

Recognition and reckoning

the way ahead on victims issues

Edited by Brandon Hamber and Robin Wilson

**democratic
dialogue**

Democratic Dialogue
report 15
April 2003

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ISBN 1 900281 14 7

Cover design by Dunbar Design
Photographs by Lesley Doyle
Printed by Regency Press


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Preface

This is the 15th report from the think tank Democratic Dialogue. DD gratefully acknowledges the financial assistance for this project from Atlantic Philanthropies, the Community Relations Council and the Victims Liaison Unit.

Comments on the publication are very welcome. Anyone wishing to be kept informed of DD projects and events should e-mail the organisation *via* info@democraticdialogue.org; e-mailings are sent out every month or so.

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Introduction

Brandon Hamber

This report is based on a round-table discussion, hosted by Democratic Dialogue in Belfast on December 16th 2002, on policy-making and the needs of victims of the conflict in and about Northern Ireland. The round table evaluated the victims strategy document, *Reshape, Rebuild, Achieve*, published the previous April by the Office of the First and Deputy First Minister (OFMDFM, 2002).

The strategy aims to set out 'how the Northern Ireland administration will deliver practical help and services to those who have suffered most over more than 30 years of violence'.

This report is part of a continuing focus by DD on victims issues, which began in 2001 with DD report 13, *Future Policies for the Past* (Hamber *et al*, 2001). That publication, again based on a round table held in late 2000, laid some groundwork for policy in this

challenging area. At that stage, it should be remembered, there was very little to go on. The first draft Programme for Government of the devolved executive (Northern Ireland Executive, 2000: 20) had promised that a cross-departmental strategy 'for ensuring that the needs of victims are met' would be elaborated by April 2001. In fact it came a year later.

In March 2001, DD began its own project on policy-making on victims issues, 'Northern Ireland in transition: victims policy for a new era'. Mainly supported by Atlantic Philanthropies, this aimed to widen and deepen dialogue, within a rooted understanding of international best practice and trends, and so to promote a culture of reflective and strategic debate on policy and practice.

In October 2001, DD held a further round table, 'Victims policy for a new era: developing a comprehensive victims strategy'. This focused on the

consultation document generated by the Office of the First and Deputy First Minister (2001) in the lead-up to what became *Reshape, Rebuild, Achieve*. The papers from the event were published electronically (Democratic Dialogue, 2001). This round table served as a forum for interested parties to discuss the document and help them prepare their thoughts on how to respond.

It was thus only natural, once *Reshape, Rebuild, Achieve* had been published and implementation begun, to follow this with a discussion of implementation of the strategy to date. This report brings together papers at the round table held in late 2002 and accommodates a variety of opinions.

It may appear premature to evaluate the full impact of the strategy, but consideration is already being given to a new strategy, to run from 2004. Moreover, the existing strategy, the mainstay of official attempts to address the needs of victims of the conflict, remains a topical and highly-politicised but under-researched aspect of policy-making.

This report provides not only ample policy direction for a future strategy but also much analysis of the broader context in which attempts to make policy are undertaken. This is important as 'victims issues' are not just about service delivery: questions of acknowledgment, recognition and competing versions of the use of violence in

Northern Ireland are also raised. Many contributors to this volume call for these issues to be addressed head-on—embedding them in a strategy that simultaneously guarantees inclusive, appropriate, effective and partnership-driven services for the survivors of three decades of violence.

DD invited a range of victims' groups, statutory and voluntary agencies and experts to participate in its latest round table. The event, although touching on politically and morally sensitive issues, was highly productive—indeed, it was an example of how different perspectives can be tolerated and utilised as vehicles for learning and change. In this sense, it showed how far the process has moved since the first such DD round table in 2000, when policy considerations were still a matter of commitment rather than reality.

Victims issues are now firmly on the policy map, *Reshape, Rebuild, Achieve* is unfolding and a successor is to be prepared. This report will hopefully contribute to enhancing implementation of the current strategy, serve as a barometer of policy development and assist in shaping the future.

DD greatly appreciates the contributions of all the authors, and the participants in the round table more generally. Their personal experiences, their ability to debate issues openly and to take risks—not to mention their knowledge of key issues—created a

vision of how policy can be made in this complex area. The views represented here are of course the responsibility of the authors alone.

DD

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Perspectives

Brandon Hamber

In April 2002—following some 121 public and organisational responses—the Office of the First Minister and Deputy First Minister launched its victims strategy document, *Reshape, Rebuild, Achieve* (OFMDFM, 2002). The strategy, which is to run until April



Fruitful exchanges—the 20 round table

2004, aims to ‘deliver practical help and services’ to victims and ‘those who have suffered as a result of the conflict’.

The strategy, which is summarised below, is seen by many as a very significant step in dealing with the needs of victims and survivors in Northern Ireland. It has been broadly welcomed. Of course, however, challenging questions remain.

Can such a strategy meet all the long-term needs of victims and survivors of political violence? How effective is the traditional government policy-making framework for dealing with psycho-social problems, like those facing victims? Can the strategy ultimately be translated into effective policy, and then all parts of it implemented? To what degree is an integrated victims strategy possible within the highly politicised arena of victims and survivors work in Northern Ireland?

Specific challenges are also evident.

For example, although the strategy clearly focuses on the building of partnerships and the developing of a more unified governmental response, questions remain as to whether the difficulties of doing long-term victims-related work are fully anticipated. There is the matter of the extent to which politicians are prepared to take continuing responsibility for victims-related issues.

In addition, the strategy defers—at this stage—the issues of truth and justice, restricting its focus to service delivery. This raises concerns about how fully to integrate and deal with the complex and varied needs of victims in the future.

To this end, and as a follow-up to the round table hosted by Democratic Dialogue in 2001 in preparation for the strategy, DD felt it would be useful to spend a day sharing views and developing perspectives—supportive, critical or perhaps radically divergent—on *Reshape, Rebuild, Achieve*.

The objective was to bring together a range of people with particular interests to discuss and elaborate the benefits of (and problems with) strategic victims-related policy-making. This report deals with the perspectives raised at the December 2002 round table, and presents the papers delivered—thus beginning (albeit fairly early in the strategy's life) the process of evaluating progress. The contribu-

tors debate the strengths of the strategy and the challenges it faces, offering some pointers towards a new strategy in 2004.

This chapter provides a summary of some of the key points that emerge from the papers, highlighted at the round table. It also provides an overview of *Reshape, Rebuild, Achieve* for those not familiar with its contents, thus providing a bedrock for the debates that follow.

R*eshape, Rebuild, Achieve*, launched in April 2002, begins by noting that the Programme for Government of the Northern Ireland Executive Committee affirms that the executive will 'continue to pay special attention to the particular difficulties faced by victims of the Troubles'. The strategy is a major step in meeting this commitment. The focus is on the delivery of practical help and services, and the timeframe is April 2002 to April 2004.

It defines victims as the 'surviving physically and psychologically injured of violent, conflict related incidents and those close relatives or partners who care for them, along with those close relatives or partners who mourn their dead'. The strategy thus adopts a very broad view. It largely restricts its policy focus, however, to services for which the devolved administration has responsibility.

The strategy sets out a range of

actions to achieve its primary goal of helping ‘those who have suffered as a result of the conflict’. It offers a broad vision of:

a society where the suffering of all victims is recognised; a community that acknowledges the pain of the past and learns lessons for the future; and an administration that provides, in conjunction with others, support and services in a proactive and sensitive manner to meet the needs of victims.

Reshape, Rebuild, Achieve argues that a set of values must underpin this process: the strategy and its implementation should be victim-centred, equitable, inclusive, focused and integrated.

The document also highlights a number of themes that run through the strategy. For example, it emphasises the need for co-operation between the OFMDFM Victims Unit and the Northern Ireland Office in achieving the goals of the strategy, and points out that the area-based Trauma Advisory Panels (TAPS) will be key to implementation.

This initial section of the strategy highlights the importance of the prior consultation as well as the broad framework required for implementation. The emphasis is on actions being spread across departments and agencies, utilising a number of structures. The strategy makes it clear that the delivery of help and services is an inter-departmental responsibility and should

chime with the ‘New Targeting Social Need’ policy.

This fits broadly with the stated aims of the strategy, which can be summarised as:

- improving the standard of services;
- increasing awareness in government, the public sector and the public more widely of victims’ needs;
- securing the implementation of policies and practices to meet these needs;
- ensuring that all government departments and public authorities contribute in a co-ordinated fashion and in partnership with the voluntary sector; and
- meeting all commitments made to victims in the Programme for Government.

The strategy sets out more than 40 steps which aim to address what the OFMDFM claims were the core messages emerging from the consultation process. These were:

- victims want recognition of their situation;
- more and better information is needed on available services;
- practical help is required, particularly in health, education, housing and business skills;
- the TAPS have an important role; and
- partnerships would be vital in delivering the strategy.

The steps are wide-ranging. For example, the strategy argues that all government agencies should reflect victims’ needs in their corporate plans and

in all consultations. It promises a Victim Freephone helpline, directly to the OFMDFM unit, as well as improved communication with victims through newsletters, web sites and fact sheets. On health, it pledges to influence the current mental-health review, ensuring victims' needs are reflected in it. On a more extensive scale, it aims to 'ensure that all relevant Health and Personal Social Services staff are aware of how to respond to the health and social needs of victims and their representatives'.

In education, the strategy promises an investigation of how the Education Welfare Service and Behaviour Support Teams can interact with victims. It aims to develop parenting skills, as well as to examine how the new statutory curriculum for schools, currently in gestation, can raise awareness of victims issues. In terms of housing, it undertakes to review emergency payments for persons rehoused as a result of intimidation, and to produce advice on the role and distribution of housing-support organisations.

The final strand deals with business skills. This section aims to ensure that victims enjoy better opportunities. To this end, it aims to raise business birth rates among disadvantaged groups, and to make available a wide range of enterprise and start-up programmes.

The strategy also makes special reference to victims in rural areas.

Specific steps are highlighted to assist with securing help and obtaining transport in rural areas.

Structurally, the strategy identifies a number of bodies that will form the backbone of implementation. Primary concerns here are to find means whereby victims and victims' groups can interact more with policy-makers, and to ensure that the strategy works across government. Although it is short on ideas as to the former, it promises to consider suggestions, as well as to examine the need for delivering capacity-building training for victims wanting to make an impact on policy.

Two types of organisation are to be at the core of the work, the strategy proposes. First, it seeks to empower the TAPS (funding a full-time co-ordinator for each), so that they can take forward the strategy and develop partnerships on an area basis—the panels are contiguous with the four health and social-services boards in Northern Ireland. In addition, an Interdepartmental Working Group (IDWG) on victims is tasked with taking the strategy forward cross-departmentally.

At a broader level, the strategy undertakes, in conjunction with the NIO, to examine how the responsibilities of the latter for victims might be transferred. This recognises that the needs of victims are probably best addressed through representative regional structures.

Finally, the strategy deals with a number of issues not directly related to its specific aims. It promises continued co-operation with the Northern Ireland Memorial Fund, an independent grant-giving charity. The OFMDFM unit undertakes to work in conjunction with voluntary organisations—a task force was anyway in train to consider the long-term sustainability of the voluntary sector—and it promises improvement in the way research is done and used in the sector.

The strategy also refers to issues and groups relevant to improving services to victims. The potential of churches and faith communities is highlighted: there is a commitment to providing information to clergy and other representatives who may be contacted by victims. The impact of victimisation on children also receives a mention, and a link-up with the proposed commissioner for children and young people is proposed. Learning lessons from other countries is recognised as important, as is celebrating the achievements of people who have been victimised during their lives.

Two other areas receive specific mention. The first is the question of whether there should be a victims' commissioner. Arguments for and against are presented but the strategy notes that 'no clear view emerged during the consultation'. It thus concludes that 'having considered the matter carefully,

we are not convinced of the need for a Commissioner at this stage and do not intend to proceed in this area, although the situation will be reviewed in due course'.

Secondly, there is comment on the difficult area of truth and justice, highlighted in many submissions. This is deferred pending the outcome of the consultation by the Healing through Remembering project, an independent initiative. The strategy does, however, highlight the potential of storytelling—allowing people the chance to have their individual story listened to and/or recorded—in this regard.

The strategy ends with a chapter on funding. It highlights the various sources available to groups, such as the European Union's PEACE II fund for Northern Ireland and the border counties in the republic and the core-funding scheme administered by the Community Relations Council. The OFMDFM promises, in conjunction with the NIO and the Northern Ireland Memorial Fund, to hold information seminars in a range of locations to provide help on funding and to discuss effective monitoring and evaluation. The strategy does not, however, comment on compensation for victims, arguing that this 'is an issue that has not been passed to the devolved administration' and therefore, again, beyond its remit.

A Strategy Implementation Fund is

signalled in the document. This will make available £3 million over two years, to assist in implementing the strategy and to fund projects and services of benefit to victims.

Finally, the strategy promises continuing monitoring and evaluation. A sub-group of the IDWG will formally review the strategy after nine months of operation, the document says, and make recommendations for any amendments, or with a view to the new strategy due from April 2004.

As with any large government policy document, perspectives vary on *Reshape, Rebuild, Achieve*, depending on the relationships of individuals and groups to it. With 49 steps identified to improving services to victims the document is difficult to evaluate *en masse*. Implementation is also still unfolding. In some senses, as Patricia MacBride and Alan McBride (victims' representatives on the Civic Forum) both note in their chapters, it remains too early to assess the full impact.

Most participants at the round table found it encouraging that a strategy had been developed. But criticisms and challenges were also raised. To this end, constant review is critical, and already steps are being taken to consider what happens after this strategy's tenure in April 2004, pointing to the importance of the contributions in this report.

The contributors present a range of perspectives but share many commonalities, indicative of a growing unity of perspective as well as the extent of discussion around the strategy. The process has clearly moved forward substantially since the Bloomfield (1998) report. As Martin Murphy (from the NOVA project at Barnados) points out, new lines of communication have been opened up between victims' groups and various government bodies.

For Patricia MacBride, the strategy is also welcome as finally recognising the need to deal with issues surrounding victims. Alan McBride welcomes its attempts at recognition and the importance the strategy gives to 'acknowledging the pain of the past' and learning lessons.

At the same time, however, for many contributors the strategy depends on implementation. Fergus Devitt (outgoing head of the Victims Unit in the OFMDFM) cites steps which he feels are being turned into deliverable products. For example, housing support officers are being put in place, TAPS co-ordinators funded, and a Freephone helpline in the Victims Unit set up. But some contributors remain sceptical as to the extent to which targets have been met.

Martin Murphy and Alan McBride are less positive about exactly what has been achieved. Both praise *Reshape, Rebuild, Achieve* for its vision, values, themes and aims, but criticise its

abundance of actions about actions—marked by words like ‘examine’, ‘consider’ and ‘investigate’, which pepper the document. Specifically, for Alan McBride, although he acknowledges it is early days, no difference has been made to victims’ lives with regard to poverty, disadvantage and limited opportunity.

Brice Dickson (chief commissioner of the Northern Ireland Human Rights Commission) notes that none of the action points requires legislation, and therefore rights are not conferred. Both the Civic Forum victims’ representatives remain concerned that the strategy is not being fully implemented, or that if it is this has not been properly communicated.

Martin Murphy argues, however, that the ‘vagueness’ in the action steps may reflect the context in which the strategy was drawn up and the absence of unity or consistency in the responses to the consultation. And Fergus Devitt contends that, given the extent of prior consultation, *Reshape, Rebuild, Achieve* is a product of the views of those upon whom it will have most impact—namely, victims of the conflict.

Martin Murphy makes a distinction between victims’ needs and victims’ issues, with the latter being more difficult to address. Mary O’Rawe (Transitional Justice Institute, University of Ulster) also talks about ‘these issues’ in her chapter, and notes

that there are basic societal questions that must be addressed as part of creating a climate for victims’ needs to be met.

In fact, most contributors put considerable emphasis on the wider context in which victims work takes place. To this end, three broad themes run through most of the chapters: truth, justice and acknowledgment; reconciliation; and victims’ rights.

Almost all the contributors note that the strategy focuses on targets for service delivery for victims, but not justice, truth and recognition. Alan McBride feels recognition is one of the most significant issues for victims. For many victims, he says, there is a fear of abandonment, of being forgotten by society.

The strategy defers comment on these issues pending the subsequent launch of the Healing Through Remembering (2002) report, an independent project. Mary O’Rawe claims *Reshape, Rebuild, Achieve* fails to acknowledge the centrality of dealing with the past, contradicting its stated aims of contributing to recognition and addressing *all* the needs of victims. Martin Murphy detects a lack of clarity at all levels and across all stakeholders as to final outcomes, making policy development a challenge.

Patricia MacBride shares this view, adding that now the Healing Through

Remembering report is published it is imperative that the issues of recognition and remembrance are addressed. This goes hand in hand with truth and justice. Alan McBride adds acknowledgment, memorials and story-telling to the mix.

In addition, Mary O’Rawe notes that there are international obligations covering effective investigation and justice for victims. Especially where a state reneges on its responsibilities, this can have consequences for building a sustainable peace and establishing faith in legal processes. She argues that there needs to be public and official acknowledgment of different ‘truths’. Denial, she says, feeds into the ‘hierarchy of victimhood’. Roy McClelland, chair of Healing Through Remembering, believes that establishing the truth about events in the past is beneficial.

