Transitional Justice, Historicity and Praxis in Dealing with the Past in Northern Ireland


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Advocates and practitioners of transitional justice have long sought to reach for a singular model that could anticipate how to co-ordinate, sequence and create complementarity between the raft of mechanisms and activities that fall under its banner. However, there has been surprisingly little research that explores how varied dimensions of transitional justice practice can, or should, work together in particular social contexts to effect social change. To address this gap, this book provides an innovative, and interdisciplinary, understanding of the necessity of context-specific designs for post-conflict redress. Demonstrating that transitional justice practice must necessarily be context-specific, the book brings together contributions from distinguished scholars across the globe in order to show that disparate historical, cultural and legal contexts require equally distinct approaches towards social healing. In so doing, the book moves towards what the editors have dubbed ‘a post-conflict action framework’ that would allow for immediate interventions that are sensitive to the socio-cultural context they hope to influence.
Transitional Justice, Historicity and Praxis in Dealing with the Past in Northern Ireland

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Introduction

Transitional justice scholarship is increasingly sensitive to the need to attune bespoke ‘solutions’ to specific cultural and political contexts. However, despite the much vaunted aim of ‘dealing with the past’, the historical particularities of a given context are in practice often overlooked once the serious business of ‘doing transitional justice’ gets under way (McEvoy and McGregor 2008: 1-15). Taking as a case-study recent efforts to design an oral history archive as part of the latest blueprint for ‘dealing with the past’ in Northern Ireland, I argue here in favour of integrating a granular grasp of historicity with the requirements of praxis.

The structure is as follows: the first section explores the meaning of the term ‘historicity’ as it relates to ‘dealing with the past’ in post-conflict societies. The next substantive section considers the extent to which, in the absence of political consensus, law and legal mechanisms have borne the brunt of the ‘heavy-lifting’ in terms of addressing legacy issues in Northern Ireland. Positing oral history initiatives as an alternative ‘from below’ version of transitional justice I then consider some of the benefits of such an approach, including reaching out to unheard voices and thus resisting teleological narratives of the past. In the final section I return to issues of historicity and praxis in the specific context of ongoing debates regarding a ‘dealing with the past’ Oral History Archive for Northern Ireland. The conclusion reflects more broadly on what historians such as myself can bring to debates on transitional justice - in terms of distance, perspective and the heuristic potential of disentangling past and present.
Historicity and Dealing with the Past

Historicity is a complex term encompassing a rich and diverse literature (Hartog 2015; Hirsch and Stewart 2005; Whitehead 2003). In basic terms, it speaks to contests concerning the authenticity of claims about the past (Thompson and Verenna 2012). Within the broader terrain of philosophy, debates about the accuracy of historical accounts invoke fundamental questions about the interplay between context and conceptualisation. For example, in his seminal text on truth and historicity, Campbell (1992) traces the evolution of fierce debates concerning the notion of historical ‘truth’ from Homer via Plato, Parmenides, Descartes, Locke, Kant, Vico, Hegel, Frege, through to Habermas and Dummett. Having considered the intersection of the concept with historicity he compelling argues that the notion of truth is itself the terrain upon which contested accounts are fought and constituted (Campbell 1992).

The extent to which the present can or should sway our perception of the past has exercised historians for centuries. At one end of the spectrum is historicism which implies that social and political phenomenon are determined (at least predominantly so) by history (Hamilton 2003). The other extreme is characterised by ‘presentism’ which privileges the present as the only ‘time’ that exists and matters (Bourne 2006). The contours of this dialectic can be traced through major epochs in both the history of ideas and the history of philosophy, including the rationalism of the eighteenth century, the ‘professional’ approach of the nineteenth century Rankean school, the Marxist insistence on the preconceived ‘logic’ of history, and the ‘cultural turn’ of the 1970s and 80s, which included analysis of issues such as gender, post-colonialism and memory. The emergence of the latter sub-disciplines are closely associated with the growing popularity of oral history as a form of ‘history from below’ (Thompson 1978: 36).

For traditional ‘professional’ historians the practice of oral history initially raised concerns regarding the reliability of memory. For many oral historians, however, the intrinsic importance of subjective accounts as a means of producing a more rounded understanding of history is precisely the point (Frisch 1990: 13; Portelli 1991: 50). Historicity in this context demands that we consider both the objective and subjective ‘truth’ of individual and collective narratives. Applying this logic to efforts to ‘deal with the past’ in Northern Ireland I argue in favour of placing less emphasis on forensic certainty about what occurred in the past – other mechanisms and processes including legal institutions may take us closer to such ‘what actually happened’ accounts – and instead acknowledging the implicit and collective value of personal stories. Reflecting on the benefits of a more pluralist approach to the past brings into view key questions regarding the proposed Oral History Archive for Northern Ireland and helps to broaden debates about what can and should be captured, preserved, disseminated –
and how. To begin we consider the deficit of historicity in ‘legalistic’ approaches to dealing with the past in Northern Ireland, and the extent to which this has limited the potential benefits for victims in particular.

