



WORKSHOPS REPORT

Developing Gender Principles for Dealing with the Legacy of the Past



Legacy Gender Integration Group
Belfast, November 2015

ACKNOWLEDGMENTS

The workshops were facilitated by Andrée Murphy and Mary Kate Quinn (Relatives for Justice) and Mary McCallan (WAVE Trauma Centre). The workshops included contributions from Mary McCallan and Gemma McKeown (Committee on the Administration of Justice) providing an overview of the Stormont House Agreement. Administrative support was provided by Philipp Schulz (Ulster University Transitional Justice Institute).

The workshop report was written by Philipp Schulz and Catherine O'Rourke (Ulster University Transitional Justice Institute).

The workshops and the report were funded by the Reconciliation Fund of the Irish Department of Foreign Affairs and Trade.

OVERVIEW

Initiatives to deal with the past have been characterised by the absence of any official recognition of gender as a relevant consideration, including in the most recent Stormont House Agreement. Against the backdrop of continued de-prioritisation of gender in official and non-governmental work to shape the legislation and implementation of the Stormont House Agreement, there is an urgent and immediate risk of the Agreement replicating the marginalisation of women and gender in dealing with the past in Northern Ireland.

The Gender Principles for Dealing with the Legacy of the Past were developed to respond to the absence of a gendered lens and the sustained exclusion of women in dealing with the past. The Gender Principles are designed to ensure that the gendered impact of the conflict and post-conflict legacy needs of women will be adequately addressed in processes emerging from the Stormont House Agreement.

The Gender Principles for Dealing with the Legacy of the Past have been developed by the Legacy Gender Integration Group, an informal network of individuals with gender expertise from civil society and academia. The Legacy Gender Integration Group came together in April 2015 to work for the integration of gender into SHA legislation and implementation. Group members include Claire Hackett (Falls Community Council), Yasmine Ahmed (Rights Watch UK), Emma Patterson-Bennett and Gemma McKeown (Committee on the Administration of Justice), Sara Duddy (Pat Finucane Centre), Mary McCallan (WAVE Trauma Centre), Andréé Murphy (Relatives for Justice), Catherine O'Rourke (Transitional Justice Institute, Ulster University), Patricia Lundy (IRiSS, Ulster University) and Leah Wing (University of Massachusetts-Amherst).

In order to advance the gender principles, three consultation workshops were held in Summer 2015 (in Derry/Londonderry on August 18th, Armagh on August 19th and Belfast on August 22nd) to work towards the principles reflecting, as closely as possible, the needs and priorities of victims and survivors. The workshops were small and closed events, with approximately fifteen external participants, in addition to members of the Legacy Gender Integration Group. The workshops were restricted to women who had been bereaved as a result of the conflict, by the death of an immediate family member. The small size of the workshops presents obvious limitations to the generalizability of the findings. Nevertheless, this arrangement was designed to ensure a safe environment for participants and to facilitate meaningful discussion of the principles and issues. The workshop participants were drawn from existing networks of victims' organisations. Individuals with extensive experience of working directly with

victims facilitated the workshops. Support was available to participants during and after the workshops. Participants were free to withdraw from the workshops at any time.

Each of the workshops was opened by introductory remarks, which emphasized the objective and the importance of these consultations. The workshops were structured around two main parts: an overview of the Stormont House Agreement and an introduction to the gender principles. The small size of the workshops facilitated open discussion, with questions and comments from participants throughout each workshop.

This summary report gives a brief overview of the purpose and structure of the three workshops, the key findings, and a description of the main themes and discussions. The Gender Principles for Dealing with the Legacy of the Past are included as an Appendix to the report.

WORKSHOP KEY FINDINGS

1. There is an acute need for more information to be provided to victims and survivors on the institutions to be established under the Stormont House Agreement and their relationship to existing institutions and processes.

2. The women who participated in the workshops understood their experiences of dealing with the past to be deeply gendered, in terms of the following:

- A. Experiences of harm resulting from their bereavement, in particular in the following experiences:
 - i. Motherhood and conflict
 - ii. Male victimhood and masculinities
 - iii. Fear and re-victimisation
 - iv. Stigmatization

- B. Strategies for coping:
 - i. 'Carrying on'
 - ii. Community-based support
 - iii. Silence

- C. Engagement with official processes to deal with the past:
 - i. 'Patriarchal structures'
 - ii. Disempowerment
 - iii. Structural obstacles to the inclusion of women
 - iv. Re-victimisation
 - v. Loss of trust

3. The priorities of the participants for implementing the Stormont House Agreement reflected their own deeply gendered experiences of dealing with the past, most notably in their proposals concerning:

- A. Reparations:
 - i. Compensation
 - ii. Rehabilitation
 - iii. Satisfaction (Apologies and Acknowledgement)

- B. Staffing and Recruitment:
 - i. Gender Power Dynamics
 - ii. Defining 'skilled'
 - iii. Leadership

- C. Relationship of new institutions to each other and to existing processes and institutions:
 - i. Historical Investigations Unit (HIU)
 - ii. Oral History Archive (OHA)
 - iii. Timelines
 - iv. Integrated processes
 - v. Flexibility

DISCUSSION OF WORKSHOP FINDINGS

1. THE NEED FOR GREATER INFORMATION AND ENGAGEMENT

The workshops' primary aim was to obtain the views and perspectives of women on the gender principles as developed by the group, and to ensure that the principles reflect the needs and priorities of women bereaved by the conflict on the Stormont House Agreement (SHA). Likewise, the workshops intended to get the views of women on how the issues surrounding gender and the conflict-related experiences of women have been included and reflected within wider processes to deal with the past. Overall, the workshop discussions directly related to, reiterated, and confirmed the gender principles.

All participants at all three workshops were very engaged and interested in the subject matter and asked very detailed, and at times technical, questions regarding both the SHA and its respective mechanisms, as well as previous processes and mechanisms—including, first and foremost, the Historical Enquiry Team (HET).

Some of the questions posed seem to suggest that, among the participants, there was a general widespread confusion and a lack of clarity concerning the SHA and its main mechanisms, particularly with regards to the mechanisms' mandates and ways of operating. Overall, participants emphasized the need for further information and outreach for individuals and communities about the SHA and its mechanisms.