For Mary O’Rawe, a key challenge for any victims strategy is to acknowledge past deficiencies and create capacity to deal with truth and justice in a meaningful way. Any victims strategy must take account of the journey towards truth. This, she argues, will not be an easy task and truth recovery will inevitably throw up dichotomies, polarisations and hierarchies. But if done genuinely this will merely be revealing realities of the conflict that were already there. Clearly, more needs to be said about these issues in any future strategy.

As several participants noted, in its report Healing Through Remembering moved somewhat down the road towards truth recovery. Roy McClelland writes that dealing with the past is a society-wide issue, not only one for victims: we all have responsibility for what happened and a part to play in dealing with it. Truth-telling, in his opinion, can be useful for victims. Knowledge must be accompanied by acknowledgment, and by acceptance of responsibility. To this end, careful consideration of ‘transitional justice’ is central to truth and justice for victims, for whom justice extends to other concerns, including compensation.

For Roy McClelland, remembering and dealing with the past is not a choice. The challenge is not about the need to remember—rather, how to find new ways of remembering that enable the society to go forward. He outlines the work of the Healing Through Remembering project, paying particular attention to the consultation on how best society might remember and so contribute to healing. And he highlights some of its recommendations, including *vis-à-vis* story-telling and archiving, an annual day of reflection and a ‘living museum’.

He considers truth recovery at length, noting that some mechanism to address the truth about the past may be necessary. But this would need to be unique, timed correctly and

appropriate for the Northern Ireland context.

Deeper thinking and development of this idea is needed—but Roy McClelland is clear that the bedrock of such exploration needs to be a modicum of acknowledgment by all in the wider society, and the governments and paramilitaries, of our acts and omissions. This is the platform for any further investigation. Patricia MacBride hopes that if an appropriate truth-recovery process were designed it would ensure that no one could ever again deny the legitimacy of the victims of the conflict.

The difficult and complex work of developing an organic model of truth recovery remains to be done. Patricia MacBride describes this complexity succinctly when she says that it requires investigations that are ‘deeply neutral’, even though the results will be ‘deeply political’. The new victims strategy has to provide a meaningful and tangible steer and context for this.

Other policy developments also provide some direction in this regard. Patricia MacBride notes that the current Programme for Government commits the government to commissioning a project to bring together a broad archive of material about the conflict—essentially story-telling and documenting. The strategy itself highlights the value of story-telling. This should be guided by victims’ groups and representatives.

Patricia MacBride links this development, however, back to truth and justice—noting that victims and survivors do not simply want to archive their stories. Many want to ‘solve the puzzle of what happened’, and others want justice. This is imperative if a new political system is to be demonstrably that.

Alan McBride thinks story-telling—sometimes using the arts—vital for young people. This fits neatly with the recommendations of the Healing Through Remembering report.

Reconciliation does not receive much attention in this report, perhaps mirroring the lack of focus upon it across Northern Ireland. Yet implicit in many of the papers is the need for reconciliation. Roy McClelland shares the view expressed by Duncan Morrow in an earlier DD report (Hamber, Kulle and Wilson, 2002), that forgiveness and reconciliation represent the *sine qua non* of a genuine peace process. This is no easy task, and forgiveness cannot be demanded from victims.

The issues facing survivors and reconciliation of the wider society are connected. In Roy McClelland’s opinion, the latter thus has a role in this—in providing circumstances, conditions and supports for enabling and facilitating sharing, listening and acknowledgment.

Roy McClelland also draws extensively on the work of René Girard. He

uses this theoretical frame to highlight some of the dynamics of the conflict—for example, the way groups are divided and the scapegoating of individuals (victims) takes place. Importantly, however, he makes the powerful point that all have a responsibility in addressing the legacy of the conflict. He writes:

We conveniently perpetuate the myth of the fringe nature of the violence, expressed by the few, but in reality endorsed, actively or passively, by the many. Even those of us who claim to be opposed to sectarianism and sectarian violence contribute by our non-involvement, our ignoring the enormous legacy of our temporal myths.

Reconciliation, therefore, is about *our* acknowledgment with the victims and survivors—as well as our listening; our giving space for anger, feelings of hurt and guilt to be articulated, to be acknowledged; and our responding to victims' and survivors' need for an apology. This will go some way to meeting some of the broader needs of victims.

But reconciliation cannot simply be equated with forgiveness. Alan McBride reminds us that victims should not be made to feel that they are somehow holding up progress in relation to the 'peace process' because they are unable to forgive and move on. Dealing with the past takes a long time, as does genuine reconciliation.

Victims' rights have also received little attention in the victims debate thus far. It is helpful to start with the recognition, as does Brice Dickson, that (as obvious as it sounds) not all victims are the same. Their needs and the way they have been victimised are different.

He points out that victims' rights hardly feature in traditional legal thinking, because most legal rules are about what constitutes a wrong and who can be punished, rather than how to set something right. Even in international law the court often focuses on proving a wrong has been committed rather than trying to remedy it. Perhaps out of similar considerations, as Brice Dickson notes, the strategy does not deal with rights: the word does not appear in it.

Recently, there have been moves in the criminal-justice system more broadly to try to place the victim more centrally. There have also been recent Northern Ireland lethal-force cases, as Mary O'Rawe points out, where compensation has been directed by the European Court of Human Rights against the UK authorities.

Compensation is not a focus of the strategy, because the issue has not been devolved, but it does receive some attention below. Brice Dickson points out that the Northern Ireland scheme is now in line with that in Great Britain. Although this tariff- (rather

than common-law-) based approach will be more equitable, it could mean less for those victimised.

The Northern Ireland Human Rights Commission believes there is scope for elevating rights to compensation to a provision in a bill of rights for the region. This will require further consideration.

Roy McClelland argues that one of the advantages of such processes as truth commissions is that, unlike courts, they can be victim-centred. This can contribute to greater recognition of their rights: they can offer victims a public voice and bring their suffering to the attention of the wider public in a way a court cannot. Despite more limited legal powers a broader mandate, as well as an ability to focus on patterns of events—including the causes and consequences of state violence—allows truth-recovery initiatives to go much further in their investigations and conclusions than is generally possible in any trial of individuals. This, however, does not mean that non-judicial truth bodies should replace judicial processes, as they may be complementary.

Given the history of victims' rights in the legal field more generally, it is clear that introducing the issue into the debate in Northern Ireland is going to be complex, and based on limited precedent. It was suggested by Brice Dickson that the Basic Principles of Justice for Victims of Crime and Abuse of Power

(see appendix 3) would be worth reviewing in this regard.

The first issue that will need to be addressed, however, is whether victims and survivors have a unique set of rights—specifically, whether victims of the conflict deserve rights greater than, or in any way different from, victims of other types of violence such as 'domestic' murders. Given there is now a strategy to meet the needs of victims of the conflict, Brice Dickson poses a difficult question. He asks if the differentiation from other victims is justifiable—especially if two of the values underpinning the victims strategy are equitableness and inclusiveness.

Martin Murphy suggests that given previous disadvantage there is a need for victims of the conflict to receive specific attention. At the same time, he feels, this should come with responsibilities. He writes that 'our right to be heard, to challenge, to oppose, comes with a responsibility to offer proactive suggestions for change'.

Victims' groups, in his opinion, have a responsibility to represent those far beyond their own membership and to shape how monies are spent. For example, he argues, it is appropriate to highlight the lack of support from statutory services in the first 30 years of the 'troubles', but this should not be a reason to discount efforts by the latter to respond more effectively today. Victims' groups also have a responsibility to

maximise the benefits of emerging partnerships and to influence how statutory services and others use new funding.

Although one of the strengths of *Reshape, Rebuild, Achieve* is that it attempts to link the victims issue to other departments and agencies, such as in housing and education, and the private sector, there are still areas where this link is absent. For example, Brice Dickson points out that although the strategy says that if a victim feels unfairly treated by a public body he/she can contact the parliamentary ombudsman and commissioner for complaints, it fails to mention the Northern Ireland Human Rights Commission or the Equality Commission in this regard. This highlights the limited degree to which the issue of victims is being approached on a rights-based footing.

The absence of victims' rights from *Reshape, Rebuild, Achieve* requires urgent attention. It is firmly suggested in this report that the *right* to services for victims could be underpinned by law. Victims' rights to truth and justice are also critical.

In addition to these broad themes outlined above, specific issues are also addressed by the contributors. These include:

- structures to implement the victims strategy;
- relationships between the statutory

and voluntary sectors;

- health, education and housing; ex-prisoners and victims; and
- devolving victims-related issues.

The issue of exactly who is responsible for what in the victims arena has been ameliorated by the appearance of the strategy, though for some this remains unclear. The demarcation between the responsibilities of the Victims Liaison Unit in the NIO and the OFMDFM Victims Unit—despite publication by the units of a *communiqué* on the matter and it being outlined in the strategy—is not understood by many.

For Alan McBride, dissemination of information and relationships between structures remain cumbersome and bureaucratic. But along with others he welcomes the 'joined-up' work and partnership approach of the IDWG and the TAPS signalled in the strategy. These could make a real difference to the lives of victims.

But Patricia MacBride questions the degree to which government departments across the board are taking on victims issues: the IDWG is not delivering all that is promised, she claims. The situation, in her opinion, is marked by silence from most departments. Discussions with victims' groups and the OFMDFM on how groups can relate to the IDWG have taken place. To date, however, no results have been presented.

Alan McBride points out that the

strategy does not clarify how victims should relate to policy-makers. Martin Murphy argues that network agencies, Local Strategy Partnerships (distributing PEACE II funds on an area basis) and other victims-related bodies could propose members for a single forum that could have a direct and regularly scheduled interface with policy-makers—ideally the IDWG.

The TAPs are also mentioned by several authors. These could play a critical role in providing local representation on the structures Martin Murphy outlines. That said, concerns from community groups, highlighted by Patricia MacBride, remain—particularly that the TAPs are not as representative of the voluntary sector as they should be, generally being weighted toward statutory providers. Alan McBride feels that the voluntary sector needs to be encouraged to invest time in the work of the panels and should participate, but he questions whether there is an overall approach for them in place.

The relationship between the statutory and voluntary sectors, in providing services to victims and survivors, has been a constant feature of the victims debate. Crudely put, voluntary groups remain suspicious of official motivation for getting involved in assisting victims, after years of neglect, and feel their work is not appreciated: Alan McBride feels strongly that there

is a value imbalance, voluntary work being undervalued. In turn, some in the statutory sector remain doubtful of the quality and reach of voluntary work. But this report indicates that the situation is improving, although tension remains.

Fergus Devitt stresses the importance of strong partnerships with the voluntary sector, and across government, if the strategy is to become a reality. For many community groups, however, the commitment of the statutory services to work in inclusive partnership remains to be seen. Patricia MacBride feels this problem is evidenced by the fact that the key contacts list distributed with the strategy did not feature voluntary organisations.

Fergus Devitt remains adamant that the victims strategy was not an attempt to marginalise groups by making them dependent on the statutory sector. On the contrary, he would argue, the strategy is fundamentally about partnership. He points out that the £3 million core-funding scheme is a direct commitment to building victims' groups and the voluntary sector.

On funding, however, Alan McBride feels much work needs to be done—especially around how 'sustainability' is defined, never mind achieved. We need to see victims in context and not deny individuals a sense of self and agency by only ever defining them as 'victims'. The issues of poverty, disadvantage and

limited family support are as important as what individuals have been through as a result of violence.

R*eshape, Rebuild, Achieve* highlights the importance of health, education, and housing for victims, stressing meanwhile the cross-governmental nature of the issues at hand. Alan McBride feels that this is fundamentally correct and focuses on these key areas of need. He urges a more inclusive appraisal of the health needs of victims and survivors, particularly in relation to the physically injured.

He is less than encouraged by the strategy's preference for specific therapies (such as cognitive-behavioural therapy), at the expense of others that victims find helpful. An eclectic approach may well be more appropriate. Other issues that may need to be considered in any future strategy, in his opinion, are questions as diverse as how to get intimidated youth back to school in suitable locations, and whether victims issues and the understanding of conflict could be made central to the curriculum.

On housing, Alan McBride questions the degree to which the targets in the strategy have been implemented (for example, the review of emergency payments and the introduction of a tenancy support service). And he calls for a more sensitive approach to the housing needs of victims. He wonders if a

'one-stop shop' for victims would be helpful.

Although a controversial issue, the role of ex-prisoners in victims work was discussed at the round table. Patricia MacBride notes that *Reshape, Rebuild, Achieve* fails to mention it at all. She feels that ignoring the role of ex-prisoners in services, funding allocation, reshaping and rebuilding our society—even if distasteful to some—is not helpful.

In her opinion, 'ex-prisoners are amongst the most highly politicised and active people in our society, and the work of many ex-prisoner groups is at the forefront of peace-building, education and conflict resolution ... we should use these skills for the good of our community'. This perspective may be difficult for some, but Patricia MacBride does begin to touch on the inter-relatedness of victims issues.

Such an approach would fit the system-orientated and interdependence model adopted by Roy McClelland. He feels dialogue between survivors and combatants represents a ray of light that guides us on the long path towards reconciliation.

Similarly, Brice Dickson's call for a more victim-centred approach to criminal justice on the whole implies a holistic recognition of the challenge of dealing with the past—including victims, perpetrators and those who fall

into both rather crude categories. This is critical to building reconciliation, albeit challenging and a process that cannot be forced.

The continuing confusion between the roles of the Victims' Unit and the Victims' Liaison Unit raises the question as to whether it would be best to assign to a devolved administration the delivery of all services to victims. *Reshape, Rebuild, Achieve* itself hints at this: 'there is a possibility that some victims' issues currently dealt with by the Northern Ireland Office, such as compensation and criminal justice, will be transferred to the devolved administration while the strategy is operational'.

The strategy promises an examination, in conjunction with the NIO, of how a transfer of responsibilities for victims might be administered. Patricia MacBride contends that the consultation about the strategy by the Civic Forum, and the view expressed in the forum's submission on it, demonstrated that the NIO should have no further role to play in service delivery to victims and survivors. Alan McBride, although acknowledging that certain issues were not devolved, feels that any devolved administration would have to say something about compensation, truth and justice—as well as questions of security and the 'disappeared'—and this view was shared by most contributors.

As is evident in this chapter, the remit of *Reshape, Rebuild, Achieve* is wide. So too are perspectives on its achievements so far. All contributors were encouraged that a strategy had been elaborated and saw it as significant. Most were highly approving of its underlying principles, values and key areas of focus. And some clear successes were identified.

Yet, despite the array of positive and challenging points raised about the strategy, most share one concern—what happens next. Most recognise that dealing with 'victims issues' is a long-term project. Victims' needs also vary. More focus is needed on specific issues—for example, the needs of rural victims and those in interface areas, according to Alan McBride.

Most contributors also agree that more needs to be said in any future strategy about truth, justice and acknowledgment, and a context created in which these can be constructively addressed. The question of victims' rights remains wholly undeveloped.

Alan McBride feels it is important that victims, who have largely been sidelined in the past, should not feel abandoned as the strategy draws to a close. Clearly some momentum has been built and a process is unfolding; most want this to continue and are committed to shaping and participating in this process.

The OFMDFM intends to develop a

new strategy from 2004, in line with the Programme for Government commitment to that effect. This will be built on consultation, and evaluation of the current strategy.

It is to be hoped that the wide range of perspectives in this report will help mould this process—so that all the needs of victims and survivors of the conflict in and about Northern Ireland can be met.

DD

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Reshape, Rebuild, Achieve



Fergus Devitt

I was asked to provide an update on the current status of the victims strategy (OFMDFM, 2002). I could simply say the strategy is being implemented, in line with the targets set out. But I do not think that would do justice to the wide range of activities that have already taken place and will do so throughout the life of the strategy.

Reshape, Rebuild, Achieve was launched on April 11th 2002. That followed a widespread public consultation, in train when DD hosted a similar meeting in 2001. But the consultation was itself preceded by a round of meetings across Northern Ireland between victims' groups and the OFMDFM Victims Unit, and then between ministers and victims' groups. The views expressed helped to shape the consultation paper and the 121 responses to it informed, in turn, *Reshape, Rebuild, Achieve*.

The strategy is therefore very much

a product of the views of those upon whom it will have the most impact. It contains 49 specific actions spread across departments. As they are implemented, these will make a practical difference to the day-to-day lives of those most affected by the conflict. Progress has already been made in many areas. This includes:

- specialist housing support officers being put in post;
- establishing a Freephone helpline to the Victims Unit;
- undertaking a housing benefit awareness campaign;
- publicising widely the work of the Victims Unit; and
- funding a co ordinator post in each of the Trauma Advisory Panels covering the four health and social-services board areas.

Other work is being taken forward in education, health and enterprise. A training package has been developed for civil servants in 'front-line' posts. In

Reshape, Rebuild, Achieve we also made a commitment formally to letting victims, victims' groups and other interested parties know how we were progressing. We planned to do that around April 2003.

At a recent victims conference, I spoke about the importance of partnerships and I would like to emphasise that. The parts of government charged with dealing with victims issues cannot, and will not, act in isolation. We must ensure that we continue to build on the strong partnerships that have been established with the voluntary and community sectors, and across departments and agencies.