**Historicity, Legalism and Transitional Justice from Below**

Following a series of paramilitary ceasefires in the mid-1990s, political dialogue increasingly eclipsed violence in Northern Ireland. The ensuing Good Friday Agreement (endorsed by strong majorities in referenda in Ireland, North and South, in May 1998) was undoubtedly a watershed but, unlike other similar agreements, it contained no over-arching mechanism to deal with the legacy of the past. Instead, the Agreement included provisions for a mosaic of different ‘past-facing’ processes including support for victims, prisoner release and reintegration, policing, human rights and criminal justice reform. In effect, it appears that those who negotiated the Agreement concluded that such was the lack of consensus on the historical causes of the conflict and *ergo* the appropriate ‘big picture’ mechanisms for dealing with it, that the best that could be achieved was a tentative piece-by-piece approach (McEvoy 2013). The primary delivery mechanisms of such truth and justice as we have seen to date has been the criminal justice system. Specific measures have included the work of the coronial inquest system into controversial deaths (Morgan 2016), police-led historical investigations (Lundy 2009), independent investigations by the Office of the Police Ombudsman (Ellison 2007), individual public inquiries (for example, Saville Report 2010), a series of high profile litigation efforts by affected families in the domestic courts and the European Court of Human Rights (Anthony and Moffett 2014), and investigations of alleged miscarriages of justice by the Criminal Cases Review Commission (Quirk 2013). The tone of much of the past focused work in Northern Ireland has thus inevitably been quite legalistic and state-centric.

Concerns with regard to the dominance of ‘legalism’ within transitional justice have been much discussed elsewhere (for example, McEvoy 2007). Dangers identified have included: overselling state capacity to deliver for victims (Wemmers and Cyr 2004); squandering precious resources (McWilliams and Ní Aoláin 2013); disempowering the ‘silent majority’ who do not have access to ‘elite’ political and legal circles (Hayner 2011) and; thus ultimately failing those most directly affected by past violence. Indeed a central theme which runs through much of the critical literature on legalism in transitional justice is the notion of the appropriation of the voice of victims. It has been noted, for example, that efforts to establish or re-establish the rule of law are often designed precisely to act as a brake on privileging local exigencies over binding international legal standards. This serves to widen the gap between the imagined world of legal rules and certainty and the ‘messy’ lived realities of post-conflict
societies. To some extent, this is an axiomatic feature of the criminal justice system in any settled democracy. In post-conflict settings, however, the scale and severity of previous violence and human rights abuses is such that the problems associated with comprehensive and ethical representation of victims’ experiences are thrown into even sharper relief.

In Northern Ireland an important alternative to legal solutions has been provided by a swathe of community, academic and civil society based efforts focused on truth recovery, storytelling, oral history and commemoration (McEvoy and Gormally 2009; Kelly 2005). Collectively, I would argue that such projects provide an instructive example of the ‘beyond blueprints’ model of transitional justice. The energy for this type of work has typically come ‘from below,’ with human rights and memory activists and academics seeking to address perceived deficiencies in ‘top-down’ legalistic initiatives, and to provide an important alternative for victims, survivors and others to have their voices heard, recorded and, where appropriate, ‘actioned’ (McEvoy and McGregor 2008).

It is now more or less a given that transitional justice should be victim-centred—with much discussion on the theme across the academic literature on international criminal justice and tribunals, reparations and truth recovery programs. The intrinsic, and potentially cathartic, value of ‘giving voice’ to marginalized and ‘subaltern’ witnesses in post-conflict settings is also widely recognized (Senehi 2002 and 2009). In the course of my field research regarding the Northern Ireland conflict (encompassing more than two hundred personal interviews) I have never ceased to be humbled by the courage of victims and survivors in coming forward to put their story on record. I have also been repeatedly struck by the value that interviewees place on seeing and hearing their story — whether in the form of a privately held transcript and voice recording or a public rendition. Indeed, as Liebling and Maruna (2005) have demonstrated in the context of prisons (a site where the powerless of the individual may appear most stark), it is often those with the least power who most value ‘being heard’. This process speaks to what Taylor describes as a ‘vital human need’ for recognition (1992: 26).

It would be nonetheless misleading to suggest that participation in processes which are designed to capture voice in transitional settings can be taken for granted. Some individuals are immediately grateful for the opportunity to share their experiences of past suffering and conflict. Others are persuaded by the argument that if they do not tell their story and the story of their community, someone else will. Still more, with an eye to posterity, want to ensure that their children and grandchildren understand what they lived through. Many, however, have every reason to be reticent and require much reassurance before agreeing to put their story on record. As a result, at least in my experience, even in a heavily researched context such as
Northern Ireland a multitude of voices are waiting to be heard and indeed many victims endure the ongoing pain of being excluded, overlooked or forgotten. A core strength of the oral history method is that, having identified gaps, investigators can actively seek out and persuade ‘hard to reach’ individuals to come forward, including those who do not have the resources or inclination to organise collectively. This is time-consuming and challenging work, but the benefits should not be underestimated. These are not confined to individual satisfaction and wellbeing (important though that undoubtedly is). The juxtaposition of a wide range of opposing perspectives can also offer a powerful bulwark against present-centred politicised narratives.