Although not the primary objective of the workshops, one of the ultimate benefits of the workshops proved to be the provision of information and contextualization regarding the SHA and the four new agencies to be established. This outcome points to the critical need for wider processes of information, consultation and engagement with those who will ultimately use the institutions established by the SHA.

2. DEALING WITH THE PAST AS GENDERED

Overall, the consultations directly reiterated that the conflict and the processes for dealing with the past are highly gendered. The consultation discussion illustrated that the vast majority of those killed during the Troubles were male, whereas the majority of those immediately bereaved of family members and loved ones were female. Participants recounted that, in most cases, women were left behind to manage single-headed households, having to compensate for the loss of the primary breadwinner. Similarly, those who were left to engage with processes of dealing with the past were mostly women.

Moreover, the workshops highlighted that, in line with the gendered experiences of conflict and of dealing with the past, an individual's legacy needs, experiences of victimhood and coping strategies are similarly influenced and shaped by gender. Concerns were raised at the workshops that the gendered experiences of women, in relation to the conflict, are being ignored and forgotten. More specifically, the workshop participants raised concerns that the overly legalistic and events-based approach (focused on deaths only) of many of the planned processes—and certainly the Historical Investigation Unit (HIU) and the Independent Commission for Information Retrieval (ICIR)—would downplay and neglect the diverse experiences of women during the conflict. Participants noted that the legal and political worlds are male-dominated and masculine, which consequently has an impact on how gendered experiences of women are perceived and addressed.

Resoundingly, across all three workshops, the participants understood their experiences of the conflict, of processes to deal with the past, and of the structural barriers of engaging with these processes, to be deeply gendered. Participants displayed a strong level of awareness of how their experiences in dealing with the past to date had been heavily shaped by their gender.

A. Experience of Harm as Gendered

Motherhood and conflict

Various points and concerns discussed by participants both directly and indirectly related to the broader theme of motherhood and conflict. Some participants recounted the profound impact of losing a mother during the Troubles, while others related their experiences as mothers having lost a son. These experiences of motherhood and bereavement featured prominently in the discussions.

Losing husbands and fathers also deeply shaped motherhood, as the surviving female heads of households consequently adopted their roles. In such (very

prevalent) scenarios, mothers were left behind to manage the family and the household, as well as to compensate financially and emotionally for the loss of the primary or sole breadwinner, all while pursuing accountability for the loss of a loved one. Consequently, the workshop discussions revealed that mothers often had to re-negotiate their identities and their roles after the loss of a male family member.

Participants urged that these gendered consequences—of losing a husband, a son, a father or a brother—be reflected upon and taken seriously throughout official processes to deal with the past. Participants across all three workshops continuously emphasized the need to formally incorporate and address gendered experiences and harms within the new SHA mechanisms, given that they had been neglected in previous mechanisms and processes.

Another gendered experience in relation to dealing with the past is the passage of time. Participants noted that, as time has passed, they have had to take on the role of pursuing accountability on behalf of their elderly parents or family members. As evidenced through the experiences of various women at the workshops, the responsibility is most often transferred from mothers to their daughters, further marking a gendered dimension of dealing with the past. Representative of a wider pattern in this regard, women at the workshop reported that 'I am here on behalf of my mother', illustrating the inter-generational transfer of trauma and of responsibility for campaigns of accountability and for engaging with processes to deal with the past among women within the family.

Male victimhood and masculinities

Participants likewise identified issues of male victimhood and masculinities as a key theme with regards to gender and dealing with the past. Throughout the workshops, participants often acknowledged that the overwhelming majority of deaths were male.

Various participants noted that the men closest to them faced real barriers in being emotional when dealing with the past, due to the social expectations related to being a man. According to the workshop discussions, men faced greater challenges in displaying emotions, even in the circumstances of a loss of a loved one. While women had to stay strong and keep going, men who were bereaved or lost a family member—whether it was their wife, a daughter or a son—were also expected to stay emotionally strong, due to the expectations tied to being a 'real man'.

Additionally, participants noted that, in some situations where families were bereaved of their mothers and wives, men were left behind to take over caring responsibilities and manage the family. Consequently, this required them to re-

negotiate their roles and identities, often opposed to social expectations, while also maintaining the traditional gender role of providing for their families.

Another issue of masculinity featuring prominently throughout the discussions was the feelings of, or perceptions of, men who lost family members as having failed their duties of protecting their loved ones. The workshop participants attested to men's experiences of emasculation and humiliation as a result of the gendered dimensions of the conflict and of processes of dealing with the past.

Fear and re-victimisation

Ongoing and prevailing fear was another prominent and powerful thematic issue raised by the workshop discussions. This issue included fear of continuing or future violence, as well as fear of having to (re-)engage with disappointing or harmful processes of dealing with the past. For the majority of women at the workshops, the negative legacy of some of these processes and previous experiences directly tied into fears of engaging with these new mechanisms. Again, as perceived and experienced by these women, such notions of fear are clearly gendered. As those primarily left behind and bereaved are female, it is women who live in fear as a result of the conflict, a point that was continuously emphasized during the discussions.

Directly related to this, workshop participants noted that such feelings of fear, whether in relation to violence or to engagement with official processes, often resulted in vicious cycles of re-victimisation. In relation to the wider thematic issue of re-victimization, various workshop participants shared prior experiences and lived realities about how extensive media attention and press coverage, regarding the conflict and conflict-related violence within the post-conflict context, contributed to continuously having to re-live painful memories. For various women at the workshops, this constant exposure to memories of violence through the media at times constituted a process of re-traumatisation and re-victimisation. Such re-victimising effects were particularly strong, harmful and disempowering when the media coverage focused on their immediate stories and experiences, often in ways that they found to be insensitive and unethical.

Participants also spoke about their feelings of fear in relation to past, continuing or future violence. These feelings of fear of violence often manifested as fear of remaining in the family home, of sleeping in their bedroom (e.g. by the window) or of remaining in the community. According to the stories of many of the women, such feelings of fear of violence resulted in displacement—either from the family home or from the community. Consequently, as evidenced by the experiences of

some of the women, emigration constituted the ultimate coping strategy for families.

Finally, women at the workshop expressed fear that the Northern Ireland Executive might collapse, with immediate consequences for the Stormont House Agreement. Concerns were raised throughout the discussions that, in case of a political crisis or fall-out, processes of dealing with the past would once again become side-lined and de-prioritized. Various participants therefore feared that they would be deprived of the opportunity to holistically and sensitively engage with a process of dealing with the past.