I would also like again to refute the unfounded suggestion that the victims strategy is in some way an attempt to marginalise groups by making them dependent on the statutory sector. The launch of the new £3 million core-funding scheme confirms just how wrong that interpretation was.

While it's important to look at the difference the current strategy is making to people's lives, it is also important from a policy perspective to think about what happens next. We are already doing so. Bearing in mind that it took around 22 months from a standing start for the Victims Unit to develop and publish the strategy, this is clearly not an overnight process.

The current strategy runs until 2004, and we are committed in the

Programme for Government (NIO, 2002) to putting a new strategy in place from 2004, building on the progress made. Given that it is now 2003, this does not leave a lot of time.

In mid-2001, we conducted a piece of research into how victims viewed services. In the spring or early summer of 2003 we will be carrying out follow-up research, to assess improvements in provision and what differences people have noticed as a result of the strategy. That will inform a consultation paper, which will be the forerunner of the new victims strategy we plan to have in place around March 2004.

I would emphasise, in conclusion, that we are committed to working positively with victims' groups to take this agenda forward. It is important, however, to reflect that thousands of victims are not in groups, and we must always be conscious that what we do must positively affect them too.

DD

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Evaluating the strategy



Alan McBride

A strategy to meet the needs of victims is important. In this context, *Reshape, Rebuild, Achieve* has to be welcomed.

I would applaud the Victims Unit for the vision that is clearly set out in the strategy. A key phrase is ‘recognition of the suffering of all victims’. It is not helpful to talk in terms of a ‘hierarchy of victims’. Not all victims have the same degrees of innocence or guilt, but the pain and sense of loss that suffering inflicts on families is equally felt by all, regardless of circumstance. The strategy recognises this fact.

The strategy seeks to ‘acknowledge the pain of the past’ and to learn lessons for the future. This is important because, if we are to recover from our traumatic past, we must learn the lessons of history. Recently, I had the pleasure of visiting the United States as a member of the Healing Through

Remembering project. While there, we met various initiatives and projects focused on similar issues. One was simply called Facing History and Ourselves.¹ This project runs study courses for students and teachers on Germany in the 30s and 40s, creatively applying the learning on prejudice and intolerance to modern-day society.

Moreover, the strategy aims to deliver ‘services that meet the needs of victims’. Meeting these needs is vital if we as a society are ever to know real peace. This is, however, a long-term objective and some of those coming forward for help were victimised many years ago. If this issue is not dealt with satisfactorily it will always remain a bone of contention.

More broadly, I would congratulate the unit for the sound value base that underpins the strategy—making it victim-centred, equitable, inclusive, focused and integrated. The issues that the document identifies as key are

also correct: recognition, access and information, health, education, housing and the needs of rural dwellers. Of course, there are other, much bigger, issues for victims that have yet to be devolved—such as, compensation, justice and security.

On the other hand, I found the document hard to read. The language was not user-friendly and there was no executive summary. This fits with a broader concern about consultations and government strategies. Surely, if an objective of consulting individuals and groups is to encourage them to ‘have their say’, then to produce a document that is full of ‘civil-service speak’ is counterproductive. This is especially true in relation to ‘victims’, as many of those most affected come from areas of high deprivation and educational disadvantage.

On top of this, many of the action points are aspirational (see below). I did find the use of target dates good, but I do not know if they have been met. I checked the Victims Unit web site but found nothing to assist with this—there is clearly a need for a progress report. There is a lack of information that people can tap into to find out what is going on. In addition, not everyone is comfortable with computers, or will use the freephone number. This has been the experience of members of WAVE, where I work with young people. I am also concerned about those

who do not go to groups.

All of this adds up to ‘not much change on the ground’. I say this in relation to my experience with victims who use the WAVE centre where I work. I have seen no difference with regard to their poverty, disadvantage and limited opportunity. If the strategy is targeting those most in need, then it is obviously taking a while to get through, or maybe the issue is the dissemination of information and people are not sure what help is available. Organisations like WAVE have a role to play in providing that information, but it must again be remembered that not everyone attends a group.

Finally, the work with victims is long-term, yet this strategy only takes us up to 2004. I know that funding will run out then and that other responsibilities might be devolved, but victims and their representatives need to be assured that they will not be abandoned. This is a very real concern.

Let me now turn to some more specific issues.

Recognition is a huge issue for those who have suffered in the ‘troubles’—that is, ‘that their suffering and the suffering of their loved ones will not be forgotten’. This point came home to me during the Healing Through Remembering project consultation with WAVE members. Among issues discussed was the fear of abandonment, being

forgotten by society or being made to feel that victims were somehow holding up progress in relation to the ‘peace process’ because they were unable to forgive and move on.

The strategy commits the government and its departments to:

- reflecting victims’ needs in their corporate planning;
- including victims in public consultations;
- providing additional training for civil servants dealing with victims; and
- exploring how art, sport, poetry and music might be used as therapeutic tools in helping victims express their experiences.

This is part of recognition, but real recognition—the recognition that victims find meaningful—is bigger than this. It is more than inclusion in public consultations and corporate planning: it is about acknowledgment, memorials and story-telling. Could the unit play a role in promoting and exploring these processes? I was particularly struck by the concept of using art and sport as a way of helping victims articulate their stories. Two such initiatives are being delivered at WAVE.

The first is called Every Picture Tells a Story. This is a youth project looking at story-telling through art and stories that include the themes ‘loss of a loved one’, ‘sense of community’, ‘the peace process’, ‘interface violence’, ‘understanding conflict’ and ‘a day in my life’.

The second is called Fair Play. Again a youth project, this addresses community relations by looking at sport—for example, the history of Gaelic sports. It also poses the question ‘what is fair play?’ and asks how this can be played out in society.

This is a good way of helping young people to talk through their experiences, and therefore help them in the healing process. Perhaps, as part of the strategy, the unit could look at ways that good practice of this type could be shared with other groups.

Health is another issue of vital importance to victims, yet this is not reflected in the strategy. The recommendations included do not go far enough and it is not an exhaustive list of health needs.

There is no mention, for example, of: those who suffered a physical injury as a result of the ‘troubles’, estimated at about 40,000 people. There is no reference to their health needs and no mention of research that might inform policy in relation to them. The same applies to those who suffered disfigurement, including how the trauma affected their job opportunities and quality of life, or what provision can be made for them.

In addition, those with addiction issues are neglected. It is well established that many who suffered in the ‘troubles’ turned to alcohol and

tranquillisers. This was certainly my experience, as well as of others I have worked among. Before Sharon, my wife, was murdered in 1993, I did not drink at all. My life revolved around the family and church. But all that changed.

I suppose it was my way of getting through. I was feeling so angry and sorry for myself that whenever I got my four-year-old daughter off to bed I would often drink myself to sleep. I also recall a man who told how he used to get drunk and drive out to the graveside of his murdered son, where he would throw himself down and 'cry like a child'.

I also noticed no mention of the use of alternative therapies. Yet these remain very popular with those who have suffered trauma: at WAVE there is a waiting list. Those who avail themselves of such therapies indicate that they feel more relaxed. While this evidence is anecdotal, surely there is a need for research to determine effectiveness. If alternative therapies are judged to be effective, then they should be widely available and generously funded. This would be bound to save revenue that would otherwise be spent on such things as sleeping aids.

In a similar vein, a worker to head up each of the Trauma Advisory Panels is to be welcomed. But concentrating on an assessment of the need for cognitive-behavioural therapy in each board area can mean that other therapies that



might be more relevant are denied. An eclectic approach might well be more appropriate.

Finally, one of the health action points recommends that research be carried out to determine whether counselling would be helpful for victims who apply for access to coroners' inquest papers. I doubt if the research is necessary: counselling should be made available to all who want it as a matter of course.

Through my work as a youth worker, I have come to realise that there are many difficulties faced by young people in relation to **education**. The impact of the 'troubles' is a factor, but poverty and limited family support are just as significant and need to be taken into

account when developing the strategy.

For example, one young person I work with, whose father was shot dead in 1994, was having trouble at school. He was continually truanting and failing to do any work. The school was sympathetic and blamed much of the difficulty on his father having been murdered. But this annoyed the young person, who suggested that his whole life experience was being analysed in relation to his father's death. He said: 'Everything that happens to me is blamed on my da's death, it's like that's all there is to my life. I just hate school, I hated it when my da was alive and that hasn't made any difference. I wish people would stop blaming everything on it.'

This has been confirmed in research. The Civic Forum (2002) undertook a study of educational disadvantage. Focus groups comprising individuals who had experienced various levels of educational disadvantage were set up. The findings concluded that while the 'troubles' had played a part, a more significant contribution stemmed from poverty and inadequate support.

I congratulate the strategy for highlighting issues to be addressed, all of which have no doubt been barriers preventing young people getting a good education. But again they do not go far enough and the strategy is not sufficiently specific. I appreciate that research is needed before a strategy

can be put in place, but much of this has already been done. Words like 'examine', 'investigate' and 'consider' tell us nothing of the action required to combat the problems listed.

I have a number of other concerns in relation to education. One is intimidation: the incidence of intimidation is rising, yet I have seen little sign of alternative programmes aimed at getting intimidated youth back into school. Here is another example from my work:

Stephen is 12 years old and has not been at school, or had any educational provision for six months. His family has suffered intimidation and has had three different addresses during this period. Stephen's mother has put his name down for a local school of her choice but has been informed by the school that there are no places available. Another school has been suggested by the Department of Education, but this school is 2 miles away and would involve Stephen having to go past a few 'flashpoint' areas. His mother says: 'He's bored stiff. Nothing to do but go down to that corner and throw stones. I wish he could get into school, but there's no way I am sending him all the way up there past those'uns.'

Intimidation is also problematic because it is often difficult to determine where the intimidation is coming from. For example, an education welfare officer phoned WAVE about a young person who had been threatened and was not

attending school out of fear. The officer wanted advice as to whether the service could accompany the youth to school and verification of the threat. We tried to do this, but found it impossible. The police were unable to give us the information needed, and Base 2—a project working with these issues specifically—was difficult to contact. There is a need for clearer structures around verifying threats: Base 2 does good work but one project is inadequate to deal with the scale of the problem.

Putting victims issues on the school curriculum would be a welcome move. WAVE commissioned research into the educational needs of young people affected by the conflict. This highlighted the importance of addressing matters such as death and conflict as part of the core curriculum. These subjects are addressed in other conflict areas, for example, Israel/Palestine. The research (McGreevy, 1999: 18) found:

The issues of loss, bereavement, and political conflict were addressed or 'skimmed over' as topics in subject areas such as history, religion and PSE [personal and sexuality education]. A topic which is fully integrated into the curriculum and exists in the day to day interactions between pupils and staff will have more of an impact than if it is treated as only part of the curriculum, or not part of the official curriculum at all.

This must happen as a matter of course: these issues must be addressed in core subjects and not relegated to the fringes of school life, or left up to the goodwill of a member of the teaching staff.

Education welfare officers and behavioural support teams interacting with victims' groups would also be welcome. Recently at work, as a result of discussions with a case worker at these agencies, I found myself better informed and therefore in a better position to make a positive intervention into the lives of two young people at risk. This, however, was a unique episode in three years of working in this area.

In a broader sense, the whole notion of partnership needs to be examined. I still feel there is an imbalance: sometimes voluntary-sector workers are not valued by the statutory sector; skills that exist are often not recognised. I dwelt on this in my input to the previous DD round table.² Perhaps the TAPS will address it.

Housing is another matter of great concern to victims. Once again, the strategy identifies many of the key areas where assistance could be provided but it does not go far enough. I have concerns that some of the target dates for action might not have been met. I contacted the Northern Ireland Housing Executive to inquire about the

‘review of emergency payments’, the ‘introduction of a tenancy support service’ and the ‘use of housing officers to provide specialist information to victims’—issues highlighted in *Reshape, Rebuild, Achieve*. The person I spoke to did not know about the first two, and in relation to housing officers said there was one in Ballymena to look after old people and people with disabilities.

The Victims Unit assures us that specialist housing officers have been appointed and I don’t doubt this. My point is on communication. If someone in need phoned up the housing executive, this is the response they would be likely to get, which was far from helpful. And, being likely to be quite distressed, they might not phone again. Those handling calls in various departments need to be informed of what is available to signpost people—perhaps the notion of a ‘one-stop shop’ for victims would be helpful in this regard.

There is a need for sensitivity around rehousing. For example, a Catholic family I have been working with was intimidated out of north Belfast and then rehoused in a Protestant housing estate in Coleraine. Two boys in the family, aged ten and 11, would not go out for fear of being attacked. Eventually they did go out and actually made some friends, but to do so they had to take on a ‘loyalist’ identity. They would often go and watch the bands, and attend ‘11th night’

bonfires. They also wrote loyalist graffiti on schoolbags and gable walls. This created problems when they tried to visit relatives where they used to live.

There is also a need to improve the process of getting people out of certain areas. The current system is *ad hoc*. For example, recently WAVE dealt with a woman who had been forced from her home in a rural community and sent to a Salvation Army hostel in Belfast. The woman was terrified. Not only had she lost her home but she had had to come to the city. She had no idea where she was, had no contact with family or friends and found herself sharing a hostel with drug addicts and alcoholics.

That said, those who want to stay in their own homes should be allowed to do so. This means providing financial assistance to home-owners who want to protect their property, such as through grilles on windows.

Finally, the process of making adaptations to houses for those with a disability should be speeded up. I know of a recent case of a double amputee being told they would have to wait three years. And a man who lost a leg in a bomb in north Belfast was moved to a purpose-built house in Newtownards, because it would take so long to adapt his own home.

I am not from a rural area. I do not pretend to understand all the difficulties **rural dwellers** experience. I do know,

however, that access to services is severely limited. In this regard, the strategy says little except to signpost people to other agencies. I have several concerns about this:

The strategy suggests contacting these organisations *via* their web sites. But many victims are poor and do not own a computer or are not, in any event, computer-literate.

Rural community transport can be costly. WAVE has used it, in Ballymoney (Co Antrim) and Omagh (Co Tyrone), to bring young people to programmes. A round trip could cost up to £70, making the delivery of programmes very expensive.

The document appears to pass the buck, as there is no mention of the particular issues faced by rural dwellers— isolation, for example, and the fact that many are living in hostile environments. Access to health care, especially chronic pain relief and other support services, is problematic. And, recently, two women from the republic had to cancel their attendance at a training event in Omagh because of a threat to participants from the other side of the border.

Clearly, the needs of those living in rural communities must be fully analysed.

I will bring this chapter to a close by looking at the structural issues in the strategy. Following the consultation

document that led up to it, some respondents called for an organisational chart to help individuals and groups make sense of the victims constituency, what help is available and from whom. The chart that has been generated is not clear: it is cumbersome and overly bureaucratic.

In relation to the interaction with policy-makers mentioned in the strategy, there is no clear view as how to make this happen. Not much is known about the IDWG, or what authority it has to make things happen. As to finding a replacement for the Touchstone advisory group of victims' representatives, I am not sure this is necessary: it could be a function of the TAPS.

Much of the work of the TAPS has so far been *ad hoc* rather than strategic. The fact that each panel now has a full-time worker should go some way to addressing this. If the panels are to fulfil their potential, however, there will need to be a fair balance between statutory and voluntary workers. One problem that needs to be tackled is how to encourage those from the community and voluntary sector to invest time in the work.

Last year I attended a residential with the Eastern TAP. I found the experience very rewarding and got to know lots of people from the statutory sector, but I was disappointed that not many from the voluntary sector were there. Also, how do we combat inconsistency

of representation, when many community workers are on short-term contracts?

I know that the Victims Unit is not part of the Northern Ireland Office, but as the potential transfer of the relevant responsibilities from the NIO to a devolved administration is not likely to happen for some time, it is clear that a strategy is required concerning such issues as compensation, truth and justice. These were ditched by the strategy, as well as matters concerning security and the 'disappeared'.

Then there is the Northern Ireland Memorial Fund. Again, I realise this is a separate charity, not under the control of the OFMDFM. But it receives substantial assistance from that source and there are concerns—particularly in relation to the refusal to support families whose loved ones were murdered by 'Direct Action Against Drugs' (a paramilitary front organisation) or who have been victims of vicious 'punishment' beatings.

Refusing payment to these families adds support to community rumour and trial by media, in the absence of due-process convictions by a court of law. I would also raise concerns about the ability of the board to address the variety of victim experiences not represented on it. There needs to be some accountability to government, as a key funder of this charity.

On funding more broadly, the

problems groups have experienced are well documented: PEACE II is not hitting the ground and there is a slow turn-around on letters of offer. But there are additional, specific, queries.

First, what is meant by 'sustainability'? Does it mean that money will be found from other sources? Or does it imply that groups will provide their own income by charging for services, doing their own fundraising and relying more heavily on volunteers? The experience of WAVE is that our fundraising—for example, through a sponsored cycle and our gala dinner—brings in some money, but only a fraction of what is needed to provide the service on offer.

Secondly, on core funding, the current round is due to expire in 2004. Are there plans to continue it? If not, I would question the commitment of government to the long-term care of those directly affected by the 'troubles'—and work with victims is long-term. I would caution against creating a 'victims industry', but the fact remains that since the signing of the Belfast agreement many who were bereaved in the 70s, 80s and 90s have come forward for help.

