

Submission to Consultation for Second Irish NAP on Women, Peace and Security, Dr Catherine O'Rourke, September 15, 2014

1. What strategic objectives should be priorities for the second National Action Plan?

This submission emphasizes the following two issues as strategic objectives for the Second NAP:

Reinforcing connections between women's human rights and the WPS resolutions;

Ensuring that Ireland leads by example in its implementation of the WPS resolutions, through supporting women's inclusion and the recognition of women's conflict-experiences in dealing with the past in Ireland-Northern Ireland. The All-Ireland structures established by the Good Friday Agreement and the Anglo-Irish Division should be effectively utilized to this end.

2. How can Ireland help empower women affected by conflict?

Current efforts to ensure that the WPS resolutions and the international human rights framework reinforce one another, in particular through the CEDAW Committee's recent adoption of General Recommendation Number 30, are the most promising global developments for the empowerment of women in conflict and postconflict settings. They provide a pathway for ensuring that women's rights are at the centre of all conflict prevention, resolution and post-conflict reconstruction work. These international efforts should be actively supported by the Irish government in its domestic policy, in its engagement with Northern Ireland, in its bilateral foreign policy and in its membership of multilateral organisations. (This is dealt with in greater detail in response to question 6.)

3. How can the second National Action Plan reflect the commitments in Ireland's Policy for International Development, *One World, One Future*, and other relevant government policies and strategies?

A comprehensive and integrated approach to gender equality, peace and security and development is usefully outlined by the CEDAW Committee in its recent General Recommendation Number 30 on the rights of women in conflict prevention, conflict and post-conflict.

4. How should the National Action Plan approach actions relating to Ireland-Northern Ireland?

There are several areas where proactive implementation of the Women, Peace and Security Resolutions could benefit gender equality and conflict resolution in Ireland-Northern Ireland. Given its politically sensitive nature, this submission will focus on

the potential role to be played by the NAP and the Irish government in usefully reframing the debate about how to deal with the past in Ireland-Northern Ireland.

The drafting of the Second Irish NAP offers a timely and important opportunity to re-frame the current debate about how to deal with the past in Ireland-Northern Ireland. As guarantors of the Good Friday Agreement and as champions of the WPS resolutions, the Irish government is uniquely placed to advance women's participation and the recognition of women's experiences of conflict in any official process to deal with the past. By advancing an understanding of gender as a structural factor of conflict and its resolution, the Irish government stands to usefully reframe the vexed and halting debate in Ireland-Northern Ireland about how to deal with the past in the following ways: fostering a broader understanding of the harms caused by the conflict; an awareness of structural inequalities that gave rise to certain patterns of harm; a focus on the importance of process; and the eschewal of an individualistic and legalistic approach to dealing with the past. Current approaches to dealing with the past in Ireland-Northern Ireland face four key challenges that could be ameliorated by more sustained engagement with the question of gender:

Firstly, there is substantial evidence of broad dysfunctionality in the current official approach to the past. To date, institutional efforts to deal with the past in Ireland-Northern Ireland have been politically fraught and highly costly (most notably, the Bloody Sunday / Saville Inquiry costing £190 million); they have proceeded with little coherency, through a patchwork of criminal and legal processes; and they have consistently failed to meet the expectations of victims and their families. Moreover, these ongoing criminal and legal processes, such as police investigations into historical killings, ongoing prosecutions, public inquiries and inquests, combined with victim dissatisfaction, have already proven destabilizing to the political process and carry significant potential to be further destabilizing. It is against the backdrop of an official process that is proving broadly unsatisfactory and destabilizing that the local conversation about how to deal with the past is in fact *moving ahead* of the official process. Increasingly, the local conversation rotates around questions of: corporate responsibility for violence; harms experienced at the community level; and the need for meaningful and inclusive non-legal processes to deal with the past.¹

Secondly, there is an absence of any official recognition of gender as a structural element of the conflict, or even as a relevant consideration, in crafting state responses to dealing with the past. In Ireland-Northern Ireland, the lack of official recognition of the intersection between official gender equality strategies and dealing with the past, not least *the failure to equality-proof official processes and institutions dealing with the past*, functions as convenient short-hand illustration for the official disconnect between dealing with the past and issues of gender equality. This must be redressed through any future NAP. Gendered absences can be identified as only one of the shortcomings and silences of the current process. International

¹ For example, Transitional Justice Institute 'What Next?' 2012 Conference,

<http://www.transitionaljustice.ulster.ac.uk/DWP.htm>; Community Foundation for Northern Ireland's 'Prisoners to Peace Conference',

http://www.communityfoundationni.org/download/files/Sustaining%20Peace%20Conference%20Report%20%20doc%20_4_.pdf; Bridge of Hope, Grassroots Transitional Justice Toolkit, <http://www.thebridgeofhope.org/media/transitional-justice-toolkit-book.pdf>.