Stigmatisation

The workshop discussions further revealed issues of social stigmatisation resulting from having to engage with official processes to deal with the past. Many of the participants expressed fear that repeated visits to the home by investigators, or other staff working with the different institutions, might attract attention from the community or neighbourhood and result in stigma against their families. Moreover, during the workshops, various women expressed that they and their families often felt that they are stigmatised and looked down upon for what had happened to them.

Similarly, participants repeatedly expressed concern that seeking and accessing professional support, in particular counselling services, was stigmatising. Especially in relation to the SHA's proposal to integrate a Mental Trauma Service into the National Health Service (NHS), participants strongly expressed concern that the medicalisation of support would further reinforce social stigmatisation. According to the majority of women at the workshop, the integration of counselling and psychological support into the NHS has the potential to consider and treat those accessing services as mentally ill, without sufficient recognition of the conflict-related impact of their service-seeking behaviour. This would further stigmatise them. Due to the fact that the vast majority of conflict-related deaths were male, and therefore that those seeking (but also offering) services are mostly female, such issues concerning stigmatisation for receiving support are highly gendered and primarily concern women. It was also acknowledged at the workshops, however, that due to expectations surrounding manhood and masculinities, men may find it even more difficult and stigmatising to seek out help and professional support.

B. Strategies for Coping as Gendered

With regards to strategies for coping, participants expressed a diversity of views and referred to a variety of approaches for coping with their diverse lived experiences. Generally, however, the discussions demonstrated that coping mechanisms were also highly gendered aspects of dealing with the past.

'Carrying on'

As noted by many participants, women who were bereaved as a result of a conflict-related death were left with family and care-taking responsibilities. They were thus in a position where they 'had to carry on'. Similarly, participants emphasized that they often felt that they should not show any emotions during the investigations or the questioning, but rather had to keep a strong exterior and felt the need to apologize when they expressed emotion. This was identified as having a direct effect on their coping strategies.

As evidenced through the experiences of participants at the workshop, some of the family- and care-related obstacles for women of engaging with dealing with the past processes also directly tied into gendered strategies for coping. Due to the time-, effort- and resource-consuming nature of these caring responsibilities, some participants expressed that they did not have the time to pursue any quest for accountability and had associated feelings of guilt. All participants recounted the almost insurmountable burdens of managing daily lives while also pursuing longer-term campaigns for accountability.

Community-based support

All of the workshop participants reported peer-support groups and community support as prominent avenues of coping, often in the absence of official support. This was particularly reported in rural areas where such formal and institutionalised help was largely unavailable. Participants shared diverse experiences regarding access to services and community-based support within a rural environment, compared to the experiences in urban settings. According to some of the women, the situation in a rural context seemed to be characterised by an absence of formalised and institutionalised services, whereas the community-based assistance and support within the communities was perceived to be active and strong. On the other hand, in urban settings, women found that the formalised services were more easily available and accessible, while the sense of community and support arising from within the communities varied, potentially creating dependence on either institutionalised services or on organisational community-based support.

On a general level, the majority of participants across all three workshops emphasised the importance of the support they obtain from community-based organisations. According to the women at the workshops, such community-based support operates holistically and inclusively. It offers peer-support, informal help and assistance, and professional counselling. There was a clear consensus at the workshops that ‘counselling is as important as an effective investigation’. In addition to counselling, participants were in agreement that community-based support services gave them the feeling of being understood, listened to and taken seriously. Likewise, within community-based organisations and services, participants greatly appreciated that due recognition was given to the conflict-related impact of their experiences, something which was largely absent from formal medicalised services.

With regards to coping strategies more broadly, workshop participants emphasised the importance of victim empowerment in ensuring that women have the choice and control over selection of which strategy to apply in order to cope with, and respond to, their gendered harms and needs.

Silence

During the discussions, the notion of silence had a very prominent and powerful role. According to the narratives and experiences of the majority of workshop participants, silence has either been disruptive or protective. For example, as reflected by the stories of some of the women at the workshops, silence may have been used as a coping and protective mechanism—such as, for example, being silent to protect children or other family members from being hurt or victimized. At the same time, however, participants reported their wishes to break the silence and to be relieved of their silence, by providing them an opportunity to be listened to and heard.

With regards to silence, the workshop discussions reiterated the importance for victims and survivors to be given the opportunity to determine when silence will prevail or when silence will be broken, and when silence may be protective.

C. Engagement with Official Processes to Deal with the Past as Gendered

‘Patriarchal structures’

Workshop participants referred to the ‘patriarchal structure’ of previous attempts to deal with the past and the fight for justice, in which participants felt that they

were not taken seriously and their concerns and experiences were not adequately reflected.

The women at the workshops noted that the overwhelming majority of those in decision-making capacities are male, while women make up a significant proportion of those seeking and accessing, as well as providing and offering, services. Likewise, it was noted that the majority of investigators working within the different dealing with the past mechanisms are male. Based upon their experiences of engaging with these processes, workshop participants noted that female personnel were mostly seen in family liaison roles (and almost never in investigative capacities). Such gendered power-relations in staffing were viewed by the workshop participants as a contributing factor to gendered experiences of women remaining unnoticed or unaddressed.

Disempowerment

Participants noted that prior negative experiences and the continuous negative engagement with different mechanisms and processes of dealing with the past strongly contributed to their feelings of disempowerment. According to many of the women, the feeling and perception of being dependent on an external body and other individuals in order to obtain closure, information, redress or accountability was a disempowering experience. Various workshop participants also noted that their engagement with official processes of dealing with the past reinforced existing power differences and relationships, thereby further disempowering them as women.

Disempowerment in relation to processes of dealing with the past, as recounted by the participants, was furthermore reinforced through the lack of ownership, agency and choice for the women throughout previous processes. According to the majority of women at the workshops, therefore, future mechanisms to be established under the SHA must give victims and survivors the choice over which processes to engage with, and at what point in time, in order to avoid disempowerment.

Structural obstacles to the inclusion of women

For the majority of workshop participants, there were (and are) gendered structural obstacles to accessing justice and to engaging with institutions designed for dealing with the past. Participants emphasized some of the emotional and psychological difficulties and barriers of engaging with previous processes of dealing with the past, and of having to re-tell their stories and experiences over and over again.