In summary, the most valuable thing about the strategy is that it is there: we have it and it is a start. Many important issues are addressed, such as health, education, housing and recognition. The 'joined-up' work and

partnership approach of the IDWG and the TAPS should make a real difference to the lives of victims.

But people need to be kept informed of progress. I wait expectantly for the formal review of the strategy. I want to see if the targets have been met. I also want to see the strategy respond to emerging needs—for example, arising from the high levels of violence at interfaces.

The strategy also has to go further. More work needs to be done on:

- recognition—greater understanding of what this means to victims;
- health—a more inclusive appraisal of needs, particularly in relation to the physically injured;
- education—getting intimidated youth back to school in a suitable location and making victims issues and the understanding of conflict central to the curriculum; and
- housing—protecting home-owners who want to remain in their own homes, and more broadly being sensitive to the housing needs of victims.

If those most affected by the ‘troubles’ are to enjoy the benefits of peace, then these issues and others must be addressed. The vision and values that the strategy is built upon make it clear that this is the intention of government. Victims and their families will judge its success by the changes it makes to their lives.

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Footnotes

¹ See <http://www.facing.org> for more information.

² paper available at <http://www.democraticdialogue/victims.htm>

What next?

Patricia MacBride

R*eshape, Rebuild, Achieve* was welcomed by many, particularly those working with victims and survivors of the conflict. This was based on the assumption that finally the political institutions were taking account of the specific issues, problems and obstacles faced by victims and survivors, and those who work on their behalf.

Many issues are covered by the strategy, but I would like to focus on just a few: its vision and values; the commitment to co-operative working; the responsibilities of the 'devolved' and 'reserved' parts of the administration; recognition and remembrance; and the way forward. Although *Reshape, Rebuild, Achieve* does address funding, space here would be insufficient adequately to analyse that tangled web.

The vision the strategy upholds is of:

A society where the suffering of all victims is recognised, a community

that acknowledges the pain of the past and learns lessons for the future and an administration that provides, in conjunction with others, support and services in a proactive and sensitive manner to meet the needs of victims.

I will examine three elements: the terms 'proactive' and 'sensitive' and the phrase 'in conjunction with others'.

There is a sense on the ground that the administration views *Reshape, Rebuild, Achieve* in itself as a proactive step in dealing with victims issues. We know, of course, that the strategy is only truly proactive when its recommendations are implemented. I have not closely monitored the timetable for implementation and whether all the targets set have been achieved, but I would expect to be kept informed if they were. To date, the only information I have received from any statutory agency came from the Western Education and Library Board telling me how its education welfare service

was available to assist those still at school who identified as victims, and offering to meet to discuss the specific requirements of our client group.

I applaud the western board for meeting the commitment to investigate how its services can interact with victims and victims' groups, but I would like to know about other departments. One would expect that if they were meeting their commitments they would shout it from the rooftops, but from where I sit the silence is deafening.

The term 'sensitive' is subjective and needs to be interpreted in light of the values underpinning the strategy: victim-centred, equitable, inclusive, focused and integrated. If victims and survivors are treated with dignity and respect for their circumstances, if equality in service delivery is achieved and if services are co-ordinated through partnership working, then the strategy can truly said to be sensitive, but this remains to be proven.

Which brings me to the statement that services would be delivered in conjunction with others. A fundamental failure of *Reshape, Rebuild, Achieve* in this respect was that the accompanying 'key contacts list' only included information on the statutory sector. Given the strategy is aimed at individuals, as well as those who participate in groups, the lack of information on services available in the community and voluntary sector limits choices for those

seeking help for the first time. It has led to accusations of the administration merely paying lip-service to the notion of strategic partnerships.

Officials from OFMDFM have recently held meetings with representatives of victims' groups where broad discussions have taken place, including on how best these groups can interact with the IDWG. Many in the community and voluntary sector anxiously await their proposals in this regard.

The role of the TAPs in this working relationship is important, but the panels are only as effective as their membership is reflective. If a panel is overly weighted with statutory members, then any arrangements for co-operative working may end up as government departments talking among themselves. Indeed, it would not be unreasonable to weight any group of panel representatives working in conjunction with the IDWG in favour of members from the community and voluntary sector.

If relationships are to develop in this way, then the panels will have to be further resourced and organised so as to ensure the broadest possible spread of representation, best-practice principles and open and transparent operation.

Reshape, Rebuild, Achieve undertook by March 2003 to 'examine in conjunction with the NIO how a potential transfer of its responsibilities for victims might be administered'. Confusion

exists as to which branch of government (the Victims Unit in the OFMDFM or the Victims' Liaison Unit in the NIO) should be pursued for what purpose. The view of many who responded to the Civic Forum during the consultation on the strategy—a view reflected in the forum's submission—was that the NIO should have no further role to play in the delivery of services to victims and survivors.

The reasoning behind this was straightforward: the devolved administration was in place with regionally elected representatives, familiar with local issues, who could be held accountable for their shortcomings—they were best placed to develop and deliver the strategy. The duplication of departments did not add value to the service. The strategy action point, however, gave no concrete commitment to change (even though the strategy predated the suspension of the institutions in October 2002).

Moving on to recognition and remembrance, *Reshape, Rebuild, Achieve* neatly sidestepped this issue. It was able to do so because its consultation period overlapped with that for the Healing Through Remembering project. But the latter having produced its report (Healing Through Remembering, 2002)—a useful tool, which can be adapted in many ways—the government can no longer fail to deal with this issue, which is so divisive yet so central

to healing for victims of the conflict.

Recognition and remembrance go hand in hand with truth and justice. The latest draft Programme for Government (NIE, 2002) committed the devolved administration to commissioning a project to bring together a broad archive of material about the conflict. It would allow victims to record their experiences in a belief that such a recording would provide recognition for that victim. This archive would be made publicly accessible and be used as an educational resource, with victims and victims' representatives having contributed to the design of the project.

In the revised plans issued by the direct-rule administration in December 2002, this commitment was restated in summary form (NIO, 2002: 19).

Victims do not want simply to record their stories and hear what they already know. Projects such as this archive need to go further: solving the puzzle of what happened, assigning responsibility and making use of their credibility and power to establish a clear difference between the current and previous political systems. But they can only be effective if, in the long run, they see themselves as a component of a much broader process. This must involve the re-establishment of the rule of law, in which the role of justice is fundamental.

Truth-seeking processes are difficult

and the idea of any such process taking place in Northern Ireland needs to be carefully scrutinised. On the one hand, the investigations need to be deeply neutral, yet on the other the results will be deeply political. The complexity and the focus on reconciliation make the task of providing a balanced product challenging, but it is a challenge the administration needs to grasp.

Despite having failed in some areas, the South African Truth and Reconciliation Commission had one very positive effect. The commission and the publicity surrounding it ensured that no one could subsequently legitimately claim that they did not know the perversity reached by the *apartheid régime*. If a truth-telling process in Northern Ireland would ensure that no one in this society could delegitimise any of the victims of the conflict, I would not only welcome but embrace it.

Many worthy targets are set by the strategy, but some that should have been included were not. Perhaps one of the most contentious issues that *Reshape, Rebuild, Achieve* failed to address is the role of ex-prisoners in services, funding, reshaping and rebuilding our society.

Although there are many who find it distasteful to talk about ex-prisoners, perpetrators, ex-combatants, paramilitaries—or whatever pejorative terminology they choose—in the same

context as a strategy for victims, it would be a fundamental failure to ignore their role. Ex-prisoners are among the most highly politicised and active people in our society, and many ex-prisoner groups are at the forefront of peace-building, education and conflict-resolution. We should use these skills for the good of our community and the benefit of those whose circumstances are not of their own making.

It is still too early to decide whether the strategy is truly making a difference. Many of the action points have a timetable of implementation in 2003, and some set for 2002 had not been implemented at the time of writing. I would like to see *Reshape, Rebuild, Achieve* reviewed early in 2003, to monitor how and what actions have been implemented, to take into account issues that were not fully encompassed and to give an honest appraisal of whether all the actions are realistically achievable.

In conclusion, some thought needs to be given to what happens when the strategy's timeframe is up in 2004. Does government simply walk away, believing it has fulfilled its responsibilities? The next step is to formalise the working relationship between the administration and the community and voluntary-sector groups working with victims and survivors—to ensure that, if this is the position, we do not let them get away with it.

DD

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Policy and possibilities

Martin Murphy

I will begin with some thoughts on the current victims strategy, what has been accomplished so far, what has not as yet and possible reasons why, as well as my sense of its value in shaping the way forward. I will then consider victims' rights in terms of the strategy—specifically, how rights and their related responsibilities might be exercised in lobbying for policy change. Finally, I will suggest some realistic means to link victims and policy-makers more effectively.

In October 2001, I gave a presentation at the DD forum where the OFMDFM consultation paper was being discussed.¹ I congratulated the office on the extent of the consultation. But I raised questions as to the substance of the draft action plan. I referred to the vagueness of some of the language, suggesting there was little definite by way of actions or decisions.

The problem of competitiveness between groups and agencies was highlighted and traced to the funding structures, beginning with PEACE I and continuing through the first core-funding programme: funding arrangements had arguably been tokenistic and, up to that point, as divisive as productive. Finally, that paper suggested that we consider more closely what we mean when we speak about issues and needs, and that we distinguish between these concepts more clearly in setting achievable goals.

Reshape, Rebuild, Achieve was presented five months later. I was keen to identify what might have changed in respect of the above points. Initially, my assessment was very little. Reading the development and delivery section, I was once again struck by its vagueness—the abundance of actions about actions—and disappointed by the prevalence of words like 'examine', 'consider' and 'investigate'. In terms of its

'vision', 'values', 'themes' and 'aims', the strategy is very clearly and positively defined. I was therefore left asking why so much, in a practical sense, was left so loosely defined in a document designed to point the way forward.

I have since tried to understand this looseness through my own work with different individuals and groups. The considerable consultation on the strategy had resulted in a massive response. My question of 'why the vagueness?' began to shift to 'is it, in reality, a problem or a symptom?' I wondered if the lack of definitive action was the result of an absence of unity or consistency in the responses to the consultation.

My previous paper suggested that the enormous and varied range of *issues* for victims in a post-conflict Northern Ireland contrasted with the relatively small and consistent range of expressed physical and psychological *needs*. This is certainly the experience in my everyday work. Social justice, for example, often couched in terms of need, I would define as an issue. Here's a composite example of the type of situation NOVA staff encounter daily:

A family referred to NOVA have lost their father due to the actions of gunmen. The family consists of the mother, a pre-adolescent daughter and a teenage son. Even more tragically, the mother and son witnessed the murder. The member of staff meets the family to try to contract a programme of work. Problems identified

include the recurring nightmares and flashbacks experienced by mother and son and their general state of exhaustion during the day, exacerbated by an increased sense of danger all around. The daughter has become withdrawn at home and school. All agree it would be useful if the above problems were addressed. At the same time, the mother was injured in the attack and requires ongoing treatment, yet she finds it difficult to avail herself of services due to her feelings around the circumstances of her injuries. It is five years now since the father was murdered and no one has been caught. The mother for some time has even doubted the motivation of the authorities to bring the guilty to justice. She has joined a group made up of people who have experienced similar tragedies. They share with each other some common experiences, like the lack of response from the authorities and the absence of understanding on the part of some schools. Some of their GPs have been wonderful or terrible, depending on the individual's own opinion, in their willingness to prescribe tranquillisers and anti-depressants. Other GPs have been able to signpost counselling services. Significantly, members choose not to share all experiences, like the fact that they now sleep only a couple of hours a night, that they use tablets or alcohol to ease the hurt, or that their child who was previously dry at night is now wetting the bed again. As the group's identity strengthens, they collectively focus on common areas of concern, like seeking justice and recognition. They question the description of Northern Ireland as being at a point of post-conflict and feel let down by a political process that

continues to evolve without appearing to acknowledge their experiences and ongoing difficulties.

Everyone here will identify the needs and issues in this pen picture. We will vary in our judgments of what are issues and what are needs. I make the distinction, however, to identify emotional and physical needs that can be readily targeted through direct therapeutic support, or addressed through structural or policy changes in health or educational services.

If we look at the current victims strategy, we can identify its more concrete targets as being those addressing such provision. These correspond with some of the few very specific recommendations, such as around cognitive-behavioural therapies or the use of sports, arts and media.

Yet *Reshape, Rebuild, Achieve* also exists within the context of the issues, including those of justice and recognition, described in the pen picture. These are more difficult to define in terms of solutions. I would ask you to recall who you identified as the murderers. Were they paramilitaries or police/army? How did this help you define solutions to the family's problems? If you were to consider the opposite scenario, in terms of perpetrators, what would those solutions look like? Then think of others, possibly not present, and how their solutions might vary

according to the details. It directly relates to the question of how policy-makers begin to respond to victims' demands and frame these in strategies and policies.

I do not wish to stick rigidly to this needs-issues dichotomy. But it is a useful framework for interpreting *Reshape, Rebuild, Achieve*, highlighting its potential and its limitations. Not least, it offers an explanation as opposed to a criticism of some of the gaps—seeing these as symptomatic of the larger context. It helps explain, for example, such sentences in the delivery section as 'consult with ... to consider including victims in their target audiences'.

What is the context then, given that we are now over four years beyond the Bloomfield (1998) and Social Services Inspectorate (1998) reports? What has changed? Have we moved forward?

Let me first suggest a broader way of thinking about this, in the context of victims' rights. In his book *Man's Search for Meaning*, Victor Frankl reflected on his experiences as a Jew surviving four Nazi concentration camps, while losing every member of his family except one sister. In identifying what moved him beyond that part of his life to fulfil what remained, and in so doing suggesting what should inform others in their struggles, he declared: 'I recommend that the Statue of Liberty on the East Coast be

supplemented by a Statue of Responsibility on the West Coast.’

He proposed that what characterised survival and subsequent growth was the ability to recognise and exercise personal choice, however small, whenever possible. In the concentration camps this was extremely limited, given that often arbitrary decisions spelt death for so many. But, even then, where choice did lie was in accepting that there might be survival, that there might be future opportunities.

So what are victims’/survivors’ rights, and what are their responsibilities? They are, quite simply, citizens’ rights and responsibilities. The challenge is: how can victims and/or survivors be facilitated more fully to exercise these rights and responsibilities? The question I would highlight is whether special treatment should be an end in itself or a means to an end. Is it appropriate, for example, to target victims as groups when promoting business skills and enterprise initiatives, or should this be achieved, at an individual level, by more victims-sensitive education and training?

As a social worker in London in the 80s, I first encountered the debate as to whether equal opportunity was sufficient, or positive discrimination necessary, to promote life-chances *vis-à-vis* race, age, gender and so on. Interestingly, I observed a similar debate in the media in South Africa when I visited in

2000. Being a white male, I somehow felt a particular need to demonstrate my grasp. Once, in a job interview, I offered the analogy of the 400-metre race. The objective is to give each runner an equal chance to cross the line first, but because of the disadvantages imposed by the shape of the track upon those allocated outer lanes, each runner is given a different starting position to compensate for this structural inequality. It is personal effort and application that then determines the outcome.

If, because of our personal history or circumstances, we have a right to unique treatment, we also have a responsibility to use this to put us on a par with fellow citizens. Our right to be heard, to challenge, to oppose, comes with a responsibility to offer proactive suggestions for change. In the same way, it is appropriate to highlight the lack of support from statutory services in the first 30 years of the ‘troubles’. But this should not be a reason to discount efforts made by the latter to respond more effectively today.

So what has changed since the Bloomfield report? Other factors and events have coexisted with *Reshape, Rebuild, Achieve* but it is important that Northern Ireland now has a documented victims strategy—one that has evolved out of extensive consultation. That engagement has continued, so that lines of communication exist that

were not present, even two years after Bloomfield. It was supplemented when the OFMDFM Victims Unit commissioned an independent evaluation of the first core-funding programme.

Those recommendations, acted on by the unit in preparing the next funding programme, will do much to promote the types of partnership suggested in Bloomfield, and to reduce the atmosphere of competition across sectors, so prevalent hitherto. I have already seen evidence of this in my contacts with victims' groups. Added to all this, we have concrete recognition, by means of the Strategy Implementation Fund, that more clearly targeted statutory services for victims require additional resources.

As suggested earlier, however, victims' groups have a responsibility to keep these lines of communication open, to maximise the benefits of emerging partnerships, and to influence how statutory services and others use new monies. I emphasise groups, because they have opportunities to influence in a way not readily available to individual victims. In a sense, they have a responsibility to represent those far beyond their own memberships.

This leads to my final question: how can victims best be linked with policy-makers in the future? I agree with the bulk of opinion that a victims' commissioner is not the answer—not

least because of the near impossibility of finding the single, 'right' person to represent such a diverse group. That said, there are already examples of effective practice that offer clues towards an appropriate mechanism. I refer to the networking agencies such as Breaking the Silence in Belfast, and the work of the Local Strategy Partnerships in rural areas. In addition—and directly related to the strategy document—the TAPs are developing their work across the health-board areas, aided by the appointment of co-ordinators.

It is an obvious progression for these network agencies and panels to propose members for a single forum that could have a direct and regular interface with policy-makers. Ideally, this should be the IDWG. Those proposed would be responsible for representing wider victims' interests, while simultaneously acting as a conduit for information from government agencies. To hark back to an earlier theme, it would be the constituent members' right to expect 'product' from this forum and the responsibility of policy-makers to demonstrate that they viewed it not as a talking shop, but as an agent for decision-making.

