKenna, Bloody Sunday Continues..., Just News, Bulletin of the Committee on the Administration of Justice, July/August, Vol. 15 No. 7/8, obtainable from <<http://www.caj.org.uk>>

Most notably, the Inquiry departs from the procedure of most truth commissions in the treatment of witnesses. The cross-examination of witnesses mirrors the adversarial nature of litigation in a court of law rather than offering a forum in which to allow the witnesses/survivors to present their version of the truth without challenge as to its legitimacy.

As a formal process created by the state, the successful operation of the Tribunal suffers from the resistance of the British state to fully engage in the process. Even though the state claims active cooperation with the Tribunal by virtue of its establishment and the huge amount of funds poured into its operation, the disappearance and destruction of evidence and the delays and challenges to producing witnesses and soldiers cumulatively suggests an attempt by the state to obstruct the truth recovery process. The vulnerability of the Tribunal in the hands of the state questions whether any truth process can succeed under governmental control without a genuine and open intent to acknowledge its involvement.

Despite the obstruction of the state, however, the Bloody Sunday Tribunal hearings have revealed important information about the events on and surrounding the day. For example, the Inquiry uncovered an amnesty agreement between the Royal Ulster Constabulary and the British Army for the period between January 1970 and March 1972 in which 72 were killed without proper investigation. This information now allows the relatives of the victims to pursue judicial review and exposes the role of the state in the conflict. Accordingly, the truth is beginning to seep out, the consequence of which is the accountability of the state in truth finding process, albeit involuntarily.

ECHR cases

The recent European Court of Human Rights judgment in four joined cases¹⁴ further indicate the importance of achieving accountability through a truth process in Northern Ireland. In a unanimous judgment, the Court found that the British state violated Article 2 of the European Convention of Human Rights on the right to life in its failure to carry out an effective and thorough investigation into deaths committed by state agents during the conflict. The strict standard of effective and thorough investigation applied by the Court potentially reopens a substantial number of cases and provides a mechanism for relatives of individuals killed by state agents to hold the state accountable.

Amnesty Issues: the 'Disappeared' and the 'On-the-Runs'

On the issue of amnesty, both the Irish and British state surprisingly have long traditions of utilizing pardoning and amnesties in relation to political and civil conflict, with the British state having passed more than 110 acts of pardon.¹⁵ Indeed, the Bloody Sunday Tribunal itself enjoys the discretion to grant immunity from prosecution. Against this background, two initiatives illustrate the varying degrees of amnesty and pardoning adopted in the peace process: the disappeared and the on-the-runs.

¹⁴ *Hugh Jordan v. The United Kingdom*, Applic. No. 24746/94; *McKerr v. The United Kingdom*, Applic. No. 28883/95; *Kelly and Others v. The United Kingdom*, Applic. No. 30054/96; *Shanaghan v. The United Kingdom*, Applic. No. 37715/97. All decided on 4 May 2001. For a comprehensive analysis of the judgments, see Professor Fionnuala Ni Aolain, *Truth Telling, Accountability, and the Right to Life in Northern Ireland*, 5 *European H.R. Law Rev.* 572-590
Kieran McEvoy, *PARAMILITARY IMPRISONMENT IN NORTHERN IRELAND: RESISTANCE, MANAGEMENT AND RELEASE* (2001) at 316.

In 1999, the U.K. Parliament passed legislation to locate the bodies of individuals disappeared by the IRA.¹⁶ In exchange for the cooperation of the IRA, the Act provided for the inadmissibility of the evidence uncovered in the investigation in criminal proceedings.¹⁷

Another example of quasi-amnesty is in relation to the 'on-the-runs': four categories of republicans framed as "those who believe they are being sought by the authorities with respect to an offence; those who have escaped from prison following conviction; those who have absconded while on bail prior to conviction; and those awaiting extradition."¹⁸

Although no formal legislation exists, rumours circulate about the practice of the Director of Public Prosecutions to issue letters to certain republican individuals to communicate that no prosecutions would be pursued should they return to the North.

