

## **Framing Transitional Justice Practice: Dealing with the Past in Northern Ireland**

### **1. Summary of the impact:**

In 'dealing with the past', based on its internationally recognized reframing of transitional justice (TJ) theory and practice, TJI demonstrates singular influence on the tone, language, framing and outcomes of key debates, policies and advocacy in Northern Ireland (NI) since 2003. TJI research advances critical debates and shapes policy, enabling access to legal knowledge by communities, organisations, institutions and individuals. We shape production of cultural knowledge through unique law-led artistic collaborations. Our research influences policy and legal change, addressing the legacy of the NI conflict with evident reach to conflict locales globally. Debates triggered by our inputs have transformed policy agendas and critical responses to them. The impact has been primarily regional, with national and international dimensions.

### **2. Underpinning research: Research Context:**

The thirty years of conflict in NI created a deep and divisive legacy with which NI society continues to grapple daily. The enduring power of the past to destabilise the present is vividly highlighted by serious protests and sustained rioting throughout 2013 triggered by decisions to fly the Union Flag at Belfast City Hall only on designated days and to place restrictions on contentious Orange Order marches. The violence of the 'Troubles' resulted in 3,636 deaths and 47,571 injured persons. For a small jurisdiction, the pervasive impact of this high rate of violence was illustrated in a 2011 Commission for Victims and Survivors survey finding one in three persons in NI self-identified as conflict survivors. Past abuses continue to shape how communities in NI interact with one another and how citizens view state institutions. In particular, law and legal institutions became sites of contestation, resulting in challenges to their legitimacy following the peace agreement.

The conflict experience and the need to identify imaginative legal and policy solutions was instrumental to the founding vision of TJI as a praxis entity. Its core researchers conceived of transitional justice as a conceptual and practical framework to address the challenges of a post-conflict society. TJI's research was designed to create new modalities and frameworks to engage the legacies of harm in transitional settings. TJI's praxis vision is influenced by the critical role School of Law and TJI founders played in shaping legal discourses, civil society & institutional responses to the conflict before and after the peace agreement. TJI staff (Ní Aoláin, Campbell, Bell, Rolston, McWilliams) shaped and led truth and accountability campaigns by collaborating with local NGOs (e.g. Relatives for Justice, Committee for the Administration of Justice). They researched and published on victims' experiences, brought cases to the ECHR, and made submissions to international human rights bodies on the UK's treaty obligations. These campaigns led the European Court of Human Rights from 2001 to find that the UK was obliged to investigate all right to life violations. In 2002, the UK created a 'package of measures' to investigate conflict-related deaths. TJI's establishment in 2003 drew on individual activism marrying it with the international and comparative expertise of TJI researchers. TJI researchers are deeply involved in research and activism in NI, shaping and leading conceptualisation of TJ mechanisms, and legally grounding grassroots activism to deal with the past and institutional reform through relationships, consultancy, leadership positions in NGOs and government entities, and policy intervention.

TJI's dealing with the past research has consistently offered critical analyses, both theoretical and practical, of local TJ measures, which raise awareness of best practice and highlight potential challenges for efforts to deal with the past in other transitions. By reframing the TJ 'field', TJI scholars opened up a new lens on what constitutes the transitional 'package' in post-conflict societies. Their contributions included linking multiple past-centred mechanisms as part of holistic TJ approaches and insisting on the relevance of TJ as a framework to address the experiences of societies emerging from conflict. TJI's model has been mainstreamed into the work of international institutions, other academic frameworks and is the approach taken by leading NGOs. This interplay between the local and international is a core element of TJI's research and illustrates how locally

focused research can have an international impact. TJI research insights profoundly shaped the contours of the TJ field (with evident international reach) and specifically applied this knowledge to benefit the NI transition towards sustained peace and substantive democracy (see Managing Editor, International Journal of TJ). This case study draws on a sample of three interfaces from our broader scholarly and policy praxis. They illustrate how research insights from TJI have shaped the terms of the legal and political conversations in the jurisdiction, and been manifested in the policies and positions adopted by government, NGOs, community and civil society groups.

