Truth, Justice and Dealing with the Legacy of the Past in Northern Ireland, 1998–2008

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ABSTRACT This article examines the debate on ways of dealing with the past in Northern Ireland from the signing of the Good Friday Agreement in 1998 to the present. The British government’s recent creation of a consultative group, due to report in June 2008, has re-focused attention on whether or not, and in what form, Northern Ireland might adopt past-focused mechanisms as part of its post-conflict transition process. Against the backdrop of wider international and theoretical perspectives, the article examines the context and character of some of the issues this process is likely to face, particularly around the issue of collusion, and explore public attitudes towards the possible creation of a Truth Commission for Northern Ireland.

In late June 2007, shortly before leaving office, the then Secretary of State for Northern Ireland Peter Hain announced the formation of an ‘independent consultative group’ whose task was to ‘seek a consensus across the community in Northern Ireland on the best way to deal with the legacy of the past’ (NIO, 2007). Co-chaired by Lord Eames (former Church of Ireland Bishop of Armagh) and Denis Bradley (former vice-chair of the Policing Board), what has subsequently become known as the Eames/Bradley Consultative Group was charged with undertaking a programme of meetings with interested groups, bodies and members of the public and considering the ‘landscape of initiatives’ already undertaken by both government groups and NGOs (Non-Governmental Organisations). Its stated goal is to produce a report by June 2008, with recommendations on how to deal with the legacy of over three decades of conflict.

The aim of this article is to critically examine the context for these developments and the debate on ‘dealing with the past’ in Northern Ireland since the signing of the Good Friday Agreement (GFA) in April 1998. The article will therefore seek to outline some of the key past-focused initiatives that have already been undertaken, explore political and public attitudes towards them and identify some of the key issues and problems that the Eames/Bradley Group may face in devising ‘steps that might be taken to
support Northern Ireland society in building a shared future that is not overshadowed by
the events of the past’ (NIO, 2007).

The article will be organized in five parts. The debate as to whether there may be a need
for some mechanism to deal with the legacy of the past is certainly not unique to Northern
Ireland and has been very much informed by developments elsewhere. First, therefore, it
may be useful to examine briefly a wider international, longer-term historical and broader
theoretical context. In part two the article will outline some of the key developments in the
debate on dealing with the past in Northern Ireland since 1998. The GFA was notable for
saying little or nothing either about victims’ issues or the possibility of creating a compre-
hensive past-focussed process (GFA, 1998). Since then, there has been a number of
important initiatives undertaken both by official bodies and civil society groups and organ-
izations that need to be explored. The article will focus particularly on those developments
that have emerged in relation to how to deal with outstanding instances and allegations of
state killings and collusion. Political impasse within the peace process and the periodic
suspension of the devolved administration has help to ensure that discussion of any sub-
stantive truth recovery mechanism has been severely limited. The re-establishment of the
power-sharing executive, including the Democratic Unionist Party and Sinn Féin has now
substantially changed that political context, which is one major reason for the creation of
the Eames/Bradley group.

In part three the article will examine the development of policies in relation to victims’
practical needs and some of the initiatives developed, particularly within civil society, on
memorials and storytelling and consider some of the political divisions that have been
voiced on truth recovery. In part four public attitudes towards mechanisms for dealing
with the past (and a truth commission) for Northern Ireland will be explored. This analysis
is primarily based upon a Northern Ireland-wide survey conducted on behalf of the authors
as part of the Northern Ireland Life and Times Survey (NILT) (Lundy & McGovern,
2006). While carried out prior to the signing of the St Andrews Agreement and the
re-establishment of the devolved power-administration at Stormont in May 2007, the
survey constitutes the most comprehensive dataset of public opinion on such questions.
The analysis will focus in particular upon the key variables of party political and religious
affiliation in order to assess community attitudes towards truth and justice issues. Finally,
against this background, the article will conclude by considering some of the key issues to
be faced up to in the future on dealing with the past.

**Truth-telling, Transitional Justice and Post-conflict Transition**

What does the debate on finding ‘ways to deal with the past’ mean? At one level, the whole
range of social, political and economic changes introduced as part of post-conflict tran-
sition could be viewed as a means of dealing with the consequences of past conflict and
division. However, ‘dealing with the past’ is generally taken to refer to three inter-
related areas of concern. First, how the public memory or commemoration of the past,
or processes designed to clarify the historical record, might contribute to future positive
social change or ‘reconciliation’ in a violently divided society. Second, how the victims
and survivors of the conflict and their relatives can be provided with various forms of
support or offered opportunities to come to terms with past experiences. Third, what
means (either judicial or non-judicial) might be introduced to deal with outstanding
truth and justice issues and a record of past human rights abuses.
One thing that unites each of these is the key role given to social memory in post-conflict transition. Such an emphasis may be indicative of wider social change, at least in the advanced industrial world. It has been suggested, for example, that we live in an ‘age of memory’ in which the conditions of late modernity and the need to make sense of history in an era of uncertainty mean that ‘coming to terms with the past has emerged as the grand narrative of our times’ (Misztal, 2003, p. 147). This focus on memory may also reflect a particular, often deeply flawed, conception of the roots and nature of conflict itself. The idea that contemporary organized violence may be the irreducible consequence of clashing identities, cultures even supposed ‘civilizations’ (rather than, for example, competition for material resources and geo-political interest) may be an important part of this story (Huntington, 1997; Ignatieff, 1993). Similarly, the rise of what has been termed the ‘therapeutic paradigm’ in the management of conflict and post-conflict societies, itself emerging from the ‘therapeutic turn’ in Western societies, may be a significant factor (Furedi, 2003; Pupavac, 2005).