On a practical level, participants raised concerns that existing and forthcoming processes and operations need to be flexible with regards to women's daily lives. For instance, women who have to look after the family and get their children to school should not be required to make early morning appointments (whether for investigations, counselling or other conflict-related activities/events). Similarly, the women emphasized that immediate concerns—such as consideration for childcare or care for elderly relatives, which are disproportionately taken care of by women—need to be integrated into, and respected by, the new SHA mechanisms and processes. A common perspective shared by many of the women at the workshop was that insufficient attention to, and consideration of, such gendered aspects of everyday life would constitute further practical obstacles to the inclusion of women into these processes.

Likewise, many of the participants noted that, due to extensive family and care-taking responsibilities, they were unable to pursue their quest for justice actively at the time, and now have related feelings of guilt.

Re-victimisation

For many of the workshop participants, negative experiences of engaging with previous processes of dealing with the past, and the continual failures of these mechanisms to respond to the needs and experiences of women, has resulted in cycles of re-victimization. The discussions emphasised that victims in general, and women in particular, who have been failed or disappointed by these previous processes experienced additional harm resulting from these experiences. This is a result of the ongoing and long-lasting process of seeking accountability. Consequently, not only did previous processes not deliver justice or live up to expectations, but these experiences also often created further (gendered) harms with negative implications for women tasked with pursuing the quest for justice and dealing with the past. The ongoing and long-lasting struggle for accountability and closure thus seems to result in corresponding ongoing harm, as voiced during the discussions.

Importantly, various participants felt that they were failed by the very institutions that were meant to serve them, such as the police or the specifically designed mechanisms for dealing with the past. In relation to the impact of previous processes for dealing with the past, there was generally a diversity of views and opinions among workshop participants. Various participants appeared to be dissatisfied and frustrated in particular with regards to the Historical Enquires Team (HET), which often provided insufficient information and did not result in any sense of justice. Nevertheless, for other participants, the HET did deliver at least some information and some closure, and provided a first opportunity to speak about and share their stories.

Loss of trust

Previous negative experiences of failed processes appeared to have a direct impact on the participants' levels of trust in new processes. Various participants expressed that either they or their family members were reluctant to engage in new processes, often due to their lack of trust in these institutions and procedures. According to the participants, therefore, their disappointment with, and the failing of, previous processes constitute the backdrop to the new agencies of the SHA.

Participants also noted that building trust in these institutions is a long-term process. According to the participants, the building and development of trust, and therefore the provision of effective and sensitive processes, is unlikely to be adequately dealt with in a five-year timeframe. For the majority of participants, therefore, the proposed five-year timeframe was felt to be highly unrealistic and would not provide sufficient temporal space for the development of trust.

PRIORITIES AND PROPOSALS FOR INTEGRATING GENDER INTO THE STORMONT HOUSE AGREEMENT

A. Reparations

Reparations and compensation for the loss of a loved one was another major issue of concern with gendered implications and experiences.

Participants expressed differing views on apologies and reparations. Interestingly, their responses aligned closely to the UN's Basic Principles and Guidelines on the Right to Remedy and Reparations, in terms of seeking compensation, rehabilitation and satisfaction. The experiences of the women at the workshops suggest that processes and institutions to deal with the past could usefully be informed by international standards and best practice in this regard.

Compensation

Participants in each of the workshops shared experiences of insufficient, and at times offensive, compensation awards that failed to take into account the gendered nature of the harm or the gendered situation respectively. Various participants narrated previous experiences of receiving or being offered very low amounts of compensation, which for them, was in no way adequate to capture or respond to the value of their loss. The women at the workshops agreed that compensation cannot account for the value of a loved one, and that past derisory payments had undercut the acknowledgement of loss that compensation was

supposed to facilitate. Some participants recounted, nevertheless, that even very limited financial or material support had at times been crucial for family survival, in particular when male breadwinners were killed.

The stories and experiences of many of the women at the workshops similarly revealed vast inequities with regards to compensation offers, payments and awards. Different experiences, as narrated by various women at the workshops, demonstrate how there appears to be a massive disparity between individuals and families in relation to compensation payments. In particular, various participants expressed massive frustration with the fact that the loss of children was considered to have no economic value, with consequent impact on the compensation awarded. Similarly, the experiences of many of the women at the workshops demonstrated vast inequalities regarding compensation payments and awards between families who experienced the loss of a breadwinner in formal employment (such as the police or security services), and families who experienced the loss of a male head of household who was either unemployed or in less formal employment (such as farming), whose economic value was held to be considerably less.

According to the experiences of women who were present at the workshops, these insufficient approaches to compensation, instead of relieving harm and suffering, often resulted in exacerbating further harm and in (re-)victimising the surviving (and most often female) family members.

Rehabilitation

Directly linked to the overarching theme of reparation, participants were also concerned with the proposal of a Mental Trauma Service situated within the National Health Service (NHS) and working closely with the Victims and Survivors Service (VSS). Instead of situating the mental trauma service within the NHS or establishing a separate, independent advocate-counsellor role, participants expressed strong preference towards providing extra resources for community-based groups that are currently in existence and with whom the participants already had established relationships of trust. As emphasized through the discussions at the workshops, such issues of trust and long-standing relationships again directly spoke to dealing with the past as an enduring process. Moreover, according to the discussions at the workshops, the engagement with community-based organisations and services contributed to avoiding social stigmatisation, as participants perceived stigma to be associated with formal and medicalised services and counselling.

Another concern on the location of the service within the NHS was the dependence on formal appointments. In contrast to this formal system, women

greatly appreciated the ability to informally drop in, in order to receive peer-support with community-based organizations. The issue of more informal peer-support, as opposed to medicalised and formalised counselling, constituted a major issue of concern for the majority of women at the workshops. Rather than being treated as mentally ill or sick alongside other patients, participants raised the importance of due recognition of the conflict-related origins and impact of their experience. Issues of stigmatization also directly tied into this.

Consequently, instead of replacing the existing structures and services with an independent NHS-situated service, participants proposed that a service should be complementary to existing community-based services, and that victims' organisations should be supported and resourced sufficiently to continue in their important roles.