**Historicism, Binary Narratives and Truth Recovery**

I think one of my own ambitions has been to almost recreate a history of black struggle lawyers which I don't think has the same place in South African legal history...there seems to be less of an acknowledgement that there were black lawyers who really put their lives and limbs at risk [...] It's mainly 'cause white people are better at attracting hype about themselves...there's a real need to recreate this other history that's untold actually.

(Personal Interview with Yasmin Sooka, Johannesburg, South Africa, 16 August 2014)

In the course of recent international comparative work with colleagues on the role of lawyers in conflict and transition, I was greatly struck by the ease with which, in transitional societies, what Mazzei (2009:47-48) describes as the ‘voices in the cracks’ can be collapsed or silenced as new ‘authentic’ narratives supplant existing versions. The above quote from Yasmin Sooka, a leading human rights lawyer and former Truth and Reconciliation Commissioner, highlights the fact that black lawyers have effectively been written out of the South African legal history narrative. Similar fears have been expressed in Northern Ireland, perhaps most forcefully in relation to victims. Fundamental political disagreement about the causes and consequences of the Northern Ireland conflict have provided a particularly fertile environment for claims to speak ‘on behalf of victims.’ The definition of a victim has, for example, provoked furious and heated debate amongst opposing political parties and victims groups. Former combatants and others point to the danger of creating what they consider to be a ‘hierarchy of victims’ and also highlight what they perceive to be the de facto immunity enjoyed by perpetrators of state-sponsored violence (CAJ 2015). For others, particularly in the unionist community, any hint of equating ‘innocent’ victims with ‘terrorists’ is viewed as an affront to the suffering of the former and to be avoided as a matter of principle, even if this means denying services to
‘innocent’ victims who are desperately in need of help (Moffett 2016). Such ‘monochromatic’ distinctions between deserving and undeserving victims can, as I have argued elsewhere, facilitate the instrumentalisation of victims’ voices, the affording of authority to some voices, and the silencing of others (Bryson 2016).

Free from the pressure to identify and select evidence to support a legal defence, to shore up support among constituents, or to secure a quote that will sell tomorrow’s newspaper, oral history can provide alternative opportunities to explore what Bouris (2007: 3-8) refers to as ‘complex political victimization’. Indeed in the Northern Ireland context many existing oral history projects have set out precisely to capture a version of past human experience that is, as MacNeice (2007a:2) put it, ‘incorrigibly plural’.” As noted, theorists and practitioners of conflict transformation have long since recognized ‘story-telling’ as an effective tool for precisely this ‘thicker’ approach to dealing with the past. Direct benefits for victims and survivors have been discussed in the context of mental health and psychology (Hamber 2009); human rights (Jelin 1994); and empowerment (Herbst 1992). The potential of oral history is indeed compelling but it would be naïve to assume an automatic connect to truth and reconciliation. Advancing from individual to collective or societal benefits necessitates careful reflection on the terms of reference and ‘vision’ for any proposed Oral History Archive. The potential exists to draw out wider patterns and themes but this demands reflection at the outset on terms of reference, governance, and process.”

_Historicity, Truth Recovery and Reconciliation_

Reflecting on the work of the South African Truth and Reconciliation Commission, Desmond Tutu (1998) suggests that ‘knowing’ the truth of what happened in the past is an essential precursor to reconciliation. He then goes on to delineate four different types of truth – factual or forensic truth, personal or narrative truth, social truth or dialogue truth, and healing or restorative truth (Tutu 1998: 110-114). Critics have suggested that the key distinction here is between verifiable truth and three variations of subjective truth, but it is important – especially in the context of reconciliation - to differentiate between personal and societal narratives (Posel 2002). Indeed one must be mindful of the risk, in common with ‘legalistic’ initiatives, that an excessive focus on the individual (narrative or court case) can ‘fragment’ wider dealing with the past concerns. At a communal level, this may even contribute to a cycle of ‘narrative manufacture’ and entrenchment within respective silos, with limited opportunity to hear the ‘other’s’ voice (Alcoff 2009: 119; Kindersley 2015: 232). In his end of mission statement in November 2015, the UN Special Rapporteur, Pablo de Greiff, noted that:
The ‘Troubles’ were not simply the aggregate of totally isolated events. There are patterns, structures, institutions, organizations, chains of command, policies, etc. that are an essential part of this history, which need to be uncovered.