Whatever the reason, an emphasis on memory and dealing with the past as a means of re-constituting social and political relations in the future has been a cornerstone for the relatively recent emergence internationally of past-focused truth recovery mechanisms as central to the process of post-conflict transition. Another may be due to the fact that, as Mary Kaldor argues, we live in an era of ‘new wars’, then this is also a time of new ways of making, shaping and keeping peace (Kaldor, 1999). Nor are the two things unconnected. As Kaldor suggests, the new wars of the late twentieth and early twenty-first century are typified by high levels of civilian casualties, more usually involving intra-rather than inter-state conflicts, and conditioned by new sets of relations between the local and the global. In similar vein, the greater focus on dealing with the past may be to do with the impact of contemporary conflicts upon a greater number of injured, killed and bereaved civilians, and the need to find ways to address the divisions of intra-state conflicts that are (at least partly) the cause and certainly the result of mass violence and human rights abuses.

A third reason for the greater role for ‘dealing with the past’ in post-conflict transition is the rise of efforts to enshrine international standards of human rights as part and parcel of conflict resolution. The flawed and complex record of the international enforcement of post-conflict accountability for war crimes, crimes against humanity and mass human rights violations spans the decades of the late twentieth and early twenty-first centuries. Emerging with the ‘victors justice’ of the Nuremburg and Tokyo Trials in the wake of World War II, through the creation of various truth recovery processes in Latin America, Africa and Eastern Europe in the 1980s and 1990s, the modern era of what has become known as transitional justice has risen to ever greater prominence in post-conflict transition (Bell, 2003a; Elster, 2004; Hayner, 2002, 2005; Teitel, 2000). Transitional justice is a field of inquiry and practice that is concerned with ‘the various judicial and non-judicial approaches to dealing with ... a legacy of human rights violations in societies emerging from conflict and/or an era of authoritarian rule’ (GSDRC, 2007). Truth commissions have emerged as the primary past-focused mechanism in the practice of transitional justice and one of the most common features of post-conflict transition. So much so that when, for example, the Office of the United Nations High Commissioner for Human Rights published the first in its series of Rule of Law Tools for Post-Conflict Societies in 2006, it was devoted to a discussion of the design, operation and impact of Truth Commissions (UNHCHR, 2006). There have been well over 30 truth commissions...
established in various parts of the world in the last three decades and, although, as we will see, such a process has been the subject of much discussion in Northern Ireland, at present the North stands out internationally as a rare instance of contemporary conflict resolution where an overarching truth recovery process has not been part of the move towards peace.

Truth, Justice and Dealing with the Past in Northern Ireland²

As we shall see, the Eames/Bradley consultation group is by no means the first government-inspired initiative to focus attention on the outstanding consequences and issues left by over three decades of conflict. However, unlike many societies emerging from a divided past, truth recovery was nowhere envisaged as part of the initial peace deal and any progress toward such a goal since has been fragmented and slow. This may be deliberately so and for a number of reasons.

As mentioned earlier, the Good Friday Agreement was notable for a virtual absence of any reference to truth recovery; something which at least one academic commentator has attributed to opposition to such a move by the British government, given its own record of serious human rights violations (Professor Ní Aoláin, quoted in Gawn, 2007, p. 356). The GFA did establish some broad principles and policy goals for dealing with victims’ issues. These included recognition that victims ‘had a right to remember [as part of the] wider promotion of a culture of tolerance at every level of society’ and that a ‘necessary element of reconciliation’ was the need to ‘acknowledge and address the suffering of the victims of violence’ (GFA, 1998). However, the nature of the Good Friday Agreement, and the strategy employed in the talks leading up to it, were such that a political premium was placed on the avoidance of anything as potentially problematic as a mechanism for dealing with the past. Indeed this logic has continued to be a prevailing force in developments since, predicated on the expressed view of policymakers that truth recovery would have to be preceded by political stability in the peace process, if it were to happen at all. The framework for peace process and GFA put into place divided out various issues that a truth commission might otherwise have been concerned with. For example, following the GFA there was a review of the Criminal Justice System while policing was reformed following the findings of the Patten Commission (Criminal Justice Review Group, 2000; Independent Commission on Policing for Northern Ireland, 1999). While tangentially each of these processes inevitably reflected on human rights violations, neither conducted the sort of systematic investigation of exploration of past rights abuses as might be expected from a comprehensive truth recovery process.