The Bloomfield Report: We Will Remember Them

In November 1997, the then Secretary of State, Marjorie Mowlam, commissioned Sir Kenneth Bloomfield to "examine the feasibility of providing greater recognition for those who have become victims in the last thirty years as a consequence of events in Northern Ireland."¹⁹ Ostensibly, Bloomfield issues a wide-spectrum of recommendations aimed at the prioritisation and empowerment of victims. He emphasises practical assistance in the form of compensation; the empowerment of the voices of victims and the establishment of an Ombudsman for Victims;

¹⁶ Northern Ireland (Location of Victims' Remains) Act 1999); Criminal Justice (Location of Victims' Remains) Act 1999

¹⁷ NI Act at section 3

¹⁸ Christine Bell, *Dealing with the Past: Dealing with the Past in Northern Ireland*, 26 *Fordham Int'l L.J.* 1095

¹⁹ Sir Kenneth Bloomfield KCB, *We Will Remember Them*, Report of the Northern Ireland Victims Commissioner (1998) at para 1.2

greater treatment and research into psychological and physical pain and the provision of symbolic remembrance in forms such as a "Memorial and Reconciliation Day."

However, the Report received substantial criticism for its hierarchical treatment of victims. Bloomfield directs "special concern" for those carrying out "public duties, including the military, and only assigns two paragraphs to deaths by the state. Even then the deaths are not accorded equal importance: he places the term, state terrorism, in quotation marks and largely refers to the allegations made by relatives of the victims, instead of making concrete assertions himself on the worth of these victims and those responsible for their deaths.

*Ardoyne: The Untold Truth. An Informal Truth Commission*²⁰

Ardoyne is a staunchly nationalist/republican area in North Belfast. The Bloomfield report "went down like a lead balloon." The community, commonly depicted as a terrorist enclave, wanted the opportunity to "set the record straight", to 'tell their story'".²¹ Accordingly, the community itself, led largely by ex-political prisoners, initiated a commemoration project which developed into a form of truth commission that culminated in the publication of the book, *Ardoyne: The Untold Truth*. The project documented 99 deaths and took 300 interviews. Only two families declined to participate because of the painful nature of personally recounting.

Community control and ownership reflect the key characteristics of the Ardoyne project. In addition, the fear and suspicion engendered by the conflict, necessitated a deep trust in the coordinators of the project. Only well-respected individuals²²

from within the community could conduct the interviews. Even the transcribers of the interviews had to come from within the community. The source of funding presented a contentious issue from the beginning because the community feared that donors would attempt to mould the process. Unsurprisingly, the community rejected any state funding but finally agreed upon a number of outside donor organisations the history of which indicated impartiality. At all stages of the process, the project aimed to empower the individuals and families who testified. Once the transcribers documented the interviews, the editors returned the transcripts to the families for corrections.

Although the candid information uncovered by the Project devastated the community, the overall impact produced a cathartic effect. For many families, the testimonies reflected the first time they had ever spoken about the traumatic events. The Project not only instigated the healing process but also acted as a springboard to further truth telling. One of the leading figures in the Project, Dr. Patricia Lundy, asserts that without an internal healing process, the community could not have begun to deal with the past externally and address the overall picture in the community.

The Project now must decide what to do with the information obtained. At this stage, it is unsure about the best strategies to use and what to push for. The report recognises that "[t]here may not be a single road to that goal [of closure]. In fact it is up to each individual and family how they approach the issue of seeking truth and justice. Some may prefer to let 'sleeping dogs lie'. Others may choose to take legal action, campaign for a public inquiry or push for a mechanism (such as a truth commission) to reveal the truth about the past. There may be a need for a range of mechanisms to be available. Different approaches are not necessarily mutually exclusive"²³. The Project intends to carry out further interviews with the participants to determine the effects of the Project on reconciliation and closure. The Ardoyne Project

²⁰ Ardoyne Commemoration Project, ARDOYNE: THE UNTOLD TRUTH (2002)

²¹ *Id.* at 3

²² The interviews not only had to be from within the community but also well-respected members therein.

²³ Ardoyne Commemoration Project, *supra* note 30 at 539.

thus illustrates the different utilities of truth processes. In this instance, the truth process was valuable both independently and as an enabling mechanism towards the goal of accountability and reconciliation.

Healing Through Remembering Report: Unofficial Suggestions on Methodology

The final example of a transitional justice initiative in Northern Ireland is that carried out by the NGO, Healing Through Remembering, which conducted a survey to investigate the possible ways to remember the events surrounding the conflict in Northern Ireland. On the basis of the information collected in the 108 submissions, the Project presented its findings to the British and Irish governments and the Office of the First and Deputy First Minister. In issuing its Report, the Project asserts that, "[t]here is no single treatment for the healing process...The recommendations presented here should not replace what is already in place and what is developing in other sectors."²⁴ Thus, although the Report did not elucidate any central aim or facilitating mechanism, it promotes cathartic healing processes over the traditional adversarial process and retributive justice.