(de Grieff 2015:18)

Oral history initiatives undoubtedly have the capacity to confront what Wrong (1994: 36) describes as an ‘inescapable conflict between the interests and desires of individuals and the requirements of society’ and to illustrate in pointillism the broader societal context for past conflict. But this can only happen if they are underscored by a creative, imaginative and courageous acquisitions policy. For example, when designing the framework for an oral history archive on the Northern Ireland peace process, my colleagues and I were determined to get beyond obvious ‘Political’ categories. Having critically reflected on some of our key terms of reference (peace-making, conflict, reconciliation, and victimhood) we resolved to seek out interviews with not only senior negotiators but also with witnesses spanning the entire spectrum of civic, religious, and community life. Following this logic, our interviews with victims were not confined to dedicated support groups. Instead, they straddled the full range of interview categories. Engaging with individuals beyond narrowly defined ‘Political’ categories enabled us to probe wider patterns and themes such as the intersection of conflict with socio-economic inequality, gender and mental health and thus to broaden our own understanding of conflict and peace (Bryson 2014).

Storytelling as Historicised Praxis

In December 2014, the five main political parties and the British and Irish governments signed the Stormont House Agreement (NIO 2014). This contains provision for a range of mechanisms including a Historical Investigations Unit to take forward ‘Troubles-related deaths,’ an Independent Commission on Information Retrieval to enable victims and survivors to seek and privately receive information about the deaths of their next of kin, an Implementation and Reconciliation Group to oversee themes, archives, and information recovery and an Oral History Archive to ‘provide a central place for people from all backgrounds (and from throughout the UK and Ireland) to share experiences and narratives related to the Troubles’. Given the widening gap in Northern Ireland between the impulse to
collect and the obligation to preserve testimonies of the past, it was significant that this Archive was additionally tasked with ‘drawing together and working with existing oral history projects.’ As detail on the shape and scope of the proposed Archive unfolded it became clear that there was a misguided assumption that the Archive was the least contentious and ‘easiest’ of the mechanisms to establish and that those tasked with running it could be largely passive in terms of directing it.\textsuperscript{xv}

In February 2015, I was invited to join a team of lawyers and civil society activists who wished to explore in the necessary level of detail how the past-related elements of the Stormont House Agreement might be implemented in practice, in a way that would be both human-rights compliant and ‘victim-centred’. Our aim was to produce a ‘Model Bill’ with detailed explanatory notes to inform the developing official legislation. My primary responsibilities in the team were to craft the sections in the model bill and accompanying explanatory documents pertaining to the proposed Oral History Archive, and to lead on the extensive consultation and lobbying work for this part of the process (McEvoy and Bryson 2016; McEvoy et al 2016a and 2016b). I approached this work from two angles: that of an academic with a history background who has engaged victims’ voices for research purposes and that of a consultant who has trained and advised both academics and community groups with regard to the design and development of sensitive interview-based projects. I suggested that our approach be framed by three overlapping themes, namely independence and legal clarity, consultation and collaboration, and flexibility and vision.

\textit{Independence and Legal Clarity}

In post-conflict societies such as Northern Ireland where even the terms to talk about the past remain deeply contested, it goes without saying that what Rosanvallan (2011) terms ‘the legitimacy of impartiality’ is critical. Indeed a number of high-profile projects in the jurisdiction have faltered because of perceived partiality and ensuing political disagreement.\textsuperscript{xvi} An arguably more serious concern has also been raised in relation to the limits of confidentiality agreements in post-conflict settings such as Northern Ireland where the possibility of convictions for past offences remains. This has been illustrated most forcefully in the context of the ongoing controversy arising from the Boston College Tapes project (Havemann 2010).\textsuperscript{xvii} Perhaps the primary ‘lesson’ from that project is that, under current legislation, oral history projects in Northern Ireland simply cannot offer any guarantee of confidentiality with regard to past offences. In a broader sense it also highlights the fact that when we invite individuals to contribute an interview we are asking them to trust not just the interviewer and the organisation they represent, but also the staff and custodians of
the archive in which we propose to deposit the material. This lends weight to the argument that any new Oral History Archive designed to document past conflict and thus advance reconciliation must be governed by an independent entity that is capable of garnering widespread public confidence and ensuring adherence to all relevant legal and ethical principles.

In recognition of these responsibilities and the reality of the conflicted nature of society in Northern Ireland, the Stormont House Agreement rightly stipulated that the proposed Oral History Archive would be ‘independent and free from political interference’. However, at an early point in the negotiations on the outworking of the Stormont House Agreement, the Public Records Office of Northern Ireland (PRONI) was invited to scope out various options for the development of the Oral History Archive. With the tacit agreement of the five main political parties this quickly solidified into a proposal that the proposed archive should be under the charge and superintendence of the ‘Deputy Keeper’ of PRONI (a senior civil servant, answerable to the prevailing Minister). As PRONI is an executive agency of the Department for Communities, and the ‘Keeper’ of its records is the Minister of its parent department, this immediately raised concerns for us and others about its independence (Bryson 2015).

Such concerns were aggravated by the fact that the Public Records Office, by dent of the records it holds, is closely associated with not only the devolved Northern Ireland departments of state but also the British cabinet Northern Ireland Office. This has been highlighted in recent controversy concerning access to court records. Victims’ families have in the course of the last several years battled to gain access to court records containing information about the deaths of their loved ones. Much of the legal wrangling centred on whether and when the Secretary of State for Northern Ireland has a right to intervene to prevent the devolved Northern Ireland Minister from granting access to PRONI records.