Nor were such reforms and reviews directly connected to victims’ issues. In line with the disaggregating strategy of the GFA, the position of victims had already been partially addressed in a 1997 report produced by retired senior civil servant Kenneth Bloomfield (Lundy & McGovern, 2001, 2005a). The Bloomfield Report made reference to the potential ‘cathartic effect of putting one’s experience on record’ and examined a number of suggestions for ‘non-physical memorial schemes’, but was essentially directed at the creation of a governmental infrastructure focused on practical service delivery (Bloomfield, 1997, p. 20). It made virtually no mention of truth and justice issues, and was criticized by many human rights and nationalist victims’ organizations as a result. The avoidance of truth and justice was also evident in the key policy document Reshape, Rebuild, Achieve produced by the victims’ unit of the Office of the First Minister and Deputy First Minister (OFMDFM) in 2002 (Victims Unit, OFMDFM, 2002). ‘Practical help and services’
were its self-declared primary concern. Recommendations on the questions of truth, justice and past-focused mechanisms were to be deferred to the non-governmental Healing through Remembering project, more of which later (Healing through Remembering, 2002).

The disaggregation of truth and justice issues from the political process and from each other was also reflected in a series of other judicial initiatives. Several of these have been undertaken by the authorities in response to high profile public campaigns calling for investigations into the state’s use of lethal force and widespread allegations of collusion. The most well-known is the Saville Inquiry, set up in 1997 (under pressure from the Irish government and a mass public campaign organized by the Bloody Sunday Trust) by the newly elected Blair Labour government. The Bloody Sunday Inquiry was created to re-examine the events of Bloody Sunday 30 January 1972, when 13 unarmed civilians were shot dead by members of the British Parachute Regiment (Hegarty, 2004; McCann, 2005; Walsh, 2000). This was also a significant legal milestone. Although the Inquiry’s chair, Lord Saville, declared from the outset that it was ‘not an investigation’ into how the original Widgery inquiry (widely discredited as a whitewash) had been conducted, its work would invariably involve revising Widgery’s conclusions (Saville, 1998). A decade on the Bloody Sunday Inquiry has still not reported its findings, which may yet fall short of the expectations of those who campaigned for its creation. It has also proved to be the longest and most expensive inquiry of its kind. As a result, the Bloody Sunday Inquiry has become something of a touchstone for community attitudes toward post-conflict truth and justice issues in the North.

Saville was followed by inquiries into both general and specific charges of state collusion in (mainly, although not exclusively, loyalist) killings. There have been allegations of collusion by various branches of the states forces and secret services with non-state armed groups throughout much of the conflict (Relatives for Justice, 1995; Rolston, 2006). These were always denied by the state. However, revelations over the activities of Brian Nelson, a UDA intelligence officer and British army agent run by a highly secretive unit of British intelligence known as the Force Research Unit (FRU), brought such allegations more clearly into the public domain (unknown author, 1993). Nelson was alleged to have been involved in many murders (including that of Pat Finucane, a human rights lawyer killed by loyalists in 1989), was a key conduit for passing RUC intelligence to loyalists and in organizing the shipment of a substantial cache of weapons from South Africa to re-arm loyalists in the late 1980s.3

During the 1990s, Sir John Stevens (then Commissioner of the London Metropolitan Police Force) conducted two inquiries that found evidence of collusion and led to over 90 convictions, although none were of members of the state forces. In 2003, Stevens issued an overview of the findings of a third investigation, although the full report has never been published. Stevens found that there was evidence of collusion in the two murders he investigated, (Stevens, 2003). The nature of such collusion ranged from ‘wilful failure to keep records, the absence of accountability, the withholding of intelligence and evidence, through to the extreme of agents being involved in murder’ (Stevens, 2003, p. 16).

Following ‘Stevens 3’ an Inquiry into the deaths of Pat Finucane, Robert Hamill, Rosemary Nelson and Billy Wright was established chaired by retired Canadian judge Peter Cory (Cory, 2004a, 2004b, 2004c, 2004d).4 While limited in scope, powers and remit, Cory found sufficient evidence of collusion in all four cases to justify further inquiries into each. However, following the publication of Cory’s findings, the British
government passed the Inquiries Act in 2005. This allows for Ministers to decide whether some evidence can be heard behind closed doors. As a result, the Finucane family and human rights groups have opposed the creation of an inquiry into Pat Finucane’s death under such restrictions. In June 2007, the Director of Public Prosecutions (DPP) announced that there would be no prosecutions following Stevens 3 and into the killing of Pat Finucane (DPP, 2007).

This pattern of apparent movement toward dealing with outstanding issues of state human rights violations, paralleled by legislative and other moves to delimit the potential of such processes to get to the truth has been apparent elsewhere. In 2001, the European Court of Human Rights (ECHR) found that in four cases brought before them under Article 2 (the ‘right to life’) of the European Convention on Human Rights, the British government had failed to ensure free, fair and full investigations. The Human Rights Act introduced the ECHR into domestic British law. However, a House of Lords decision in 2004 ensured that the provisions of the Human Rights Act could not be applied retrospectively. As in the case of the Inquires into collusion, the result has been that the avenues for judicial accountability opened up by the Article 2 decisions have been all but closed down.

