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## The 'hierarchy of victims' in Northern Ireland: A framework for critical analysis

### INTRODUCTION

The imperative to acknowledge and vindicate those most affected by conflict is central to transitional justice (TJ) scholarship and praxis.<sup>1</sup> Determining who qualifies as a victim and how to address their needs, however, often constitutes a new site of contention for embattled regions. In societies transitioning out of conflict, disparate beliefs about victimhood and violence are virtually inescapable: 'It is probably universal that in every serious, harsh and violent intergroup conflict, at least one side – and often both sides – believe that they are the victim in that conflict.'<sup>2</sup> This contention reflects competing narratives about who suffered most, who bears responsibility for conflict and how a victim-centred TJ process should address the harms experienced across society. The case of Northern Ireland proves particularly illustrative of this paradox, where time and again debates and controversies relating to victimhood undercut attempts to address the legacy of conflict. Disagreement about who qualifies as a victim, and the policy implications stemming from that qualification, is often embodied in a so-called 'hierarchy of

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<sup>1</sup> Nigel Biggar, 'Making peace or doing justice: Must we choose?' *Burying the Past: Making Peace and Doing Justice after Civil Conflict* ed. N. Biggar (Washington, DC: Georgetown UP, 2003); Priscilla Hayner, *Unspeakable Truths: Transitional Justice and the Challenge of Truth Commissions* (New York: Routledge, 2011); Luc Huyse, 'Victims,' *Reconciliation after Violent Conflict: A Handbook* ed. D Bloomfield, T Barnes and L Huyse (Stockholm: Institute for Democracy and Electoral Assistance, 2003); Ruggie Teitel, *Transitional Justice* (New York: Oxford UP, 2000).

<sup>2</sup> Daniel Bar-Tal et al., 'A sense of self-perceived collective victimhood in intractable conflict,' *International Review of the Red Cross* 874 (2009): 229-58.

victims' which is seen to privilege certain victims' needs and experiences over others.<sup>3</sup>

The notion of a hierarchy of victims reflects issues at the core of long-standing debates within victimology about the social construction of victims, as well as more recent TJ scholarship which grapples with the complex nature of victimhood in conflict.<sup>4</sup> Rather than an objective label or experience, victimology scholars approach the category of victim as 'optional, discretionary, and by no means innately given.'<sup>5</sup> Without calling into question the very real harm and suffering many face, these arguments emphasise that the subsequent victim status one receives is as much reliant on subjective assumptions about the contexts and correlates of harm as it is on the experience of harm itself. In settings of conflict in particular, this means that beliefs about victims are shaped by local socio-political factors, legal definitions, cultural influences and personal perceptions.<sup>6</sup> Nil Christie's concept of the 'ideal victim' is instructive here, and imagines the type of 'person or category of individuals who ... are most readily given the complete and legitimate status of being a victim.'<sup>7</sup> Christie, and scholars who have expanded upon this idea, identifies a set of traits and circumstances popularly

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<sup>3</sup> John D. Brewer and Bernadette Hayes, 'Victimhood and attitudes towards dealing with the legacy of a violent past: Northern Ireland as a case study,' *The British Journal of Politics and International Relations* 17 (2015): 512-530; Sarah Jankowitz, 'Sociopolitical implications of exclusive, intergroup perceptions of victims in societies emerging from conflict,' *Peacebuilding* 5(3) (2017): 289-304.

<sup>4</sup> For a comprehensive review of this scholarship, see Kieran McEvoy & Kirsten McConnachie, 'Victimology in transitional justice: Victimhood, innocence and hierarchy,' *European Journal of Criminology* 9(5) (2012): 529.

<sup>5</sup> Richard Quinney, 'Who is the victim?' in *Criminology* 10(3) (1972): 314.

<sup>6</sup> Huyse, supra n 1.

<sup>7</sup> Nils Christie, 'The ideal victim,' in *From Crime Policy to Victim Policy*, ed. E.A. Fattah (Hampshire: Macmillan, 1986), 18.

associated with victims. The victim is constructed as the passive object of unjust harm, and someone who is innocent, moral, vulnerable.<sup>8</sup> On the basis of these assumptions, victims deserve sympathy, care and support to right the wrongs visited upon them, whether in the form of material resources, influence over policy or even outside help to 'vanquish the victimiser'.<sup>9</sup> This construction is pervasive to the extent that simply labelling an individual or group as 'victim' directs society to attribute to them the morality, innocence and deservingness of the ideal victim.

Framing victims as the passive object of harm says as much about the source of harm as it does about its impacts on the 'victim'. It simplifies the experience of harm to the point that one can draw a clear, binary distinction between the innocent, moral victim on the one hand and evil, guilty perpetrator on the other.<sup>10</sup> Although conventional wisdom often dictates it commonplace to define victims in these terms, scholars problematize the ideal victim image and highlight its potential to minimise or ignore complex experiences of harm, reify one-dimensional victim identities and instrumentalise victims in the service of broader moral and political claims.<sup>11</sup>

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<sup>8</sup> Erica Bouris, *Complex Political Victims* (Bloomfield, CT: Kumarian Press, Inc., 2007); Cheryl Lawther, 'The construction and politicisation of victimhood,' *Victims of Terrorism: A Comparative and Interdisciplinary Study* ed. O. Lynch and J. Argomaniz (London: Taylor & Francis, 2014).

<sup>9</sup> Marie Smyth, 'Remembering in Northern Ireland: Victims, perpetrators and hierarchies of pain and responsibility,' *Past Imperfect: Dealing with the Past in Northern Ireland and Societies in Transition* ed. B. Hamber (Derry/Londonderry: INCORE, 2004), 6.

<sup>10</sup> James Holstein & Gale Miller, 'Rethinking victimization: An interaction approach to victimology,' in *Symbolic Interaction* 13(1) (1990): 103-122.

<sup>11</sup> Anna Bryson, 'Victims, violence & voice: Transitional justice, oral history & dealing with the past' *Hastings International and Comparative Law Review* 39(2) (2016): 1-56; Jankowitz, supra n 3; Anne-Marie McAlinden, 'Deconstructing victim and offender identities in discourses on child sex

In their interactions with victims, criminal justice and TJ praxis are often implicated in further reinforcing the ideal victim image and perpetuating such claims.

Though TJ mechanisms such as truth commissions, reparations and special courts may offer victims with a sense of justice and healing, and the opportunity to generate a 'collective memory' of the past which can facilitate reconciliation,<sup>12</sup> they also represent a uniquely challenging arena in which to countenance the complexities of victimhood. McEvoy and McGregor, for example, argue the imposition of top-down or 'state-centric' institutions may fail to consider nuanced experiences of victims in the design and implementation of TJ processes.<sup>13</sup> An extension of this critique is that without adequate independence those designing institutions may seek to reinforce the legitimacy of particular victim experiences over others in order to demonstrate the righteousness of their position.<sup>14</sup> Furthermore, when access to truth recovery, trials, reparations and other victim-centred resources is framed as zero-sum, 'groups may commodify victim status to serve not only their needs for tangible resources but also the symbolic moral platform exemplified by the ideal victim construction'.<sup>15</sup> In recent research conducted in Northern Ireland, victims and survivors themselves report mixed support for

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abuse: Hierarchies, blame and the good/evil dialectic,' in *British Journal of Criminology* 54(2) (2014): 180-198.

<sup>12</sup> Brewer and Hayes, supra n 3.

