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**US Congress Tom Lantos Human Rights Commission**

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I would like to start by thanking Representative McGovern for sponsoring this briefing and the Irish Department of foreign affairs for supporting our presence here.

Before discussing with the principles that we have developed, I would like to briefly outline the four institutions established by the Stormont House Agreement of December 2014. We believe that the Gender Principles can be constructively integrated into the four planned new institutions.

The SHA provides for an Historical Inquiries Unit to operate within the police service to pursue investigations, potentially leading to prosecutions, for conflict-related related killings where there is sufficient evidence and the public interest is satisfied. Further, the independent commission for information retrieval will have information disclosed to it from various actors to the conflict and will further disclose those details to families of those killed. It will operate without any connection to prosecutions. Thirdly the agreement provides for an oral history archive to gather and hold diverse narratives about the conflict. And finally, the agreement provides for the implementation and reconciliation group to oversee the operation of the other institutions and to proceed with thematic inquiries in order to make connections between the

different individual accounts that have been garnered through the operation of the other institutions.

I will now turn to the principles that we have developed in order to integrate gender into and across all of the new institutions that are envisaged. I will now turn to the principles that we have developed in order to integrate gender into and across all of the new institutions that are envisaged.

## **THE PRINCIPLES**

### **1. Gender integration: Fully integrate gender into the processes for dealing with the past**

- Gender parity should be a priority in all institutions and processes;
- Decisions about the design and implementation of processes should be actively considered for their gendered implications;
- The vast majority of those killed were men; the majority of surviving family members are women, engaging institutions to deal with the past, running victims organisations and accessing the services of victims organisations. Those institutions are overwhelmingly staffed by men and largely run by men. This is a critical starting point for understanding the gender implications of the design of all institutions dealing with the past.

- Different gender patterns of harm and survival must be recognized in the design of any process, and further explored through that process.

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

The experience of victimhood and survival is enduring and the pursuit of accountability is a long-running process. New mechanisms must account for the victims' experiences of the processes that have gone before and will come after. Pre-determined deadlines for mechanisms fail to account for the importance of process. Victims and survivors must be enabled to supported to engage with mechanisms to deal with the past in their own time. Pre-determined deadlines around how long mechanisms will operate – proposed 5 years – needs to considered against what for many people has been a lifetime of pursuing accountability.

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

Engagement with official institutions to deal with the past can be a deeply disempowering experience that is compounded by the lack of attention to gender. In order to ensure that processes to deal with the past do no harm, avoid re-traumatisation, and contribute to the empowerment of victims and survivors, ownership and control of the process by victims and survivors must be ensured throughout.

**Resourcing existing localized support, close to victims and survivors, for example through the victim-led organisations in the community that have existing relationships of trust with victims and survivors, is one important means to ensuring victim ownership and control.**

Another is crafting processes that allow victims and survivors to talk about their experience in ways that reflect their gendered reality. Interviews and questionnaires designed to gather such information. How questions are asked is very important in determining the sorts of information that is solicited: if questioning by the HIU and ICIR do not gather the longer-term impact of the death, then it will not be reflected in themes identified and investigated under the IRG.

#### **4. Inclusivity: Be inclusive and accommodate complexity**

Processes that fail to account for the complex experiences and identities of victimhood and survival and encourage narrow and prescribed accounts and categories of victimhood – they require accounts that don't resonate with the participant's own definition of their experience – requiring testimony that 'fit' in certain boxes. Victims and survivors who don't define in those terms; 'mental trauma' doesn't resonate with many people's experiences; medicalization through mental health response – 'bad days' whether sympathetic listening from trusted individuals was what was needed. **Mechanisms must utilize fair and flexible procedures and avoid treating all victims as the same.**

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

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

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

Legalistic and medicalized approaches to dealing with the past can position victims primarily as service-users, and as passive and marginal to official processes. Complex experiences of victimhood and survival require holistic and integrated responses. A process to deal with the past must respond to the whole gendered person and to the full range of related needs. Mechanisms need to be designed to reduce the likelihood and impact of retraumatisation for those engaging in the process. Multidisciplinary teams, competent in a number of areas, are best placed to avoid placing victims in duplicate and multiple interactions with official institutions. Effective advocacy for victims is essential to ensuring effective participation. Counselling, peer support and alternative therapies are essential for ensuring that victims are adequately

supported to sustain participation. Moreover, recognising and valuing the existing resources and coping strategies of victims within their communities and community-led organisations is critical to this approach. **Services, support and acknowledgement must be included as essential elements of reparations to victims.**

## **7. Giving Voice and Being Heard: Honour individual stories**

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

## **8. Macro Analysis: Be attentive to the bigger picture**

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

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

An over-reliance on legal, investigative and medical expertise in recruitment will likely work to preclude precisely the women and men who have direct and lived experience of the issues. Criteria used to determine skills, including for academic roles, must be transparent in order to ensure fairness and community confidence. Criteria that result in all- or largely-male teams of investigators and other relevant personnel cannot be accepted. Relevant expertise in recruiting, which includes gender expertise, should be recognized not just in terms of formal qualifications, but also in terms of experiential learning and leadership. Victims and survivors should be recruited for positions leading and involved

with carrying out the processes. In addition, gender training should be provided to all personnel, at all levels, engaged in dealing with the past. **As a matter of priority, a specific group responsible for overseeing the integration of gender into dealing with the past should be established. Mechanisms for dealing with the past cannot be staffed and led in ways that reinforce existing gender and other inequalities.**

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

It is crucial to have localised bottom-up approaches that are informed by international experiences. This requires the inclusion of local NGOs, the voices and experiences of victims and survivors in the design and implementation of the processes. Approaches to dealing with the past in several places over many years need to be learned from and not replicated in Northern Ireland. The development of relevant international standards, has fostered improved practice in recent years, in particular

- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and
- guidance for states in the CEDAW General Recommendation Number 30 and the Women, Peace and Security Resolutions of the United Nations Security Council,
- the Basic Principles and Guidelines on the Right to a Remedy and Reparation, and
- the Nairobi Declaration on Women's and Girls' Right to a Remedy and Reparation,



Improved international practice has focused on the inclusion of women and men in all processes to deal with the past, the recognition of gendered harms experienced by women and men, and the acknowledgment of gender as a structural factor of conflict and dealing with the past. **Locally appropriate processes to deal with the past must draw on this international learning, together with the substantial local resources and knowledge within the community and existing victims organisations.**