Victims, Voices and Meeting Needs

If the past, record of state killings and collusion became any sort of an issue in the wake of the GFA, this was largely because of the work of campaigning groups. Most have emerged from within, and gained their support from, the nationalist community. In addition, longstanding mainly nationalist human rights and victims’ organizations were joined by a raft of other groups in the wake of the GFA. Together these formed a locally based network, increasingly collaborating amongst themselves and with other well-established human rights groups both at home and abroad, to engage in a wide-range of truth recovery activities. Justice campaigns have been combined with providing support for victims’ families. For some, such as the Ardoyne Commemoration Project (ACP), a community based approach to archiving and publishing testimonies emerged as the prime focus (Ardoyne Commemoration Project, 2002; Lundy & McGovern, 2000a, 2005a, 2005b, 2006, 2007). Many of these were involved in Eolas (‘Information’), a loose group of nationalist/republican victim and other community based groups that launched a consultation document on truth and justice issues in 2003 (Eolas, 2004). Taken together, such initiatives constitute a substantive civil society response to the imperatives of post-conflict truth recovery. It is clear that for many involved in such groups and the wider nationalist/republican community some form of over-arching past-focused mechanism would help deliver justice, provide the basis for a shared historical narrative and address the social and psychological needs of victims. Although, there is a great deal less enthusiasm for the idea that this should take the form of a truth commission as such.

There has been, it should be said, a range of organizations working on human rights and victims issues that are essentially politically unaligned and have promoted debate on dealing with the past. Chief among these has been the Healing through Remembering (HTR) project, set up in 2001 following the visit to Northern Ireland of Alex Boraine (former deputy chair of the South African Truth and Reconciliation Commission (TRC)). HTR is specifically designed to open upon a public space to develop an inclusive strategy for post-conflict truth and justice issues with cross-community support. Following its initial report in 2002, HTR set up a number of sub-groups to bring people together from
diverse sections of the community to discuss and draw up recommendations on a range of possible ways of dealing with the past, including: ‘storytelling’, ‘day of reflection’, ‘living memorial museum’, ‘network of commemoration’ and ‘truth recovery and acknowledgement’ (Healing through Remembering, 2002, 2007; McEvoy, 2006). As can be seen, the emphasis upon memorializing and memory work has been very much to the fore. However, the ‘truth recovery and acknowledgement’ group was charged with dealing with some of the most difficult and contentious questions, centred on outstanding truth and justice issues. The group issued a report in late 2006 putting forward a range of options for truth recovery that explored international models of truth recovery and the record of initiatives undertaken in and about Northern Ireland. It also put forward five possible models for the future of truth recovery. These options include: ‘drawing a line under the past’ (or not undertaking truth recovery); that relevant organizations should undertake internal investigations; community-based ‘bottom-up’ truth recovery; a ‘truth recovery commission’ and a ‘commission of historical clarification’ (HTR, 2006).

In addition, a range of victims groups, faith-based reconciliation organizations and semi-statutory bodies have made significant contributions to the debate. International experiences of mechanisms for dealing with the past have been deeply influential among such groups. Many are similarly linked into the sort of transnational human rights networks that constitute the contemporary face of what some have described as an emerging global civil society (Kaldor, 2003; Keane, 2003).

However, attitudes on truth recovery, on the face of it, have largely appeared to divide along traditional community and political lines. The terms of the GFA, and in particular the early release of conflict-related prisoners, did lead directly to the creation of a number of mainly unionist victims groups. Most campaigned vigorously against the early release scheme and have formed an important lobby on victims’ concerns since. In direct contrast to a focus on state violence and collusion found amongst many mainly nationalist victims’ groups, the raison d’être of organizations such as Families Acting for Innocent Relatives (FAIR) and Families Achieving Change Together (FACT) was to draw attention to the ongoing legacy, and impact on the relatives of victims, of republican violence. The issue of the fate of the ‘disappeared’ (those killed by republicans whose bodies had not been recovered) came to crystallize and symbolize a sense that the emerging debates on dealing with the past and truth and justice debates were failing to address such issues. In not dissimilar vein, in organizations such as the police force that had been directly involved in conflict with the IRA, an ‘organizational memory’ that emphasized their suffering and sacrifice underpinned an antagonism not only to institutional reform but to debates on dealing with the past (Mulcahy, 2000, 2005).

While a few truth recovery issues, such as that of the disappeared, have had broad backing within the unionist community, calls for further inquiries have been met with open hostility, particularly at the political level. Both the main unionist political parties, the Democratic Unionist party (DUP) and Ulster Unionist party (UUP) have voiced ardent opposition to the idea of a truth commission and representatives of fringe loyalist groups have largely followed suit. Certain common themes have emerged in such views (Lundy & McGovern, 2008). Truth recovery is distrusted as a ‘republican agenda’. The welfare of victims would be better served by providing practical services and to ‘let sleeping dogs lie’. All victims are not equally so. Further revelations are only likely to ‘undermine communal confidence’ and foster future discord. Remembering the past is, in other words, a bad idea.
Yet, as we shall see, if opinion is divided on many issues, it is by no means on all. Truth recovery processes have not been a major policy priority for most, but ongoing debate and initiatives emerging within civil society have also kept past-related justice issues to the fore. One key area of official response has been a consequence of unionist demands for a concentration on meeting the victims’ practical needs. The implementation of policy and services to meet the needs of victims will be under the authority of a newly appointed Interim Commissioner for Victims and Survivors. While providing services for victims has tended to be the least contentious aspect of the debate on dealing with the past, and largely remains so, some clear underlying divisions have also emerged. This became most obvious following the appointment to the new post of interim commissioner for victims and survivors of the widow of a member of the RUC reserve, killed by the INLA in 1981 (NIO, 2005). Victims’ groups representing mainly nationalist relatives (and particularly victims of state violence) opposed the move. They have also supported the widow of a man shot dead by an RUC reservist in 1984 who has taken the Secretary of State to court over the decision (Belfast Telegraph, 2006).