Underpinning Research and Key Insights: Dealing with the past research has been a core project of TJI since its creation and is motivated by questions such as how should we understand the past, what is the past's impact on the present, how can we undo the past, and to what extent can we deliver accountability for past abuses. Exploring the impact that past harms can have on present and future generations played a key role in TJI's collaboration with artist Rita Duffy. This project revealed how the conflict's legacy continues to impact on the lives of marginalised youth. Engaging with Ní Aoláin and Rolston's research provided the grounding for Duffy's creativity. For Rolston concern for the intergenerational effects of violent conflict has been an underpinning motif evidenced in his book *Children of the Revolution*. This research conducted between 2006-9 explores how the children of paramilitary actors were affected by their parents' actions during the conflict. This research is methodologically challenging as it gives primacy to victims' voices in a context where access to individuals may be fraught and great trust in the researcher is required, mirrored in Duffy's own methodology. The need to give gendered voice to victims has also been a central feature of Ní Aoláin & Turner's research, a motif drawn upon by Duffy. Ní Aoláin has established an extensive body of research (1995-2013) on the relationships between intimate and conflict violence and meticulous comparative research on truth commissions documents the gender pitfalls in truth recovery processes (with Turner), offering roadmaps on how to avoid them.

Building on the importance of individual experiences, Hamber's work on psychological and communal trauma reveals how important it is for victims to be able to contextualise their experience within the broader political context, and it advocates healing through the integration of both legal and non-legal approaches. Hamber's research draws on extensive empirical research in NI and South Africa (1995-2009). Campbell and Turner's research on truth commissions was part of a project entitled 'Justice in Transition: The Case for Northern Ireland' (2001-8). This project applied TJ analysis to Northern Ireland before it became mainstream to do so. In addition to the underpinning research, it led to a series of peer-review articles e.g. *MLR* (2003) and *HRQ* (2005). Key research insights include an analysis of how truth commissions can use social science methodologies to build on individual victim testimonies to identify patterns of violence. This demonstrates one way in which truth commissions can help individuals locate their experiences within the political context. Rooney's work (2004-13) singularly adapts the critical theory of intersectionality and applies it to identity and community schisms in divided and politically violent societies. The underpinning research is also unique in its translation of high-level theorising enmeshed in the practical realities and experiences of community level application. Such methodologies were influential in TJI's collaboration with Rita Duffy and have been given practical application in Rooney's *Transitional Justice Grassroots Toolkit*. By giving scholarly voice to the most marginalised, TJI research has consistently emphasised that their inclusion in truth recovery is essential to avoid inter-generational violence and trauma.

<b>Key Researchers</b>	<b>Position at time of research</b>	<b>Dates Joining or Departing TJI/Law</b>
Campbell, C.	Professor	Joined 2000
Hamber, B.	Professor	Joined 2007
Ní Aoláin, F.	Professor	Joined 2000
Rolston, B.	Professor	Joined 2005
Rooney, E.	Senior Lecturer	Joined 2005
Turner, C.	Research assistant and lecturer	Joined 2004- departed 2013

### 3. References to the research

1. Campbell, C. & Turner, C., 'Utopia and the Doubtters: Truth, Transition and the Law' (2008) 23(3) *Legal Studies* 374-395, DOI: 10.1111/j.1748-121X.2008.00093
2. Hamber, B. & Kelly, G., 'Too deep, too threatening: Understandings of reconciliation in Northern Ireland' in *Assessing the Impact of Transitional Justice: Challenges for Empirical Research* (AAAS, 2009) ISBN 1601270364
3. Hamber, Brandon (2009) *Transforming Societies after Political Violence: Truth, Reconciliation, and Mental Health*. Springer. ISBN 978-0-387-89426-3
4. Rooney, E. & Swaine, A., 'The "Long Grass" of Agreements: Promise, Theory and Practice' (2012) 12(3) *International Criminal Law Review* 519-48 DOI: 10.1163/157181212X649995
5. Rolston, B., *Children of the Revolution: The Lives of Sons and Daughters of Activists in Northern Ireland* (Guildhall Press, 2011) ISBN 978-1906271381
6. Ní Aoláin, F. & Turner, C., 'Gender, Truth and Transition' (2007) 16(2) *UCLA Women's Law Journal* 229

**Quality of Underpinning Research:** Campbell and Turner's research on truth commissions was assisted by the award of Research Fellowship by the Leverhulme Trust (Campbell). Hamber's research was in part supported by a grant from the US Institute of Peace. Rooney's research was assisted by the award of a research fellowship at Cornell University (2004) and funded by Atlantic Philanthropies (2002-2009), and in partnership with the Ashton Community Trust, funded by the Community Relations Council (2011-12). The TJI collaboration with Rita Duffy was supported by the award of a Leverhulme Artist in Residence award enabling unique interdisciplinary exchange.