<sup>13</sup> Kieran McEvoy and Lorna McGregor, *Transitional Justice from Below: Grassroots Activism and the Struggle for Change* (Oxford: Hart Publishing, 2008).

<sup>14</sup> Huyse, supra n 1 at 58.

<sup>15</sup> Jankowitz, supra n 3 at 298; see also Huyse, supra n 1 at 58.

truth recovery, trials and other focused support, which reflects, among other things, a wariness about the potential pitfalls inherent in such processes.<sup>16</sup>

This article provides a nuanced analysis of the lenses which construct and mobilise victimhood in Northern Ireland, in order to advance a more critical commentary on how TJ may engage with contested and complex victimhood. To contextualise this analysis, I begin with an overview of the Northern Ireland transition, and outline existing debates and critiques associated with the hierarchy of victims. Engaging directly with new empirical data, I then develop an original framework of four distinct hierarchies that reflect different concerns and implications for victims' engagement with TJ. This framework includes (1) moral hierarchies, (2) hierarchies of attention, (3) pragmatic hierarchies and (4) intergroup hierarchies, and importantly distinguishes between the functional use of each as either descriptive and/or normative in nature. I argue that the pragmatic hierarchy is the most useful and appropriate normative form of hierarchy, with others, especially intergroup hierarchies, tending to reinforce conflict divisions. I nevertheless caution against dismissing the descriptive use of any type of hierarchy, as they are an expression of neglect or marginalisation that – whether real or perceived – should be of concern to a society seeking to build peace. To conclude, I examine the implications of these findings within wider TJ scholarship and praxis.

Before proceeding, a brief note on the methodology that informed the gathering and analysis of the data underpinning this article is necessary. I employed a qualitative approach hinged primarily upon 26 semi-structured

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<sup>16</sup> Brewer and Hayes, *supra* n 3.

interviews between 2013 and 2014 with a purposeful sample of individuals who demonstrated diverse experiences of conflict-related harms.<sup>17</sup> Templer and Radford provide a useful typology of conflict victims that aided this process: (1) victims of non-state actions; (2) victims of state actions; and (3) those 'witnessing or otherwise incorporating and embedding violence in their psyche'.<sup>18</sup> The eventual sample included civil society stakeholders, members of victims organisations and campaigns, ex-combatants and former security forces personnel from across the ethno-political spectrum.<sup>19</sup>

Developing relationships with key gatekeepers in the community and victims sectors provided invaluable assistance in forging connections with individuals fit for interview, and creating the right environment for my contacts to 'snowball'.<sup>20</sup> Given the sensitivity of the research, I undertook to only pursue individuals versed in such interviews and who were reasonably comfortable discussing their experiences. On two occasions, on the advice of a trusted gatekeeper, I abandoned pursuit of individuals for whom, though they fit my ethical criteria, an interview might for other reasons perpetuate their sense of trauma. Further care was taken to avoid reproducing victim-perpetrator binaries and communal identities that run counter to the objectives of this research in forming this sample; nevertheless, efforts were made to achieve a relative balance of interviewees' genders and communal

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<sup>17</sup> Alan Bryman, *Social Research Methods* [Fourth edition] (Oxford: Oxford UP, 2012)

<sup>18</sup> Sara Templer and Katy Radford, *Hearing the Voices: Sharing Perspectives in the Victim/Survivor Sector* (Belfast: Community Relations Council, 2008), 32.

<sup>19</sup> Ethics approval for these interviews was obtained on 26 November 2012 from the Irish School of Ecumenics Ethics Committee at Trinity College Dublin.

<sup>20</sup> Bryman, *supra* n 17 at 424-425.

backgrounds. Though I achieved a relative balance with 13 interviewees from a CNR background, 11 from a PUL background and one 'other', the gender balance was less successful with only eight women and 17 men.

Finally, the systematic analysis of interview data built on an initial appraisal of policy documents, NGO reports, political statements, media stories and other scholarship which indicated that groups in Northern Ireland cite radically different hierarchies in their narratives of victimhood.<sup>21</sup> Wanting to complicate this discourse in the service of a more nuanced analysis of issues underpinning victim contention, I developed codes specifically to facilitate identification of hierarchies reflecting distinct, if overlapping, concerns relating to victimhood, victim policy and transitional justice. The codes that proved most salient provided an initial framework for the typology developed in this article, and are central to the empirical analysis in the sections which follow.

### **THE CASE OF NORTHERN IRELAND**

Northern Ireland bears a legacy of division and violence that stretches back centuries, and is rife with conflicting nationalisms and territorial contests between two main traditions steeped in 'cultures of victimhood'.<sup>22</sup> Today these groups are described broadly (though not exhaustively or perhaps adequately) as Protestant Unionist Loyalist (PUL) communities who seek to

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<sup>21</sup> Jankowitz, *supra* n 3 at 301-303.

<sup>22</sup> Marie Therese Fay, Mike Morrissey and Marie Smyth, *Mapping Troubles-Related Deaths in Northern Ireland 1969-1998* (Derry/Londonderry: INCORE, 1998); Mike Morrissey and Marie Smyth, *Northern Ireland after the Good Friday Agreement: Victims, Grievance and Blame* (London: Pluto Press, 2002).



uphold the union with Great Britain, and Catholic Nationalist Republican (CNR) communities who wish to establish a United Ireland. Though disagreement persists over its causes, the most recent period of violence took place roughly between 1969 and 1998. No official narrative of this time, often referred to colloquially as ‘the Troubles’, exists, and therefore the following history of the conflict and peace process is necessarily judicious.

For nearly three decades, sustained violence touched most corners of the small region whose population at the height of the conflict was approximately 1.5 million. Records place the death toll between 3,500 and 4,000, with exponentially more impacted physically and psychologically.<sup>23</sup> The key actors involved in the violence included republican and loyalist organisations (the Provisional Irish Republican Army (IRA), Irish National Liberation Army (INLA), Ulster Volunteer Force (UVF), Ulster Defence Association (UDA) among others) and state security forces (the Royal Ulster Constabulary (RUC), Ulster Defence Regiment (UDR) and the British army). Although empirical studies indicate certain groups and areas ‘suffered disproportionately’ and the above protagonists were implicated in violence to varying degrees,<sup>24</sup> perceptions of victimhood and responsibility remain overwhelmingly determined by local experiences. What this means in practice is that, regardless of statistical accounting, communities ‘tend to attribute blame and responsibility to the ‘other side’ ... some of those who died are

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<sup>23</sup> Fay et al., supra n 22.

<sup>24</sup> Catholic civilians in urban areas represented the greatest number of casualties, and republican paramilitaries are held responsible for the vast amount of deaths; Marie Therese Fay, Mike Morrissey and Marie Smyth, *The Cost of the Troubles Study: Report on the Northern Ireland Survey* (Derry/Londonderry: INCORE, 2001), 35.

seen as innocent victims while others got no more than they deserved.<sup>25</sup> These localised experiences lend weight to perceptions that one's own community suffered worse, and that actions of the 'other side' were particularly heinous and unjust.<sup>26</sup>

Ceasefires began to take hold in the mid-1990s, and negotiations eventually resulted in the signing of the Good Friday/Belfast Agreement (hereon the 1998 Agreement), which signalled political consensus to end violence and share power between CNR and PUL communities. In order to reach this consensus, however, the 1998 Agreement omitted controversial and divisive issues such as what caused the conflict and how specifically to address its legacy.<sup>27</sup> Bolstered by substantial efforts to assess the impact of the conflict on society, debates about who counts as a 'legitimate' victim escalated during this period. An official definition of victim was introduced by the British Government to aid in the delivery of services to those affected by violence.<sup>28</sup> The Victims and Survivors (Northern Ireland) 2006 Order (hereon the 2006 Order) defines a victim as 'Someone who has been physically or psychologically injured as a result of or in consequence of a conflict-related

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<sup>25</sup> Brewer and Hayes, supra n 3 at 521; Morrissey and Smyth, supra n 22 at xi.