Our provisions thus alternatively proposed to give the Oral History Archive statutory independence: it would be established by the First Minister and deputy First Minister of Northern Ireland, acting jointly, and governed by three Executive Directors (one of whom would be appointed in consultation with the Dublin government). Establishing the independence of the governing entity is, however, only one element in a panoply of challenges. In order to facilitate widespread participation in the work of the Archive and to give effect to the aim of ‘drawing together and working with existing groups’, it seemed obvious that those tasked with developing it should embark on a process of comprehensive consultation and meaningful collaboration.
Consultation and Collaboration

The success of the Oral History Archive proposed under the terms of the Stormont House Agreement depends primarily upon individuals voluntarily giving over their stories. To borrow from some of the basic tenets of procedural justice (which are perhaps more normally used to frame the prosecutorial aspects of transitional justice), it is imperative that those volunteers who will collect and contribute interviews should ‘have their say’ before decisions that directly affect them are cast in statute (Ritchie 2010: 442). At one level this speaks to the need for a comprehensive consultation exercise before legislation that is slated to pass through the Westminster parliament is agreed. It also highlights the need for a dynamic and representative advisory board capable both of executing oversight and cultivating support. Such a mechanism would acknowledge that the legitimacy of the proposed Archive is an iterative, dialogical process – one that demands ongoing consultation and creative thinking (Bottoms and Tankebe 2012: 129). Another compelling reason for prioritising consultation is that much of the ‘heavy-lifting’ in terms of articulating challenges and lessons – and indeed collecting post-conflict testimonies – has already been done (Kelly 2005).

The literature on transitional justice is replete with analysis of the dangers of ‘reinventing the wheel’ (Baxter 2009: 328). The suggestion that the proposed Oral History Archive should ‘draw together and work with existing oral history projects’ is particularly important in light of the longstanding gap in Northern Ireland between the impulse to collect new material and the obligation to preserve it for posterity. Indeed one of the most important public functions of the proposed new Archive is to provide a central mechanism for the preservation of both existing and new collections. This is vital but challenging work. Many existing groups and organisations, for example, fear what might be described as a ‘Tesco’ or ‘Walmart’ effect i.e. that a new central archive would challenge and ultimately threaten their existence. In addressing this conundrum we drew upon best practice elsewhere – in particular looking at ‘aggregator’ models employed by organisations such as the Digital Public Library of America and Europeana. The success of these models is clearly underscored by both widespread consultation and a meaningful measure of ‘shared authority’ (Frisch 1990). As with the acquisitions policy, it thus seemed clear to us that the passive ‘engage with us if you wish’ and ‘on our terms alone’ approach that appeared to underline the emerging official policy was unlikely to result in successful collaboration.
Finally, with regard to the Oral History Archive, it is necessary to balance provision for the
establishment and enforceability of what might be termed ‘the rule of ethics’ with the need to
facilitate flexible working practices for a wide range of voluntary and community groups and
for dedicated categories such as victims and young people. For example, many of the groups
the Model Bill project consulted with expressed concerns not just about the independence of
the proposed mechanism, but also about the prospect of engaging with unknown ‘academic
experts’ who are unlikely to have a grasp of their specific needs and concerns. Victims’
representatives in particular noted the need for fluidity and flexibility in terms of the manner
in which they engage. Indeed one of the key challenges for a ‘victim-centred’ archive is how
it might meet the divergent and evolving needs of individuals.

The fact that there is no ‘one size that fits all’ speaks in oral history terms to the need to put in
place specific training and facilitation for work with people who are, for example, affected by
varying degrees of post-traumatic stress. It also underlines the fact that such initiatives cannot
be boxed into a neat five-year window as there is simply no way of predicting when an
individual will feel ready and able to put their story on record. Axxv Acknowledging the reality
that many potential interviewees across Northern Ireland will only engage with known and
trusted intermediaries we proposed a comprehensive ‘training the trainers’ programme. This
is designed as a cost-effective way of enabling the Oral History Archive to operate with as
much flexibility and reach as possible, and at the same time ensuring meaningful participation
and input from agencies and victims and survivors ‘throughout the UK and Ireland’, xxvi A
clear distinction would thus be drawn between inalienable ethical and legal principles
(enshrined in a detailed code of practice, unpacked in training, and clearly communicated to
participants) and flexible working practices. The latter would facilitate nuanced approaches
for work with specific groups such as victims and young people, offering a style of interview
that best suits their needs and crucially, enabling them to work with and through an
accredited trainer in whom they trust. This ‘training the trainers’ model reflects the notion
that once the ‘rules of the road’ have been established and clearly communicated to users,
projects and participants can progress according to their own preferred technique, models
and route. This is particularly important given the variety of methodologies and approaches
that come under the ‘oral history’ and ‘storytelling’ banner (Ramazan 2013). xxvii