I see *Reshape, Rebuild, Achieve* as a strategy in progress—one that requires refinement. Its gaps are clear, but we must acknowledge why these might exist. There is a lack of clarity at all

levels and across all stakeholders as to what final outcomes might look like. What exactly should the strategy be asking policy-makers to do? A key question is whether a programme should focus on securing unique status for victims, or on facilitating their reintegration into the community.

I have suggested what victims might need to do to make any strategy work. We are a society, like any other, that chooses to move on. Above all else, we crave normality. Policy-makers must respond to this. That can place conflicting demands on victims and those working with them, but they need to recognise and acknowledge this. The policy-maker has a responsibility in managing it, but so too does the victim—who is, first and foremost, a citizen.

I will finish with a therapeutic intervention our service users sometimes find helpful when exploring possibilities. It is called the ‘miracle question’ and in the context of this discussion would go something like this: supposing, when we go to sleep tonight, a miracle takes place and the perfect victims strategy is created, what would be the first difference we would notice tomorrow morning?

DD

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Footnotes

¹ paper available at <http://www.democratic-dialogue/victims.htm>

Victims rights

Brice Dickson

Rights are what the law guarantees. *Human* rights are what the law guarantees because it considers them to be fundamental entitlements in the age in which we live. What qualifies as a human right evolves over time, and is still evolving. Do children have the human right not to be smacked? Do prisoners have the human right to vote in elections? Deciding what are simply rights and what are human rights is a somewhat sterile debate, so I will confine my attention to what the rights of victims should be.

Victims need and want certain things. Even a brief time spent with victims, however, leads to the conclusion that the things they need and want depend on (a) the nature of their victimhood and (b) the personality of the individual. When we are considering what rights victims should have, we should bear in mind this truism: not all

victims are the same.

The nature of victimhood differs according to the nature of the wrong that has been committed. The wrong has two aspects: the act itself (the killing, the assault, the threat) and its consequences (the death, the injury, the fear). Deciding what rights victims should have requires regard for both. The former aspect calls for such rights as recognition, acknowledgment and apology. The latter implies rights like compensation and access to services.

What is, for the most part, irrelevant to victims is the motivation of the person who committed the act. The fact that one perpetrator's motive may have been more laudable than another's is little comfort to the victimised. A dead parent, child or sibling is still dead, a lost arm or leg still lost.

Some victimising acts, in any event, are motiveless: the drunk driver who kills a pedestrian has no motive, because the act was in a real sense



unintended.

When addressing victims' rights in Northern Ireland one has to address the question whether victims of the 'troubles' are deserving of greater, or in any way different, rights from victims of other wrongs (for example, 'domestic' murders, 'ordinary decent robbery' or causing death by reckless driving). If so, it cannot be because they are more numerous (more people were killed by bad driving during the conflict years and there were many times more victims of theft). It may be because special measures have been put in place for the perpetrators (an early release scheme and special funding for ex-prisoners), so special measures are deemed appropriate for the victims. And of course the Belfast agreement makes particular provision for victims of violence (see appendix 1).

Reshape, Rebuild, Achieve relates only to 'violent, conflict related incidents'. The purpose of the strategy is to 'help those who have suffered as a result of the conflict and the definition should be seen in that light'. The first question to ask, perhaps, is why is it so limited? If a strategy is in place to provide support and services in a proactive and sensitive manner to meet the needs of conflict-related victims, why is a strategy not in place to meet the needs of other victims? Is the differentiation justifiable, especially if two of the values underpinning the victims strategy

are equitableness and inclusiveness?

In traditional legal thinking the phrase 'victims' rights' hardly features. This is because most legal rules are about what constitutes a wrong and what remedies are available if a wrong has been committed. Students of the law are introduced to victims' rights primarily through their course on 'tort' law, which covers such topics as the civil wrongs of negligence and trespass (to the person, goods or land). Questions examined include: for which of the consequences flowing from the civil wrong is the tortfeasor (the person who committed the wrong) liable? how is the compensation due to the victim to be calculated? and what duty does a victim have to mitigate his /her financial loss?

Students of the criminal law do not spend much time on the rights of victims, because the purpose of the criminal law (at least in the Anglo-American tradition) is to ensure that the state punishes people for breaking its rules, not to compensate people who are the victims of those breaches. Students will need to consider victims in this context only when looking at the position of victims in the witness box.

In recent years, however, a movement has developed to give victims more attention in criminal law. This was exemplified in the prime minister's speech last year explaining that Home

Office bills on crime would help put victims at the heart of the criminal-justice system. Already some reforms have been introduced in Northern Ireland's system, as a result of the passing of the Justice (Northern Ireland) Act 2002. This allows, for instance, victims to be informed in advance when a perpetrator is due for release, whether temporarily or permanently. These new rights can apply to various types of victim, not just those related to the conflict (see appendix 2).

Reshape, Rebuild, Achieve does not deal with victims' rights. I do not think the word 'rights' appears even once in the document. It focuses entirely on administrative steps that will be taken to develop and deliver the strategy. Chapter two of the document sets out—in a long list of bullet points—the measures to be taken to achieve the aims of the strategy (although the seven headings used seem to relate more to the key messages coming from the consultation than to the previously stated aims). None of the action points requires legislation, and they therefore do not confer rights.

Reshape, Rebuild, Achieve dismisses the idea of a victims' commissioner. It points out that if victims feel that they have not been treated fairly by a public body they can contact the Office of the Parliamentary Ombudsman and Commissioner for Complaints. No mention is made of the role of the Equality

Commission or the Northern Ireland Human Rights Commission in this context, which suggests that victims' rights (even to equality) are not deemed that important. The human rights commission has the power (although few resources) to give financial assistance to a victim of an alleged breach of human rights who wants to obtain a remedy in court proceedings.

While it is obviously crucial that victims' needs for services be met, it is surely also important—both symbolically and strategically—that the right to such services be underpinned by law. If it is not, then the services are contingent upon the administrative will of the day. One administration may choose to reduce or even abolish certain services. Legal underpinning could help to protect against erosion.

The European Convention on Human Rights is not particularly helpful in this context. It is more concerned with establishing whether something is or is not a breach of rights than with providing a remedy to a victim of a breach.

Article 13 says: 'Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.' The European Court of Human Rights has

not interpreted this provision very dynamically and on many occasions it has held that its own declaration that something is a breach of the convention is in and of itself 'just satisfaction' for the applicant.

In recent years, however, there has been a tendency to award compensation (for example, £10,000 to each of the families of those killed by the army at Loughgall in 1987). Article 13 was not incorporated into UK law by the Human Rights Act 1998. Instead, section 8 of that act conferred on a court which finds that something has been a breach of convention rights the power to 'grant such relief or remedy, or make such order, within its powers as it considers just and appropriate'.

International human-rights treaties beyond the European Convention on Human Rights are not any more fulsome on victims' rights. But in 1985 the UN General Assembly passed a resolution outlining Basic Principles of Justice for Victims of Crime and Abuse of Power (see appendix 3). The Commonwealth Secretariat has recently issued a document expanding on these.

When it comes to compensation, legal underpinning is particularly significant. Laws are required to specify (in primary legislation) the principles in accordance with which compensation will be calculated and (in secondary legislation) the tariffs applicable at any particular time.

Recent changes to the criminal injuries compensation scheme (in force from May 2002) provide for greater equity within Northern Ireland, and between Northern Ireland and Great Britain, but they mean that many people in the region are now entitled to less compensation than they would have been before the changes. Lawyers have lost out too. The human rights commission believes there is scope for elevating rights to compensation to a provision in a Northern Ireland bill of rights (see appendix 4, clause 8(b)(2)(b)).

The victims strategy also leaves to one side the question of truth and justice. The Healing Through Remembering (2002) report has addressed this, but more work remains to be done. The human rights commission has included a rather vague provision in its proposed bill of rights (see appendix 4, clause 8(a)).

Questions remain to be answered by the commission, however. Why should victims be singled out as a group deserving of protection through the bill of rights? If *they* are deserving, are there any other such groups? How would the government's duty to take associated measures (for example, to establish victims' loss and perpetrators' responsibility) be enforced? And, likewise, how would the mooted right to 'the highest possible level of social care and support' be enforced?

DD

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Truth and justice



Mary O'Rawe

Any discussion of a strategy for victims needs to begin where Northern Ireland is now—in a transitional and very fragile moment. *Reshape, Rebuild, Achieve* claims to recognise the suffering of all victims, and that services will be established proactively and sensitively to meet the needs of all. The strategy aims to take cognisance of the pain of the past and learn lessons for the future.

At the same time, however, the document fails to acknowledge the centrality of dealing with the past in terms of truth, public acknowledgment and justice. This issue was delegated, or relegated, to the report of the Healing Through Remembering (2002) project. This fails to recognise key issues which must be incorporated to ensure the vision behind the victims strategy is as all-embracing as it claims.

The UN Declaration of Basic

Principles of Justice for Victims of Crime and Abuse of Power (appendix 4) cites 'access to justice' first in its list of minimum standards of which victims must be assured. The Belfast agreement recognises that acknowledgment of suffering is key to reconciliation. The Northern Ireland Human Rights Commission's victims' rights project provides another example, among many, where issues such as information, the right to have someone held accountable and equality of status with other victims are placed at the forefront of strategies and services.

Reshape, Rebuild, Achieve is—in marked contrast—silent on truth and justice. This attempt to compartmentalise is fundamentally flawed, not least because a critical aspect of securing victims' rights is official acknowledgment of their pain and its causes. Accountability is also key. In failing to deal adequately with these issues a disservice is done, not only to individual

victims but to society. If a state fails to meet its international obligations, in terms of effective investigation and provision of justice, there are implications for how well peace can be built and sustained.

This is starkly evidenced in relation to victims of state violence. The failure publicly to acknowledge the truth of what happened in these cases sets up a dichotomy between these and other victims. This is wrong and unhelpful. It also misses an opportunity to establish confidence in the independence of legal processes, which could engender the legitimacy necessary to help effective administration of justice.

Truth recovery necessitates a safe space in which all stories can be told. More than this, however, there needs to be public and official acknowledgment of the different truths experienced by different people. International obligations require at a minimum that states undertake an effective and prompt investigation into establishing those truths. This is all the more important where official discourse has been bound up with denial of real experience.

Official discourse in Northern Ireland has, too often, allowed one 'truth' or one version of events to be prioritised and accorded more respect. This dominant truth has, historically, admitted no space for victims who do not conform to the 'model' laid down. This allows a 'hierarchy of victimhood'

to flourish and gets in the way of real healing.

Equal access to services is one thing, but if history does not accord equal status to all victims, this will sow seeds of alienation and frustration which will inevitably create problems. As one commentator has insightfully argued (Ní Aoláin, 2002: 588), 'These cases represent an enormous accountability gap for the State. The story about these cases is a missing narrative about the role of the State during the conflict ... It is not evident that the incremental reforms to investigative processes in Northern Ireland will be capable of delivering a legal vehicle sufficient to voice that narrative.'

If incremental legal reform will never tell the whole story, and if existing structures do not have the capacity to tell the whole narrative, surely a key challenge for a victims strategy is to acknowledge past deficiencies and seek to create that capacity in meaningful ways.

It is not that there are pat answers, but the dialogue and journey must be facilitated. Issues of information as to events surrounding the death of loved ones, public and official acknowledgment and apology all need to be put to the forefront of the debate. International human-rights obligations around effective, independent and prompt investigation, the place accorded to victims and their families in

relevant legal processes, and the necessity of prosecutions or amnesty all need to be revisited and worked through.¹

Issues of truth and justice are inherently bound up with service delivery. It is painful to pick this apart. The very process of truth recovery will inevitably throw up dichotomies, polarisations, hierarchies—but the experience of the conflict is that these are already there and must be worked through. Where better to acknowledge this, or situate this working through, than in the strategy for victims?

Hard issues require to be tackled—perpetrators as themselves victims, victims as perpetrators being just one aspect of this journey. The process itself may throw up more victims or indicate further unresolved and previously unacknowledged trauma, but this in itself is important to recognise in service planning and delivery.

The true extent and impact of victimhood is not currently apparent. We are only touching the surface in many ways—and an effective victims strategy needs to facilitate and take account of a journey towards truth. The *Healing Through Remembering* (2002) report recognises this and goes part way there, but stops short of decreeing a particular system through which truth recovery might happen.

Its analysis is that the moment is still not right for a truth commission, or for another similar process to be

superimposed on the political dynamics at play. At all its different levels, people are already advancing and exploring a range of processes to bring us closer to truth, justice and an understanding of what brought each of us to where we are. Equally, there are processes and mindsets which feed on fears and suffering, and stymie progress to real healing. The whole issue is fraught and complex—but this is not a reason for not engaging with it.

The *Healing Through Remembering* report counsels that more thought needs to be given to the hard issues, to just what shape truth recovery should take. Such processes can damage as well as heal—sometimes the two are interdependent—and there is a real need to ensure that whatever is set up or allowed to develop organically takes on board the dangers and the sensitivities of moving us forward.

A comprehensive and effective victims strategy must therefore be approached at a number of levels, with intertwining and parallel aspects. It must recognise that victims as individuals have different needs at different times—that ‘victims’ are not a monolith. It must similarly recognise that there are basic societal issues which must be addressed as part of creating a climate for victims’ needs to be met. This includes respecting international human-rights norms aimed at preventing such tragedies from recurring.

What is clear, however, is that truth and justice cannot be left out of the equation or seen as an add-on. If the definition of ‘victim’ is problematic, definitions of ‘truth’ and ‘justice’ are inherently more problematic but still worth grappling with. Peace will only come through legitimacy. Legitimacy needs to be created, and the victims strategy needs to acknowledge this and work towards its creation. As Prof Ní Aoláin (2002: 590) concludes,

The State must lead the response with imagination and openness ... [I]f the State seeks to escape or minimise its past, it will inevitably meet it again. A vehicle for exposing and examining the past is required. Without it, the long list of unresolved ... cases will continue to linger at the margins of political debate and legal process, stymying the capacity of all such systems to move forward.

If we are truly serious about peace, healing, justice and reconciliation, the victims strategy needs to open the door more fully to a vision which encompasses the right to truth.

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Ní Aoláin, Fionnuala (2002), ‘Truth telling, accountability and the right to life’, *European Human Rights Law Review* 5

Footnotes

¹ See, for example, recent findings of the European Court of Human Rights on article 2—the right to life: *McCann and Others v UK* judgment of September 27th 1995, series A, no 324; *Kaya v Turkey* judgment of February 19th 1998 Reports of Judgments and Decisions 1998-I; *Kelly and Others v UK* judgment of May 4th 2001, *Shanaghan v UK* judgment of May 4th 2001, *McKerr v UK*, judgment of May 4th 2001, *Hugh Jordan v UK*, judgment of May 4th 2001; no 37715/97, [section 3], judgment of May 4th 2001; *McShane v UK*, judgment of May 28th 2002

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Society and scapegoats



Roy McClelland

Our problem does not lie in our technology but in our minds. On the need to overcome trends towards self-destruction, on the need for new ways of thinking, understanding, logic, ethics.

Albert Einstein

This paper starts from the findings of the Healing Through Remembering project, which sought answers to the question ‘how should we remember the events connected with the conflict in and about Northern Ireland so as to individually and collectively contribute to the healing of the wounds of our society?’ While the project and its report (Healing Through Remembering, 2002) have been based on consultation of a wide range of individuals and groups in Northern Ireland (and further afield), this paper also looks outside our own conflictual situation for insights—

insights which have informed the project too.

Roberta Bacic draws attention to the duality between individual victims and the wider community (Bacic, 2001). Both are important but, as she observes, it is important for victims that responsibility for moral and social reconstruction lies with the wider community: we all have responsibility for, and a part to play in, dealing with the past.

Alex Boraine, president of the International Centre for Transitional Justice and advisor to the project, has been resolutely of the view that some form of truth-telling could have enormous benefits for victims of our conflict. Truth-telling has several important aspects for victims.

First, victims need to share their truths; they need to be heard. Secondly, victims who have survived and the families of victims need truth; they need information. A third aspect is

restorative truth. As Dr Boraine observes, for healing to be possible knowledge is not enough: knowledge must be accompanied by acknowledgment, by acceptance of responsibility.

Such an acknowledgment can contribute to justice for victims. Given the complexities of our conflict, responsibility casts a long historical shadow through today's society. We need to embrace not just past events but responsibility for dealing with past events, for responding to the needs of victims, for dealing with memory at a societal level—for remembering, for honouring, the memories of those who have suffered most in our long and bloody conflict.

Restorative truth takes us directly to consider justice—justice for victims. As noted by the authors of *Transitions from Authoritarian Rule*, which focused on Latin America and eastern Europe, there is a difficult tension between the desire to bury the past and the ethical demand to confront past wrongs (O'Donnell, Schmitter and Whitehead, 1986). While acknowledging the difficulty of this dilemma, it cannot be avoided and we ourselves have some responsibility to try to resolve it—'the worst of bad solutions would be to try and ignore the issue'.

Priscilla Hayner directs our attention to 'transitional justice'. This is a range of processes to deal with a society in transition: addressing past

injustices, assisting reconciliation, giving victims their respect and preventing repetition of the cycle of violence (Hayner, 2001). Transitional justice, carefully considered, is a notion central to truth and justice for victims.