<sup>26</sup> John D. Brewer et al., 'Victims as moral beacons of humanitarianism in post-conflict societies' *International Social Science Journal* 65(215-216) (2014): 37-47.

<sup>27</sup> Christine Bell, 'Dealing with the past in Northern Ireland' *Fordham International Law Journal* 26(4) (2003): 1095-1147.

<sup>28</sup> At the time services were delivered by the Memorial Fund, which was replaced by the Commission for Victims and Survivors, Victims and Survivors Service and Victims and Survivors Forum in 2012 as arms-length bodies of the government to develop and implement policies for victims.

incident' as well as carers and the bereaved.<sup>29</sup> This inclusive definition has faced repeated challenges, primarily from unionist politicians and politically aligned victims organisations who argue it 'effectively equates 'perpetrator' and 'victim'.<sup>30</sup>

Despite a succession of consultations, negotiations and even agreements, a comprehensive TJ process has yet to be implemented. Instead, these attempts have floundered in the face of conflicting narratives of victimhood and recurring political crises. The first and arguably most comprehensive effort in 2009, the *Report on the Consultative Group on the Past*, was rendered politically untenable after its recommendation to give a £12,000 recognition payment to the nearest relative of all who were killed was met with public outcry that it failed to distinguish between 'innocent' victims and members of paramilitary organisations.<sup>31</sup> In late 2013, the issue was revisited in talks co-chaired by US diplomat Richard Haass and Professor Meghan O'Sullivan, which failed to reach agreement as a result of alleged contention over the suggestion of investigation and analysis into thematic areas of violence.<sup>32</sup> The Historical Enquiries Team (HET), initially set up in 2005 as the police contribution to 'dealing with the past', was closed in 2014

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<sup>29</sup> The Victims and Survivors (Northern Ireland) Order 2006, *adopted* 14 November 2006, No. 2953 (N.I.17).

<sup>30</sup> Ulster Unionist Party, *Victims Charter* (Belfast, Ulster Unionist Party, 2011), 2.

<sup>31</sup> 'Opposition voiced to Eames-Bradley proposals,' *Belfast Newsletter*, 27 January 2009 (accessed 24 November 2017), <http://www.newsletter.co.uk/news/opposition-voiced-to-eames-bradley-proposals-1-1880877>.

<sup>32</sup> Brian Rowan, 'The Haass Talks – What frightened the Unionist horses?' *Eamonmallie.com*, 9 January 2014 (accessed 24 November 2017), <http://eamonmallie.com/2014/01/the-haass-talks-what-frightened-the-unionist-horses/>.

after facing sustained criticism for a lack of independence in investigating state violence.<sup>33</sup> Finally, in late 2014 the Stormont House Agreement (SHA) was signed. It contained a package of institutions which would undertake truth recovery, historical investigations, oral history and reconciliation respectively.<sup>34</sup> Unfortunately, implementation of the SHA faltered as a result of several issues, including national security disclosures and the collapse of the Northern Ireland Assembly in January 2017, which waylaid plans by the Secretary of State James Brokenshire to hold a public consultation on its design.

Subsequent debate about the SHA has centred around perceived imbalances in approaches to victims of state or non-state violence, once again bringing the notion of a 'hierarchy of victims' to the fore. When concerns that national security would prevent full disclosure from the British Government stalled progress on setting up the four main institutions, attempts were made to advance other aspects of the SHA including legacy inquests and a pension for those severely physically injured as a result of the conflict. Lord Chief Justice Sir Declan Morgan submitted a proposal in February 2016 to fund a five-year plan for dealing with the backlog of legacy inquests, but this was vetoed by then Democratic Unionist Party (DUP) First Minister Arlene Foster over her concern that the system bore 'an imbalance in relation to state killings as opposed to paramilitary killings.'<sup>35</sup> When pressed to take

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<sup>33</sup> 'PSNI agency post cuts spell end of Historical Enquiries Team' *BBC News*, 30 September 2014 (accessed 14 November 2017), <http://www.bbc.co.uk/news/uk-northern-ireland-29425544>.

<sup>34</sup> *Stormont House Agreement* (Belfast: Northern Ireland Office, 2014)

<sup>35</sup> Cate McCurry, 'DUP leader Arlene Foster: Why I blocked plans to speed up Troubles probes,' *Belfast Telegraph*, 4 May 2016, (accessed 15 June 2017),

action, the British Government said resources for legacy inquests would not be released until political consensus is reached on 'dealing with the past'.<sup>36</sup> Also left hanging in the balance is the campaign for a pension for the severely injured which began in 2011.<sup>37</sup> The pension received renewed support in the SHA, but political disagreement persists over the eligibility of approximately ten individuals who are responsible for violence, out of 300-400 who could claim the pension. While the issue has been locked in stalemate between unionist support for a pension that would exclude those ten, and nationalist support for inclusive legislation, four members of the campaign have passed away.<sup>38</sup> At the time of submission\*, the prospect of a public consultation has been further undermined a proposal that a statute of limitations should apply for members of the security forces involved in conflict-related deaths.

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<http://www.belfasttelegraph.co.uk/news/northern-ireland-assembly-election/dup-leader-arlene-foster-why-i-blocked-plans-to-speed-up-troubles-probes-34683461.html>.

<sup>36</sup> Vincent Kearney, 'Top judge Sir Declan Morgan criticises legacy process' *BBC News* 5 September 2017 (accessed 14 November 2017), <http://www.bbc.co.uk/news/uk-northern-ireland-41165119>; 'DUP leader Arlene Foster could face personal legal challenge' *Irish News*, 28 September 2017 (accessed 14 November 2017), <http://www.irishnews.com/news/2017/09/28/news/dup-leader-arlene-foster-could-face-personal-legal-challenge-1147638/>.

<sup>37</sup> The pension campaign is aimed specifically at providing financial support for those with a physical injury that prevented them from accruing a private pension, and who now face financial hardship in addition to worsening medical conditions as they grow older. For greater engagement with the detail of the proposed pension, see Luke Moffett, 'A pension for injured victims of the Troubles: Reparations or reifying victim hierarchy?' *Northern Ireland Legal Quarterly* 66(4) (2015): 297-319.

<sup>38</sup> Allan Preston, 'Four victims of the Troubles die waiting on pension since 2011' *Belfast Telegraph*, 22 November 2016 (accessed 14 November 2017), <https://www.belfasttelegraph.co.uk/news/northern-ireland/four-victims-of-the-troubles-die-waiting-on-pension-since-2011-35234335.html>; 'No Troubles pension for terrorists plea' *Newsletter*, 10 June 2015 (accessed 14 November 2017) <http://www.newsletter.co.uk/news/no-troubles-pension-for-terrorists-plea-1-6789285>.