The final principle that guided our deliberations on the Oral History Archive relates to what
we loosely term here as ‘vision’. This overlaps substantially with consultation and
collaboration, or what Rosanvallon (2011) refers to as the ‘legitimacy of reflexivity’. This
legitimation work is not achieved by ‘self-separation’ but rather by creating multiple points of reflection, reconsideration, evaluation and reflexivity (Rosanvallon 2011:123). In the context of the Archive, this speaks to the need for constant reassessment of both the terms of reference and which ‘audiences’ are buying in and which are not. This broader ‘vision’ maps directly onto the guiding principle of historicity. Indeed, without reference to what Benjamin (1940) describes as the ‘open sky of history’, the Oral History Archive proposed under the terms of the Stormont House Agreement is in my view at risk of falling prey to the self-same dangers we have identified in the context of legalistic and bureaucratic approaches to dealing with the past.

Conclusion

I will not allow a rewriting of our past but I will also not allow our past to hold us back either...Too often we look at the here and now. We look at the past but let’s look to the future. xxviii

(Foster, quoted in Newsletter 2016)

The above quote is from newly appointed Democratic Unionist Party leader, Arlene Foster, on the eve of her accession to the position of First Minister of Northern Ireland in January 2016. It reflects a desire, on the one hand, to prevent what unionist leaders consistently refer to as the ‘rewriting’ of the past and, on the other, to escape it by focusing our gaze on the future. The obscuration of tenses and temporalities in many ways encapsulates the ongoing tension between present-centred politics and the inescapable shadow of history in Northern Ireland. In contrast to the implied suggestion by Arlene Foster that there is one true version of ‘our past’ that should not be rewritten, I would argue that the ‘truth’ of what happened in the past can only be grasped by acknowledging the historicity of multiple individual accounts.xxix

The Oral History Archive proposed under the terms of the Stormont House Agreement is well placed to facilitate a relentless rewriting of history – one that consistently seeks out new vantage points, perspectives and perceptions. Reflecting on the meaning of what he terms ‘regimes of historicity’, Hartog (2005: xv) notes that the historian ‘practices viewing from afar. That involves stepping back from the pressing concerns of the moment to account for that which has gone before, and to contemplate the future in order to help inform that which can and should be shored up for posterity.xxx By their nature archives are designed for durability - to last - and to thus focus our gaze on the ‘longer view’. In practice this means that victims and survivors, and their successors, can not only contribute their story at a time and place that
best fits their needs; they can also revisit and rewrite their narrative as their history unfolds. Moreover, the concept of historicity calls attention to fundamental debates concerning truth and subjectivity and thus offers insights into the implicit and collective value of telling one’s story.

Unlike prosecutorial and truth recovery mechanisms which are generally limited both by legal terms of reference and tight timeframes for delivery, this Archive could embrace a more pluralist and diachronic approach to dealing with the past. The associated benefits are difficult to underestimate. Speaking, listening and preserving are in themselves profoundly humane activities. In a society in which survival was often bound up with ‘saying nothing’, affording space for unheard voices is fundamental to reconciliation and the much lauded mantra of ‘non-recurrence’. The accumulation of individual narratives, over time, could potentially become a powerful resource in the search for the ‘big picture’ truth recovery of the conflict.

And I give you the faces, not the permanent masks
But the faces balanced in the toppling wave.

(MacNeice 2007b:28)

These benefits are not confined to individual or communal silos but, taken together, in the manner of a ‘toppling wave’, provide the basis for discerning broader societal patterns and themes and associated lessons for the future. Perhaps most importantly, a sensitive and imaginative dissemination policy holds the heuristic potential to enable us to see and hear ourselves in ‘others’. As Stan Cohen (2001) argued with regard to the truth/denial dialectic, a kaleidoscope of perspectives that reflects both a present-centred horizontal dimension and a historic vertical axis can yield insights that take us beyond binary narratives of blame and innocence towards a more universal appreciation of the human condition. Facilitating such a process demands reflection both on points of legal and procedural governance, and the praxis of acknowledging historicity.
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i Calling attention to the ‘radical potential of oral history’, Paul Thompson noted that ‘witnesses can now also be called from the under-classes, the unprivileged, and the defeated’. This, he believed could provide ‘a more realistic and fair reconstruction of the past, a challenge to the established account.’ Thompson, P. (1978) *The Voice of the Past*, 1st edn, Oxford: Oxford University Press.

