

**Truth and Reparations for Northern Ireland: A Gender-Integrated Approach**

**Mary McCallan**

Thank you to Congressman McGovern for the invitation to attend today, and to you all for your attendance.

On Sunday just past, the 10<sup>th</sup> April 2016, we marked 18 years since the signing of the Good Friday Agreement. It was also my birthday. The 10<sup>th</sup> April 1998, the day that the British and Irish Governments and most of the Northern Ireland political parties signed the Good Friday Agreement, was the day I turned 18.

The signing of the Agreement was a turning point in the history of the Islands and it marked a move away from the former long raging conflict to a time of peace. As an 18-year-old woman, the first vote that I ever had was in relation to the referendum on the Agreement. I, and many others across the North used it to demonstrate our support and to demonstrate our hope. It was a hope that the document would establish fresh inclusive governance mechanisms that would allow the political, legal, social and economic problems which were regarded as both causes and symptoms of the conflict to be resolved.

As a young woman born into and living in a community that was deeply impacted by the violence and the policies related to it, the possibility and the potential of the Agreement were encapsulated in the following few lines:

*The tragedies of the past have left a deep and profoundly regrettable legacy of suffering. We must never forget those who have died or been injured, and their families. But we can best honour them through a fresh start, in which we firmly dedicate ourselves to the achievement of reconciliation, tolerance, and mutual trust, and to the protection and vindication of the human rights of all.*<sup>1</sup>

However, despite the perpetration of human rights violations by both State and Non-State actors as part of the Conflict, there was little mention of how to resolve the ongoing

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<sup>1</sup> Agreement Reached in the Multi-Party Negotiations, Apr. 10 1998 para 2 <http://www.britishirishcouncil.org/about/agreement-reached-multi-party-negotiations>

difficulties faced by people who had been directly affected by the violence. What has become known in Northern Ireland as 'Dealing with the Past' and would be referred to elsewhere as Transitional Justice was not accounted for within the terms of the Agreement and despite further agreements since, coupled with work by statutory bodies, academics and civil society, it remains unresolved.

In the absence of resolution, we have seen families and individuals using a variety of legal, policing and political processes in attempts to gain what they need to begin their journey towards healing. As these needs of families and individuals vary from person to person, so has the means by which they have attempted to unlock information. So some have called for public inquiries, others have taken civil cases, some have asked for previous investigations to be reopened, made complaints to the police ombudsman, contacted the public prosecution service or gone to the European Court of Human rights asking for movement in their individual cases. So the traumatic issues resulting from the death of their loved one or their injury or their incarceration, and the unfulfilled need that families have carried with them and coped with over the years, has become a current & present day issue within our institutions, such as the policing board, and the inquest system and the police ombudsman's office, that they were not designed, resourced or equipped to deal with.

When the recent Stormont House Agreement was reached at the the very end of 2014, the women from the Legacy Gender Integration Group, and our respective institutions and organizations, greeted it with guarded optimism, and welcomed the prospect of developing a better means of addressing past violations and improving the existing undesirable piecemeal approach that had grown up around these issues, into something that could be human rights complaint. Work such that undertaken by Andree's organization, Relatives for Justice around identifying the particular needs of women victims and how we can best respond to them, was beginning to come to fruition resulting in their February 2015 report & Leah's contact with the Tom Lantos commission and the possibility of sharing information with you, galvanized us to focus on the issue collectively and to make sure that gender was included in the plans for implementation.

Victims, those who work with them and those who work on these issues in a wider human rights & legal context, were repeatedly told over the last year that there would be legislation. We accepted that that was the case and we were optimistic that we could

successfully influence to have gender integrated into not only the enabling acts, but the policies and procedures and practices that would emanate from them.

That optimism was questioned and it was shaken when the most recent round of talks, aimed at resolving focus on welfare reform, addressing ongoing issues in relation to paramilitarism and implementing the Stormont House Agreement was once again unable to find consensus on legacy issues.

This appears to be as a result of the British Governments reluctance to disclose the information necessary to enable effective investigations and potential prosecutions. Whilst we recognize that every state has legitimate national security concerns that they will seek to protect, national security cannot be used as a means of hiding national shame and national embarrassment about what led to and occurred throughout our troubled past. Just as we recognize the legitimate national security concerns of the state, we need the state to recognize the legitimate human rights claims that have arisen within the population of victims and survivors. Unfortunately, this is something we hear little about, other than from the victims themselves.