## A 'HIERARCHY OF VICTIMS': DEBATES AND CRITIQUES

The terminology of 'hierarchy' is utilised across a wide range of disciplines to describe the ordering and prioritising of ideas, values and individuals. Maslow, for instance, proposed his well-known hierarchy to theorise why people are psychologically motivated to achieve certain needs,<sup>39</sup> and the behavioural sciences conceive of consumption (alternatively dominance or allocation) hierarchies that perform a necessary function for individuals and groups competing over scarce resources.<sup>40</sup> In the context of victimhood, hierarchy is connected to the construction of victims as deserving of resources such as sympathy, support and outside intervention to redress their suffering.<sup>41</sup> Erica Bouris describes a hierarchy of innocence, 'with children at the top and all others recognised in varying degrees based on their conformity to the image of innocent victim.'<sup>42</sup> In this framing, those who may have suffered harm but are seen as less innocent, vulnerable, moral, or perhaps even as deserving their treatment, find themselves 'lower' on this hierarchy.

The dominant analysis of hierarchy in Northern Ireland is not dissimilar to Bouris' description, where most scholarship suggests the key distinction driving a hierarchy of victims falls between 'innocent' victims and those

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<sup>39</sup> Abraham H. Maslow, *The Farther Reaches of Human Nature* (Oxford: Viking, 1971).

<sup>40</sup> Paul H. Rubin, 'Hierarchy,' *Human Nature* 11(3) (2000): 259-279.

<sup>41</sup> Smyth, supra n 9 at 6; Colin Knox, 'The deserving victims of political violence: Punishment attacks in Northern Ireland,' *Criminal Justice* 1(2) (2001): 181-199.

<sup>42</sup> Bouris, supra n 8 at 38.

perceived as less innocent or more 'guilty'.<sup>43</sup> This notion is often traced to *We Will Remember Them*, a 1998 report by then Victims Commissioner Sir Kenneth Bloomfield, which pondered whether those involved in violence could also be considered victims, and dedicated only two paragraphs to victims of state violence while emphasising the sacrifice of those who served in security forces.<sup>44</sup> By evoking moral distinctions between innocent victims and guilty perpetrators, Bloomfield demonstrated how claims to victim status function as 'an easy shorthand for *blaming* those deemed responsible for past horrors as well as absolving those deemed *blameless*'.<sup>45</sup> Competing claims to victimhood are therefore assessed as mapping onto partisan attitudes about morality and legitimacy of past violence.

Scholars primarily analyse hierarchies as reproducing particular narratives of the conflict, where innocence is 'used to describe victims from "our" community rather than "theirs"'.<sup>46</sup> In this reading, a Unionist hierarchy often emerges in which the language of 'innocent victims' refers explicitly to security forces and primarily PUL civilians. Members of paramilitary organisations, and particularly republicans, fall at the bottom of this hierarchy.<sup>47</sup> Unionist parties and politically aligned victims organisations, however, argue that CNR communities and the Irish Government wish to

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<sup>43</sup> Healing Through Remembering, *Making Peace with the Past: Options for Truth Recovery regarding the Conflict in and about Northern Ireland* (Belfast, HTR, 2006), 3.

<sup>44</sup> Sir Kenneth Bloomfield, *We Will Remember Them* (Belfast: Northern Ireland Victims Commission, 1998), 16; Bell, *supra* n 27 at 1102.

<sup>45</sup> McEvoy and McConnachie, *supra* n 4 at 533.

<sup>46</sup> Cheryl Lawther, 'The construction and politicisation of victimhood,' *Victims of Terrorism: A Comparative and Interdisciplinary Study* ed. O. Lynch and J. Argomaniz (London: Taylor & Francis, 2014): 21; McEvoy and McConnachie, *supra* n 4 at 533.

<sup>47</sup> Lawther, *supra* n 46 at 19-20.

impose a hierarchy that prioritises victims of state violence.<sup>48</sup> My analysis bears out an intergroup component to hierarchies in part, though I argue it goes deeper than the broad narratives of CNR and PUL communities, and that a range of nuanced beliefs about victims and violence construct multiple, overlapping hierarchies.

While highlighting the pitfalls of competitive claims to victimhood, Marie Smyth argues there are nevertheless empirical, moral, political and practical grounds for distinguishing between experiences of harm, citing evidence that 'loss and hurt have not been evenly distributed'.<sup>49</sup> This implies that hierarchies of pain and suffering exist independently of their discursive salience, and society should therefore channel resources to those with the greatest need.<sup>50</sup> Templer and Radford also found that hierarchies were always a feature of the conflict, and that the enactment of policies for victims and survivors in the 1990s merely exposed their existence.<sup>51</sup> The argument for a needs-based approach that flows from these contributions is fundamental to what I identify presently as 'pragmatic hierarchies'. However, as my analysis illuminates in the following section, it is rather more complicated to disentangle 'objective' need from a host of other moral and intergroup claims in the complex, intractable climate of Northern Ireland.

## TYOLOGY OF HIERARCHIES

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<sup>48</sup> Jankowitz, *supra* n 3.

<sup>49</sup> Smyth, *supra* n 9 at 8.

<sup>50</sup> *Ibid.* at 9.

<sup>51</sup> Templer and Radford, *supra* n 18.



Analysis of interview data indicates that hierarchies convey a range of judgements about victimhood, and most represent discrete yet interrelated concerns about the most 'deserving' victims. Some reflect beliefs about innocence and blame, whereas others represent levels of more or less demonstrable need and how TJ processes should identify and address the needs of victims in light of these beliefs. This section identifies four distinct types of hierarchies that individuals and groups in Northern Ireland use to communicate these concerns: moral hierarchies, hierarchies of attention, pragmatic hierarchies and intergroup hierarchies. While not intended to be exhaustive, this framework reflects the explicit and implicit hierarchies which emerged during narrative analysis of interview data. My analysis uncovered a further distinction relating to the functional use of hierarchies that warrants inclusion to shed light the motivations behind their use. Some hierarchies serve primarily as *descriptive* of dynamics between victims, reflecting beliefs that certain victim experiences are treated as more profound or deserving than others. *Normative* hierarchies, on the other hand, communicate beliefs about how victim experiences should be prioritised or distinguished against one another.

Significantly, data indicated a sentiment amongst interviewees that the most appropriate hierarchy to use normatively, whether in guiding TJ policy or allocating resources for victims and survivors, is the pragmatic hierarchy. I argue, however, that the descriptive use of any hierarchy should not necessarily be dismissed outright, as real or perceived patterns of neglect or marginalisation present obstacles to the broader work of peacebuilding.

### Moral hierarchies

Moral hierarchies function primarily as normative, and correspond closely with the constructions of innocence and blame present in the literature discussed earlier. Rather than categorising these as 'hierarchies of innocence', the label of 'moral' hierarchies more accurately reflects the subjectivity in assumptions about whether a victim is accepted as innocent in a given moral framework. Characterising this type of hierarchy in such a way also builds off of what John Brewer and colleagues have referred to as 'competing moral frameworks' in conflict, in which the moral status of victim is claimed in an attempt to justify past actions.<sup>52</sup> This hierarchy prioritises the innocent victim over the perpetrator who chose to inflict violence on others, and considers responsibility for *unjust* violence enough to negate or minimise claims to victim status. In addition to the subjective assessments of what counts as 'moral' actions in conflict, a further limitation of this hierarchy is that the victim-perpetrator binary on which it relies often fails to account for the spectrum of lived experiences in conflict.