Press. Portelli likewise insists that the subjectivity of the present in oral evidence is a strength rather than a weakness: ‘not just telling us about what people did, but what they wanted to do, what they believed they were doing, and what they now think they did’. Portelli, A. (1991) The Death of Luigi Trastulli and Other Stories: Form and Meaning in Oral History New York: SUNY Press.

iii Between 1966 and 1998 more than 3,600 people lost their lives as a result of the Northern Ireland conflict and thousands more were injured and maimed: when scaled up to UK population levels, the death toll is in the region of 135,000. Violence peaked in 1972 with almost 500 deaths and then gradually declined to an average of approximately 100 annual fatalities between 1976 and 1994.


v This point has been made most forcefully in the context of gender equality. See, for example, the analysis of the extent to which the gender perspective of UN Security Council Resolution 1325 was reflected in peace agreements signed between January 1990 and January 2010 in Bell, C. and O’Rourke, C. (2010) ‘Peace Agreements or Pieces of Paper? The Impact of UNSC Resolution 1325 on Peace Processes and their Agreements’, International and Comparative Law Quarterly, 59(4): 941-980.

vi, for example, Méndez, J. E. (2016) (ed.) ‘Special Issue: Reconsidering Appropriate Responses to Victims of Conflict’, International Journal of Transitional Justice, 10(1).

vii These interviews were conducted in the course of three successive research projects: an ethnographic and historical analysis of a deeply divided Mid-Ulster town (1945-1969); a major study led by Professor Seán McConville of the experience of politically motivated prisoners in Britain and Ireland (1920-2000); and a wide-ranging exploration of the Northern Ireland peace process (1965-2000).

viii The partner of one of the men that I interviewed for my PhD thesis told me that in his dying days he kept the transcript of the interview that I conducted with him by his bed and was greatly comforted to know that his story would remain when he passed on. At the funeral of another man interviewed for that project, family members quoted from his interview transcript in order to share with the congregation something of his values, beliefs and life experiences.

ix One notable example is the Palestinian Oral History Archive sponsored by the American University of Beirut. This features over 800 testimonies of first-generation Palestinians currently living in Lebanon but hailing from over 150 uprooted communities in Palestine. Given the paucity of archival sources on the displacement of Palestinians, and the challenges associated with harnessing the stories of such a diverse population, these ‘hard to reach’ perspectives would otherwise be lost. See: American University of Beirut (2010) Palestinian Oral History Archive, online: American University of Beirut. Available at: <http://www.aub.edu.lb/ifi/programs/poha/Pages/index.aspx> (accessed 29 June 2016).

x The ‘Lawyers, Conflict and Transition’ project is funded by the ESRC (Grant Reference ES/J009849/1).

xi Quoted in MacNeice, L. (2007) ‘Snow’, Collected Poems, London: Faber and Faber. The WAVE Trauma victims group, for example, has developed a range of ‘storytelling’ projects to capture the experience of those who were either bereaved or injured as a result of the conflict. See: WAVE Trauma Centre (2009) Unheard Voices, online: WAVE Trauma Centre. Available at: <http://www.wavetraumacentre.org.uk/about-us/wave-projects/unheard-voices> (accessed 17 May 2016). Other projects have concentrated on the experience of specific communities, particularly those most affected by the conflict. Notable examples include the Falls Community Council Dúchas project developed in the late 1990s to record the experience of the conflict in nationalist West Belfast – see: Falls Community Council (1999) Dúchas Oral History Archive, online: Falls Community Council. Available at: <http://www.duchasarchive.com> (accessed 15 March 2016) and the RUC George Cross Foundation oral history project which focuses on experiences of former members of the Royal Ulster Constabulary between 1922-2001 – see: Royal Ulster Constabulary George Cross Foundation (2006) The Oral History Project, online: RUC George Cross Foundation. Available at: <http://www.rugcfoundation.org/oral-history> (accessed 19 November 2015). Significant impetus was injected into the sector by the European Union’s Peace III Programme which funded dozens of oral history and story-telling projects. In keeping with the international trend, some of the most powerful work has developed at the interface of oral testimony and the arts. Outputs here include ‘theatres of witness’, memorial quilts, and interview-based plays and novels. For example see: Theater of Witness (2015) About Theater of Witness, online: Theater of Witness. Available at: <http://www.theaterofwitness.org> (accessed 17 November 2015).


xv The complete archive of one hundred interviews thus collectively and self-consciously juxtaposes the perspectives of politicians, senior negotiators, lawyers and interlocutors with those of a wide range of victims and survivors, including the bereaved and the maimed, homemakers, funeral directors, fire and rescue personnel, gay activists, pastors, health professionals and mere onlookers.

xv This misguided assumption that oral history is a ‘soft touch’ approach, operating alongside or in place of formal truth recovery mechanisms, such as truth and reconciliation commissions frequently features in overviews of transitional justice mechanisms. The overview of transitional justice provided by the International Center for Transitional Justice, for example, effectively relegates broad-based testimony-gathering initiatives to the ‘also-ran’ category. The four key elements of a ‘Comprehensive Transitional Justice Policy’ are listed as follows: criminal prosecutions, reparations, institutional reform, and truth commissions. An adjoinder suggests that: ‘Memorialization, for example, the various efforts to keep the memory of the victims alive through the creation of museums, memorials, and other symbolic initiatives such as the renaming of public spaces, etc., has become an important part of transitional justice in most parts of the world.’ The latter speaks to the spirit of much post-authoritarian and post-conflict oral history work, without explicitly acknowledging it. See: International Center for Transitional Justice (2016) What is Transitional Justice?, online: ICTJ. Available at: <http://www.ictj.org/about/transitional-justice> (accessed 14 June 2016).