How do we deal with both of these different and at times competing priorities? The first step is to recognize the mutual obligations that the State holds, and then consider whether or not they are the best placed party to arbitrate in cases where both issues are in play. Because of the hurt of the initial and subsequent violations, the repeated failures to build processes that deliver for victims and survivors and the continual blockages, delays and at times disingenuous actions that that have taken place, we feel that there is a deficit of trust in allowing the British Government to be the sole arbiter on these issues.

So in our conversations following the most recent round of talks we have focused on this important issue, and of finding a process to successfully resolve it. We are aware that at least one of the parties to the negotiations proposed and provided options for a panel or tribunal to be established that would have a remit to decide on these issues. It is becoming increasingly clear that to instill confidence in such a mechanism and to make sure that it has the support it will need across the victims & survivor's population, there is a need for international involvement, around what can be released and what can be withheld, insuring

that this is done in a manner that gives due regard to the national security issue and proper standing to the rights of victims and survivors.

This is a contested issue, not everyone is accepting of the need for this, and whilst it is debated, the other elements that we need to have in place to structure our process are being pushed to one side.

The impact of gender and a gendered perspective on the debate has remained largely absent in spite of the involvement and active participation of women who have been directly affected by conflict at grass roots level. There is some evidence that this is changing and the differing roles of men and women and the varying impact of the conflict is beginning to be analysed and highlighted more by both NGO's and academics. We feel that the collective and individual work of our group has made a useful contribution to that. However, these activities are only beginning to permeate the central political debate, and there has been no evidence so far of an awareness of a differentiated impact within the proposals emanating from government.

How can we adapt or improve the current proposals to be more inclusive and take greater account of the perspectives of the women most affected? We say through adoption of the principles. Making them an integral part of the new processes will facilitate us in re-examining harm in Northern Ireland, so that the previously obscured harms are seen and the full extent of the impact of the conflict on women's lives is revealed.

Looking at harm from a gendered perspective means recognising the place of women. Recognising that women within Northern Ireland tend not to be the dead or the injured or the imprisoned, though there are women who have experienced those harms. Instead they are the surviving bereaved relative and the long term carer for the injured person or the wife of the prisoner. It is these women, living in the areas of high social and economic deprivation who have most to gain from the implementation of a gendered strategy.

Women and their needs have been overlooked in the potential processes, partly because the European Court has been seen as one of the few effective mechanisms for seeking to deal with the past in NI. As the majority of cases taken from Northern Ireland relating to the conflict have focused on the Right to Life, the emphasis has been firmly placed on the deceased male rather than the role of women. The narrowing of the perceived harms and

approaching dealing with the past through this restrictive frame has discounted the wider array of harms, and the gender harms women experience which are linked to bereavement.

So whilst the Stormont House Agreement advocates for human rights compliant mechanisms to be established, it doesn't take the next step and say which human rights it is referring to. In the context of Northern Ireland, where the debate upon dealing with the past had already been confined to the application of the Right to Life, this has worked to the disadvantage of women, whose harms are reflected in other human rights articles and documents. When social and economic issues are touched upon, they are discussed in terms of areas that suffer deprivation, without acknowledging that many of the most impacted within deprived communities are female. There is no real interrogation of what could be done in terms of reparation.

We are being told by the Parties and the Governments that more discussions on the Past will be convened following the forthcoming assembly election in May 2016. They will be short, focused negotiations to attempt to finalise the outstanding issues and free up those in power to concentrate on the forthcoming referendum on Britain remaining in the European Union. We have a small political window between the beginning of May and the end of June to solve this issue. After the referendum, there is a break in the cycle of elections on the islands, which would provide the political space for legislation, and the establishment and embedding of new institutions.

But because of the previous failures, the stepping up to the line, but inability for us to move over, it has raised a jeopardy that has become evident at a number of different levels.

Victims and their families have struggled with an incredible sense of isolation, vulnerability & disempowerment. Continually raising but not resolving these issues has exacerbated the difficulties many are presently contending with, and it has perpetuated and recreated those same traumatic features in new generations. In my generation and the generation coming after me. We have children who have been forced to take on the mantle of trauma and continue the quest that others initiated. This is not a fulfilment of the promise for a fresh start encapsulated within the Good Friday Agreement.