At least initially, many interviewees identified the moral distinction between victim and perpetrator as straightforward and objective:

Do I know the difference between a victim and a perpetrator? Certainly I do. [...] If someone's out doing their work or someone's out doing their shopping and someone plants a bomb and blows them up, kills people, obviously they're terrorists and perpetrators.<sup>53</sup>

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<sup>52</sup> Brewer et al., supra n 26 at 40.

<sup>53</sup> Personal interview, No. 2, Belfast, Northern Ireland, 11 September 2014.

This clear dichotomy between those who chose to participate in violence and innocent bystanders represents the fundamental, normative component of moral hierarchies. Many interviewees emphasised this notion of ‘choice’ to illustrate the deservingness of innocent victims, arguing that perpetrators *chose* the path of violence whereas victims had no choice in their suffering.

When pressed to elaborate, or consider individuals who have been both affected by and involved in violence, some interviewees second-guessed their initial responses and acknowledged diverse experiences of harm. One man who was bereaved as a result of an IRA bomb, in which a man planting the bomb was also killed, felt that responsibility for violence does not negate one’s suffering, but maintained that those responsible for violence are not victims ‘in the same way’ as those who were innocent.<sup>54</sup> A loyalist ex-prisoner offered a slightly different argument that moral judgements on how people respond to violence overlook the complexity of human experience:

I would have friends whose fathers were killed who joined the paramilitaries, and this notion that in one moment you’re a victim and in another moment you’re not depending on how you responded to it. [...] So the moral high ground is something for those who ... didn’t respond, they’re morally superior to someone who lost a father and did respond. I would reject that.<sup>55</sup>

While also agreeing that victim-perpetrator distinctions are sometimes appropriate, he felt that people have multiple identities, and that their character or deservingness should not be determined by a singular event.

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<sup>54</sup> Personal interview, No. 13, Belfast, Northern Ireland, 14 July 2014.

<sup>55</sup> Personal interview, No. 12, Belfast, Northern Ireland, 30 July 2014.

This notion of choice also evidenced complex perceptions of what or *whose* violence is legitimate in beliefs about morality. When asked whether victims who turn to violence lose their victim status, a man whose father and uncle (both of whom served in the security forces) were both killed by the IRA responded that, 'they're going to leave themselves in a sense where they have chosen to follow that line.'<sup>56</sup> The contrast he makes between his relatives' victimhood and those who turned to paramilitary organisations highlights how variable beliefs about what violence is moral or justified extend to moral assessments of victimhood. A former republican prisoner articulated this contradiction in how abuses by security forces are interpreted very differently than paramilitary violence:

...someone who was an RUC interrogator in Castlereagh or a member of the Special Branch, who ran agents who were involved in whatever drug dealing, killer squads, whatever, that these people whenever they're killed they're good guys. But whenever some young lad – 17, 18 – is involved in the IRA, well he was a bad guy. He was evil.<sup>57</sup>

In analysing beliefs about the morality attributed to victims from one's own group and the moral judgements which deny the victimhood of others, the intersection of moral and intergroup hierarchies becomes apparent. The hierarchy associated with the unionist narrative of violence, identified in existing literature, would fall within this overlap.

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<sup>56</sup> Personal interview, No. 11, Craigavon, Northern Ireland, 16 May 2014.

<sup>57</sup> Personal interview, No. 25, Belfast, Northern Ireland, 10 September 2014. 'Castlereagh' refers to an RUC station in East Belfast, and Special Branch was a section of the RUC that worked closely with British Intelligence during the conflict.

Perhaps the most problematic extension of this hierarchy is that attaching moral status to certain victims creates a narrative in which violence can be justified against 'legitimate targets'. In many instances, interviewees spoke of how, by framing certain actors as guilty (either on the basis of their actions or ethno-political identity), violence against them could be considered legitimate and moral. In describing a conversation he had while facilitating a cross-community workshop, one interviewee articulated a paradox at the core of beliefs about legitimate violence:

A young man's uncle ... was killed in an army barracks delivering bread ... It was a service and the IRA guy [in the workshop] said that they would not have classed him as an innocent civilian but as someone that was supporting the military regime. And anyone that would have supported the British military presence was seen as a legitimate target. And you can understand that in terms of conflict dynamics, but I asked the republican guy did he live at home when he was involved in the conflict? He said he did. And did his mother provide food for him? Did she know he was involved? Yes. So his mother then would have been a legitimate target. [...] But if his mother had been shot she'd have been classified as an innocent, so this is where it becomes messy.<sup>58</sup>

His story underlines the subjective and contradictory processes involved in making moral judgements about individual actors' roles in conflict, and highlights the potential for moral hierarchies to perpetuate intergroup divisions in TJ processes which do not carefully consider how they deploy categories of 'victim' and 'perpetrator'.

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<sup>58</sup> Personal interview, No. 12, supra n 55.

### **Hierarchies of attention**

Hierarchies of attention refer to the real or perceived focus on certain victims over others, often in the form of media or political attention, capacity or willingness to investigate and financial provisions. This hierarchy is used descriptively to highlight the belief that certain victims receive disproportionate attention in relation to others, whether in the course of daily life or specifically in terms of official or unofficial TJ processes. The normative expression of this hierarchy, however, conveys attitudes about who should or should not be receiving such attention. The themes characterising this hierarchy tap into a well-articulated imperative to acknowledge victims as a means of restoring the dignity denied to them during conflict,<sup>59</sup> and demonstrates how a real or perceived lack of recognition may compound an individual or community's sense of victimisation.

The clearest illustrations of this hierarchy emerged in comparisons between multi-casualty events or high-profile deaths that dominate news reports and investigative resources, and events where private individuals are killed in fewer numbers. One interviewee evidenced this in the public response to the IRA's Shankill Road bomb and subsequent loyalist retaliation at Greysteel pub which in total left eighteen dead:

The Shankill bomb and Greysteel are probably the two events that most people would remember about that week in October 1993, and yet there were other people killed that week. There was the two up in

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<sup>59</sup> David Crocker, 'Reckoning with past wrongs: A normative framework,' *Dilemmas of Reconciliation: Cases and Concepts*, ed. C.L. Prager and T. Govier (Ontario: Wilfrid Laurier UP, 2003)

Armagh, there were the two council workers killed in Kennedy Way, and there were others as well, but nobody remembers them, other than the families.<sup>60</sup>

In describing how only the families remember these deaths, he evokes a stark image of isolation in contrast to the public remembrance and commemoration of other deaths. A man who lost two relatives in single-casualty attacks described his sense of inequality, and that ‘the pain and the hurt and the loss is just as real for those people as it is for the larger massacres that took place’.<sup>61</sup> Reflecting on this neglect in the context of perpetual violence, one woman paraphrased journalist Brian Rowan that ‘some people were dead for a day, some people were only dead for hours because something else happened and we forgot about them’.<sup>62</sup>

The scale of violence, however, is not the only factor in the distribution of public attention and subsequent support, and the contrast between two similar events, Bloody Sunday and Ballymurphy, further illustrates how disparities in attention can impact victims’ sense of acknowledgement. In both events, which took place six months apart, the British Army’s parachute regiment killed a number of Catholic civilians who they subsequently labelled gunmen and gunwomen. The Ballymurphy massacre occurred over three days in August 1971, whereas Bloody Sunday took place in approximately 20 minutes on 30 January 1972. A member of the Ballymurphy campaign compared the coverage afforded to Bloody Sunday with their own, arguing that media interest in Bloody Sunday represented a critical departure in how

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<sup>60</sup> Personal interview, No. 13, supra n 54.