There appears also to have been a growing impetus for the creation of a ‘storytelling’ process in Northern Ireland. For example, there has been a number of unofficial initiatives carried out in recent years, usually at a local or community level (Kelly, 2005). At an official level, the growing interest in ‘storytelling’ seems primarily defended on two inter-related grounds. First, that there is some need for victims and wider Northern Ireland society to ‘come to terms’ with the past, and that ‘storytelling’ may offer a suitable and safe ‘cathartic’ opportunity. Placing personal experiences of the past ‘on record’, developing an enriched shared narrative of the conflict as a result, and using that process as an occasion for ‘healing’ emerge as key to the logic of such approaches to post-conflict truth recovery. Second, and perhaps less positively, circumventing justice issues may mean an otherwise absent consensus for dealing with the past can be formed. Any other approach, it is suggested, will do more harm than good. This logic, driven by a conception of ‘reconciliation’ as the social goal at the heart of truth recovery, has underpinned the perspective of government ministers and officials as well as the House of Commons report on ‘dealing with the past’.

In other words, that attention has increasingly been drawn towards storytelling reveals how much more problematic investigative and judicial approaches to dealing with the legacy of the conflict remain. The question of justice is that much more contentious than meeting practical needs or ‘putting on record’ experiences as an end in itself. This was, for example, evidenced in the widespread public criticism that forced the hasty withdrawal of the British Government’s Northern Ireland Offences bill (or so-called ‘on-the-run’ legislation) in early 2005. Ostensibly designed to allow ‘on-the-runs’ to avoid possible future prosecution, the bill amounted to a virtual blanket amnesty for any unsolved conflict-related acts that occurred before the signing of the Good Friday Agreement. Vociferous criticism came from a wide range of quarters, including many of the victims’ and human rights groups who have often differed widely on other issues.

**A Truth Commission for Northern Ireland?**

What, then, are the chances for a truth commission, or some other overarching inclusive truth recovery process, to command the sort of public support that it would probably require to achieve its ends? One way of exploring this issue is on the basis of the findings
of the NILT survey module of questions on attitudes towards a truth commission for Northern Ireland (Lundy & McGovern, 2006). The questions were designed to discover what knowledge people had of a truth commission, whether they thought such a process would be important for Northern Ireland, what aims and means a truth recovery process might have, and how people felt about other approaches to dealing with the past.

There were many points of convergence across political and confessional lines on attitudes towards dealing with the past, but some interesting areas of disagreement too. For the purposes of the survey, a truth commission was defined as ‘an inquiry where everyone would have to tell the truth about things to do with the ‘troubles’. When asked whether they thought a truth commission was important or very important for the future of Northern Ireland more people agreed (50%) than disagreed (28%) (Table 1). This was also true when the figures were broken down both by religious affiliation and support for the North’s main political parties, although with some significant differences. Catholics were a little more likely to state that a truth commission was either important or very important for the future (59%) than those of ‘No religion’ (55%) and more again than Protestants (43%), although even in the latter case this represented more people than those that disagreed (33%).

In terms of political parties, a majority of Alliance (59%) Sinn Féin (57.9%) and SDLP (57.4%) supporters expressed approval for a truth commission. This fell amongst UUP (44%) and DUP (41.5%) voters, although in each case again more stated a truth commission was important than not (33.8% and 37.1% respectively).

Opinion is therefore quite divided on the idea of a truth commission for Northern Ireland. There would appear to be a body of support for such an inquiry, although more so amongst nationalists than unionists and not constituting an overall majority. However, this also needs to be set against other responses. For example, while ‘getting to the truth’ was seen as the most important single aim for a truth commission, 83% felt that such a mechanism ‘would not necessarily get the truth’ and 81% felt there were more important things to spend money on. Indeed 65% also agreed that there were better ways to deal with the past than a truth commission.

There were some other differences in terms of religious and political affiliation. Generally, Catholics were somewhat more likely to feel that a truth commission could make a positive contribution, for example in helping to ‘clear the air about the conflict’ (50%) than Protestants (35%). However, there was a significant degree of shared scepticism that a truth commission could give Northern Ireland a ‘clean start’ or make it a ‘more peaceful

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It would appear therefore that a large number of people might like to find out the truth about the past, but they may not regard it as a key priority nor are they convinced that a truth commission is the best way of getting it. Perhaps surprisingly, given the public debate on truth recovery, only 23% of people had heard of a truth commission having taken place elsewhere. This may also mean that the description provided in the survey (as an inquiry ‘where people would have to tell the truth’) had a significant impact on people’s responses.