experience tells us that the exclusion of women and women's experiences of conflict can be largely attributed to overly-narrow understanding of 'harms' that result from conflict, that focuses in particular on deaths, but not, for example, to the ongoing socioeconomic and relational harms experienced by those left behind. Further, decision-making around dealing with the past typically prioritizes the 'primary' conflict and primary conflict protagonists, to the exclusion of other agendas and actors. The absence of a gender dimension is typically also attributed to an excessively legalistic focus on individual deaths resulting from the conflict and individual perpetrators, which in turn generates a series of other shortcomings and absences in the official process (most notably in the Northern Irish context, the plight of the living injured and the ongoing socioeconomic consequences of the conflict experienced daily at the community level). Importantly, the grounds for broad dissatisfaction with the current process, and the increasingly visible civil society proposals for an alternative approach, overlap tellingly with feminist demands in this area, that call for: a broader understanding of the harms caused by the conflict; an awareness of structural inequalities that gave rise to certain patterns of harm; a focus on the importance of process; and the eschewal of an individualistic and legalistic approach to dealing with the past.

Thirdly, the absence of a sustained gender dimension to official efforts to deal with the past reflects and echoes silos within civil society in the jurisdiction.

Historically, and in the contemporary approach to dealing with the past, civil society in Ireland-Northern Ireland has been characterized by silos between women's organisations ('the women's sector'), human rights organisations ('the rights sector') and victims organisations ('the victims sector'). While the constitution of these distinct sectors has facilitated collaboration, solidarity and knowledge exchange *within* sectors, it has acted as a barrier to knowledge exchange *across* these sectors.

Fourthly, while scholars based within Ireland-Northern Ireland are internationally-recognized for their gender analysis of transitional justice,² this has not translated into a concrete strategies for meaningful enhancement of the local practice of dealing with the past. The problems encountered in Ireland-Northern Ireland in making women and gender central to institutional efforts to deal with the past represent global challenges to states attempting to deliver accountability and redress to conflict victims. The problems encountered in Ireland-Northern Ireland in making women and gender central to institutional efforts to deal with the past are not unique to this island. They present global challenges to states attempting to deliver accountability and redress to conflict victims. Internationally, an important learning-curve has taken place in questions of gender and dealing with the past, in which past mistakes are learned from and best practice developed. In the context of gender, this determination to craft local approaches has resulted in a failure to draw at all from the substantial developments that have occurred internationally and comparatively in the inclusion of women and harms against women within transitional justice. Thus, there is a recognized need for greater exchange between those who research and analyse global approaches to gender and transitional justice with those who are charged with delivering a local process to deal with the past.

² TJI Gender Research, http://www.transitionaljustice.ulster.ac.uk/tji_research_gender.html.

SOME QUESTIONS TO CONSIDER FOR ANY OFFICIAL PROCESS TO DEAL WITH THE PAST, TO BE USEFULLY ADVANCED THROUGH THE SECOND NAP AND THE ANGLO-IRISH DIVISION:

1. What was the impact of gender as a broader structural factor in the conflict in Northern Ireland? This question could be explored through the following series of sub-questions:
 - (a) What harms were experienced most routinely by women during the conflict?
 - (b) What was the impact of the state's abrogation of its protective role for those harms against women, and the impunity that certain individuals enjoyed due to their (para)military status, on harms such as violence in the family and home?
 - (c) In what ways did gender shape women's survival strategies in the context of such harms?
 - (d) Have these harms ceased in line with the cessation of conflict?
2. What different demands and requirements in an official process to deal with the past have been generated by gender-specific experiences of harm?
3. To what extent has the existing process to deal with the past identified these needs and responded to them?
4. How might the existing process be re-framed to (a) integrate women's gender-specific needs into official processes and institutions dealing with the past, and (b) to begin from women's experiences of harm and work outwards, in turn, to determine a new set of priorities for the official process to deal with the past.

HOW TO THINK DIFFERENTLY: STRUCTURALLY INTEGRATING GENDER INTO ANY PROCESS TO DEAL WITH THE PAST

Firstly, get the right people in the room (draw on appropriate expertise).

A good and inclusive process to deal with the past has an important opportunity to redress the current negative feedback loop, in which issues of gender equality are relatively absent from advocacy agendas, academic research agendas, and policy agendas in dealing with the past, and this absence is compounded by silos within civil society between women's and past-focused groups. There is substantial expertise and capacity within civil society, the women's sector, in the daily management of conflict and its legacy, and on the necessary components of an approach to dealing with the past that advances gender equality. This has not yet been integrated into official practice in this area. Currently, neither the inter-personal relationships nor the practical mechanisms for knowledge exchange exist. Any process supported by the Irish government must make a proactive intervention to disrupt this negative cycle and initiate a positive one.

Secondly, conduct a gender audit of existing activity to deal with the past.