<sup>61</sup> Personal interview, No. 11, supra n 56.

<sup>62</sup> Personal interview, No. 23, Belfast, Northern Ireland, 26 November 2014.

the two cases have been handled: 'there was no cameras here, so they got away with murder, but in Bloody Sunday they didn't because the cameras of the world was on them'.<sup>63</sup> Bloody Sunday became a decisive moment in the conflict, and was the subject of two public inquiries into whether the army's actions were justified. The most recent of the two, the Saville Inquiry, cost nearly £200 million and catalysed an unequivocal public apology for what then Prime Minister David Cameron called 'unjustified and unjustifiable' killings.<sup>64</sup> The Ballymurphy campaign, on the other hand, remained relatively unknown amongst the wider public for years and relied primarily on family members gathering information themselves and putting pressure on state agencies for an investigation. The awareness, interest and resources afforded the Bloody Sunday campaign – 'the cameras of the world' – illustrates not only differential attention afforded two similar events, but also the impact of that disparity for the provision of 'truth', 'justice' and acknowledgement.

As in the case of Bloody Sunday, allocation of investigative resources often flows from a preponderance of public attention on particular cases. Following his investigation into British security forces collusion, Canadian Judge Peter Cory recommended several public inquiries which included only a few, very specific cases indicative of wider patterns of violence.<sup>65</sup> One interviewee believed that this unfairly left most families with little hope of resolution:

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<sup>63</sup> Personal interview, No. 9, Belfast, Northern Ireland, 28 August 2013.

<sup>64</sup> Douglas Murray, *Bloody Sunday: Truths, Lies and the Saville Inquiry* (London: Biteback Publishing, 2011).

<sup>65</sup> Bell, *supra* n 27; see e.g., Peter Cory, *Cory Collusion Inquiry Report: Rosemary Nelson* (London: HMSO/The Stationary Office, 2004).



You have the likes of the inquiries that were set up there into Robert Hamill, Billy Wright and Pat Finucane ... and you have Rosemary Nelson, and I would say they are at the top of the hierarchy of victims. [...] And yet when you consider little Sean or little Fionnuala that was maybe killed in 1972 as an individual victim, or your Billy or Jane who were murdered maybe in 1983 ... they are really just left to how well the Historical Enquiries Team can get on... So you have on one hand maybe an individual having many millions of pounds spent on trying to achieve the truth of their situation, and other folk are maybe just a file sitting on somebody's table that folk might get round to have a look at.<sup>66</sup>

The same sentiments have been expressed in debate over the planned legacy inquest system included in the SHA, where families whose cases have not been selected for inquests feel they have been short changed.

Financial restrictions on investigation and material support appears to exacerbate hierarchies of attention, confronting the uncomfortable reality that there are limits to how much 'truth' or 'justice' can actually be achieved in historical cases. This is not unique to Northern Ireland, as in many societies emerging from violent conflict the scarcity of resources perpetuates competition over available resources.<sup>67</sup> The cost of the Saville Inquiry has indeed become a reference point in debates about the financial burden of public inquiries,<sup>68</sup> though interviewees also raised the concern about

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<sup>66</sup> Personal interview, No. 14, Coleraine, Northern Ireland, 26 March 2014.

<sup>67</sup> Huyse, supra n 1.

<sup>68</sup> Cheryl Lawther, *Truth, Denial and Transition: Northern Ireland and the Contested Past* (Abingdon: Routledge, 2014); Bill Rolston and Phil Scraton,

perceived inequity in the allocation of funding for victims' groups and individual compensation.

Intergroup divisions also play a role in hierarchies of attention to the extent that victims from 'opposing' groups believe the other side has disproportionate public attention and therefore access to justice, compensation and dedicated support. At the intersection of hierarchies of attention and intergroup hierarchies, striking contradictions emerged in how interviewees from PUL and CNR backgrounds perceived the distribution of investigative and public attention. One interviewee who works for a victims organisation aligned with the security forces community argued that fewer resources are spent on investigating police and UDR deaths than on those seen to be aligned with republicanism:

...we had a widow went to the police who had been given the name of the man who had killed her husband, and she couldn't get a policeman to investigate. Shortly after that we had a lawyer killed in our local town. There was 82 detectives put onto that case immediately... that's the hierarchy of victims.<sup>69</sup>

A woman from the Ballymurphy campaign, however, felt that state victims have been neglected, and that it was victims of paramilitaries who benefited from more rigorous investigation:

You have people back in 1971, right up to the peace process, you had people murdered. Wholly sympathise with them, their hearts were

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'In the full glare of English politics: Ireland, inquiries and the British State,' *British Journal of Criminology* 45 (2005): 547-564.

<sup>69</sup> Personal interview, No. 17, Belfast, Northern Ireland, 30 October 2014. I understood the number '82' to be a hyperbole.

broke. No matter what side, what creed. But the majority of the murders were dealt with at the time. [...] People done time for the murders of their loved ones. [...] No disrespect to anybody – and as I say, death is death and everybody's heartache is heartache – but you were murdered by the IRA and they were caught, they were brought to justice.<sup>70</sup>

This perception of intergroup bias was also expressed in terms of media attention and compensation, and was often informed by a combination of their local experience and media narratives.

The contradicting perceptions about which groups' victims receive more resources or who are the 'forgotten victims' seem indicative of deeper neglect felt by victims and survivors across Northern Ireland. Due to the public nature of victimhood, public acknowledgement of one's suffering may be significant and potentially therapeutic. Conversely, feelings of neglect or having one's suffering denied may be experienced as further victimisation.<sup>71</sup> Regardless of whether perceptions at the root of this descriptive hierarchy are accurate, it reflects frustrations felt across diverse communities that may prove detrimental for how successfully societies can build an inclusive, shared peace in the wake of conflict.

### **Pragmatic hierarchies**

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<sup>70</sup> Personal interview, No. 19, Belfast, Northern Ireland, 28 August 2013.

<sup>71</sup> John Brewer, 'Memory, truth and victimhood in post-trauma societies,' *The SAGE Handbook of Nations and Nationalism* ed. G. Delanty and K. Kumar (London: Sage Publications, 2006).

Pragmatic hierarchies attempt to objectivise the severity of one's victimisation, particularly regarding the impact of conflict on individuals' physical and psychological wellbeing. Because they reflect an imperative to prioritise services, compensation, influence and so on for those who demonstrate the greatest need, pragmatic hierarchies are primarily used normatively. This needs-based ordering of victims resonated most favourably amongst interviewees, many of whom argued that the pragmatic hierarchy is the most, if not only, appropriate way to operationalise a victims hierarchy in TJ policy and practice. Though pragmatic hierarchies may seem the most straightforward conceptually, they are nevertheless restricted by what needs society is more or less realistically able to address.

The definition of victim set out in the 2006 Order, which informs the design and delivery of services through statutory victims agencies, reflects values at the core of the pragmatic hierarchy. A staff member at the Victims and Survivors Service (VSS)<sup>72</sup> emphasised in interview that, while the agency is not immune to criticism about which individuals and groups may access services, their remit is simply to give support to those who need it: 'We are funded to deliver service to victims and survivors as defined under the 2006 Order. [...] You either qualify as a victim or survivor under the Order or you don't.'<sup>73</sup>

Instead of judging an individual's victim status based on their involvement with or abstention from violence like the moral hierarchy, many felt strongly that victims policies should only take into account the severity of

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<sup>72</sup> The VSS is an arms-length body of the Northern Ireland government which facilitates the delivery of services to victims and survivors.