If there was limited enthusiasm for a truth commission it may in part be a result of fears that people have about delving into the past and a sense of pessimism about politics in general. What is also apparent is that, while in the main there is a large degree of agreement on what the aims of a truth commission should be (or indeed any past-focused process), there are also some important differences as to what should be the result of ‘getting to the truth’. This was most obvious in terms of whether or not a key aim of a truth commission should be that it would lead to the ‘punishment of people who had committed criminal offences’ (Table 2). While this was the first preferred aim of only 9% of respondents (compared, for example, to 30% who chose ‘to get at the truth’, 16% ‘to allow a line be drawn under the past’ and 13% ‘to allow communities become reconciled’) this was more popular amongst unionists and the supporters of the DUP (20%) in particular. On the other hand, there was little support (3%) for the idea that a truth commission would ‘find out if institutions abused their power’, except amongst Sinn Féin voters (10%). Although even among Sinn Féin voters this was far less popular an option than ‘to get at the truth’ (30%) and ‘to draw a line under the past’ (18%). There were also some notable differences on the idea that a truth commission should ‘help communities become reconciled’ with this a far more favoured response for Alliance (22%) and SDLP (17%) voters than those of the UUP (13%), DUP (11%) and Sinn Féin (9%).

| Table 2. Preferred aim of a truth commission by % of total and party political supporters |
|----------------------------------|--------|------|-----|-------|------|------|
|                                  | Total  | UUP  | DUP | Alliance | SDLP | SF   |
| To get at the truth              | 30     | 34   | 29  | 26      | 25   | 30   |
| To punish people who committed criminal offences | 9     | 9    | 20  | 0       | 5    | 5    |
| To get compensation for victims  | 3      | 2    | 3   | 4       | 1    | 1    |
| To allow a line to be drawn under the past | 16    | 17   | 8   | 27      | 23   | 18   |
| To help communities get reconciled | 13    | 13   | 11  | 22      | 17   | 9    |
| As an opportunity for people to tell their stories | 1     | 1    | 2   | 1       | 2    | 1    |
| To find out if institutions abused their power | 3     | 1    | 2   | 3       | 3    | 10   |
| To get healing and closure       | 13     | 13   | 11  | 11      | 17   | 10   |
| To get the story straight about the conflict | 7     | 4    | 9   | 5       | 4    | 14   |
| Other                            | 1      | 1    | 1   | 0       | 0    | 1    |
| Don’t know                       | 4      | 5    | 4   | 1       | 3    | 1    |
|                                  | 100    | 100  | 100 | 100     | 100  | 100  |
This pattern was generally repeated when the hopes and fears people had for a truth commission were explored. So, for example, while ‘promoting peace and reconciliation’ (61%), ‘uncovering the truth’ (50%) and to ‘get healing for victims’ (41%) were the most popular answers a significant number also hoped that it might ‘clean up any institutions shown to be corrupt’ (38%) and to get ‘criminal convictions’ (37%). However, nationalists (and particularly Sinn Féin supporters) were more inclined to support the former while, in the latter case, supporters of the DUP (51%) were significantly more likely to hope for criminal convictions than those of the UUP (38%), Sinn Féin (32%) and the SDLP (28%).

As far as fears were concerned people were clearly concerned that a truth commission might re-ignite issues from the conflict by ‘causing more damage than good’ (45%), ‘creating greater tension’ (48%) or ‘start people fighting again’ (42%). Although the most widely expressed fear was that it would be ‘a waste of money’ (52%). In the latter case supporters of both the UUP (60%) and DUP (62%) were far more likely to express this fear than those of the SDLP (27%) and Sinn Féin (25%).

Truth commissions are, of course, not the only way in which a society emerging from conflict might attempt to come to terms with its past. There is a number of other options, many of which proved to be more popular than the idea of a truth commission (Table 3). Of these, ‘support for victims’ (88%) and ‘initiatives within communities’ (85%) were particularly favoured and enjoyed high levels of cross-community support. Also popular were a ‘storytelling’ process (69%), more police investigations (66%) and ‘public apologies’ (60%). Less favoured were ‘more compensation’ (51%) ‘memorials or centres of remembrance’ (43%) and ‘more public inquiries’ (42%). There tended to be a large degree of agreement on many of these options when looked at in terms of religious and party political affiliation. However, there was a clear divergence of views on the question of ‘more public inquiries’, reflecting the divergence of views on past inquiries discussed earlier. Fifty-six per cent of Catholics were in favour of further public inquiries, including 28% strongly so, 46% of those of ‘No religion’ supported this option while only 32% of Protestants felt the same. Seventy-two per cent of Sinn Féin supporters thought more public inquiries were either very or fairly important for the future, while the figures for the other main political parties were SDLP (50%), Alliance (41%), DUP (35%) and UUP (26%). Attitudes to previous or ongoing public inquiries would seem to have an important impact here.

Table 3. Attitudes towards other ways than a truth commission to deal with the past