While most of the issues that emerge from consideration of the truth needs of victims can be subsumed under justice obligations, justice for victims extends to compensation and retribution.

The Healing Through Remembering project has been premised on the view that remembering is an important part of psychological and social healing in the context of conflict. It is also grounded in the reality that remembering is inevitable. The challenge for us is thus to find new ways of remembering that enable us to go forward as a community.

The project has been inspired by a number of initiatives, including the consultations that preceded it encapsulated in the *All Truth is Bitter* report (NIACRO and Victim Support Northern Ireland, 1999). This signalled the need to consider transitional processes and for a broad programme of peace-building. This would acknowledge the pain of individuals and communities, as well as offering recognition and acknowledgment of injustices.

The project set itself the task of seeking the views of all those affected

by the conflict. Encouragingly, the wide variety of suggestions advanced in response bore little relationship to what would be regarded as traditional alignments. There springs from this project a convergence of ideas and options for transitional processes—new possibilities for being faithful to our histories, for giving dignity to our past and for respecting and acknowledging all those individuals and communities hurt within it.

The project board understood its responsibility, however, as more than passively reflecting a list of options. As members of the wider community, we have collectively felt a moral responsibility to try to chart a way forward. Core to our deliberations was the view that finding the right relationship to remembering and truth is fundamental in dealing with our past. The report offers six recommendations for healing through remembering, of direct relevance for the truth and justice needs of victims.

We have recommended story-telling and the archiving of our stories as a testimony to our individual and collective experiences. Story-telling is an essential part of the truth-recovery process: it is essential to being heard and from it acknowledgment is possible. This process requires broad community support, transcending historical divisions, to give voice to those individuals and communities who have suffered as a

result of the conflict.

We need temporal aids to remembering. We need to pause, think and reflect. We are persuaded of the need for an annual day of reflection—to remember all those who have been affected by the conflict, to learn from this experience, to learn how not to repeat the experiences of the past and for our children to reflect, remember and learn.

We need structural aids to remembering. We recommend a living museum as a dynamic memorial to all those affected by the conflict, where access can be gained to active memories of events by members of the community, by our children.

Truth-recovery processes received most attention and comment in the submissions to the project. This was also the area of greatest challenge and controversy. In general, there was support for some form of truth-recovery process, although most submissions qualified this support and raised potential concerns. A recurring theme was the need for an appropriate process, specific to our own situation, encompassing the ‘horizontal’ (intercommunal) as well as ‘vertical’ (state *versus* individual) aspects of the conflict.

The need for recognition of the suffering caused to victims was stressed time and again. Submissions also stressed the importance of truth in the process of coming to terms with past

hurts. It was also clear that the concept of a truth commission meant very different things to many of those making submissions.

The board pondered this issue carefully. We are persuaded that some mechanism to address the truth about the past may well be necessary. There emerges from the submissions a clear call for a deeper exploration and the board recommends that a formal truth-recovery process be given careful consideration. An essential first step is acknowledgment and the project stresses the importance of individual and collective acknowledgment of our contributions to the conflict, to the pain and suffering.

It is only on the basis of acknowledgment and truth that reconciliation can take place. Acknowledgment should be by all organisations and institutions engaged in the conflict, including the British and Irish states. It also requires acknowledgment, by the wider community, of our acts and our omissions. The board takes the view that acknowledgment is the bedrock for truth recovery.

The aims and potential gains that could derive from such a process include:

- clarification and acknowledgment of unresolved truths;
- responding to the needs of victims, including the need for information and acknowledgment;

- identifying the responsibilities for past violence of institutions, including states, and in so doing contributing to justice in a broad sense;
- contributing to reconciliation and peace-building; and
- bringing forward recommendations for change that will reduce the likelihood of further conflict.

While any proposed commission on truth recovery will need to be grounded in the particular context of our historic conflict, there is much to be gained by directing our attention away from Northern Ireland and scanning wider horizons. There are lessons to be learned from other countries which have gone, or are going, through similar experiences. The Healing Through Remembering project has been greatly enriched by the input from international sources, including visits by Roberta Bacic, Priscilla Hayner and Alex Boraine. The observations that follow are, however, personal.

It is instructive to review the goals, methods of working and achievements of official truth-finding initiatives elsewhere. From scrutiny of such initiatives, including the very thorough review of more than 20 truth commissions by Hayner (2001), there are insights relevant for our situation and, in particular, our obligations to victims.

Non-judicial truth bodies are not seen to replace judicial processes. In this regard it is worth noting the limits

on truth-finding in the usual judicial process. The function of the judicial process is to investigate the accused person and ensure that the criminal standard of proof has been satisfied with respect to specific charges. The very focus, on the accused, sets limits to what truth may or may not be delivered.

Truth-finding initiatives serve a very different purpose. One fundamental difference is their primary focus on victims: truth commissions are victim-centred. Such an approach offers victims a public voice and brings their suffering to the attention of the wider public. Despite more limited legal powers, their broader mandate, focusing on patterns of events—including the causes and consequences of state violence—allows truth-recovery initiatives to go much further in their investigations and conclusions than is generally possible in any trial of individuals. This breadth and flexibility represent significant strengths, with the result that a truth commission report is usually of a far better quality than any previous historical account.

Interviews with victims, characteristic of truth commissions, allow a detailed account of the patterns of violence over time and across regions, literally recording a hidden history. Indeed the work of truth commissions has often been described as 'lifting the veil of denial' about widely known but

unspoken truths (Hayner, 2001: 25). The chair of the South African TRC, Archbishop Desmond Tutu, asserted that the commission had contributed more to uncovering the truth about the past 'than all the court cases in the history of apartheid'. (Meredith and Rosenberg, 1999: 316).

This points to the regenerative possibilities of a truth initiative—possibilities for restoration and reconciliation. Truth, dealt with in this way, provides not just knowledge but acknowledgment—public acknowledgment, state acknowledgment, acknowledgment by all the organisations that have contributed to the conflict. Such acknowledgment can help heal social wounds.

From the victims' and survivors' perspective, issues surrounding reconciliation are among the most difficult, yet victims and survivors are central to finding ways forward. While the Belfast agreement suggests that a peaceful and just society would be a true memorial to victims, an important counterpoint is presented by Duncan Morrow. He writes (Morrow, 2001: 29) that 'forgiveness and reconciliation are the *sine qua non* of any peace that moves beyond the absence of war'. Being reconciled is fundamental to a stable peace in our society. At its heart is a healing of broken relationships, particularly at community level.

As Hayner suggests, one of the goals

of truth-recovery work is breaking the cycle of revenge. From her review of initiatives and many encounters with survivors, she concludes that 'victims often say that they cannot forgive their perpetrators, and have no desire or ability to reconcile, until those who caused them pain acknowledge their acts' (Hayner, 2001: 28). This resonates strongly with the consultation findings of the Healing Through Remembering project, and from conversations with victims and survivors. Indeed, it is only through reflection on conversations I am privileged to have had with survivors that I feel able to comment on this difficult and challenging issue—reconciliation.

One survivor recently told me that 'the road to reconciliation is not to forgive and forget but to remember and repent (regret)'. For the survivor, she said, it is about 'letting go of the hurt, letting go of revenge'. Another survivor said: 'I need to hear, from combatants, "I was wrong"—we need shared stories, we need space for story-telling to achieve a level of understanding.' In the same conversation, I heard from a former paramilitary: 'I am (was) responsible—part of a machine.' And this from another: 'I was wrong and I want to tell you what was behind the motives.'

This dialogue between survivors and combatants represents a ray of light that guides us on the long path towards reconciliation. It also points to the

responsibilities of the wider community. These include providing circumstances, conditions and supports to



Reconciliation is the hardest part

enable such sharing, listening and acknowledging, thus making reconciliation a possibility.

No one is under any illusion about the difficulty or the length of this journey. The prize is building or rebuilding relationships, relationships not haunted by hatred and past conflicts. Our children can be the real beneficiaries.

We need to recognise that possibilities for reconciliation exist at both individual and community levels. While the focus of our current considerations is on our obligations to victims, the reconciliation issues for survivors and for the wider community are interconnected. The community has responsibilities for facilitating reconciliation for individuals, for individual victims and survivors. Reciprocally, the insights gained through the meetings between survivors and combatants signal the possibilities for reconciliation at the community level.

The challenge of reconciliation—addressing the underlying problem of fractured relationships—is part of a canvas wider than our historic conflict. The Faith in Politics Group has provided much-needed insight into the possibilities for reconciliation. It notes the comment by the late political scientist Frank Wright, that ‘we develop in rivalry with each other’ individually and collectively (Faith and Politics Group, 2002).

In exploring the possibilities for reconciliation we need to recognise and respond to our individual and collective violence—the violence within ourselves, within our community. This signals a paradigm shift, grounded in the work of René Girard (Girard, 1987) and Roel Kaptein (Kaptein, 1993).

A central thesis in Girard’s work is that the controlling mechanisms in the human psyche are not just undetected but systematically falsified by romantic evasions. Girard invites us to consider a challenge to the myth of personal autonomy—that ‘I am I’, that ‘you are you’. This he refers to as the romantic lie and he affirms that the relationships in which we find ourselves fundamentally determine who we are. To understanding human conflict, he introduces what is called the mimetic rivalry-scapegoat model.

Mimesis—that is, our capacity for imitation—is one of two central elements in Girard’s anthropological model. He identifies different aspects. There is a cohesive side—for example, the parent-child relationship, in which the parent is the model for the child, or the teacher-pupil relationship. But there is another, potentially destructive, side—the mimesis of desire, or *rivalry*. For Girard, human beings are moved at the most fundamental level by a drive towards unconscious imitation, of not only the behaviour but also the attitude of others.

Girard directs attention to this inter-individual mimetic process. Desire (acquisitive mimesis) derives not from the object but from the *desirability* of the object for the other. This mimesis of desire, both in its acquisitive and conflictual aspects, is for Girard the true unconscious and derives not from within the individual but from the *relationship between* individuals. This is the paradigm shift. It is a recognition of the mimetic origins of the unconscious—the mimetic origins of desire and the crucial role that mimetic desire, rivalry, plays in mediating human drive and behaviour, including human conflict.

Just as mimesis is everywhere, so is the mimesis of desire. It begins early in our development, with admiration of our models. But conflictual mimesis is inevitable: just as we admire and thus desire the objects of our models, our models are drawn to a defence of their own claims. This draws attention to the dangerousness of mimetic desire and the origins of human conflict. For Girard, mimesis is widespread in the natural world, but it is especially present in humankind.

Kaptein has suggested that control of mimetic desire—rivalry—in the animal kingdom is achieved through hierarchical patterns of dominance which have been well described. Kaptein suggests that the problem for early humankind was a breakdown in

dominance patterns, because of humankind's intense mimetic desire, leading to an escalation of rivalry and consequent violence.

Girard and Kaptein postulate that the emergence of culture provided a means for controlling the violence of rivalry among humankind. This points to the second core element of Girard's new anthropology—the *scapegoat mechanism*. If rivalry can be considered at its simplest as a game where two people engage, scapegoating can be seen as a game for three. Picture the situation:

Two adults squabbling (mimetic desire). At the periphery of the situation a 'foreigner' accidentally enters and notices the squabbling. The attention of the squabblers is drawn to the arbitrary other. One can anticipate the response: 'what the xxx are you looking at?' The intruder is already in a risky situation and can quite quickly become the target of the squabblers' irritability—the irritability that pre-existed between them. It takes very little for the two to direct their irritability at the outsider.

Two things have happened in an instant. First, the stranger has become the target of aggression. Secondly, the squabbling between the other two has disappeared and they are united. This is the victimisation process, the scapegoat process. We note the arbitrariness of the victim: 'why me?' The victim was

not some problem individual to start with, but was quickly labelled by the other two as a problem.

For Girard this is at the core of the stability of old culture—the mechanism that brings peace and stability to a group. It is founded on the scapegoat process and divides one group from another, or what we now recognise as ‘in-groups’ and ‘out-groups’—the in-group being the ‘good’ people, the out-group the ‘bad’. The insights from this model have relevance for understanding cultural violence and conflict, including our own.

If Girard’s new anthropological perspective has validity, insights into our situation begin to emerge. First, temporal mimesis (identification), historic myths of victimhood and scapegoating, have had an enormous impact in recent and current situations for Protestants and Catholics alike. Each group is perceived to be ‘the baddies’, the scapegoats, by the other. We fight to prevent being scapegoated and the situation is amplified by the spatial mimesis of present-day rivalry and violence and the endemic insecurity and fear that accompanies it (Morrow, 1995).

A second insight from Girard’s analysis is that all are involved mimetically—all are inevitably caught up, part of the process. No one is on the sidelines: we all play a part because of the power of mimetic forces, the rivalries, the insecurities. We conveniently

perpetuate the myth of the fringe nature of the violence, expressed by the few but in reality endorsed, actively or passively, by the many. Even those of us who claim to be opposed to sectarianism and sectarian violence contribute by our non-involvement, our ignoring of the enormous legacy of our temporal myths.

For reconciliation to be a possibility, we must deal with the past. Here again the Girardian analysis illuminates, as we recognise ourselves as inevitable participants in the mimetic conflictual process—not just passive observers. For the Faith in Politics Group (2002), reconciliation is built on ‘forgiveness, repentance, truth and justice’. Applying the Girardian analysis, we are participants, and reconciliation therefore is about *our* acknowledgment with the victims and survivors—our listening; our giving space for anger, for feelings of hurt and guilt to be articulated, to be acknowledged; our responding to their need for an apology.

Progress in the quality of peace in Northern Ireland is inextricably tied up with *our* ability to ask for, and grant, forgiveness from and to one another (Morrow, 2001). A cornerstone of reconciliation is ‘that *all* citizens reflect on and confess their mistakes, misconceptions and in extreme cases unlawful actions’ (Hamber, Kulle, Wilson, 2001: 91). Such actions begin to address the

needs of victims.

These responses by the wider community—our acceptance and acknowledgment of our responsibility—can in the same moment break the reverse scapegoating of so-called perpetrators (scapegoaters), and introduce possibilities for stopping the cycle of violence. Out of such acts of reconciliation and restoration arise new possibilities for survivors and combatants: ‘truth and mercy have met together; peace and justice have kissed’ (psalm 85: 10).

Reconciliation is also about looking forward. This includes public acknowledgment and recognition of the needs of victims and survivors, public responsibility for repair and compensation. It is also about recognition and acceptance of ‘the other’. This is more than simply equality: it is about belonging together, about shared community, about interdependence. The Faith in Politics Group (2002) considers ‘living together in difference’ as core to reconciliation—recognising and accepting difference as an enriching reality.

Reconciliation is a journey—it is a long haul—but like all journeys it begins with the first steps. Several spiritual giants in our community have already taken these first steps, such as Gordon Wilson and Michael McGoldrick. They have provided us with footprints to follow, as Seamus Heaney writes, ‘on the far side of revenge’.

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Conclusion

Robin Wilson

A clear thread has run through the evolving discussion on victims of the Northern Ireland conflict (see Hamber, Kulle and Wilson, 2001), particularly insistently in the round table on which this publication is based. This rests on a dichotomy contributors have variously described in terms of services *versus* truth and justice (Hamber and others), ‘needs’ *versus* ‘issues’ (Murphy), and the consequences of a wrong *versus* the wrong itself (Dickson).

Addressing services, targeting needs and dealing with the consequences of wrongs is the easier aspect, and the temptation is to focus upon this—and the victims—alone. But it has been powerfully argued, by Mary O’Rawe and others, that truth and justice, the wider issues at stake and the acknowledgment of wrongs can not be avoided if Northern Ireland is ever to become a ‘normal’ civic society.

Let us start, however, with the easier part—which, of course, on closer scrutiny, is not easy at all. On the contrary, what is immediately apparent from discussion of the victims strategy *as an instance of a policy challenge* is that if one had substituted for ‘victims’ throughout the words ‘victims of domestic violence’, or even ‘single parents’ or ‘the long-term unemployed’, many of the same difficulties would have been raised.

These are difficulties such as:

- securing ‘joined-up’ approaches by departments and agencies;
- translating a strategy into tangible change on the ground;
- the interface between ‘front-line’ staff and individual ‘clients’;
- relationships between the statutory and voluntary sectors; and
- reaching out to individuals who are not in organised groups.

The ‘victims’ question, then, is in one sense a particularly sensitive case

of the challenge of shifting government from a focus on what particular departments conventionally 'deliver' to responding to what individual citizens and groups *need*—it rarely being the case that the latter coincides with the former, including because new needs are always emerging (as in Alan McBride's example of the effects of recent interface violence).

The very category of 'victims' of the conflict as a group with specific needs was not even officially recognised until the Bloomfield (1998) report. Only in the recent strategy has a more broadly acceptable definition of 'victim' been established. The risks of frustration and alienation are thus considerable.

For a start, no one 'victim' has only a single need, that one department or agency can conveniently meet, but he/she requires holistic attention. Secondly, as Brice Dickson stresses, no two 'victims' are the same but each requires individually specific consideration. Thirdly, any individual's needs should (hopefully) change with time, as they come to terms with their loss—Martin Murphy hints at a progression from a state of dependent 'victimhood', where no one wants to be, to an active citizenship marked by control over one's life.