<sup>73</sup> Personal interview, No. 21, Belfast, Northern Ireland 18 September 2014.

one's need for support and recognition in the present. Several interviewees reflected such judgements in how they self-identified, forgoing their own claims to victim status because they felt others 'had it worse':

I do not have any need that I feel that the state or any other agency within it is obliged to provide for. I know an awful lot of people who have real immediate needs, and they're not getting what they need. [...] I would class myself as one of the so-called half million who have been in some way victimised, but anything that ever happened to me pales in significance when compared to people who have been severely traumatised by having a family member killed or, having been personally injured.<sup>74</sup>

In a few cases, interviewees used their own experiences to demonstrate how minimal their injuries were in comparison to others. One man in particular was surprised to learn an ankle injury he sustained while serving in the RUC meant he qualified as a victim under the 2006 Order. He immediately raised a comparison with another man who was severely injured in a booby trap car bomb:

I fit that definition, but the idea that I would consume any sort of resource on an equal basis with that taxi driver whose life has been transformed negatively... Surely there needs to be some scale for what 'injured' means.<sup>75</sup>

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<sup>74</sup> Personal interview, No. 26, Belfast, Northern Ireland, 29 September 2014.

<sup>75</sup> Personal interview, No. 22, Belfast, Northern Ireland, 24 September 2014.

His discomfort that they both fall under the same category as victims despite the markedly different impact of their injuries clearly illustrates how a pragmatic hierarchy might prioritise victims.

Despite the conceptual clarity of such an assertion, in reality the pragmatic hierarchy contends not only with how best to address the objective impact of violence but whether it is possible to do so. One civil society stakeholder noted that limitations still exist when utilising a pragmatic hierarchy:

In terms of a hierarchy, do they have needs that are greater than other people? Is that hierarchy because they have needs that we can meet, whereas other people have needs that we can't meet? Maybe that's the important hierarchy.<sup>76</sup>

In other words, pragmatic hierarchies must account for the availability of resources and difficulty 'objectivising' certain types of need. Disparities exist, for example, between identifying and treating physical injuries and the often more complicated, while no less dire, need to address psychological trauma.<sup>77</sup> While the former RUC officer's comparison between breaking an ankle and losing a leg is compelling and clear, the human impacts of the conflict have been complex and diverse; there is no sliding scale of need and the unfortunate reality is that even the best policies and provisions will leave many victims with unmet needs.

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<sup>76</sup> Personal interview, No. 23, supra n 57.

<sup>77</sup> For an in depth assessment of the psychological consequences of the conflict, the specific implications for treatment and the prevalence of post traumatic stress disorder in Northern Ireland, see *Troubled consequences: A report on the mental health impact of the civil conflict in Northern Ireland* (Belfast: CVSNI, 2011).

Furthermore, the pragmatic objectives of this hierarchy are not immune to co-optation by intergroup hierarchies. Perhaps the best example of this is the on-going pension campaign, which has met with resistance at the intersection of pragmatic, intergroup and moral hierarchies. The political deadlock over whether individuals who were injured by their own hand deserve a pension evokes beliefs about innocence and responsibility central to moral hierarchies. The paramilitary backgrounds of the several individuals in question form the basis of dispute between nationalist and unionist politicians whose narratives of victimhood predictably diverge. Many interviewees argued that the two largest parties, Sinn Féin and the DUP, are appropriating the pension as a proxy to advance their opposing political agendas about the legitimacy of state versus non-state violence. Here, the attempt of the pension campaign to respond to the objective need of those most severely injured in the conflict illustrates how pragmatic hierarchies can be undermined by intergroup attitudes about the moral deservingness of a handful of victims.

### **Intergroup hierarchies**

Finally, the intergroup hierarchy demonstrates how group identifications influence attitudes and beliefs about victims, and specifically that groups tend to view their own members as most deserving of victim status. While most avoid advocating an explicitly ethnocentric call to prioritise victims of one's own group purely by virtue of them being members of that group, intergroup hierarchies manifest in subtler, symbolic ways. Groups may attempt obscure their intergroup attitudes by signalling concerns associated with other

hierarchy types, such as questions of 'guilt' and 'innocence' and assessments of whose suffering was greatest. Though the traditional group identifications of CNR and PUL communities were indeed most salient in my analysis, hierarchies informed by a range of other intergroup distinctions were also present. As the previous sections discuss in length that hierarchies informed by traditional intergroup divisions in Northern Ireland intersect with moral, pragmatic and attention hierarchies, this section expands upon some of the more complex manifestations of intergroup hierarchies uncovered in my data.

First, however, several insights from intergroup relations scholarship illuminate why and how victimhood becomes a salient claim at an intergroup level. Intergroup relations describes how people interact with one another not as individuals, but as in terms of their identifications with certain social groups.<sup>78</sup> In addition to providing individuals with a coherent social structure, intergroup distinctions carry cognitive and emotional significance for group members that are accentuated through comparison with relevant other groups.<sup>79</sup> The desire for a positive self-image motivates intergroup attitudes and behaviours, and is attained through emphasising the favourable distinctions of one's own group in contrast to others:

By differentiating ingroup from outgroup on dimensions on which the ingroup falls at the evaluatively positive pole, the ingroup acquires a

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<sup>78</sup> Michael A. Hogg & Dominic Abrams, *Social Identifications: A Social Psychology of Intergroup Relations and Group Processes* (London: Routledge, 1988).

<sup>79</sup> Blake Riek et al., 'A social-psychological approach to postconflict reconciliation,' *The Social Psychology of Intergroup Reconciliation* ed. A. Nadler, T.E. Malloy and J.D. Fisher (Oxford: Oxford UP, 2008).



positive distinctiveness and thus a relatively positive social identity in comparison to the outgroup.<sup>80</sup>

To achieve these positive distinctions, groups may employ cognitive strategies and subjective belief structures that 'are not necessarily accurate reflections of reality,' and which 'depersonalise' group members to the extent that they are seen in accordance with uniform group traits.<sup>81</sup> This effect is often pronounced during conflict, when intergroup perceptions are couched in wider socio-political antagonisms and group-serving explanations of violence legitimise actions against the 'other'. Groups therefore tend to claim the favourable victim status for their own members while downplaying the victimhood of their adversaries.<sup>82</sup>

One way intergroup hierarchies undermine out-group claims to victim status, then, is by painting the entire group by the actions of individual members. Several interviewees, from CNR communities in particular, described how insinuations that they bore collective responsibility for actions taken by other group members have been used to de-legitimise their claims to be victims. A man who was shot and paralysed in a loyalist attack on his home explained how victims organisations and unionist politicians purporting to represent the 'innocent victims' privilege victims of republican violence and exclude people like himself:

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<sup>80</sup> Hogg and Abrams, *supra* 78 at 23.

<sup>81</sup> Michael A. Hogg, 'Intragroup processes, group structure and social identity,' *Social Groups and Identities: Developing the Legacy of Henri Tajfel* ed. W.P. Robinson (Oxford: Butterworth-Heinemann, 1996), 67.