THE FORECLOSURE OF A CENTRAL INSTITUTION AS THE FOCAL OPTION

The prescription of the orthodox approach to transitional justice in the context of Northern Ireland suggests the logical progression to the establishment of a central institution to draw the fragmented efforts together. The heavy emphasis on the objectives of truth and accountability coupled with the unsuitability and improbability

²⁴ Healing Through Remembering, *The Report of the Healing Through Remembering Project* (2002) obtainable from <<http://www.healingthroughremembering.org>> at vii

of full-scale prosecutions anticipates a form of truth commission as the forum in which to realise the purported goals.

Yet, the developments in Northern Ireland falsely convey a momentum towards a central institution: in fact, the political and societal reality in the region suggests that a central institution is neither possible nor desirable to address the past. The reasons, in brief, derive from resistance, apathy and a lack of consensus at different levels of society. A central institution is not on the political agenda and is unlikely to be so placed in the future due to the resistance by all political parties to addressing their own accountability for the violations committed during the conflict. Even though the history of Northern Ireland reveals a powerful civic society that has repeatedly mobilized and influenced the political process, increasingly disillusionment with existing efforts renders the prospect of a push by civil society for a centralized institution remote. Finally, the entrenched perceptions of what and who caused the conflict, the identification and acknowledgment of perpetrators and victims, and the perceived bias of many of the models have engendered strong divisiveness and objectives on all sides. Therefore, reaching a consensus on the form of central institution would be difficult. The total of all these factors indicates that the imposition of a top-down transitional justice model at this stage would likely aggravate rather than promote healing

Even if the aforementioned obstacles could be surmounted and consensus reached, a central institution would still be unsuitable for three reasons. First, different individuals, groups and communities are at disparately different levels in the healing process. In the absence of collective preparedness, the institution would have to present either a watered down version of remembering or project aspirational aims that only a certain segment of society could readily reach. Any approach would likely be viewed as bias towards a particular side, thus propagating feelings of fear and mistrust.

Second, the efficacy of an institution would depend on the willingness of key individuals in all the relevant groups to

participate. Without the leverage of prosecutions and the safety net of a formal amnesty process, little would currently compel individuals to come forward.

Third, and more pragmatically, even in the event of consensus on the form of the institution, the problem of the control and running of the institution remains. The willingness of the British state to establish a comprehensive institution to deal with the past remains doubtful even against the increasing pressure for some form of accountability. The cost of the Bloody Sunday Tribunal alone, currently standing at 100 million pounds sterling, continues to soar. Even if the State was willing to fund the process, it would be unlikely to do so without significant control over the running of the institution. Again, in light of the frustration of the Bloody Sunday process, the Republican community would likely view a state sponsored institution suspiciously and most probably limit its own involvement accordingly. Paradoxically, the Unionist community would probably feel quite distrustful and insecure without significant state involvement out of fear of a lack of protection as a minority in the province.

THE APPLICATION AND IMPLICATIONS OF THE NORTHERN IRISH EXPERIENCE TO TRANSITIONAL JUSTICE IN GENERAL

I would suggest that the lack of foreseeability of the establishment of a central mechanism in Northern Ireland, should not be seen as a failure to conform to the standardised approach but rather as an indicator of the significant flaws of centralised models.

Most transitional justice mechanisms arise out of a political compromise or negotiated settlement. The normalisation of central institutions through peace agreements²⁵ creates the assumption

²⁵ Christine Bell, PEACE AGREEMENTS AND HUMAN RIGHTS (2000) at 18

that a macro-level body offers the best solution to the question of how to deal with the past. However, no empirical evidence exists to prove this assertion. Potentially, the same ends can be achieved, perhaps even more effectively, through a decentralised system that indirectly produces a collective impact on society without imposing a symbolic, artificial construct on the general healing process.

Limitations: Expectations that Exceed Capabilities

One institution simply cannot serve the needs of the entire society, yet transitional justice models increasingly adopt an umbrella approach to address or at least touch on as many issues and values as possible. Increasingly, the goals of truth, justice and reconciliation filter into transitional justice debates as amorphous and interchangeable concepts. The terms are accepted as legitimate and realisable goals of a formal institution. Yet, the very aggregation of objectives into one centralised institution fails to recognise the breadth, depth and contradictions within and between the goals individually and collectively. The failure to closely define and delimit the goals creates expectations that far exceed the capabilities of one institution.