At the community level, the danger is increasingly evident. Those geographic areas that experienced the bulk of the conflict remain the most deprived in multiple ways. The

continuing deprivation and inequalities create jeopardy around the Good Friday Agreement institutions and a loss of confidence in the potential for change that the new institutions and the peace process provided us. This assists an anti-peace process propaganda narrative. And it leaves vulnerable and isolated communities and individuals susceptible to misuse by those who have an interest in these issues not being progressed. Those who would deny the benefits of the peace process and deny the agreement and deny that there is merit in political engagement. It benefits those non state actors who choose to voice their dissent through violence, through the creation of new victims and the perpetration of fresh harms. And it also maintains impunity for those state actor who don't want to accept that they played a part in the occurrence of violations, who don't want to participate in truth and justice processes and don't want to fulfil the reparative rights obligations that they have towards their victims.

If that is allowed to continue, it will undermine the international standing that those who invested heavily in sowing peace within Northern Ireland and it will enable those who wish to undermine the global human rights agenda to say that human rights fail to deliver because they failed to deliver for these women in Northern Ireland.

After the massive investment of time, resources & goodwill that successive American administrations have given to Northern Ireland over the last number of decades, we cannot allow that to happen.

So we need to act. We need to act now and we need to act in the following ways:

Use your influence to lobby contacts in the British and Irish governments and Northern Ireland Assembly to implement the legacy parts of the Stormont House Agreement and incorporate the gender principles within that implementation.

The agreement set out 5 principles to guide the work to be undertaken. Gender wasn't one of them. Including it gives us a benchmark, something to work from when we run up against resistance on this issue.

Lobby your contacts in governments to appoint a specific group to oversee integration of gender in the Stormont House Agreement legacy processes. Gender needs to permeate and cut across all of the different institutions and all of the different phases in setting up and running them. It's in the detail of the implementation where we can have the biggest impact. We have started this work and we want to see it through. But its time and knowledge intensive and we need the resources and support for our initiative to be able to see it through.

Push to ensure that SHA legacy process draw on international good practice such as that outlined by CEDAW and UN Resolutions 1325 plus subsequent resolutions. The Irish National Action plan refers to women in the North, but they are constrained in how much action and planning they can do in the North because of the territorial and jurisdictional issues. The responsibility rests with the UK Government, but their current National Action Plan, designed to assist women in post conflict settings excludes us. So whilst women in Iraq & Afghanistan are covered, we are not. This need to be remedied as swiftly as possible.

Ask those you have contact with about the IRG proposed within the Stormont House Agreement. It is the Implementation and Reconciliation Group and should be able to make sure that the gendered issues and pitfalls we have identified are addressed. But it needs a statutory remit and adequate resources to do this. The last British Government Policy paper indicated that they would not legislate for it, and with the increasing complexity and additional work that may result in a national security tribunal mechanism, there is a strong possibility that the limited funding set aside will be swallowed up by investigations and truth recovery, leaving nothing for the implementation and reconciliation work.

Pass the Gender Principles on to those who may find them useful. We hope that by sharing them with you today that you will think about potential uses in other contexts. Other than the assistance we received from the Irish Department of Foreign affairs, the work has been largely unfunded and unresourced. We know women in other contexts will be contending with similar issues. Hopefully we can lighten the workload by sharing what we have done.

I began by talking about the 18-year-old me. Hopeful, positive and voting for change. But in the 18 years since, waiting for these issues to be addressed, and for a lot of people at home within communities like mine, the hopefulness has waned and prior to our visit to your great capital, I wondered if an intransigence and ambivalence about the fate of Northern Ireland had set in. But in each of the meetings that we have attended we have meet with people who were genuinely engaged with these issues and provided us with useful and constructive advice. So we would ask you to please make statements and publicise our contact. It has heartened us, it has inspired us and it has bolstered & renewed our energy for continuing this work.

Help us to carry that message of positivity & encouragement message back to the places where it needs to be heard the most. To the communities of victims and survivors who are struggling and need to be reminded that other people care about our conflict, peace process and how it ultimately resolves itself. Remind them that the 18-year wait has not been in vain and that you are committed to seeing deliverance on these issues now and in the future.

Mary McCallan            15/04/2016