**4. Details of the impact: Activities and Impacts Achieved:** Three examples were selected to demonstrate our praxis engagement with diverse users including policymakers, civil society activists, victims, former combatants and the general public in Northern Ireland. The examples demonstrate how these local activities can influence international practice and theorisations of TJ.

**Consultative Group on the Past:** The most significant policy initiative to find a comprehensive solution to dealing with the past was launched in 2007, when the Secretary of State for NI announced the establishment of an independent Consultative Group, lead by Lord Eames and Denis Bradley. The group held consultations in 2008 and issued its report in 2009. The Report cites research of several TJI scholars and TJI researchers engaged directly with the Group, e.g.

- In a written submission, Campbell & Turner made recommendations that were adopted in the Group's report: e.g. that investigations by the Police Ombudsman provided a template for a unit to be established in Truth Commission; that special mechanisms be developed for identifying patterns of violations (and thus appropriate remedies); and that the basis for establishing such mechanisms be under a British-Irish Agreement, with legislation in both jurisdictions.
- Hamber made a written submission and held direct meetings with CGP members, in which he articulated precise and useable methods to include and give recognition to victims. The final emphasis of the CGP on prioritising the needs and experiences of victims reflects substantially his scholarly work. As Chair of Healing Through Remembering, the leading NGO addressing the legacy of the past, Hamber was also instrumental in shaping the substantive content of its engagement with the CGP as well as the content of its publications. HTR's Director states that Hamber had 'an invaluable input into the formation of policy and practice' of the organisation.

The significance of TJI's engagement with this process is acknowledged in testimonial by the Group's, Co-Chair, Bradley, who notes 'the work of the Transitional Justice Institute was one of the more fertile grounds that enabled and influenced myself and the other members of the Group. The research that had been carried out enabled us to enter into and proceed with greater insight and confidence.' The CGP report continues to shape the ongoing engagement of NGOs, governmental

departments and agencies to 'dealing with the past' in NI. TJI scholar engagement with the next phase of 'past' policymaking is ongoing in late 2013 with written submissions and private meetings with the US led Haass talks (Campbell, Diver, Hamber, Mallinder, Rolston and O'Rourke).

**Collaboration with Celebrated NI Artist Rita Duffy:** TJI has an established practice of having an artist in residence at the Institute (e.g. Turner & McLaughlin). TJI's collaboration with Rita Duffy, one of NI's leading contemporary artists, stretched knowledge transfer and broader social impact boundaries. It enabled TJI researchers to impact positively on the artist's work, the young people who took part in the project, and the Quaker Cottage Belfast, and to find innovative ways of transmitting our research findings to the general public. TJI researchers were engaged in all stages of the project from initial project design, conceptualisation, implementation to dissemination:

- TJI fostered an intensive nine-month dialogue around the experience of children, ex-combatants and women (2009-10) drawing on published work and work in progress by TJI scholars. TJI Scholars visited and worked in Duffy's studio and engaged her mode of work as an artist. Duffy's testimonial confirms that the collaboration process was substantially shaped by the publications of Ní Aoláin, Rooney and Rolston, discussions with the authors, as well as participating in TJI seminars. For Duffy the collaboration with TJI researchers enabled a deep connection to the academic articulation of harm, and illuminated her thinking on how art can illuminate difficult issues in our society.
- During the project, Duffy held workshops three evenings per week with young people from areas that are divided by peace lines. Duffy sought to give voice to these young persons who live in post-conflict Belfast by working with them on storytelling and collaborative self-portraits. Throughout this process, Duffy consistently sought advice and support from TJI staff. This resulted in *Our View*. In the book's foreword, youth worker Doherty, explains how this process gave the young people involved a sense of control over their lives they had not previously had.
- The project resulted in an exhibition at the Playhouse in London/Derry as part of the TJI Summer School (2010), and a collective art exhibition at the collaborative Summer School with Hanna's House in August 2010 enabling knowledge exchange with local and international NGO and policy cohort. In September 2010, a huge public campaign was launched involving the placement of large billboard photographs in the centre of Belfast city bringing attention to a group of young people as an illustration of how the 'past' of the conflict was ever present. TJI researcher Ní Aoláin worked with the artist to choose and identify the exhibit images.