<table>
<thead>
<tr>
<th></th>
<th>Very important</th>
<th>Fairly important</th>
<th>Neither</th>
<th>Fairly unimportant</th>
<th>Very unimportant</th>
<th>Don’t know</th>
</tr>
</thead>
<tbody>
<tr>
<td>More public inquiries</td>
<td>19</td>
<td>23</td>
<td>17</td>
<td>18</td>
<td>19</td>
<td>4</td>
</tr>
<tr>
<td>Public apologies</td>
<td>32</td>
<td>28</td>
<td>18</td>
<td>11</td>
<td>8</td>
<td>3</td>
</tr>
<tr>
<td>More police investigations</td>
<td>32</td>
<td>34</td>
<td>15</td>
<td>10</td>
<td>5</td>
<td>4</td>
</tr>
<tr>
<td>Storytelling process</td>
<td>27</td>
<td>42</td>
<td>17</td>
<td>8</td>
<td>3</td>
<td>3</td>
</tr>
<tr>
<td>Memorials and centres</td>
<td>13</td>
<td>30</td>
<td>24</td>
<td>19</td>
<td>10</td>
<td>2</td>
</tr>
<tr>
<td>Support for victims</td>
<td>43</td>
<td>45</td>
<td>6</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>More compensation</td>
<td>16</td>
<td>35</td>
<td>24</td>
<td>15</td>
<td>6</td>
<td>3</td>
</tr>
<tr>
<td>Community initiatives</td>
<td>39</td>
<td>47</td>
<td>7</td>
<td>4</td>
<td>2</td>
<td>2</td>
</tr>
</tbody>
</table>
The survey therefore revealed a mixed picture on attitudes towards the idea of a truth commission for Northern Ireland. Around half of those asked thought such a process could be important for the future, although not necessarily seeing it as a key priority and having some doubts as to whether or not it could get to the truth. Nationalists were more inclined toward truth recovery than unionists while amongst the latter in particular there was a significant constituency for whom the truth about the conflict would be better sought through investigations and should lead to prosecutions and punishment. If a truth commission were to be set up there is a large group of people for whom it’s independence, impartiality and (for nationalists at least) an international dimension would be important for its success. However, a truth commission did not enjoy as much support as a number of other possible ways of dealing with the past, most obviously in terms of providing support for victims and undertaking grassroots initiatives within communities.

**Conclusion: Facing the Past, Some Key Issues for the Future**

The signing of the St Andrews Agreement in November 2006 and the re-establishment of the power-sharing executive and Northern Ireland Assembly in March 2007 has changed the political landscape in the North. The power-sharing regime now installed includes, for the first time, both Sinn Féin and the DUP (the latter previously at the forefront of opposition to the Good Friday Agreement and the inclusion of Republicans in government). The claim of both to leadership of the respective political blocs of nationalism and unionism was also re-affirmed by the results of the Assembly elections in May 2007. These events similarly paved the way for the creation of the Eames/Bradley initiative. There have, indeed, already been previous consultation initiatives on ways of dealing with the past undertaken separately by the Northern Ireland Committee of the House of Commons the then Secretary of State for Northern Ireland, Paul Murphy (House of Commons Committee Northern Ireland Affairs Committee, 2005). Yet there has always clearly still been a great deal of official reluctance to envisage an inclusive mechanism (such as a truth commission) as the way forward. This has generally been argued for on the basis of the sort of political divisions outlined above and the slow progress of the peace process. On the day the consultation group was announced Peter Hain argued that the ‘piecemeal approach’ previously adopted had been the result of the Government having ‘shied away from dealing with the past in a comprehensive way’ because there was an ‘absence of political stability’ (Hain, 2007). The new political dispensation may have removed some of these apparent barriers.

However, the path toward truth recovery, and whether or not it can or should be pursued at all, is still far from clear and some deep-seated problems remain. While it has been beyond the remit of this article to consider in depth, it is difficult to determine the extent to which non-state armed groups will be willing or able to cooperate meaningfully in any truth recovery process. Certainly, the representatives of loyalist organizations have been less than welcoming to the idea of a truth commission (Loyalist Truth Discussion Group, 2004; Lundy & McGovern, 2008). At the same time, while Sinn Féin have voiced support for truth recovery, the form, structure and potential consequences that a specific process might entail could still prove a significant stumbling block to republican engagement (Sinn Féin, 2003). A truth recovery process would be likely to have to gain meaningful input and cooperation from both loyalists and republicans in order to remain credible.
What is perhaps more clear, is that the issue of collusion is likely to be central to the ongoing debate on truth recovery. One of the first meetings held by Eames and Bradley, following their appointments to chair the Consultation Group, was to Sir John Stevens in London, where they carried out in-depth discussions and investigations over a period of several days (Irish Times, 2007). This is largely because further revelations of collusion have come to the fore since Stevens’ last inquiry ended in 2003. The Report of the Police Ombudsman, Nuala O’Loan, into the death of Raymond McCord Junior revealed evidence of collusion between members of the RUC Special Branch and loyalist paramilitaries in North Belfast in at least a dozen murders and a long list of other crimes throughout the 1990s and up to 2002 (Police Ombudsman for Northern Ireland, 2007). Perhaps most telling of all were the findings of ongoing obstruction of her inquiry by both retired and serving members of the RUC/PSNI.

In similar vein, an Independent Panel of International Legal Experts published a report on its findings into allegations of collusion, particularly by members of the Ulster Defence Regiment in the 1970s (Cassel, 2006). The Cassel Report, as it has become known, found evidence of collusion (including the direct involvement of British military and intelligence personnel) in 74 of the 76 murders it investigated and that knowledge of such collusion extended far up both the military and political decision-making chain from an early date. Given the previous findings of Stevens, Cory and other unofficial investigations, what begins to emerge is a pattern of collusion that extends throughout the 30 years of conflict, over a wide geographical area and potentially involving victims numbered in their hundreds. Whether or not the evidence of such apparent mass human rights abuses can be made the subject of a comprehensive official truth recovery process may well prove the most telling touchstone of the state’s attitude toward dealing with the past.