Satisfaction (Apologies and Acknowledgement)

Official apologies and the 'statements of acknowledgement', as under consideration for the Implementation and Reconciliation Group (IRG), proved to be an important aspect of dealing with the past with gendered implications for participants. Overall, participants expressed diverse, and at times opposing, views on apologies and official acknowledgments. While some participants expressed that they would not want an apology for their experiences and for what happened to them, other participants emphasized their need for official acknowledgement and formal apologies in order to deal with the past. For some participants, the multiple experiences and harms they experienced, as well as the often exhausting and re-victimizing quests for justice and information (including the linked financial and emotional implications), would not be covered by a simple apology. Conversely, other participants expressed the need for official acknowledgement of their losses and harms suffered. Through acknowledgement and responsibility, individual micro-level experiences could thus be linked to larger macro-level dynamics of the conflict and of gendered experiences for many participants. Inherent in such viewpoints, however, were a multitude of opinions amongst the women on who should make an apology and on which level acknowledgement is needed.

Some participants noted that any form of acknowledgement, and any eventual apologies, should not only take into consideration the immediate event—i.e. the death of a loved one—but also the wider contextual and longer-term circumstances, including the litany of gendered harms, surrounding the incident. The women were generally in agreement that instead of solely focusing on the micro-level individual events, statements of acknowledgement or apologies must take into consideration the macro-level, and must be attentive to the bigger picture of gendered experiences and structural inequalities.

What these diverse and multiple views and opinions, held by the women at the workshop, illustrate very strongly and powerfully is the importance of, and the urgent need for, victims to have a choice over how to engage with these official processes and how to deal with the past. The statement by one of the women at the workshops that ‘you need to be supported to have the choice’ is both illustrative and representative for the majority of views as held by participants in this regard.

B. Staffing and Recruitment

Gender Power Dynamics

Specifically regarding the four new mechanisms to be established by the SHA, the independence, and gender expertise and experience, of staff were of particular concern to various workshop participants. Likewise, the workshop discussions emphasized that equal gender distribution among new staff of these new bodies needs to be ensured. As noted by workshop participants, based upon their prior experiences of engaging with previous processes and mechanisms of dealing with the past, the overwhelming majority of investigative staff were male, whereas female personnel were primarily seen in family liaison capacities. According to the workshop participants, such gendered compositions of the staff and teams within institutions risks contributing to the exclusion and marginalisation of women’s gendered experiences throughout processes of dealing with the past.

Across all the workshops, participants repeatedly acknowledged the unequal power relationships with regards to gender within previous institutions. Due to the fact that the majority of investigative staff was—and currently is—male, the vast majority of women at the workshops held the view that female investigators who are gender-sensitive are required. In relation to staffing, having sufficient gender representation, as well as diverse community backgrounds, were other key issues as raised by participants.

Defining ‘skilled’

Moreover, ensuring the independence of these new bodies, their directors and their staff, was a primary concern among almost all participants and facilitators during the workshops. There seemed to be widespread agreement among the participants that (investigative) staff must be independent, in order to ensure the maximum effectiveness and efficiency of these bodies—in particular, of the HIU. However, how exactly to recruit ‘skilled’ and experienced, while also independent, investigators who are familiar with the local context seemed

contested among participants. There was widespread agreement between the women at the workshops that ensuring independent investigators will be an immensely difficult task.

In relation to the skill-sets and experiences of staff, participants supported the view that particular attention and sensitivity to gendered experiences and concerns is crucial in understanding, appreciating and responding to such lived experiences throughout all these processes and mechanisms. Moreover, participants noted that they often felt that they could not show emotion during the investigation or the questioning, and often felt the need to apologize when having expressed emotion. The women emphasized the need for staff to be understanding of—and to be permissive of—the expression of emotion. In relation to this, participants emphasized some of the complications of having to talk to male investigators, who might not necessarily understand and appreciate their gender-specific experiences. Consequently, women at the workshops continuously emphasized that gender sensitivity and female representation need to be integrated into upcoming, as well as pre-existing, investigative processes and procedures. Further, staff need to be flexible and to appreciate the sensitivity of the experiences and memories when dealing with the past.

Likewise, the assignment of important roles to unspecified ‘academics’ was widely deemed to be problematic by the majority of women at the workshops—both because of the potential for this privileging of academic ‘expertise’ to the exclusion of victims, survivors and communities, and because of the lack of any other enumerated qualifiers, such as gender or age distribution, disciplinary background, etc.

Leadership

Throughout the discussions, participants provided their input and their views on the design and the implementation of the SHA and the to-be-established agencies. In relation to the overarching theme of gender-inclusive and gender-sensitive staffing, participants provided the names as potential candidates to be considered for any of the managing positions of director for any of the new mechanisms. They suggested that these potential candidates could be considered especially for the ICIR and the HIU. The names suggested included Nuala O’Loan (the former Police Ombudsman for Northern Ireland) and Doreen Lawrence (politician / parliamentarian, human rights activist).

C. Relationship of New Institutions to Each Other and to Existing Processes and Institutions

Some participants shared experiences of previous struggles for accountability through criminal prosecutions. Other participants, however, stated that they do not want prosecutions but are rather pursuing accountability and acknowledgement through other means and instruments. This often seemed to be a result of a lack of access to formal criminal justice, or previous negative experiences with criminal justice, which prevent women from (re-)engaging with these mechanisms and processes. The prior experiences of women at the workshops thus demonstrated that any new institutions will need to engage with the legacy of disappointment and distrust felt by many victims who previously engaged with dealing with the past institutions.

Participants seemed aware of the main aspects and key developments of the SHA, while at the same time having questions about—at times technical—clarification regarding some of the specific mechanisms. The participants had questions regarding, in particular, the Historical Investigations Unit (HIU), the Independent Commission on Information Retrieval (ICIR) and the Oral History Archive (OHA), as well as regarding the relationship between the bodies. General questions raised by the participants also referred to the timeline of the mechanisms, to the cooperation between the mechanisms, and to the political commitments of the UK and the Irish government as regards to the SHA.