Following the formal completion of the project, the relationship with the artist has been sustained and she has presented seminars at TJI. Duffy presented the project at the Ulster Museum and internationally. This project demonstrates praxis research at its most ambitious, combining academic knowledge with broader social and artistic media, to reach the general public to change the way communities 'see' the conflict and thus respond to legal and political initiatives.

**Transitional Justice Grassroots Toolkit:** TJI worked collaboratively with the Bridge of Hope programme of the Ashton Community Trust that supports conflict victims and is based in one of the most divided and volatile communities in NI to produce an internationally recognised participatory model for Grassroots TJ now being disseminated by TJI. TJI engaged in this project at all stages:

- The initiative was activated through a series of preliminary conversations throughout 2010 between TJI scholar Rooney and Bridge of Hope which led to a TJ Pilot Programme funded by the Community Relations Council. This programme built capacity among community activists to engage in debates on dealing with the past and it provided a vehicle for conversations between leadership groups of ex-prisoners and community activists. It explicitly built on the '@thecoalface' seminar series at TJI. Rooney was programme facilitator on a pro bono basis.
- Rooney designed and delivered a residential programme in March 2011 for former combatants that brought TJI's scholarly inputs on truth, institutional reform, reparations, reconciliation, and amnesty into direct engagement with community activists at the coal face of transitional processes. Participant feedback reports an eagerness on behalf of all participants to investigate

transitional justice in the local and international context. In autumn 2011, the programme held a seminar series to which TJI researchers contributed.

- TJI hosted the final meeting of the Steering Committee in December 2011. Community activists emphasised the importance of research and public engagement by TJI researchers.
- Through this process, (see project report), Rooney developed and tested the TJ Grassroots Toolkit (<http://www.thebridgeofhope.org/media/transitional-justice-toolkit-book.pdf>), drawing on her own rich writings, and consistently drawing on a broad range of her colleagues' writings in an ongoing set of relationships and bilaterals with the Bridge of Hope endeavour.
- 2012: In the collaborative vein animating our praxis with users of TJI research, joint funding sought from the Victims and Survivors Fund to publish the Toolkit (2012)(global dissemination).
- TJI deployed the toolkit in our teaching programme for its 2012 and 2013 summer schools. This enables the toolkit to be used as a model to be used in other transitional sites. Toolkit was successfully used in USAID training provided by McWilliams to Syrian women leaders (2013).

Ongoing work includes production of a 'Training the Trainers' manual, as well as a Gender Toolkit. The Office of the First and Deputy First Ministers confirm that '[t]he programme was beneficial for good relations'. Testimonial evidence supports the direct positive influence on abating community tensions between gathered groups, demonstrated the use of TJ as a direct tool to navigate community level distrust and challenges. Evidence provided by community participants illustrates that the translation produced a body of direct, accessible and readily usable knowledge to community groups and activists working directly with the legacy of the past in daily life in NI.

#### **5. Sources to corroborate the impact**

1. Report of the Consultative Group on the Past (2009)
2. Submissions to the Consultative Group on the Past (Campbell & Turner 2008)
3. Submission to the Consultative Group on the Past (Hamber 2008)
4. Letter from Co-Chair of the Consultative Group on the Past
5. Letter & Corroborating Testimonials from Head of Victim Services, Ashton Community Trust
6. Letter from Executive Director, Healing through Remembering
7. *Our View* (2009) available at <http://www.ulsterquakerservice.com/Our-View.pdf>
8. Letter from the Acting Director, Women's Democracy Network
9. Rooney, Transitional Justice Grassroots Engagement Report (Bridge of Hope, 2012).
10. Letter from former TJI Artist in Residence