xvi For example, in spite of a carefully crafted 124 page ‘Masterplan and Implementation Strategy’ (including plans for an international centre for conflict transformation) underscored by significant and costly research and consultation, the Maze-Long Kesh Regeneration project, was effectively stalled overnight due to political disagreement. See: Office of the First Minister and deputy First Minister (2006) Maze/Long Kesh: Masterplan and Implementation Strategy, online: OFMDFM. Available at: <http://cain.ulst.ac.uk/issues/sport/docs/mazeplan/ofmdfm300506.pdf> (accessed 13 November 2016).

xvii Commencing in 2001 a prominent journalist, Ed Moloney, and two researchers interviewed approximately 40 former members of republican and loyalist paramilitary organisations on behalf of Boston College, with the proviso that their interviews would not be made public until after their death. Public attention was drawn to the archive following the publication of two of the interviews (with recently deceased interviewees) in a book and documentary, and by media coverage of an exchange with one of the interviewees which suggested that the tapes contained information about some of the most notorious crimes of the Troubles. The British government (on behalf of the Police Service of Northern Ireland) subsequently contacted the US Department of Justice requesting (under the terms of the UK-US Mutual Legal Assistance Treaty) to subpoena ‘any and all interviews’ containing information about the murder of Jean McConville. In December 2011 Judge William Young ruled against both Boston College and the project researchers and ordered that the relevant material be handed over, a decision that was upheld by a three judge US Federal Appeal Court in July 2012. A number of high-profile political activists were subsequently arrested including senior loyalists, veteran Republican Ivor Bell and the President of Sinn Féin, Gerry Adams who was subsequently released without charge.

xxiv This was underlined in the mid-70s when PRONI sought to broaden the scope of its private records to include oral history and other records relating to the Troubles. These were withheld from public access and stored in what was colloquially referred to as ‘the fridge’. However, once the existence of the material came to the Royal Ulster Constabulary’s attention, it was duly handed over with unfortunate repercussions for both the contributors and civil servants involved.


xxi For an overview of the wide variety of post-conflict storytelling initiatives that have developed in Northern Ireland, see: Kelly, G. (2005) ‘Storytelling’ Audit: An Audit of Personal Story, Narrative and Testimony Initiatives Related to the Conflict in and About Northern Ireland, Belfast: Healing Through Remembering.

xxii Baxter argues that there appears to be little debate on how to give concrete meaning to complex conceptual challenges such as justice, truth and reconciliation and that, as such, the development of research tools is often needlessly replicated.
Ulster University's *Accounts of the Conflict* project made a valiant effort to bridge this gap by developing an online digital archive of personal accounts of the conflict but further substantial funding is necessary to develop the full potential of this initiative. See: Ulster University (2014) *Accounts of the Conflict: A digital archive of the personal accounts of the conflict in and about Northern Ireland*, online: Ulster University. Available at: <http://accounts.ulster.ac.uk/repo24/items/browse> (accessed 19 June 2016).

The Digital Public Library of America provides a particularly instructive example. In 2010 forty leaders from libraries, foundations, academia, and technology projects across America came together and agreed to work together to create ‘an open, distributed network of comprehensive online resources that would draw on the nation’s living heritage from libraries, universities, archives, and museums in order to educate, inform, and empower everyone in current and future generations.’ After much deliberation it settled on a governance model based on partnership agreements with existing stakeholders and an Executive Director who works under the guidance of a Board of Directors comprised of leading public and research librarians, technologists, intellectual property scholars and business experts from across the USA. See: Digital Public Library of America (2010) *History*, online: DPLA. Available at: <www.dp.la/info/about/history> (accessed 14 June 2016).

I was, for example, recently contacted by an elderly man who turned down my invitation to contribute to an oral archive in 2005 but who has decided, more than a decade on, that he is now ready to put his story on record.


Future accounts of the past will, of course, be swayed by the source material that we capture and preserve. A telling example in the Irish context is provided by the Witness Statements concerning the 1913–1921 revolutionary period, which were collected on behalf of the Irish state between 1947 and 1957. Together with the Military Service Pensions collection these accounts (now available online) have profoundly influenced the historiography of this critical period in Irish history. See: for example, Coleman, M. (2013) *The Irish Revolution, 1916–1923*, Harlow: Pearson; Townshend, C. (2013) *The Republic: The Fight for Irish Independence, 1918–1923*, London: Allen Lane; and Ferriter, D. (2015) *A Nation and Not a Rabble: The Irish Revolution, 1913-23*, London: Profile Books. It is, of course, fitting that such a valuable archive should be widely consulted and used but there are inevitable gaps. A mere 149 statements were taken from women and the collection is by its nature dominated by militaristic (and sometimes self-serving) accounts of the period.

In this regard, the Oral History Archive, could inform and complement the work of the proposed Implementation and Reconciliation Group (IRG). This body is intended to ‘oversee themes, archives and information recovery’ and to thus promote the work of reconciliation. The Stormont House Agreement, Northern Ireland Office, 23 December 2014, paras 51-55.