Historical Investigations Unit (HIU)

In particular, various participants raised questions regarding clarification about the investigative capacities of the HIU—often in relation to the HET and the Police Ombudsman—and the primary role (of obtaining and providing information) of the ICIR. Concerning investigations by the HIU specifically, participants were particularly interested to know which potential cases could be investigated, especially in relation to cases previously handled and eventually even completed by the HET. Many participants expressed the need for these new bodies, and particularly the HIU, to have the capacity to eventually re-visit and re-investigate cases previously handled by the HET, in which (according to victims and survivors) the HET did not sufficiently deliver justice, information or disclosure.

Oral History Archive (OHA)

With regards to the Oral History Archive (OHA) to be established by the SHA, participants agreed upon the importance of telling (and sharing) a story, but

likewise noted that there are alternative approaches of sharing and preserving experiences—such as, for example, art works. Questions were raised in relation to how the stories taken by the OHA will be recorded and stored and who exactly will be taking these testimonies. In relation to this, concerns regarding the 'Boston Tapes' were raised throughout the discussions.

Particularly referring to the OHA, participants directly recommended and strongly emphasized that such a new initiative should directly build upon already existing material. Further, in addition to taking oral testimonies, the OHA needs to consider and value alternative approaches of telling a story and sharing experiences. In relation to this, participants emphasized the emotionally- and psychologically-challenging nature of having to re-tell their stories over and over again to different individuals and institutions.

Timelines

Participants asserted that dealing with the past must be understood as a process, rather than a single event. The vast majority of participants considered the establishment of a deadline for the processes—before the processes have even commenced—to be unhelpful. Moreover, the participants considered the five-year timeline to be highly unrealistic. Participants emphasised the need to understand dealing with the past as a long-term process with an enduring experience of victimhood, survival and striving for justice, rather than as a single event or short-term process to be completed within a five-year window.

Integrated Processes

Participants noted, however, that while long-term engagement is essential, it also increases the potential for re-victimisation or re-traumatisation. Long-term engagement, in which victims must repeatedly re-tell their stories and experiences, and thus face the psychological and emotional effects of re-living traumatic memories, may result in re-victimization. Thus, it is important that such process-oriented engagements are attentive to not exacerbating any further harm. Various women at the workshops noted concerns that without integrating gender throughout all mechanisms, the exclusion of women and gender may be reinforced through each of the mechanisms. Consequentially, long-term engagement could also result in the reinforcement of existing gendered exclusions. Towards this end, the majority of workshop participants supported the idea of a single-transferable statement to be generated, which can be applied and transferred to different process and institutions.

Further, the participants were generally in agreement regarding the value of larger societal and macro-level processes, in addition to—and complementary to—individual investigations. Various participants acknowledged the importance of the inter-linkage and relationship between micro-level developments and macro-level processes. In this way, individual cases and investigations must be linked together to construct a broader societal, and more holistic, picture of the conflict—including its gendered dimension.

The discussions at the workshops demonstrated that, for many of the women, the Implementation and Reconciliation Group (IRG) has the potential to link the micro- and macro-level perspectives and developments, as it is mandated to look at larger themes and cross-cutting issues. Furthermore, participants strongly argued in favour of legal and judicial investigations to be linked to, and accompanied by, quasi- or non-judicial community processes and procedures.

Flexibility

According to the majority of workshop participants, the newly established SHA mechanisms must be flexible, sensitive and include a gender dimension. They must consider victims' and survivors' choices and preferences in relation to engagements with processes of dealing with the past. Essentially, as reiterated by the workshop discussions, these new mechanisms need to be able to respect the evolving nature of information recovery and disclosure for victims. Similarly, participants at the workshop stressed the importance of having a choice in which mechanisms and processes they can engage, at what time and over which period of time.

The discussions repeatedly emphasized the importance of flexibility in these processes and mechanisms. The processes must take the time necessary to build relationships of trust, as well as to support existing relationships of trust between victims and community-based organisations. The vast majority of women at the workshops agreed that the new processes need to be flexible, sensitive and gender-inclusive. This will contribute to a process of empowering victims and survivors to make their own decisions about whether, when and how to engage with mechanisms to deal with the past, and to ensure that victims are sufficiently supported to make that choice on their own terms.

APPENDIX I:

Gender Principles for Dealing with the Legacy of the Past

Preamble

The absence of a gendered lens and the sustained exclusion of women from dealing with the past—from Eames-Bradley to Haass-O’Sullivan and now the Stormont House Agreement (SHA)—has meant that the gendered impact of the conflict and post-conflict legacy needs of women have not been adequately addressed.

The SHA is the latest agreement outlining structures to deal with the past in Britain and Ireland. In response to gaps and shortcomings around gender in the SHA, an independent initiative made up of a diverse multidisciplinary group of individuals came together to work for the integration of gender into SHA legislation and implementation. Because of the different perspectives and affiliations of those involved, the group has worked to avoid distinctions and hierarchies between legislation for the new mechanisms to be established and the lived experience of victims and survivors who will ultimately engage these new mechanisms. In order to advance the work, three consultation workshops were held across the jurisdiction to obtain input and to work towards the principles reflecting as closely as possible the needs and priorities of victims and survivors. The workshops were small and closed events that were restricted to women who had been bereaved as a result of the conflict, and were facilitated by individuals with extensive experience of working directly with victims, to allow meaningful discussion of the principles and issues.

The Gender Principles for Dealing with the Legacy of the Past are the outcome of this work. The Principles and case studies seek to contribute to the effectiveness, quality and scope of what the Agreement could potentially deliver.

Principles

1. Gender Integration: Fully integrate gender into the processes for dealing with the past.

A gendered lens must be applied holistically throughout the processes (ie: design, remits, reviews, analyses, decisions). If gender is not integrated from the outset of the process, it will structurally determine that gender does not receive necessary attention and priority throughout the remainder of the process. **Gender parity should be a priority in all institutions and processes dealing with the past. Decisions about the design and implementation of processes to deal with the past must be actively considered for their gendered implications.**

There are clear gender patterns to victimhood and survival. The vast majority of those killed in the conflict were men. The majority of surviving family members are women. Women are a significant presence in victims' organisations in providing and receiving services. Moreover, one's experience of conflict and one's conflict legacy needs are heavily shaped by gender. Victimhood is gendered, as are coping strategies. **Different gender patterns of harm and survival must be recognized in the design of any process to deal with the past and must be further explored and addressed in the conduct of that process.**