<sup>82</sup> For a comprehensive analysis of how intergroup relations and the social construction of victims intersect, see: Sarah Jankowitz 'Intergroup struggles over victimhood in violent conflict: The victim-perpetrator paradigm' *International Review of Victimology* (forthcoming), 1-14.

...they're always saying we're the only innocent victims and all that and well I'm one too. But, they would probably see me as not an innocent victim as, you know what I mean, 'ah well you must have been asking for it' type of thing, or 'you must have deserved it some way'.<sup>83</sup>

Implying that innocence is the sole domain of particular groups, and questioning the victimhood of members of other groups is a clear illustration of how insidiously intergroup hierarchies operate and once again evokes its intersection with moral hierarchies.

While the cleavage between the two dominant communities can be tempting to essentialise, several examples of the intergroup hierarchy serve as a reminder that these communities are not heterogeneous in terms of their experiences of or attitudes about victimhood. One interviewee from a PUL background told how prominent victims campaigners from within his own community have disavowed him over his attempts to challenge narratives of PUL victims the only 'real' victims:

I was trying to get people to – not just to remember what they did to us ... but also what we did to them. And the notion that the conflict had victims on all sides, and people got involved in the conflict that probably wouldn't have gotten involved had they had grown up elsewhere.<sup>84</sup>

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<sup>83</sup> Personal interview, No. 5, Belfast, Northern Ireland, 31 January 2014.

<sup>84</sup> Personal interview, No. 13, supra n 54.

Further complexity within groups can be teased out in narratives relating to the ‘myth of blamelessness’<sup>85</sup> associated with unionist and security forces communities. Perhaps an unlikely figure to challenge dominant narratives about the legitimacy of security force activities, the interviewee who works for a victims organisation representing security forces families asserted that, ‘There are people in this country that felt the police never did any wrong, to be honest. And people like ourselves have challenged that’.<sup>86</sup> A further nuance in the formation of intergroup hierarchies is the acknowledgement of victims from opposing groups who have been harmed at the hands of their fellow group members. One prominent example of this is the Unionist embrace of Catholic victims who were ‘disappeared’ by the IRA.<sup>87</sup> One possible explanation for the willingness to highlight these victims is that they share a common ‘perpetrator’, and that the story of the Disappeared supports a particularly convincing narrative about the depravity of republican violence.

Intergroup hierarchies are highly prevalent both during and after conflict, especially in contexts where violence has flowed between multiple groups. By appropriating the language of moral, attention-based or pragmatic hierarchies, intergroup hierarchies attempt to obscure or legitimise their ethnocentric prioritising of certain groups over others. In grappling with the pervasiveness of intergroup hierarchies in Northern Ireland, one interviewee implicated the lack of an official narrative of the conflict: ‘The big problem is

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<sup>85</sup> Lawther, supra n 68.

<sup>86</sup> Personal interview, No. 17, supra n 69.

<sup>87</sup> For an in-depth analysis of narratives which frame republican disappearances, see Lauren Dempster, ‘The Republican Movement, ‘Disappearing’ and framing the past in Northern Ireland’ *International Journal of Transitional Justice* 10 (2016): 250-271.

[there is] no outright winner, so we can't judge it as we won so we were the good guys and they were the bad guys'.<sup>88</sup> Because the 1998 Agreement made no determinations about which groups were responsible for violence, victimhood and individual victims themselves continue to be used as part of the battle over morality and blame, and as a means to reinforce the legitimacy of one 'side' over the other in TJ processes and wider discourse.

### **CONCLUSION**

The conflict and transition in Northern Ireland provides a poignant lens for examining the contention that surrounds victimhood and its impact on TJ processes. Subjective constructions of the 'victim' that reflect differing perceptions of harm, legitimacy and deservingness underpin the 'abundant controversy surrounding who gets to claim the victim identity, this tragic yet hallowed identity that deeply shapes the process of transitioning from conflict.'<sup>89</sup> By analysing new data in terms of how those in Northern Ireland organise their beliefs and attitudes within the symbolic 'hierarchy of victims', this article produces a more critical understanding of the complexity of victimhood in conflict, and why TJ must extend to accommodate diverse victim experiences and identities.

The clear indication from this analysis is that individuals and groups construct many different hierarchies which reflect their perceptions of victims' experiences and associated beliefs about their deservingness of support and victim status. Notions of morality, access to public attention and resources,

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<sup>88</sup> Personal interview, No. 15, supra n 83.

<sup>89</sup> Bouris, supra n 6 at 31.

'objective' need and intergroup biases all constitute distinct hierarchies that intersect in the outworking of TJ. Regardless of type, hierarchies function either descriptively to highlight the perception of imbalance between responses to certain victims and/or normatively to assert that certain victims should be prioritised over others. The utility of each hierarchy in isolation can be debated, but analysis indicates that in the complex context of Northern Ireland a needs-based, pragmatic hierarchy is likely the most appropriate and useful for directing victims' roles TJ policy and processes. In contrast, intergroup hierarchies appear most detrimental in terms of their potential to reproduce conflict divisions, and further instrumentalise victims to serve group narratives of legitimacy and righteousness. It bears emphasising, however, that the expression of descriptive hierarchies in any form indicates feelings that harm is not being acknowledged, and that sense of neglect should be taken seriously lest it create new patterns of marginalisation and division.

Further research is necessary to determine the degree to which this framework is generalizable to other regions recovering from violent legacies of conflict. Nevertheless, several key implications flow from this analysis which resonate with TJ scholarship and praxis further afield, and in particular add weight to the growing body of work on complex victims and victimhood. At the institutional level, the nuance in how hierarchies and victim contention manifest demonstrates the need for TJ mechanisms to reflect the complex experiences of those who have been affected by and/or involved in violence. Flattening their experiences into institutional frameworks only serves to reify binary and often inadequate categories of 'victim' and 'perpetrator', and perpetuate contention which may ultimately undermine those institutions. For

individuals who have been affected by violence, these categories risk marginalising or excluding those whose experiences do not serve the moral or intergroup narratives which characterise many hierarchies. Meanwhile, those whose experiences fall within mainstream narratives may still face re-traumatisation in having one's story commodified or politicised.

Beyond these specific individual and institutional implications, a clearer framework for understanding the attitudes which underpin victim contention is significant for the potential of TJ to contribute to necessary societal processes of peacebuilding. Hierarchies that provide a platform for groups to continue asserting their authority and legitimacy over erstwhile enemies after violence has ended may exacerbate divisions and tensions, and '[prevent] the development of relationships based on equal footing'.<sup>90</sup> For TJ processes to contribute more effectively to peacebuilding in Northern Ireland and beyond will require greater innovation in approaches to complex victimhood. Useful interventions in this vein include new legal frameworks to address the needs of complex victims<sup>91</sup> and the suggestion of oral history methodologies as creating a democratising space for victims and survivors.<sup>92</sup> As this article has demonstrated, the construction and expression of victimhood presents a range of confounding issues for societies emerging from violent conflict which have the potential to undermine central TJ objectives. It is therefore imperative that TJ scholarship continues to pursue richer understandings of these complex yet central questions of victimhood to

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<sup>90</sup> Jankowitz, supra n 3 at 291.

<sup>91</sup> Luke Moffett, 'Reparations for 'guilty victims': Navigating complex identities of victim-perpetrators in reparation,' *International Journal of Transitional Justice* 10(1) (2016), 146-167.

<sup>92</sup> Bryson, supra n 11.

better equip societies to address violent pasts and secure a more peaceful future.