And, fourthly, if it is insensitive to fail to recognise when an individual presents with problems that are conflict-derived, there is also a danger, as

Alan McBride highlights, of 'pigeon-holing' someone as a 'victim' when—like all the rest of us—they have a range of other problems in their lives with which they struggle to cope, as well as matters they deal with confidently.

There are, of course, no miraculous answers to these complexities. One, however, is clear: a 'victim-centred' approach is essential, including to ensure the individual does not feel objectified by government in a manner that recalls their victimisation. The commitment of *Reshape, Rebuild, Achieve* in this regard may explain the general support for its vision and values.

Another answer is to recognise there are never perfect and once-and-for-all answers. Solutions to such problems as are thrown up in this arena—as in so many others—will always be a matter of judgment, provisional and subject to revision. Awareness of this reality may underpin the apparent support for a region-wide policy forum on victims' issues, as suggested by Martin Murphy, where answers could be debated and thrashed out with the direct involvement of victims' representatives, individual victims, experts and practitioners. The TAPS, with a sufficiently inclusive membership, could take on this role at an area level, in so far as this is not already happening.

Such forums could assist evidence-based policy-making, *via* research and

evaluation of the range of interventions with victims—and be more representative than the IDWG. They could discuss and disseminate good practice across the statutory/voluntary interface, for instance on the difficult issue of the balance between conventional and alternative therapies raised by Alan McBride. They could address to what extent specialist, victim-centred voluntary organisations in the field can provide services on behalf of government, and if so how these should be monitored, evaluated and developed.

The evolution of the discussion on victims may be reflected in the setting aside of the idea, originally advocated by Bloomfield (1998), of a victims' commissioner. The impossibility, as Martin Murphy put it, of a single person acting as a conduit for such a complex set of problems would support the emerging alternative of a forum—albeit requiring guarantees of genuine government engagement. In theory at least (this is much harder in practice), responsibility should be across the board, rather than confined to one person.

Outreach to isolated—indeed, perhaps self-isolated—'victims' outwith the sphere of organised self-help and lobby groups presents particular challenges. Some may have found 'denial' a coping strategy. Others may feel embarrassed about talking about their feelings. Others may feel they should be 'independent' and not seek help from



government. Others again may feel bitter towards authorities for whom they may appear to have become a political liability. The excellent 'Legacy' series of short story-telling on BBC Radio Ulster revealed a great reservoir of hurt from the past, which stubbornly refuses to go away.

All this suggests that, beyond the efforts of the OFMDFM and NIO units and in addition to the helpline, there may be a need for a well-publicised and welcoming 'one-stop shop' which victims could be encouraged to approach, as Alan McBride suggests. This service could be contracted to an existing voluntary organisation, properly resourced.

Recognising that victims' needs are often *citizens'* needs means ensuring that policy in this area is not walled off from related policy domains—such as 'community relations' and social inclusion. Yet the community-relations

review (OFMDFM, 2003) does not mention victims' issues—perhaps because it rather superficially roots communal polarisation in segregation, rather than in the underlying intolerance that Roy McClelland insightfully addresses. There is also a risk that the very existence of a victims strategy means that other policy-makers can feel they can ignore the issue. The Programme for Government ought to provide the vehicle for a more integrated approach.

Social exclusion is often experienced as indignity. And one contributor at the round table spoke of how victims need to 'regain power and dignity'. Which brings us to the wider set of challenges—where a victim-centred approach must, all the more, be the lodestar.

In discussing the issues of truth and justice—dealing with the wrong rather than its consequences—it may perhaps again assist to stand back and provide some context. And let us start with the palpably heightened sensitivities felt by many victims, at first sight paradoxically, since the ceasefires were declared in 1994.

It has become fashionable over the last decade to describe Northern Ireland's status as 'transitional', though few are so indelicate (given the continuing, indeed intensified, 'unionist' *versus* 'nationalist' antagonism) as to suggest where the transition is *to*.

Yet in fact Northern Ireland appears stuck—stuck in a state of polarisation and low-level violence, disappointing the hopes of many that the Belfast agreement would mark the required step change towards 'normality'.

There is a widespread sense that (in various connotations) 'justice' has been denied, and different 'truths' continue to compete, as Mary O'Rawe points out. Northern Ireland is, in that sense, in a still 'troubled' climate of moral hazard. This may best be described, referring back to Martin Murphy's composite victims group, as 'pre-post-conflict'.

In that context, the issues identified throughout this report will not go away. Yet the bind is that, by their very apparent intractability and with their explosive affective dimensions, the idea that they might be resolved by a 'truth commission' will always seem a really good one ... best deferred for another day. How can this dilemma be resolved?

This is even harder than the problems posed above in terms of services. And this chapter is neither the first nor the last word on the subject. But, guided by victim-centredness, there are some further pointers to a way forward. Roy McClelland's quotations from victims are relevant in this regard: they suggested that 'forgive and forget' should be replaced by 'remember and repent' and that someone had to be willing to acknowledge 'I was wrong'.

First, we should avoid *counterposing*

‘truth’ and ‘justice’, as much of the public debate has implicitly done—rather, they go hand in hand. The origins of this difficulty lie in the excessive resort in Northern Ireland to the South African case, often selectively appropriated as a model.

As Hayner (2001) points out, the South African truth commission was an outlier among the more than 20 that have emerged around the world. The power of the formerly dominant white minority meant that truth could only be pursued if extensive immunity was provided to the servants of *apartheid*. Justice was accordingly sacrificed, much to the chagrin of many victims of the *régime*, who felt themselves pawns in a political power game (Hamber, 2002).

As Brice Dickson makes clear, justice is something to which victims of a wrong are entitled. To deny them that right is to compound injury by injustice. (If they decide as a personal choice not to pursue the perpetrator, out of a spirit of forgiveness—and this may perversely be empowering and facilitate moving on from ‘victimhood’—that is quite a different matter.) The international trend in recent years, albeit contested by unilateralist powers, has been to bring otherwise violent state and sub-state actors to account, such as by the special tribunal on ex-Yugoslavia and the new International Criminal Court.

In this view, it is right to insist *both* that the outstanding disputed cases of the exercise of lethal force by the police and army in Northern Ireland be fully (re)investigated—particularly in the light of the adverse ruling on four cases by the European Court of Human Rights in May 2001—and that the cases of the IRA ‘on the runs’ advanced by Sinn Féin at the Weston Park talks that summer be heard before a court of law, rather than they being amnestied by administrative *fiat*.

Human rights in Northern Ireland are often misunderstood as about challenging state abuses alone. They are also about rendering the state accountable for its complicity or negligence in the face of injustice. There are continuing, legitimate, concerns about collusion involving apparatuses of the British state in (among others) the high-profile deaths of the lawyers Pat Finucane and Rosemary Nelson, which remain under investigation at time of writing and must be pursued to a conclusion, wherever that goes. And a great injustice continues to be done to those intimidated out of Northern Ireland by paramilitaries—perhaps 4,500 families (*Belfast Telegraph*, March 20th 2003)—whom it is politically convenient for the state to ignore.

Secondly, as I hope is already apparent, we should avoid counterposing one kind of victim to another. As Brice Dickson reminds us, equality is itself a

fundamental human right and inequality a denial of the common humanity from which such rights derive.

In this light, the excessive focus on a truth commission has also obscured the other important ways in which the wider concerns of victims can be addressed. The Healing Through Remembering (2002) proposals for a 'day of reflection' and a 'living museum' have yet to be given the attention they merit. It could be a hugely important assertion to victims that they are neither invisible nor alone if a special day and a special place were set aside to cherish them and recognise the inhumanity they have suffered.

Morrissey and Smyth (2002) have provided a useful steer through the moral minefield here. On the one hand, they reject the claim that everyone in Northern Ireland is in some sense a 'victim'. To compare the inconvenience others have faced with the trauma associated with death and injury is totally insensitive. And with all due regard to the social determinants of violence, the self-serving suggestion that perpetrators were really themselves 'victims' (though they may have been victims *too*) is a gross act of denial that would leave victims in the bizarre position of being expected to believe that no one had perpetrated a wrong against them at all.

On the other hand, Morrissey and Smyth stress, exclusivist definitions of

victimhood must be equally rejected. Any talk of 'real' or 'innocent' victims—as if those on the 'other side' were 'unreal' or 'had it coming to them'—is to indulge in an insidious hierarchy of victimhood, which can only sustain a seamy competitive struggle, dancing on the graves of those irretrievably lost.

At best, such a 'single-identity' focus (which, by the by, there is no obligation on the wider public to fund) would entrench divisions and surely block the 'transition' to a 'post-conflict' scenario. At worst, the danger would be of continuing to fight the 'war' in the sense of defending the legitimacy of the human-rights abuses committed hitherto by one or other protagonist (paramilitary or state). Inclusive approaches, by the TAPS for instance, offer a better way.

It is right to insist, as Patricia MacBride argues, that all victims—including those of state violence—deserve equal legitimacy of recognition. But, if so, it must by the same token be recognised that no 'targets' (police, army, paramilitary) during Northern Ireland's years of lead were 'legitimate' ones.

Thirdly, reconciliation is only possible, as Hamber, Kulle and Wilson (2001) argued, if allied to repentance and reparation. As Brice Dickson points out, the motivation of the perpetrator is of little consequence to the victim, so *rationalisation* is of little use. An Irish colleague of mine, listening back in the

70s to an English Trotskyist rehearse how we had to distinguish in Northern Ireland ‘the violence of the oppressor from the violence of the oppressed’, exploded with the obvious rejoinder that it hardly mattered whether you were killed by ‘the oppressor’ or ‘the oppressed’: you were still dead.

In terms of repentance and reparation, what is required, at minimum, is acknowledgment that a wrong has been done: selective statements of regret, whether by ‘loyalists’ in 1994 or the IRA in 2002, while welcome, fall some way short. A British government apology, surely inevitable, also awaits the outcome of the long-running Saville tribunal into lethal shootings by the army on ‘Bloody Sunday’ in Derry in January 1972.

Without such fulsome acknowledgment, there can be no consensus on objective human-rights standards—such as the near immutability of the right to life. And so there can be no assurance that Northern Ireland will ever become ‘normal’ in the future.

Fred Halliday (1998) makes clear that resort to violence, whether by state or sub-state groups, is subject to two legitimacy requirements. First is *jus ad bellum*, the right to wage war in and of itself, gauged against the availability of democratic and legal alternatives. This, for example, the African National Congress enjoyed because *apartheid* resisted all democratic challenges. But

‘republican’, and ‘loyalist’ paramilitaries in Northern Ireland did not, given the reform programme secured by the civil-rights movement in the late 60s and the introduction of direct rule from Westminster—a democracy, however imperfect—in 1972.

Second is *jus in bello*—whether the use of violence is legitimate in the context of international human-rights and humanitarian norms, such as whether it is proportionate, whether civilians are safeguarded and whether inhuman treatment is abjured. The ANC camps where alleged informers were tortured did not comply with these constraints on the ‘armed struggle’; hence the ANC’s embarrassment when the TRC reported on such abuses.

Again the actions of Irish paramilitaries were overwhelmingly illegitimate, particularly the huge civilian casualties recklessly or intentionally wrought. This was less consistently true of the ‘security forces’, but the blanket repression of the army in the early days of the ‘troubles’, the use of torture by the police in the later 70s, ‘shoot-to-kill’ by both in the early-mid 80s and of course the horror of Bloody Sunday were all clearly illegitimate.

On this basis, there can be no retrospective justification of violence in Northern Ireland, variously in the name of a ‘war on terror’, the ‘armed struggle’ or ‘God and Ulster’. If any agency or group were to succeed in such

legitimation, it would mean we would be condemned to repeat the past, as others resorted to the same claims in the future. Some of the ‘continuity’ offered by republican fringe groups already has that character.

If we are to make progress, it is true that victims must, eventually, ‘let go’ of their wounds, as again one of Roy McClelland’s interlocutors says. But it is also true that those responsible for their victimisation must accept that responsibility. Dialogues between victims and combatants—though only if voluntarily entered into on all sides and sensitively brokered—may help mend relationships.

Last, but not least, however is the wider responsibility of all citizens, and it is here that the comments of Roy McClelland are most apposite. We all have a role in reproducing the rival/scapegoating syndrome he identifies, thereby entrenching division into ‘nationalist’ and ‘unionist’ camps, and so the antagonism that leads to violence in a context of constitutional uncertainty. In so far as we are complicit in that syndrome—including by blaming everything on ‘men of violence’ as if they were men from Mars—we are all guilty of sins of omission.

Now, if it is wrong to wallow in the claim that we are all victims, it is equally an illegitimate diffusion of responsibility to say we were all perpetrators. But while less tangible and less

lethal than those of violent commission, these sins are no less critical in inhibiting Northern Ireland from taking the path to normality. It is particularly incumbent on those citizens from the Protestant community to recognise the weight of responsibility transmitted from the past by the ‘factory of grievances’ that was, for half a century, Unionist Northern Ireland. Far too few protested at the time; too few continue to admit that this was an undemocratic, because monopolistic, *régime*.

Truth recovery is appropriate for the ‘vertical’ aspects of our conflict, such as Bloody Sunday. And the special nature of this atrocity, in terms of the egregious abrogation of human-rights norms by the state, should not be diminished by competitive claims for inquiries into contemporaneous paramilitary mayhem. But when it comes to these more ‘horizontal’ aspects—far more substantial in terms of the body count—the problem is not so much too little truth as too many competing ‘truths’, amid a denial of responsibility all around.

There are two, complementary, ways one could approach this dilemma. One would be to establish an inquisitorial body, charged with elaborating a complex, coherent and comprehensive narrative of the ‘troubles’. Rather than focusing on individual cases—on which conventional legal proceedings can and should continue—it would chart the

course of the conflict, assess its causes and allocate responsibility in a nuanced and evidence-based fashion. Such a body would more likely include historians and social and political scientists than lawyers.

Much of the course of the conflict—and, in particular, its human cost—has already been charted in the publications of the ‘Cost of the Troubles’ project, such as Fay, Morrissey and Smyth (1999), as well as other journalistic or academic writing.

As to causes, there has for many years been a consensus among the intellectuals—as characterised by the late John Whyte (1990), in his huge literature survey—that the Northern Ireland conflict is primarily ‘internal’, rather than being ascribed to the malevolence of the British or Irish states (as republicans and loyalists had respectively averred). Whyte added the thought experiment of imagining that either of the latter was removed from the equation, asserting that the conflict would remain largely unaffected.

Calling the conflict ‘internal’ also relativised the mainstream unionist and nationalist positions within Northern Ireland: it takes two to tangle, one might say, highlighting once more the role of ‘moderates’ in reproducing division. More recently, the further delegitimising adjective has been added, following the wars of Yugoslav succession, of ‘ethno-nationalist’ (Hayes

and McAllister, 1999)—again, applied to both ‘unionist’ and ‘nationalist’ sides.

Carrying that debate into the wider society could attenuate the unionist-nationalist antagonism, as well as delegitimising resort to violence, and so help Northern Ireland become ‘normal’. The aim would be to trump the various ‘truths’ advanced in self-righteous fashion by political and paramilitary actors in Northern Ireland’s notorious ‘blame game’. No one would likely emerge blame-free but all could come to a mature comprehension of the past, rather as we all have to do as we reflect as adults on our lives.

Indeed, this could be a key element in moving Northern Ireland on to a ‘grown-up’ politics. And, looking to future generations, such an independent and authoritative version of the past could be incorporated into the revised common curriculum in the region’s schools, as well as contributing to the new citizenship strand.

The more accessible such a report, or reports, could be the better. And this is where the second, more disparate, approach comes in. It is to encourage a wide range of actors, particularly victims, to tell their stories and—in particular—to listen to the stories of others in situations of dialogue. Recording, archiving and, in turn, discussing such narratives would involve the progressive addition of unique pieces to an evolving jigsaw—never complete but

with the overall picture becoming ever clearer.

This would draw out the complex human dilemmas arising from a climate of division, insecurity and violence, helping to contextualise why some resorted to the use of violence themselves, as well as bringing to the fore the intense human reality of victimisation, obfuscated by the masculinist, military and paramilitary rhetoric of ‘targets’ and ‘kills’. It is a process, again, already under way (see, for example, Smyth and Fay, 2000).

The two parts of this approach to dealing with the past would come together in as far as the second could provide much raw material—in more than one sense—for the first, and give it a human dimension.

Any discussion of responsibility can not be complete without addressing the specific roles of the members of Northern Ireland’s political and paramilitary *élites*.

We may as well recognise that paramilitaries—as collective organisations, as distinct from individual members or ex-members—will never fully embrace that responsibility, in any arena. The day they did would be the day they disbanded, leaving their members in a psychological state rather like many veterans of unreconstructed European Communist parties after the Soviet Union collapsed—traumatised by the implication that their lives had been

devoted to an ignoble cause.

Indeed, it is critically important that Northern Ireland’s ‘troubles’ are not allowed to be redefined in hindsight from their searing inhuman and sectarian reality into a legitimate ‘armed struggle’ (from whatever factional standpoint), reducing the victims to ‘collateral damage’. The truth that must prevail is one moored in international human-rights and humanitarian norms, the only truth that does justice to the victims.

And that puts the spotlight on to political leadership.