2. Process-oriented: Understand gender and dealing with the past as a process, not an event

The experience of victimhood and survival is enduring and the pursuit of accountability is a long-running process. New mechanisms must account for the victims' experiences of the processes that have gone before and will come after. Pre-determined deadlines for mechanisms fail to account for the importance of process. **Victims and survivors must be allowed and supported to engage with mechanisms to deal with the past in their own time.**

3. Empowerment, Participation, Ownership and Control: Prioritise victim ownership and control of process

Engagement with official institutions to deal with the past can be a deeply disempowering experience that is compounded by the lack of attention to gender. In order to ensure that processes to deal with the past do no harm, avoid retraumatisation, and contribute to the empowerment of victims and survivors,

ownership and control of the process by victims and survivors must be ensured throughout. It cannot be segmented into isolated outreach events or consultations; including separate components that concentrate only on gendered harms. **Resourcing existing localized support, close to victims and survivors, for example through the victim-led organisations in the community that have existing relationships of trust with victims and survivors, is one important means to ensuring victim ownership and control.** Another is crafting processes that allow victims and survivors to talk about their experience in ways that reflect their gendered reality.

4. Inclusivity: Be inclusive and accommodate complexity

Victimhood and survival are highly personal, complex, and gendered experiences. Hierarchies of victimhood fail to account for this complexity and encourage narrow and prescribed accounts and categories of victimhood. Recognizing diverse, shifting, multiple and gendered forms of harm, victimhood and survival, is essential to the construction of an inclusive and gender-sensitive process to deal with the past. **Mechanisms must utilize fair procedures that respond to the diversity of victims' individual needs, including their gender-specific needs, and avoid treating all victims as the same.**

5. Addressing Structural Obstacles: Recognize and redress structural obstacles to inclusion

Poverty, intimidation and the absence of appropriate support for caring responsibilities are powerful material obstacles to the inclusion of victims. These obstacles are heavily gendered, given women's disproportionate experience of poverty and responsibility for caring. **These obstacles require direct, practical and material responses, as well as coordinated strategies, in order to be addressed.** Unmet expectations of victims from previous failed processes to deal with the past are equally powerful, though less obvious, structural obstacles to inclusion. Victims who engage in good faith must not be failed again.

6. Holistic Approach: Respond to the whole victim and survivor

Legalistic and medicalized approaches to dealing with the past can position victims primarily as service-users, and as passive and marginal to official processes. Complex experiences of victimhood and survival require holistic and integrated responses. A process to deal with the past must respond to the whole gendered person and to the full range of related needs. Mechanisms need to be designed to reduce the likelihood and impact of retraumatisation for those

engaging in the process. Multidisciplinary teams, competent in a number of areas, are best placed to avoid placing victims in duplicate and multiple interactions with official institutions. Effective advocacy for victims is essential to ensuring effective participation. Counselling, peer support and alternative therapies are essential for ensuring that victims are adequately supported to sustain participation. Moreover, recognising and valuing the existing resources and coping strategies of victims within their communities and community-led organisations is critical to this approach. **Services, support and acknowledgement must be included as essential elements of reparations to victims.**

7. Giving Voice and Being Heard: Honour individual stories

Processes to deal with the past often privilege very particular types of testimony, that is shaped around the linear recounting of the 'objective facts' of certain isolated events – often solely focused on deaths. This type of testimony can jar, however, with fuller, richer and broader accounts of victims and survivors seeking to tell their stories and to be heard and that can provide important documentation of the facts about and impact of harms. If a gendered lens is not incorporated in how a story is gathered it will impact the rest of how a case is addressed. Official processes must be ready to hear, to honour and to document, in their diversity and complexity, the stories of victims and survivors. Done properly, such processes can counter broader dynamics that result in silencing women and victims. **Practical measures to this end include provision for protected statements that can be used in all of the processes to deal with the past, and that can be edited or added to by victims and survivors as necessary.**

8. Macro Analysis: Be attentive to the bigger picture

Individual stories of victimhood, loss, coping and survival emerge at multiple points from processes to deal with the past. In addition to honouring these individual stories, the continuities and patterns across these individual stories must also be recognized. Individual stories emerge from tapestries of gendered and other forms of structural inequality, community impact and family disruption. A process that privileges these individual stories to the exclusion of broader dynamics of inequality and conflict legacy will miss an essential dimension to ensuring a participative and gender-inclusive process to deal with the past. Investigation and information recovery processes must be harnessed also to building the 'bigger picture' of the conflict and its legacy. **Ensuring that gender is both integrated into each of the themes as well as identified as a specific theme for investigation are practical measure to this end.**

9. Equality and Diversity: Value gender expertise and lived experience

An over-reliance on legal, investigative and medical expertise in recruitment will likely work to preclude precisely the women and men who have direct and lived experience of the issues. Criteria used to determine skills, including for academic roles, must be transparent in order to ensure fairness and community confidence. Criteria that result in all- or largely-male teams of investigators and other relevant personnel cannot be accepted. Relevant expertise in recruiting, which includes gender expertise, should be recognized not just in terms of formal qualifications, but also in terms of experiential learning and leadership. Victims and survivors should be recruited for positions leading and involved with carrying out the processes. In addition, gender training should be provided to all personnel, at all levels, engaged in dealing with the past. **As a matter of priority, a specific group responsible for overseeing the integration of gender into dealing with the past should be established. Mechanisms for dealing with the past cannot be staffed and led in ways that reinforce existing gender and other inequalities.**

10. Local and Global Learning: Craft bottom-up local responses that draw on international good practice

It is crucial to have localised bottom-up approaches that are informed by international experiences. This requires the inclusion of local NGOs, the voices and experiences of victims and survivors in the design and implementation of the processes. The silences and exclusions of women and gender that have characterized approaches to dealing with the past in several places over many years need to be learned from and not replicated in Northern Ireland. Nevertheless, the development of relevant international standards, in particular state obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and guidance for states in the CEDAW General Recommendation Number 30 and the Women, Peace and Security Resolutions of the United Nations Security Council, the Basic Principles and Guidelines on the Right to a Remedy and Reparation, and the Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation, has fostered improved practice in recent years. Improved international practice has focused on the inclusion of women and men in all processes to deal with the past, the recognition of gendered harms experienced by women and men, and the acknowledgment of gender as a structural factor of conflict and dealing with the past. **Locally appropriate processes to deal with the past must draw on this international learning, together with the substantial local resources and knowledge within the community and existing victims organisations.**