A gender audit of existing activity to deal with the past will be the essential first steps in the process of the development of a proactive strategy to ensure the inclusion of women and the recognition of gender in the official process to deal with the past. Women, Peace and Security 'audits' are a key baseline and mechanism for implementation of gender equality through peace and security policy at the national-

level.³ This would require an internally-focused audit of the institutions and processes involved in dealing with the past, to identify where women and harms against women feature. Substantial research already exists mapping the current institutional approaches to dealing with the past in Ireland-Northern Ireland and their gendered inadequacies,⁴ but this needs to be supplemented by information, insights and experiences of the key stakeholder organisations and institutions. In this stage of the process, the existing knowledge base of statutory sector institutions and the Irish government responsible for dealing with victims would be absolutely critical.

Thirdly, map women's diverse needs in dealing with the past.

The challenge to include women, and to recognize women's experiences of conflict, confronts the immediate practical questions of 'which women?' and 'what harms?' Well-meaning initiatives to 'include women' or 'mainstream gender' can encounter challenges in terms of practical applicability. In particular, institutional efforts to be inclusive of women *in their diversity* may neglect to focus on the women who bear the most acute costs of marginalization from official processes and institutions. Consequently, any process supported by the Irish government is encouraged to pivot around four particular political subjectivities of women – four focal points of investigation – namely: women as secondary victims; women as community or civil society activists; women as (former) combatants; and women killed in the conflict.

The dealing with the past needs of these four subject groups should be mapped against what currently exists and, importantly, what women currently do themselves to bridge these gaps. In the absence of a comprehensive official process, we know that some women make quilts, for example, in the pursuit of community acknowledgement of their conflict experiences. Any official process to deal with the past is encouraged to draw on these unofficial efforts of local civil society to include women and harms against women in dealing with the past. The evidence gathered, for example, by the Community Foundation for Northern Ireland in its major 'Women and Peacebuilding Project', or the Relatives for Justice 'Herstory' Project (both funded by PEACE III) could and should inform the official process to deal with the past, with additional input from the other third sector network partners, WAVE, Healing Through Remembering, and the Committee for the Administration of Justice.

5. How can the existing monitoring mechanisms of the first National Action Plan be improved? How can the Oireachtas play a greater role?

In addition to the more proactive monitoring role that might be played by the Oireachtas Foreign Affairs Committee, awareness of their monitoring role across cognate Oireachtas Committees could be usefully reinforced. For example, the Joint Committee for the Implementation of the Good Friday Agreement is an obvious site

³ McMinn & O'Rourke, *Baseline Study on UNSCR 1325 in Northern Ireland: Sharing the Learning*, (Belfast: 2012), http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2273454.

⁴ O'Rourke, *Gender Politics in Transitional Justice*, Routledge, 2013; O'Rourke, (2012) *Dealing with the Past in a Post-conflict Society: Does the Participation of Women Matter? Insights from Northern Ireland*. *William and Mary Journal of Women and the Law*, 19 (1). pp. 35-68.

for monitoring the implementation of the NAP in Ireland-Northern Ireland and through the All-Ireland and British-Irish structures established by the Good Friday Agreement.

6. How should Ireland promote Women, Peace and Security in multilateral organisations?

Current efforts to ensure that the WPS resolutions and the international human rights framework reinforce one another are the most promising global developments for the empowerment of women in conflict and postconflict settings. These efforts should be actively supported by the Irish government in multilateral organisations. The reinforcing relationship between the WPS resolutions and the international human rights framework has two central elements: the first is to ensure that states understand implementation of the WPS resolutions is constitutive of their human rights obligations, in particular under CEDAW, and report on that activity in their periodic reporting to the CEDAW Committee; secondly, states must understand that implementation of the rights guaranteed under CEDAW to women affected by conflict through the state's domestic and foreign policy is fundamental to the implementation of the WPS resolutions. Regarding the first point, in its General Recommendation Number 30, the CEDAW Committee has asked states to report on their implementation of the Convention in respect of their aid policy, immigration policy, and relations with neighbouring states, due to the extra-territorial application of the Convention's obligations. The Committee has emphasized the importance of state reporting with reference to UN benchmarks and indicators on state implementation of the resolutions. State compliance with this recommendation has, to date, been limited and states have, on the whole, been reluctant to engage with the UN benchmarks and indicators. The Irish government could very usefully champion state reporting on these benchmarks and indicators, as part of state obligations under CEDAW, in its engagement with other states through multi-lateral organisations.

About the Author

The author is Senior Lecturer in Human Rights and International Law and Gender Research Coordinator at the University of Ulster Transitional Justice Institute. She has authored the major monograph exploring women's mobilization and processes to deal with the past in Northern Ireland (*Gender Politics in Transitional Justice*, Routledge, 2013), has close formal links with the jurisdiction's women's sector, for example, as a contributor to the major PEACE III funded 'Women and Peacebuilding Project' (<http://www.communityfoundationni.org/Programmes/Women-and-Peace-Building>), and as a Board Member of Hanna's House Peace Project. She is currently independent academic expert to the Irish Government's Consultative Group for the development of the Second Irish National Action Plan on Women, Peace and Security. She has also been commissioned to conduct expert research for UN Women and the UN Office of the High Commissioner on Human Rights on gender and reparations, and women's human rights in conflict settings.