Politics, said Max Weber, is a vocation. And it has to be part of the calling of politicians in divided societies to act responsibly, to moderate identities and to point the way to a more conciliatory future. The small non-communal parties in Northern Ireland excepted, it is hard to say that any of the leaders of the main ethnic groupings have consistently covered themselves in glory in this regard. Indeed, some of the most visceral debates in the assembly have had victims as their (notional) subject.

Political leaders could begin to repent, including on our behalf, by agreeing to participate in a non-partisan day of reflection. By demonstrating a commitment to a *common* memorialising of the past, not only they, but also all the victims of Northern Ireland’s ‘troubles’, could hope that, finally, a page had been turned.

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Contributors

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Fergus Devitt was at the time of the round table head of the Victims Unit in the Office of the First Minister and Deputy First Minister, and had been so since the unit was established in July 2000. Before joining the civil service he worked in management in the private sector and within the civil service he has worked in a variety of departments and agencies. He has an honours degree in business and economics and a masters in business administration. He has now moved to a new post within the OFMDFM dealing with public-private partnerships.

Brice Dickson

A graduate of the University of Oxford and the University of Ulster, Brice Dickson was the first professor of law to be appointed at the University of Ulster, in 1991. He is on secondment from that post for a six-year period while he serves full-time as the first chief commissioner of the Northern Ireland Human Rights Commission, which was created in 1999. He was called to the Northern Ireland Bar in 1976 and was formerly a lecturer in law at Queen's University Belfast. He has published widely on aspects of Northern Ireland's law, European human-rights law and comparative law. He was a member and, for two years, deputy chair, of the Equal Opportunities Commission of Northern Ireland (1990-96) and a member of the Law Reform Advisory Committee (1997-2000). He was a Churchill fellow on bills of rights in Southern Africa in 1994.

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Brandon Hamber was born in South Africa and currently works in Belfast, where he is a research associate of Democratic Dialogue. He is a clinical psychologist by training and was an honorary fellow in the School of Psychology at Queen's University Belfast in 2001-02. Before moving to Northern Ireland, he co-ordinated

the transition and reconciliation unit at the Centre for the Study of Violence and Reconciliation, where he remains an associate. He is a board member of the South African-based Khulumani victims support group. He works mainly in the area of violence and trauma, and co-ordinated the centre's project focusing on the Truth and Reconciliation Commission. He was a visiting Tip O'Neill fellow in peace studies at the Initiative on Conflict Resolution and Ethnicity (INCORE) in Northern Ireland in 1997-98. Previously he was the recipient of the Rockefeller resident fellowship (1996) and was a visiting fellow at the Centre for the Study of Violence in Sao Paulo, Brazil. He has written widely on the South African Truth and Reconciliation Commission, the psychological implications of political violence, and the process of transition and reconciliation in South Africa and abroad. Recently he edited the book entitled *Past Imperfect: Dealing with the Past in Northern Ireland and Societies in Transition*, which was published by INCORE /University of Ulster.

Martin Murphy

Martin Murphy is service manager of NOVA. He has managed this project since it was set up in 1998 as a response by Barnardos, Craigavon & Banbridge Health and Social Services Trust and the Southern Health and Social Services Board to address the needs of those psychologically traumatised by the 'troubles'. It provides individual and family counselling, as well as psycho-education and skills training for victims and community groups. As a psychology graduate, Martin later qualified as a social worker and has worked in a number of settings in England and Northern Ireland over the last 16 years, including mental health and physical and learning disabilities. Last year, he was made a fellow of the Human Givens Institute, a training organisation that promotes cognitive-behavioural approaches in therapy and, in particular, Ericksonian brief therapy.

Alan McBride

Alan McBride is a youth worker with the WAVE Trauma Centre. He is also a victims' representative on the Civic Forum. Currently, he is serving as a member on the board of the Healing Through Remembering initiative.

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Patricia MacBride is one of the two victims' representatives on the Civic Forum. She works for the Bloody Sunday Trust in Derry, where she is responsible for the development of the Bogside History Centre, a community museum chronicling the recent history of the city of Derry and its role in the conflict. She is active in several community organisations, including the Local Strategy Partnership for the area, the Bogside and Brandywell Initiative, is a governor of her local school and an advocate of Irish-medium education. She began working on victims issues after attending conferences and meetings organised by Relatives for Justice.

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Professor Roy McClelland of the Department of Mental Health at Queen's University Belfast is assistant head of the School of Medicine there. He is also a consultant psychiatrist at Belfast City Hospital Trust. He is chairman of the Irish Association of Suicidology and a trustee for the Northern Ireland Centre for Trauma and Transformation.

Mary O'Rawe

Mary O'Rawe graduated with a first class honours degree in English and French Law from the University of Kent at Canterbury in 1990. She holds an LLM in human rights, emergency law and discrimination from Queen's University, Belfast and practised as a barrister from 1991 to 2000. Currently in the Transitional Justice Institute of the University of Ulster at Jordanstown, her research interests lie in human rights, criminal justice and policing. Her publications include (with Dr Linda Moore) *Human Rights on Duty: Principles for Better Policing—International Lessons for Northern Ireland* (CAJ, Belfast 1997); 'Accountability and police complaints in Northern Ireland: leaving the past behind?' in Goldsmith A and C Lewis (eds), *Civilian Oversight of Policing: Governance, Democracy and Human Rights*, (Hart Publishing, 2000); 'A new beginning for policing in Northern Ireland?' in Harvey, C (ed), *Human Rights, Equality and Democratic Renewal in Northern Ireland*, (Hart Publishing, 2001). Mary has also spent time in South Africa and researched issues in relation to the right to truth, the place of amnesty in international law and the

role of truth commissions.

Robin Wilson

Robin Wilson has been the director of Democratic Dialogue since its inception in 1995. With Prof Rick Wilford, he is joint leader of a research team in Northern Ireland monitoring the outworking of devolution, part of a UK-wide project co-ordinated by the Constitution Unit, of which they are honorary senior research fellows. Previously, he was for eight years editor of the current-affairs magazine *Fortnight*. He is a member of the advisory council of the Dublin-based think tank TASC, of the board of the Institute of Governance at Queen's University and of the Northern Ireland Community Relations Council. He is currently an adviser to the Council of Europe programme on cultural diversity and intercultural dialogue.

Appendix 1

Extracts from the Belfast Agreement (Rights, Safeguards and Equality of Opportunity)

Reconciliation and Victims of Violence

11. The participants believe that it is essential to acknowledge and address the suffering of the victims of violence as a necessary element of reconciliation. They look forward to the results of the work of the Northern Ireland Victims Commission.

12. It is recognised that victims have a right to remember as well as to contribute to a changed society. The achievement of a peaceful and just society would be the true memorial to the victims of violence. The participants particularly recognise that young people from areas affected by the troubles face particular difficulties and will support the development of special community-based initiatives based on international best practice. The provision of services that are supportive and sensitive to the needs of victims will also be a critical element and that support will need to be channelled through

both statutory and community-based voluntary organisations facilitating locally-based self-help and support networks. This will require the allocation of sufficient resources, including statutory funding as necessary, to meet the needs of victims and to provide for community-based support programmes.

13. The participants recognise and value the work being done by many organisations to develop reconciliation and mutual understanding and respect between and within communities and traditions, in Northern Ireland and between North and South, and they see such work as having a vital role in consolidating peace and political agreement. Accordingly, they pledge their continuing support to such organisations and will positively examine the case for enhanced financial assistance for the work of reconciliation. An essential aspect of the reconciliation process is the promotion of a culture of tolerance at every level of society, including initiatives to facilitate and encourage integrated education and mixed housing.

Appendix 2

Sections 68-70 of the Justice (Northern Ireland) Act 2002

Victims of crime

68 Information about discharge and temporary release of prisoners

(1) The Secretary of State must make a victim information scheme and may from time to time make a new scheme or alterations to a scheme.

(2) A victim information scheme is a scheme requiring the Secretary of State to make available information about the discharge or temporary release of persons serving sentences of imprisonment in Northern Ireland imposed in respect of the commission of offences ('imprisoned offenders') to victims of the offences who wish to receive it.

(3) A scheme—

- (a) must require that information as to the month in which it is anticipated that an imprisoned offender will be discharged is to be made available under the scheme, and
- (b) must require that, unless it is not reasonably practicable to do so, the fact that the temporary release

of an imprisoned offender is being considered is to be made available under the scheme.

(4) A scheme may require that other information relating to the discharge and temporary release of imprisoned offenders is to be made available under the scheme including, in cases of a description specified by the scheme or in which the Secretary of State considers it appropriate, the date on which it is anticipated that an imprisoned offender will be discharged or temporarily released.

(5) A scheme may provide that in circumstances of a description specified in the scheme, or in particular circumstances in which the Secretary of State considers it appropriate, a person who is not the actual victim of the offence but was directly affected by it is to be regarded for the purposes of the scheme as a victim of the offence (as well as any actual victim).

(6) A scheme may provide that in circumstances of a description specified in the scheme, or in particular circumstances in which the Secretary of State considers it appropriate, a person other than the actual victim of an offence is to be regarded for the purposes of the scheme as a victim of the offence (instead of an actual victim).

(7) A scheme must specify how victims are to indicate that they wish to receive information under the scheme.

(8) The Secretary of State is not required to make information available under a scheme—

(a) if he believes that to do so would adversely affect the well-being of the actual victim of an offence or a person who is regarded for the purposes of the scheme as being a victim of an offence by virtue of subsection (5),

(b) if he believes that to do so would threaten the safety of any person, or

(c) in other circumstances specified by the scheme.

(9) A scheme may make different provision in relation to—

(a) different descriptions of imprisoned offenders, or

(b) imprisoned offenders convicted or sentenced at different times.

(10) 'Discharge' includes release—

(a) on licence, or

(b) in pursuance of a grant of remission, (whether or not subject to conditions); and 'discharged' is to be construed accordingly.

69 Views on temporary release

(1) If a person who is the victim of an offence for the purposes of a scheme under section 68 makes to the Secretary of State representations falling within subsection (2) the Secretary of State has the obligations specified in subsection (3).

(2) Representations fall within this subsection if they are to the effect that the temporary release of a person serving a sentence of imprisonment in Northern Ireland imposed in respect of the commission of the offence would threaten the safety, or otherwise adversely affect the well-being, of—

(a) the actual victim of the offence, or

(b) a person who is regarded for the purposes of the scheme as a victim of the offence by virtue of section 68(5).

(3) The Secretary of State must—

(a) have regard to the representations in deciding whether the person should be temporarily released and, if so, any conditions to which he is to be subject, and

(b) inform the victim of any such decision.

70 Supplementary

(1) In sections 68 and 69 references to a person serving a sentence of imprisonment include a person aged 18 or over who is—

(a) detained pursuant to directions of the Secretary of State under Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)),
or

(b) detained in a young offenders centre as the result of an order of the Crown Court.

(2) In sections 68 and 69 references to a person serving a sentence of imprisonment in Northern Ireland—

(a) include a person who, in consequence of a restricted transfer from Northern Ireland, is serving part of a sentence of imprisonment in another part of the United Kingdom, but

(b) do not include a person who, in consequence of a restricted transfer from another part of the United Kingdom, is serving part of a sentence of imprisonment in Northern Ireland.

(3) ‘Restricted transfer’ has the same meaning as in Part 2 of Schedule 1 to the Crime (Sentences) Act 1997 (c. 43).

Appendix 3

Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power

**Adopted by General Assembly
Resolution 40/34 of 29 November
1985**

A. Victims of Crime

1. 'Victims' means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws operative within Member States, including those laws proscribing criminal abuse of power.

2. A person may be considered a victim, under this Declaration, regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term 'victim' also includes, where appropriate, the immediate family or dependants of the direct victim

and persons who have suffered harm in intervening to assist victims in distress or to prevent victimization.

3. The provisions contained herein shall be applicable to all, without distinction of any kind, such as race, colour, sex, age, language, religion, nationality, political or other opinion, cultural beliefs or practices, property, birth or family status, ethnic or social origin, and disability.

Access to justice and fair treatment

4. Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.

5. Judicial and administrative mechanisms should be established and strengthened where necessary to enable victims to obtain redress through formal or informal procedures that are expeditious, fair, inexpensive and accessible. Victims should be informed of their rights in seeking redress through such mechanisms.

6. The responsiveness of judicial and administrative processes to the needs of victims should be facilitated by:

(a) Informing victims of their role and the scope, timing and progress of the proceedings and of the disposition of their cases, especially where serious crimes are involved and where they have requested such information;

(b) Allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system;

(c) Providing proper assistance to victims throughout the legal process;

(d) Taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;

(e) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims.

7. Informal mechanisms for the resolution of disputes, including mediation, arbitration and customary justice or indigenous practices, should be utilized

where appropriate to facilitate conciliation and redress for victims.

8. Offenders or third parties responsible for their behaviour should, where appropriate, make fair restitution to victims, their families or dependants. Such restitution should include the return of property or payment for the harm or loss suffered, reimbursement of expenses incurred as a result of the victimization, the provision of services and the restoration of rights.

9. Governments should review their practices, regulations and laws to consider restitution as an available sentencing option in criminal cases, in addition to other criminal sanctions.

10. In cases of substantial harm to the environment, restitution, if ordered, should include, as far as possible, restoration of the environment, reconstruction of the infrastructure, replacement of community facilities and reimbursement of the expenses of relocation, whenever such harm results in the dislocation of a community.

11. Where public officials or other agents acting in an official or quasi-official capacity have violated national criminal laws, the victims should receive restitution from the State whose officials or agents were responsible for the harm inflicted. In cases

where the Government under whose authority the victimizing act or omission occurred is no longer in existence, the State or Government successor in title should provide restitution to the victims.

Compensation

12. When compensation is not fully available from the offender or other sources, States should endeavour to provide financial compensation to:

(a) Victims who have sustained significant bodily injury or impairment of physical or mental health as a result of serious crimes;

(b) The family, in particular dependants of persons who have died or become physically or mentally incapacitated as a result of such victimization.

13. The establishment, strengthening and expansion of national funds for compensation to victims should be encouraged. Where appropriate, other funds may also be established for this purpose, including in those cases where the State of which the victim is a national is not in a position to compensate the victim for the harm.

Assistance

14. Victims should receive the necessary material, medical, psychological and social assistance through governmental, voluntary, community-based and indigenous means.

15. Victims should be informed of the availability of health and social services and other relevant assistance and be readily afforded access to them.

16. Police, justice, health, social service and other personnel concerned should receive training to sensitize them to the needs of victims, and guidelines to ensure proper and prompt aid.

17. In providing services and assistance to victims, attention should be given to those who have special needs because of the nature of the harm inflicted or because of factors such as those mentioned in paragraph 3 above.

B. Victims of Abuse of Power

18. 'Victims' means persons who, individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that do not yet constitute

violations of national criminal laws but of internationally recognized norms relating to human rights.

19. States should consider incorporating into the national law norms proscribing abuses of power and providing remedies to victims of such abuses. In particular, such remedies should include restitution and/or compensation, and necessary material, medical, psychological and social assistance and support.

20. States should consider negotiating multilateral international treaties relating to victims, as defined in paragraph 18.

21. States should periodically review existing legislation and practices to ensure their responsiveness to changing circumstances, should enact and enforce, if necessary, legislation proscribing acts that constitute serious abuses of political or economic power, as well as promoting policies and mechanisms for the prevention of such acts, and should develop and make readily available appropriate rights and remedies for victims of such acts.

Appendix 4

Clause 8 from the Human Rights Commission's proposed Bill of Rights, (September 2001)

(a) Victims of the conflict

1. With a view to promoting the principles of truth and reconciliation in the aftermath of a lengthy period of conflict, the Government shall take legislative and other measures to ensure that the loss and suffering of all victims of that conflict and the responsibility of State and non-State participants are appropriately and independently established and/or acknowledged.

2. All victims of the conflict have the right to the highest possible level of social care and support in accordance with their needs, particularly in respect of personal security and access to health care, income support, employment, training and education and for those purposes to be protected from any unfair or discriminatory treatment.

(b) The rights of victims for the future

1. 'Victims' means persons who,

individually or collectively, have suffered harm, including physical or mental injury, emotional suffering, economic loss or substantial impairment of their fundamental rights, through acts or omissions that are in violation of criminal laws. A person may be considered a victim regardless of whether the perpetrator is apprehended, prosecuted or convicted and regardless of the familial relationship between the perpetrator and the victim. The term also includes, where appropriate, their family, their dependants, those with whom they have a close relationship and persons who have suffered harm in intervening to assist victims in distress or to prevent victimisation.

2. Legislation shall be introduced to give effect to the following rights:

(a) the right of every victim to be treated with compassion and respect for his or her dignity.

(b) the right of every victim to obtain redress by way of restitution or compensation through formal or informal procedures that are expeditious, fair, inexpensive and accessible.

(c) the right of every victim to have the crime in question investigated thoroughly, promptly and impartially.

(d) the right of every victim to be informed of the progress of any relevant investigation and to have his or her concerns taken into account in the conduct of any relevant legal proceedings.

(e) the right of every victim to reasonable assistance during the trial of any person charged in connection with the crime in question.

(c) Violence against women

1. The State shall take all appropriate measures to prevent and eliminate all forms of violence against women and girls whether physical, mental or emotional.