Useful Documents

- 'Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law', United Nations General Assembly, 21 March 2006, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>
- Committee on the Administration of Justice (CAJ), 2013. 'Mapping the Rollback? Human Rights Provisions of the Belfast/Good Friday Agreement 15 years on'. November 2013, available at: <http://www.caj.org.uk/files/2013/12/16/No.65.Mapping.the.Rollback.HR.Provisions-15.years.on.Conference.Report.Nov.2013.7.pdf>
- 'Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)', General Assembly, 18 December 1979, available at: <http://www.ohchr.org/Documents/ProfessionalInterest/cedaw.pdf>
- 'Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW): General recommendation No. 30 on women in conflict prevention, conflict and post-conflict situations', 18 October 2013, available at: <http://www.ohchr.org/Documents/HRBodies/CEDAW/GComments/CEDAW.C.CG.30.pdf>
- Government of Ireland, 2015. Ireland's second National Action Plan on Women, Peace and Security, available at: <https://www.dfa.ie/media/dfa/alldfawebsitemedia/ourrolesandpolicies/ourwork/empoweringwomen-peaceandsecurity/Irelands-second-National-Action-Plan-on-Women-Peace-and-Security.pdf>
- Government of the United Kingdom, 2014. 'National Action Plan on Women, Peace & Security', Foreign & Commonwealth Office, available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/319870/FCO643_NAP_Printing_final3.pdf
- 'Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation', March 2007, available at: https://www.fidh.org/IMG/pdf/NAIROBI_DECLARATIONeng.pdf
- O'Rourke, Catherine, 2012. 'Dealing with the Past in a Post-Conflict Society: Does the Participation of Women Matter? Insights from Northern Ireland.' William & Mary Journal of Women and the Law, Volume 19, Issue 1, Fall 2012, available at: <http://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1348&context=wmjowl>

- O'Rourke, Catherine and McMinn, Karen, 2012. 'Baseline Study on UNSCR 1325 - Women and Peacebuilding Toolkit: Sharing the Learning', available at:

http://eprints.ulster.ac.uk/25297/1/FINAL_1325_Baseline_CFNI.pdf

- Relatives for Justice, 2015. 'Dealing with the Past in Ireland: Where are the Women? Women's experiences of conflict and need for implementation of United Nations Security Council Resolution 1325', February 2015, available at: <http://relativesforjustice.com/wp-content/uploads/2015/02/Dealing-with-the-Past-Where-Are-the-Women.pdf>

- United Nations Security Council (UN SC) Resolutions: 1325 (2000); 1820 (2008); 1888 (2009); 1889 (2009); 1960 (2010); 2106 (2013); 2122 (2013), all available at: <http://www.un.org/en/sc/documents/resolutions/>

- WAVE Trauma Centre. 'Stories from Silence' available at: <http://storiesfromsilence.com/>

Biographies of Legacy Gender Integration Group

Yasmine Ahmed is the Director of Rights Watch (UK) and prior to this worked as a public international lawyer for the UK and Australian Governments and the UN. She is a Chevening Scholar, has an LLM in Public International Law and has taught public international law. She is qualified as a solicitor of England and Wales and a barrister and solicitor in Australia.

Sara Duddy LLM is a caseworker with the Pat Finucane Centre, a human rights NGO that provides support and advocacy to families bereaved during the conflict. Sara is a qualified solicitor with experience in human rights and social justice.

Claire Hackett is the manager of the Falls Community Council's oral history archive Dúchas which records personal experiences of the conflict in working class communities across Belfast. She has been involved in policy development around dealing with the past through her membership of the boards of Healing Through Remembering and Relatives For Justice.

Patricia Lundy is Professor of Sociology at Ulster University and a core member of the Institute for Research in the Social Sciences. She has researched and published widely on processes and mechanism for dealing with the legacy of conflict. She is an Executive Committee member of the Committee on the Administration of Justice (CAJ).

Mary McCallan is responsible for WAVE Trauma Centres Advocacy & Casework Service. Mary supports families practically and emotionally to seek information about their bereavement or injury. Mary qualified as a Solicitor in England &

Wales, working in private practice before moving to the voluntary sector. She has undertaken an LLM in Human Rights & Transitional Justice and is as a Legal Member of the Appeals Tribunals.

Gemma Mc Keown is solicitor at the Committee on the Administration of Justice (CAJ), an independent human rights organisation with cross community membership in Northern Ireland and beyond. A key area of CAJ's legal and casework involves dealing with legacy issues, including working to ensure that the state discharges its duty to investigate unresolved deaths resulting from the conflict in Northern Ireland.

Andrée Murphy LLM is Deputy Director of Irish NGO Relatives for Justice, which supports persons and families bereaved and injured by conflict. Andrée has been centrally involved in the development of Relatives for Justice mainstreaming of gender in all of its support and research programmes, resulting in the publication of "Dealing with the Past in Ireland: Where Are the Women" published and launched in February 2015.

Catherine O'Rourke is Senior Lecturer and Gender Research Coordinator at the Transitional Justice Institute, Ulster University. She is author of *Gender Politics in Transitional Justice* (Routledge, 2013) and has an ongoing role in gender and conflict research and policy-making for the UN, the British and Irish governments, and NGOs.

Emma Patterson-Bennett is the Equality Officer for the Committee on the Administration of Justice (CAJ) and the co-ordinator of the Equality Coalition which is a membership organisation co-convened by the CAJ and UNISON. Emma has worked with the women's sector to bring a focus on UNSCR 1325 and women's role in post-conflict NI and has been secretariat to the All Party Working Group on 1325 at the Northern Ireland Assembly.

Leah Wing is Senior Lecturer in the Legal Studies Program, Department of Political Science, University of Massachusetts-Amherst and a member of Healing Through Remembering. Leah has been a consultant to the UN and over 100 governmental, NGO, and educational institutions on the integration of equality into conflict resolution and reconciliation processes.

Thanks to Philipp Schulz, PhD student at the Transitional Justice Institute, Ulster University for outstanding assistance.

Supported by the Reconciliation Fund of the Irish Department of Foreign Affairs and Trade



An Roinn Gnóthaí Eachtracha agus Trádála
Department of Foreign Affairs and Trade