Another clear issue that the Consultation Group is going to face is whether a truth recovery process should run in parallel with, or supersede, already existing initiatives. Most significant here, another early port of call for Eames and Bradley, was the offices of the Historical Enquiries Team (HET). The HET was launched in January 2006 as the primary investigative mechanism for dealing with the past in Northern Ireland.¹⁰ It is in many ways an innovative and unique development in post-conflict truth recovery the impetus for which it is said came from the Chief Inspector of the PSNI Hugh Orde himself. In an echo of the debates on truth recovery more generally, Orde has argued that addressing the legacy of the past is a primary means of overcoming issues that need to be confronted for the future of policing (Orde, 2005). The two stated objectives of the HET are to re-examine all deaths attributable to the ‘security situation’ in Northern Ireland during the period 1968–1998 (currently estimated at some 3,268 cases) and, as a consequence, instill confidence amongst those directly concerned and the wider public that all cases have been dealt with thoroughly and professionally (HET, 2006). Although the review of cold cases is not new (there are examples in England, Wales and the USA) in many ways the HET is a unique development in Northern Ireland’s approach to transitional justice and is also unprecedented in policing internationally, most notably because of the volume of cases under review. It is, however, controversial and to date it has not garnered cross-community support. Suspicions remain that a perceived lack of independence may lead to similar foreclosure of the paths to truth as have been signaled by the treatment of the Article 2 decisions and the passing of the new Public Inquiries Act.

Of course, such issues will also take Eames and Bradley directly into the heart of the divisions over the nature and purpose of truth recovery, and whether or not it will be
able to achieve broad community support. These potential problems were revealed by the reactions to the formation of the group. For example, Eames/Bradley was welcomed by groups associated with the police and linked victims and survivors groups, such as the Northern Ireland Retired Police Officers Association and the Police Federation for Northern Ireland (NIRPOA, 2007; PFNI, 2007). Yet even this welcome contained a flavour of the potential divisions on truth recovery. The former saw the announcement as recognition, on the part of the Secretary of State, of a ‘failure’ of the current ‘highly selective and piecemeal approach to inquiring into the past’. On the other hand, Relatives for Justice (RFJ), a victims’ organization that primarily campaigns on behalf of the victims of state killings, criticized the make-up and purpose of the group, concerned that it would lead to little more than a ‘storytelling’ process rather than leading to ‘truth and accountability’ (Relatives for Justice, 2007). The fear expressed by RFJ is one more widely shared among critics of the state; that this latest initiative on truth recovery might prove to be merely the latest means of state management of the memory of the past.

As the NILT survey demonstrated there are areas of agreement on how Northern Ireland might deal with the past, but areas of sharp disagreement too. Many, from a range of backgrounds, appear to feel that getting the truth about the past is a desirable end. However, there is less of a consensus on how to get such truth, what the chances are of doing so and what truth recovery should lead to afterwards. What seems likely, though, and in line with approaches adopted to post-conflict transition internationally, is that the debate on how to deal with the legacy of the past in Northern Ireland is far from over.

Notes

1. There is an extensive literature on cultural and public memory in conflict and post-conflict transition. See, for example, Ashplant et al. (2000); Nora (1996); Novick (2004); Winter (2006).
2. There is a number of texts exploring issues of dealing with the past in Northern Ireland and internationally that have helped inform this analysis, including: Bell (2003a, 2003b); Bell & Keenan (2004); Gilligan (2006); Hamber (2003); HTR (2006); Ní Aoláin & Campbell (2005).
3. Pat Finucane was killed in his home by members of the loyalist paramilitary group the Ulster Volunteer Force (UVF) in February 1989 amidst allegations of collusion by the RUC and the FRU.
4. Rosemary Nelson was a human rights lawyer based in Portadown who was involved in taking cases against members of the RUC over their handling of nationalist protests against the Drumcree Orange Parades in the mid-late 1990s. She was killed by loyalists in a car bomb in March 1999 amidst allegations that the RUC colluded in her death. Robert Hamill was a young nationalist kicked to death by a gang of some 30 loyalists in Portadown in April 1997. An RUC landrover was close at hand throughout the attack. Billy Wright was a leading loyalist killed in the Maze prison by republican fellow prisoners in December 2007 amidst allegations that the prison authorities colluded in his death.
5. For further information see: Pat Finucane Centre available online at: http://www.serve.com/pfc/pf/inqubill/inqubill.html
6. Well-established groups include, for example, the Pat Finucane Centre and Relatives for Justice. More recently created organizations include; Firinne, Cunamh, Duchas.
7. The authors were both members of the ACP.
8. A number of such organizations was created against the backdrop of proposals for early release schemes and round the time of the signing of the Good Friday Agreement including, for example, Fear encouraged abandoning roots (FEAR), Families acting for innocent relatives (FAIR) and Families achieving change together (FACT, originally known as Families against crime by terrorism).
9. The module of questions on attitudes towards a truth commission for Northern Ireland was designed by the authors and formed part of the NILT carried out in late 2004 and early 2005. One thousand eight hundred adults, randomly selected to reflect the population of Northern Ireland, were interviewed in their own home. The full data were made available in the summer of 2005 via the ARK/NILT. Variables
considered to ensure a representative cross-section of the population included age, gender, ethnicity, religious group affiliation, party political support, location and social class.

10. At the time of writing this chapter one of the authors’, Patricia Lundy, is engaged in ongoing and extensive research on the HET.

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