The focus on one institution raises it to an elevated status in society and generates expectations that far exceed its capabilities. Instead of standing for the start of a long-term healing process, the focal body gives the illusion of instantly providing one truth about the conflict to serve all segments of society, justice in all forms of the word, and reconciliation within and between conflicted individuals and groups. The interdisciplinary approach of transitional justice models to encompass law, politics, religion, psychology and morality implies a breadth and depth that the body simply cannot live up to.

Arguably, the response of future transitional justice models should be to prevent the mandate and surrounding expectations from spiralling out of control. Yet, closely defined goals would explicitly and openly confirm and augment the existing problem

of adopting a centralised institution: any limitation on the mandate involves a further prioritisation and election over what goals are worth pursuing. By overtly choosing, the institution instantly is subjected to criticisms of bias which can prove divisive in society and thus hamper the overall healing process. While peace agreements often force the determination of priorities in dealing with the past in order to secure stability for the state or region or to appease relevant actors, this does not automatically lead to the conclusion that election constitutes the optimal approach for society or that future peace agreements should follow such a restricted line. Given that any attempt to deal with the past relates to the very personal emotions of grief, pain and anger, adopting a paternalistic approach proves highly problematic.

EMBRACING FRAGMENTATION

The denouncement of the establishment of a centralised model as the optimal solution is not intended to undermine the recognition of the underlying need to deal with the past. The recognition that the neglect of old wounds risks regression to the past thus necessitates an alternative approach. Returning to the case study of Northern Ireland, although a strong political and societal momentum does not exist to establish a central institution, a clear need persists to deal with the past in some manner. Instead of moving towards a centralised institution, the alternative approach in Northern Ireland accepts the status quo of fragmented and sporadic efforts to deal with specific incidents in the past. By accepting the independent validity of each individual mechanism, the multi-layered approach avoids prioritising one objective in dealing with the past and thus acknowledges the divergent needs of society. Responding to groundswells at both the macro and micro level presents the less glamorous but more utilitarian method of dealing with the past but potentially offers a more integrated and sustainable approach which recognises each transitional justice mechanism, formal and informal, as an equal contribution to and as a starting point, to the long-term process of transition.

On the surface, the fragmented approach appears to work in opposition to the ends of a central institution to create the space for society to communally deal with the past. Such criticism fails to recognise that the fragmented approach actually embraces this end but recognises that the true realisation of the goal necessitates a sustained approach which takes time. Accordingly, the fragmented approach aims to achieve a deeper level of communal healing than the central institution alone can ever enable. The manner in which the fragmented approach achieves communal healing is less obvious due to the sporadic and scattered nature of each effort.

In any case, in practice, none of the transitional justice mechanisms, formal or informal, can operate in isolation, therefore cross-fertilisation informs and impacts each model. The initiatives tend to feed off each other and rectify the other's inadequacies. For example, the failings of the Widgery Tribunal prompted the mobilisation of civil society to lobby for the establishment of the Bloody Sunday Tribunal. Similarly, the perceived biases of the Bloomfield Report resulted in the establishment of the Ardoyne mini-truth commission. The publicity surrounding the various efforts and the response of non-governmental organisations and other civil society movements ensure a heightened level of awareness and public debate to learn from the successes and failures of other models as a deeper, more inclusive and sustained approach. Thus, the recognition of the limitations and drawbacks of each model should actually contribute to the overall development in the long-term, if the problems are addressed and used constructively to improve the various models. Furthermore, the recognition of the problems and limitations is not an exclusive characteristic of the multi-layered approach as similar problems arise in relation to a central institution, therefore the emphasis should be on the minimising and rectification of the problems rather than an attempt to illustrate the unworkability of the multi-layered approach due to its defects.

In sum, the imperfect experience of Northern Ireland offers an alternative perspective on transitional justice which is steeped

in reality and fallibility. The experience and ebbs and flows of the processes challenge the perception that the goals of transitional justice can be reached smoothly and through a small number of dominant processes limited in duration. Through the recognition of the longevity of the task of transitional justice, the experience in Northern Ireland seeks to promote a closer examination of the task of transitional justice models in the future.

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